The original documents are located in Box 43, folder "1975/04/12 - Mike Duval and Dick Dunham" of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

10AM - Saturday, April 12

Meeting with Mike Duval and
Dick Dunham

THE WHITE HOUSE

WASHINGTON

April 7, 1975

MEMORANDUM FOR JIM CANNON

VIA: DICK DUNHAM
JIM CAVANAUGH

FROM: MIKE DUVAL Mike

SUBJECT: RAILROAD INITIATIVE

In following up with DOT staff on the meeting you chaired in the Roosevelt Room with Secretary Coleman, et al., I found out that you and the Vice President met with Coleman and his staff late last week.

According to DOT's staff, the Vice President and you indicated a strong desire to see if we could reprogram highway funds into rail rehabilitation projects. Because this approach is substantially different from the ideas discussed in the Roosevelt Room, I thought I'd better come back to you for additional guidance prior to moving forward with the memorandum to the President.

I hope to go over a draft memorandum tomorrow or Wednesday with DOT staff and would appreciate some guidance from you as soon as possible.

(1) open HTF for maintenance of interstate highways

(2) open for other Trans expenditures if continue w/ user fee

(3) 1¢ back to states - revenues enough to complete interstate system

DOMESTIC COUNCIL CLEARANCE SHEET

DATE: April 9, 1975

JMC action required by: **

TO: JIM CANNON

VIA: DICK DUNHAM RD

JIM CAVANAUGH

MIKE DUVAL ← Not seen yet, left him a copy

FROM: GLENN SCHLEEDE Glenn

SUBJECT: Auto emissions, fuel economy and related issues

COMMENTS:

**Most critical point in timing is a response to the inquiry from Senate Public Works staff on issue in my April 2 memo on this subject.

**Also, note that Zarb apparently hopes to take the issue via ERC to the President by Friday.

DATE:

RETURN TO:

Jim
What should be done with Dr. Marks study i.e. should it go to others?
D

Material has been:

_____ Signed and forwarded

_____ Changed and signed (copy attached)

_____ Returned per our conversation

_____ Noted

_____

Jim Cannon

THE WHITE HOUSE

WASHINGTON

April 9, 1975

MEMORANDUM FOR: JIM CANNON

FROM: GLENN SCHLEEDE Glenn

SUBJECT: AUTO EMISSIONS, FUEL ECONOMY AND RELATED ISSUES

The attached paper reflects my current understanding of the findings from the interagency review effort that has been underway over the past 2½ weeks.

I am asking selected people in the agencies to review this summary to make sure it is correct.

I think this may be useful to you in deciding whether we should pursue explorations with the Senate Public Works Committee as discussed in my April 2 memo.

I understand that OMB staff is providing a summary memo to Jim Lynn today on the interagency effort. I also understand that Frank Zarb has an agreement with Jim Lynn that this issue will be reviewed by the Energy Resources Council. Also, Frank Zarb apparently intends that this issue be presented to the President by this Friday -- hopefully along with the issues of fuel economy standards and taxes. mtg cancelled D

The EPA Air Quality Office's new assessment of the sulfuric acid problem which was leaked and then released last week appears to have contributed to the disruption of House Commerce Committee plans to prompt action on an auto emission-fuel economy bill. They had earlier planned to report a bill this week.

Attachment

AUTO EMISSIONS, FUEL ECONOMY AND RELATED ISSUES

This paper summarizes the answers suggested by information now available on the implications of various auto emissions standards for such considerations as air quality, health effects, fuel economy and automobile costs. It does not deal with either the political feasibility of establishing a particular set of standards, the potential strategies, or the posturing that is now underway by various individuals and groups concerned with some aspect of the problem.

Critical Background Considerations

Before summarizing information on implications, three points are important:

1. Many considerations interrelated. Requirements for auto emissions or fuel economy should be decided in relation to several other considerations; specifically the impact, if any, on: (a) air quality, (b) public health, (c) technological options for meeting emission and fuel economy requirements, (d) initial car costs, (e) car maintenance costs, (f) fuel requirements, (g) changes in safety requirements that might impact ability to meet fuel economy or emission requirements, (h) safety considerations other than health impact of air pollution, (i) industrial capability for making adjustments necessary to provide vehicles or fuel needed, and (j) auto sales, auto industry employment and related economic impact. No comprehensive review of all these issues is available at present. Probably the most comprehensive is the OMB-led interagency review of auto emissions.

2. Gaps in information. There are serious gaps in information needed to make decisions. Probably the most critical gaps at present involve:

   - the probable extent of buildup of sulfuric acid in the air from catalysts. Data now available consists almost exclusively of estimates derived from air quality models. Buildup of sulfuric acid will depend on such factors as the nature and quantity of emissions, meteorology and air chemistry. Collection of empirical data is just getting started. (The data on this issue which led to Train's March suspension decision is being challenged as grossly overstating the problem by a paper written in EPA's air quality organization which was released prior to review by other parts of EPA or by outside experts.)

- probable levels of automobile related air pollution in cities that now or may in the future exceed air quality standards. (EPA's projections are being challenged as too pesimistic because they assume greater growth in vehicle miles traveled than is likely to occur, for example, with higher gasoline prices.)
- the nature and quantity of pollutants -- other than HC, CO, NOX and sulfuric acid -- emitted by current or future cars and the health impact, if any.
- the probable decisions of the automobile industries under any particular set of emission or fuel economy requirements.

3. Alternate emission levels. For the purpose of identifying the merits of various alternative emission levels, six levels are being or should be considered:

		HC	CO	NOX
a. Statutory	1977	1.5	15.0	2.0
	1978+	.41	3.4	.4
b. EPA - March 12	1977-79	1.5	15.0	2.0
	1980-81	.9	9.0	2.0
	1982	.41	3.4	2.0
c. President (1/30/75)		.9	9.0	3.1
d. 1975-76 Standards		1.5	15.0	3.1
e. Canadian Standards		2.0	25.0	3.1
f. 1973-74 Standards		3.0	28.0	3.1

Answers Suggested By Information Now Available.

1. What should be the emission control requirement for oxides of nitrogen (NO_x) - 3.1 grams per mile; or 2.0? Key considerations include:

   a. Air Quality. Ten metropolitan areas are of concern. Three areas will meet the national ambient standards and seven will exceed the standards regardless of whether the automobile standard is 2.0 or 3.1. Those not meeting the standards are projected to have slightly higher concentrations in 1980-85 at the 3.1 level. Stationary sources are a more important factor than automobiles in NO_x concentrations. Technology is not available to control NO_x from existing stationary sources.

b. Health Effects. The health impact of the growth in NO_x that is due to automobiles controlled at 2.0 vs. 3.1 is very small and there is disagreement as to whether the impact is significant.

c. Fuel Economy. Emission standards at 2.0 rather than 3.1 are expected to reduce fuel economy by 3-4% (85,000 barrels of gasoline per day in 1980). (5-7% over the next two years.) EPA believes there will be little or no fuel economy penalty.

d. Consumer Cost. $10-25 in initial car cost and $0-15 in annual maintenance cost.

e. Other Pollutants. Holding down NO_x tends to increase HC. Also, meeting a 2.0 NO_x standard may require use of an air pump which greatly increases sulfuric acid emissions if catalytic converters are retained.

2. What should be the emission control requirements for hydrocarbons (HC) and carbon monoxide (CO):

	HC	CO
. California and President	0.9	9.0
. 1975-76 standards and EPA recommended for 1977-79	1.5	15.0
. Canadian	2.0	25.0
. 1973-74 standards	3.0	28.0

Key considerations include:

a. Air Quality.

- CO. The primary factor affecting CO concentrations is the rate of replacement of old vehicles. Limits more rigid than the 1973-74 standards (which reduced emissions by 70% from uncontrolled levels) have little impact on ambient concentrations. The 1985 impact on ambient air of a reduction from 15.0 to 9.0 is negligible.

- HC. Changes in ambient concentrations relating to standards tighter than 1973-74 are very small for the same reasons as CO, plus the fact that only about 25% of HC from other than natural sources comes from automobile exhaust emissions.

- Sulfuric Acid. Catalysts now available result in sulfuric acid emissions, which are approximately doubled when accompanied by an air pump. Catalyst with air pump is necessary on nearly all cars to meet 0.9 and 9.0. 1.5 and 15.0 can be met on most cars without a catalyst. Neither Canadian nor 1973-74 standards require a catalyst and such standards would remove the incentive for continued use of a catalyst.

EPA's suspension decision was based on a conclusion that sulfuric acid concentrations may be great enough to cause a significant health risk. An April 3 paper by EPA's Air Office (not reviewed by other elements of EPA)-- which has been made public -- contends that earlier estimates of sulfuric acid concentrations are greatly overstated.

b. Health Effects.

- HC and CO. Very, very little or no predictable health effect differences at any of the alternate levels.

- Sulfuric Acid. Great concern over health impact at levels of concentration predicted by EPA's January 30 paper which formed the basis for EPA's suspension decision. If EPA's Air Quality Office's new estimates are found to be correct and are accepted, there will be considerably less concern for health effects.

c. Fuel Economy.

- 3-5% loss in fuel economy by moving from 1.5 and 15.0 to 0.9 and 9.0 -- roughly equivalent to 85,000 barrels per day gasoline penalty by 1980.

- Adoption of 1973-74 standards would open up a number of technological options which would permit increasing fuel economy -- by __% compared to 1.5 and 15.0

- If small amounts of lead were put back in gasoline, DOT believes a 9-12% increase in fuel economy could be achieved.(i.e., with 1973-74 or Canadian standards.)

- It may be possible to achieve 50% fuel economy improvements in the 1980 fleet, compared to 1974, by use of Canadian or 1973-74 standards, assuming the catalyst is not used.

d. Consumer Cost.

- Added cost by 1980 of moving from 1.5 and 15.0 to .9 and 9.0 would be about $50 in initial car cost with no catalyst and $120 with catalyst.

. Meeting 1975-76 standards would increase costs of about $35 without catalyst and $95 with catalyst.

. Meeting Canadian or 1973-74 standards would cost about $25 with or without catalyst.

3. <u>Should the catalyst be retained; should the catalyst be permitted if a sulfuric acid standard can be met; or should the catalyst be barred?</u>

. A decision on this question will be affected heavily by the <u>correct</u> answer on the question of sulfuric acid buildup.

. Other factors that will or should be considered are public reaction and acceptability once the issue becomes better understood, consumer cost, the feasibility and practicability for improving the catalyst technology and the incremental health and air quality impacts with or without catalyst.

. Those favoring retention of catalyst argue that (a) removing sulfur from gasoline is still an option or (b) that the geographic areas which have potential sulfuric acid problems are sufficiently small to permit solving the problem through gasoline reblending and Federal fuel allocation approaches.

4. <u>What should be the role of leaded gas?</u>

. There is general agreement that small amounts of lead in gasoline would permit increasing engine compression ratios, and improving automobile performance and fuel economy.

. If catalysts are retained, unleaded gasoline must be used. The question of health impact of small amounts of lead in gasoline is still in some dispute but is generally regarded as not being a significant problem.

5. <u>What is the right period of time under which future automobile emission standards should be fixed and known -- three years, five years or longer?</u>

. The voluntary fuel economy agreement with the auto industry assumed five years.

. The EPA conclusion reflects a change in standards at the 1980 model year point (as well as the lower NO_x emission level). Greatest uncertainty is introduced by the stated intention of establishing a sulfuric acid standard by 1979.

- The auto industry apparently believes that:

  - .. firm standards for five years as well as an answer on a sulfuric acid standard are necessary.

  - .. that an answer on NO_x emission levels for 1982 and the future is critical to any decisions on advanced technology (e.g., diesel, stratified charge).

THE WHITE HOUSE

WASHINGTON

INFORMATION

April 9, 1975

MEMORANDUM FOR JIM CANNON
DICK DUNHAM
WALLY SCOTT

FROM: MIKE DUVAL Mike

SUBJECT: COLEMAN'S RAILROAD PROPOSAL

I had a meeting in my office yesterday evening with the DOT staff to go over their draft decision memorandum to the President on the railroad issue. See the attached outline which lays out the alternatives they are considering.

I pointed out that, even under their Option 1, the railroad funding ($1.2 billion) would constitute a net increase in expenditures in FY '76. Although these would come out of rescinded highway funds, it is an amount that the President did not include in his highway budget but instead, requested either rescission or deferral by Congress. In short, the DOT proposal (realistically) assumes that Congress will not buy the President's $5.2 billion highway level for FY '76. Coleman's people are assuming that the Congress will defer and rescind a lesser amount than the President has requested, and that difference is the amount they hope to make up in railroad expenditures.

I felt it was important that the Department put before the President an honest option which would contain a new railroad grant program but not result in increased DOT expenditures over the President's FY '76 Budget. I also felt it was important that the Department consider a direct highway-railroad trade-off option.

Accordingly, the DOT staff is re-doing their paper with four options. They will include:

1. A $1.2 billion railroad grant proposal which would come out of the $5.2 billion highway funds proposed in the President's FY '76 Budget. This will result in no budgetary impact for FY '76 but one heck of a controversial proposal.

2. DOT's Option 1.

3. DOT's Option 2.

4. Flexible use of the current highway program funds. (This is an idea that I have not had an opportunity to think through fully, but I will describe further on in this memo.)

Once the four options are put together, DOT will call a meeting of the following principals to discuss the ultimate decision paper for the President: Jim Cannon, Jim Lynn, Secretary Coleman, and appropriate staff.

A decision memorandum should be ready for the President early next week. I have asked Warren Rustand to see if there would be an hour on the President's schedule during the middle or end of next week to discuss the DOT decision paper once we get it.

Obviously, if the President goes to Congress with a proposal to spend $1.2 billion (or any like amount) on railroads and rescind an equal amount from highways, this will be met with a stir of controversy and, in my judgment, a strong likelihood of failure. It might be better to simply attempt to modify the eligible uses of highway funds along the lines of the 1973 Federal-aid Highway Act, which permitted the use of some of the urban systems money for mass transit projects.

I would envision a proposal which will permit the States to use their highway apportioned funds for capital railroad projects. Interstate, urban or rural funds would be eligible. If the State is working on a main line (trunk trackage) it would be eligible for 90/10 funds and, for other lines, 70/30 money would be available. I would recommend consideration of a couple of incentives. First, to encourage the States to opt for railroad projects, perhaps we could state that, for every dollar apportioned to a State used for railroad projects, the State would actually get $1.20, thereby increasing its Statewide apportionment. Second, there could be some arrangement whereby the Secretary of Transportation could allow 100% grants if the project selected is energy critical. This might encourage the rehabilitation of spurs into the coal mining areas, etc.

This proposal could be consistent with our highway legislative proposal because it would not matter whether the railroad project was liquidated out of Trust Fund revenues or general revenues.

This whole matter is on a very fast track (sorry!) and I think we should get together and discuss this today or tomorrow at the latest.

Options for a Railroad Unemployment Program

I. The Department's Original Proposal

A. Amount - $3 billion

B. Length of Time - 27 months

C. Energy Emphasis - Concentrates on mainline routes - 81% of which handle coal

D. Rescission - None

1.2
- 1.2
1.2

II. Option 1

A. Amount - $1.2 billion

B. Length of Time - 15 months

C. Energy Emphasis - Concentrates on mainline routes plus gives priority to projects on mainline routes used for coal haul

D. Rescission - $1.2 billion of highway funds

III. Option 2

A. Amount - $1.2 billion

B. Length of Time - 15 months

C. Energy Emphasis - Same as Option 1

D. Rescission - None

Options 1 and 2 above have been developed to meet the primary concerns expressed at the March 31 meeting. These were:

4/8/75

1. That the program would have a substantial budget impact and, therefore, violate the President's policy of no new initiatives;

2. That much of the employment effect of the proposal would come at a time when the additional job creation effect would not be needed because the economy would be on the road to recovery, and

3. That the proposal should result in actions to meet the nation's urgent need for moving ever increasing amounts of coal.

Option 1 has these advantages:

(a) It offsets the new authorizations with an equal amount of existing authorizations and thus over the long term does not add to Federal spending. (There is, however, a short term increase in outlays.)

(b) It permits the Administration to initiate an urgent national program by moving funds from a lower priority to a higher priority transportation program.

(c) It is tied to three Administration objectives:

(1) assist the railroads;

(2) reduce unemployment, and

(3) meet our energy requirements.

The disadvantage of this option is that it will be difficult to sell a highway authorization rescission on the Hill.

Option 2 has all the advantages of Option 1 plus removes its principal Congressional obstacle. On the other hand Option 2 violates the President's dictum of no new spending programs.

not logged

THE WHITE HOUSE

WASHINGTON

April 11, 1975

MEMORANDUM FOR JOHN SNOW

FROM: MIKE DUVAL Mike

SUBJECT: RAILROAD REHABILITATION PROGRAM

I have reviewed the draft options paper on the Railroad Rehabilitation Program. Please see my mark-up of your draft.

I do not believe that this paper adequately presents the options. It is a strongly biased advocacy paper which attempts to make the case for Option 2. I believe we need an honest options paper that fairly presents the arguments on both sides of each option.

Furthermore, the paper could better identify the real substantive needs for railroad rehabilitation. It can be laid out briefly, but should be factual and comprehensively portray the current railroad needs.

I suggest that the options paper be redone and submitted to Jim Cannon and Jim Lynn for distribution prior to a meeting of principals.

My best guess is that a meeting could be held Tuesday or Wednesday, if we receive an issues paper Monday morning.

I stand by to be of any assistance required over the weekend.

cc: Jim Cannon
Dick Dunham
Jim Cavanaugh
Wally Scott

Options for Funding an Emergency Railroad Rehabilitation Program

This paper addresses the principal alternatives for funding a Railroad Rehabilitation program.

It assumes that there is general agreement on the following principles:

(1) That some immediate financial assistance to the industry is urgently needed to counter the accelerated deterioration of the physical plant that is occurring as a result of sharply reduced maintenance levels;

(2) That the primary emphasis of the program should be to rehabilitate and maintain mainline routes (those handling 10 million gross ton miles or more) and major terminals -- these are facilities which will be included in any major restructured railroad system;

(3) That the program should assist the nation's energy goals by giving a priority to those projects which will aid in the movement of coal and other energy resources; and

(4) That the program should be short term and temporary -- this program should be complimentary and set the stage for the longer range programs being developed in the Administration.

(5) there is a need to re-prioritize federal transportation funding — reduce Hwy funding + increase others. No overall increase.

The specifications for a program to accomplish these objectives were attached to the March 21, 1975 memorandum from the Secretary to OMB Director Lynn. A copy of which is attached. The detailed specifications are subject to further review by OMB and others. A decision is needed now, however, on whether the Administration will submit a legislative proposal.

The proposed program was discussed at a White House meeting on March 31, 1975. The primary concerns raised at this meeting were:

(1) That the program would have a substantial budget impact and, therefore, violate the President's policy of initiating no new spending programs;

(2) That much of the employment effect of the proposal would come at a time when the additional job creation effect would not be needed because the economy would be on the road to recovery, and

(3) That the proposal should be restructured to result in actions to meet the nation's urgent need for moving ever increasing amounts of coal.

We believe that we have accommodated the last two points by shortening the program from 27 months to 15 months (one fiscal year plus the transition quarter) and agreeing to establish criteria for administering the program which would give a priority to those projects on routes handling coal and other energy resources.

This paper address four options ~~for dealing with the issue of funding this program in light of the President's declared policy of initiating no new spending programs.~~

need substantial but very brief discussion of needs + how this program will satisfy the needs.

The Department's Original Proposal

A. Amount - $3 billion

B. Length of time - 27 months

C. Energy emphasis - concentrates on mainline routes - 81% of which handle coal

D. Offsetting reductions - none

While the funding requirements of this proposal are in conflict with the policy of the President and would require the proposal to be treated as a special exception, there are some compelling arguments for considering such an exception. The current economic downturn has hit this industry severly. First quarter railroad operating income is down from $170 million in 1974 to a net loss of $102 million in 1975.

This severe financial decline is occurring in a basic transportation industry which has been plagued by a chronically low rate of return on investment and has, therefore, been unable to either invest enough in new plant and equipment or maintain existing plant and equipment in satisfactory condition. As a result of the sharp drop-off in earnings during the current economic downturn, the industry will sharply reduce the amount of maintenance to be undertaken. This will result in further sharp decline in the physical plant and its operating capability. It

this is very weak. Only 2 reasons for exception

① National security, e.g., energy.

② Urgent humanitarian reason.

could result in an industry which is incapable of serving the nation's requirements for hauling coal and other commodities when the economic recovery occurs.

While we believe a compelling case can be made for an exception to the President's policy based on the urgent needs of the railroad industry, we have developed the following four options to accommodate the program and the policy.

Option 1 -- Reduce the size of the program

A. Amount - $1.2 billion

B. Length of time - 15 months

C. Energy emphasis - Concentrate on mainline routes plus establish a priority for projects on routes handling coal and other energy resources.

D. Offsetting reductions - None

What is impact of reduction in meeting needs.

This option reduces the overall Federal commitment, the length of time for the program, and emphasizes the energy related objectives.

On the other hand, it does result in increased Federal expenditures without offsetting reductions. Therefore, this option raises the same issues as the Department's original proposal in relation to the President's policy; albeit at a lower level.

Option 2 -- Reduce the size of the program and rescind existing highway contract authority in an amount equal to the proposed program

A. Amount - $1.2 billion

B. Lenth of time - 15 months

C. Energy emphasis - Concentrate on mainline routes plus establish a priority for projects on routes handling coal and other energy resources.

phoney off-set. doesn't Results in an FY76 budget increase

D. Offsetting reductions - Rescind $1.2 billion of the $9.1 billion in highway funds currently being impounded.

This option proposes the recission of $1.2 billion in existing authorizations in the highway program to offset the additional Federal funding commitment contained in the proposed railroad rehabilitation proposal. This trade-off would have the following advantages:

(1) it would not increase the Federal funding authorizations, and

$1.2b minus $1.2b = $1.2b

(2) it would permit the reallocation of funds from lower priority to higher priority transportation programs.

very very misleading

The latter point would put the Administration in a posture of dealing with urgent national problems even at a time when we are committed to no new spending programs. It would put pressure on the Congress to consider trade-offs rather than simply adding additional amounts for the Railroad Rehabilitation programs they are considering. We believe that public reaction, except for the traditional supporters of expanded highway programs, would be very supportive.

The primary disadvantage of the proposal is that in the <u>short run</u> - FY 1976 and the transition quarter - the trade-off between the highway rescission and the new proposal <u>may</u> not have the same budget effect. There would be <u>no</u> expenditure reduction during this period associated with the highway rescission if the Congress approves the Administration's plans to defer the $9.1 billion and the courts permit the Executive Branch to impound highway funds. These actions are rather unlikely and the Executive Branch has lost every major highway impoundment case and the Senate is rapidly moving toward a disapproval resolution on our $9.1 billion of impounded highway funds. Therefore, given these two circumstances we believe the $1.2 billion rescission will reduce Federal expenditures during this period; albeit from a higher expenditure level than that proposed by the Executive Branch. We estimate that reduction to be approximately $350 million.

On the other hand, we estimate the expenditure effect of the railroad rehabilitation proposal to be in the range of $500-$750 million during FY 1976 and the transition quarter. Therefore, the expenditure effect is not totally offsetting. While this is the case, we believe the difference is small enough to permit an Administration initiative without violating the thrust of the President's policy.

any exception no matter how small ($500 m is Not small) violates the thrust of the program

<u>Option 3 -- Reduce the size of the program and offset the impact of the program through reductions in the highway program below the levels contained in the FY 1976 budget</u>

A. Amount - $1.2 billion

B. Length of time - 15 months

C. Energy emphasis - same as option 1 and 2

D. Offsetting reductions - the rehabilitation program would be offset by reductions in the highway program below the levels contained in the President's FY 1976 budget.

This option would most nearly permit the railroad rehabilitation program to be accommodated in the budget without increasing the deficit.

The proposal suffers from the credibility it will have in the Congress. The Administration currently is proposing a $5.2 billion FY 1976 highway program. This compares to the $6.6 billion which the states will have in FY 1975 as a result of the $2 billion increase released in February. The Congress is rapidly moving to increase the $5.2 billion. Indeed, Congresional action may result in a $15 to $17 billion highway program for FY 1976 and the transition quarter. For the Administration to have credibility in achieving an acceptable highway program level comprise with the Congress, it cannot propose to reduce the highway program below the levels proposed in the President's budget. To offset the budget impact of the Railroad Rehabilitation program through this device, will cause more problems than it solves.

pro – maintains the President's credibility.

Option 4--Accomplish the program objectives by amending the Highway Act to make railroad rehabilitation a permitted use of highway funds and creating a set of economic incentives for the States to undertake railroad rehabilitation projects.

A. Amount - indeterminable -- depends on State actions.

NO. specify allowable diversions – unknown up to that amount

B. Length of time - ~~a longer term program.~~ 5 years

C. Energy emphasis - only to the extent that individual States establish this as a priority. NO. use carrot

D. Offsetting reductions - program would be funded within established highway authorization ceilings.

This option expands on a provision which we are already planning to include in this year's Administration highway bill. The bill currently would make railroad facilities eligible categories of expenditure. The provision could be "sweetened" by giving the Secretary authority to forgive State matching requirements as well as to provide additional highway fund allocations to States initiating railroad projects. This option has the virtue of continuing our efforts of broadening the uses of the Highway Trust Fund and permitting States greater flexibility in making capital investment decisions.

On the other hand, this proposal will not have an immediate impact. It leaves the decisions to the States on whether to invest in railroad rehabilitation efforts. Insofar as States may eventually initiate some projects, they are likely to be on branch lines which are threatened to be abandoned. The State highway planning process will delay initiation of even these projects for up to two years.

The intense competition for State highway funds, even given certain economic incentives, is such that we foresee the initiation of very few projects. A similar provision for mass transit projects had yielded less than $100 million during the 18 months it has been in effect.

very biased + poor discussion!

Finally, we are concerned that establishing economic incentives for rail projects within the highway program may result in a highway program where railroad and mass transit projects have priority over highways.

Recommendations

For the reasons stated above, we believe Option 2 is the most practical.

THE WHITE HOUSE

WASHINGTON

April 11, 1975

JMC:

Mike Duval is reviewing in conjunction with OMB and will have review and recommendations for you.

WKH

100 logged

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 9, 1975

MEMORANDUM FOR HONORABLE JAMES T. LYNN, Director, Office of Management and Budget
MR. JAMES M. CANNON, Executive Director, Domestic Council

SUBJECT: Assessment of FY 1975/1976 Highway-Railroad Funding Situation

During our recent meetings, both of you requested the Department to do a comprehensive assessment of the highway funding situation, including an examination of possible alternatives for offsetting a needed railroad roadbed reconstruction program with reductions in currently authorized highway programs. The attached paper is in response to this request.

As the attached paper points out, there is an excellent chance that the Congress will force significant increases above the President's FY 75/76 budget by overturning the pending highway deferrals and by adding a separate railroad reconstruction grant program. Such action appears imminent, especially in the Senate.

In view of the serious potential impact of these Congressional actions on the President's attempts to keep the FY 76 and future budgets under control, I believe the Administration would be well advised to consider developing a compromise position to attempt to prevent large scale Congressional FY 75/76 program increases. The attached paper was prepared in this broader context in addition to assessing a possible highway/rail funding tradeoff.

If we could develop a comprehensive compromise strategy, we may be able to preclude Congressional action to overturn the President's FY 75/76 highway deferrals -- an action which now appears likely. However, rapid Executive Branch decisions would be necessary to achieve this objective; consequently, I would appreciate your initial reaction to the attached proposal by noon Friday, April 11, 1975.

Bill
William T. Coleman, Jr.

Copy to:
Walter Scott
Mike Duval

April 8, 1975

Highway/Railroad Public Works Funding Situation

The purpose of this paper is to discuss the following three points:

A. The current outlook for the FY75/76 Federal-aid highway funding.
B. The current status of Executive Branch/Congressional efforts to assist the decaying railroad roadbed throughout the country.
C. Several alternatives available to the Executive Branch to deal with points A. and B. above.

A. FY75/76 Highway Funding Outlook

For almost a decade, the Executive Branch has "impounded" Federal-aid highway funds by unilaterally limiting annual program obligations to amounts less than the full Congressional program authorizations. Because the highway program utilizes contract authority funding, action by the Appropriations Committee is not required to enable the highway program to move forward.

Justified primarily on the basis of national economic health requirements, these impoundments had cumulated to approximately $4.3B as of December 30, 1974 (half way through FY75) 1/. Because of a unique feature of the Federal highway statute which requires that funding authorizations for a fiscal year must be made legally available for obligation no less than six months prior to the start of that fiscal year, FY76 authorizations had to be apportioned to the States on 1/1/75. Because the Executive Branch has chosen not to provide new obligations until the start of the respective fiscal year (six months later - 7/1/75), this situation created an additional $6.4B impoundment problem in FY75. In addition, P.L. 93-643 (signed 1/4/75) created further impoundment problems in FY75.

In February 1975, the President released from impounded funds $2.0B to help generate employment. As indicated in Attachment A, the result of all these actions means that we now have impoundments totalling approximately $9.1B. Of this total, the President's budget anticipates the release of $5.2B in FY76 obligational authority on 7/1/75.

Bearing heavily on this situation are the following two factors:

(1) Recent Court decisions are ruling against Executive Branch impoundments in the highway and other programs.

(2) The new Budget Control Act provides Congress with an explicit opportunity to overturn Executive Branch proposals to withhold funds from obligation.

With regard to the first point, the Executive Branch has lost every major highway impoundment case. At this point, DOT, Justice, and OMB are deciding what to do about the most recent adverse decision at the District Court level.

Concerning the second point, the Senate is moving forward with action (S. Res 69) to force the release of the currently impounded $9.1B. Under the Budget Control Act, all that is required to force such a release is a majority vote in either

1/ See Attachment A for further detail.

House of Congress to disagree with the President's proposed deferral of funds. Unless there has been a dramatic shift in Congressional sentiment over the last several weeks, we believe this resolution will be reported from Committee almost immediately and that the votes exist on the Senate floor to overturn the President's deferral.

Because DOT believes that the FY75 program level of $6.6B (following the President's $2B release in February) for FY75 is approximately all the States can use in FY75, Congressional action to overturn the deferral would not have much impact in FY75. However, it would set the stage for a similar action for FY76--a step which could escalate the President's FY76 budget of $5.2B to approximately $7.5B or even higher depending on the rate of State spending 2/.

As Attachment B indicates, the Senate Public Works Committee would probably be willing to forget about voting down the deferral if the Executive Branch would agree to utilize the full $9.3B available as of 7/1/75 in the following fashion:

$ in B

	(1975)	1976	Transition Qtr (7/1/76-9/30/76)	Total 7/1/75-9/30/76
Senate P.W.C.	(6.6)	7.5	1.8	9.3
President's Proposals	(6.6)	5.2	1.3	6.5

Since this Senate proposal represents approximately the most the States could probably spend in FY76, its main advantage to the Executive Branch is that the transition quarter would definitely be financed from existing rather than new authorizations.

Further compounding the FY76 funding is the fact that FY77 authorizations of approximately $5.5B to $6.8B would become available in FY76 due to the operation of the previously mentioned "advance availability" provision of the highway law (see Attachment A).To correct this problem now and in the future, the Administration highway bill will propose eliminating this "advance availability" provision starting with the FY77 authorizations (this change is indicated in the FY76 Budget transmitted last February).

B. Executive Branch/Congressional efforts to repair railroad roadbeds

Spurred by the dual problems of significant national unemployment and the decaying railroad roadbed, DOT has requested Administration approval for a program to provide immediate financial assistance to railroads to help them maintain and upgrade their roadbed. The demands of Project Independence has heightened the need for a strong, efficient railroad freight system to move coal around the nation.

DOT's proposal has not received approval by the EOP, largely on three grounds:

1. It would not produce jobs at a sufficiently fast rate.
2. It should perhaps await the transmittal of the final NE rail plan (USRA).
3. It would violate the President's "no new programs" and disciplined spending pledges.

2/ See Attachment B for comparison of annual funding levels.

The first two points are covered by other parts of this submission and the third is discussed later in this paper.

Elements of the Congress have also started to push for such a program. Congressman Heinz (R/Pa.) has introduced H.R. 4622, the Railroad Right-of-Way Improvement Act, which provides $2.5B in Federal funds for FY75-77. Hearings in April/May are likely by the House Commerce Committee. In the Senate, Senators Magnuson (Commerce Committee), Javits (Labor and Public Welfare Committee) and others have introduced S. 1326 which provides $300M for FY75 and such sums as are necessary for FY76 for such a program.

Most immediate, perhaps, is the introduction by Senator Randolph (Chairman of Public Works) of legislation to authorize an approximate $1B program of rail restoration grants. This effort is likely to be coupled with a Senate attempt to include these funds in the FY75 second supplemental appropriation.

C. Possible alternatives to deal with these emerging situations

At the suggestion of Vice President Rockefeller, Domestic Council Director Cannon, and OMB Director Lynn, DOT has been exploring possible ways to blend the highway/rail funding situation so as to meet priority transportation needs utilizing currently authorized funds. This would be consistent with the President's pledge to fight any new programs.

Given the Congressional pressure to do something about unemployment with transportation public works projects ("avoid leaf-raking jobs"), coupled with the customary strong pressure to release impounded highway funds, it is not too hard to assume that the Administration may be staring at the following FY76 highway/rail programs funded by the Congress:

	$ in B 7/1/75 - 9/30/76 Congress	President's Budget
Highway		
Available 7/1/75	9.3	6.5
Available 1/1/76	5.5 - 6.8	--
Subtotal (highway)	(14.8 - 16.1)	(6.5)
Railroad Roadbed	1.0 - 1.5	--
Total	15.8 - 17.6	6.5

As indicated previously, DOT believes a railroad roadbed repair program is definitely in the national interest at this point. It is also recognized that we will have to reach some accommodation with the Congress on a FY76 budget level for highways.

In this connection, it must be pointed out that any attempt to transfer highway funds to another mode of transportation (or to eliminate them altogether) is complicated by the fact that the funds are unevenly spread among the 50 States. In view of this point, the following scenario addresses outstanding highway authorizations which meet one of two tests:

1. They are narrow categorical grant programs which have been previously opposed by the Administration and are inconsistent with the thrust of our new highway bill.

2. They are authorizations which were added by P. L. 93-643, enacted 1/4/75. Reluctantly signing this bill because of its energy saving features (including the 55 mph speed limit), the President indicated these authorizations were unneeded, highly inflationary, and too categorical in purpose.

Taking into account all the above factors, Attachment C outlines a possible compromise funding plan for consideration by DOT Secretary Coleman and the leadership of the Executive Office of the President. It is predicated on the following features:

1. Compromising the 15-month highway obligation level at the rate of the FY76 authorization level and FY75 obligation level (it also roughly splits the difference between the President's Budget and the Senate thinking).

2. Congressional elimination of approximately $1.1-1.2B in outstanding highway authorizations as discussed above.

3. No new authorizations for the transition quarter.

4. Authorizing (possibly in the same bill) a new $1.0 - 1.2B public works grant program for railroad roadbed restoration.

5. Congressional concurrence (in the new highway legislation) to move back the date on which highway authorizations now become legally available.

If successful, this plan will undeniably add some outlays to the current FY76 budget estimates. However, it would be considerably less than Congressional action which is quite possible, and, quite significantly, it would eliminate the advance availability highway feature which makes any annual budget discipline virtually impossible.

ATTACHMENT A

I. Summary of FY75/76 Federal-Aid Highway Impoundment Situation

A. FY-75

	$ in B
Impoundment as of 12/30/74	4.3
1976 authorizations apportioned by law on 1/1/75	+6.4
	(10.7)
New 1976 authorizations from P. L. 93-643 apportioned by law in FY-75	+ .4
Presidents FY-75 Employment Stimulus Release (increase FY-75 program from 4.6 to 6.6)	-2.0
Total, current impoundments	$9.1

B. FY-76

FY-75 carryover	9.1
Additional authority which becomes available on 7/1/75	+ .2
	(9.3)
FY-76 President's Budget release of FY-76 obligating authority	-5.2
Total, impoundment as of 12/30/75	4.1
Assuming no change in the legal apportionment process:	
FY-77 authorizations apportioned by law on 1/1/76:	
Interstate	+3.3
All other (not yet enacted)	+2.2-3.5
Total, FY-76 impoundment as of 1/1/76	$9.6 - 10.9

ATTACHMENT B

Federal-aid Authorization and Obligation Levels - FY1974-1976
($ in B)

	1974	1975	1976 2/		7/1/76 9/30/76	
			Pres.	Congress 3/	Pres.	Congress
Authorization	App. 5.5	App. 6.2	6.6	6.6	--	--- 4/
Obligation	4.9	6.6 1/	5.2	7.5	1.3	1.8
					9.3	

1/ Includes $2B increase - 2/75.

2/ Does not include possible addition of $3-6B in 1977 authorizations which would become available on 1/1/76 under current practice. New Administration highway proposal is predicated on changing these availability dates until the start of the respective fiscal year.

3/ Senate Public Works Committee thinking at this point.

4/ Notcertain. Congress could always authorize more funds, specifically for this period.

Funding Estimates (7/1/75-9/30/76)

$ in Billions

	President's Budget	Possible Congressional Action	Possible Compromise Plan
Highway			
Available 7/1/75	6.5(5.2 + 1.3)	9.3(7.5 + 1.8)	8.2 1/ (6.5 + 1.7)
Available 1/1/76	-	5.5-6.8	-
Subtotal(highway)	(6.5)	(14.8-16.1)	8.2
Railroad	-	1.0-1.5	1.2
Total	6.5	15.8-17.6	9.4

1/ The following indicates the $1.1B in the Federal-aid account which would be proposed for rescission:

Federal-aid highway account ($ in millions)

1974 Highway Act (P.L. 93-643) add-ons:

$200	Off-System Highway Construction Funds
50	Additional Bridge Replacement Funds
150	Additional Primary and Secondary Funds

1973 Highway Act categorical grants:

514	Available*Priority Primary Funds
171	Available* Economic Growth Center Funds
$1085	

In addition, the following non-Federal-aid categorical grants would be proposed for rescission:

Other Accounts (not Federal-aid)

$ 90	Great River Road (1973 Highway Act)
25	Access Roads to Lakes (1974 Highway Amendments)
$115	

*as of Feb. 28, 1975

THE WHITE HOUSE

WASHINGTON

April 11, 1975

MEMORANDUM FOR JIM CANNON
DICK DUNHAM

FROM: MIKE DUVAL D

SUBJECT: MEETING TOMORROW

Jim, I talked to Dick about tomorrow's meeting with you as I thought it might be worthwhile if he could join us because of the items which need to be covered. If it's agreeable with you, I'd like to cover the following:

1. Secretary Coleman's Railroad Proposal. As you can see from the memo I sent you this morning, DOT is supposed to be redoing their options paper and I expect something by Monday afternoon. The next step should be a meeting of Principals: Coleman, Cannon and Lynn.

2. Auto Emissions. The first cut at the OMB auto emission paper has been completed, but Jim Lynn has ordered a rewrite.

3. Overall Energy Wrap-up. A very brief report on today's meetings on energy strategy.

4. Other Items. We can cover the five or six items you mentioned that are outstanding.