NLWJC - Kagan
DPC - Box 062 - Folder-012

Welfare-ISTEA-Transportation [1]

WR - ISTEA/transportation
and
SOTU 1999

Andrea Kane [redacted]

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc:
Subject: SOTU

I understand DOT may be putting in a request to have POTUS announce naming of the Access to Jobs grants for Rosa Parks and Delores Huerta in the SOTU, with them in the Gallery. Presumably this would be packaged with announcing proposal to fully fund the program (at $150 million authorized level rather than the $75 million guaranteed funding level).

Wr-transportation

Bruce N. Reed
10/01/98 11:05:16 AM

Record Type: Record

To: Andrea Kane/OPD/EOP

cc: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Re: Access to Jobs -- cars

Yes, flexibility is the right call here. As I've said before, I don't think the government should venture very far into the car business because it just won't seem fair to people, and I don't think we should be encouraging communities in that direction. But you're right that we should write the rules with as much flexibility as possible, so that if a community comes up with low-interest car loans or an insurance subsidy or some other innovative idea, they could give it a try.

I'm not sure I agree with the notion that vans are impractical in rural areas -- none of these programs can do much good if they're only serving 1 or 2 people, and you can always hire somebody off welfare to drive the van. But you're absolutely right that it's ridiculous for a gazillion-dollar highway bill to frown on a few poor people driving cars.

Wr - transportation

Andrea Kane [redacted]

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Cynthia A. Rice/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Access to Jobs -- cars

DOT is getting close to finalizing notice of availability for Access to Jobs/Reverse Commute grants. One outstanding issue is to what extent these funds can be used to help people get to work by car. The Federal Transit Administration, who has lead responsibility for ATJ is opposed on several grounds, the main one being they are in the business of getting people out of cars and into mass transit (there is some indication Fed Highway Admin. may not agree). Because ATJ was put in the mass transit statute, FTA says they are legally prohibited from using funds for single occupancy vehicles, though car pools and ridesharing are allowed. While there are various reasons we might not want to use this money to outright purchase a car for an individual, we think they could be more flexible if they wanted to be, and that they should not preclude innovative local solutions including cars--for example, revolving loan programs, car-lending arrangements, repair of donated cars. There are interesting examples like this cropping up around the country; ~~they tend to be~~ small, and they usually do not involve simply using public funds to buy someone a car. This is especially important in rural areas, 40% of which do not have public transit and where it may be more efficient to help someone get access to a car than to set up a van or shuttle when there may not be sufficient density of people on similar schedules to fill it up. We do not imagine car programs will be used on large scale. *We and NEC would both like to push back for more flexibility for projects who justify why cars are the most efficient/effective solultion ~~and why other approaches~~ won't suffice --what do you think?*

WR-transportation
(all)
WR- WR-to-work implementation

Andrea Kane [redacted]

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Child Support Incentives Bill--Other provisions

This bill also includes changes related to Welfare-to-Work (as Diana's earlier note mentioned) and Access to Jobs. We're happy about the Welfare-to-Work changes and can live with the ATJ changes.

Welfare-to-Work Eligibility for Non Custodial Parents
The bill clarifies two issues to facilitate serving non-custodial parents under WTW.
1) As drafted, the BBA requires that in order for a **non-custodial** parent to be eligible for services, the **custodial** parent must meet 2 of the 3 'hard-to-serve' criteria (educational deficit, substance abuse, poor work history). The bill clarifies that either the custodial or non-custodial parent can meet these criteria, thereby ensuring that the individual being served is the one with the barriers to employment and addressing the concern that the organization serving the non-custodial parent would not necessarily have access to information about the custodial parent.
2) As drafted, the BBA requires that in order to serve a non-custodial parent, the custodial parent must be a long-term welfare recipient. The bill clarifies that either the custodial parent or the minor child of the noncustodial parent must be long-term recipients. This addresses child only cases. DOL thought these amendments were needed, and we agreed. Ron Haskins was very supportive (as was Wendell), but Dennis Smith was not. The House prevailed.

Access to Jobs Match
As you know, Access to Jobs envisioned a fairly broad notion of match, including allowing other federal funds such as WTW and TANF to be used for match. Once W&M and Sen. Finance staff eventually started paying attention to ATJ, they raised a issues that were all over the map from concern about losing control of "their" TANF funds, to allowing states to transfer funds out of TANF to ATJ, to whether this might be a vehicle for states to use TANF funds to build roads. They considered a variety of amendments to TANF in the child support bill to address these concerns--some real, some perceived. HHS managed to persuade committee staff to drop some of the weirder fixes, so what we ended up with is definitely better than what could have been, but it's not perfect. The provisions got pretty messy given multiple agencies and committee jurisdictions. There'll be an opportunity--and challenge--to work with HHS, DOL, and DOT to operationalize these provisions as DOT develops the criteria for Access to Jobs competitive grants.

What ended up in the child support bill:
1. TANF funds used as ATJ match must be used for new or expanded transportation services (and not for construction), and the preponderance of Access to Jobs funds (including TANF match) must be spent on current or former TANF recipients and noncustodial parents (ATJ has a somewhat broader eligibility criteria--current and former TANF recipients, or those up to 150% of poverty).
2. Any TANF funds used as ATJ match are subject to the 30% cap on transferability. In other words, even though there is no new authority for states to **transfer** funds out of TANF to ATJ, if they use TANF funds to **match** ATJ, this amount combined with any transfers to child care and SSBG cannot exceed 30%. We were not thrilled with the principle --if a state identifies transportation as a major need, why would we want to limit the amount they could use to leverage additional transportation resources? But, this is not likely to pose a serious practical constraint since almost all states have plenty of room under their 30% cap and ATJ is so much smaller than

TANF (ATJ = up to $140 M/year while TANF = $16 B)
3. If someone receives transportation "benefits" through Access to Jobs, but is not receiving any other TANF assistance, these transportation benefits are not considered TANF assistance. This allows someone who just needs help with transportation, either after they have moved from welfare to work or in lieu of getting on welfare, to be served through ATJ (including TANF match) without invoking the time limits, child support assignment, and other TANF requirements. While there is some slippery slope concern on the definition of assistance, it did not seem appropriate to fight this issue here after we'd been so vocal about the need for transportation.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Laura Emmett/WHO/EOP
Cynthia A. Rice/OPD/EOP
Diana Fortuna/OPD/EOP

WR - transportation

Access to Jobs Questions and Answers
June 9, 1998

Question: **Why is additional money needed for welfare-to-work transportation when states have plenty of money through their Temporary Assistance for Needy Families (TANF) welfare reform block grants and Welfare-to-Work grants?**

Answer: Transportation is widely recognized as a critical need for those moving from welfare to work. There is some flexibility to spend Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WtW) funds on transportation and the President has called on states and communities to invest these resources, and the savings they are realizing as a result of historic welfare caseload reductions, in supports to help people get and keep jobs. However, there are important limitations in terms of who the TANF and WtW funds can get spent on and what kinds of services they can fund. In addition, there are many other competing demands on both funding sources (basic income support, job preparation and training, post-placement services). The Access to Jobs funds are more flexible, can serve a somewhat broader population, and would allow communities to come together to start-up new transportation services to fill gaps such as van services that go to areas of suburban job growth, extending transit routes to provide after hours services, and ridesharing programs.

Question: **How will these new funds be distributed and who can apply?**

Answer: The Access to Jobs funds are competitive grants that will be distributed to communities who meet criteria specified in the transportation bill including need for services, coordination with other transportation and human services partners, and use of innovative approaches. The bill does not specify a minimum or maximum grant size. DOT will develop guidelines for the application process. The funds require a dollar for dollar match in order to leverage and coordinate with other transportation resources. Local governments, transit agencies, and private non-profit organizations are eligible to apply for the grants. Metropolitan Planning Organizations will designate applicants in areas with populations greater than 200,000 and states will designate applicants in areas with population less than 200,000, including rural areas.

ISTEA

President Clinton's <u>New</u> Transportation Proposal Offers a Clear Choice

In just a few short days, Congress will face a critical decision on a transportation bill that will have far reaching implications. The choice is clear:

<u>President Clinton's New Proposal</u> **-- the new proposal includes an <u>unprecedented guarantee</u> that receipts that flow into the Highway Trust Fund will be invested in highways, highway safety, and mass transit. The new proposal is fully paid for, protects the surplus consistent with saving Social Security First, and protects critical investments in other key priorities, such as education, health, law enforcement and the environment.**

<u>Or</u>

<u>Current Congressional Plan</u> **-- calls for spending in excess of receipts flowing into the Highway Trust Fund. The plan is not paid for and it would force dramatic cuts in critical priorities such as education, health, law enforcement and the environment .**

President Clinton has proposed a new surface transportation funding plan. The new proposal:

- Provides an **<u>unprecedented guarantee</u>** that ***all*** Highway Trust Fund receipts will be spent on surface transportation (fully phased in by 2001).
- Commits to the **same level of funding as in the House and Senate** surface transportation reauthorization bills -- $219 billion -- but the funds would be spent **over 7 years rather than 6 years**, so as to protect other investment priorities.
- Is **fully "paid for."**
- Achieves record levels of transportation spending, while still:
  - ✔ ***Protecting the surplus to save Social Security First.***
  - ✔ ***Protecting critical investments in education, health, the environment, and law enforcement because the Administration proposal does not force these priorities to compete with transportation needs.***
- By setting spending on surface transportation equal to prior year Highway Trust Fund receipts, this plan ensures that spending levels can be sustained ***after*** the end of the authorization period
- Protects key transportation priorities, including transit, safety and the environment.
- Provides for historic levels of surface transportation spending:
  - ✔ Average annual spending on surface transportation in the Bush Administration was $20 billion.
  - ✔ Average annual spending during the first 4 years of the Clinton Administration was $25.5 billion, an increase of 25 percent.
  - ✔ The President's FY99 budget proposed spending $28 billion a year -- a 37 percent increase over Bush levels.
  - ✔ The Administration's new proposal would reach $33.8 billion a year -- a one-third increase over spending during the President's first term.

In stark contrast, the current Congressional plan calls for excessive levels of spending that would threaten the budget surplus -- undermining the President's pledge to save Social Security First -- and force draconian cuts in other critical domestic programs.

- The congressional plan would spend ***more*** on surface transportation than the Highway Trust Fund collects each year. Thus, the federal government could not maintain these spending levels for the long-term without increasing the gasoline tax.
- If fully funded, it would drain tens of billions of dollars from critical national priorities including education, child care, medical research, food safety, the environment, and even law enforcement and and other transportation priorities, such as aviation.
- Even at these spending levels, the congressional plan would not guarantee sufficient funding for highway safety. The National Highway Traffic Safety Administration (NHTSA) would have to compete with other domestic discretionary programs to get the funding levels the President has requested.
- The congressional plan slights mass transit, spending a smaller fraction of available funds on transit than the Senate's ISTEA II bill or the Administration's proposal.

The President's senior advisers would recommend that he veto a conference bill that makes available an excessive level of budgetary resources if it is financed by: spending the surplus, reducing the domestic discretionary budget caps, using unacceptable budget offsets, or forcing cuts in domestic priority programs. They would also recommend veto of a conference bill that slights highway safety or other transportation priorities.

The Choice is Clear

	President Clinton's New Proposal	Congressional Plan
Highway Trust Fund	Guarantees that receipts flowing into trust fund will be spent on highways and transit. (fully phased in by 2001).	Spends more than receipts flowing into the trust fund.
Funding Levels	$219 billion over 7 years (budget auth).	Similar amount of over 6 years.
Transit	19% transit funding.	17% transit funding.
Highway safety	Funding guaranteed.	Funding not guaranteed.
Fiscal Impact	Completely paid for and fully consistent with saving Social Security first.	Plan remains unpaid for, thereby threatening the surplus and commitment to save Social Security first.
Impact on other priorities, including: Head Start Pell Grants NIH Law Enforcement Environment	All fully protected	All at risk

Wr-transportation/ISTEA

Andrea Kane [redacted]

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Diana Fortuna/OPD/EOP
Subject: Need your reaction to TANF transfer to ATJ proposal

Wendell is floating an idea to W&M staff to allow TANF and WtW funds to be transferred to Access to Jobs to meet the ATJ match. Apparently the motivation is so that the transportation initiatives funded through ATJ (and its match) not have time limits and other TANF requirements attached. Also, this would make administration of ATJ simpler. This all arose out of what were supposed to be technical/clarifying amendments on ATJ match. HHS and DOT are going to want to know our views on transfer, should Wendell actually get the committee staff to propose it. While we support ATJ and the need to invest in welfare to work transportation, seems to me we'd have problems with the transfer proposal on both process and policy. Process: it's way beyond technical and this is not the right place to address it. Policy: Mary Bourdette tells me DPC has historically opposed transfers out of TANF. Also, this new transfer is not necessary--a state could transfer TANF funds to SSBG and use this as ATJ match and achieve the same goals (though we don't necessarily need to promote this). **Your reaction?**

At the same time, W&M has drafted some clarifying language to attach to child support bill that clarifies that TANF funds used to match ATJ cannot be spent on capital, must be spent on new mass transit services (not current operations), should supplement not supplant other State spending on transportation, and must benefit TANF recipients and help them engage in work activities (as defined in Sec 407 of TANF). I'm OK with the general intent, but have some questions about specifics. DOT and HHS are reviewing that proposed language and will get back to me later today to see if it all makes sense. At this point, committee language does not deal with transfer at all.

WR-transportation/ISTEA

Andrea Kane [redacted]

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP

cc:

Subject: Access to Jobs--good news!

---------------------- Forwarded by Andrea Kane/OPD/EOP on 05/22/98 05:53 PM ---------------------------

Julie Anderson <Julie.Anderson @ ost.dot.gov>
05/22/98 04:55:58 PM

Record Type: Record

To: Andrea Kane/OPD/EOP

cc:

Subject: Access to Jobs

The final version is: $150 million annually. $50 million of that is guaranteed from the trust fund and guaranteed funding increases by $25 million each year. The reverse commute program will receive $10 million of the guaranteed $50 million. It is unclear whether the reverse commute funding increases over time as well.

Janno, Linda, and I are thrilled! We have come a long way since the idea was first proposed.

WR - transportation/ISTEA

Andrea Kane

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: See the distribution list at the bottom of this message
Subject: Access to Jobs Amendments

DOT has been pushing for two amendments to the Access to Jobs language as it moves through ISTEA conference (see summary below). Both are essentially conforming changes that support the broad notion of match intended in the Access to Jobs initiative. Because they affect WtW and TANF funds, DOT wanted to make sure DOL and HHS were on board before bringing these to the attention of the H W&M and S Fin committee staff that have jurisdiction over TANF and WtW. We had a conference call yesterday with the three agencies, OMB, and Jeff Forbes in our congressional office. HHS is fine with both amendments. DOL is working with DOT to refine the language a bit to make sure it only allows using WtW $ spent on transportation as match for Access to Jobs (DOL was concerned that as drafted, any WtW $ could qualify as match). DOT and DOL legislative staff will jointly discuss these with appropriate committee staff. DOT staff think ISTEA conferee staff will be fine with the amendments as long as the other committees are on board. Everyone also agreed it was best to keep this very low profile given where we are with overall ISTEA funding issues.

Summary of amendments:
One amendment would clarify that fare revenue provided through a service agreement or contract could count as match for Access to Jobs funds. Apparently current transportation provisions prohibit public transit fare revenues from being used as match, but DOT feels that if a welfare/WtW agency contracts with a transit agency to pay the fares of welfare recipients, this should be able to count (Doug Birnie raised this during several of the interagency transportation guidance meetings).

The second would allow Welfare-to-Work funds (federal and state/local match) to be used as match for Access to Jobs. As you know, the Access to Jobs language is very liberal on match, allowing other federal funds to be used as match unless prohibited by that other source. The intent is to leverage resources and encourage various funding streams/entities to work together around welfare to work transportation. The WtW statute expressly prohibits using Fed or State/local WtW $ as much for any other program.

Message Copied To:

Elena Kagan/OPD/EOP
Bruce N. Reed/OPD/EOP
Jeffrey A. Forbes/WHO/EOP
Larry R. Matlack/OMB/EOP
Dorothy Robyn/OPD/EOP

ISTEA

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

April 30, 1998

THE DIRECTOR

The Honorable Pete Domenici
Chairman
Committee on the Budget
621 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

As conferees on H.R. 2400 meet to resolve differences between the *Intermodal Surface Transportation Efficiency Act of 1998* and the *Building Efficient Surface Transportation and Equity Act of 1998*, I write to offer the Administration's views on the budgetary implications of this significant and urgently needed legislation. Secretary Slater, in a separate letter, is communicating our views and concerns regarding major programmatic issues in the transportation legislation.

Since the President assumed office in 1993, the Administration has made a commitment to both fiscal discipline and the strategic investments we need to lay the foundation for a strong and healthy economic future. The President's economic program has helped produce economic conditions scarcely imagined in 1993: we have moved the Federal budget from a deficit of $290 billion in 1993 to a likely surplus in 1998, and we now enjoy low unemployment, little or no inflation, sustained economic growth and a level of prosperity that is a model for other countries.

A key component of this economic success is the President's commitment to vital investments in our future. Investing in a reliable, efficient, and a well-constructed system of highway and mass transit is an important domestic priority and critical to our economic success. Reauthorization of the Nation's surface transportation programs is therefore an important part of the President's investment strategy and the Administration supports healthy funding levels for highways, highway safety and public transit. The President's FY 1999 Budget requested 42 percent more for surface transportation than the average annual expenditure in the previous administration.

The Administration, however, has serious concerns about the excessive spending in the House and Senate bills. The funding levels in these bills fail to give due consideration to other priorities in the budget: either they would require unacceptable reductions in high priority discretionary program funding, or they would drain anticipated budget surpluses prior to fulfilling our commitment to save Social Security first. Both of these outcomes would have unacceptable consequences for the American people.

For example, the House-passed bill fails to offset any of its excess funding and would either result in squandering budget surpluses or would force program cuts of $34 billion below the President's requests. The Senate – in its Budget Resolution – proposed to offset some of its excess spending, but did so with offsets that the President had proposed for funding vital domestic initiatives including education, research, and food stamps; and even these offsets would provide far less than would be needed to pay for the excessive increases. As the reauthorization process moves forward, we pledge to work with the conferees to craft a bill that reflects the priorities of the President and the Congress -- and to do that in a way that does not force cuts in other critical programs and does not reject fiscal discipline. We firmly oppose the provision in the House bill that would undermine the fiscal discipline of the Bipartisan Budget Agreement by moving the Highway Trust Fund off-budget.

In addition to the severe budgetary problems raised by H.R. 2400, the Administration remains deeply concerned by several other provisions of the bill. These concerns will be detailed in Secretary Slater's letter. Although the conference has made some progress on these issues, some of the Administration's most serious concerns have not yet been addressed. Nonetheless, we believe it is possible for a good bill to emerge from conference if we work together to resolve these and other concerns -- and do so in a fiscally responsible and expeditious manner.

We need final action now on H.R. 2400. The obligation authority for highway spending ends this week, and carry-over balances in many of our highway safety programs will not sustain them for any extended period.

The Administration looks forward to working with the conferees to develop legislation that reflects sound transportation policies, that is funded at appropriate levels consistent with preserving the surplus and meeting our nation's other pressing priorities, and that the President can sign.

Sincerely,

Franklin D. Raines
Director

WR - ISTEA/transportation

Andrea Kane

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Christa Robinson/OPD/EOP

cc:
Subject: Welfare to Work Transportation Event

It's looking pretty likely that the stars (and calendars) are aligning for May 7th around 2 p.m. to have Secretaries Slater and Herman, and Dep Sec Thurm do an event here to release joint guidance on transportation, and build support for Access to Jobs funding. We'll be identifying a few key states (maybe Govs) to invite, as well as key Congressional supporters.

WR – ISTEA/Transportation

5/5

TO: Cynthia
Diana
Elena
Bruce
Emil

FROM: Andrea

This is the joint DOT, DOL, HHS welfare to work transportation guidance inspired by the President's discussion w/ Elaine Kinslow + her employer @ SOTU.
Letter is dated 5/4, but guidance will actually be sent out / posted on web etc. on Friday 5/8 -- the day after the welfare to work transportation event w/ Slater, Herman + Golden.
Agencies feel it would hurt our message of ~~focussing~~ pushing for Access to Jobs $ if this ~~came~~ was announced same day, so it will be released without fanfare.

May 4, 1998

Dear Colleague:

As President Clinton said in his 1998 State of the Union address, "A society rooted in responsibility must first promote the value of work, not welfare." In order for families to transition from welfare to work successfully, the Federal Government, States, communities, businesses, and non-profit agencies must work together to create opportunities and remove barriers. Your involvement is crucial to overcoming one of the biggest challenges facing those transitioning from welfare to work: finding reliable, affordable, and efficient transportation to jobs, training, and support services such as child care.

President Clinton recognizes the challenge this poses to job seekers, and has asked us to create new strategies to help them get to where the jobs are. As he has said, "Each and every one of us has to fulfill our responsibility, indeed, our moral obligation, to make sure that people who now must work, *can* work."

In February, the President wrote a letter to the Nation's Governors highlighting the critical role of transportation and urging them to use existing funds for transportation services wherever possible. To encourage each State and community to take full advantage of current resources, the U.S. Departments of Health and Human Services, Labor, and Transportation are working closely together on this issue and are jointly issuing the written guidance enclosed with this letter.

The guidance encourages coordination among transportation, workforce development, and social service providers to ensure the most efficient use of Federal funds. Such partnerships are an excellent way to create new, more effective transportation alternatives and to enable businesses to get the workers they need while stimulating local economies. We know some of you are already engaged in such partnerships and applaud these efforts, many of which are described in a recent publication by the Department of Transportation and the Community Transportation Association of America entitled "Access to Jobs, A Guide to Innovative Practices in Welfare to Work Transportation." This publication is available on the Internet at http://www.ctaa.org/welfare.

We are confident that with adequate attention to, and investment in, transportation and other support services, welfare recipients will have the resources they need to find and keep jobs. We greatly appreciate your help in making welfare reform a success.

Rodney E. Slater
Secretary of Transportation

Donna E. Shalala
Secretary of Health and Human Services

Alexis M. Herman
Secretary of Labor

Enclosure

Temporary Assistance for Needy Families Program Policy Announcement

U.S. Department of Health and Human Services
Administration for Children and Families
Office of Family Assistance
Washington, D.C. 20447

No. TANF-ACF-PA-98-2 **Date:** May 4, 1998

TO: STATE AGENCIES AND INDIAN TRIBES ADMINISTERING APPROVED TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PLANS AND OTHER INTERESTED PARTIES

SUBJECT: Joint guidance concerning the ways in which TANF and Welfare-to-Work (WtW) funds can be used to help States and communities provide transportation services to eligible individuals.

BACKGROUND: In a recent letter to the Governors, President Clinton stressed a critical need for transportation to move people from welfare to work. Because of the tremendous need for transportation services, the President asked the Secretaries of Health and Human Services, Labor (DOL), and Transportation (DOT) to provide written guidance on some of the ways in which TANF and WtW funds may be used to break down the transportation barriers for eligible individuals.

PURPOSE: This announcement transmits the attached joint guidance to States. The guidance encourages States and communities to take full advantage of existing TANF and WtW funds to provide the transportation services that eligible individuals need to attain and maintain employment.

INQUIRIES: Inquiries about TANF should be addressed to the appropriate Administration for Children and Families Regional Administrator. We have also attached listings of Federal Regional Office contacts for DOL and DOT.

Diann Dawson
Acting Director
Office of Family Assistance

USE OF TANF AND WtW FUNDS FOR TRANSPORTATION

INTRODUCTION:

Transportation is one of the main challenges facing people making the transition from welfare to work. A mismatch exists between the location of available entry-level and service sector jobs and the residences of most welfare recipients. Two-thirds of new jobs are in the suburbs, but three of four welfare recipients live in rural areas or central cities, with few recipients owning cars. Many entry level jobs require evening or weekend hours in areas that are poorly served by existing transit routes or are not within a reasonable commute time. Many parents going to work also need transportation in order to access child care, which further complicates getting to and from work. The transportation barrier is magnified for low-income Americans living in rural counties, 40 percent of which have no public transportation services.

Historically, the U.S. Departments of Health and Human Services (HHS) and Labor (DOL) have defined transportation in terms of the individual client. As a result, funds were used to directly reimburse clients for transportation rather than to develop and support transportation services necessary to meet their needs. Welfare reform calls for a more systemic approach to break down the transportation barriers. For example, supporting and developing services such as connector services to mass transit, vanpools, sharing buses with elderly and youth programs, coordinating with existing human services transportation resources, employer provided transportation, or guaranteed ride home programs may be necessary to address the transportation problems for welfare recipients and other low income persons.

PURPOSE OF GUIDANCE:

HHS and DOL, in concert with the U.S. Department of Transportation (DOT), are working closely together to provide joint, coordinated guidance to encourage States and communities to take full advantage of existing resources to address the transportation challenge of moving people from welfare to work and to develop seamless, integrated services. This guidance is intended to augment the current regulatory and statutory provisions.

AUTHORITY AND REFERENCES:

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Public L. 104-193) and Balanced Budget Act of 1997 (Public L. 105-33) amending Title IV-A of the Social Security Act; Temporary Assistance for Needy Families Program (TANF) Proposed Rule (62 Fed. Reg. 62124 (proposed Nov. 20, 1997)); TANF Policy Announcement No. TANF-ACF-PA-97-1, dated January 31, 1997; Welfare-to-Work Grants Interim Final Rule, 20 CFR Part 645 (62 Fed. Reg. 61588 (Nov. 18, 1997)).

RESPONSE TO CHALLENGE:

It is essential for all Federal, State, and local entities to collaborate to ensure and maintain success in moving families from welfare to work. This collaboration will help to provide the right mix of transportation services necessary to meet the needs of welfare recipients as well as deliver the most efficient use of existing resources and services.

States should encourage local agencies to ensure that services provided to welfare recipients are developed in consultation with other appropriate agencies providing transportation services at the local level. In addition, in consultations with transportation providers to develop solutions to the difficult problems faced by welfare recipients, public agencies should be mindful of their obligations not to interfere with collective bargaining rights or agreements or to displace employees.

PROMISING INITIATIVES:

Many States are already working to break down the transportation barriers for welfare recipients. For example, Kentucky has taken a comprehensive approach to providing coordinated transportation. Four cabinet offices -- Families and Children, Health Services, Workforce Development, and Transportation -- combined transportation resources to develop a new coordinated transportation system for all their participants. North Carolina and New Jersey are helping counties to bring together the transportation, social services, and employment programs to address client mobility needs and are identifying underutilized transportation resources -- including school buses -- for employment transportation. In Ventura County California, the local transit agency has extended its hours of service, re-routed some lines, and developed new service to some remote locations being used as work experience sites. These and many other examples are included in *Access To Jobs, A Guide to Innovative Practices in Welfare-to-Work Transportation* developed by DOT and the Community Transportation Association of America. The guide features innovative transportation approaches to meet the needs of welfare recipients and other low income persons, as well as a list of available resources. It is attached and available on the Internet at http://www.ctaa.org/welfare.

PROPOSED RESOURCES:

To help meet the tremendous need for transportation services, President Clinton has asked Congress to authorize and appropriate through the Federal transportation program a six-year, $600 million Access to Jobs competitive grant program, to assist States and localities in developing flexible transportation solutions for people moving from welfare to work. Funds could be used for both capital and operating expenses for new services. Local transportation and human service systems will be strongly encouraged to collaborate. Funding would also provide transportation to training and to support services such as child care.

If funded, these resources will also work to ensure that agencies responsible for designing State and local transportation systems -- State DOTs, transit authorities, etc. -- are attending to this important need. These new Federal funds require a dollar for dollar match, and other Federal funds could be used as part of the local match, if not prohibited by specific statute and regulations.

EXISTING RESOURCES:

Existing funding for welfare reform -- both the Temporary Assistance for Needy Families (TANF) block grants established in the PRWORA of 1996 and the Welfare-to-Work (WtW) grants authorized by the Balanced Budget Act of 1997 -- provides considerable flexibility to help States and communities provide transportation to individuals transitioning from welfare to work. At the same time, these funding streams have certain limitations and leave significant gaps that the Administration hopes to address through programmatic initiatives and proposed legislation.

1. The Temporary Assistance for Needy Families (TANF) Program

TANF block grants to States total $16.5 billion annually through FY 2002. In addition, States must maintain their own spending at no less than 80 percent of historic spending levels (or 75 percent if they meet the work participation rates). Guidance about State spending requirements, known as maintenance of effort (MOE), is contained in a January 31, 1997 policy announcement issued by the Office of Family Assistance. (For detailed guidance on this issue, refer to TANF-ACF-PA-97-1 and the Notice of Proposed Rulemaking (NPRM) for TANF.) The policy announcement and the NPRM are available on the Internet at http://www.acf.dhhs.gov/news/welfare/.

State, local, and Tribal TANF agencies, or private organizations providing services under contract with the TANF agency, may use TANF funds for a range of transportation services so long as the expenditure reasonably accomplishes a purpose of the TANF program, such as promoting job preparation and work. Work and responsibility are the cornerstones of the TANF program. Thus, it is critical that States involve appropriate State and local agencies (transportation, housing, child care), businesses, and community organizations to develop strategies and provide the supportive services that eligible individuals need to attain and maintain employment.

Program Purposes and Choices

The purposes of the TANF program as described in section 401 of the Social Security Act (Act) are as follows:

- provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;

- prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies;
- encourage the formation and maintenance of two-parent families.

To accomplish these purposes, the State TANF agency may use TANF funds to provide support services including child care and transportation. Some examples of the ways in which TANF funds can be utilized to provide necessary transportation services to TANF eligible families include but are not limited to:

- reimbursement in whole or part to TANF eligible individuals for work-related transportation expenses (e.g., mileage, gas, public transit fare, auto repairs/insurance, or a basic cash allowance for transportation needs);
- a contract for shuttles, buses, car pools, or other transportation services for TANF eligible individuals;
- the purchase of vans/shuttles/minibuses by State or locale for the provision of transportation services to TANF eligible individuals (refer to the discussion below about the parameters on the use of TANF funds and cost allocation);
- the purchase of rider "slots," "passes," or vouchers on a public or private transit system;
- financial assistance in the form of loans to eligible individuals for the lease or purchase of a vehicle to travel to/from work or work related activities;
- facilitating the donation and repair of previously owned or reconditioned vehicles to eligible families;
- as an alternative to ongoing assistance, one-time, short-term "diversion" payments can be made to assist individuals with transportation needs such as automobile repair/insurance to secure or maintain employment;
- payment of start up costs for new or expanded transportation services benefitting eligible families provided that such costs are *necessary and reasonable*, as well as allocated to cover only those costs associated with TANF eligible individuals (refer to the discussion below about the parameters on the use of TANF funds and cost allocation);
- establishment of an Individual Development Account that a TANF eligible individual could use to cover qualified business capitalization expenses to establish a transportation service such as a van, shuttle, or door-to-door transportation service (Section 404(h) of the Social Security Act);

- the transfer of TANF funds to the Social Services Block Grant (SSBG) to address the lack of transportation infrastructure in many rural and inner city areas; SSBG may be used to serve families and children up to 200% of the poverty level, allowing States to address the needs of the disadvantaged population with a blend of transportation services;

- payment of costs incurred by State, local, or Tribal TANF agency staff involved singularly or with other agencies in the planning of transportation services for TANF eligible individuals.

State MOE funds under the TANF program or State funds separate from the TANF program that qualify under the MOE requirement may also be used to assist TANF eligible individuals in similar ways.

Many States are also easing restrictions that deter TANF eligible recipients from owning cars. Some States are increasing the excluded value or discounting entirely the value of a motor vehicle in determining TANF eligibility. Such action also promotes job preparation and work.

Parameters on the Use of TANF Funds

In order to take advantage of resources provided through the TANF block grants, it is necessary to understand three key requirements of the statute related to eligible families, assistance, and time limits. First, Federal TANF funds, along with State MOE funds, must be spent on eligible families in which the minor child resides with the family (or on individuals who are expecting a child). States define who is eligible for TANF.

Second, funds or services received by eligible families are generally labeled as "assistance." The term "assistance" has been defined in TANF-ACF-PA-97-1 to mean every form of support provided to families under TANF except for: (1) services that have no direct monetary value to an individual family and do not involve implicit or explicit income support; and (2) one-time, short term assistance (e.g., automobile repair to retain employment). Under this definition, a transit pass given to a family each month to cover transportation costs constitutes "assistance." The definition, with slight modification, was included in the Administration for Children and Families' (ACF) proposed TANF rules published in the Federal Register on November 20, 1997. The comment period on the proposed rule closed February 18, 1998. ACF expects to issue a Final Rule by the end of the Federal Fiscal Year 1998.

Third, Federal assistance paid to a family counts toward the lifetime limit on the receipt of TANF benefits. Under the statute, Federal assistance can only be given to a family for a maximum period of 60 months, whether or not consecutive; States can set shorter limits or, provide assistance past the 60 month limit with State funds. This means that each month of assistance issued to a family counts toward the family's time limit. It is important that, when planning a transportation strategy to enable a TANF family to travel to work, States assess the impact of such assistance on the family's time limit and advise the family of this impact.

When planning for transportation services, States should also be aware of certain statutory requirements, restrictions, and cost principles that apply to the use of TANF funds. OMB Circular A-87 describes the principles that apply for determining allowable costs. Generally, OMB Circular A-87 provides that costs must be both "reasonable and necessary." The cost principles of OMB Circular A-87 are designed to ensure the fair and equitable expenditure of both Federal and State funds.

A primary requirement is that TANF funds be used in a manner that reasonably accomplishes the purposes of the TANF program (discussed in the preceding section). In addition, funds from one Federally funded program cannot be used to overcome a shortfall in another Federally funded program. Thus, decisions regarding the use of TANF funds must fulfill one or more purposes of the TANF program, but cannot be used to remedy a deficit in another Federally funded program.

For example, it would be improper to use TANF funds to fund another entity's project(s), or to carry out other responsibilities of a State or local government that benefit the non-TANF public (e.g., extension/expansion of a public transportation system). This limitation is particularly relevant if such expenses are otherwise covered under another specific appropriation or statutory funding mechanism. However, TANF funds may be used for transit projects benefitting eligible families within the purposes of the TANF program (e.g., contracting with a transit company, including a public transit service, to provide additional transportation so that eligible individuals have access to jobs that are clustered in areas where there is little or no transit services). Such an arrangement does not preclude other "non-TANF" individuals from also using the service but TANF funds may not pay for or subsidize use by non-TANF individuals. As non-TANF ridership and fare income increases, the arrangement may become less costly to the TANF program.

The OMB guidelines also provide the requirement and basis for allocating costs that may be associated with more than one Federal program or non-Federal program. For example, the TANF agency may arrange with another agency or program to use the vans or buses of the other agency or to share in the purchase of transportation services. Such costs must be allocated using a methodology that accurately divides the costs in accordance with the relative benefits received by each program.

It is also important to note that TANF funds may not be used to match another Federal grant program unless such double matching is authorized by the statute of the program. State expenditures may not count toward the MOE level if they were spent as a condition of receiving other Federal funds (Section 409(a)(7)(B)(iv)(IV) of the Social Security Act).

Finally, TANF funds may not be used to construct or purchase facilities or buildings. This restriction is based on the general rule, in a long line of Comptroller General decisions, that in the absence of specific legislative authority, appropriated funds may not be used for the permanent improvement of property, including construction and purchase. For example, see the decision at 42 Comp. Gen. 480 (1960).

2. Welfare-to-Work Grants

The U.S. Department of Labor provides WtW grants to States and local communities to create additional job opportunities for the hardest-to-employ TANF recipients. The grants total $3 billion for Fiscal Years 1998 and 1999. There are two kinds of grants: Formula Grants to States (75%) and Competitive Grants to local communities (25%). Generally, WtW funds can be used for job readiness activities, employment activities, job placement, post-employment services, and job retention and supportive services -- including transportation assistance -- which are designed to move hard-to-employ welfare recipients into unsubsidized employment. The following outlines some key features of the WtW program:

Eligible Participants

WtW funds can only be spent on eligible participants. WtW participants are a targeted group of welfare recipients. This group includes those who have received welfare for at least 30 months or are within 12 months of hitting their time limit on receipt of TANF assistance, and who have barriers to employment, specifically defined by statute, related to education, work history, or substance abuse. Certain individuals who appear likely to become long-term recipients are also eligible, as are certain non-custodial parents. Eligibility criteria for the WtW program are described in the Interim Final Rule at 20 CFR 645.212 and 213.

Formula grants

Seventy-five percent of WtW funds (less small set-asides for specific statutory purposes) are available to States in amounts based on the statutory formula set forth in Section 403(a)(5)(A)(v) of the Social Security Act. States must provide one dollar of non-Federal matching funds for every two dollars of Federal WtW funds. States are required to pass through at least 85 percent of the money to local Private Industry Councils (PICs) (unless the Secretary of Labor approves a waiver to permit an alternate entity to administer funds in a particular area) and may retain up to 15 percent of the funds for Welfare-to-Work projects that focus on helping long-term welfare recipients enter unsubsidized employment. As part of their WtW Formula Grant Plan, States are required to describe strategies to promote and encourage coordination with the State Department of Transportation, Metropolitan Planning Organizations, transit operators and other transportation providers at the State and local levels. The portion of funds contributed to these efforts by non-Federal funding sources that go toward the service of WtW eligible individuals may be counted toward the State WtW match requirement.

Competitive grants

The remaining 25 percent of funds will be available through competitive grants to local communities as described at Section 403(a)(5)(B) of the Social Security Act. The Department of Labor will award WtW competitive grants directly to political subdivisions (cities and counties) and PICs, as well as to private entities (such as community development corporations and community-based organizations, community action agencies, and other public and private organizations) which apply in conjunction with a PIC or political subdivision. The Secretary of Labor will give special consideration to rural areas and cities with large concentrations of poverty. For the purposes of the competitive grants only, a public transit system may apply for a competitive grant as a private entity in conjunction with the local PIC or political subdivision. As part of their competitive grant proposal, applicants are asked to describe the coordination and contributions of local housing and transportation authorities, in addition to other organizations. Competitive grant solicitation for grant applications will be available through the WtW Internet at http://wtw.doleta.gov.

Program Choices and Parameters

Because the WtW grants are part of the same subtitle of the Social Security Act as TANF, the broad purposes of the WtW program are the same as those outlined above for TANF. The Welfare-to-Work program is, however, more narrowly targeted to specifically provide transitional employment assistance to "move individuals into and keep individuals in lasting unsubsidized employment" by means of the six allowable activities listed in the statute (Section 403(a)(5)(C)(i) of the Social Security Act).

With a few exceptions, the allowable activities under WtW are similar to the activities permitted under TANF, and all of the requirements discussed above, including OMB Circular A-87, apply to the WtW Grants program. The exceptions, with regard to transportation services, are:

- WtW funds can be used only for transportation services that are not otherwise available to the participant (refer to Section 403(a)(5)(C)(i)(VI) of the Social Security Act and 20 CFR 645.220(e));

- WtW funds can only be spent on transportation services for individuals participating in an allowable WtW employment activity;

- In addition to the general prohibitions on double match described above, the Social Security Act specifically prohibits the use of WtW grant funds, and State WtW matching funds, to fulfill match requirements under TANF or any other Federal law (Section 403(a)(5)(C)(vi) of the Social Security Act).

- Under WtW, up to 50% of matching funds may be in the form of third-party in-kind contributions.

PICs are expected to coordinate local community resources to provide transitional employment assistance (particularly supportive services such as child care and transportation) to the WtW eligible population. Local communities have considerable flexibility in how they use the WtW funds, but the Department of Labor encourages States to facilitate collaboration with local transportation organizations to help WtW participants reach their new job opportunities. States should also encourage local WtW service providers to work with transportation providers to develop employment opportunities for welfare recipients in transportation services, including appropriate self-employment opportunities.

3. Other Resources

In addition to TANF and WtW, a variety of other Federal, State, and local programs or services can assist in providing transportation services to low-income families. Under such programs as Medicaid and the Job Training Partnership Act, the provision of transportation is allowable as a supportive service. Other ideas can be found in *Access To Jobs, A Guide to Innovative Practices in Welfare-to-Work Transportation*. States should encourage local agencies to utilize all available transportation services in their area to facilitate access to good jobs for low income Americans.

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Regional Offices (TRO I-X)

The FTA carries out its mission through offices located in the 10 standard Federal regions. The Regional Offices (Office Acronym:TRO I-X) field staff are FTA's main point of daily contact with state, local, and transit industry officials. The Regional Offices are delegated certain responsibilities for implementing FTA programs.

REGION 1 Boston	Transportation Systems Center Kendall Square 55 Broadway, Suite 920 Cambridge, MA 02142-1093 Areas served: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut	Tel. No. 617-494-2055 Fax No. 617-494-2865
REGION 2 New York	26 Federal Plaza, Suite 2940 New York, NY 10278-0194 Areas served: New York, New Jersey, and U.S. Virgin Islands	Tel. No. 212-264-8162 Fax No. 212-264-8973
REGION 3 Philadelphia	1760 Market Street Suite 500 Philadelphia, PA 19103-4124 Areas served: Pennsylvania, Virginia, West Virginia, Delaware, Maryland, and District of Columbia	Tel. No. 215-656-7100 Fax No. 215-656-7260
Philadelphia Metropolitan Office	1760 Market Street Suite 500 Philadelphia, PA 19103-4124	Tel. No. 215-656-7070 Fax No. 215-656-7260
REGION 4 Atlanta	Atlanta Federal Center Suite 17T50 61 Forsyth St., S.W. Atlanta, GA 30303 Areas served: North Carolina, Kentucky, Tennessee, South Carolina, Alabama, Georgia, Florida, Missippi, and Puerto Rico	Tel. No. 404-562-3500 Fax No. 404-562-3505
REGION 5 Chicago	200 West Adams Street Suite 2410 Chicago, IL 60606 Areas served: Illinois, Ohio, Minnesota, Wisconsin, Indiana, and Michigan	Tel. No. 312-353-2789 Fax No. 312-886-0351
Chicago Metropolitan Office	200 West Adams Street Suite 2410 (24th floor) Chicago, IL 60606	Tel. No. 312-886-1616 Fax No. 312-886-0351

REGION 6 Ft. Worth	524 East Lamar Boulevard Suite 175 Arlington, TX 76001-3900 Areas served: Texas, Oklahoma, Arkansas, Louisiana, and New Mexico	Tel. No. 817-860-9663 Fax No. 817-860-9437
REGION 7 Kansas City	6301 Rockhill Road Suite 303 Kansas City, MO 64131-1117 Areas served: Iowa, Kansas, Nebraska, and Missouri	Tel. No. 816-523-0204 Fax No. 816-523-0927
REGION 8 Denver	Columbine Place 216 16th St., Suite 650 Denver, CO 80202-5120 Areas served: Colorado, Utah, Montana, Wyoming, South Dakota, and North Dakota	Tel. No. 303-844-3242 Fax No. 303-844-4217
REGION 9 San Francisco	201 Mission Street Room 2210 San Francisco, CA 94105-1926 Areas served: California, Arizona, Nevada, Hawaii, Guam, American Samoa, and the Northern Mariana Islands	Tel. No. 415-744-3133 Fax No. 415-744-2726
Los Angeles Metropolitan Office	201 N. Figueroa, Suite 1460 Los Angeles, CA 90012	Tel. No. 213-202-3950 Fax No. 213-202-3961
REGION 10 Seattle	Jackson Federal Building 915 Second Avenue, Suite 3142 Seattle, WA 98174-1002 Areas served: Washington, Oregon, Idaho, and Alaska	Tel. No. 206-220-7954 Fax No. 206-220-7959

This Facsimile is from the

Office of Family Assistance

370 L'Enfant Promenade, SW
Aerospace Building 5th Floor
East Wing
Washington, DC 20447-0001

Date: 5/5/98 This transmission consists of this cover page plus 15 pages.

To: Andrea Kane	From: Elaine Richman
Phone:	Phone: 401-5088
Fax no: 456-7431	

Message: Finally! Done!

WR- Transport / ISTEA

Andrea Kane [redacted]

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Christa Robinson/OPD/EOP, Anne E. McGuire/WHO/EOP, Joshua Silverman/WHO/EOP
Subject: Welfare to Work Transportation Event Update

The event is Thursday from 1-2 p.m. in room 450. Program includes: HHS Asst Secretray Olivia Golden, Secretaries Alexis Herman and Rodney Slater, Senator Specter, and Congressman Danny Davis. Two Congressional participants were chosen in consultation with Jeff Forbes -- Specter is key appropriator and offered Senate amendment (along with Santorum and Moseley-Braun) to increase Access to Jobs; Davis offered House amendment. Olivia will open and frame issue for 5 minutes, everyone else as 10 minutes to speak. Main goal is to raise visibility for the appropriations process.There not be Q&A during the program, but press will be able to speak to agency officials informally afterwards. We should have about 100 people attending including about a dozen Hill staff, lots of state and local organizations representing welfare, workforce, and transportation issues, community-based organizations, representatives from a number of state and local agencies.

Handouts will include: one-pager on Access to Jobs (what it is, why we need is), one pager summarizing two welfare to work transportation examples which show the need for transportation and how Access to Jobs could help (1. former welfare recipient who now runs a business operating a van to transport other welfare recipients in Anne Arundel and 2. bus link from Camden, NJ to UPS facility at Philadelphia airport). Former recipients from each place, representative from UPS, and asst director of Anne Arundel will also be in the audience and available for press to talk with afterwards.

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Cynthia A. Rice/OPD/EOP
Diana Fortuna/OPD/EOP
Laura Emmett/WHO/EOP

WR - ISTEA / transportation

Welfare-to-Work Transportation Questions and Answers
May 7, 1998

Question: **Why are you asking for additional money for welfare-to-work transportation when states have plenty of money through their Temporary Assistance for Needy Families (TANF) welfare reform block grants and Welfare-to-Work grants?**

Answer: Transportation is a critical need for those moving from welfare to work. There is some flexibility to spend Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WtW) funds on transportation and the President has called on states and communities to invest these resources, and the savings they are realizing as a result of historic welfare caseload reductions, in supports to help people get and keep jobs. However, there are important limitations in terms of who the TANF and WtW funds can get spent on and what kinds of services they can fund. In addition, there are many other competing demands on both funding sources (basic income support, job preparation and training, post-placement services). The Access to Jobs funds are more flexible, can serve a somewhat broader population, and would allow communities to come together to start-up new transportation services to fill gaps such as van services that go to areas of suburban job growth, extending transit routes to provide after hours services, and ridesharing programs.

Question: **Doesn't this initiative contribute to the excessive cost of the transportation bill?**

Answer: No. The President included $600 million over six years for Access to Jobs in his original NEXTEA proposal and this was part of our FY 1999 budget proposal. this represents barely 3/10 of one percent of the President's overall proposal so clearly this is not the source of the funding problem. (The House and Senate amended their versions of the transportation bill to authorize $150 million a year for the initiative).

Question: **Why are you doing this event today?**

Answer: 1. To celebrate the achievement of the House and Senate including the President's proposal in their versions of the transportation bill. 2. To recommit ourselves to ensuring the initiative gets funded in the appropriations process--so that the authorization is not a hollow promise. 3. To encourage transportation and human services partners in states and communities around the country to begin working together now to design innovative transportation strategies so they are ready to hit the ground running when this funding becomes available.

ISTEA

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

April 24, 1998

MEMORANDUM FOR DISTRIBUTION

FROM: Michael Deich
David Tornquist

SUBJECT: 4/27 Meeting on ISTEA Conference Issues

In preparation for Monday's meeting to discuss ISTEA conference issues, attached is the Department of Transportation's summary of Secretary Slater's priorities in the bills.

Attachment

Distribution:

Jack Lew
Larry Stein
Sally Katzen
Elena Kagan
Maria Echaveste
Henry Kelly
Fred Duvall
Chuck Brain
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Initials: Ry Date: 3/23/10

FHWA
4/24/98

Suggested Provisions for S-1 Attention

	Issue	NEXTEA	House	Senate	DOT Goal
	GENERAL				
1	Funding levels & offsets	$174.3B in authorizations No offset provision	$220.2 B in authorizations Secretary may not release any funds unless bill contains necessary budgetary offsets in compliance with Balanced Budget Act of 1985. [1001]	$217.3 B in authorizations No offset provision	Only support funding levels if the necessary funding offsets are consistent with the President's priorities.
2	Off-budget provisions	No provision	Receipts & disbursements of HTF not counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the Budget or the Balanced Budget Act of 1985. HTF exempt from any general limit imposed by statute on outlays. [701]	No provision	Oppose taking the Highway Trust Fund off-budget as it would endanger the bipartisan budget agreement, force cuts in other areas of national priority, and circumvent the Budget Enforcement Act.
3	Demonstration projects / earmarks	FHWA : No provision FTA: No provision	FHWA: $9 billion for 1,507 "high priority" demonstration projects for highways. [127] FTA: 167 new start earmarks; 146 bus project earmarks [332,333]	FHWA: No provision FTA: No provision	Oppose. State and local government planning process are best able to determine priorities.

	Issue	NEXTEA	House	Senate	DOT Goal
	Demonstration projects/ earmarks (continued)	University Research Institutes (URI) and University Transportation Centers (UTC): Consolidates URI and UTC programs; no earmarked centers -- all universities must compete.	Consolidates URI and UTC programs; mandates 20 centers (10 Regional and 10 "Other Centers").	Conflicting provisions included: Banking committee -- Same as current law, but adds one earmark. EPW -- Consolidates URI and UTC programs; earmarks 16 of 20 centers.	Support consolidation of the URI and UTC programs; should be some opportunity for other universities to compete for the grants -- not all earmarked.
4	Expiration of partial tax exemption for ethanol	All exemptions to highway-user taxes, including ethanol, extended at current law rates through 2005.	Partial exemption for ethanol allowed to expire on 10/1/00 as provided for in current law.	Partial exemption for ethanol extended through 2007, but at slightly phased down rates in FY2002-2007.	We object to the House's lapse of the partial exemption for ethanol and support the Senate's extension of the ethanol credit, but without the phasedown.
5	Mid-course correction	No provision	Would delay release of FY 2001 highway and transit funds for as long as 8 months if Congress failed to enact certain highway & transit "corrections" legislation by 10/1/00. [508]	No provision	Object to potential sequester of highway and transit funds. Sequester not needed; Congress can enact corrections legislation without endangering program funding. Disruptive to continuity so important to public works programs.
6	Inadequate funding for FHWA & FTA administrative costs	FHWA: Retains 3.75% takedown from core programs. FTA: Such sums as may be necessary	FHWA: Reduces takedown to 1%; larger base of funds for takedown than Senate. [104] FTA: Dollar amount	FHWA: Reduces takedown to 1.5%; smaller base of funds for takedown than House. [1201] FTA: 0.96%	FHWA: Support a 1.5% maximum takedown, as in Senate, but from the larger base of programs in the House bill. FTA: "adequate percent"

	Issue	NEXTEA	House	Senate	DOT Goal
	SAFETY				
7	.08 BAC standard	No provision for .08 BAC. Alcohol-impaired driving countermeasures incentive program. [2002] Administration has strongly endorsed Senate provision.	Study only for .08 BAC. [209] Alcohol-impaired driving countermeasures incentive grants. [205]	Mandates a national .08 BAC standard for drunk driving. States that do not enact this standard by 2002 would have 5% of certain Federal-aid highway funds withheld; in 2003 and beyond, 10% would be withheld. [1408]	Strongly support the Senate provision.
8	Piecemeal exemptions to Federal truck size and weight laws	No provision	Provides exemptions from current Interstate weight limits for LA, ME, and NH. Provides exemption to definition of non-divisible load for CO. [134]	Sense of the Senate not to ease current LCV standards. [1803]	Support sense of the Senate -- object to House's patchwork exemptions which discourage compliance and potentially undermine safety. LA exemption premature (possible grandfather right, issue never raised by State). Concrete panels-- CO refuses to issue divisible load permit; industry trying to circumvent State policy. ME and NH exemptions ratify current violations and further undermine uniformity of Interstate weight limits.

	Issue	NEXTEA	House	Senate	DOT Goal
9	Inadequate NHTSA funding				
	(a) 402	- Consolidated (NHTSA & FHWA) Section 402 - $167.42 M/yr (avg)	- Separate NHTSA & FHWA 402 programs - NHTSA, $177 M/yr (avg) FHWA, $25 M/yr	-Consolidated (NHTSA & FHWA) - $129.024 M/yr (avg)	Consolidated at House funding levels
	(b) Alcohol, occupant protection and data incentive programs	Alcohol $43.36 M/yr (avg) Occ.Prot. $20.72 M/yr (avg) Data $12 M/yr (avg)	Alcohol $33.3 M/yr (avg) Occ.Prot. $18.16 M/yr (avg) Data $10.42 M/yr (avg)	Alcohol $32.83 M/yr (avg) Occ.Prot. $18.22 M/yr (avg) Data $8.85 M/yr (avg) for FYs 98-01	Support House funding levels
	(c) Section 403 R&D	$60.36 M/yr (avg) $73.1 M for FY 99 in President's budget	Separate NHTSA & FHWA 403 authorizations NHTSA, $55 M/yr FHWA, $20 M/yr	Authorizes 403 funds for NHTSA only. $66.36 M/yr (avg)	Senate authorization for NHTSA only and House 403 funding amount, combining NHTSA and FHWA levels
10	Lobbying ban	No provision	No provision	Prohibits use of Title 23 funds for any activity to support for or against, or to influence the formulation or adoption of State or local legislation, unless such activity is consistent with previously existing Federal mandates or incentive programs. [1807]	Strongly oppose Senate provision. It will severely compromise our ability to provide important highway safety information to our State and local partners.

	Issue	NEXTEA	House	Senate	DOT Goal
11	Air bag safety	No provision	Directs Secretary to design Federal motor vehicle safety standards for occupant protection to protect improperly restrained and out-of-position occupants only to the extent that the risk of injury to properly restrained and positioned occupants is not substantially increased. [2691]	Suspends unbelted testing standard pending: (1) rulemaking to minimize risk of airbags, or (2) determination that current testing standard is necessary [3106] Inadvertently retains section repealing the unbelted testing standard. [1402]	Support Senate provision (and strike earlier Senate section simply repealing current standard). Note -- The implications of the House requirement are impossible to predict. If this requirement had been enacted last year, it might well have precluded NHTSA from issuing the 1997 rule permitting manufacturers to expedite their efforts to depower air bags to protect improperly restrained children and adults, since depowering could also reduce the protection afforded belted occupants.
12	Drugged driving countermeasures	Creates new drugged driving incentive program. One basic grant only for meeting various criteria. Grant amount equals 20% of State's Sec. 402 apportionment. Authorizes total of $25.13M.	No provision	Directs the Secretary to do research on: (1) the relationship between the consumption and use of drugs and their effect on highway safety and drivers, and (2) driver behavior research and measures that may deter drugged driving. Authorizes total of $10M.	Support Senate provision.
13	Hazmat reauthorization	Reauthorizes program -- clarifies inspection authority -- enhances enforcement authority	No provision	Reauthorizes program -- contains most NEXTEA provisions -- includes exceptions for special interests [3201,3216]	Support Senate provision to reauthorize program, but object to special interest exceptions.

	Issue	NEXTEA	House	Senate	DOT Goal
14	One-call program	Establishes incentives for States to improve one-call programs. Establishes model program for States to use. [11002]	No provision	Provides incentives for States to improve one-call systems. [3302]	Provide incentives for States to improve one-call systems and avoid exceptions for special interests.
15	Grade crossing funding	$165 M	Retains 10% STP safety set-aside $150 M (based on BESTEA funding levels)	2% STP safety set-aside for grade crossings -- $163 M (based on ISTEA II funding levels)	Support a funding level of $165M.

WELFARE TO WORK

16	(a) Funding & scope of program	$100 M/yr for access to jobs, no limit on projects [3021]	$150 M/yr for access to jobs, 10 projects	$150 M/yr for access to jobs and $100M/yr for reverse commute; no limit on projects	Support Senate$150M access to jobs provision
	(b) Reserving positions for welfare recipients	States "should" reserve highway training positions for welfare recipients [1017]	States "may" reserve highway training slots for welfare recipients, but should not displace/supplant current employees [129]	States "may" reserve highway training positions for welfare recipients [2009]	Support provisions permitting reserving highway training positions
	(c) Employment preferences	States "should" implement an employment preference for welfare recipients and people in empowerment zones and enterprise communities (EZ/ECs) [1017]	No employment preference for welfare recipients or EZ/EC residents.	No employment preference for welfare recipients or EZ/EC residents.	Support employment preference for welfare recipients or EZ/EC residents.

	Issue	NEXTEA	House	Senate	DOT Goal

ENVIRONMENT

17	Environmental streamlining	No change from current law; CEQ's NEPA regulations include streamlining & process integration.			
	(a) process		Coordinated environmental review process for highway projects; concurrent Federal review & NEPA process, to be completed within agreed-to time periods.	Integrated decision-making for highway and transit projects ; integrate NEPA regulations at earliest possible time.	Since neither section appears to be binding on other Federal agencies, most of these process changes could probably be accomplished thru regulations under existing law.
	(b) dispute resolution		If a Federal agency doesn't act within the agreed time period, the Secretary may "close the record". If an environmental issue raised by a Federal agency is not resolved, the Secretary and head of such Federal agency "shall resolve" the matter within 30 days.	Unresolved issues between the lead agency and a cooperating agency shall be elevated to agency heads to attempt resolution within 30 days, with CEQ consultation, prior to referral to CEQ.	House provision for "closing the record" may not be sufficient to satisfy the underlying environmental requirement. The Administration opposes this provision. It appears the Senate provision could be accomplished by regulation.
	(c) use of Title 23 funds		The Secretary may approve a State's request to use its Title 23 funds to enable an affected Federal agency meet the time limits established by this section.	A State may use its Title 23 funds to enable an affected Federal or State agency to meet a time schedule established by this section.	States currently have authority to transfer Title 23 funds to resource agencies for environmental review expenses.

	Issue	NEXTEA	House	Senate	DOT Goal
17 cont.	(d) pilot program		Establishes a 3-year pilot program to allow up to 8 States to fulfill the Secretary's responsibilities under NEPA based on a certification, to be approved by the Secretary "in cooperation" with CEQ. The Secretary and CEQ shall monitor the pilot States and report annually to Congress on this pilot. [502]		Strongly oppose House pilot program. Oppose delegation of statutory authorities of Federal agencies to States. DOT should continue to be responsible for ensuring that environmental concerns regarding transportation projects are appropriately addressed.
18	CMAQ transferability	No change to current law. States receiving minimum CMAQ apportionment but have no non-attainment or maintenance areas can use CMAQ funds for any project eligible under Title 23.	Permits States to transfer to other FA programs 50% of the increase in future CMAQ apportionments over FY97 CMAQ levels. [505 (c)]	Would permit States receiving minimum CMAQ apportionment to use difference between minimum amount and amount attributable to its non-attainment areas for any project eligible under Title 23. [1123]	Object to transfer of CMAQ funds in States that have air quality non-attainment or maintenance areas. Do <u>not</u> object to such transfers in States that do not have non-attainment or maintenance areas (this is current law). Oppose Senate provision and <u>strongly</u> oppose House provision.
19	Transit benefits	Eliminate in-lieu of compensation restriction; increase transit benefits to $175.	No provision	Eliminates in-lieu of compensation restriction; increases transit benefits to $100 by 2000.	Senate language or better ($175 limit for transit, as proposed in the Administration's FY99 budget. This limit is the same as the limit for parking under current law).

	Issue	NEXTEA	House	Senate	DOT Goal
			POLICY		
20	Transit & rail eligibility for Title 23 funds	NHS -- Expanded eligibility: -- publicly owned intercity passenger rail capital projects in NHS corridors -- publicly owned intracity or intercity passenger rail or bus terminals -- intermodal surface freight transfer facilities (not air or sea) that are at or adjacent to the NHS or NHS corridors. [1003] STP -- public or private vehicles and facilities for intercity bus or passenger rail service -- publicly owned rail safety infrastructure and highway non-infrastructure safety improvements -- publicly owned intercity passenger and freight rail infrastructure [1014]	Retains current NHS and STP eligibility.	Includes STP & NHS flex for rail and bus passenger projects and use of NHS funds for intermodal surface freight transfer facilities but does not authorize expenditure of STP funds for publicly-owned rail freight infrastructure [1235]	Support at least Senate provisions, but also want STP eligibility expanded to include publicly owned rail freight projects.
21	Inadequate Park Roads funding	Authorization of $161M/year [1001]	Parkways and Park Highways authorized at $85.3 M for FY98, $86.2M for FY99, and $99M for FY2000 - 2003. [102 (11) (c)]	Authorization for park roads is $90 M for FY98, $140M annually for FY99-03. [1115]	Object to the inadequate funding for park roads and parkways in both bills. Over 40% of the 5,000 miles of paved park roads are in poor and failed condition, with another 2% deteriorating into poor and failed condition each year. A minimum of $120M/yr needed just to prevent further deterioration. Support $161M/yr, the NEXTEA level.

	Issue	NEXTEA	House	Senate	DOT Goal
22	ITS eligibility	Clarifies eligibility of Interstate Maintenance, NHS, and STP funds for infrastructure-based ITS capital improvements. Changes definition of "operational improvements" to expressly include installation, operation, or maintenance of ITS infrastructure. [1002,1003,1009, and 1014]	No provision under individual fund eligibilities. Adds to definition of "operational improvements" a list of ITS-type activities, but doesn't specifically mention ITS. [143]	Clarifies eligibility of Interstate Maintenance, NHS, and STP funds for infrastructure-based ITS capital improvements (same as NEXTEA). [1209, 1234, 1235] Changes definition of "operational improvements" as proposed in NEXTEA. [1231]	Strongly support the Senate provisions. Although ITS is already an eligible activity, the legislative clarification would strengthen this position.
23	Transit preventive maintenance	No cap, no detailed definition, operating assistance allowed for areas under 200,000. Repealed for areas over 200,000.	$400M cap, restrictive definition on preventive maintenance. Operating assistance allowed for areas under 200,000. Repealed for areas over 200,000.	No cap, no definition on preventive maintenance. Operating assistance allowed for areas under 200,000. Not repealed for areas over 200,000.	Recommend no cap, no detailed definition, operating assistance allowed for areas under 200,000. Repeal for areas over 200,000.
24	Trade corridor/ border crossings programs	Provided $45M in funding for multi-state corridor and bi-national border transportation planning & border gateway pilot program. [1030]	Authorizations to assist in planning, developing and constructing specified highway corridors. [115]	Authorizations for trade corridor planning incentive grants. Further authorizations over 6 years for planning, design and implementation of safety and congestion relief. [1116]	DOT strongly supports multi-state corridor and border planning but doesn't support Secretarial or Congressional determination of corridors. Increase border program authorizations to $90M as proposed in the President's 1999 budget to modify border grant program to fund work of Federal inspection agencies (ONDCP, INS, & Customs Service) at border crossings.
25	BTS funding	Programs funded at $31M/year. [6002]	Authorizes $31M//year. [631]	Authorizes $26 to $31M/year at $1M increments. [2004]	Funding below $31M/year would not allow BTS to maintain current services or develop the new initiatives contained in the bills.

	Issue	NEXTEA	House	Senate	DOT Goal
26	Retaining labor standards				Davis-Bacon usage standards should continue to cover transportation construction projects that they have applied to in the past, and should apply to any new Federally assisted transportation construction projects authorized under the bills (e.g., House and Senate rail projects, including MAGLEV, and all construction projects funded by Federal dollars loaned and re-loaned by State infrastructure banks).

DBE

27	Retention of DBE program	Retains program [1018]	Retains most of current program, but drops requirement for uniform certification criteria. Adds requirement for GAO review of impact of program. [102]	Retains program. Adds requirement for GAO review of impact of program. [1111]	Strong focus on retaining current DBE program; prefer Senate language. Strongly urge retention of uniform criteria for certifying DBEs to maintain integrity of the program.

TECHNICAL

28	RSPA multimodal program	Establishes a multimodal transportation R&D program at $10 million/year [6001]	No provision	Establishes a multimodal transportation R&D program at $2.5M/year. [2002]	Support establishing multimodal R&D program at NEXTEA funding level.
29	Over-the-road (OTR) buses	No provision	No provision at this time, although Shuster may introduce provision to prevent DOT from implementing recently proposed NPRM.	No provision	Oppose possible provision by Shuster. Rulemaking process should be allowed to work. DOT proposed NPRM calls for OTR buses purchased in year 2000 for larger buses and 2001 for smaller buses to be fully accessible.

ISTEA

April 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: LARRY STEIN
GENE SPERLING

SUBJECT: ISTEA BILL

I. OVERVIEW

The highway bill now in conference spends approximately $34 billion in outlays over six years above the surface transportation levels proposed in your budget submission. The intent of Congressmen Shuster and Oberstar is to fund that additional highway spending with the mandatory spending cuts proposed in your budget as offsets for your initiatives. If the mandatory offsets are insufficient, as they are likely to be, the Speaker has instructed the conferees to reduce the discretionary spending pot by the amounts needed to offset the rest of the bill. Coupled with the Senate-passed Budget Resolution's exclusive reservation of tobacco proceeds for Medicare Part A, the exorbitant highway funding levels will inevitably exert a crowding out effect on the already constrained pool of domestic discretionary resources.

The ultimate endpoint of the highway process is by no means clear. For example, it is uncertain whether the conference can get a majority of votes for all the offsets proposed in your budget, with the veterans tobacco offset (more than $10 billion over 5 years) presenting particular problems. In addition, the House bill contains approximately 1600 "demonstration" projects portioned out roughly 55% to 45% between Republicans and Democrats. The Senate bill contains none. Finally, the House bill contains provisions putting highway spending off budget, thereby allowing the "trust fund" (paid for with dedicated gas taxes) to finance transportation spending irrespective of budgetary rules or constraints. Any or all of these questions could cause a delay in the conference's progress or lost votes or both. Though it is unlikely that so sought-after a block of funds would be held up for long (especially given that the current extension of existing funding expires on May 1), there is some possibility that the bill will not come out of conference with the overwhelming level of support it had in both bodies--96-4 in the Senate and 337 to 80 in the House.

On the other hand, there is a high probability that the biggest public works bill in a decade will present us with veto proof majorities in both houses at the end of the day. The ISTEA debate in the early '90s devolved into a fight among the various regions of the country and between donor and donee states. During those years, bitter quarrels over distribution resulted in extensions and delays without appropriate modernization of the funding formula. Everyone suffered. The main reason that the bills have moved this year with near unanimity is that the formula fights have been overwhelmed by the sheer volume of cash. Each state has gotten at least 93 cents on the dollar and that fix has been available simply because the massive amount of money made it possible. In short, reducing the overall level of spending could well thrust both bodies back into another bitter formula fight--a situation that neither party will accept. The bottom line is that even if we were able to sustain a veto, you would ultimately be presented with a highway bill that spends very nearly as much money as this one will.

Our problem is both optical and real. The bill will harm our priorities now and in the future. Moreover, there are significant downsides to signing a bill that transparently overspends. On the other hand, one cannot deny the powerful pent up demand for transportation funding reinforced by the argument that the Highway Trust Fund, and its dedicated gas tax, are being used to balance the budget. At the state level, the appetite for this bill is nearly overwhelming. Labor (Building Trades) will be vigorously activated against any attempt to slow it down. And members (Democrats and Republicans) will be incensed at any ascription of "pork" status to their projects, especially if it comes from the Oval Office.

II. KEY ISSUES

1. Squeezed Domestic Discretionary Priorities

The excessive spending in the Congressional bills pose a threat to your priorities. Cuts of the magnitude required to fund these bills out of discretionary would sharply stress virtually every program. If we assume the level of domestic discretionary funding in your budget (a level that is $60 billion in gross dollars above the discretionary caps, which is paid for with mandatory offsets to make room under the caps), the highway bill would require a 2 percent outlay reduction in the other non-defense accounts and up to a 3.9 percent reduction in budget authority for fiscal year '99. Assuming that our offsets are rejected, along with the spending they would support, the highway bill would cut the remaining spending under the caps by roughly half that, 1 percent in outlays and 2 percent in budget authority. Over 5 years, the cut from the level in your budget would be 5.5 percent in outlays and 6.7 percent in budget authority in FY1999. And again, half that 5 year level of cut would apply if the assumed starting point is caps without offsets.

A good public case about the crowding out effect can be made and would have the potential to erode support for the bill. Making a very strong public case along these lines, however, would make it more difficult to sign a bill that is likely to pass with overwhelming support.

2. Mandatory Offsets

To the extent that the effort to lower the excessive highway spending fails, additional highway spending must come out of other discretionary programs as described above, or from mandatory offsets or out of the surplus.

The Senate budget resolution reserves the mandatory offsets from your budget for highways. According to CBO, the Senate list raises $18.5 billion over five years. We obviously proposed these offsets to fund priorities other than highways. For example, your budget uses administrative reforms in the Food Stamp program to fund food stamps for legal immigrants. Authorizing Committees in Congress will not easily let go of savings under their jurisdiction to fund a program, highways, that is outside their jurisdiction. However, the Republican leadership appears committed to reserving these funds for highways.

3. Highway Trust Fund

a. Level of Spending

In addition to the political pressure for a high spending level as described above, proponents will continue to make the case on the Highway Trust Fund -- that this money is raised from a dedicated source, the gas tax, and that it should be spent on its intended purpose. Many will find this argument compelling. We have a case to make in response: Contrary to conventional wisdom, spending from the trust fund has exceeded gas tax receipts over the life of the fund (up until 1996), but particularly in recent history (1980-1995). The current trust fund surplus is largely the result of accumulated compound interest on balances from the late 1960s and 1970s --balances reflecting deliberate federal efforts to control non-defense spending.

They will fight back saying that interest is part of the surplus, just as interest is part of the Social Security trust fund. Even if they concede the past, they might say just give us the gas tax money going forward (this would amount to $19 billion above our budget over FY1999-2003) . We would expect that their argument would include past statements you made as Governor in support of the trust fund argument

b. Relationship to Saving Social Security First

The Highway Trust Fund could likely become entangled with our argument on Saving Social Security First. Highway supporters could claim that their high spending levels are consistent with Saving Social Security First pledge -- because money owed from the Highway Trust should not be considered a legitimate part of the surplus.

On the one hand, allowing a self-financed transportation or highway account that was outside the caps could be a way of allowing the Congressionally desired amounts of highway spending without lowering the caps excessively and squeezing out other domestic priorities. On the other hand, many your advisors believe that budget experts will see this as surplus spending and that you could be sharply criticized for breaking a solemn pledge to reserve every penny of the surplus until there was a long-term Social Security fix.

4. Possible Veto

Given the excessive spending in the bill and the threat it poses to your priorities, a veto should be considered. Three veto formulations include:

1) Veto and Sustain -- If we were able to muster a veto sustaining margin in one house, it would give us powerful leverage over the final product. Such a course would have the virtue of putting Democrats on the side of fiscal responsibility and the Republicans on the side of spending tax dollars for pork. The problem is that, given the overwhelming votes, we are unlikely to lock in

with certainty an override-proof margin.

2) Uncertain Veto -- We could veto in absence of having a certain sustaining coalition. This would be risky and, if we lost, the issue of diminished effectiveness would likely be raised.

3) Symbolic Veto -- Your advisors have discussed, and are split, on the wisdom of a symbolic veto -- a veto in which you say you are taking a principled stand for fiscal discipline, while saying that you know you will not prevail. On the one hand, some of your advisors believe that any time a President loses on a veto the President is harmed. Others believe that a principled stand would be positively received as you would be standing up for fiscal discipline and responsibility.

6. Demonstration Projects -- Issue of Pork

The large number of projects in the House bill is an inviting target to elevate in the mind of the public. We could increase our chances of changing votes if we go hard against the explosion of pork projects. The downside of hitting the projects hard is the bitter hostility it would generate on the Hill, on both sides of the aisle. We know from our line item veto experience that this hostility can be quite poisonous.

III. OPTIONS

As should be obvious from the above, no really good course of action presents itself. We have discussed, however, the alternatives presented below:

Option 1:

Take a hard fiscal discipline position: the bill will be vetoed outright because it includes excessive spending. Reject trust fund argument. We would cast the bill as a threat to education, health, the environment and crime reduction, detailing the likely impact on critical programs. We could reinforce the crowding out argument with a moral argument against wasteful spending as illustrated by the outrageous 1600 demonstrations.

Pros:
- Consistent and clear fiscal discipline message.
- Principled position, strong character.
- Consistent with Saving Social Security First.

Cons:
- Veto override defeat likely, draining future power.
- Puts in position of opposing Democrats, calling their projects pork.
- Trust fund argument is compelling on its face.

Option 1a

See if Gephardt, Bonior and Frost could be convinced to help us sustain the veto in the spirit of blowing up the highway bill as they want to blow up other pieces of sensitive legislation. This would increase our leverage, but it is unlikely to be successful.

We have already contacted the AFL to persuade them on the crowding out problem. They in turn have gone to the building trades. Although we are making some progress, it seems unlikely we can overcome the momentum of this bill.

Option 1b

Take a hard fiscal discipline stand, but don't repudiate trust fund argument, and, thereby, leave a possible escape hatch. This option would be similar to Option 1, but we would not go hard at the trust fund argument. While we would not initiate a possible mechanism, the idea would be to leave room for you to sign a bill if they were to come up with some trust fund proposal.

Pros:

- Possible way of getting highway spending without dramatically lowering caps while avoiding allowing them to use your words against your current position.

Cons:

- Would violate Saving Social Security First and could open door to tax cuts.

Option 2:

Take a hard fiscal discipline and squeezing priorities line, but work behind scenes to create a self-financing, on-budget Transportation Fund employing the revenues provided by the gasoline tax and funding surface transportation at levels very close to those in the House and Senate bills. This dedicated fund would be moved outside the discretionary spending caps, and the caps would be lowered only by amounts reflecting surface transportation spending patterns as they were in 1998--before the current highway bill.

Pros:

- Protects your priorities by solving the crowding-out problems by sustaining overall discretionary spending at essentially the levels agreed to in last year's budget.
- Avoids veto override defeat.

Cons:

- As mentioned above, agreeing to anything like this would likely be viewed as violating your Saving Social Security First pledge -- even without our active participation. While trying to engineer an immaculate conception of a self-financing mechanism would lessen the risk, it would be difficult to engineer and would potentially open the door to spending surpluses on tax cuts.
- Republicans may not agree to this because, for at least some of them, a reason to support additional highway spending is precisely to reduce other spending that we support.

Option 3:

Express some reservations about the bill's high level of spending, but sign it, praising it for meeting our unaddressed infrastructure needs in an environmentally sensitive way and with appropriate attention to the various transportation modes.

Pros:

- Avoids veto override defeat.
- Would emphasize the positive wins we did get out of the bill in terms of its mitigation funding, its investments in mass transit, its safety and health priorities and its protection

of the Disadvantage Business Enterprise program.

Cons:

- Priorities will not be protected and will be crowded out.
- This position would be viewed as disingenuous.

Option 4:

An incremental approach -- we would do all we could to improve the bill, then reluctantly sign it, vowing to continue to fight for our priorities in the Appropriations process.

We would continue to issue negative statements about the highway bill and the long-term investment squeeze it creates. Attempt to get OMB and Legislative Affairs as much involved in the conference as possible using veiled veto threats behind the scenes to enhance our leverage in our effort to improve the bill. We would use the intervening time between the Congress's return and the completion of the conference report to explain the budgetary consequences of the squeeze and make it clear that the whole process is heading towards a show-down about education on the Labor, Health and Human Services Bill and about the environment on the Veterans, HUD, Independent Agencies Bill this fall.

This is an incremental, realistic approach. Though there is relatively little room here for alleviating the cap compression, there is at least some hope that we might hold the spending level down.

Pros:

- Allows us room to shape each appropriations bill within the context of a strong education and environment communications strategy.
- Allows us to recognize the probability that events will change the entire context of budgeting in the near future. There is no certainty that the discretionary caps will stay where they are. New possibilities could emerge as well in the future debates about Social Security and Medicare.
- This final approach does the most to preserve positive relations with our friends in Congress. Certainly, a veto will alienate them. Incrementalism averts that. But in addition, the almost inevitable battles on appropriations bills in the fall generated by this option should please those Democrats who are seeking principled fights with the Republicans in an election year.

Cons:

- The outcome on the final spending on our priorities is unlikely to be satisfying.
- Open to criticism that you did not stand up for fiscal discipline.

WR - transportation
and
WR - housing vouchers

Andrea Kane

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, WEINSTEIN_P @ A1 @ CD @ VAXGTWY, Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Dorothy Robyn/OPD/EOP, Francis S. Redburn/OMB/EOP, Kim C. Nakahara/OMB/EOP, Anil Kakani/OMB/EOP

Subject: APWA resolution

Yesterday, the American Public Welfare Association passed a resolution supporting the two Administration budget initiatives related to welfare reform: welfare to work housing vouchers and Access to Jobs. I understand they also expressed concern about the funding source for Access to Jobs, i.e. they do not support funding it out of cuts in other human service programs (they are particularly concerned about further cuts in Title XX and food stamp administration). I'll pass around the resolution as soon as I get it.

WR - transportation
and
WR - housing vouchers

Andrea Kane [redacted]

Record Type: Record

To: Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP

cc:
Subject: Welfare to Work Housing Voucher and Transportation Event

Elena, FYI.

---------------------- Forwarded by Andrea Kane/OPD/EOP on 03/26/98 07:06 PM ---------------------------

Andrea Kane [redacted]

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Donna L. Geisbert/OPD/EOP
Subject: Welfare to Work Housing Voucher and Transportation Event

As most of you know, this interagency welfare reform event has now evolved to rally support for the two budget initiatives that will strengthen the next phase of welfare reform by helping people get and keep jobs by assisting them "move to where the jobs are". The tentative date is 4/23 (4/21 didn't work for HUD). ISTEA may be in conference, and HUD appropriations hearings are scheduled for mid-May. We're looking at doing it in OEOB, Room 450, possibly with a press conference in the press briefing room. Our goal is to have, at a minimum, Secretaries Cuomo, Slater and Shalala. Secretaries Herman and Administrator Alvarez have also expressed interest. Other participants could include several families who would benefit from this assistance, as well as supportive state/local officials or practicioners and some of the national organizations who support these proposals.

We've scheduled a meeting/conference call for Tuesday 3/31 3-4 p.m. in Room 211 to refine the details of the event with the help of public affairs/intergovernmental folks in the agencies.

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WR - transportation/ISTEA

Andrea Kane [redacted]

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
Subject: USA Today story re: cutting TANF funds to pay for ISTEA

I'm trying to check out whether Rich Wolf's article today reflects any real potential that Republicants would raid unspent TANF funds to offset ISTEA. There was an unsuccessful attempt to do this several weeks ago. HHS' congressional office is not aware of any moves afoot, and has heard from Ron Haskins that there is no way they'd let this happen. OMB transportation folks had not heard anything; human resources folks are checking on it. It may be that Rich is just reflectingthe high level of anxiety among states about this that he heard at the APWA meeting. I'll let you know if I hear anything different.

WR - ISTEA

Andrea Kane [redacted]

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Emil E. Parker/OPD/EOP, Dorothy Robyn/OPD/EOP
Subject: Good news on Access to Jobs

We just heard that Congressman Danny Davis from Chicago successfully offered a Rules Committee amendment to the ISTEA bill in the House to increase funding for Access to Jobs from $42 M to $150 M, bringing it to the same level as the Senate bill. Apparently the amendment does not lift the 10 demo project cap, leaving this for conference.

Message Sent To:

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Elena Kagan/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Cynthia A. Rice/OPD/EOP
Diana Fortuna/OPD/EOP

ISTEA

CC: CR
Elena

Jake Siewert
03/20/98 04:48:43 PM

Record Type: Record

To: Dorothy Robyn/OPD/EOP, Charles R. Marr/OPD/EOP

cc: Melissa G. Green/OPD/EOP
Subject: McCurry on ISTEA

Q Mike, on the transportation bill, which is going to -- before the House Transportation Committee next week, it would bust the budget by $26 billion, therefore, what is the President's position on that? They're saying there will be offsets, but they don't know what the offsets will be.

MR. MCCURRY: We have very real concern about the amount of spending that is in their version of the Intermodel Surface Transportation Bill. We have proposed increases, too, and in fact, we had proposed some increases that were in excess of the balanced budget agreement, but we felt that they were necessary and we -- in the budget documents we sent to Congress indicated the reasons why. But the kinds of increases that they've been contemplating go well beyond those that would be offset in the context of the fiscal discipline to keep within the budget targets that have been established. So we've got real concerns about it. We have other concerns about the bill and we're going to continue to work hard on the Hill to kind of move the bill back in a direction that more closely resembles the President's own FY'99 budget proposal.

March 18, 1998

TALKING POINTS ON H.R. 2400, THE BUILDING EFFICIENT SURFACE TRANSPORTATION AND EQUITY ACT

I am pleased that the Senate has overwhelmingly passed ISTEA II and that the House is now moving forward on their BESTEA bill. Your timetable is an ambitious one, but I really appreciate your efforts to try to get to conference in April and have an agreement in hand by May. As we all know, it is crucial that these vital programs and operations not be disrupted.

BESTEA. BESTEA and the Administration proposal, NEXTEA, have much in common. I am very pleased about that. I appreciate your strong bipartisan efforts to retain the ISTEA program structure, the Disadvantaged Business Enterprise program, environmental programs, safety programs, core highway programs, transit programs, and much more.

Budget Issues. I recognize your determination to address funding issues. From the Administration's perspective, any additional transportation spending must fit within the Balanced Budget Agreement, and there must be a proper balance in the way funding is distributed among highway, transit, safety, and environmental programs. The Administration continues to be strongly opposed to any effort to take the Highway Trust Fund off-budget.

Safety. The Department is very concerned about any exemptions from Federal truck size and weight limitations, hours of service requirements, or hazmat regulations. There are serious concerns too about the safety consequences of restricting enforcement officials' access to electronic records of motor carriers. I urge that the .08 blood alcohol content level be adopted as the national standard and also that the incentive program for drugged driving be included. I urge action to increase seat belt usage. I want to ensure that funding levels are sufficient to continue and expand all our safety efforts, particularly our Section 402 safety grant programs. Finally, I urge that you reject any provision limiting the Secretary's ability to provide safety data and information to State legislatures and others considering measures to improve highway safety.

Welfare to Work. I am pleased that BESTEA includes an "Access to Jobs" program, but urge that the funding be increased and that the number of projects not be limited. Transportation is the "to" in Welfare-to-Work, and the need is so critical.

Transit. I am pleased that BESTEA defines transit capital to include preventive maintenance, but having a cap will negate the effectiveness of this provision. I urge removal of the cap.

Environment. You are to be commended for continuing ISTEA's Congestion Mitigation and Air Quality Improvement (CMAQ) program, transportation enhancements, scenic byways, and recreational trails provisions. I am concerned, however, about the environmental streamlining provisions and their potential impact on the National Environmental Policy Act.

National Park Roads and Parkways. The funding levels in BESTEA are too low to support this important program. I urge you to amend BESTEA to authorize the full $161 million that the Administration requested to ensure that these roads are maintained.

Intermodalism. I urge the House to include the Administration's flexibility provisions, which would allow State and local governments to use National Highway System and Surface Transportation Program funds for publicly owned rail and intercity bus passenger projects, as well as publicly owned intercity freight rail infrastructure.

Research, Technology, and Innovation. I urge a stronger emphasis on research and technology deployment and on adding more innovative financing tools such as the State infrastructure bank and credit enhancement provisions supported by the Administration.

WR - ISTEA

Andrea Kane

Record Type: Record

To: Alice E. Shuffield/OMB/EOP

cc: Cynthia A. Rice/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP, Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

Subject: ISTEA letter

As I mentioned on the phone, Paul Weinstein has no changes to the letter but we would like to add a sentence highlighting the importance of the $100 million welfare to work transportation initiative. Something like the following could get inserted on the 2nd page as a stand-alone paragraph just before *Administration Priorities*:

"Finally, we are pleased that the Senate bill includes funding for states and communities to develop flexible transportation solutions for those moving from welfare to work. It is important to make these resources available without further delay."

I am also faxing a copy of this suggestion to Linda Lawson at DOT to get to the right people working on the letter.