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STATEMENT OF CLAUDE S. BRINEGAR, SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON ROADS OF THE SENATE PUBLIC WORKS COMMITTEE, REGARDING THE ADMINISTRATION'S PROPOSED 1973 FEDERAL-AID HIGHWAY AND PUBLIC TRANSPORTATION ACT, AND S. 502, WEDNESDAY, FEBRUARY 7, 1973.

Mr. Chairman and Members of the Committee:

I very much appreciate this opportunity to appear before you to present the Administration's views on the major issues in highway legislation designed to meet today's transportation needs. I hope my appearance today marks the first of many beneficial exchanges I will have with this committee, and I look forward to our establishing a close, working relationship.

At my confirmation hearing in January, a great many Senators raised questions regarding the Administration's 1973 highway and mass transit legislative program. Since that hearing I have spent a substantial amount of time studying the existing programs, reviewing the proposals advocated last year by the Administration and members of Congress, and formulating our current policy. While I by no means consider myself a 30-day expert on all aspects of this important program, I have tried to do my homework and am prepared today to discuss and advocate our position as best I can. Others with

greater experience and knowledge on this subject are here to assist me so that hopefully we will be able to answer your questions adequately.

As you well know, although the last Congress worked hard on comprehensive highway and mass transit legislation, a bill was almost but not quite enacted at the last minute. As a result, many important changes in the existing Federal-aid program advocated by both the Administration and the majority of the Senate were not passed. In addition, the absence of the 1972 highway bill has disrupted--or soon will disrupt--highway construction in several States.

While the Administration shares the concern of these States whose programs are affected, we believe it important that Congress carefully consider the important issues the Chairman itemized in his notice of this hearing. It's difficult to develop sound and progressive highway and public transportation legislation in a crisis atmosphere. Difficult and controversial issues must not be put aside unresolved because of short-term pressures.

Consequently, the Administration supports Senate Concurrent Resolution 6, introduced by Senator Baker on behalf of himself and several other members of the Committee. Although the 1970 Highway Act contains authorizations for the Interstate System through fiscal year 1976, the Department does not have the legal authority to apportion these funds to the States. This Resolution would permit the immediate apportionment to the States of Interstate funds already authorized for fiscal year 1974.

We believe that Senate Concurrent Resolution 6 is not a substitute for a comprehensive bill. Its purpose is simply that of alleviating the situation in those States where highway authorizations are currently running short. It will permit the continuation, without unneeded interruption, of Interstate construction, and at the same time will allow Congress to develop comprehensive highway and public transportation legislation.

Now I would like to discuss the various issues for which you have requested my specific comment, Mr. Chairman. In doing so, I will attempt to give our views upon the substantive provisions of S. 502 dealing with these major issues and to offer the Administration's position on each of them. As indicated, since my confirmation hearing I have made every effort to acquire sufficient knowledge and understanding of the highway program in order to be able to make recommendations to the Committee and to respond to your questions concerning your own proposals. As I am sure you can understand, however, this process took most of our time and, as a consequence, we do not have a draft bill to present to you today. We are now hard at work at this effort, and we expect to have our detailed proposals to you before you resume your scheduled hearings next week. Today we will outline the broad concepts that will be treated in this bill.

One of the most pressing issues before us involves the question of the use of Highway Trust Fund monies for transportation projects--especially in urban areas--that are not directly related to the more

traditional highway uses. The highway bill that passed the Senate last year broke important new ground in adding flexibility to the uses, and we believe it is of utmost importance to continue in this direction.

I would like to speak to this issue in two respects--first, from the standpoint of the need for more flexibility in addressing ourselves to the problems of urban transportation and, second, from the standpoint of the equities involved in using funds for non-highway transportation purposes that have been thought of as being dedicated to a highway "trust".

On the first matter--the need--I doubt that anyone who has tried to move about in our major cities at rush hours can deny that the need for action is urgent indeed. Modern, federally-supported highways have made our cities accessible, but too many cars trying to use these highways have made the cities, as a practical matter, almost inaccessible just at the times most of us most need the accessibility. And, as the highways and cars have increased in number in the past decade, public transit systems--reflecting declining ridership, inflationary pressures, and often institutional inflexibility--have become increasingly incapable of offering attractive alternatives. Clearly, highways and urban transportation are related problems, and must be viewed in the context of these relationships.

The Administration is approaching these problems from three directions:

(a) The annual grant program administered by the Urban Mass Transportation Administration. The proposed fiscal year 1974 level is $1 billion, and authority will be sought to continue at about this level for at least three additional years. These funds are needed to assist the large transit projects that need major funds quickly in order to move forward.

(b) The general revenue sharing program, which returns about $6 billion annually to allocate to pressing needs--including any kinds of transportation uses--that local authorities are best equipped to identify.

(c) A portion of the monies collected in the Highway Trust Fund which will be allocated to urban areas to permit increased flexibility in dealing with transportation alternatives that will improve the cities' overall transportation systems. These uses are not intended as a substitute for the UMTA capital program which is especially needed to fund large-scale projects throughout the Nation. Rather, they will be aimed more at the myriad of capital needs that every urban area has and can best develop its own program to solve. No doubt funds will go to meet highway

needs, some will go for bus lanes and related investments, some will go to purchase buses, and some would go to make capital improvements in urban rail systems. The end result, of course, is to allow cities to find ways to improve their overall transportation systems. The fiscal year 1974 budget sets an authorization of $1.1 billion for this purpose.

Now, I'd like to turn to the second issue--the issue of tax "equities".

I well recognize that arguments have been made that the use of trust fund monies for non-highway projects is unfair to those who pay taxes into the fund. If the taxpayers, it is argued, are not the beneficiaries of the uses of the monies, then we have violated the "trust". Two aspects of the argument must be looked at carefully:

1. The beneficiaries of improved mass transit are a broad group--including all those who still, by necessity, must use the hopefully less congested highways. Motorists would be better off and truckers would be better off. Also, if urban traffic congestion can be materially lessened, we could make a positive move toward reducing pollution and conserving needed petroleum supplies--improvements whose benefits should be welcomed by all.

2. The Highway Trust Fund is not derived from a single tax source, but rather it is made up of a number of excise taxes and one use tax. It is also important to realize that, when it was created in 1956, the

fund was not formed by imposing all new taxes, but rather came largely from assigning to it tax receipts that were previously going to the general fund. The job was considered so big in 1956 that it was felt desirable to earmark these funds to assure that, over the years, it would be adequately financed.

While some of the tax rates were increased in 1956 and later in 1959, a sizable share of the tax receipts now going into the trust fund were considered "general fund" monies prior to 1956, just as many other excise taxes are today. For example, the excise tax on gasoline goes back to 1932, and the excise taxes on tires and tubes back to 1919. To show the significance of this historical pattern, if we today computed the share of the 1974 trust fund monies that came from general fund sources prior to 1956, we find the total to be approximately 50 percent. Thus, on grounds of equity it seems fair to consider that a sizable amount of trust fund monies could be legitimately used for transportation purposes that broadly benefit a large segment of the population. While I'm not arguing that these trust fund monies are, in reality, general funds, I do feel that there is a portion of them that have a general fund "flavor", and that this portion can reasonably be used for more broadly based transportation projects than they have been in the past.

On the other hand, we must recognize that part of the taxes that go into the fund are borne by a special sector which expects to receive special benefits from paying them. These taxes--principally truck

excise and truck use taxes--are more clearly related to the traditionally special user-special tax relationship. Consequently, it is reasonable that those funds be directed to the special use--namely that of meeting the extra costs of building highways to meet truckers' needs.

Now, let's turn to a consideration of the funds to be used for more broadly based transportation needs in our cities. It's certainly a fair question to ask: How much is this "fair portion"?

For purposes of this bill, I believe it is proper to consider that as much as one-quarter of the general fund-type taxes--the taxes on motor fuels, tires and tubes, and lubricating oils--be considered as available for funding the urban system authorization. For the fiscal year 1974, we are recommending $1.1 billion be authorized, which is slightly over 20 percent of the fund, generated by those taxes.

A final point on this subject is that it is clear to me that too strict adherence to the existing structure of the highway program will only further aggravate our transportation problems. We have been operating too long on the principle that State and local governments must either build highways or else lose sizable quantities of Federal funds. We must continue to provide for the improvement of our highway system, and, of course, fulfill our commitment to the completion of the Interstate System. However, artifical decisions at the Federal level must give way to a cooperative State and local decision-making process whereby

consideration can be given both to highway and non-highway answers to particular local transportation problems. We must go to where the knowledge is, and we must go with enough dollars to make effective decisions possible.

The program we now propose would permit trust fund monies authorized for the Federal-aid urban system to be used both for capital highway and mass transit projects with the decision to be left to the State and local governments. The mass transit projects could include improvements both to bus and rapid rail systems. At the same time, as I indicated, we would continue the Urban Mass Transportation program which has as its main objective the supplying of the major, large capital transit needs of our urban areas.

We also believe that we should offer State officials a choice of funding rural highways or providing bus service projects. We have confidence that they will make reasonable decisions as to how to meet rural transportation needs.

Last year the Administration's legislative proposal also included a provision which would have made urban transportation funds available directly to local general purpose units of government coming together to form a metropolitan agency suitably equipped to address transportation problems on an area-wide basis. In large part that principle was endorsed by this Committee and the 1972 Highway bill which passed the Senate included a provision which would have earmarked urban system funds for each urbanized area. Further, it would have made those funds

directly available to a metropolitan agency created by the State or local government units.

The Administration strongly endorsed the pass through provision in last year's Senate bill, and as you may recall worked hard to secure enactment of a similar provision in the House bill. This year a similar provision has been included in S. 502. Basically, this provision differs from last year's only in that the cutoff for earmarking funds would be urbanized areas of 250,000 population, rather than 50,000. We, too, have been reconsidering our position and have moved very much in the same direction. We would recommend that the urban system funds be earmarked only for urbanized areas which have a population of 400,000 or more. Some 55 areas fall into this category. We believe that the problems of such cities are extremely complex and that these cities are more likely to have the organization and staff to solve their own problems. For areas smaller than 400,000 we think that the State should continue to play the primary role in developing transportation programs. Also, we would recommend a modification which would permit general purpose agencies to be the recipient of pass through funds, as well as single purpose transportation agencies. We encourage the formation of State departments of transportation, for example, but we do not believe that the Federal Government should be fostering the creation of otherwise unnecessary special purpose agencies at the city level. This strengthens out commitment to have local elected officials have a larger role in determining local priorities.

With our recommended modification we would support this provision. We believe that earmarking urban system funds will insure that the larger cities and the States are placed on an equal footing as they work together to solve urban transportation problems. We also believe, however, that it is of paramount importance that a cooperative State/local transportation development process be continued. Therefore, rather than excluding the State from urban transportation problems, this year we are recommending an approach much more in line with the thinking reflected in S. 502. The Department wants to insure the continuation of the cooperative process that exists today, and we envision the States playing an important role in determining suitable institutional arrangements, such as having the authority to approve the make-up and boundaries of local general-purpose agencies chosen to receive the funds.

Another important provision that you asked me to address was the subject of Interstate transfers and substitutions. As you may recall, last year the Administration supported the Interstate transfer provisions incorporated in the 1972 Highway Act that was enacted by the Senate. This same provision, which is incorporated in S. 502, authorizes unlimited additional Interstate mileage in order to facilitate transfers and substitutions and establishes the cost of segments withdrawn from the system as the controlling factor in making substitutions. Under this provision, a State would be able to substitute needed rural highway mileage for controversial urban Interstate segments on a dollar-for-dollar rather than a mile-for-mile basis. Of course, in no case would this provision apply if the link to be withdrawn is essential to the continuity of the basic Interstate System.

The most important element of this amendment is that it would permit funds originally authorized for the Interstate System to be expended for other important highway and public transportation projects. This recognizes the fact that many of our urban Interstate links play a major role in serving local urban travel needs. We are all aware that a number of these urban links are tied up in controversy. The controversy, however, is usually not whether additional transportation capacity is required in our urban areas, but rather how best to do it. This proposed amendment takes into account the fact that these needs can be served by means other than Interstate links and permits cities and States jointly to develop suitable alternatives. It is a laudable move toward flexibility.

In reviewing this proposal, therefore, we have also concluded that it should be modified in several respects. First, we do not believe that as a general rule, if an Interstate segment is dropped, a new Interstate segment should be designated. If a State and locality wishes to delete a controversial Interstate segment from the System, and DOT agrees that this link is not essential to the national system, we propose that the State be given the option to use these funds on any other Federal-aid system (including the urban flexible fund) at the prevailing matching ratio.

The Interstate System is funded on a 90/10 basis because of its overwhelming national significance. When segments are withdrawn from

that system and funds are made available for alternative projects, we believe that it is quite appropriate to change the Federal share to 70 percent, as is the case for all non-Interstate projects.

Because many urban areas that also have urgent needs for additional transportation facilities do not have controversial Interstate links to trade off, there is a question of equity for all urban areas. We still have under review the question whether there should be an adjustment in the amount of funds for substitute projects when an Interstate segment is dropped. We will address this issue in our draft bill.

Next I would like to state our position on the alternative Federal-aid highway procedures contained in S. 502. These procedures represent a drastic departure from those currently in use. While I would agree that the State highway departments have reached a degree of maturity which eliminates the need for FHWA review of the detailed technical engineering and construction aspects of a highway project, we nevertheless strongly believe we must retain adequate program controls. Through the use of a biennial master agreement, the procedures in S. 502 would strip the Secretary of required and necessary adequate controls over the fiscal management of the program and the setting of priorities.

We favor a more moderate approach, such as the one applicable to the Secondary Road Program. That procedure has already been tested and found to be effective. By extending the Secondary Road Program procedures to all Federal-aid systems, we could eliminate unnecessary

engineering and construction supervision and still retain the cooperative Federal-State relationship that has existed over the past 50 years. These procedures retain many of the features in the present law which have made the Federal-Aid Highway Program so successful. They would allow the Department to disapprove individual projects that fail to meet Federal requirements without disrupting the whole program and would retain overall fiscal direction. Under the proposal in S. 502, it would appear that we would have to declare a State's entire alternative procedure a breach of contract and withdraw our approval in order to obtain compliance on a single project.

Now I would like to outline for you briefly our views on the basic structure of the program. First, I will speak to the major segments of the program and then add a word about the problem of the proliferation of new categorical grant-in-aid programs. The legislation we will propose would continue the existing Interstate Highway Program as a separate category to insure early completion of this important national commitment. In the urban area, we are proposing the consolidation of all existing programs into the urban system program. As I mentioned before, this system could encompass urban highway as well as mass transportation projects at the discretion of State and local government. We also propose to continue separately operations under the Urban Mass Transportation Capital Program for major projects. Finally, our bill will continue a strong rural highway program.

Specifically, our bill will request authorizations for three years in the following amounts: For the Interstate System, $3.25 billion for 1974; $3.15 billion for 1975; and $3.0 billion for 1976. For the rural highway program, $1.0 billion for 1974; $1.0 billion for 1975; and $1.0 billion for 1976. And finally for the urban system, $1.1 billion in 1974; $1.2 billion in 1975; and $1.35 billion in 1976.

We are departing from past practice and requesting three-year authorizations for these programs. With the failure to enact a bill last year, to remain on a biennial cycle could require Congress to enact a bill this year and then again next year. We are confident that Congress will adopt meaningful reforms in the program this year and this will make it unnecessary to take up the renewal of the program twice in the 93d Congress.

In the development of this year's highway and public transportation legislation, we strongly urge that Congress resist the continued proliferation of new categorical grant-in-aid programs. The creation of these new programs is inconsistent with our basic objective of providing flexibility in the use of monies distributed to the States. We oppose the establishment of new programs such as the toll road reimbursement program and the new 10,000-mile network to be built to Interstate standards (the "priority-primary system"). We are glad to see that S. 502 does not include this latter program, which would commit the States to the construction of a second-generation Interstate System at the cost of $10 billion. Now that the Interstate System is nearing completion, we

should avoid the creation of such programs and should give the States more flexibility to determine and meet their future transportation needs.

In closing I would like to briefly discuss two environmental issues presented in S. 502. First, in connection with the Highway Beautification Program, we note with approval that section 147 of S. 502 eliminates the 660-foot restriction applicable to the control of billboards and does not contain any provision which would place a moratorium on our billboard removal program. However, the bill does add the phrase "erected with the purpose of their message being read from the main traveled way" as a new test for determining which signs are covered by the Act. We believe that this highly subjective standard could cause a serious enforcement problem and recommend its deletion. With the elimination of that standard, we support section 147.

Second, in response to a question at my confirmation hearing about the exemption of particular Federal-aid projects from the environmental statutes, I replied that, as a general matter, I do not favor granting exceptions to an enforcement program. Of course, I recognize that local constituencies in certain instances may press for a legislative exemption from Federal environmental laws for a particular project. However, it is my belief that granting exemptions for single projects increases pressure to exempt a large number of other sensitive projects, and could seriously compromise the environmental laws which Congress has directed me and others to enforce.

Mr. Chairman, that completes my prepared statement. Now I will do what I can to answer your Committee's questions.