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

April 26, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

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

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

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

Critical Issues

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

Under the final version of the surface transportation bill, total obligation limitations for surface-transportation programs (combined with contract authority that is exempt from obligation limitations and general fund appropriations for public transportation) must not exceed $283.9 billion over the period 2004 through 2009. Likewise, the net authorization level must not exceed $283.9 billion over the six years. (To the extent the gross authorization level exceeds $283.9 billion, an offsetting rescission should be included in the legislation.) Should the obligation or net authorization levels that would result from the final bill exceed these limits, the President's senior advisors would recommend that he veto the bill.

The Administration strongly opposes the establishment of an entity that would issue new debt instruments to provide additional transportation spending. The creation of new Federal borrowing mechanisms negatively impacts the deficit, disguises the true costs to taxpayers, and is highly inefficient. Should the creation of a new Federal borrowing mechanism appear in final legislation presented to the President, his senior advisors would recommend that he veto the bill.

Other Major Issues

- Safety: The Administration greatly appreciates the creation of a strong safety belt incentive program, as currently proposed, and a new Highway Safety Improvement Program (HSIP). The Administration supports the new flexibility built into the HSIP with strategic highway-safety plans, but believes the additional mandatory set-asides contained in the bill will undermine the flexibility benefits.

- State and Local Flexibility: The Administration is very pleased that the bill does not create a significant number of new program categories. This is consistent with the Administration's proposal to increase the share of funds distributed through the traditional core programs, and it will permit States to retain significant flexibility to target resources to areas of need. However, the Administration opposes the bill's restrictions on States wishing to implement proven road-pricing and toll-finance strategies intended to reduce congestion. In addition, the Administration opposes the inclusion of a mandatory 2 percent set-aside from the Surface Transportation Program (STP) to support a highway stormwater discharge mitigation program. Stormwater discharge mitigation costs are already eligible under STP.

- Park Roads. The Administration objects to the proposed 11 percent reduction in Park Roads funding below the amount in SAFETEA. These funds are the key remaining piece to complete the President's commitment to provide $4.9 billion over five years to reduce the maintenance backlog in National Parks. In addition, the Administration opposes the provisions of section 1806 of the bill, which direct the Secretary of the Interior to place priority on funding road projects in certain "qualifying" National Parks. This language would reward some national parks over others and prevent the Administration from directing funds toward the most pressing deferred maintenance requirements as part of the President's Park Legacy Program.

- Environmental Review: The Administration strongly believes the bill should include a 180-day statute of limitations for legal challenges following final agency approval of highway and transit projects in order to reduce litigation uncertainty that impedes project development. The bill should specify that this limitation also applies in the context of supplemental or tiered Records of Decision, Findings of No Significant Impact, or determinations that an action is categorically excluded. The bill should also avoid adding new requirements to the transportation planning process, and instead permit greater use of the results of studies undertaken pursuant to metropolitan and State planning processes as the bases for analyses under the National Environmental Policy Act (NEPA). The Administration supports the creation of a project delivery pilot program contained in section 1513 of the bill. The Administration believes that the bill should provide greater flexibility to States in implementing environmental review processes and allow an opportunity for States to opt out of the process established in section 1511 of the bill. The Administration also strongly believes that the bill should clarify standards pertaining to public park and recreation lands, wildlife and waterfowl refuges, and historic sites (commonly referred to as "Section 4(f)"), as well as address the overlap between Section 4(f) and Section 106 of the National Historic Preservation Act. Finally, the bill should clarify that, when carrying out their environmental review responsibilities under NEPA, cooperating agencies should give "substantial deference" to the lead agency with respect to "purpose and need" and project alternatives determinations.

- Transportation and Air Quality: The Administration supports section 1611 of the bill, which includes nonattainment areas that are newly designated under the fine particulate matter and eight-hour ozone standards in the apportionment formula for the Congestion Mitigation and Air Quality Improvement Program (CMAQ). However, the Administration opposes substantially broadening the list of eligible projects for CMAQ funding because many of these projects would have minimal air-quality effects. The Administration believes that the bill should be amended to align the transportation and air quality planning horizons and update cycles for purposes of transportation conformity without altering current responsibilities for travel modeling.

- Motor Vehicle Safety Issues: The Administration strongly opposes the numerous mandated rulemakings for the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration. By prescribing specific requirements and mandating priorities, these provisions will delay or interfere with ongoing safety initiatives and may have the unintended consequence of redirecting agency resources away from programs that will do more overall good for safety. The Administration strongly supports making permanent the Congressional directive in Section 7(f) of the Surface Transportation Extension Act of 2004, Part V (Public Law 108-310) to stabilize Hours of Service rules.

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

- Public Transportation Programs: The Administration supports giving localities the flexibility to determine the most efficient use of their transit dollars. The Administration is pleased that the bill includes provisions to improve human service transportation coordination, expand eligibility of the "New Starts" program, and invest in intermodal passenger facilities.

- Accountability and Oversight: The Administration is pleased that the bill includes provisions to improve accountability and oversight of Federal grant funds consistent with the Administration's proposal.

- Byrd Test Change: The Administration opposes weakening the Byrd Test to compare authorized funding to current resources plus four years, rather than two years, of estimated future revenue. The existing Byrd Test, which has been applied in its current form for decades, is an important disciplinary mechanism to ensure that spending levels can be sustained by Highway Trust Fund revenues.

- Gas Tax Compliance: The Administration believes that the bill should fund the Highway Use Tax Evasion Program as requested by the Administration. This program is critical to the success of the provisions to improve tax compliance enacted in the American Jobs Creation Act of 2004 and to ensure adequate revenues to support the overall funding levels of the bill.

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

* * * * * *