

July 19, 2001
(Senate)

**H.R. 2299 - DEPARTMENT OF TRANSPORTATION AND RELATED
AGENCIES APPROPRIATIONS BILL, FY 2002**
(Byrd (D) WV; Murray (D) WA)

This Statement of Administration Policy provides the Administration's views on the Department of Transportation and Related Agencies Appropriations Bill, FY 2002, as reported by the Senate Committee.

We commend the Committee's efforts to accommodate many of the Administration's priorities in the bill. The Administration is pleased that the Committee has provided the requested levels for Coast Guard operating expenses. We also welcome the bill's funding of highway, transit, and aviation programs. However, the amounts provided exceed the levels specified in the Transportation Equity Act for the 21st Century and the Aviation Investment and Reform Act for the 21st Century. These acts already provide robust increases for transportation programs. The Administration is concerned that the levels included in the Senate Committee version of the bill will put additional pressure on spending that could cause Congress to exceed the limit on discretionary spending.

The Administration appreciates that the Senate Committee's bill provides \$145 million to fund alternative transportation programs for people with disabilities under the President's New Freedom Initiative. The New Freedom Initiative is a comprehensive set of proposals to fulfill America's promise to the 54 million Americans with disabilities.

While the Administration supports passage of this bill, we would like to take this opportunity to share some concerns with the Senate Committee version of the bill. We look forward to working with the Congress to resolve these issues as the bill moves forward.

Mexico-domiciled Motor Carriers

The House bill contains two provisions that are unacceptable to the Administration. First, the House denied the Administration's request for \$88 million to address critical motor carrier safety issues along the U.S.-Mexican border. Second, the House prohibits the use of any funds provided in the FY 2002 appropriations bill to process applications by Mexico-domiciled motor carriers for conditional or permanent authority to operate beyond the commercial zone adjacent to the border. As previously stated, the President's senior advisors will recommend that the President veto any legislation, like that passed in the House, that prevents the United States from fulfilling its NAFTA obligations to open the U.S. borders to Mexican motor carriers that can satisfy U.S. safety and operating standards.

The Administration is pleased that the Senate Committee has provided the necessary funding and staff to address critical motor carrier safety issues along the U.S.-Mexico border. The Administration is committed to strengthening the safety enforcement regime to ensure that all commercial vehicles operating on U.S. roads and highways meet the same rigorous safety standards. However, the Senate Committee has adopted provisions that could cause the United

States to violate our commitments under NAFTA. Unless changes are made to the Senate bill, the President's senior advisors will recommend that the President veto the bill. The Administration supports amendments to the Committee bill that would both strengthen the safety enforcement regime and allow the United States to meet its international obligations. For example, the Administration supports a safety enforcement regime that would emulate the very successful California inspection program for long-haul Mexican carriers.

Earmarks in Transportation Programs

The Administration is very concerned about the level of earmarking in the Senate Committee bill. The bill contains approximately \$2.2 billion in earmarks for more than 700 projects. While the number of projects earmarked in this year's bill is approximately equal to the number of projects in the FY 2001 Senate Committee version of the bill, the dollar amount is more than double that included in last year's bill. In some Departmental activities, such as the bus and bus facilities program, the Senate Committee has earmarked 100 percent of the available funding. This level of earmarking diminishes the Department's ability to distribute these funds based on merit or in support of an overall transportation infrastructure funding strategy. The Administration urges the Senate to allow the Department to allocate funds as prescribed in authorizing law.

Mass Transit Budget Authority

The Administration is concerned that the Senate Committee exempted \$1.35 billion in discretionary budgetary authority provided for mass transit from the overall limit of \$661 billion on discretionary spending. Excluding the discretionary mass transit funding in the scoring of this bill can be viewed as backdoor financing that avoids the discipline of the budget authority limits proposed by the President and adopted in the Congressional Budget Resolution for FY 2002. The Administration urges the Congress to recognize all discretionary budget authority when developing its version of this bill by reflecting the budgetary impact of the \$1.35 billion in mass transit funding.

Coast Guard Yard

The Administration strongly opposes the proposal to amend Section 648 of Title 14 to require that the Coast Guard Yard and other facilities designated by the Commandant be redesignated components of the Department of Defense for competition and workload purposes. This designation could increase the amount of depot work required to be performed in-house; displace existing private sector facilities; circumvent concurrence by the Secretary of Defense; and establish minimum onboard staffing levels for the Yard, which would reduce the flexibility of the Coast Guard to manage its resources in the most efficient manner.

Infringement on Executive Authority

The Administration objects to a provision in the bill under the heading "Transportation Administrative Service Center," that "no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefore are presented to the House and Senate Committees on Appropriations and are approved by such Committees." This provision violates the requirement that Congress act only within the constitutionally-prescribed legislative process. If the bill is enacted, the President

will construe this provision only as a notification requirement, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

The Administration is also concerned about Senate Committee report language addressing contract negotiations between the Federal Aviation Administration and the American Federation of State, County, and Municipal Employees because the language may interfere with appropriate use of a legitimate dispute process. The union has filed a complaint with the Federal Labor Relations Authority. This language could be interpreted as direction to the FAA to abandon use of the established dispute process and set an untenable precedent.

[Ed. Note: Copied from <http://www.whitehouse.gov/omb/legislative/sap/107-1/HR2299-s.html> and converted to PDF without change on August 13, 2006]