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

March 8, 2005
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3 - Transportation Equity Act: A Legacy for Users

(Rep. Young (R) Alaska and 79 cosponsors)

The Administration supports House passage of H.R. 3 as reported from committee. Enactment of a long-term highway, highway safety, and transit authorization bill is long overdue and would provide States and localities with predictable funding that enhances long-term transportation planning. The Administration's proposal, as modified by the President's fiscal year 2006 Budget, would provide $283.9 billion over six years, a historically high level of funding. It represents a $73 billion (+35 percent) increase over the amount provided in the Transportation Equity Act for the 21st Century (TEA-21), the six-year bill enacted in 1998.

Critical Issues

The Administration believes the surface transportation reauthorization legislation should exhibit funding restraint and provide long-term funding certainty.

Under the final version of H.R. 3, total obligation limitations for surface transportation programs (combined with contract authority that is exempt from the obligation limitations and general fund appropriations for public transportation) must not exceed $283.9 billion over six years. Likewise, the net authorization level must not exceed $283.9 billion over six years (to the extent the gross authorization level exceeds $283.9 billion, an offsetting rescission should be included in the legislation as well). Should the obligation or net authorization levels in the final bill exceed these limits, the President's senior advisors would recommend he veto the bill.

The Administration strongly opposes Section 1125 of the bill, which would delay States from receiving most of their fiscal year 2006 highway program funds until August 1, 2006, 10 months after the fiscal year starts, unless a subsequent law is enacted addressing guaranteed rates of return and minimum rates of growth in State Federal-aid highway funding. This provision would prevent States from obligating Federal funds during the 2006 prime construction season and negate the stability and planning benefits of a long-term authorization bill. If the version of the legislation presented to the President were to include Section 1125 as written, his senior advisors would recommend he veto the bill.

Other Major Issues

- State and Local Flexibility: The Administration opposes the proliferation of new categorical programs, set-asides, and so-called "high-priority" projects in H.R. 3. The Administration believes the vast majority of Federal-aid highway funds should be distributed to States via formula as States are far better equipped than the Federal Government to make appropriate decisions about their own transportation systems. Consistent with this view, the Administration opposes H.R. 3's excessive restrictions on States wishing to implement proven road pricing and toll finance strategies intended to reduce congestion. The Administration would also oppose any amendments designed to limit the ability of States to use congestion pricing even further.

- Safety: The Administration is disappointed this bill does not take a more aggressive approach toward reducing highway fatalities. The Administration believes that increasing safety belt use and reducing impaired driving through safety incentive and performance grants, as well as encouraging States to make greater use of data when making safety investments, are all necessary.

- Promoting cost efficient transit projects: The Administration supports giving localities the flexibility to determine the most efficient use of their transit dollars. The Administration opposes the bill's requirement that the majority of "small starts" projects be fixed guideways. This requirement will discourage innovation. The Administration objects to the bill's failure to require evaluations for New Starts projects below $25 million. The Administration also believes the bill should include a meaningful ridership incentive grant program.

- Park Roads: The Administration objects to the proposed 35 percent reduction in its Park Roads funding level. These funds are necessary to complete the President's commitment to provide $4.9 billion over five years to reduce the maintenance backlog in national parks.

- Highway Financing: The Administration believes the bill should include amendments to the Internal Revenue Code to authorize the issuance of "private activity" bonds for highway and surface freight transfer facilities, as proposed by the Administration.

- Environmental Provisions: The Administration believes the bill should be amended to incorporate its proposals to (1) align the transportation and air quality planning horizons and update cycles for purposes of transportation conformity; (2) include nonattainment areas that are newly designated under the fine particulate matter and eight-hour-ozone standards in the apportionment formula for the Congestion Mitigation and Air Quality Improvement (CMAQ) Program while avoiding substantially broadening the list of projects eligible for CMAQ; (3) clarify that the National Environmental Policy Act (NEPA)'s time limitation on environmental law suits also applies in the context of supplemental or tiered Records of Decision, Findings of No Significant Impact or determinations that an action is categorically excluded; (4) in lieu of allowing more detailed analysis of the preferred alternative, permit greater use of the results of studies undertaken pursuant to metropolitan and State planning processes as the bases for NEPA analyses; (5) provide greater flexibility to States in implementing environmental review processes and allow an opportunity for States to opt out of the process established in section 6002 of the bill; (6) clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites -- commonly referred to as "Section 4(f)" standards; and (7) clarify that, when carrying out their environmental review responsibilities, cooperating agencies should give "substantial deference" to the lead agency with respect to "purpose and need" and project alternatives determinations.

- <u>Motor Carrier Safety Issues</u>: The Administration strongly opposes mandated Federal Motor Carrier Safety Administration rulemakings. The Administration strongly supports making permanent the Congressional directive in Section 7(f) of the Surface Transportation Extension Act of 2004, Part V (Public Law 108-310).

- <u>Discretionary Caps with Separate Transportation Categories</u>: In the context of the Administration's proposal for annual statutory limits on discretionary spending, the Administration supports separate categories for spending on Federal Highway and Mass Transit programs that are financed by the Highway Trust Fund, but not the annual adjustment reflecting updated revenue estimates that was in TEA-21.

- <u>Constitutional Concerns</u>: The Administration will work with Congress to resolve constitutional issues raised by the bill.

<u>Budget Estimates and Enforcement</u>

This bill would affect direct spending and receipts. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending. The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The President's FY 2006 Budget includes a proposal to extend the discretionary caps through 2010, a pay-as-you-go requirement for direct spending, and a new mechanism to control the expansion of long-term unfunded obligations. OMB's cost estimate of this bill currently is under development.

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