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H. R. 10511

Ninety-third Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday, the third day of January,
one thousand nine hundred and seventy-three*

An Act

To amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter service in a manner which does not foreclose private operators from furnishing such service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

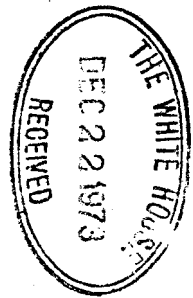
“(f) No Federal financial assistance under this Act may be provided for the purchase of buses unless as a condition of such assistance the applicant or any public body receiving assistance for the purchase of buses under this Act or any publicly owned operator receiving such assistance shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for the public body, shall not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such operators are willing and able to provide such service. In addition to any other remedies specified in the agreements, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of the agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.”

(b) (1) The first sentence of section 164(a) of Public Law 93-87, approved August 13, 1973, is amended—

(1) by inserting “or” before “(2)”; and

(2) by striking out “or (3) the Urban Mass Transportation Act of 1964.”

(2) The second sentence of such section 164(a) is amended by striking out “, (2), and (3)” and inserting in lieu thereof “and (2)”.



H. R. 10511-2

SEC. 2. The Secretary shall amend any agreements entered into pursuant to section 164a of the Federal-Aid Highway Act of 1973, Public Law 93-87, to conform to the requirements of section 1 of this Act. The effective date of such conformed agreements shall be the effective date of the original agreements entered into pursuant to section 164a.

Carl Albert

Speaker of the House of Representatives.



Joe Motney

*Vice President of the United States and
Acting President of the Senate pro Tempore.*



I certify that this Act originated in the House of Representatives.

W. Pat Jennings

Clerk.

By W. Raymond Colby

*Memo
of Disapproval
Issued 1/3/74
(eff. 1/4/74)
Prohibit
Veto*

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

DEC 29 1973

MEMORANDUM FOR THE PRESIDENT

*Announced
in Calif.
1/4/74*

Subject: Enrolled Bill H.R. 10511 -- Use of buses funded by UMTA in competition with private charter buses
Sponsor - Rep. Wright (D) Texas, Rep. Minish (D) New Jersey and Rep. Stanton (D) Ohio

Last Day for Action

January 3, 1974 - Thursday



Purpose

Amends the Urban Mass Transportation Act of 1964 to relax the present stringent prohibition against an applicant for UMTA funds for the purchase of mass transit buses engaging in certain charter bus activities.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval attached)
Department of Transportation	Disapproval (Memorandum of Disapproval attached)

Discussion

Section 164 (a) of the Federal-Aid Highway Act of 1973 (P.L. 93-87) contains a provision that flatly prohibits the Secretary of Transportation from providing financial assistance to localities for the purchase of buses under either the Urban Mass Transportation Act of 1964 or the Federal-Aid Highway Act unless the applicant agrees not to engage in charter bus service in competition with private bus operators outside of the area within which it regularly operates. If a single violation of that agreement occurs, the Secretary must permanently bar the recipient from any further such Federal assistance.

The original intent of Section 164(a) was to provide legitimate protection for private bus operators. However, its precise wording and the severe penalty it imposes (complete loss of funds for bus purchases under both acts) has had the effect of halting most Federal grants for transit bus purchases pending a change in the law.

The enrolled bill would relax the prohibition with respect to Mass Transit Act funds but would leave it in effect with respect to Highway Act funds. Under the amendment that would be made to the Urban Mass Transportation Act, the Secretary would be authorized to secure agreements from grant applicants providing fair and equitable arrangements to assure that Federal financial assistance will not enable subsidized public bus operators to compete unfairly with private operators in intercity charter bus service. The Secretary would be authorized to investigate formal complaints of violations of the agreement and take appropriate action if he determines a violation has occurred. He could, as a last resort, withhold any future federal funds for the purchase of buses.

The failure to provide a similar relaxation in the prohibition applicable to highway funds constitutes, in our judgment, a major deficiency in the bill. The Administration has consistently maintained the position that the restrictions on Federal funds for the purchase of buses should be uniform, whether or not the funds are provided under the UMTA program or the Federal-Aid Highway Program.

We believe that this deficiency in the bill warrants serious consideration of a veto on the basis of the arguments set out below.

Arguments in favor of disapproval may be summarized as follows:

- enactment of the bill would tend to undermine the Administration's successful efforts in the 1973 Federal-Aid Highway Act to provide for the use of highway funds for urban mass transit, especially for the purchase of buses.



- the Congress almost adopted a modification of section 164(a) which would have applied to both the UMTA funds and Highway funds. The Senate version of the bill was amended on the floor to apply to both UMTA and Highway funds and it passed by unanimous consent. The House insisted on its version, which applied to only UMTA funds. Under pressure for adjournment, the Senate finally agreed to the House version. With the assistance of a Presidential veto, Senator Baker and others favoring a modification of section 164(a) to apply to both funds could likely secure passage of such legislation.
- a delay in obtaining enactment of legislation covering both acts will have no practical effect on communities since there is a 9 to 12 month backlog on deliveries of ordered buses.

Arguments in favor of approval may be summarized as follows:

- approval would achieve half of the objective sought by the Administration and Congress can be pressed hard for the other half early in the next session.
- if signed, grant recipients could begin to order buses immediately under the UMTA program instead of awaiting further congressional action.
- Senator Baker and others are committed to using Federal-aid highway funds for mass transit as well as highways, and have called for further remedial legislation in the next session of Congress to eliminate the restrictions of section 164(a) on the Highway funds.
- a veto could be misunderstood at a time when the Administration is changing its public posture to more strongly favor mass transit to meet energy needs.



DOT in its letter recommending your disapproval of the enrolled bill points out that:

"We maintained that the prohibition should apply to recipients of funds under both the Federal-Aid Highway program and the UMTA program However, the enrolled bill . . . modifies the restrictions only as they apply to the UMTA program, leaving intact the burdensome penalties applicable to Federal-Aid Highway funds. In this way, H.R. 10511 would . . . discourage the use of Highway funds for the purchase of buses -- a provision which was one of the central achievements of the Federal-Aid Highway Act of 1973."

On balance, we concur with DOT's position and recommend that you withhold approval of H.R. 10511. In our judgment, this action would serve as an effective basis for seeking early congressional action to relax the present restrictions of section 164(a) of the Federal-Aid Highway Act.

DOT has drafted a memorandum of disapproval which is attached for your consideration. We have also prepared a memorandum of disapproval for consideration. In our memorandum your action is presented as dramatizing the need for proper action by Congress which, if promptly taken, will have no practical adverse effect.

Fred Malek
Director



Enclosures



AMENDMENT TO THE FEDERAL-AID HIGHWAY ACT OF
1973

OCTOBER 9, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BLATNIK, from the Committee on Public Works, submitted the following

REPORT

[To accompany H.R. 10511]

The Committee on Public Works, to whom was referred the bill (H.R. 10511) to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The Federal-Aid Highway Act of 1973 was the first total transportation bill authorizing both highways and mass transit for urban areas ever passed by the Congress. As such it contained many new features overlapping both the highway and transit programs. Thus regulation and administration of the act will lie both in the Federal Highway Administration and the Urban Mass Transportation Administration. These two agencies are now working together to produce the regulatory documents which will guide the action of States and cities in applying for and use of the authorized funds.

Section 164 of the act was intended to be a provision which would, among other things, protect the private charter bus operations from what would be unfair competition from public transportation operations receiving Federal assistance for the purchase of buses.

Public transportation authorities are exempt from State and local taxation and some receive operating subsidies as well. They are also beneficiaries of capital grants made under the Urban Mass Transportation Act of 1964, as amended. Some publicly owned local transit systems can offer charter service at rates considerably lower than those which private, unsubsidized bus operators must charge to break even.

Recognizing the competitive advantages enjoyed by some public transportation authorities in charter bus operations, the Congress provided the following protection in section 164(a) of the Federal-Aid Highway Act of 1973 (Public Law 93-87):

No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) the Urban Mass Transportation Act of 1964, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides regularly scheduled mass transportation service. A violation of such agreement shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection.

Following approval of the Federal-Aid Highway Act of 1973 on August 13, 1973, the committee was advised that section 164(a) might require the Secretary of Transportation to deny assistance for the purchase of buses to any public transportation authority which failed to discontinue all charter bus operations outside the area in which it provided regularly scheduled mass transportation service. In other words, section 164(a) was construed by some local transit authorities as preventing them from engaging in charter bus operations even though private bus operators in the area were unable or unwilling to handle the involved traffic at reasonable rates. That was not the intent of the committee.

In addition, the Secretary of Transportation was advised that section 164(a) might preclude the extension of Federal financial assistance through a public body if such assistance were extended to a private operator providing mass transportation service as the agent of the public body unless the private operator agreed to discontinue its authorized charter operations outside the service area. The committee did not intend that the limitation on charter bus operations set forth in section 164(a) be applicable to a private bus company operating a public mass transportation service for a State or local public transportation authority.

The proposed amendment is designed to clarify Congress' intent and to confer upon the Secretary of Transportation greater flexibility and discretion than was provided in section 164(a). In particular, the committee wants to make it clear that local public transportation authorities receiving Federal financial assistance are not restricted in any way from engaging in charter bus operations outside urban areas as defined in the Urban Mass Transportation Act of 1964, as amended, where private bus operators are unable or unwilling to handle the traffic at reasonable rates. In addition, the proposed bill makes it clear that the charter bus limitation is not applicable to the private charter bus operations of private bus operators who are operating public mass transportation service for State or local public transportation authorities.

The key words in the amendment to section 164 are "unfair or destructive competition." It is only unfair or destructive competition which is prohibited by the proposed amendment. In agreements providing Federal financial assistance for the purchase of buses, we anticipate that the Secretary of Transportation will define as "unfair or destructive competition" charter bus operations of public transportation authorities at rates which are below the minimum reasonable rates of private bus operators, operations on a considerably large scale than those conducted by applicant's predecessors, and operations which manifest an intent to drive private, unsubsidized charter bus operators from the field.

Section 164(a) provided that any violation of an assistance agreement would operate to bar applicant from receiving any other Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended. The committee recommends that the Secretary of Transportation be authorized, rather than compelled, to bar an applicant from receiving Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended, because of continuing pattern of violations of the agreement between the applicant and the Secretary of Transportation. The Secretary will be required to take some formal action under the terms and conditions specified in the grant of assistance when he is presented with a formal complaint and after investigation determines that a violation has occurred.

Finally, the committee has concluded the Secretary of Transportation should be provided a reasonable time in which to draft the agreements and the rules or guidelines necessary to implement limitations on the charter bus operations of public transportation authorities under this legislation. Accordingly, the proposed amendment would not be operative with respect to Federal financial assistance for the purchase of buses under the Urban Mass Transportation Act of 1964, as amended, prior to July 1, 1974.

It is the expectation of the committee that the local transit bus industry and the intercity bus industry will cooperate with the Secretary of Transportation in achieving the objectives of the proposed amendment. For example, a local public transportation authority might agree to refer to private bus operators' requests for charter service beyond the urbanized area, while the latter might agree to refer to the former all business they are unable to handle. A local public transportation authority might agree with the Secretary of Transportation not to offer charter service to places outside an urbanized area at rates lower than the lowest rates of private operators in the area. With a spirit of cooperation among all concerned, the committee believes subsidized and unsubsidized bus lines can coexist and meet all the needs of the public for charter service.

The committee acknowledges the support and assistance of Congressman William B. Widnall in the initiation and development of this legislation. His concern on behalf of mass transit systems in New Jersey was one of the prime forces in generating action on this matter.

COST TO THE UNITED STATES

Enactment of this legislation will not result in any cost to the Federal Government.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 164 OF THE FEDERAL-AID HIGHWAY ACT OF 1973

FINANCIAL ASSISTANCE AGREEMENTS

SEC. 164. (a)(1) No Federal financial assistance shall be provided under **[(1)]** (A) subsection (a) or (c) of section 142, title 23, United States Code, **[(2)]** or (B) paragraph (4) of subsection (e) of section 103, title 23, United States Code, **[or (3) the Urban Mass Transportation Act of 1964,]** for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides regularly scheduled mass transportation service. A violation of such agreement shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses **[(1), (2), and (3)]** (A) and (B) of this subsection.

(2) *On and after July 1, 1974, no Federal financial assistance shall be provided under the Urban Mass Transportation Act of 1964, as amended, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have entered into an agreement that such applicant or the publicly owned operator of mass transportation service for the applicant will not engage in charter bus operations in unfair or destructive competition with private bus operators outside of the urban area or areas within which such applicant provides regularly scheduled mass transportation service. Such agreement shall provide for fair and equitable arrangements, as determined by the Secretary of Transportation, for the protection of private bus operators against unfair or destructive competition outside the urban area or areas served by the applicant, but no such agreement shall limit an applicant's charter bus operations or the charter bus operation of the publicly owned operator for such applicant if private bus operators are unwilling or unable to provide charter bus service at reasonable rates, nor shall any such agreement impose on any private operator of mass transportation service for the applicant any limitation on the charter bus operations of such private operator. In addition to any other remedies specified in the terms and conditions of the grant of assistance, the Secretary is authorized to bar an applicant from receiving any other Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended, for a continuing pattern of violations of the agreement between the applicant and the Secretary. Upon notification of a violation the Secretary shall investigate the allegation, and if he determines that a violation has occurred he shall take appropriate action to correct the violation under the terms and conditions specified in the grant of assistance.*

(b) No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, title 23, United States Code, (2)

paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) the Urban Mass Transportation Act of 1964, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in school bus operations, exclusively for the transportation of students and school personnel, in competition with private school bus operators. This subsection shall not apply to an applicant with respect to operation of a school bus program if the applicant operates a school system in the area to be served and operates a separate and exclusive school bus program for this school system. This subsection shall not apply unless private school bus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards, and this subsection shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting school children and personnel along with facilities to be used therefor) was so engaged in school bus operations any time during the twelve-month period immediately prior to the date of the enactment of this subsection. A violation of an agreement under this subsection shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection.

○

Calendar No. 520

93D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 93-547

FEDERAL FINANCING OF URBAN MASS
TRANSIT EQUIPMENT TO PROTECT
PRIVATE BUS OPERATORS
ENGAGED IN INTERCITY
CHARTER SERVICE



REPORT
OF THE
COMMITTEE ON BANKING, HOUSING AND
URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

H.R. 10511



NOVEMBER 16, 1973.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

99-010



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THOMAS A. BROOKS, *Minority Counsel*

(II)

Calendar No. 520

93D CONGRESS }
1st Session }

SENATE

REPORT
No. 93-547

FEDERAL FINANCING OF URBAN MASS TRANSIT EQUIPMENT TO PROTECT PRIVATE BUS OPERATORS ENGAGED IN INTER-CITY CHARTER SERVICE

NOVEMBER 16, 1973.—Ordered to be printed

Mr. WILLIAMS, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany H.R. 10511]

The Committee on Banking, Housing and Urban Affairs, to which was referred the bill (H.R. 10511) to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements having considered the same, reports favorably thereon with amendment and recommends that the bill as amended do pass.

EXPLANATION OF THE BILL

The Federal-Aid Highway Act of 1973, Public Law 93-87, approved August 13, 1973, contains a provision, Sec. 164(a), that forbids the Secretary to extend federal financial assistance for the purchase of buses under either the Urban Mass Transportation Act of 1964 or the new provisions of the Federal-Aid Highway Act that authorize the use of Federal-Aid Highway funds for mass transit, unless the applicant for the assistance agrees not to engage in charter service in competition with private bus operators outside of the area within which it provides regularly scheduled mass transportation service. The penalty for even a single violation of the agreement is debarment from the receipt of further federal assistance.

Section 164(a) was added to the Act in conference; the affected industries and the Department of Transportation had no opportunity to comment on its potential impact. It appears that its immediate consequence has been to force a prospective applicant for federal assistance for the purchase of buses to choose between accepting the federal assistance and continuing its existing charter service. Section 164(a) has halted grants of Federal funds for bus purchases under the UMTA program and virtually eliminated Federal-Aid Highway funds from



consideration by State and local officials as a funding source for bus transit needs. This result is inconsistent with the national objective of encouraging the growth of mass transportation, an objective that has gained urgency as a result of the current energy emergency.

The Committee agrees with the private charter operators that they should not be put out of business because of the competitive advantage enjoyed by operators receiving Federal capital assistance; on the other hand, grantees of federal assistance ought not be prohibited from offering to the public needed charter services. The bill that the Committee reports today is designed to give the Secretary of Transportation the authority to tailor arrangements to provide equitable solutions to the problem. The bill would amend Section 164(a) to require that, as a precondition of grants under the Urban Mass Transportation Act, the grantee and/or the ultimate operator of the federally-financed equipment must enter into an agreement with the Secretary designed to assure that the financial assistance will not enable public bodies and operators to foreclose private operators from the inter-city charter bus industry where private operators are willing and able to provide service. The agreement shall be enforceable by the Secretary; for a continuing course of violations the Secretary is authorized to bar a grantee or ultimate operator of the equipment from the receipt of further federal capital assistance.

The language of the bill is a slight modification of H.R. 10511 as passed by the House, designed to achieve the same result; the modification eliminates language in the House bill that would have directed the Secretary to provide against "unfair or destructive competition." Your Committee thought that the use of antitrust language was not appropriate in the context of a regulated industry, but wishes to make it clear that the intent of the substitute language is also to prevent public subsidies from driving private enterprise out of the charter bus industry.

Since this amendment is intended to rectify the damage done by Section 164(a), it is the intent of the Committee that the Secretary should exercise his authority to prescribe the terms and conditions of grants to revise any agreements heretofore entered into pursuant to Section 164(a) to reflect the new standard and remedies authorized by this new legislation.

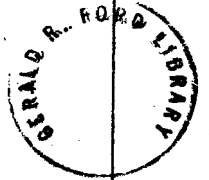
The National Association of Motor Bus Operators, the Institute for Rapid Transit, the National League of Cities-U.S. Conference of Mayors, American Transit Association, and the Administration are all supportive of the substantive language of the bill.

COST OF CARRYING OUT THE BILL

It is estimated that no additional Federal funds will be necessary to carry out the provisions of this bill.

CORDON RULE

In the opinion of the Committee, it is necessary to dispense with the requirements of Subsection 4 of Rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with the report.





THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

December 28, 1973

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503



Dear Mr. Ash:

This is in response to your request for the views of the Department on H.R. 10511, an enrolled bill

"To amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter service in a manner which does not foreclose private operators from furnishing such service, and for other purposes."

H.R. 10511 would amend section 164(a) of the Federal-Aid Highway Act of 1973 to soften the restriction against the provision of charter bus service by recipients of federal financial assistance for the purchase of buses under the Urban Mass Transportation Program.

Section 164(a) now provides that no Federal financial assistance shall be provided to an applicant for purchase of buses under either the Urban Mass Transportation Act or the Federal-Aid Highway Act of 1973 unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides regularly scheduled mass transportation service. The penalty for violation is debarment from further Federal assistance under either of the programs. In effect, section 164(a) forces transit operators to relinquish charter revenues for the duration of their operation if they wish to receive any federal capital grants for the purchase of buses.



The impact of section 164(a) has been to impede acceptance of bus purchase grants under the UMTA program and the Federal-Aid Highway program. Both the House and Senate have agreed that, although private charter bus operators require some protection from competition with public transit operators whose capital costs may be underwritten to some degree by federal grants, section 164(a) is unnecessarily burdensome. Recognizing that some degree of protection is appropriate, however, the public and private bus operators and the Department agreed upon the scheme contained in section 1(a) of H.R. 10511.

H.R. 10511 would require a grantee of federal funds for the purchase of buses not to engage in charter bus operations outside of the urban area within which it provides regularly scheduled service except in accordance with the terms of an agreement incorporating arrangements appropriate in the judgment of the Secretary to assure that the Federal financial assistance would not enable the grantee (or its agent-operator) to foreclose private operators from the intercity charter bus industry. H.R. 10511 would require the Secretary to prevent Federally subsidized public authorities from undercutting private charter bus operators, without placing him in the undesirable position of having to regulate the charter bus industry.

We maintained that the prohibition should apply to recipients of funds under both the Federal-Aid Highway program and the UMTA program. Such an approach was adopted in the bill passed by the Senate. However, the enrolled bill, which adopted the approach taken in the measure as originally passed by the House, modifies the restrictions only as they apply to the UMTA program, leaving intact the burdensome penalties applicable to Federal-Aid Highway funds. In this way, H.R. 10511 would place more onerous conditions on transit operators receiving funds under the Highway program than pursuant to the UMTA program. It thus would discourage the use of Highway funds for the purchase of buses -- a provision which was one of the central achievements of the Federal-Aid Highway Act of 1973.

If the President does not sign H.R. 10511, section 164(a) would remain in effect, impeding the acquisition of buses with funds under the UMTA and Federal-Aid Highway programs until Congress enacts a modification that applies uniformly to grants under both the UMTA and Highway programs. The Department believes this to be the best course.

The 1973 Federal-Aid Highway Act makes available \$780 million in fiscal year 1974 and \$800 million in each of the fiscal years 1975 and 1976 for the urban system program. Most of the potential grantees who would choose to use these funds for transit purposes will want grants for the purchase of buses. The increased demand that is likely to result from the fuel shortage makes it critical that the use of Federal-Aid Highway funds for transit be both easy and attractive. H.R. 10511 would work directly against that goal. Therefore, the Department recommends that the President not sign H.R. 10511.

Sincerely,




Claude S. Brinegar

THE WHITE HOUSE

WASHINGTON

ACTION MEMORANDUM

LOG NO. 158

Date: December 29, 1973

Time: 4:00 p. m.

FOR ACTION: Melvin Laird (veto) *per Maween*

cc (for information):

Bruce Kehrli

Dana Mead (veto) *per Oval*

Dave Gergen

Bryce Harlow

Len Garment (veto) *Chapman*

Bill Timmons

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 31, 1973

Time: 2:00 p. m.

SUBJECT:

Enrolled Bill H. R. 10511 - Use of Buses Funded by UMTA
in Competition with Private Charter Buses

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Do you concur with the OMB and DOT recommendation that the above mentioned bill (H. R. 10511) be vetoed?



Please return to Kathy Jensen
West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE
WASHINGTON

12-29-73

TO:

Craig Gordon

For Your Information: _____

For Appropriate Handling:

Laird
Mead
Harbo
Sarment
Timmons

cc: Kehuli
Gergen

RDL
Robert D. Linder



Date: December 29, 1973

Time: 4:00 p. m.

FOR ACTION: ~~Melvin Laird~~
~~Dana Mead~~
~~Bryce Harlow~~
~~Jon Garment~~
~~Bill Timmons~~

cc (for information): Bruce Kehrli
Dave Gergen

D → THE STAFF SECRETARY

DUE: Date: Monday, December 31, 1973

Time: 2:00 p. m.

SUBJECT: Enrolled Bill H. R. 10511 - Use of Buses Funded by UMTA
in Competition with Private Charter Buses



ACTION REQUESTED:

_____ For Necessary Action

XX For Your Recommendations

_____ Prepare Agenda and Brief

_____ Draft Reply

_____ For Your Comments

_____ Draft Remarks

REMARKS:

Do you concur with the OMB and DOT recommendation that the above mentioned bill (H. R. 10511) be vetoed?

1/2/74 Gray to veto.

- BT

Please return to Kathy Jensen
West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

CRAIG GOSDEN
For the President

THE WHITE HOUSE
WASHINGTON

January 2, 1974



MEMORANDUM FOR: KATHY JENSEN

FROM: DUDLEY CHAPMAN *DC*

SUBJECT: Enrolled Bill H. R. 10511 - Use of Buses
Funded by UMTA in Competition with
Private Charter Buses - LOG NO.: 158

We have no objection to the recommendation to veto,
and prefer the OMB version of the veto message.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 158

Date: December 29, 1973

Time: 4:00 p. m.

FOR ACTION: Melvin Laird
Dana Mead
Bryce Harlow
✓ Len Garment
Bill Timmons
FROM THE STAFF SECRETARY

cc (for information): Bruce Kehrli
Dave Gergen

DUE: Date: Monday, December 31, 1973

Time: 2:00 p. m.

SUBJECT: Enrolled Bill H. R. 10511 - Use of Buses Funded by UMTA
in Competition with Private Charter Buses



ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Do you concur with the OMB and DOT recommendation that the above mentioned bill (H. R. 10511) be vetoed?

Please return to Kathy Jensen
West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

CRAIG GOSDEN
For the President

THE WHITE HOUSE

WASHINGTON

January 2, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN COLE
SUBJECT: CHARTER BUSES BILL



BACKGROUND

There are very strict statutory restrictions prohibiting mass transit companies from engaging in charter bus services with buses purchased with Federal funds. The purpose of the restriction is to protect private charter bus companies, but the effect has been to discourage transit companies from using Federal grant programs to buy buses because they badly need the charter revenue.

Two Federal programs provide funds for bus purchases: (1) the Urban Mass Transit Act, and (2) the Federal-Aid Highway Act of 1973. Enrolled Bill H.R. 10511 (see Tab A for Enrolled Bill memo) relaxes the present stringent prohibition against mass transit buses engaging in charter activities but only if the buses were purchased with UMTA funds; if Federal aid highway funds were used, the strict restriction would still apply.

Therefore, the effect of H.R. 10511 will be to discourage use of highway funds for buses thereby subverting the flexibility gained when your mass transit initiative was enacted as a part of the 1973 Highway Act.

OPTIONS AVAILABLE

1. Sign H.R. 10511 and seek additional legislation to apply the relaxation to buses funded from the highway program.
2. "Pocket" veto H.R. 10511 and seek new legislation covering both UMTA and highway funded buses.

STAFF RECOMMENDATIONS

Secretary Brinegar, Mel Laird, Bryce Harlow, Roy Ash and Bill Timmons recommend that you "pocket" veto H. R. 10511. They believe that if this bill becomes law, there will be no congressional pressure for legislation to provide parity for buses purchased with highway funds. However, if you veto this bill, there is a reasonable chance that a new effort to get an across-the-board relaxation will succeed and the delay will not significantly hurt the bus purchasing efforts of communities due to a backlog of bus orders.

RECOMMENDED ACTION

I recommend that you "pocket" veto H. R. 10511



Agree _____

Disagree--Sign the bill _____

See Me _____

If you agree to pocket veto, I recommend the attached veto statement (Tab B).

January 2, 1974

MEMORANDUM OF DISAPPROVAL

I regret that I cannot approve H. R. 10511, a bill to amend the Urban Mass Transportation Act of 1964. Unfortunately, this bill has evolved so as to become an anti-transit measure.

In its favor is the fact that H. R. 10511 would facilitate the use of Urban Mass Transportation monies for the purchase of buses by allowing such equipment to be used for charter services. Unfortunately, however, the bill would leave in effect the prohibition against using buses purchased with Federal-Aid Highway funds in charter activities. By creating different standards for the purchase of buses from the two programs, the bill would discourage the use of highway funds for mass transit purposes. It would thus undermine one of the central achievements of the Federal-Aid Highway Act of 1973, the provision giving greater flexibility to States and communities in meeting their transportation problems. This we cannot afford.

I strongly supported legislation which applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. The Senate version of the bill provided flexibility, encouraging bus purchases from both of these funding sources. It is essential that our communities' mass transit companies can use their buses to produce badly needed charter revenues, and I will continue to press for this balanced flexibility.



As we face gasoline shortages and an increasing demand for public transportation, we should do all we can to afford local officials genuine flexibility to use Federal-Aid Highway funds to improve mass transit if they so desire. I am withholding my signature from H. R. 10511 because this bill would work directly against that objective.

I urge the Congress to act early in the next session to relax the charter prohibition uniformly with respect to the Federal-Aid Highway program and the Urban Mass Transportation program. If this action is taken promptly, our mass transit systems need not suffer any adverse consequences.



16

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6

T H Wms.
(6) Date Jan

Priority
PRECEDENCE

UNCLAS
CLASSIFICATION

FROM: DAVID HOOPES

TO: GEORGE SOULWAN

INFO:

RELEASED BY: EO

DEX _____

DAC _____ GPS _____

LDX 848 PAGES 14

TTY _____ CITE _____

DTG

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TOR: 030152Z/05

FOR COMM CENTER USE ONLY

SPECIAL INSTRUCTIONS:

Put this item in the car going to pick
up George Soulwan in the morning.
1/3/74



74 JAN 2 PM 9:05

WHITE HOUSE
SITUATION ROOM

THE WHITE HOUSE
WASHINGTON

1/2/74

TO: GEORGE JOULWAN
FROM: DAVID C. HOOPES



Attached is a decision paper regarding H.R. 10511. The last day for action is January 3, 1974, Steve Bull is holding the bill pending possible veto.


Attached also is the veto statement which has been cleared with everyone here.

Thank you.

THE WHITE HOUSE

WASHINGTON

January 2, 1974

MEMORANDUM FOR: THE PRESIDENT
FROM: KEN  COLE
SUBJECT: CHARTER BUSES BILL



BACKGROUND

There are very strict statutory restrictions prohibiting mass transit companies from engaging in charter bus services with buses purchased with Federal funds. The purpose of the restriction is to protect private charter bus companies, but the effect has been to discourage transit companies from using Federal grant programs to buy buses because they badly need the charter revenue.

Two Federal programs provide funds for bus purchases: (1) the Urban Mass Transit Act, and (2) the Federal-Aid Highway Act of 1973. Enrolled Bill H. R. 10511 (see Tab A for Enrolled Bill memo) relaxes the present stringent prohibition against mass transit buses engaging in charter activities but only if the buses were purchased with UMTA funds; if Federal aid highway funds were used, the strict restriction would still apply.

Therefore, the effect of H. R. 10511 will be to discourage use of highway funds for buses thereby subverting the flexibility gained when your mass transit initiative was enacted as a part of the 1973 Highway Act.

OPTIONS AVAILABLE

1. Sign H. R. 10511 and seek additional legislation to apply the relaxation to buses funded from the highway program.
2. "Pocket" veto H. R. 10511 and seek new legislation covering both UMTA and highway funded buses.



STAFF RECOMMENDATIONS

Secretary Brinegar, Mel Laird, Bryce Harlow, Roy Ash and Bill Timmons recommend that you "pocket" veto H. R. 10511. They believe that if this bill becomes law, there will be no congressional pressure for legislation to provide parity for buses purchased with highway funds. However, if you veto this bill, there is a reasonable chance that a new effort to get an across-the-board relaxation will succeed and the delay will not significantly hurt the bus purchasing efforts of communities due to a backlog of bus orders.

RECOMMENDED ACTION

I recommend that you "pocket" veto H. R. 10511

Agree _____ Disagree--Sign the bill _____

See Me _____

If you agree to pocket veto, I recommend the attached veto statement (Tab B).

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 10511 -- Use of buses funded by UMTA in competition with private charter buses
Sponsor - Rep. Wright (D) Texas, Rep. Minish (D) New Jersey and Rep. Stanton (D) Ohio

Last Day for Action

January 3, 1974 - Thursday

Purpose

Amends the Urban Mass Transportation Act of 1964 to relax the present stringent prohibition against an applicant for UMTA funds for the purchase of mass transit buses engaging in certain charter bus activities.

Agency Recommendations

Office of Management and Budget	Disapproval (Memorandum of Disapproval attached)
Department of Transportation	Disapproval (Memorandum of Disapproval attached)

Discussion

Section 164 (a) of the Federal-Aid Highway Act of 1973 (P.L. 93-87) contains a provision that flatly prohibits the Secretary of Transportation from providing financial assistance to localities for the purchase of buses under either the Urban Mass Transportation Act of 1964 or the Federal-Aid Highway Act unless the applicant agrees not to engage in charter bus service in competition with private bus operators outside of the area within which it regularly operates. If a single violation of that agreement occurs, the Secretary must permanently bar the recipient from any further such Federal assistance.



The original intent of Section 164(a) was to provide legitimate protection for private bus operators. However, its precise wording and the severe penalty it imposes (complete loss of funds for bus purchases under both acts) has had the effect of halting most Federal grants for transit bus purchases pending a change in the law.

The enrolled bill would relax the prohibition with respect to Mass Transit Act funds but would leave it in effect with respect to Highway Act funds. Under the amendment that would be made to the Urban Mass Transportation Act, the Secretary would be authorized to secure agreements from grant applicants providing fair and equitable arrangements to assure that Federal financial assistance will not enable subsidized public bus operators to compete unfairly with private operators in intercity charter bus service. The Secretary would be authorized to investigate formal complaints of violations of the agreement and take appropriate action if he determines a violation has occurred. He could, as a last resort, withhold any future federal funds for the purchase of buses.

The failure to provide a similar relaxation in the prohibition applicable to highway funds constitutes, in our judgment, a major deficiency in the bill. The Administration has consistently maintained the position that the restrictions on Federal funds for the purchase of buses should be uniform, whether or not the funds are provided under the UMTA program or the Federal-Aid Highway Program.

We believe that this deficiency in the bill warrants serious consideration of a veto on the basis of the arguments set out below.

Arguments in favor of disapproval may be summarized as follows:

- enactment of the bill would tend to undermine the Administration's successful efforts in the 1973 Federal-Aid Highway Act to provide for the use of highway funds for urban mass transit, especially for the purchase of buses.



-- the Congress almost adopted a modification of section 164(a) which would have applied to both the UMTA funds and Highway funds. The Senate version of the bill was amended on the floor to apply to both UMTA and Highway funds and it passed by unanimous consent. The House insisted on its version, which applied to only UMTA funds. Under pressure for adjournment, the Senate finally agreed to the House version. With the assistance of a Presidential veto, Senator Baker and others favoring a modification of section 164(a) to apply to both funds could likely secure passage of such legislation.



-- a delay in obtaining enactment of legislation covering both acts will have no practical effect on communities since there is a 9 to 12 month backlog on deliveries of ordered buses.

Arguments in favor of approval may be summarized as follows:

- approval would achieve half of the objective sought by the Administration and Congress can be pressed hard for the other half early in the next session.
- if signed, grant recipients could begin to order buses immediately under the UMTA program instead of awaiting further congressional action.
- Senator Baker and others are committed to using Federal-aid highway funds for mass transit as well as highways, and have called for further remedial legislation in the next session of Congress to eliminate the restrictions of section 164(a) on the Highway funds.
- a veto could be misunderstood at a time when the Administration is changing its public posture to more strongly favor mass transit to meet energy needs.

DOT in its letter recommending your disapproval of the enrolled bill points out that:

"We maintained that the prohibition should apply to recipients of funds under both the Federal-Aid Highway program and the UMTA program However, the enrolled bill . . . modifies the restrictions only as they apply to the UMTA program, leaving intact the burdensome penalties applicable to Federal-Aid Highway funds. In this way, H.R. 10511 would . . . discourage the use of Highway funds for the purchase of buses -- a provision which was one of the central achievements of the Federal-Aid Highway Act of 1973."

On balance, we concur with DOT's position and recommend that you withhold approval of H.R. 10511. In our judgment, this action would serve as an effective basis for seeking early congressional action to relax the present restrictions of section 164(a) of the Federal-Aid Highway Act.

DOT has drafted a memorandum of disapproval which is attached for your consideration. We have also prepared a memorandum of disapproval for consideration. In our memorandum your action is presented as dramatizing the need for proper action by Congress which, if promptly taken, will have no practical adverse effect.

Director



Enclosures



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

December 28, 1973

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503



Dear Mr. Ash:

This is in response to your request for the views of the Department on H. R. 10511, an enrolled bill

"To amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter service in a manner which does not foreclose private operators from furnishing such service, and for other purposes."

H. R. 10511 would amend section 164(a) of the Federal-Aid Highway Act of 1973 to soften the restriction against the provision of charter bus service by recipients of federal financial assistance for the purchase of buses under the Urban Mass Transportation Program.

Section 164(a) now provides that no Federal financial assistance shall be provided to an applicant for purchase of buses under either the Urban Mass Transportation Act or the Federal-Aid Highway Act of 1973 unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides regularly scheduled mass transportation service. The penalty for violation is debarment from further Federal assistance under either of the programs. In effect, section 164(a) forces transit operators to relinquish charter revenues for the duration of their operation if they wish to receive any federal capital grants for the purchase of buses.

The impact of section 164(a) has been to impede acceptance of bus purchase grants under the UMTA program and the Federal-Aid Highway program. Both the House and Senate have agreed that, although private charter bus operators require some protection from competition with public transit operators whose capital costs may be underwritten to some degree by federal grants, section 164(a) is unnecessarily burdensome. Recognizing that some degree of protection is appropriate, however, the public and private bus operators and the Department agreed upon the scheme contained in section 1(a) of H.R. 10511.

H.R. 10511 would require a grantee of federal funds for the purchase of buses not to engage in charter bus operations outside of the urban area within which it provides regularly scheduled service except in accordance with the terms of an agreement incorporating arrangements appropriate in the judgment of the Secretary to assure that the Federal financial assistance would not enable the grantee (or its agent-operator) to foreclose private operators from the intercity charter bus industry. H.R. 10511 would require the Secretary to prevent Federally subsidized public authorities from undercutting private charter bus operators, without placing him in the undesirable position of having to regulate the charter bus industry.



We maintained that the prohibition should apply to recipients of funds under both the Federal-Aid Highway program and the UMTA program. Such an approach was adopted in the bill passed by the Senate. However, the enrolled bill, which adopted the approach taken in the measure as originally passed by the House, modifies the restrictions only as they apply to the UMTA program, leaving intact the burdensome penalties applicable to Federal-Aid Highway funds. In this way, H.R. 10511 would place more onerous conditions on transit operators receiving funds under the Highway program than pursuant to the UMTA program. It thus would discourage the use of Highway funds for the purchase of buses -- a provision which was one of the central achievements of the Federal-Aid Highway Act of 1973.

If the President does not sign H.R. 10511, section 164(a) would remain in effect, impeding the acquisition of buses with funds under the UMTA and Federal-Aid Highway programs until Congress enacts a modification that applies uniformly to grants under both the UMTA and Highway programs. The Department believes this to be the best course.

The 1973 Federal-Aid Highway Act makes available \$780 million in fiscal year 1974 and \$800 million in each of the fiscal years 1975 and 1976 for the urban system program. Most of the potential grantees who would choose to use these funds for transit purposes will want grants for the purchase of buses. The increased demand that is likely to result from the fuel shortage makes it critical that the use of Federal-Aid Highway funds for transit be both easy and attractive. H. R. 10511 would work directly against that goal. Therefore, the Department recommends that the President not sign H. R. 10511.

Sincerely,



Claude S. Brinegar
Claude S. Brinegar

January 2, 1974

MEMORANDUM OF DISAPPROVAL

I regret that I cannot approve H. R. 10511, a bill to amend the Urban Mass Transportation Act of 1964. Unfortunately, this bill has evolved so as to become an anti-transit measure.

In its favor is the fact that H. R. 10511 would facilitate the use of Urban Mass Transportation monies for the purchase of buses by allowing such equipment to be used for charter services. Unfortunately, however, the bill would leave in effect the prohibition against using buses purchased with Federal-Aid Highway funds in charter activities. By creating different standards for the purchase of buses from the two programs, the bill would discourage the use of highway funds for mass transit purposes. It would thus undermine one of the central achievements of the Federal-Aid Highway Act of 1973, the provision giving greater flexibility to States and communities in meeting their transportation problems. This we cannot afford.

I strongly supported legislation which applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. The Senate version of the bill provided flexibility, encouraging bus purchases from both of these funding sources. It is essential that our communities' mass transit companies can use their buses to produce badly needed charter revenues, and I will continue to press for this balanced flexibility.



As we face gasoline shortages and an increasing demand for public transportation, we should do all we can to afford local officials genuine flexibility to use Federal-Aid Highway funds to improve mass transit if they so desire. I am withholding my signature from H. R. 10511 because this legislation would work directly against that objective.

I urge the Congress to act early in the next session to relax the charter prohibition uniformly with respect to both the Federal-Aid Highway program and the Urban Mass Transportation program. If this action is taken promptly, our mass transit systems need not suffer any adverse consequences.



###

IMMEDIATE
PRECEDENCE

UNCLAS
CLASSIFICATION

FROM: ROBERT D. LINDER

TO: PAT MCKEE

INFO:

RELEASED BY: *[Signature]*

SPECIAL INSTRUCTIONS:

FOR COMPCENTER USE ONLY

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WHITE HOUSE
SITUATION ROOM

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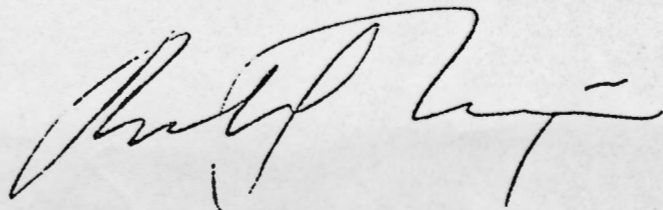
MEMORANDUM OF DISAPPROVAL

I have withheld my approval from S. 889, a bill "To restore the postal service seniority of Elmer Erickson."

Under this bill, Mr. Erickson would receive special benefits denied other postal employees who lost seniority rights under similar circumstances or who made decisions and choices based on then existing rules. Such action by Congress would be discriminatory and without justification.

The seniority rules in question here represent the result of bargaining between the postal unions and postal management. They are not a matter on which Congress has legislated in the past. The seniority involved has to do with preferred assignments, eligibility for promotions, and similar matters covered by agreements between the Postal Service and the postal unions. Employees displaced on the seniority list by Mr. Erickson certainly would have good cause to complain if this bill were to become law.

In my opinion, if seniority rights are to be retroactively restored to postal employees, it is for postal management and the postal unions to negotiate an equitable solution which covers all employees similarly situated.



THE WHITE HOUSE,

August 29, 1972.

THE WHITE HOUSE
WASHINGTON

1. 3. 74

TO: Pat McKee



For Your Information: ✓

For Appropriate Handling: _____

Per request, a
sample Memorandum
of Disapproval.

RDL
Robert D. Linder

August 29, 1972

Office of the White House Press Secretary
(San Clemente, California)

THE WHITE HOUSE

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from S. 889, a bill "To restore the postal service seniority of Elmer Erickson."

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In my opinion, if seniority rights are to be retroactively restored to postal employees, it is for postal management and the postal unions to negotiate an equitable solution which covers all employees similarly situated.



RICHARD NIXON

THE WHITE HOUSE,

August 29, 1972.

#

MEMO OF
DISAPPROVAL
ISSUED 1/3/74
(EFF. 1/4/74)

THE PRESIDENT HAS SEEN *[initials]*

THE WHITE HOUSE
WASHINGTON

January 3, 1974

POCKET VETO

MR. PRESIDENT:

Attached is a memorandum from Ken Cole recommending a "pocket veto" of HR 10511, Charter Buses Bill.

The main reason for the veto is that HR 10511 relaxes the present stringent prohibitions against mass transit buses engaging in chapter activities but only if the buses were purchased with UMTA funds; if federal aid highway funds were used the strict restrictions would still apply.

Such restrictions would subvert the flexibility of states and communities in meeting their transportation problems.

Secretary Brinegar, Laird, Harlow, Ash, Timmons, and Cole recommend that you "pocket veto" HR 10511. I concur.

*insurance in Calif.
1/4/74*



[Signature]
AL HAIG

Attachment

FOR IMMEDIATE RELEASE

JANUARY 4, 1974

Office of the White House Press Secretary
(San Clemente, California)

THE WHITE HOUSE

MEMORANDUM OF DISAPPROVAL



I regret that I cannot approve H. R. 10511, a bill to amend the Urban Mass Transportation Act of 1964. Unfortunately, this bill has evolved so as to become an anti-transit measure.

In its favor is the fact that H. R. 10511 would facilitate the use of Urban Mass Transportation monies for the purchase of buses by allowing such equipment to be used for charter services. Unfortunately, however, the bill would leave in effect the prohibition against using buses purchased with Federal-Aid Highway funds in charter activities. By creating different standards for the purchase of buses from the two programs, the bill would discourage the use of highway funds for mass transit purposes. It would thus undermine one of the central achievements of the Federal-Aid Highway Act of 1973, the provision giving greater flexibility to States and communities in meeting their transportation problems. This we cannot afford.

I strongly supported legislation which applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. The Senate version of the bill provided flexibility, encouraging bus purchases from both of these funding sources. It is essential that our communities' mass transit companies can use their buses to produce badly needed charter revenues, and I will continue to press for this balanced flexibility.

As we face gasoline shortages and an increasing demand for public transportation, we should do all we can to afford local officials genuine flexibility to use Federal-Aid Highway funds to improve mass transit if they so desire. I am withholding my signature from H. R. 10511 because this legislation would work directly against that objective.

I urge the Congress to act early in the next session to relax the charter prohibition uniformly with respect to both the Federal-Aid Highway program and the Urban Mass Transportation program. If this action is taken promptly, our mass transit systems need not suffer any adverse consequences.

RICHARD NIXON

THE WHITE HOUSE,

3
January 4, 1974

#

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

National Archives and Records Service
Washington, DC 20408



May 28, 1976

Mr. Robert D. Linder
Chief Executive Clerk
Executive Office of the President
The White House
Washington, DC 20500

Dear Mr. Linder:

In accordance with the decision of the United States District Court for the District of Columbia in Kennedy v. Jones (Civil Action No. 74-194, April 21, 1976), this is to request that you transmit to the Administrator of General Services (Office of the Federal Register) the original of H.R. 10511, passed by the 93d Congress and the subject matter of the cited litigation.

In accordance with the Administrator's authority under sections 106a and 112 of Title 1, United States Code, we will publish the bill as an addendum to the public laws enacted by the 93d Congress.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred J. Emery".

FRED J. EMERY
Director of the Federal Register



Keep Freedom in Your Future With U.S. Savings Bonds

THE WHITE HOUSE
WASHINGTON

July 16, 1976

Dear Mr. Emery:

In accordance with your request, I am sending to you for publication as a public law the enrolled bill H.R. 10511, an Act to amend the Urban Mass Transportation Act of 1964. This action is being taken pursuant to the Order entered April 21, 1976, by the United States District Court for the District of Columbia in Kennedy v. Jones (Civil Action No. 74-194, DDC).

Sincerely,



Robert D. Linder
Robert D. Linder
Chief Executive Clerk

Mr. Fred J. Emery
Director of the Federal Register
National Archives and Records Service
General Services Administration
Washington, D. C. 20408

Enclosure

MEMORANDUM OF DISAPPROVAL

I have today withheld my approval from H.R. 10511, a bill "To amend the Urban Mass Transportation Act of 1964, to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter services in a manner which does not foreclose private operators from furnishing such service, and for other purposes."

This bill is an anti-transit measure. It would have the effect of discouraging States and localities from using the Federal-Aid Highway program for mass transportation facilities and equipment, thus undermining the central achievement of the Federal-Aid Highway Act of 1973.



H.R. 10511 would have been acceptable if it applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. However, the bill would create different standards for the two programs, thereby discouraging the use of highway funds for the purchase of buses.

As we face gasoline shortages and an increasing demand for public transportation, we should be making every effort to insure that local officials have a real option to use Federal-Aid Highway funds for mass transit. I am withholding my signature from H.R. 10511 because it would have precisely the opposite result.

I urge the Congress to act early in the next session to relax the charter prohibition uniformly with respect to both programs. If this action is taken promptly, no practical adverse effects will occur to our mass transit systems.



THE WHITE HOUSE

December , 1973

VETO MESSAGE



I am withholding my signature from H.R. 10511.

This bill is an anti-transit measure. It would have the effect of discouraging states and localities from using the Federal-Aid Highway program for mass transportation facilities and equipment, thus undermining the central achievement of the Federal-Aid Highway Act of 1973. It is truly insidious because it purports to be a pro-transit measure.

H.R. 10511 would amend section 164(a) of the Federal-Aid Highway Act of 1973 to modify the harsh restrictions against the provision of charter bus service by recipients of Federal financial assistance for the purchase of buses. Section 164(a) now forbids a grantee to provide charter bus service outside of the area within which it provides regularly scheduled mass transportation service. H.R. 10511 would instead require the Secretary of Transportation to provide for fair and equitable arrangements appropriate in his judgment to assure that Federal financial assistance extended under the Urban Mass Transportation Act of 1964 would not enable the grantee to foreclose private operators from the intercity charter bus industry where private operators are willing and able to provide service. We all agree that the private operators need and deserve some protection against

competition by sometimes heavily-subsidized public operators. H.R. 10511 is an attempt to strike a balance between the interests of private enterprise and the interest of the public in allowing the mass transportation program to go forward.

H.R. 10511 would have been acceptable if it had applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. However, the bill would leave section 164(a) in effect with respect to grantees of assistance for the purchase of buses under the Federal-Aid Highway Act of 1973, creating different standards for the two programs, the result of which would be to discourage the use of highway funds for the purchase of buses.



The 1973 Federal-Aid Highway Act makes available \$780 million in fiscal year 1974 and \$800 million in each of the fiscal years 1975 and 1976 for the urban system program. These funds are available now in urban areas for either highway or transit use. The Act also makes it possible for State and local officials to undertake non-highway mass transit projects under some circumstances instead of interstate highway system projects. As we face gasoline shortages and an increasing demand for public transportation, we should be making every effort to insure that local officials have a real option to use these Federal-Aid Highway funds for mass transit. I am withholding my signature from H.R. 10511

because it would have precisely the opposite result. I urge the Congress to act early in the next session to ease section 164(a) uniformly with respect to both programs.



MEMORANDUM OF DISAPPROVAL



I regret that I cannot approve H. R. 10511, a bill to amend the Urban Mass Transportation Act of 1964. Unfortunately, this bill has evolved so as to become an anti-transit measure.

In its favor is the fact that H. R. 10511 would facilitate the use of Urban Mass Transportation monies for the purchase of buses by allowing such equipment to be used for charter services. Unfortunately, however, the bill would leave in effect the prohibition against using buses purchased with Federal-Aid Highway funds in charter activities. By creating different standards for the purchase of buses from the two programs, the bill would discourage the use of highway funds for mass transit purposes. It would thus undermine one of the central achievements of the Federal-Aid Highway Act of 1973, the provision giving greater flexibility to States and communities in meeting their transportation problems. This we cannot afford.

I strongly supported legislation which applied uniformly to both the Federal-Aid Highway program and the Urban Mass Transportation program. The Senate version of the bill provided flexibility, encouraging bus purchases from both of these funding sources. It is essential that our communities' mass transit companies can use their buses to produce badly needed charter revenues, and I will continue to press for this balanced flexibility.

As we face gasoline shortages and an increasing demand for public transportation, we should do all we can to afford local officials genuine flexibility to use Federal-Aid Highway funds to improve mass transit if they so desire. I am withholding my signature from H. R. 10511 because this legislation would work directly against that objective.

I urge the Congress to act early in the next session to relax the charter prohibition uniformly with respect to both the Federal-Aid Highway program and the Urban Mass Transportation program. If this action is taken promptly, our mass transit systems need not suffer any adverse consequences.



A handwritten signature in dark ink, appearing to be "Richard Nixon". The signature is fluid and cursive, written over a light background.

THE WHITE HOUSE

January 3, 1974.

Ninety-third Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Wednesday, the third day of January,
one thousand nine hundred and seventy-three*



An Act

To amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that Act for the acquisition of certain equipment which may be used for charter service in a manner which does not foreclose private operators from furnishing such service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(f) No Federal financial assistance under this Act may be provided for the purchase of buses unless as a condition of such assistance the applicant or any public body receiving assistance for the purchase of buses under this Act or any publicly owned operator receiving such assistance shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for the public body, shall not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such operators are willing and able to provide such service. In addition to any other remedies specified in the agreements, ~~the Secretary shall have the authority to bar a~~ grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of the agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement."

(b) (1) The first sentence of section 164(a) of Public Law 93-87, approved August 13, 1973, is amended—

(1) by inserting "or" before "(2)"; and

(2) by striking out "or (3) the Urban Mass Transportation Act of 1964,".

(2) The second sentence of such section 164(a) is amended by striking out ", (2), and (3)" and inserting in lieu thereof "and (2)".

H. R. 10511—2

Sec. 2. The Secretary shall amend any agreements entered into pursuant to section 164a of the Federal-Aid Highway Act of 1973, Public Law 93-87, to conform to the requirements of section 1 of this Act. The effective date of such conformed agreements shall be the effective date of the original agreements entered into pursuant to section 164a.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*