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

APR 20 1998

To: Frank Raines
Jack Lew
Josh Gotbaum
Chuck Kieffer
Larry Stein
Gene Sperling
Chuck Marr

From: Michael Deich *MD*

Subject: Budget cost of possible ISTEA compromises

The attached table compares the cost of various surface transportation options relative to the President's Budget. The options include the House bill, the Senate bill, and various options that would phase in the principle that spending should equal trust fund receipts. Perhaps the most striking feature of the table is the extent to which the House and Senate bills spend in excess of receipts (under the House bill, spending would be \$18 billion greater than receipts). Compared to the House bill, we could save nearly \$15 billion in outlays over the budget window simply by keeping '98 spending at enacted levels and by limiting spending in the period '99-'03 to receipts collected in each year. And allowing the principle of "spending equals receipts" to be phased in more slowly over '99-'03 would cost substantially less than immediate implementation of the principle.

NOTES:

- these estimates for use OMB scoring. Because CBO uses faster outlay rates, the six-year cost to implement "spending equals receipts" under CBO scoring would be higher;
- the estimates for BESTEA and the Senate bill differ slightly from the estimates handed out on 4/17. The difference is due entirely to rounding errors. Estimates that tie exactly to the estimates of 4/17 will be available shortly.
- the House, Senate and Administration bills each split the funding between highways and transit in slightly different proportions. The options for "spending equals receipts" all assume a highway/transit split similar to that in the Administration's bill.
- the estimates were prepared by David Worzala, Kim Nakahara and Mark Schwartz.

DRAFT

**Surface Transportation Reauthorization Funding
Highway Trust Fund Receipt Based Scenarios**
(Mandatory and Discretionary \$ in billions)

DRAFT

<u>President's Budget</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	28.0	27.8	27.7	27.7	27.7	27.6	166.5
OL	26.5	27.3	27.7	27.8	28.0	28.1	165.4

Delta From President's Budget

<u>HR 2400, BESTEA</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	1.3	7.2	11.2	11.1	11.2	11.2	53.2
OL	0.1	1.5	5.2	7.9	9.2	9.8	33.7

<u>S 1173, ISTE2</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	(0.2)	8.8	9.7	10.3	10.9	11.8	51.3
OL	(0.1)	2.0	5.6	7.5	8.7	9.7	33.4

<u>Scenario A</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	4.3	4.6	5.5	6.1	6.7	7.5	34.7
OL	0.9	2.4	3.6	4.5	5.3	6.1	22.7

<u>Scenario B</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	4.6	5.5	6.1	6.7	7.5	30.4
OL	0.0	1.0	2.9	4.2	5.0	5.9	19.0

<u>Scenario C</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	0.7	1.8	2.7	5.0	7.5	17.8
OL	0.0	0.1	0.6	1.3	2.4	4.2	8.5

<u>Scenario D</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	0.0	1.8	2.7	5.0	7.5	17.1
OL	0.0	0.0	0.3	1.2	2.4	4.1	8.0

<u>Scenario E</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	0.0	0.0	2.7	5.0	7.5	15.3
OL	0.0	0.0	0.0	0.5	2.0	4.0	6.6

<u>Scenario F</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	0.0	0.0	0.0	5.0	7.5	12.5
OL	0.0	0.0	0.0	0.0	1.0	3.5	4.5

<u>Scenario G</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>Total</u>
BR	0.0	0.0	0.0	0.0	0.0	7.5	7.5
OL	0.0	0.0	0.0	0.0	0.0	1.6	1.6

Scenarios

For scenarios A -- G, funding levels are set equal to a percentage of total Highway Trust Fund receipts (excluding interest) as noted below. (PB=President's Budget)

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Scenario A	100%	100%	100%	100%	100%	100%
Scenario B	PB	100%	100%	100%	100%	100%
Scenario C	PB	88%	89%	90%	95%	100%
Scenario D	PB	PB	89%	90%	95%	100%
Scenario E	PB	PB	PB	90%	95%	100%
Scenario F	PB	PB	PB	PB	95%	100%
Scenario G	PB	PB	PB	PB	PB	100%

**Surface Transportation Reauthorization Funding
Highway Trust Fund Receipt Based Scenarios**
(Mandatory and Discretionary \$ in billions)

Scenarios

Below are 6 scenarios for funding Surface Transportation Programs compared to the President's Budget (PB). In each case, funding levels are set equal to a percentage of total Highway Trust Fund receipts (excluding interest). In each case, highways receives 81% of the total receipts, transit receives 18%, and highway safety receives 1%. These percentages are equal to the percent of CA authorized in the Administration's NEXTEA proposal.

	1998	1999	2000	2001	2002	2003
Scenario A	100%	100%	100%	100%	100%	100%
Scenario B	PB	100%	100%	100%	100%	100%
Scenario C	PB	88%	89%	90%	95%	100%
Scenario D	PB	PB	89%	90%	95%	100%
Scenario E	PB	PB	PB	90%	95%	100%
Scenario F	PB	PB	PB	PB	95%	100%
Scenario G	PB	PB	PB	PB	PB	100%

DRAFT

President's Budget

BR	28.0	27.8	27.7	27.7	27.7	27.6	166.5
OL	26.5	27.3	27.7	27.8	28.0	28.1	165.4

HR 2400, BESTEA

	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>6 - Year Total</u>
BR	29.3	35.0	38.9	38.8	38.9	38.8	219.7
OL	26.6	28.8	32.9	35.7	37.2	37.9	199.1

S 1173, ISTEAD

BR	27.8	36.6	37.4	38.0	38.6	39.4	217.8
OL	26.4	29.3	33.3	35.3	36.7	37.8	198.8

Scenario A

BR	32.3	32.4	33.2	33.8	34.4	35.1	201.2
OL	27.4	29.7	31.3	32.3	33.3	34.2	188.1

Scenario B

BR	28.0	32.4	33.2	33.8	34.4	35.1	196.9
OL	26.5	28.3	30.6	32.0	33.0	34.0	184.4

Scenario C

BR	28.0	28.5	29.5	30.4	32.7	35.1	184.3
OL	26.5	27.4	28.3	29.1	30.4	32.3	173.9

Scenario D

BR	28.0	27.8	29.5	30.4	32.7	35.1	183.6
OL	26.5	27.3	28.0	29.0	30.4	32.2	173.4

Scenario E

BR	28.0	27.8	27.7	30.4	32.7	35.1	181.8
OL	26.5	27.3	27.7	28.3	30.0	32.1	172.0

Scenario F

BR	28.0	27.8	27.7	27.7	32.7	35.1	179.0
OL	26.5	27.3	27.7	27.8	29.0	31.6	169.9

Scenario G

BR	28.0	27.8	27.7	27.7	27.7	35.1	174.0
OL	26.5	27.3	27.7	27.8	28.0	29.7	167.0

**TALKING POINTS ON ISTEА REAUTHORIZATION
MEETING WITH GOVERNORS CARPER, PATTON, ROSSELLO AND ROMER
APRIL 24, 1998**

The Senate and House bills build upon ISTEА's successes and contain many of the initiatives the President proposed last spring to help us meet the challenges of the new century. However, the spending levels are far in excess of anything we can afford, and they would undermine the balanced budget agreement, starve other critical investments -- in education, research and the environment -- and threaten our commitment to Save Social Security First. We would be fiscally irresponsible not to fight for lower spending levels. For that reason, a veto is under active consideration.

We've Kept our Commitment to "Rebuild America"

- This President campaigned on the need to invest more in infrastructure in order to "rebuild America," and he has raised transportation spending to record levels, even while balancing the budget:
 - The budget submitted by the President this year asks for 42% more for transportation than the average expenditure in the Bush Administration.
- Moreover, by balancing the budget, we have lowered interest rates significantly, making your dollars go farther.
 - 30-year rates are 5.96%, down from 8.2% (on average) in the last Administration.
 - Lower interest rates have meant faster business investment growth (11.4% average annual growth since 1993) and more investment by state and local governments.

Congressional Spending Levels are "Far in Excess of Anything we can Afford"

- But the spending levels in the House and Senate transportation bills -- along with earmarked demonstration projects and the effort to take the Highway Trust Fund "off budget" -- go way too far. The President said on Tuesday, "I am concerned that the bills as passed are disembodied from the budget. They don't have any relationship with all the other pieces in the budget, and at least on their surface, appear to be far in excess of anything we can afford and still continue our commitments in education and honor Social Security First."
- The congressional bills are fully \$44 billion in outlays (over 6 years) above what the BBA called for! When we met with you in December, Gov. Carper, you asked us to request at least the FY98 enacted level in the Administration's budget, and we did that. But the House bill exceeds our request by \$34 billion and the Senate bill by \$36 billion!

- Even the *Wall Street Journal* said that "the highway bill is the lowest moment since Republicans regained Congress," not because it preserves affirmative action and protects the environment, but because it threatens the historic balanced budget agreement.

Balancing the Budget, Balancing our Values

- Our current economic success is a result of fiscal discipline combined with strategic investments. The congressional bills would abandon a winning formula in order to fund highways at an excessive level, while leaving out of the equation classrooms, teachers, children, training, research -- all the investments we need to build for the future.
- Transportation is an important domestic priority, but we must strike a balance, so that we maintain fiscal discipline and preserve strong investments in our people as well as our physical infrastructure.

Veto is Under Active Consideration

- We look forward to working with Congress to explore alternatives that can satisfy Congress' core objectives and that would also meet the test that the President has laid out for any highway spending -- it must be paid for, and it must be paid for in a way that does not cripple the key elements of the President's initiatives. But until these conditions are met, a veto remains under active consideration.

THE WHITE HOUSE
WASHINGTON

**NEC Principals Agenda
Roosevelt Room, 5:30pm
April 23, 1998**

I. MIT Commencement

II. ISTE A

III. Supplemental

IV. Bankruptcy

DOT OFFICIALS TALKING POINTS (READ ONLY)
ISTEA REAUTHORIZATION
APRIL 2, 1998

The Senate and House votes bring us closer to a reauthorization bill which builds upon ISTEA's successes and which includes many of the initiatives President Clinton proposed last spring to help us meet the challenges of the new century. However, we're concerned that proposed new spending goes too far, threatening both fiscal discipline and commitments to education and other investments.

Building on ISTEA. We commend Congress for bills which retain most of ISTEA's principles. They continue the many programs which work, refine those which haven't yet fully realized their promise, and create new initiatives which apply what we've learned.

Investing in America. The Congressional bills retain ISTEA's proven core structure of highway, bridge, and transit programs to continue rebuilding America, and continue investments in ITS and other advanced technologies.

Protecting safety and the environment. The bills have programs to expand seat belt use and, in the Senate, a tough .08 BAC standard to fight drunk driving. They expand CMAQ to clean our air and Transportation Enhancements to improve our communities.

Creating opportunity. These bills expand opportunity through a continued strong disadvantaged business enterprise program and a new program to help those making the transition from welfare rolls to payrolls get to where the jobs are.

Concern about spending levels. However, the spending levels in this bill, earmarked demonstration projects, and the effort to take the Highway Trust Fund off-budget threaten to undermine the bipartisan balanced budget agreement and starve other critical investments, such as the President's proposals for education and child care. They also could force cuts in other vital transportation programs, such as FAA modernization and the Coast Guard's national security mission.

Balancing the budget, balancing our values. The President, in partnership with Congress, has raised transportation investment to record levels while balancing the budget *and* honoring other critical national priorities. We need to continue such fiscal responsibility while investing for our future in a balanced way.

The House-Senate conference. As ISTEA reauthorization moves to the House-Senate conference committee, we pledge to work with the conferees to preserve the important priorities established in both the House and Senate bills, and to address the serious concerns which have been raised.

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APR. 3. 1998 8:16PM NO. 871 P. 272

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ISTEA REAUTHORIZATION
APRIL 2, 1998

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Highway Robbery

WSJ
3/31/98

Forgive our naiveté. These columns recently said that at least the mammoth \$214 billion highway bill now making its way through Congress didn't subsidize the undeserving rich via, say, ethanol. So much for trying to be nice.

We've since learned that the Senate version of this pork-fest includes an unadvertised extension of the 54-cent-per-gallon corn-fuel subsidy for another seven years. And over in the House, Speaker Newt Gingrich is making this taxpayer donation to Archer-Daniels-Midland his own latest and greatest cause, filling the vacancy created by Bob Dole's retirement.

Mark it down as one more outrage in a highway bill that has become one of the great logrolling parties of all time. Last we checked, the House Transportation folks were admitting 1,467 projects for individual Members, at a cost of about \$10 billion. That's 10 times more such projects than in the bill Ronald Reagan vetoed in 1987 for going way too far. It's nearly three times more than Democrats stuffed into their 1991 bill.

Among the urgent national needs fulfilled in the House bill: \$12 million for an Appalachian Transportation Institute at Marshall University, for Democrat Nick Rahall; and \$800,000 to restore a Gettysburg, Pa., train station, a privately owned facility near the national battlefield park, in the district of Republican Bill Goodling.

Our favorite, though, is \$7 million for a new "transportation museum" along the Lehigh River in Allentown, Pa., just down the road from Steamtown and the National Railway Museum in Scranton. This is nothing more than a ruse to grab federal cash for an urban renewal project called Lehigh Landing. Because subsidies for cities aren't popular, Members such as Democrat Paul McHale have learned how to hide them in "highway" bills. Congratulations.

It's all so blatant that even a few Members are gagging on the grease. Sophomore Republican Lindsey Graham said he began to wonder when he was asked what projects he wanted for his South Carolina district. He submitted a \$7 million request, but the Transportation powers came back and asked him if he wouldn't be happier with \$16 million! Repeat that for 535 Members and you soon have a bill that busts last year's budget-deal spending "caps" by some \$26 billion. This is one reason House Budget Chairman John Ka-

sich calls the bill an "abomination."

The bad news is that Mr. Gingrich has declared himself to be foursquare for ethanol. "It's a program that I am very deeply committed to," said the Speaker, flanked by two Iowa pols. This not a formula for maintaining a reputation as a daring political leader. But Mr. Gingrich may run for President in 2000, a race that would take him through Iowa and the heart of the ethanol lobby. His ethanol grandstanding with Iowa pols Jim Nussle and Charles Grassley may have got him headlines in Des Moines, but we're not that certain this issue is an automatic vote-getter even with the people of Iowa. Taxpayers may applaud Mr. Kasich, who also may run for President but says he'd let the ethanol subsidy expire as now planned.

The fact is that the ethanol subsidy made little sense when it was begun as an experiment amid the oil crisis in the late 1970s. But with gas now at close to \$1 a gallon and plentiful, a 54-cent-a-gallon subsidy for ethanol is the worst sort of corporate welfare. Each year the ethanol tax exemption also robs money (\$615 million in 1995) from the Highway Trust Fund, which is supposed to go to build highways. If Congress let ethanol fend for itself in the marketplace, the Members would have more to spend on their precious roads.

There is indeed Republican resistance on this. Chief House tax writer Bill Archer is trying to kill the Senate's ethanol extension. Under current law the subsidy expires in 2000. Mr. Archer is proposing to take the savings from that subsidy phaseout and use it to cut taxes on railroad diesel fuel and heavy truck tires. Suddenly, ADM and the corn growers have to compete against political lobbies other than mere taxpayers. Alas, Mr. Gingrich's declaration for ethanol came as soon as Mr. Archer's handiwork passed Ways and Means last week.

All in all, the highway bill is the lowest moment since Republicans regained Congress. At least their previous concessions to principle were made under pressure from President Clinton. But the highway bill is a travesty of their own design. Even Mr. Clinton is now attacking it as pork-ridden, allowing him to further blur the fiscal differences between Republicans and Democrats. That's the price of Republican highway robbery.

Will IRS Reform

Get 'Scored'

Into Tax Increase?

By LAUCH FAIRCLOTH

In the crazy world of Washington, D.C., legislation to reform the Internal Revenue Service is beginning to look more and more like a bill to *increase* taxes by several billion dollars. This outrage must be stopped, and soon.

Last fall, the House of Representatives passed legislation based on the recommendations of the National Commission on Restructuring the IRS, the so-called Kerrey-Portman Commission. Most of the provisions of that bill are good, common-sense measures that will make the IRS more accountable to the public and reform the way the IRS conducts its business. Some of the "taxpayer bill of rights" provisions, however, have been "scored" by the Joint Committee on Taxation as costing the government revenue. In Washington-speak, this means that these provisions require an "offset"—better known to most Americans as a tax increase.

House bill drafters were creative in finding a "loophole closer" for their IRS reform bill's offset. Their idea is to clarify the deduction for accrued vacation pay, which would net an additional \$2.85 billion over five years. In this case, the loophole closer probably is just that; it's arguable that federal tax court decisions have strayed from the intent of Congress in 1987 legislation concerning the proper treatment of the taxation of vacation pay as deferred compensation. But there are precious few other true loophole



closers where that one came from. Virtually every other potential "revenue offset" on the table would come from one of two sources—a laundry list of 43 tax increases proposed by the president, or unspecified tobacco tax settlement money. Either way, they are tax increases.

And there's another problem: The Senate version of IRS reform is shaping up as two to three times more expensive than the bill passed by the House last fall, according to staffers of the Senate Finance Committee. That means that congressional staffers drafting the revised bill must dip into their bag of "loophole closers" (translation—tax increases) suggested by the president to pay for the additional lost revenue to the government.

I find it patently offensive that any reform of the Internal Revenue Service should impose a cost on the American people. After all, the IRS employs more than 100,000 people, 46,000 of whom work in enforcement, with a total budget of over \$8 billion. The entire Drug Enforcement Administration—our front-line defense in the war on drugs—has a staff of only 8,500. The IRS can audit any American at any time, but drug traffickers would have nothing to fear under the present administration's priorities.

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DRAFT

April 16, 1998

PRELIMINARY LISTING OF ISSUES OF MAJOR CONCERN TO DOT IN ISTEA CONFERENCE

Issues of Concern to Administration:

1. Overall funding levels must be consistent with Balanced Budget Agreement
2. Offsets must be consistent with other Administration priorities
3. Highway Trust Fund should not be taken off-budget, should stay part of unified budget
4. 1,500+ "demonstration" projects in House bill totaling \$9 billion, expectation that Senate will seek projects too

Specific Transportation Issues:

1. Safety--adequate funding levels for NHTSA's grant programs; .08 BAC; open containers; no "lobbying" ban; President's seatbelt initiative; no exemptions (ME, NH, CO, LA) on truck size and weight limits; NM commercial zone provision; access to electronic/GPS data on motor carriers; roadside safety; hazmat reauthorization (one call included in Senate hazmat bill)
2. Balanced investment in highway, transit, and rail programs
3. Disadvantaged Business Enterprise Program
4. Welfare-to-Work
5. Environment
6. Ethanol
7. Preventive maintenance and cap concerns re transit
8. Adequate Funding for Park Roads and Parkways
9. Appalachian Highway Development Program
10. Labor Protections
11. Innovative Finance Tools
12. R&D

ISTEA Update April 22, 1998

Conference Opens

- House and Senate conferees held their first public meeting yesterday (Wednesday). Shuster has said that first priority is agreeing on non-controversial parts of bills.
- House and Senate Republican leaders are/were expected to meet today (Thursday) on how to pay for the highway bill.
- Criticism on demonstration projects continues: Sen. Warner has said he has found 56 additional projects in the House bill. And Congressman Castle and a group of Republicans wrote the conferees, calling for fewer projects and lower spending.

President Criticizes Excessive Spending

- On Tuesday (4/21/98), the President said: "I am concerned that the bills as passed are disembodied from the budget. They don't have any relationship with all the other pieces in the budget, and at least on their surface, appear to be far in excess of anything we can afford and still continue our commitments in education and honor Social Security first."
- The President spelled out two important principles of ours 1) The highway bill must not come at the expense of education and other key domestic priorities. 2) It must be consistent with the President's pledge to Save Social Security First.

Scoring of House and Senate Bills

- The House bill is \$34 billion in outlays over six years above a CBO freeze baseline, which is comparable to our proposal. The Senate bill is actually \$36 billion higher.

What is Coming Up

- Technical staff meeting soon to agree on underlying numbers, so all are working from one reference point.

- A meeting, likely next week, between GS, Frank Raines, Larry Stein and Congressional Principals.

6-2930



03:53:28 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP

cc:

Subject: Podesta Draft

I'd like to keep it short, but I'd welcome your comments.

TRANSPORTATION

Background: Governor Paul Patton (D-KY) will present the governors' position on transportation. With a May 1 deadline approaching beyond which states may not obligate federal highway funds, governors are urging House and Senate conferees to complete their work quickly on ISTEA and for the President to sign the legislation. Governors support the Congressional funding levels and support the mechanism in the House bill that would dedicate all trust fund revenues to highways. They also oppose sanctions (BAC -.08) in the Senate version that would force states to enact specific safety laws or face the loss of 20% of their core federal highway spending.

Although the governors were pleased by the President's statement on April 21 supporting a transportation bill that increases investment, they are concerned about a potential Presidential veto, and the impact such a delay would have on funding state projects.

Talking Points:

- o First, we oppose moving the Highway Trust Fund off budget. A balanced federal budget contributes directly to the same ends that justify higher transportation investment --namely, productivity and economic growth. By balancing the budget, we have lowered interest rates significantly, making the Governors' investment dollars go farther. [30-year interest rates are now 5.8%, down from 8.2% (on average) in the last Administration.]
- o Second, funding for these programs has grown rapidly even as overall discretionary spending has declined. Highway spending in our FY99 budget is up 42% over what it averaged in the last Administration.
- o And third, in a December White House meeting, Governor Carper asked us to request at least the FY98 enacted level in the Administration's budget, and we did that. But the Congressional proposal threatens to squeeze out our commitments to education, child care, and medical research. (The House bill is about \$34 billion higher and the Senate bill about \$36 billion higher than our request.)

- o While the President has not made a final decision whether he would sign ISTEA, he has said that the current legislation is “far in excess of anything we can afford.”



12:45:17 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP

cc: Jake Siewert/OPD/EOP

Subject: Re: Governors-Transportation 

My first dumb question, what is BNA? Second, Podesta wants to deliver a tough political message to the Governors on Friday (not sure if that means he wants to raise the veto possibility) and wants background material today. Attached is a brief summary of the Governor's thinking to respond to:

TRANSPORTATION

Governor's Perspective: Governor Paul Patton (D-KY) will present the Governor's position on transportation. With a May 1 deadline beyond which states may not obligate federal highway funds fast approaching, Governor's are urging House and Senate conferees to complete their work quickly on ISTEA and for the President to sign the legislation. Governor's support the Congressional funding levels and support the mechanism in the House bill that would dedicate all trust fund revenues to highways. They also oppose sanctions (what is this - .08???) in the Senate version that would force states to enact specific safety laws or face the loss of 20% of their core federal highway spending.

Although the Governors were pleased by the President's statement on April 21 supporting a transportation bill that increases our investment, they are concerned about a potential Presidential veto, and the resulting delay in funding state projects.

Administration's Position:



08:57:52 AM

Record Type: Record

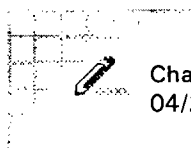
To: Dorothy Robyn/OPD/EOP

cc: Jake Siewert/OPD/EOP

Subject: Governors-Transportation

Although I work in OPL, I'm helping IGA on policy while Emily is out on maternity leave. On Friday, Governor's Rossello, Patton, Carper, and Romer are coming to the White House, and the discussion will focus primarily on transportation and tobacco. Podesta, Raines, Stein, Reed will attend, with a possible drop-by from POTUS or VP.

I'm preparing the briefing and would appreciate a couple of paragraphs on the state-of-play on ISTEAs and whether we should send a signal on our level of opposition to the proposed funding level.

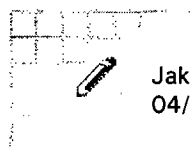


Charles R. Marr
04/23/98 03:58:34 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP
cc:
Subject: COMING YOUR WAY

----- Forwarded by Charles R. Marr/OPD/EOP on 04/23/98 04:07 PM -----



Jake Siewert
04/23/98 03:36:56 PM

Record Type: Record

To: Linda Ricci/OMB/EOP, Charles R. Marr/OPD/EOP
cc: Melissa G. Green/OPD/EOP
Subject: COMING YOUR WAY

Q This morning you said you would have more to say about Congressman Shuster's proposal to make some concessions in return for putting the highway trust fund off budget. What's the President's reaction to that?

MR. MCCURRY: I've got a lot of words here that I can recite for you. They don't add up --

Q Any of meaning?

MR. MCCURRY: Not really, but -- (laughter). But I'll try anyhow. There are couple of good things to say. First, that it was very important that Congressman Shuster endorsed the federal standard of .08 on DUI. That was something that the President has felt strongly about. That's an important stand and it will protect Americans and potentially save hundreds of lives a year. Second, we oppose the earmarking of projects in specific bills, and we think that the Congress ought to allow all highway funds to be channeled through the traditional state planning process, which is available through state transportation departments, so that you can make appropriate trade-offs when you make decisions on investment.

That's been one of our concerns about the bill, and we've stated that often. And we think that with respect to that, Congressman Shuster is on the right track, and that is good news.

We do have serious reservations about the bill, principally because of the spending. It's \$53 billion above the President's budget request, which itself was above spending levels that were initially set in the balanced budget agreement. We called for significant increases in transportation spending in the President's balanced budget proposal for fiscal year 1999, and it's important for Congress to recognize that before they sap all of the energy and investment potential that's in the budget out of some of these other priorities the President addresses and place it only in surface transportation.

Q What about the --

MR. MCCURRY: The trust fund? You mean the --

Q He doesn't want the trust fund to be used to make the deficit seem smaller than it is.

MR. MCCURRY: I think that's an issue -- Barry, chime in if you want to -- but that is an issue -- the complexity of that issue changes because of the environment we're in now, one of the balanced budget and potential future surpluses. In the past, that question has always been tied up in how do you deal with federal budget deficits and there's some change in that now. But again, we kind of go back to the same fundamental principle, which is you've got to make prudent, careful, disciplined investments. You have to choose your priorities carefully. And with respect to money that creates a perceived surplus in the budget, it's important to have that available as you address long-term entitlement questions, specifically Social Security.

Q Are you saying that if the highway trust fund was put off budget, the budget would still be in balance?

MR. MCCURRY: I don't know. There's someone in the back who could help me with that, but you don't want to -- he's here with his daughter, so it's not fair to do that.

Q I mean, you're saying the budget is balanced and some of these funds are earmarked, and I'm asking you --

MR. MCCURRY: I don't know. Do you know the answer to that?

Q -- if you didn't use them to mask the size of the deficit --

MR. MCCURRY: We'll refer you to the Director of the OMB later in the day. (Laughter.) I think that does -- Barry is correct -- that depends on exactly how you calculate what the potential surplus will be in all that we've said so far, what the Director of OMB has said so far is there will likely be an excess of \$18 billion dollars. But we haven't said how much.

Q Well, how big is the highway trust fund? Okay, so the surplus would be much smaller.

MR. MCCURRY: Well, we'll see.

Q Well, the Social Security fund is a huge one that masks the deficit.

MR. MCCURRY: Correct. That's correct. And the whole concept of whether or not the budget is unified is a complex one we'll save for another day.

ISTEA Q&A
April 23, 1998

Q: How do you respond to critics who say that Governor Clinton agreed that the highway trust fund should be spent on highways, but now President Clinton disagrees?

A: President Clinton believes in making sure that America has a strong transportation system. That's why he has raised transportation spending to record levels, even while balancing the budget. And in this year's budget, the President calls for spending levels that are 42 percent higher than those in the previous Administration.

- But President Clinton believes that funds for transportation must not drain the surplus or crowd out key investments in education and other important priorities.

Follow-up:

Q: But how do you respond to the point on the trust fund?

A: That's a complicated issue, and there's plenty of dispute as to whether highway spending historically has been higher or lower than actual receipts from the gas tax. In fact, the GAO has concluded that spending on transportation has exceeded receipts from the tax.

What is indisputable is that the spending levels in the congressional bills are unacceptably high. The President wants to make sure that when we invest in highways, we strike a balance so that we do not endanger Social Security reform or crowd out critical investments in education and children.

Transportation Talking Points
Re: Shuster Says Deal Possible

Q: Representative Bud Shuster said he's willing to make concessions on the highway bill to allow a new standard for drunk driving, and to have negotiators in conference scale back the scope of the demonstration projects. Does the Administration consider this an acceptable compromise?

- First, we endorse Congressman Shuster's view that the federal standard of 0.08 should be enacted. By imposing this federal standard against drunk drivers, we will be able to save hundreds of lives a year and make the roads safer for drivers and their passengers.
- Second, our policy is that we oppose the earmarking of projects in Washington. We urge Congress to allow all highway funds to be channeled through the traditional state planning process, so that the appropriate trade-offs can be made.
- While we believe Congressman Shuster is on the right track in both these areas, we still have serious reservations about his bill which we want to see resolved in Congress.

The levels of spending are still excessive. His bill is \$53 billion above the President's budget request, and it is not clear where he will get the additional funds to pay for this extremely high level of spending.

- We believe spending at these levels would require spending the anticipated surplus, which the President has said must be reserved until we address the problems of Social Security ---- or it would cripple the key elements of the President's initiatives.

This will have the effect of draining fund from critical national priorities, like education, childcare, medical research, and the environment. It is crucial to the economic future of this country that we make targeted investments as our nation prepares for the challenges of the 21st century. Our current economic success is a result of combining fiscal discipline and strategic investments. We don't want to abandon a winning formula in order to fund highways at an excessive level, while leaving out of the equation classrooms, teachers, children, training, research ----all the initiatives that we need to build for the future. Unfortunately, Congressman Shuster's bill would mean money for highways and little else.

Q: Are you still considering a veto?

We look forward to working with Congressman Shuster and Congress to explore alternatives that can satisfy Congress's core objectives and which would also meet the test that the President has laid out for any highway spending ---- that it must be paid for, and that it must be paid for in a way that does not cripple the key elements of the President's initiatives

However, if these conditions can't be met a veto is still under active consideration.

Q: Congressman Shuster says that the additional transportation spending will be covered by spending the new money that goes in every year go into the transportation fund. Why is this not acceptable?

Because the spending levels envisioned in Congressman Shuster's bill would require far more than just the use of the new tax receipts that go into the transportation fund, as he has said.

The spending levels are excessive and will require cuts in other critical programs to pay for transportation. We must balance the need for transportation with other critical needs.

Q: He wants to take it off-budget. Would you object?

We have long opposed taking the highway trust fund off-budget. Congressman Shuster really wants an escape from the fiscal discipline of the bi-partisan Balanced Budget Agreement. We think it's right to honor the fiscal discipline in the bi-partisan Balanced Budget Agreement.



David E. Tornquist

04/23/98 04:30:15 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP

cc:

Subject: Re: Draft Talking pt's 

The House is \$44B above the BBA and the Senate is \$43 billion.

You could say:

"Fully funding the House or Senate bills and protecting the President's initiatives, including class size, school construction and crime, would force a 5.7 percent cut in every other discretionary program. These cuts would come out of our food safety programs, Head Start, job training programs, and Federal Aviation Administration and Coast Guard operations."

DOT OFFICIALS TALKING POINTS (READ ONLY)
ISTEA REAUTHORIZATION
APRIL 2, 1998

The Senate and House votes bring us closer to a reauthorization bill which builds upon ISTEA's successes and which includes many of the initiatives President Clinton proposed last spring to help us meet the challenges of the new century. However, we're concerned that proposed new spending goes too far, threatening both fiscal discipline and commitments to education and other investments.

Building on ISTEA. We commend Congress for bills which retain most of ISTEA's principles. They continue the many programs which work, refine those which haven't yet fully realized their promise, and create new initiatives which apply what we've learned.

Investing in America. The Congressional bills retain ISTEA's proven core structure of highway, bridge, and transit programs to continue rebuilding America, and continue investments in ITS and other advanced technologies.

Protecting safety and the environment. The bills have programs to expand seat belt use and, in the Senate, a tough .08 BAC standard to fight drunk driving. They expand CMAQ to clean our air and Transportation Enhancements to improve our communities.

Creating opportunity. These bills expand opportunity through a continued strong disadvantaged business enterprise program and a new program to help those making the transition from welfare rolls to payrolls get to where the jobs are.

Concern about spending levels. However, the spending levels in this bill, earmarked demonstration projects, and the effort to take the Highway Trust Fund off-budget threaten to undermine the bipartisan balanced budget agreement and starve other critical investments, such as the President's proposals for education and child care. They also could force cuts in other vital transportation programs, such as FAA modernization and the Coast Guard's national security mission.

Balancing the budget, balancing our values. The President, in partnership with Congress, has raised transportation investment to record levels while balancing the budget *and* honoring other critical national priorities. We need to continue such fiscal responsibility while investing for our future in a balanced way.

The House-Senate conference. As ISTEA reauthorization moves to the House-Senate conference committee, we pledge to work with the conferees to preserve the important priorities established in both the House and Senate bills, and to address the serious concerns which have been raised.

Deal on Highway Bill Possible, Shuster Says

Use of Gasoline Tax Revenue Is Key Issue

By ERIC PIANIN
Washington Post Staff Writer

Rep. Bud Shuster (R-Pa.), the House's chief negotiator on new highway legislation, said yesterday that he was willing to make important concessions to the Senate on a new drunk driving law and pork barrel spending in return for assurance that future gasoline tax revenue be used exclusively for highway construction.

Shuster's conciliatory comments were made several hours before House and Senate transportation committee conferees met for the first time to try to forge a compromise spending bill somewhere in the neighborhood of \$214 billion to \$217 billion over six years. Congressional aides said Shuster's remarks greatly enhance the prospects that Congress will impose a tough "0.08" nationwide drunk driving standard this year and that negotiators will consider scaling back the scope of pork barrel spending in the House and Senate versions of the bill.

Shuster's Senate counterpart, John H. Chafee (R-R.I.), said the comments "represent a spirit of compromise that we've all got to have." He noted that some House members still opposed the drunk driving measure.

The behemoth highway legislation has drawn fire from President Clinton, House Budget Committee Chairman John R. Kasich (R-Ohio) and scores of congressional conservatives and moderates who are concerned that it exceeds levels outlined in last year's balanced-budget deal, that it may crowd out other important domestic initiatives and that it signals a return to traditional pork barrel politics. Clinton said this week that the legislation is "far in excess of anything we can afford," although he has not specifically threatened a veto.

"If the conference decides to eliminate the projects, I've got no problem with that at all," said Shuster, chairman of the House Transportation Committee and chief architect of the

House bill. "I am focused on two things: unlocking those highway trust funds so that revenue that comes into them is available to rebuild America, and addressing the [country's infrastructure] needs."

At the heart of Shuster's highway plan is the requirement that future federal gasoline tax revenue be used exclusively for highway spending and not for other types of spending or for offsetting the deficit. Shuster and his allies have fought for years to move the trust fund "off budget" and hence out of bounds for other types of spending or deficit reduction. While the White House and Senate leaders are opposed to this approach—saying it would greatly complicate the task of balancing the budget and keeping it balanced—Shuster's plan has wide popular support.

Yesterday, local, state and federal officials and a broad-based highway lobby launched a drive to ensure final passage of the largest highway and mass transit spending bill in history by margins that would make it virtually immune to a potential presidential veto. While the debate has been dominated by power politics and bitter feuding over pork, champions of the highway reauthorization bill sought to marshal facts and figures to demonstrate the importance of the increased spending.

Proponents say the new highway and mass transit spending—a 42 percent increase over the previous six years' spending levels and nearly \$30 billion more than called for in last year's budget deal—is vital to improving highway safety and keeping the economy competitive.

"Most of the things [in the bill] that are routinely referred to as pork are extraordinarily important to transportation issues affecting the people of American cities and American suburbs and economic development issues," Philadelphia Mayor Edward G. Rendell (D) said in a speech at the National Press Club.

Arguing that even the record highway bills pending in Congress don't meet the \$853 billion "price tag" of

infrastructure needs, Rendell said the current period of economic prosperity is the time to start rebuilding roads, schools, and water and sewer systems that are "literally crumbling before us."

Highway bill proponents note that the 42,700-mile interstate highway system carries 2½ times the traffic it did in 1975 and that congestion continues to mount. While the U.S. population has increased 10 percent during the past decade, vehicle miles traveled have increased by 37 percent.

Keep America Moving, a coalition of businesses, trade groups and manufacturers dependent on surface transportation, and a group headed by the American Road & Transportation Builders Association are waging a radio and newspaper advertising campaign linking the highways bill to improved traffic safety and gaining a fuller use of the federal gasoline tax for its intended purpose.

The Alliance for Truth in Transportation Budgeting, the group spearheaded by the road and transportation builders, is running a newspaper ad today urging Clinton to support "freeing the highway trust fund and using the money as it was intended"—a position Clinton once endorsed as governor of Arkansas.

Typical of the support for the bill is the backing of southern governors whose states fared poorly under the 1991 highway bill—which was written largely to benefit states from the Northeast and upper Northwest.

"Both bills undoubtedly represent movement in the right direction," said Elizabeth Schneider, executive director of the Southern Governors' Association. "There are steps taken to provide equity. It's not as big a step as we hoped, but it is real progress and represents real victory for donor states that for too long have been unfairly treated."

Staff writer Charles R. Babcock contributed to this report.

FOR MORE INFORMATION

To read about the pork earmarked in the House and Senate highway bills, click on the above symbol on the front page of The Post's Web site at www.washingtonpost.com

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Daily Report for Executives

No. 78

Thursday April 23, 1998

Regulation, Law & Economics

Transportation

Conferees Begin Work On ISTEA;

Leadership to Meet on Budgetary Offsets

House and Senate conferees on the massive rewrite of the Intermodal Surface Transportation Efficiency Act officially began their work April 22, saying they will make an all-out push to finalize the legislation in the next few weeks and thereby prevent a prolonged cutoff in construction monies to the states.

Led by House Transportation and Infrastructure Committee Chairman Bud Shuster (R-Pa), who won his battle to chair the conference, both House and Senate lawmakers said they hope to work out a conference agreement soon that will reauthorize the federal highway and transit programs for the next few years.

With the short-term ISTEA extension prohibiting states from obligating any funds after May 1, Shuster and Senate Environment and Public Works Committee Chairman John Chafee (R-RI) said they are aware that a lengthy lapse will hurt highway construction programs. But with the legislation (HR 2400/S 1173) raising many controversial and complex issues, lawmakers acknowledged that states are certain to experience at least a short-term lapse in funding. As conferees began work on the reauthorization, the Memorial Day recess now appears to be the new target for finalizing the bill.

"We'd better get it done by Memorial Day," Shuster said. "Some states are running out of money, especially the northern states."

Lawmakers, however, may be hard pressed to even meet that deadline, with several voicing concerns that indicate the conference will be long and contentious. Among the items that already are creating sparks among conferees are funding for competing programs and individual projects. And both sides played up their own bills as well as their lop-sided votes when they were passed earlier this year.

Another tough issue for conferees will be finding the offsets necessary to cover the extra spending authorized by the House and Senate bills. Senate Budget Committee Chairman Pete Domenici (R-NM), a conferee on the legislation, warned lawmakers that budgetary law requires offsets to be identified to cover the increased spending.

According to Domenici, the required offsets could be as much as \$30 billion. "Those will be big hurdles," he said, adding that he is willing to help conferees find the offsets.

However, Shuster told reporters earlier in the day that the House and Senate leadership will begin tackling the issue of offsets in a separate meeting now set for early April 23. Shuster said he and Chafee will join House Speaker Newt Gingrich (R-Ga) and Senate Majority Leader Trent Lott (R-Miss) to discuss where to find about \$25 billion in budgetary offsets for the ISTEA bill.

Leadership To Meet On Offsets

Besides their own differences in addressing many of ISTEA's policies, House and Senate conferees also will have to deal with the Clinton administration's rising opposition to their legislation. While the administration earlier questioned their total funding levels--\$218 billion in HR 2400 and \$214 billion in S 1173--it came out in opposition to the plan after Domenici's committee proposed using as offsets the

same savings that President Clinton identified to cover his new spending initiatives.

"It was only after they saw their pet new spending programs might be jeopardized that they began to back away," Shuster told reporters during the briefing session.

Some indication of the administration's current views of the ISTEA reauthorization will be known April 23, when Transportation Secretary Rodney Slater addresses the issue during an address to the National Press Club.

Shuster, however, said he doubts that Clinton would get far if he ultimately decided to veto the legislation. "The only significant veto that [President Ronald] Reagan ever lost was the '87 highway bill," Shuster said.

But besides the opposition of Clinton administration budget hawks, Domenici and other conferees are expected to oppose many elements of the legislation, including the House language to take the Highway Trust Fund off budget.

Aides said Budget Committee Chairman John Kasich (R-Ohio) and other members of that panel will be added soon as conferees. Other conferees still to be added will come from the Ways and Means Committee.

Congressional sources said they also believe Chafee, who earlier fought the big funding increases proposed for highways, might try to slow down the conference in order to work with Domenici to scale back the measure or fight proposals to take transportation out of the budget process.

Already, Chafee's aides met privately April 21 with key Domenici staffers to discuss the ISTEA conference, they said.

'70 Percent Solution' Proposed

The prospect of reconciling the two bills in a short period remains a daunting task, aides said. Although already they have met for about three weeks on the legislation, so far few agreements have been reached, even on minor issues, they said.

Shuster, however, told reporters that House aides early April 22 proposed a "70 percent solution" to Senate staff that will be the subject of discussions during the remainder of the week. Shuster and aides said the proposal deals with about 70 percent of the issues raised by the highway titles of the House and Senate bills.

Shuster said he and Chafee may meet April 23 to discuss the proposal, adding that conferees then might attempt to reach an agreement on the issues covered by it on April 24. He said his goal was to reach an agreement on the "underbrush" items by week's end in order to clear the way for conferees to begin tackling more controversial issues the week of April 28.

Those issues, Shuster said, include funding levels for programs; mechanisms to ensure spending keeps up with gas tax revenues; and formulas for distributing monies to the states. The '70 percent solution,' he said, deals with none of those items.

Another controversy that will be left until later will be the legislation's provisions aimed at drunk driving. While the House approved language to give states incentives to adopt .08 blood alcohol content as the standard for drunk driving, the Senate's approach calls for states to be sanctioned with the loss of highway funds if they do not adopt the tougher standard.

But Shuster said he does not have a vested interest in that controversy. "I'm not going to carry the ball at all" on the .08 BAC issue, Shuster said. "My focus is on getting the money."

According to aides, Rep. James Oberstar (D-Minn), the Transportation Committee's ranking Democrat, also may be inclined to back the Senate approach in the conference. In all, the emerging picture suggests that the House may be willing to concede to Chafee on .08 BAC in order to gain ground on other issues.

Shuster, however, said he expects Surface Transportation Subcommittee Chairman Thomas Petri (R-Wis) will fight the Senate plan. Many beer companies, which oppose the Senate's language on .08, are headquartered in Petri's home state of Wisconsin, he said.

Project Issue Also on Hold

Also likely to be temporarily kept on hold is the legislation's treatment of highway and transit projects. While the House bill has more than 1,500 such projects, the Senate bill has few specific project earmarks. However, the Senate bill does have many provisions aimed at addressing lawmakers' special programs and facilities and also includes \$900 million for the Woodrow Wilson Bridge.

Shuster acknowledged criticism of the earmarks but said he doubts the final bill will not carry such projects. Members of Congress, who have to cast the vote for the legislation, should have some say where the funds are directed, he said.

"If you eliminate [the projects], you don't eliminate the spending," Shuster said. Instead, states and the Transportation Department will control all of the spending, he said.

However, Shuster said, "if the conference decides to eliminate the projects, that's all right with me."

But Shuster predicted that the Senate will eventually come forward with its own list of earmarks. In the 1991 conference, he said, the Senate produced a list of 96 projects valued at more than \$1 billion.

"I wouldn't be surprised if the Senate pulled out a list at some point," he said.



By Nancy Ognanovich

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Daily Report for Executives

No. 77

Wednesday April 22, 1998

Regulation, Law & Economics

Transportation

House-Senate ISTEA Conferees to Meet; President Raises Concerns About Bill

With states facing a cutoff in highway funding in less than 10 days, House and Senate conferees are set to meet April 22 to begin their negotiations on reconciling their competing rewrites of the Intermodal Surface Transportation Efficiency Act.

House Transportation and Infrastructure Committee Chairman Bud Shuster (R-Pa) and Senate Environment and Public Works Committee Chairman John Chafee (R-RI) said after a private meeting that they will announce which of the two lawmakers will chair the ISTEA conference at the conferees' first session, now scheduled for 5 p.m. The initial meeting of conferees will be held in the House Transportation and Infrastructure Committee's main hearing room.

Chafee, who with Shuster has been competing for the position as chair of the conference, said the issue still has to be worked out. "We'll announce that tomorrow," he said.

The dispute over the chairmanship will be only the first of a series of controversies that face conferees as they take up the transportation bill. After being briefed by staff on their work over the recent spring break, members of Chafee's committee said April 21 that very little progress has been made so far on reconciling the two bills (S 1173/HR 2400). According to lawmakers, even the legislation's real impact on the budget is still not known.

Meanwhile, President Clinton said after meeting with Democratic congressional leaders April 21 that he continues to have many concerns with lawmakers' plans on the transportation bill. Although he has not yet threatened to veto the legislation, Clinton said he wants to make sure the final bill does not threaten his other priorities, including education, research, and the environment.

"[T]his is a process, and we're not there yet," Clinton said when asked if he plans to veto the ISTEA bill.

However, the president said he is concerned that the House and Senate bills as passed are "disembodied" from the budget. "They don't have any relationship with all the other pieces in the budget, and at least on their surface, appear to be far in excess of anything we can afford and still continue our commitments in education and honor Social Security first."

Movement on ISTEA Rewrite Slows

Congressional sources said they doubt a presidential veto of the ISTEA bill could be sustained, given that both the House and Senate passed the legislation by overwhelming margins. Among others, Senate GOP Leader Trent Lott (R-Miss) said Clinton would have no better luck than former President Ronald Reagan had in stopping the 1987 surface transportation legislation. Reagan's veto of that bill was overridden, he said (76 DER A-25, 4/21/98).

But the mere threat of the veto could be used to force some changes to the bill and--more important to the administration--could result in lawmakers looking for new offsets to cover the spending in the legislation, the sources said. The administration, they said, is particularly concerned over Senate Budget Committee Chairman Pete Domenici's (R-NM) plan to use as offsets for the ISTEA bill the same offsets that the

president identified for other spending programs.

Senate Minority Leader Thomas Daschle (D-SD) told BNA that the president wants to broaden the discussion so that transportation has to compete with other spending priorities. "He wants to put it in the context of the budget resolution," Daschle said.

"He indicated a willingness to consider [a veto] if necessary, but he thinks it is too early now," Daschle added.

Sen. John Warner (R-Va), a primary sponsor of the Senate bill, said he is not concerned about a veto threat and even hinted that it might help Senate conferees negotiate the items they want.

"I've talked with the White House," Warner said, "and [Office of Management and Budget Director Franklin] Raines has candidly said this has to be an option for the moment."

For his part, Shuster said he believes it is significant that the administration so far has not issued any veto threat. "I've been very pleased with my conversations with Transportation Secretary [Rodney] Slater so far," he said.

"Our plan is to work with them," an aide to Shuster said. "Their real concern is that this will freeze out other spending they want to do on other programs."

Baseline for Bills Still Not Settled

Among other things, the administration has raised concerns about the legislation's overall spending on highways and transit. However, according to both House and Senate aides, the real impact the legislation will have on the budget still is not fully known. And without an agreement on some fundamental issues, it will be difficult for conferees to take up controversial items like funding.

"It's still very preliminary," said Sen. Christopher Bond (R-Mo) when asked about the status of staff work on the reauthorization. "We're still trying to figure out the baseline we'll work off. We have a long way to go."

Bond, who said he is working on a funding plan, made his comments after members of Chafee's committee met with aides April 21 to discuss their work during the spring break. Although House and Senate aides exchanged proposals for potential agreements on the "underbrush" of the bill, so far they have not made much progress, lawmakers said.

The issue of the budgetary baseline, for example, has been the subject of discussions for three weeks, an aide said. But without an agreement on that key item, the aide said, lawmakers will not know the exact amount of offsets that they will have to find to cover the legislation's spending increases.

As passed, the House bill authorizes \$218 billion for highways and transit over a six-year period while the Senate measure provides \$214 billion. But aides said the scoring of the two bills by the Congressional Budget Office and the Office of Management and Budget shows that actual outlays under the bills are expected to be very similar.

According to aides, CBO estimated that the House bill would result in outlays of about \$204.5 billion during the next few years while the Senate bill's outlays would total somewhat more than \$205 billion. OMB, aides said, scored both bills at about \$199 billion.

The difference in the CBO and OMB figures still must be resolved before conferees can make decisions on many of the funding issues raised by the reauthorization, aides said. "We have about a \$5 billion difference, and we're trying to understand it," an aide said.

Another set of figures that still must be agreed to involves the gas tax revenues that will be used to support the spending on highway and transit programs over the six-year period, an aide said.

Again, the aide said, the CBO and OMB figures on projected gas tax revenues to the Highway Trust Fund vary. While CBO estimated that the trust fund will collect \$197 billion in gas tax revenues during the

period, OMB puts that amount at almost \$202 billion, the aide said. ↵

By Nancy Ognanovich

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U.S. House of Representatives

COMMITTEE ON THE BUDGET

Washington, DC 20515

March 23, 1998

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Dear Democratic Colleague:

On Tuesday, March 24, 1998, the House Transportation and Infrastructure Committee is scheduled to mark up H.R. 2400, a six-year reauthorization of highway and mass transit programs. The full House is expected to take up the bill sometime next week. Two weeks ago, the Senate approved a highway funding bill by a vote of 96-4, and the conference committee is expected to meet soon after the House passes H.R. 2400.

Attached is a report entitled *Surface Transportation Reauthorization: Budget and Policy Issues*. The report was prepared by the House Budget Committee Democratic staff and is designed to provide Democratic Members and their staff information about issues related to transportation reauthorization.

This report addresses several issues. First, it discusses the President's budget and the transportation bills currently before Congress. Second, it examines how an increase in transportation funding could affect funding for other programs in the federal budget. Third, it considers whether we now provide adequate funding for transportation. Finally, the report analyzes the implications of a section of the House bill that would put the transportation trust funds "off budget."

The funding levels in the House and Senate bills will have an impact on the rest of the budget, which has to be of concern to all of us in the Democratic Caucus. Over the six-year period 1998-2003, the Senate bill authorizes \$45 billion *more* in contract authority for transportation than the President's Fiscal Year 1999 budget. The House bill exceeds the President's budget by \$48 billion. While I would like to see more funding for national transportation needs, enactment of the spending levels in these bills will make it much harder to fund other domestic priorities included in last year's Balanced Budget Agreement and important priorities in the President's budget for this year.

I hope you find the attached report, which was drafted by Craig Bomberger from our staff, helpful. Please call me or have your staff call the House Budget Committee's Democratic staff at x67200 if you have any questions.

Sincerely,


John M. Spratt, Jr.
Ranking Democratic Member



HOUSE BUDGET COMMITTEE

DEMOCRATIC CAUCUS

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Briefing Paper

Surface Transportation Reauthorization: Budget and Policy Issues

March 23, 1998

John M. Spratt, Jr.
Ranking Democratic Member

This document has not been reviewed and approved by the Democratic Caucus of the Budget Committee and may not necessarily reflect the views of all members.

Surface Transportation Reauthorization: Budget and Policy Issues

Setting federal funding levels for transportation has recently been an extremely contentious issue in Congress. During consideration in the House of the fiscal year 1998 budget resolution, an amendment was offered that would have increased transportation funding at the expense of other discretionary programs, thereby breaking the Bipartisan Budget Agreement. The amendment was defeated by only two votes. Additionally, the law authorizing federal surface transportation programs — the Intermodal Surface Transportation Efficiency Act of 1991, or ISTEA — expired on September 30, 1997. Disagreements among legislators — but not necessarily partisan battles — were severe enough that reauthorization had to be put off until this year. (Congress passed and the President signed into law an interim funding bill, the Surface Transportation Extension Act of 1997, but that measure does not extend beyond May 1, 1998.) Thus, many of the issues that were brought up during the first session of the 105th Congress are being revisited this year.

This report is designed as a briefing on several aspects of transportation funding. First, what is Congress considering this year? Second, how might an increase in transportation funding affect the budget as a whole? Third, does Congress now provide adequate transportation funding? Fourth, what is the significance of the balances in the highway trust fund? Finally, what are the implications of changing trust fund budgetary treatment or financing? (An appendix discusses the unusual budgetary treatment of trust fund spending.)

I. ISTEA Reauthorization

Current Status — Short-Term Authorization

As mentioned above, federal surface transportation programs are currently operating under a short-term authorization. The Surface Transportation Extension Act of 1997 (P.L. 105-130) did not extend ISTEA for six months, as some had proposed. Instead, for highway programs, the Act provides \$5.5 billion in contract authority as an advance against the fiscal year 1998 contract authority that will eventually be provided in a reauthorization bill. States may also obligate previously unobligated federal-aid highway apportionments, up to an

obligation limitation of \$9.8 billion.¹ The law also authorizes \$15.5 million for the minimum allocation program.² The advance authorization of \$5.5 billion and the \$15.5 million for the minimum allocation are both apportioned based on states' relative shares of fiscal year 1997 funding. Under the Act, states may not obligate funds after May 1, 1998. Thus, pressure remains for Congress to take action soon.

On March 12, 1998, the Senate passed S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997 (ISTEA II), by a vote of 96 to 4. The House of Representatives has not yet taken any action, but the House Committee on Transportation and Infrastructure has scheduled a markup of H.R. 2400, the Building Efficient Surface Transportation and Equity Act of 1997 (BESTEA) for March 24, 1998, and floor consideration for April 1, 1998. Even if the House passes H.R. 2400 that day, the conference committee will probably have to reconcile significant differences between the House and Senate bills.

The table on the following page shows contract authority levels for the President's proposal, the Senate-passed bill, and the House bill as marked up by committee last fall. For comparison, the table also shows contract authority levels for the Balanced Budget Act of 1997 (BBA) and projected Highway Trust Fund excise tax revenue.³ Outlay estimates are generally not yet available. The President's proposal and the House and Senate bills are described in the following sections.

¹See the appendix for additional information on obligation limitations and other trust fund revenue and spending terms.

²The minimum allocation guarantees each state a percentage of total apportionments for certain programs that is not less than ninety percent of the percentage of its estimated contributions to the highway account of the Highway Trust Fund — that is, ninety percent of a state's *relative share* of contributions. This is not to be confused with the "ninety percent of payments" adjustment, which a qualifying state receives to ensure that its apportionments for the fiscal year and allocations for the previous fiscal year will be at least ninety percent of its contributions to the highway account of the Highway Trust Fund.

³The 1997 BBA did not include explicit details on transportation funding, such as levels of contract authority or obligation limitations. The BBA contract authority numbers presented in the table are derived from the Transportation Committee's fiscal year 1998 Section 302(a) allocations. The trust fund revenue projections are from CBO.

Table I: ISTEA Reauthorization Proposals
Contract Authority and Projected Trust Fund Excise Tax Revenue
by Fiscal Year, Billions of Dollars

	1998	1999	2000	2001	2002	2003	98-03	99-03	98-02	Average Annual
NEXTEA (Administration)	28.3	28.2	28.1	28.1	28.1	28.8	169.5	141.2	140.7	28.2
Highways	23.2	23.1	23.0	23.0	22.9	23.5	138.7	115.5	115.2	23.1
Transit	5.1	5.1	5.1	5.1	5.1	5.2	30.8	25.7	25.5	5.1
BESTEA (Shuster-Oberstar)	30.2	34.3	38.4	38.4	38.4	38.4	218.0	187.8	179.7	36.3
Highways	24.9	28.5	32.0	32.0	32.0	32.0	181.3	156.5	149.3	30.2
Transit	5.4	5.9	6.4	6.4	6.4	6.4	36.7	31.3	30.3	6.1
Revised ISTEA II (Senate)*	30.3	35.3	36.1	36.8	37.5	38.4	214.5	184.1	176.1	35.7
Highways	24.7	28.5	29.2	29.7	30.2	30.9	173.2	148.5	142.3	28.9
Transit	5.7	6.8	7.0	7.1	7.3	7.5	41.3	35.6	33.8	6.9
BBA**	29.8	28.4	29.1	29.7	30.4	na	na	na	147.4	29.5
Highways	24.9	23.4	23.9	24.4	24.9	na	na	na	121.4	24.3
Transit	4.9	5.1	5.2	5.3	5.5	na	na	na	26.0	5.2
HTF Excise Tax Revenue**	31.4	32.0	32.5	33.0	33.6	34.1	196.6	165.2	162.5	32.8
Highways	27.1	27.6	28.1	28.5	29.0	29.5	169.8	142.6	140.3	28.3
Transit	4.3	4.4	4.4	4.5	4.6	4.7	26.8	22.5	22.2	4.5

Note: Numbers may not add due to rounding.

* Reflects amendments to S. 1173 that provide additional contract authority of \$25.8 billion for highways and \$5.0 billion for mass transit.

** BBA and revenues presented for comparison. Revenues adjusted to correct for the shift of \$5.9 billion in revenues from 1998 to 1999.

Source: Contract authority numbers provided by DOT (prior to passage of S. 1173 and markup of H.R. 2400). Estimates for amendments to S. 1173 based upon consultation with the Senate Budget Committee. BBA and tax revenue figures based upon CBO estimates.

Administration Reauthorization Proposal (NEXTEA)

The President's reauthorization proposal builds upon the previous ISTEA bill. For highway and transit programs, the National Economic Crossroads Transportation Efficiency Act (NEXTEA) provides a total of \$169.5 billion in contract authority over the six-year period 1998–2003 — \$138.7 billion for highways and \$30.8 billion for mass transit. NEXTEA revises state-by-state distribution formulas, and for some programs, expands the definition of eligible activities. The proposal includes funding for State Infrastructure Banks, or SIBs, and allows tolls on some interstate segments if certain conditions are met. All NEXTEA programs are funded from the highway account of the Highway Trust Fund, except for transit programs, which are funded from the transit account. This is a significant policy shift; even Amtrak would be funded from the Highway Trust Fund. (For purposes of comparing NEXTEA with the House and Senate bills, which only include highway and transit programs, \$4.8 billion in NEXTEA budget authority for rail provisions is omitted from the figures in this report.)⁴

Senate-Passed S. 1173 (ISTEA II)

As previously stated, the Senate passed S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997 (ISTEA II), by a vote of 96 to 4 on March 12, 1998. The bill as reported by committee embodied a compromise among different regional interests and sought to abide by funding levels set in the BBA. ISTEA II was amended on the Senate floor, however, to include additional contract authority of \$25.8 billion for highways and \$5.0 billion for mass transit. As passed, the bill provides a total of \$214.5 billion in contract authority over the six-year period 1998–2003 — \$173.2 billion for highways and \$41.3 billion for mass transit. Not only do ISTEA II funding levels exceed levels set in the BBA and in the President's budget, but they also far exceed projections for Highway Trust Fund excise tax revenues that will be collected over the six years, and they even exceed projections for excise tax revenues plus interest.]*

According to the Senate Committee on Environment and Public Works, ISTEA II provides a guarantee that each state will receive a level of funding equal to at least 91 percent of the state's contribution to the highway account of the Highway Trust Fund. Unlike the House bill, the Senate bill includes no money for demonstration projects. The bill expands program flexibility and includes funding for SIBs and other innovative financing mechanisms.

⁴The different reauthorization proposals have varying provisions for highway safety, research, and other programs. For purposes of this report, funding for these programs is included in the numbers for highway funding.

H.R. 2400 (BESTEA)

The approach used by the House Committee on Transportation and Infrastructure when it marked up H.R. 2400 last September was to increase the amount of funding available for transportation, add a few programs, and update the formulas for apportioning funds to the states.

BESTEA authorizes a total of \$218 billion in contract authority over the six-year period 1998–2003 — \$181.3 billion for highways and \$36.7 billion for mass transit. The bill will include a reported \$9 billion in “high priority projects,” commonly referred to as demonstration projects, or “demos.”⁵ As with ISTEA II, not only do BESTEA funding levels exceed levels set in the BBA, but they also far exceed projections for Highway Trust Fund excise tax revenues that will be collected over the six years, and they even exceed projections for excise tax revenues plus interest. *

The formula changes and overall spending levels in BESTEA are intended to provide states with a guaranteed 95 percent allocation of certain funds. This is not a 95 percent return on contributions into the Highway Trust Fund, however, because funds for some programs are distributed before the apportionment formulas are applied. If a state receives a relatively small share of these other funds, then its overall return may be less than 95 percent.

As previously mentioned, BESTEA includes several new programs. For example, the high-cost interstate system reconstruction and improvement program is designed to fund major projects in the interstate system that states would not otherwise fund using their regular annual obligations because of the high costs of such projects. The high-risk road safety improvement program provides funding to states for roads that are subject to significant numbers of severe motor vehicle crashes that incur fatalities or incapacitating injuries.

BESTEA also includes language providing for immediate off-budget treatment of the transportation trust funds, although some reports indicate this provision may not take effect until 2001. If the trust funds are taken off budget in a manner consistent with the language previously included in H.R. 2400, then the trust funds would not be subject to any budgetary constraints. Because these trust fund outlays are considered discretionary, removing them from the budget would require OMB to reduce the statutory “caps” on other discretionary programs. But it is unclear by how much the discretionary caps would be reduced in response to taking the trust funds off budget. (See Part V, *Moving the Trust Funds Off Budget*, for a more detailed explanation.)

⁵It is not yet clear whether the \$9 billion in demos will be included within the total of \$218 billion or are in addition to that amount. *

Offsets for Increased Funding

Senate Budget Committee Chairman Domenici's budget resolution, which the Senate Budget Committee ordered reported on March 18, 1998, assumed increased transportation spending and identified the following offsets, which total \$19.0 billion in outlays over five years:

- reverse the Veterans Administration General Counsel's recent decision regarding compensation to veterans for smoking-related illnesses, saving \$10.5 billion over five years;
- reduce federal Medicaid and Food Stamp payments to states for administrative costs, \$3.6 billion;
- reduce spending for the Social Services Block Grant (Title XX), \$3.1 billion;
- increase the FHA guaranteed loan ceiling, \$1.0 billion;
- terminate Federal Crop Insurance for tobacco producers, cap mandatory Commodity Credit Corporation automated data processing costs, and eliminate the Market Access Program, \$0.6 billion;
- increase Ginnie Mae broker premiums, \$0.2 billion.

These offsets do not appear to be sufficient to cover the increased outlays in the Senate bill relative to the BBA. The Senate-passed bill may exceed BBA outlay levels by as much as \$23.6 billion over five years, but the offsets total only \$19.0 billion. In addition, the increased costs authorized in the Senate bill grow from year to year, while the savings from the assumed offsets do not.

In the House, the offset problem will be compounded by the additional \$3.5 billion of contract authority in the bill compared with the Senate bill. If the reported \$9 billion for demos is in addition to the \$218 billion, that would further raise the costs. (In total, these additional contract authority levels could yield as much as \$8 billion to \$9 billion in additional outlays beyond those in the Senate bill.)

II. How Would an Increase in Transportation Funding Affect the Budget as a Whole?

As explained in the appendix, outlays from the transportation trust funds are considered discretionary. They therefore compete with all other discretionary programs within fixed “caps,” which are set by statute through 2002.⁶ If the current budgetary treatment of transportation programs remains unchanged, an increase in highway spending would necessarily result in a decrease in some or all other discretionary programs — e.g., natural resources, energy, space and science, the environment, community development, education, housing, veterans’ medical care, some law enforcement activities, the legislative and judicial branches, and (after 1999) defense. Furthermore, the annual appropriations process would be the arena in which the ultimate decisions would be made — how much of the authorized transportation increase to allow, and which programs to cut in return.

New legislation could change the budgetary treatment of some or all transportation trust fund amounts from discretionary to mandatory. ISTEA II does not do so, nor does BESTEA as it was drafted last fall. If, however, such a legislative change were enacted, then three outcomes (or some combination) are possible:

- If the transportation increases were not offset by legislation cutting entitlements or increasing revenues, OMB would be required to order “sequestration” of Medicare, farm price supports, and certain other entitlements to offset the increases. This is a consequence of the “pay-as-you-go” (PAYGO) rule for mandatory spending and revenues, which applies through 2002.⁷
- If the transportation increases were so offset, and the offsets were selected from those proposed in President Clinton’s 1999 budget, then those offsets would no longer be available to finance other initiatives contained in that budget; child care, school construction, class-size reductions, and so on, would be partly squeezed out. This type of outcome is implied by the Republican budget resolution approved by the Senate Budget Committee, which lists many of President Clinton’s mandatory offsets as “reductions assumed to offset the increased outlays resulting from [ISTEA II].”

⁶For 1998 and 1999, there are separate caps for defense and non-defense programs. For 1998-2000, there are also separate caps for the Violent Crime Reduction Trust Fund.

⁷In this context, the word *increase* means an increase relative to existing 1998 funding projected to grow only with inflation.

- Finally, transportation increases could be offset by other entitlement cuts or revenue increases beyond those proposed in the President's budget.

Alternatively, legislation could be enacted placing transportation programs "off budget." In such a case, neither the caps on discretionary funding nor the pay-as-you-go rule would apply, so budget rules would not require that an increase in transportation spending be offset. Rather, the increase would reduce projected surpluses (and under CBO estimates, probably throw the 2002 budget back into deficit). The President has argued that "every penny of any surplus" should be reserved for Social Security; in this context, reducing projected surpluses by increasing transportation spending "off budget" would conflict with the goal of saving all surpluses for Social Security.

III. Does Congress Provide Adequate Funds for Transportation?

Transportation Needs

In light of the political pressure for increasing transportation funding, one may logically question to what extent transportation has unmet funding needs. Perhaps the most authoritative account of the condition of the nation's highway system is the biennial report that the Department of Transportation is statutorily required to submit to Congress, the most recent of which was delivered in October 1995.⁸ The report, *1995 Status of the Nation's Surface Transportation System: Condition and Performance*, includes statistics on highway and transit system conditions (e.g., road surface conditions as measured by the Present Serviceability Rating and the International Roughness Index) as well as financial data on the cost of system maintenance and repair (e.g., the "cost to maintain" and "cost to improve" highways, bridges, and transit).

The aforementioned report displays statistics on pavement conditions by road type (interstate, principal arterial, collectors, etc.) and differentiates between urban and rural areas. Overall highway system performance as measured by these statistics, including all road types for both urban and rural areas, is summarized in the following table:

⁸The 1995 report is still the most current edition, and there is some controversy surrounding the 1997 report, which was due in January 1997. DOT has apparently delayed the report at OMB's direction. Furthermore, according to the January 22, 1998, *Daily Report for Executives*, Federal Highway Administration officials have confirmed that the report has been scaled down from approximately 300 pages to only about 60 and omits many of the previously-included tables on costs to maintain or improve conditions of roads and bridges.

Table II: Highway Pavement Conditions Summary

Percent of Miles	Pavement Condition	
16	Very Good	"New or almost new pavement...."
19	Good	"In decent condition..."
34	Fair	"Will likely need improvement in the near future...."
17	Mediocre	"Needs improvement in the near future...."
9	Poor	"Needs immediate improvement to restore serviceability."
5	Unpaved	

The following cost statistics suggest a need for increased transportation funding. Before examining the cost statistics, however, it is important to define DOT's terminology. First, both "cost to maintain" and "cost to improve" are reported as the average annual cost over a twenty year period, assuming 2.2 percent compound annual travel growth for highways and 2.4 percent compound annual travel growth for transit.⁹ Using an annual average over twenty years, especially one incorporating travel growth, does not necessarily present a good measure for comparing any given year (except at the midpoint). That is, using the average annual measure as a benchmark overstates needs in the short run but understates them during the second ten years. Second, the "cost to maintain" measures assume that overall system performance would remain about the same; some deficiencies would be corrected and other portions would worsen. (For highways and transit, "cost to maintain" includes capacity expansion as well as system preservation components.) Third, all numbers are reported in 1993 dollars. Fourth, the "cost to improve" measures for highways, bridges, and transit incorporate various assumptions about what measures constitute "improvement." Finally, the dollar amounts reported for the cost measures are estimates of total capital investment required from *all sources*, not just federal programs.¹⁰

⁹These figures are based on travel growth estimates that differ significantly from historical growth patterns. For more details on DOT's methodology, please refer to U.S. Department of Transportation, *1995 Status of the Nation's Surface Transportation System: Condition and Performance*, Chapter 5: "Highway, Bridge and Transit Future Investment Requirements."

¹⁰The DOT report does not detail private sector capital investments in transportation. Within the public sector, all levels of government spent over \$39.0 billion on highway and bridge capital improvements in 1993. Of the \$39.0 billion, the federal share consisted of \$0.3 billion spent by the federal government and \$17.1 billion of federal funds spent by state and local governments. Thus, the federal share was \$17.4 billion of the \$39.0 billion (44.6%). Of total 1993 highway and bridge spending (including capital, noncapital, and debt retirement) of \$88.5 billion, the federal government provided \$18.2 billion (20.6%). Similarly, all levels of government provided a total of \$15.5 billion for transit in 1993, of which \$3.3 billion (21.3%) was the federal share. While federal funding for transit capital assistance remained fairly constant between 1988 and 1993, state and local

That said, the following tables show DOT's findings:

Table III: Projected Investment Requirements, All Sources
1994-2013 Annual Average, Billions of Dollars

	Cost to Maintain	Cost to Improve
Highways	49.7	65.1
Bridges	5.1	8.9
Transit	7.9	12.9
Total	62.7	86.9

As previously stated, it is difficult to use a twenty-year annual average as a benchmark to determine current performance. Thus, Table IV presents a clearer picture — albeit a snapshot for a single year and not necessarily a representation of the current situation — of how a single year's outlays compared to needs for the following year.

Table IV: 1994 Investment Required vs. 1993 Capital Outlay
Billions of Dollars

	1994 Cost to Maintain	1994 Cost to Improve	1993 Capital Outlay*
Highways	44.8	59.3	28.8
Bridges	5.1	8.9	6.0
Transit	7.3	11.8	5.7
Total	57.2	80.0	40.5

*Capital outlay related to capital investment requirements.

Much of the data presented in the DOT study is subject to interpretation. Nonetheless, the study indicates that the nation has unmet transportation funding needs. The question for policymakers is how to address these needs when weighed against budget constraints and other unmet national needs.

contributions grew. (However, federal capital assistance for transit grew significantly after 1993.)

How Has Transportation Funding Fared Recently?

Transportation has fared relatively well compared with spending for other domestic priorities during the drive to balance the budget. For fiscal years 1998 through 2002, allocations for discretionary outlays for transportation in the fiscal year 1998 budget resolution exceeded those in the President's budget by \$8.2 billion over five years. In the 1998 budget resolution, transportation was the only function that received any increase in discretionary outlays over the President's budget. All other functions were below the President's request over the five-year period 1998-2002.

The 1998 appropriations process also provided generous spending for transportation relative to other spending priorities. The 1998 transportation appropriations bill provides \$42.2 billion in total budgetary resources¹¹ — \$5.1 billion (13.7%) greater than the enacted 1997 level. For highway programs alone, the 1998 bill provides \$23.3 billion in total budgetary resources — \$2.3 billion (11.1%) greater than the enacted 1997 level. Press accounts of the bill, however, describe highway spending as almost twenty percent higher than the 1997 level. This figure represents the increase in the obligation limitation for federal-aid highways. For 1998 the obligation ceiling is \$21.5 billion, a \$3.5 billion increase (19.4%) over the 1997 level, not including 1997 supplemental obligation authority. The levels in the 1998 bill appear to conform to the budget agreement.¹²

Shuster-Oberstar Amendment to the FY 1998 Budget Resolution

During floor debate on the fiscal year 1998 House budget resolution, Representatives Shuster and Oberstar offered an amendment that would have provided an additional \$19 billion in budget authority and \$12 billion in outlays for transportation spending over the five-year period 1998-2002. This additional spending would have been offset by across-the-board cuts in other discretionary programs and by reducing the amount of the tax cut in the budget resolution. The amendment failed by a vote of 214-216.

¹¹Total budget resources are comprised of discretionary budget authority and, where applicable, obligation limitations.

¹²The \$42.2 billion of overall budgetary resources falls below the budget agreement total budget authority of \$46.4 billion for function 400. The budget agreement did not include details beyond the function total, such as levels of trust fund obligation limitations.

IV. What About the Trust Fund Balances?

Current Revenue and Spending Levels

For its 1998 baseline, the Congressional Budget Office estimates tax revenues and outlays for the Highway Trust Fund, including both highway and transit accounts, at \$25.6 billion and \$26.5 billion for the year, respectively. The following table displays a detailed breakdown of these numbers:

Table V: Highway Trust Fund Summary			
Fiscal Year 1998, Millions of Dollars			
	Highway Account	Transit Account	Total
Balance, Beginning of Year	12,513	9,827	22,340
Tax Revenue	22,164	3,407	25,571
Interest	848	643	1,491
Total Revenue	23,012	4,050	27,062
Outlays	22,328	4,221	26,549
Total Revenue Less Outlays	685	(171)	513
Balance, End of Year	13,198	9,656	22,853

Note: Numbers may not add due to rounding.

As shown in the table, total trust fund outlays exceed tax revenue for the year by nearly \$1 billion but fall short of total revenues by \$513 million because of \$1.5 billion earned in interest on prior balances, resulting in an end of year balance of \$22.9 billion.¹³ This balance is one of the justifications used by advocates for increasing transportation spending. Indeed, CBO estimates that if Highway Trust Fund outlays grow at the rate of inflation from 1998 baseline levels, then the trust fund balance will reach approximately \$64 billion by the end of 2003. Inferring that the current balance stems from years of revenues exceeding outlays, however, does not provide the full picture of the trust fund's spending history.

¹³One could question the use of 1998 as an example; the Taxpayer Relief Act of 1997 delayed deposits into the Highway Trust Fund from August and September 1998 until October 5 — shifting \$5.9 billion in deposits from FY 1998 into FY 1999. If the FY 1998 revenue numbers were adjusted to correct for this abnormality, then outlays would indeed fall short of the \$31.4 billion in excise tax revenues (not to mention tax revenues plus interest). However, the example still serves well for illustrative purposes, and there have been many years in the recent past when outlays exceeded excise tax revenues.

Past Causes of the Balances

The previous example showing the Highway Trust Fund summary for fiscal year 1998 demonstrates a trend that characterizes the lifetime of the fund. Since the fund's inception in 1956 through fiscal year 1995, total outlays from the fund exceeded excise tax revenues by \$6.3 billion for both highway and transit accounts. When interest is included, however, outlays fall short of total fund revenues by \$19.0 billion.¹⁴ Such a large discrepancy is not due merely to interest accumulating during the spendout of transportation dollars; there have been periods when program funding fell significantly short of tax revenues.

For example, during the period from 1967 through 1979, revenues (including both excise tax receipts and interest income) to the highway account of the Highway Trust Fund exceeded outlays by \$12.3 billion. Excise tax receipts alone surpassed outlays by \$7.8 billion. Consequently, the balance in the account grew from \$243 million at the end of 1966 to \$12.6 billion at the end of 1979 — a level that was not attained again until 1997. This account build-up was due to deliberate efforts by the Johnson and Nixon Administrations to control government spending on certain non-defense programs.

From 1980 through 1995, however, outlays outpaced tax revenues by \$14.2 billion but fell short of total fund revenues by \$6.4 billion. (For only the highway account of the Highway Trust Fund, outlays exceeded tax receipts by \$18.0 billion and total fund revenues by \$3.1 billion.) The account balance fell sharply in 1980 and 1981, but began growing again in 1983, due mainly to increasing balances in the transit account. (Recently, balances have begun to grow more quickly. This is explained in the following section.) Both outlays and revenues rose over the same period, with outlays rising from \$7.2 billion in 1979 to \$22.7 billion in 1995.

Thus, at least since 1980, persistent account balances are not the result of policies that prevent spending from dedicated revenues. As previously illustrated, Highway Trust Fund highway and transit account outlays are projected to exceed tax revenues by nearly \$1 billion in 1998 but fall short of tax revenues plus interest by about half that amount. Rather, the build-up of account balances from the late 1960s through the 1970s created a surplus in the fund which has continued earning interest at a compound rate to this day, even though spending has usually exceeded tax revenues.

¹⁴For only the highway account, outlays exceeded tax revenues by \$10.1 billion but fell short of tax revenues plus interest by \$9.4 billion. For the transit account, which was not created until 1983, outlays fell short of tax revenues by \$3.8 billion and tax revenues plus interest by \$9.6 billion. Some mass transit advocates would argue that transit has historically been underfunded. (Transit account outlays increased significantly beginning in 1994, however.)

Changes to the Tax Structure

The build-up of persistent account balances has also been exacerbated in recent years by changes to the tax structure. Prior to the Surface Transportation Assistance Act of 1982 (STAA), the excise tax rate on gasoline had been 4 cents per gallon. The STAA raised the tax rate per gallon to 9 cents, 1 cent of which was earmarked for the newly created transit account. (The Superfund Amendments and Reauthorization Act of 1986 then added 0.1 cents per gallon for the leaking underground storage tank (LUST) trust fund, bringing the total tax rate to 9.1 cents per gallon.) The Omnibus Budget Reconciliation Act of 1990 subsequently increased the tax rate by 5 cents per gallon — 2.5 cents each for the general fund and the Highway Trust Fund (2 cents for the highway account and 0.5 cents for the transit account). The 2.5 cents for deficit reduction was authorized through fiscal year 1995, while the 2.5 cents for the Highway Trust Fund was a permanent increase.

The Omnibus Budget Reconciliation Act of 1993 (OBRA93) further changed the tax structure, raising the excise tax on gasoline from 14.1 cents per gallon to 18.4 cents per gallon. This permanent 4.3 cent increase was intended for deficit reduction and therefore, added to the amount designated for the general fund, raising that portion to 6.8 cents per gallon. The act also extended the 2.5 cent tax rate that had gone to the general fund through fiscal year 1999, but transferred that portion of the excise tax to the Highway Trust Fund effective October 1, 1995 — with 2 cents dedicated to the highway account and the remaining 0.5 cents for transit. When the 2.5 cents reverted to the Highway Trust Fund, the trust fund portion of the tax rate grew from 11.5 cents per gallon (10 cents highway, 1.5 cents transit) to 14.0 cents per gallon (12 cents highway, 2 cents transit).

By transferring a portion of the excise tax that had previously been earmarked for deficit reduction to the trust fund, OBRA93 marked an important departure from previous authorizations. The trust fund would begin receiving tax revenue that had not been considered as part of the regular surface transportation authorization — in this case, ISTEA. With the precedent established, this would not be the last time that gas taxes earmarked for deficit reduction would later be diverted to the Highway Trust Fund.

The Taxpayer Relief Act of 1997 (P.L. 105-34) included a provision to transfer to the Highway Trust Fund the 4.3 cents per gallon of motor fuels excise tax that previously was dedicated to the general fund for deficit reduction. According to CBO estimates, the shift of the 4.3 cents should increase tax revenue to the Highway Trust Fund by \$6 billion to \$7 billion annually.

The transfer arose as part of a compromise to provide additional funding for Amtrak. Some senators wanted to dedicate 0.5 cents of the 4.3 cents for Amtrak. Other negotiators,

meanwhile, did not want to dedicate any of the 4.3 cents to Amtrak without also directing the rest to the Highway Trust Fund. Later, the conference agreement on the tax bill provided \$2.3 billion for Amtrak capital through a retroactive tax refund, which precluded the need for the 0.5 cents from the general fund portion of the motor fuels excise tax. Despite the alternative resolution of the Amtrak funding problem, the tax shift was not dropped. Instead, the entire 4.3 cents was dedicated to the Highway Trust Fund.

The shifts of the 2.5 cents and 4.3 cents have dramatically altered forecasts for trust fund tax receipts and balances. Without these transfers, trust fund receipts would probably grow at a pace roughly equal to inflation over the next several years, and the trust fund balances would remain fairly stable. Instead, the balances will grow or — if spending is increased to the levels supported by the most stalwart advocates of transportation spending — remain stable.

General Fund Spending on Transportation

The amount of transportation spending that has been funded not from the Highway Trust Fund but from the general fund of the U.S. Treasury is usually overlooked during debate about increasing transportation funding. The General Accounting Office recently released a report¹⁵ on what the status of the highway account of the Highway Trust Fund would be if it had financed all highway expenditures (i.e., if highway projects funded from the general fund had instead been funded from the trust fund).

GAO estimates that if the \$39.3 billion expended from the general fund for highways from 1957 through 1996 had been expended from the trust fund, and interest had been charged to the fund for negative balances (as it is now credited for positive balances), then the highway account balance at the end of fiscal year 1996 would have been -\$152.7 billion. (This compares to the actual highway account balance at the end of 1996 of \$11.6 billion.) According to GAO, the additional \$39.3 billion in expenditures would have generated \$124.9 billion in interest charges.¹⁶ This calculation suggests that total transportation funding, including both trust fund and general fund spending, has significantly exceeded fuel tax revenues plus interest.

¹⁵ *Highway Trust Fund: Possible Impact if It Had Financed All Highway Expenditures*, GAO/RCED-98-78R, February 6, 1998.

¹⁶ This scenario is impossible because the Byrd Amendment would have prevented such excessive commitments, not to mention political forces that probably would have come into play.

Economic Theory and Trust Fund Balances

Many economists have a different perspective on the issue of trust fund balances. They generally view trust funds of this type as not meaningful, and instead make the following arguments. First, they consider transportation infrastructure to be beneficial to society as a whole, not just to drivers. This consideration suggests that (a) transportation should be funded from general revenues, not earmarked revenues, and (b) the level of funding should be based on the need for infrastructure relative to other competing public needs.

Second, economists generally argue that the level of gasoline taxes should be that which internalizes, in the price of gas at the pump, the societal costs of pollution. Such an approach facilitates efficient marketplace trade-offs among cleaner and dirtier energy sources. Thus, there is no necessary relationship between the desirable level of gasoline taxes and the desirable level of infrastructure funding.

V. Moving the Trust Funds Off Budget

Many transportation advocates hope to take the transportation trust funds off budget. During the 104th Congress, House Transportation and Infrastructure Committee Chairman Shuster introduced H.R. 842, the "Truth in Budgeting Act," which provided off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund. The bill passed the House by a vote of 284 to 143 but was never considered by the Senate.

Chairman Shuster introduced essentially the same bill, H.R. 4, during the first session of the 105th Congress. After being referred to the Transportation and Infrastructure Committee and the Budget Committee, the bill was marked up and ordered reported by the Transportation Committee but was not considered by the Budget Committee or the full House. Last fall the language of H.R. 4 was incorporated as a title of H.R. 2400.

From a budgeting perspective, off-budget treatment for the transportation trust funds is undesirable. Taking the trust funds off budget would provide preferential treatment for transportation spending over other programs. While transportation may have unmet funding needs, other domestic priorities — such as education, the environment, and health research — also have unmet funding needs. One of the principle reasons for a unified federal budget is to allow lawmakers to review the relative needs of various programs from year to year and allocate scarce resources in whatever manner they believe best serves the public; taking the trust funds off budget would allow transportation spending to circumvent this system.

Taking the trust funds off budget not only would favor transportation over other programs, but it could reduce funding available for other programs. Under current law, if the trust funds are taken off budget then OMB must lower the discretionary caps by some corresponding amount. It is likely, however, that the reduction in the discretionary caps will be greater than the obligation limitations that the appropriators otherwise would have set. Thus, other discretionary programs would receive less funding. Alternatively, failure to lower the discretionary caps or to find other mandatory offsets would result in much higher federal spending, which would jeopardize our success in getting rid of the deficit.

Taking the trust funds off budget would also set a precedent for over 150 other trust funds. If additional trust funds were also taken off budget, budgetary pressures on spending for programs without trust funds would be exacerbated.

Appendix: Background on Trust Fund Revenue and Spending

Excise Taxes

The Federal-Aid Highway Act of 1956 greatly expanded and accelerated the highway program, including the Interstate Highway System. Concurrently, the Highway Revenue Act of 1956 created the Highway Trust Fund to provide funding, through grants to states, for the construction and rehabilitation of highways. The trust fund receives revenues from excise taxes and other taxes on highway users.

Today, approximately 90 percent of tax revenues paid into the trust fund comes from excise taxes on motor fuels, such as an 18.4 cents per gallon tax on gasoline. Other funding is derived from sales taxes on tires, trucks, buses, trailers, and truck usage taxes. Additionally, balances in the account generate revenues from interest payments, since those balances are invested in Treasury securities.

Contract Authority

Although most discretionary spending in the federal budget is controlled by budget authority and outlays through the appropriations process, most transportation spending is handled differently. Most highway and transit programs are funded by contract authority, which permits funds to be obligated but not expended. The contract authority is appropriated from the Highway Trust Fund directly by the authorizing committee.¹⁷ If this were the whole

¹⁷The direct appropriation by the authorizing committee is allowable notwithstanding House and Senate rules because contract authority is not considered an "appropriation" within the rules.

story (see below for obligation limits and the role of the appropriators), these trust fund programs would be classified as mandatory, subject to the pay-as-you-go rules, and limited by Section 302 allocations to the authorizing committees.

Obligation Limitations

Obligation limitations — also referred to as obligation ceilings or ob limits — are placed on the use of contract authority (otherwise available to the Department of Transportation) by the annual transportation appropriations bill. For this reason, the actual cost of the program is ultimately controlled by the Appropriations Committee. As a result, the program outlays are classified as discretionary, and therefore must compete within the discretionary caps and are constrained by politics and Congressional rules to fit within the Section 302 allocation to the Appropriations Committees.¹⁸

Outlays

While obligations are commitments to pay out money, the actual payments are called outlays. The federal share of transportation projects is typically provided as a reimbursement to state departments of transportation. States pay contractors for completed work and submit vouchers to the U.S. Department of Transportation. The federal transportation outlays are recorded when the U.S. Treasury subsequently transfers funds to the states.

Exempts

Some transportation programs are exempt from obligation limitations. The minimum allocation program, emergency relief, and contract authority demonstration projects (demos) are not covered by annual obligation limits, so they are truly mandatory programs. Thus, these programs are subject to the pay-as-you-go rules.¹⁹

¹⁸The current system of scoring mandatory contract authority and discretionary outlays is not consistent with how other programs are scored (nor is it logical). Logic suggests that both the budget authority, equal to the obligation limitation, and the outlays should be considered discretionary. (OMB has proposed but not implemented this change.) Alternatively, the obligation limit should be viewed as producing budget authority and outlay *savings* to be credited to the appropriators.

¹⁹When periodically reauthorizing the exempt programs, the authorizing committees cannot set funding levels above baseline unless the additional spending is offset elsewhere by decreased mandatory spending or increased revenues. (The offsets do not necessarily have to come from other transportation programs.)

Draft 4/6, 1PM

Off-Budget & Revenue Constrained Funding: A Looming Problem for Transit

HR 2400 contains language that would take the Highway Trust Fund off budget. Because of Administration and other objections to this proposal, it will most probably not become law. However, a likely outcome to the off-budget debate is enactment of a "revenue constrained funding" scheme for the Highway Trust Fund, as first proposed in S.404, the so-called "Bond/Chafee" bill. Although Bond/Chafee provides a good middle ground on the off-budget question for highways, without major adjustments, its system would mean a 38% increase in guaranteed highway spending with no increase in guaranteed transit spending.

The Problem

For highways, CBO projects that revenues over the next 6 years will equal \$169.8 billion. This revenue, plus the approximately \$6 billion in Highway Account balance that would remain under HR 2400, would fully fund the \$175 billion in highway spending authorized by the bill. Funding the Senate's slightly lower authorization for highways of \$171 billion would require only about \$1 billion of Trust Fund balance.

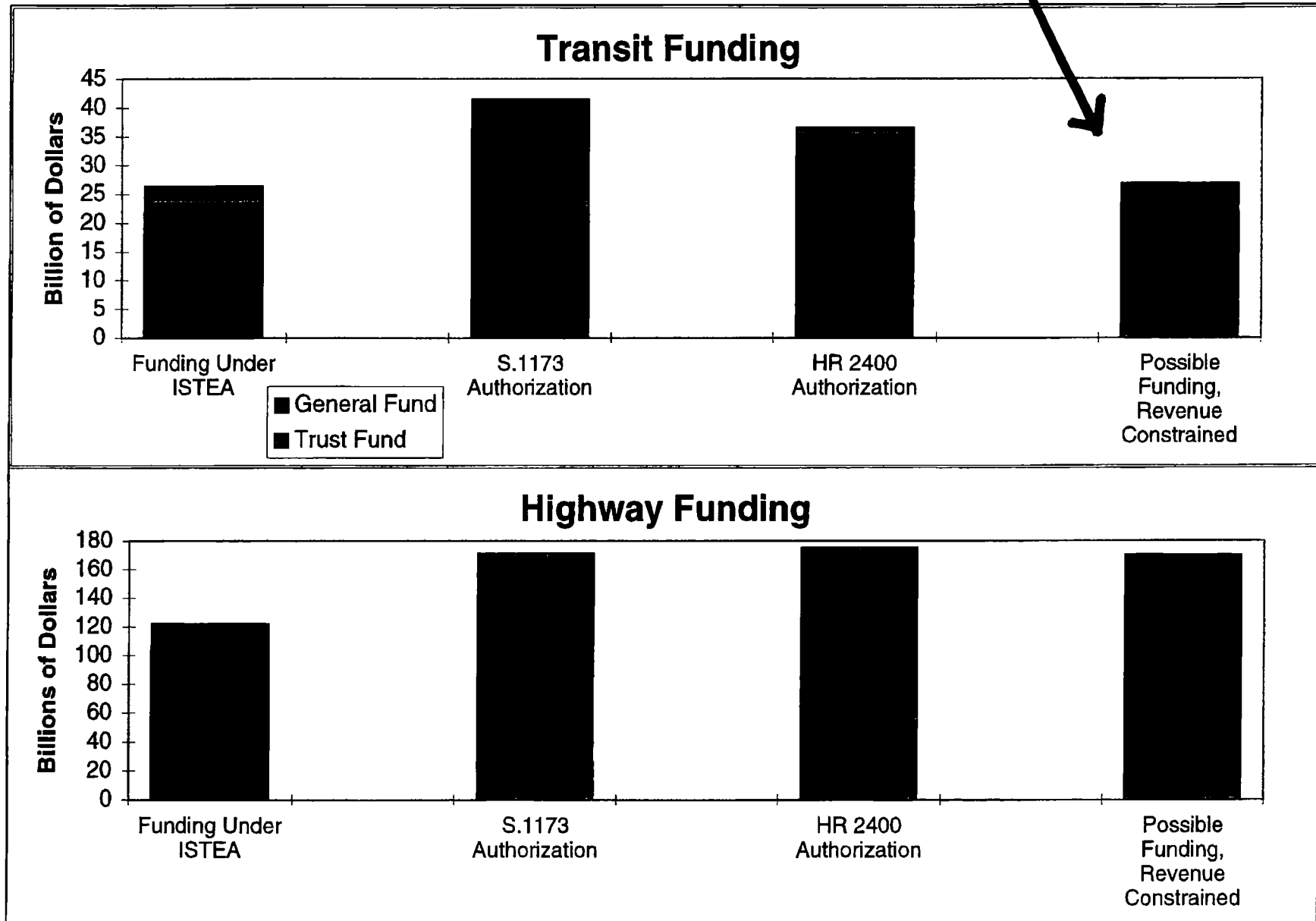
For transit, HR 2400 authorizes \$35.9 billion from the transit account and \$0.6 billion from the general fund, for a total of \$36.5 billion. S.1173 authorizes \$31.6 billion from the trust fund money and \$9.7 billion from the general fund, for a total of \$41.3 billion. Unfortunately, neither level could be supported by new revenue to the Transit Account. For 1998-2003, revenue to the account is projected to be only \$26.8 billion. At this funding level, transit spending would average only \$4.6 billion per year, about the actual level over the last 6 years. For ISTEA II to be fair, it must guarantee the same funding increase for transit as it does for highways.

A Solution

First, to receive an increase in guaranteed funding commensurate with highways, contract authority from the transit account must at least equal the level proposed in HR 2400 -- \$35.9 billion. Second, to support this level, the transit account must consist of both the \$26.8 billion in revenue projected for the next 6 years and its current \$9 billion balance. To be clear: *the transit account must be allowed continued access to its entire accumulated balance even if the highway account balance is forfeited.* Third, any proposal for revenue constrained funding adopted by the ISTEA conferees must allow for the full expenditure of this account balance.

Even under this scenario, transit spending will increase more slowly than highway spending. Therefore, S.1173's provision to authorize an additional \$1 billion per year in general funds for transit should be enacted. Finally, it must be noted that under this scenario, the transit account will suffer a crisis at the end of ISTEA II. In FY 2004, the transit account balance will be exhausted, and new revenue will equal only \$4.7 billion per year, necessitating a 20% reduction in spending.

A Problem!



SURFACE TRANSPORTATION POLICY PROJECT

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Hank Dittmar
Executive Director

March 16, 1998

The Honorable Bud Shuster
Chairman, Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Shuster:

As the *ad hoc* Transportation Task Force develops a plan to fund transportation into the next century, we would like to bring to your attention a potential source of revenue for this purpose. As you may know, Federal tax law currently treats employer-provided free parking more favorably than other forms of fringe benefits related to commuting, such as transit and van-pool services. We feel that this sends the wrong price signal to commuters and contributes to traffic congestion, limits the freedom of employees to benefit from efficient commute strategies, and deprives the U.S. Treasury of revenue. Furthermore, policies that encourage driving over mass transit contribute to air pollution, greenhouse gas emissions, and destructive urban sprawl. Reducing this inequality by lowering the tax exemption for employer-provided parking closer to the level of the exemption for other commute options is fair, and it can raise significant revenue.

Until 1992, the IRS allowed individuals to receive parking fringe benefits of any value without paying income tax on that value. By contrast, transit fringe benefits with a value over \$21 per month had to be declared as income by the employee. The Energy Policy Act of 1992 made the first step in equalizing the treatment of these two forms of commuting. It raised the cap on non-taxable transit benefits to \$60 per month and imposed a cap on non-taxable parking benefits of \$155 per month. (Indexing for inflation has since adjusted both caps upwards, to \$65 and \$175 respectively.)

Lowering the parking cap would further level the playing field among commute options, and would raise significant revenue. The following table reflects analysis performed by KPMG Peat Marwick and the Barents Group as part of the 1995 *Commuter Choice Initiative*, a joint project of U.S. EPA, U.S. DOT and the Association for Commuter Transportation.

<u>Level of Parking Cap</u>	<u>Additional 5 Years Revenue (FY98-02)</u>
\$145 per month	\$2.1 billion
\$115 per month	\$6.3 billion
\$105 per month	\$8.8 billion
\$85 per month	\$12.5 billion

If room is to be made in the budget to spend more on transportation, it seems logical for this revenue to come from transportation, and to follow the principle that has made ISTEA a successful law since its enactment in 1991: fairness between different modes of transportation.

Sincerely,

Hank Dittmar
Surface Transportation Policy Project

James W. Clark
Sierra Club

David Hirsch
Friends of the Earth

John DeCicco
ACEEE

Kaid Benfield
Natural Resources Defense Council

Michael Replogle
Environmental Defense Fund

Carol Werner
Environmental & Energy Study Institute

April 6, 1998

MEMORANDUM FOR GENE SPERLING

FROM: Dorothy Robyn

SUBJ: Responses to the "HTF-is-for-Highways" Argument

Proponents of higher spending on surface transportation argue that federal budget decisions, by restricting outlays from the Highway Trust Fund (HTF) in order to lower the deficit, have broken an implicit agreement that tax receipts would be fully used for highway and related expenses. The House and Senate ISTEA bills, in their view, serve to mend this agreement. This memo summarizes two responses -- the second more controversial than the first -- to this argument.

Response #1: Outlays have Exceeded Receipts

A March 23 briefing paper from the House Budget Committee Democratic Caucus provides some little known information about HTF account balances, which are a major justification for raising transportation spending. Contrary to popular belief, the HTF surplus -- currently about \$23 billion (\$13 billion from highways, \$10 billion from transit) does not result from years of tax receipts exceeding outlays. In fact, from the HTF's inception in 1956 through 1995, total outlays from the fund exceeded excise tax receipts by \$6.3 billion. Moreover, from 1980 through 1995, outlays outpaced tax receipts by an even greater \$14.2 billion.

The HTF surplus exists largely because of a build-up of account balances in the late 1960s through the 1970s, which have continued earning compound interest to this day, even though spending has usually exceeded tax receipts. These balances -- largely the result of deliberate efforts by the Johnson and Nixon Administrations to control spending on certain non-defense programs -- increased the HTF surplus from \$243 million at the end of 1966 to \$12.6 billion at the end of 1979, a level not reached again until 1997.

From 1980 through 1995, highways fared particularly well, with outlays from the highway account of the HTF exceeding comparable receipts by \$18 billion and exceeding total revenues (highway account receipts plus interest) by \$3.1 billion. (If transit is included, HTF outlays from 1980 through 1995 fell short of total fund revenues by \$6.4 billion.) The HTF account balance fell sharply in 1980 and 1981 but began growing again in 1983, due largely to increasing balances in the transit account.¹

¹Although the transit account was not created until 1983, outlays through 1995 fell short of tax receipts by \$3.8 billion and by receipts plus interest by \$9.6 billion. For the highway account only, outlays from 1956 through 1995 exceeded tax receipts by \$10.1 billion but fell short of receipts plus interest by \$9.4 billion.

Since 1995, HTF balances have begun to grow more quickly: OBRA93 extended a 2.5 cents per gallon excise tax instituted by OBRA90 but transferred it from the general fund to the HTF effective Oct. 1, 1995. That marked a significant departure, because it shifted money that had not been considered as part of the regular surface transportation authorization. Similarly, the Taxpayer Relief Act of 1997 included a provision to transfer to the HTF the 4.3 cents per gallon excise tax that OBRA93 dedicated to the general fund for deficit reduction.

Despite the growing size of these balances, both the House and Senate ISTEA reauthorization bills would fund surface transportation at (contract authority) levels that far exceed projections for HTF tax receipts over the next six years, and they even exceed projections for tax receipts plus interest: The House bill provides for \$219 billion in contract authority over six years and the Senate for \$217 billion. But projected excise tax receipts are only \$201 billion; receipts plus interest will total about \$215 billion. (These claims don't hold if one substitutes outlays for contract authority. Six-year outlays are \$203 for the House bill and \$201 for the Senate bill.)

Response #2: The General Fund has Spent Money on Highways

The "HTF-is-for-highways" argument conveniently ignores federal spending on highways that has been paid for from the general fund. In response to a request from Sen. Chafee, GAO on February 6 released a report stating that from FY57 through FY96, general fund highway expenses totaled \$39.3 billion. Moreover, according to GAO, had those funds come out of the HTF and the fund been charged interest on its negative balance, the HTF would have a huge deficit :

If these expenses [\$39.3 billion] had been paid through the highway account of the Highway Trust Fund, the interest that would not have been earned by the highway account or would have been due to the General Fund of the U.S. Treasury would have totaled \$124.9 billion. Together, General Fund highway expenses and interest not earned by the highway account or due to the General Fund would have totaled \$164.2 billion. If this amount were deducted from the actual fiscal year 1996 highway account balance of \$11.6 billion, the highway account balance reflecting the impact of not paying any highway expenditures from the General Fund would have been a negative \$152.7 billion.

GAO's figures have been criticized as artificial, in that Congress would have increased revenues or reduced authorizations to prevent such a shortfall from actually occurring. There is also some disagreement about how GAO defines a highway expenditure. But, even granting critics the first point, GAO's report suggests that total transportation funding -- including both trust fund and general fund spending -- has significantly exceeded fuel tax revenues plus interest.



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Number of Pages: (including this page)

To:

Dorothy

From:

DAVID WORZALA
202-395-3101

Comments:

GAO study on HTF

GAO

United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-279128

February 6, 1998

The Honorable John H. Chafee
Chairman, Committee on Environment
and Public Works
United States Senate

Subject: Highway Trust Fund: Possible Impact if It Had Financed All Highway Expenditures

Dear Mr. Chairman:

The Highway Trust Fund was established in 1956 to finance the federal-aid highway program. In 1982, the fund was divided into a highway account and a mass transit account. The Highway Trust Fund is supported through federal highway user taxes, such as those on motor fuels (gasoline, gasohol, and diesel), tires, and trucks.¹ When the cumulative highway user revenues credited to the Fund exceed the cumulative expenditures, a positive account balance exists. This balance is invested in public debt securities, and interest earned on these securities is considered revenue to the Fund.

At the end of fiscal year 1997, the highway account had an estimated balance of \$14.6 billion. Proponents of higher spending levels from the Highway Trust Fund argue that while it has a steady stream of dedicated tax receipts, budgeting actions have restricted outlays from it in order to create positive Trust Fund balances, thereby lowering the reported deficit.² The proponents hold that this breaks the implied agreement underlying the original tax enactment—that is, that the tax receipts would be fully used for highway and

¹The Highway Trust Fund essentially exists only as an accounting mechanism. Highway user taxes are actually deposited in the General Fund of the U.S. Treasury, and a paper transfer of these taxes is made to the Trust Fund.

²Budget Issues: Trust Funds and Their Relationship to the Federal Budget, (GAO/AIMD-88-55, Sept. 30, 1988).

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B-279128

related expenses. However, others argue that the General Fund of the U.S. Treasury has subsidized road building for decades, and if it were not for this subsidy, a positive Highway Trust Fund balance would not exist. Therefore, you asked us to determine what the Highway Trust Fund highway account balance would be if it had financed not only the federal-aid highway program, but other federal highway expenditures that have historically been paid from the General Fund of the U.S. Treasury. As agreed with your office, our assessment includes both the crediting of interest to the Highway Trust Fund when it has a positive balance and the paying of interest by the Highway Trust Fund when it has a negative balance.

Of the 3.9 million miles of public roads in the United States, 953,009 miles are considered eligible for funding through the Highway Trust Fund.³ Although these roads represent only a quarter of the total road and street mileage, they accounted for 85 percent of the vehicle miles traveled in 1995. In addition, highways have received federal support from the General Fund of the U.S. Treasury provided through various other federal agencies and programs, such as the Forest Service, National Park Service, Department of Defense, and Department of Energy. Over the years, new or different roads have also been added to the list of roads funded by the Highway Trust Fund. For instance, starting in fiscal year 1972, funding for roads and trails in national forests shifted from the General Fund to the Highway Trust Fund. Similarly, in fiscal year 1983, the funding source for indian reservation roads changed from the General Fund to the Highway Trust Fund.

From fiscal year 1957 through fiscal year 1996, the Federal Highway Administration's (FHWA) data indicate that the Highway Trust Fund's highway account was credited with \$320.1 billion in tax receipts and \$20.2 billion in interest and had expenditures of \$328.7 billion.⁴ Of note is the fact that the

³Under current law, expenditures from the highway account of the Highway Trust Fund are generally restricted to those roads that are not classified as local or rural minor collector roads. However, there are a few exceptions. For instance, the Congress authorized funds for some demonstration projects that would not have been eligible for federal highway program funds because the projects were for local roads.

⁴Throughout this letter, reference to the highway account refers to the Highway Trust Fund established in 1956 and the highway component following passage of the Surface Transportation Assistance Act of 1982 that divided the Fund in fiscal year 1983 into a highway account and a mass transit account.

B-279128

expenditures exceeded the tax receipts during this period. However, the interest accrued on the highway account balance was able to cover the difference as well as result in a positive balance of \$11.6 billion.

In addition, the General Fund of the U.S. Treasury expended \$39.3 billion for highways from fiscal year 1957 through fiscal year 1996, according to FHWA's data. Figure I reflects the impact of assuming that these expenditures had instead been paid for through the Highway Trust Fund's highway account. A negative balance would have occurred in fiscal year 1960. By fiscal year 1996, the highway account balance would have had a negative balance of \$152.6 billion, largely because of the fact that from fiscal year 1960 onward, the increasing negative balance would have created a growing interest debt owed to the General Fund.

Specifically, from fiscal year 1957 through fiscal year 1996, General Fund highway expenses totaled \$39.3 billion. If these expenses had been paid through the highway account of the Highway Trust Fund, the interest that would not have been earned by the highway account or would have been due to the General Fund of the U.S. Treasury would have totaled \$124.9 billion.⁵ Together, General Fund highway expenses and interest not earned by the highway account or due to the General Fund would have totaled \$164.2 billion. If this amount were deducted from the actual fiscal year 1996 highway account balance of \$11.6 billion, the highway account balance reflecting the impact of not paying any highway expenditures from the General Fund would have been a negative \$152.7 billion.⁶

While this analysis shows a negative balance, FHWA notes that this could not have occurred because (1) there is a legislative requirement, referred to as the Byrd Amendment,⁷ designed to ensure that sufficient funds will be available to liquidate commitments, and (2) the Congress would probably have increased revenues or adjusted authorizations to prevent the shortfall. (Enc. I provides additional details along with a table showing what the annual balance of the

⁵For fiscal year 1957, the analysis uses the interest rate at the close of the year. For fiscal years 1958 through 1996, the interest rate used was the weighted average rate for investments of the Highway Trust Fund on the last day of the prior year.

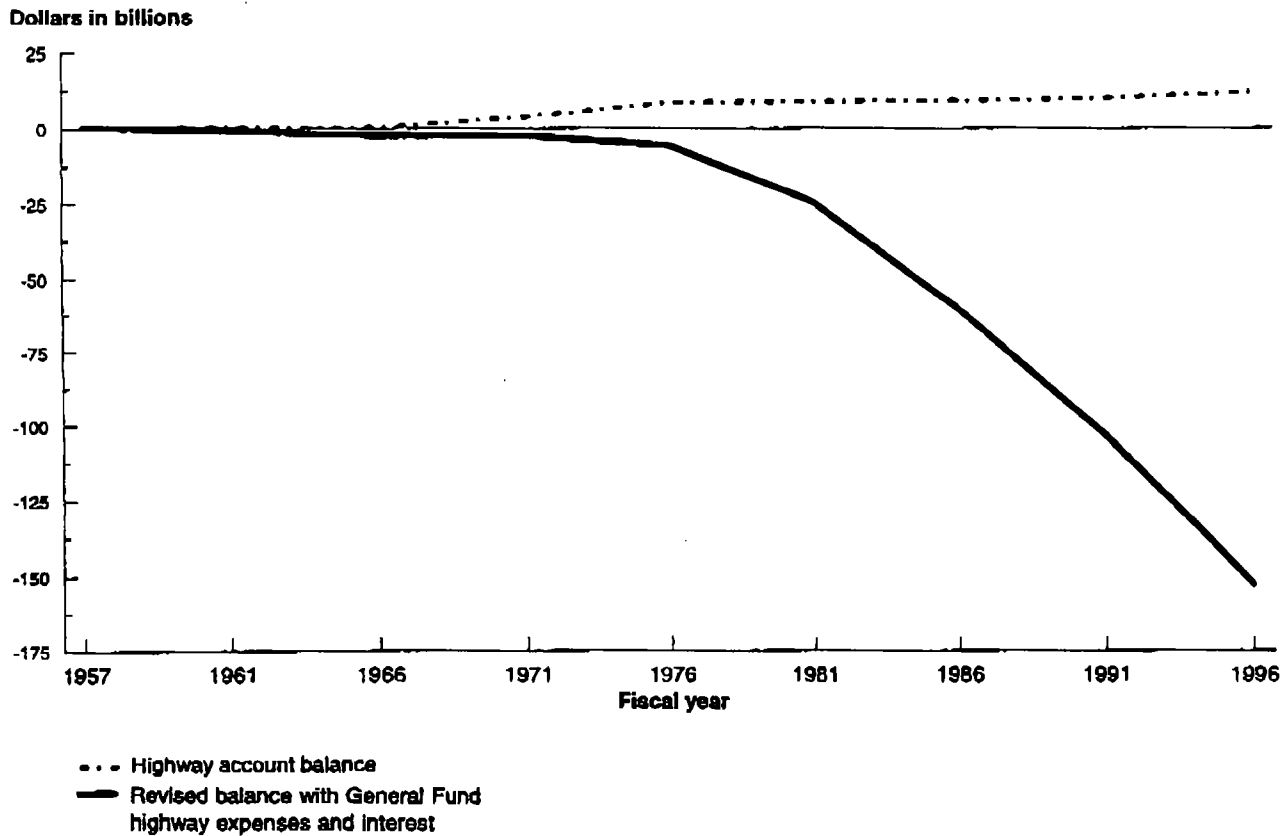
⁶Numbers do not add up to the total because of rounding.

⁷26 U.S.C. section 9503 (d).

B-279128

Highway Trust Fund's highway account would have been if it had paid for all highway expenditures.)

Figure 1: Estimated Status of the Highway Trust Fund's Highway Account if the Highway Account Had Funded Highway Expenditures Historically Paid From the General Fund



Source: FHWA.

B-279128

AGENCY COMMENTS

We provided a draft of this report to the Department of Transportation for review and comment. We received technical comments and clarifications and incorporated them where appropriate.

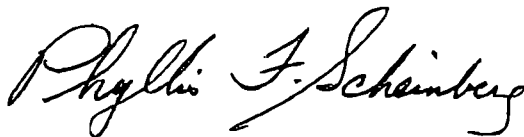
SCOPE AND METHODOLOGY

Our analysis is based on FHWA's data on highway revenues and expenditures from the highway account of the Highway Trust Fund, as well as FHWA's data on historical expenditures for highways from the General Fund of the U.S. Treasury. The financial estimates are based on the assumption that the highway account of the Highway Trust Fund assumed the highway expenditures paid through the U. S. Treasury's General Fund. We analyzed these data and the projected impact of historically funding all federal highway expenses through the highway account of the Highway Trust Fund from fiscal year 1957 through fiscal year 1996. We performed our work in January 1998 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretary of Transportation, the Administrator of FHWA, and other interested parties. We will also make copies available to others on request.

Please call me at (202) 512-9696 if you have any questions. Major contributors to this report were Curtis Groves, Yvonne Pufahl, and Ron Stouffer.

Sincerely yours,



Phyllis F. Scheinberg
Associate Director, Transportation
Issues

Enclosure

ENCLOSURE I

ENCLOSURE I

**POTENTIAL EFFECT OF FUNDING THROUGH THE HIGHWAY TRUST
FUND'S HIGHWAY ACCOUNT THE FEDERAL HIGHWAY EXPENSES
PAID THROUGH THE GENERAL FUND OF THE U.S. TREASURY**

Table I.1 focuses on the highway expenses paid through the General Fund of the U.S. Treasury and estimates the impact of paying these expenditures through the highway account of the Highway Trust Fund. In fiscal year 1957, the first year of operation of the Highway Trust Fund, there is no beginning balance. However, in subsequent years, the ending balance at the close of a fiscal year is rolled over and becomes the beginning balance the next fiscal year. When the Highway Trust Fund's balance is positive, it is invested in public debt securities, and interest earned on these securities is considered revenue to the fund. However, in years when the balance is negative, interest is assumed to be paid by the Highway Trust Fund to the General Fund. In fact, as shown in table I.1, the balance is negative starting in fiscal year 1960 and continues steadily in that direction through fiscal year 1996, when the balance reaches a negative \$152.7 billion.

Table I.1: Estimated Status of the Highway Trust Fund's Highway Account if the Highway Account Had Funded Highway Expenditures Historically Paid From the General Fund

Dollars in millions

Fiscal year	Beginning General Fund highway balance	General Fund highway expenses	Interest	Ending General Fund highway balance	Highway account actual balance	Revised balance with General Fund highway expenses and interest
1957	n/a	-\$162	-\$2	-\$164	\$516	\$352
1958	-164	-168	-7	-339	1,049	710
1959	-339	-156	-11	-506	524	18
1960	-506	-197	-17	-720	119	-601
1961	-720	-207	-29	-956	299	-657
1962	-956	-227	-32	-1,215	471	-744
1963	-1,215	-265	-44	-1,524	747	-777
1964	-1,524	-276	-56	-1,856	641	-1,215
1965	-1,856	-242	-72	-2,170	285	-1,885
1966	-2,170	-409	-89	-2,668	244	-2,424
1967	-2,668	-448	-119	-3,235	725	-2,510
1968	-3,235	-457	-143	-3,835	982	-2,853
1969	-3,835	-479	-194	-4,508	1,521	-2,987
1970	-4,508	-605	-247	-5,360	2,612	-2,748
1971	-5,360	-645	-341	-6,346	3,652	-2,694
1972	-6,346	-589	-340	-7,275	4,490	-2,785
1973	-7,275	-897	-386	-8,558	5,591	-2,967
1974	-8,558	-1,112	-547	-10,217	7,667	-2,550
1975	-10,217	-1,229	-758	-12,204	9,597	-2,607
1976	-12,204	-1,341	-853	-14,398	8,442	-5,956
1977	-14,398	-1,511	-985	-16,894	9,597	-7,297
1978	-16,894	-1,784	-1,115	-19,793	11,106	-8,687
1979	-19,793	-2,319	-1,470	-23,582	11,998	-11,584
1980	-23,582	-2,080	-2,063	-27,725	10,433	-17,292
1981	-27,725	-2,553	-2,970	-33,248	8,693	-24,555
1982	-33,248	-2,065	-4,003	-39,316	8,480	-30,836
1983	-39,316	-1,935	-5,002	-46,253	8,495	-37,758
1984	-46,253	-1,987	-5,079	-53,319	9,644	-43,675
1985	-53,319	-1,801	-8,039	-61,159	9,794	-51,365
1986	-61,159	-1,640	-6,660	-69,459	8,920	-60,539
1987	-69,459	-1,131	-6,823	-77,413	8,845	-68,568
1988	-77,413	-968	-6,719	-85,100	8,453	-76,647
1989	-85,100	-694	-7,370	-93,164	9,985	-83,179
1990	-93,164	-924	-8,541	-102,629	9,063	-93,566
1991	-102,629	-919	-9,149	-112,697	9,680	-103,017
1992	-112,697	-1,157	-9,340	-123,194	10,734	-112,460
1993	-123,194	-903	-8,957	-133,054	10,957	-122,097
1994	-133,054	-1,011	-8,681	-142,746	8,951	-133,795
1995	-142,746	-796	-9,125	-152,667	8,855	-143,812
1996	-\$152,667	-\$1,038	-\$10,521	-\$164,226	\$11,552	-\$152,674

Total -\$39,327 -\$124,899

Source: Federal Highway Administration.

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