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THE WHITE HOUSE
WASHINGTON

November 11, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JAMES T. LYNN 
FROM: JAMES E. CONNOR
SUBJECT: Federal Aid Highway Legislation

The President reviewed your memorandum of November 5 on the above subject and approved the following:

"Indicate that I find highway authorization legislation without such controls and restraints is unacceptable and that I would veto such legislation."

Please follow-up with appropriate action.

cc: Dick Cheney

THE WHITE HOUSE
WASHINGTON

November 10, 1975

MR PRESIDENT:

The attached memorandum was staffed to Phil Buchen, Jim Cannon, Max Friedersdorf, Jack Marsh and Bill Seidman. They all concur with the OMB recommendation.

Jim Connor



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

ACTION

NOV 5 1975

MEMORANDUM FOR: THE PRESIDENT
FROM: James T. Lynn
SUBJECT: Federal-Aid Highway Legislation

The Public Works Transportation and Surface Transportation Subcommittees are presently drafting new highway authorization legislation. The proposals currently under consideration are not consistent with your objectives of controlling Federal outlays in 1977 and 1978. It would be very helpful in further negotiations with the Congress if it would be clearly indicated that additional authorizations at presently contemplated levels with no mechanism for long term control of obligations are not acceptable to this Administration.

The Administration proposed a major five year highway legislation initiative which would have:

- Rationalized the highway funding process by restricting 1976 authorizations and eliminating provisions of the present act that provide for "advanced availability" of funds (1977 authorizations are actually available for obligation in 1976).
- Restructured funding by transferring \$2 billion of trust fund receipts and a similar amount of non-Interstate programs into the general fund while permitting state preemption of \$1 billion of highway gas tax for locally determined programs.
- Restructured non-Interstate assistance by consolidating the maze of 30+ categorical grants into four broad programs with added state delegation while focusing Federal attention on completion of a newly prioritized Interstate System.

The Senate Transportation Subcommittee has concluded that decisions on funding restructuring should be put off until the next Congress. The staff draft bill on which mark-up will start this week also rejects changes in the authorization process. The Subcommittee has been generally receptive to the program restructuring proposals. The House Surface Transportation Subcommittee apparently has also discarded the funding and authorization changes. There appears to be limited receptivity to program restructuring. Overall, some program restructuring will probably emerge in both bills, but the other Administration proposals are in serious trouble.

We are particularly concerned about the proposed authorization levels and the continuation of advanced availability of contract authorizations. In light of recent court decisions, we have been advised that it is very doubtful that further Executive deferrals of highway authorizations would be upheld by the courts. At present, no highway funds are being deferred, but a Congressional legislative limitation on obligations has been requested. The Senate has included a \$7.2 billion limitation for 1976 in the Transportation Appropriations Bill, which will be in conference next week.

Without such a legislative limitation, the States will be permitted to obligate over \$16 billion of highway funds during 1976 and the transition quarter under the Subcommittees' authorization proposals. Although the States could not realistically obligate this much in the 15 month period, they have demonstrated their ability to commit funds at a rate substantially faster than the \$7.2 billion currently contemplated for 1976.

Even if an obligation ceiling is included in the 1976 appropriations bill, the same problem would be faced in 1977 and 1978 under the current Congressional proposals. Over \$14 billion would be available for obligation in 1977. Realistically, next fall there will be no hope of securing a \$5-6 billion limitation on already available funds that is consistent with the 1977 outlay targets. Without such a limitation in 1976 and 1977, outlays would exceed our present targets by \$1 billion in 1977 and would continue to climb in 1978.

If the Transportation outlay target required for the \$395 billion 1977 budget ceiling is to be met and the highway program controlled in 1978 and beyond, the new authorization legislation must contain provisions for controlling 1976 and 1977 obligations, and some mechanism must be provided for the reduction during this period of the unacceptably large balances of unobligated funds. Transportation and OMB officials have discussed with Congressional staff various proposals to accomplish these objectives without seriously impacting the highway program in any State.

Obviously, it is difficult for the Public Works Committees to accept such restraints, even if self-imposed. Such controls, however, are consistent with the objectives of the Budget Control Act and have the Budget Committees' support. I believe it will be necessary to indicate Administration intent to veto an uncontrolled highway authorization to secure the inclusion of such restraining provisions. If a strong Administration position can be indicated during the next two weeks when initial mark-up begins, the chances to secure acceptable modifications would be greatly enhanced.

RECOMMENDATION

That we indicate to the appropriate Committees that the President finds unacceptable and would veto highway authorization legislation that does not include controls on 1976 and 1977 obligation levels and reduce substantially the level of unobligated authorizations. (The Department of Transportation supports this recommendation.)

ACTION

DRJ Indicate that I find highway authorization legislation without such controls and restraints is unacceptable and that I would veto such legislation.

Provide no Presidential signal at this time.

See me.