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## THE HIGHWAY AUTHORIZATION BILL: INVITING A PRESIDENTIAL VETO

### INTRODUCTION

In the war on the deficit, the 100th Congress is off to an inauspicious start. Lawmakers have already overridden Ronald Reagan's veto of the pork-laden Clean Water Bill, which exceeded the Administration's request by \$12 billion. Now Congress is preparing for a conference to iron out House and Senate differences in the Highway Authorization Bill (H.R. 2). By any objective measure, both the \$90 billion House bill and its \$82 billion Senate counterpart are unaffordable budget busters.<sup>1</sup> Both are crammed with an unprecedented 100 pork barrel road and mass transit projects with a total estimated price tag of more than \$8 billion.<sup>2</sup> Examples:

\* \$2.1 billion for the "Tip O'Neill Memorial Highway Project" in Boston. The Federal Highway Administration has rejected this repeatedly as "not a viable transportation project because of limited benefits and very high cost," as having "serious operational and safety deficiencies," and as potentially damaging to the surrounding environment. Local communities have mounted vocal resistance because the project will disrupt area neighborhoods for a dozen years and displace an estimated 100 businesses and 3,000 workers.

\* \$1.4 billion for the Los Angeles Metro Rail system. Congress wants to authorize these funds even though Los Angeles has not yet determined where the rail system will go and has yet to complete the

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1. These figures are based on five-year projections for uniformity.

2. Congress claims these projects will cost \$1.2 billion. However, this is just the cost to begin construction. The Office of Management and Budget estimates that the more relevant cost of completing the projects will be \$8.3 billion.

environmental impact analysis. Preliminary cost-benefit estimates by the federal Urban Mass Transit Administration project that the 4.4 mile Los Angeles system will cost over \$6.00 per passenger trip--or more than a typical cab ride.<sup>3</sup> So flawed is the project that even several California Democratic House members, led by Henry Waxman, fought to have the rail system deleted from the bill.

\* \$3.0 million for the construction of three parking garages in Southwest Chicago. The purpose of the project is to "demonstrate the effectiveness of construction of parking facilities in relieving on street parking congestion." The facility, is just one of fifteen special projects for Illinois.

To block these budget busting attempts, Ronald Reagan needs a two-pronged approach. First, he must declare immediately that unless Congress eliminates all parochial projects from the bill and brings the overall spending level down to the Administration's budget request, the bill will be DEBA--dead even before arrival--at his desk for signature. Even if the bill includes the sensible Senate provisions of allowing states to raise the speed limit to 65 miles per hour on interstate highways, the President must veto it.

Second, Reagan should seize this opportunity to recommend that the federal government turn over future responsibility for local road construction to the states. This would involve repealing the federal gasoline tax and allowing states to raise gasoline taxes to the level necessary to finance state transportation infrastructure improvements. This would give the states added funding flexibility while assuring that the nation's vital road construction and repair needs will no longer be held hostage to annual congressional budgetary gridlock.

#### WHY HIGHWAY DEMONSTRATION PROJECTS ARE BAD PUBLIC POLICY

Both the House and Senate highway bills have been greeted outside of Capitol Hill with near universal bipartisan condemnation. The reason? State highway officials, governors, local budget officers, and highway user groups are tired of Congress allowing the overdue highway funding bill to degenerate into a pork barrel spending free-for-all. The 100 "demonstration projects," as they are called, in the House bill would receive 100 percent federal financing, which is in addition to the normal allotment of highway funds distributed to the states. They are nothing more than political payoffs.

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3. Urban Mass Transit Administration, Fact Sheet on Los Angeles Metro Rail System, 1986.

There are three reasons why their inclusion in the Highway Bill has aroused such strong opposition:

1) Most of the projects already have been rejected as uneconomical by the states.

2) The demonstration projects violate a 75-year-old congressional policy of keeping parochial spending measures off highway bills. The last major highway authorization bill, passed in 1982, contained only ten demonstration projects. This budgetary discipline has been in deference to a House rule dating back to 1914, which states: "It shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road...." This year's bill shatters this venerable and valuable tradition and opens the floodgate for future parochial highway project financing.

3) These special highway projects will delay legislation already six months behind schedule. This delay is beginning to take its toll, with states fast running out of highway construction funds. As many as 400 necessary highway projects may have to be canceled for 1987, for example, if a speedy settlement is not reached in Congress.<sup>4</sup> Worse yet, Lester Lamm, President of the Highway Users Federation, reports that congressional footdragging may force several states to "lose the entire 1987 construction season."<sup>5</sup> Congress should get the bill rolling by eliminating contentious and parochial items.

#### THE HIGHWAY BILL'S EXCESSIVE SPENDING LEVELS

The table below compares the proposed funding levels of the House and Senate bills with the President's budget request. The Senate bill exceeds the Reagan request by \$5 billion; the House is \$14 billion over budget. The main cause of this huge difference is the urban mass transit component of the highway bill. The Administration proposed in its FY 1988 budget that transit funding come exclusively from the one cent a gallon gasoline tax set-aside for this purpose. But the House and Senate have rejected this spend-as-you-go approach, and instead have endorsed dipping into general revenues to finance transit expansion. This is precisely the budget mentality that has accumulated today's towering deficit.

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4. "Swift Action Is Sought on Highway Aid," The Washington Post, December 31, 1986, p. 1.

5. Ibid.

SPENDING TOTALS IN THE 1987 HIGHWAY AUTHORIZATION BILLS  
1987-1991

	Highway Spending	Transit Spending	Total
House Bill	\$70 billion	\$21 billion	\$91 billion
Senate Bill*	\$66 billion	\$16 billion	\$82 billion
Reagan Proposal*	\$68 billion	\$ 9 billion	\$77 billion

\*The Senate Bill and the Reagan budget are four year proposals; spending has been projected for the five-year period for the sake of comparability with the House Bill.

OTHER COSTLY FEATURES OF THE HIGHWAY BILL

The highway bill also has been transformed into an instrument for pursuing social welfare policies rather than building roads. Many of its amendments are poor public policy and misplaced in an urgent highway bill. Reagan should insist that Congress delete such provisions. Among them:

1) Minority Business Contract Requirements.

Both the House and Senate bills require that 10 percent of all highway contracts be awarded to businesses owned by "socially and economically disadvantaged individuals." The states long have pleaded with Congress to end this federal mandate since it inflates highway construction costs by tens of millions of dollars each year. To make matters worse, the minority business development policy has been mired in fraud and scandal.

2) Allowing states to prohibit awarding contracts to companies trading with South Africa.

The House bill would permit states and cities to deny highway and transit contracts to U.S. firms trading with South Africa. This would set a precedent for allowing states to accept contracts from firms other than the lowest bidder. More important, as the Senate and State Department both point out, such a policy conflicts with the



constitutional delegation of foreign policy matters solely to the federal government.<sup>6</sup> The states should not be permitted to make foreign policy statements when they are spending federal funds, rather than their own.

3) Allowing states and cities to shut off competition in awarding transit contracts.

The House bill contains an amendment attached to the transit section entitled "Limitation on Private Enterprise Participation." The bill would free cities of the requirement to procure transit services and equipment using competitive bidding practices. The provision has two purposes: to protect local transit monopolies from competition and to undermine the measures to improve efficiency adopted by Urban Mass Transit Administration head, Ralph Stanley. Competitive contracting has slashed transit costs by 20 to 50 percent in several cities.<sup>7</sup> Congress should be encouraging efforts to bring down transit costs, not torpedoing them.

4) Preventing states from using sealed bids to award transit contracts.

The Senate and House bills contain amendments prohibiting states from using sealed bids in awarding architectural and engineering transit contracts. The use of sealed bids is essential to the integrity of competitive bidding contests. Removing this requirement invites graft and corruption.

5) Continuation of the Transit Discretionary Spending Program.

Nearly \$1 billion of the gasoline tax targeted for mass transit is funnelled into a discretionary spending program. This is little more than a congressional slush fund into which lawmakers can dip to finance pet transit projects back home. Typically, Congress uses most of the money to subsidize huge money-losing rail projects such as the Miami and Detroit systems. And although all 50 states contribute to the fund through the gasoline tax, about 80 percent of the money flows to just 20 cities. The Office of Management and Budget sensibly has proposed that the discretionary program be terminated and that all transit funds be lumped into a single formula grant. This would eliminate at least part of the pork barrel spending which characterizes the transit program, while giving the states maximum flexibility to fund transit projects of their choice.

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6. See Senate floor debate on the issue in: Congressional Record, February 4, 1987, pp. S1727, S1730.

7. See Stephen Moore, "Rx for Ailing Urban Mass Transit: A Dose of Competition," Heritage Foundation Background No. 542, October 29, 1986.

## A NEW POLICY FOR FINANCING HIGHWAY IMPROVEMENTS

The original rationale for federal funding of highway construction was the completion of the interstate highway system. That was a legitimate federal objective, since all U.S. citizens benefit from a coordinated network of interstate highways. The interstate highway system is now over 97 percent completed. As such, today the vast majority of federal highway funds finance local roads. It makes no sense for the gasoline tax that will be used to pay for state and local roads to be collected at the local gasoline pump, sent to Washington, passed through the federal bureaucratic maze, then shipped back to the states from where the funds originated. Congress has become an unnecessary and costly middleman.

Washington's middleman role could be ended and expensive delays and special interest spending eliminated by assigning to the states the exclusive responsibility for funding all local roads, beltways, and bridges. In return for this added responsibility, the states should be given means to increase revenues designated for road building. To achieve this, the federal government could repeal all but 2 cents of the current 9 cents per gallon federal gasoline tax and allow each state to raise its own gasoline tax. Half of the remaining 2 cents federal tax would be used for the interstate highway system and the other half would continue funding urban mass transit programs. A proposal very similar to this has been suggested by the Advisory Commission on Intergovernmental Relations.<sup>8</sup> Several Governors, notably Indiana's Robert Orr, have endorsed the idea.

An immediate and obvious advantage of this highway turnback proposal would be that state transportation dollars no longer would support the huge administrative costs of an anachronistic federal transportation bureaucracy. Moreover, the states would be freed from complying with burdensome federal regulations, such as Davis-Bacon wage requirements and Buy America provisions, which raise the costs of local construction by as much as 30 percent. Most important, Congress no longer could withhold or earmark highway funds to preempt the highway funding priorities established by each state. The result: taxpayers and motorists would gain.

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8. Advisory Commission on Intergovernmental Relations, "A Critical Appraisal of Devolving Selected Federal-Aid Highway Programs and Revenue Bases: Research in Progress," Draft Report, 1986.

## CONCLUSION

By enacting the 1985 Gramm-Rudman-Hollings Deficit Reduction Act, Congress committed itself to an orderly elimination of the budget deficit. But lawmakers already have shown that although they signed the sobering deficit pledge, they are not willing to stay on the wagon. The Highway Bill typifies the kind of spending binge that created huge deficits.

Ronald Reagan must declare that he will veto the highway bill unless three critical issues are resolved favorably. First, pork barrel spending should be eliminated from the legislation. Second, the overall funding level should be reduced to the President's requested levels. And third, Congress should eliminate those provisions which would restrict competitive bidding on highway and transit projects and inflate construction costs.

If these conditions are not met, the President will have no choice but to veto the legislation. He should combine his veto with a declaration that he will continue to veto such fiscally irresponsible bills, even if the vetoes are at times overridden. If no one else, he must be prepared to act responsibly in spending matters. He cannot allow lawmakers to continue to express outrage about the deficit and then turn around and pass local projects bills that add billions in red ink. Nor can Congress be permitted to proclaim that it has cut all the fat out of the federal budget, and then attach \$8 billion worth of pork barrel spending to a vital highway bill.

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