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STATEMENT OF CLAUDE S. BRINEGAR, SECRETARY OF TRANSPORTATION, BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS REGARDING H.R. 5138, THE ADMINISTRATION'S PROPOSED FEDERAL-AID HIGHWAY AND PUBLIC TRANSPORTATION ACT, MONDAY, MARCH 19, 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 pending highway legislation. Since this is my first appearance before this Committee, I'd like to take this occasion to say that I'm looking forward to continuing the close and productive past relationships that our Department and this Committee have enjoyed.

As you know, although Congress worked hard on comprehensive highway legislation last year, the bill failed to pass at the last moment. As a result, many important changes in the existing Federal-aid program advocated by both the Administration and a majority in the Senate were not passed. In addition to preventing us from moving ahead on these needed changes, the absence of a 1972 highway bill has disrupted highway construction in several states and soon will disrupt it in others. We have done what we can administratively to alleviate this problem by providing additional flexibility in the use of available funds, but at this point there is nothing more the Department can do short of legislation.

Consequently, the Administration supports Senate Concurrent Resolution 6, introduced by Senator Baker on behalf of himself and several other members of the Senate Committee and passed by the Senate on March 6. Although the 1970 Highway Act contains authorizations for the Interstate System through

fiscal year 1976, and the appropriate apportionment has been determined by a revised cost allocation study, the Department does not have the authority to apportion these funds to the States. This Resolution would permit the immediate apportionment to the States of \$1 billion of the Interstate funds already authorized for fiscal year 1974.

This Resolution is not, however, a substitute for a comprehensive bill. Its purpose is simply that of alleviating the situation in those States where Federal-aid highway obligational authority is 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'd like to discuss the key provisions of the Administration bill, H.R. 5138.

Certainly one of the most important provisions is the proposal to permit a portion of the Highway Trust Fund--about 20 percent of the annual total of authorizations--to be used for such urban transportation projects as highways, bus lanes, parking lots, the purchase of buses, and possibly, depending upon local needs and preferences, capital investments in rail transit. Such flexible uses of the urban system fund are, in our opinion, a needed and rational response to the complex transportation problems that our cities face. With such flexibility our cities will have a chance to work toward the best solutions to their transportation problems; without it we run the risk of forcing them, simply because of the inflexibility of the allocation process, to make investments that may be "second-best." Rarely

can a nation afford the luxury of "second-best" investments, but in today's inflationary times we especially cannot tolerate them.

Quite a hue and cry has been raised in opposition to the Administration's flexible urban fund proposal. Charges of "breaking a sacred trust", and of "destroying the highway program", have been heard regularly in recent weeks. Such rhetoric is unfortunate, for the charges are simply not true.

I doubt if anyone who has tried to move about in our major cities at rush hours or who has examined the data on urban air pollution can any longer doubt the need for a stepped-up attack on the urban transportation problem. Modern, federally supported highways have made our cities accessible, but too many cars and trucks trying to use these highways have, as a practical matter, made these cities almost inaccessible just at the times most of us most need the accessibility. And, as the highways and vehicles have increased in number in the past decade, public transit systems--reflecting declining ridership, increasing costs, and often institutional inflexibility--have themselves become less and less capable of offering attractive alternatives. Clearly the problems of highways and urban transportation systems are related in many ways. Improvements in one will bring benefits to the other. We can no longer deal with highways and mass transit problems as if they were distinct.

The Administration is approaching the urban transportation problem from three directions:

- (1) The annual grant program administered by the Urban Mass Transportation Administration. The proposed fiscal year

1974 level is \$1 billion, and authority is being sought to continue at about this level for at least three additional fiscal years. These monies, which come from the general fund, are needed to assist the large transit projects that need major capital funds quickly in order to move forward.

- (2) The general revenue sharing program, which returns from the general fund about \$6 billion annually which local authorities can allocate to pressing needs--including any kinds of transportation uses--that they are best situated and equipped to identify.
- (3) That portion of the monies collected in the Highway Trust Fund which would be available to urban areas to permit increased flexibility in dealing with urban transportation alternatives. These funds are not intended as a substitute for the UMTA capital program, which is especially needed to fund large-scale projects. Rather, they are aimed at the myriad of capital needs that every urban area has and can best develop its own program to solve. No doubt some funds will go to meet urban highway needs, some will go for bus lines and parking lots, some will go to purchase buses, and some to make capital improvements in rail systems. The objective is to permit State and local officials to select the proper local mix--the local "trade-offs"--that best fit the local needs.

Let me now turn to the question: Does this flexible urban fund proposal represent a "breaking of the trust," as charged? To prepare my answer I have looked back into the history of the fund--how it was started, what it has been used for, and where the dollars come from. This analysis has shown quite clearly that what we are proposing, first, is a logical and moderate extension of the variety of uses that the highway taxes have been put to since they were assembled under a single umbrella in 1956 and, secondly, it maintains the equities of the relationship between who pays the taxes and who receives the benefits.

The Highway Trust Fund is not derived from a single tax source; it is made up of a number of excise taxes and one use tax. It is important to remember that, when it was created in 1956 as a separate fund, the fund was not formed by imposing all new taxes, but rather came largely from assigning to it certain tax receipts that previously were going to the general fund. In 1944 Congress authorized the designation of a 40,000 mile interstate highway system. In 1956, when construction was ordered, the job was considered so big that it was felt desirable to earmark certain taxes so that the system would be adequately financed.

While some of the tax rates were increased in 1956 and later in 1959 and 1961, 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 computed today 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, or some \$3 billion. Thus, on grounds of historic equity it is fair to conclude 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 all trust fund monies are, in reality, general funds, I do feel that a fair portion of them 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.

Prior to 1956 all Federal financial assistance for highways came from the general fund. In 1956, after considerable congressional debate, it was decided to bring all such highways--what then became known as the Federal-aid highway system--under another financing method. The record shows that there was even some debate at the time about whether to dedicate all of the excise taxes to the new fund or to retain some in the general fund. Certainly nothing was said to suggest a sacred trust. The programs came first and the financing second. Stating it simply, the "trust fund" was a bringing together of certain taxes--an earmarking--in order to accomplish some agreed-upon purposes. And these purposes are being accomplished.

Year-by-year since 1956 the "agreed-upon purposes" have been broadened as Congress and the Executive Branch have properly recognized the Nation's changing transportation needs and have moved, in a flexible way, to deal with these changes. These changes, which haven't been called a violation of a sacred trust, or at least not very loudly, offer an interesting pattern. I think it's worthwhile to look at a few of them.

--In 1962 trust fund payments were permitted to assist in housing relocation arising from Federal-aid highway construction.

--In the 1968 Act three changes were made:

1. The fund was broadened to embrace what is called the TOPICS program--"traffic operations improvements to increase capacity and safety" in the cities. This program resulted in a redefinition of Federal-aid highways to include urban area street grids.
2. The uses of funds for relocation and replacement housing were further broadened.
3. States were permitted to acquire land adjacent to highway rights-of-way for the construction of parking lots.

--The 1970 Act expanded the uses of the fund into several new areas:

1. Funds were permitted to be used in urban areas for bus lanes, passenger loading facilities, bus shelters, and fringe and corridor parking to serve any type of public mass transportation.
2. Housing relocation assistance was broadened materially, with funds now authorized to construct replacement housing.
3. Highway safety program costs, which had previously come entirely from the general fund, were brought largely under the trust fund.

4. Financing of forest highways and public lands highways that are on a Federal-aid system were moved from the general fund to the trust fund.
5. The training of State and local highway department employees was financed from the trust fund.
6. A federal-aid urban system--a grid embracing urban area main traffic arteries--was designated and brought under the trust fund.
7. Ferry boats were recognized as reasonable substitutes for Federal-aid highways in some cases and were permitted to be financed from the trust fund.

Thus, it can be seen that the year-by-year evolution of the "agreed-upon purposes" of the uses of the trust fund has enabled us to deal flexibly and equitably with the Nation's evolving transportation needs. The fund has not been "violated." Rather, it has been slowly modernized to keep up with the times.

And this is what we are seeking this year--some more keeping up with the times.

Please let me assure you that our proposal to increase flexibility does not in any way affect the allocation of Federal funds to any State for interstate or rural highways. Neither does it affect the priority that any State assigns to a project. It is just not true--and is highly misleading--to assert that additional flexibility in urban areas will "wreck the highway program."

Before leaving the subject of the trust fund and its uses, I'd like to take a moment to discuss an alternate proposal that is frequently raised--the idea of a separate trust fund for mass transit.

We oppose this idea for the same reason that we oppose continued inflexibility in the urban systems fund. Separate, earmarked funds have a way of building inflexibility into decision-making that cannot help but produce some "second-best" decisions. If an allocated fund is available only for mass transit, you can be assured that each city that gets a piece of it will find a justification to use it--the "use it or lose it" syndrome--even though the right decision for some cities might be another highway or an exclusive bus lane. Just as inflexible highway funds may lead to unneeded highways, inflexible mass transit funds would surely lead to unneeded mass transit investments. Old-time "sugar-bowl" finance, where one bowl held the week's food money, one held the rent money, and so on, belongs in the past--it is not the solution to today's complex urban transportation problems. We don't want to create yet another sugar bowl, as we would through a new trust fund, but only permit a more reasonable use of the funds in the bowl that is already here.

Turning now to other aspects of our bill, we have incorporated a "pass-through" provision that will enable government agencies in the larger urban areas to play a significant role in developing solutions to their local transportation problems. This provision would earmark urban system funds for each urbanized area larger than 400,000. It would make those funds directly available to the appropriate metropolitan agency where one exists or is created by the State or local government units. In the absence of

such an agency, the funds would be held by the State for use in the designated urbanized areas.

This recommendation is a change from our proposal of last year to earmark urban system funds for each urbanized area with populations of 50,000 or more. We have concluded that earmarking funds is desirable only in the case of the larger areas. Some 57 metropolitan areas have populations in excess of 400,000.

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 urban areas smaller than 400,000, we think that the State should continue to play the primary role in developing transportation programs. In the larger areas we also favor the State playing a role in approving the make-up and boundaries of the recipient agencies. The States will continue to participate fully in the planning and technical review of all Federal-aid projects.

Another important provision has to do with 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 passed by the Senate. That provision would have authorized unlimited additional Interstate mileage in order to facilitate transfers and substitutions and would have established the cost of segments withdrawn from the system as the controlling factor in making substitutions. A State would have been able to substitute needed 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 that provision have applied if the link to be withdrawn was essential to the continuity of the basic Interstate System.

The most important element of that amendment was that it would have permitted funds originally authorized for the Interstate System to be expended for other important highway and public transportation projects. That recognized 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 the particular urban area, but rather how best to obtain it. That proposed amendment took into account the fact that these needs can be served by means other than Interstate links, and it would have permitted cities and States jointly to develop suitable alternatives. It was a laudable move toward flexibility.

In reviewing that proposal, we have concluded that it, too, should be modified in several respects. First, as a general rule we do not believe that, 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.

Secondly, we believe these funds should be used at the prevailing matching ratio. The Interstate System is funded on a 90/10 basis because of its national significance. When segments are withdrawn from that system and the funds made available for alternative projects, we believe that it is

appropriate to change the Federal share to 70 percent, as will be the case for all non-Interstate projects as of July 1, 1973. With these changes we support this important amendment.

Now I would like to outline for you briefly our views on the basic structure of the program. I will first 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. Our legislation 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. We also propose to continue separately the operations under the Urban Mass Transportation Capital Program for major projects, financed from the general fund. Finally, our bill will continue a strong rural highway program.

Specifically, our highway bill requests 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 urban system, \$1.1 billion in 1974; \$1.2 billion in 1975; and \$1.35 billion in 1976. For the rural highway program, \$1.0 billion for 1974; \$1.0 billion for 1975; and \$1.0 billion for 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 would 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.

With respect to categorical grants, the highway bills passed by the House and Senate last year, as well as the 1973 Highway Bill which the Senate passed last week, contain a number of provisions which run contrary to the Administration's proposal to consolidate and extend the existing Federal-aid highway program. The Administration strongly opposes proliferation of new categorical grant programs with respect to all domestic programs, including the highway program.

The bill we have proposed provides a simplified program of assistance which, in our opinion, will ensure appropriate attention to the rural and urban ground transportation needs of the Nation. It does this without imposing specific, narrow objectives to which local governments must adhere. Within the Interstate, urban, and rural highway programs outlined in our bill, there is adequate authority for States and localities to undertake those highway and public mass transportation projects which best meet their needs.

We are committed to timely completion of the Interstate System and to maintaining the existing level of Federal support for State and local highway and transit activities. However, we would object to any major additional commitment of Federal funds to narrowly focused new activities. Therefore, we oppose the 'priority primary' routes proposal which was adopted by the House last year. As we approach the 1980's and the completion of the Interstate System, we must focus instead on trying to provide greater flexibility in our transportation programs, not less.

The Department shares the concern of the Congress and the States that some procedures involved in the approval of highway projects have become

unduly burdensome. To combat this problem, we have proposed a certification acceptance process which allows the Secretary to shift to the States responsibility for compliance with many procedures and requirements of Title 23. This process would not be used for the Interstate System.

We would also continue to require Federal review for compliance with environmental, relocation, and civil rights requirements. We consider these protections particularly important. We therefore oppose legislation which would provide exemptions from these general Federal requirements for particular highway projects. We will, of course, work with States and localities to develop workable solutions to difficult transportation problems, but projects which cannot comply with the basic standards should not be undertaken.

Before I close, I would like to comment briefly on two particular features of the Senate-passed bill to which we object most strenuously. The first attempts to limit Executive Branch authority to control the rate of expenditure and obligation under the highway program. We believe that such authority is essential to the control of inflation and to the promotion of the economic vitality of the Nation.

The second provision to which we object creates a new Federal program to pay operating subsidies to any mass transportation system which maintains service in an urban area. The provision authorizes the Department to provide \$400 million in assistance for each of the fiscal years 1974 and 1975. We believe that administering such a subsidies program is the wrong thing for the Federal Government to do, and that this problem can be dealt with most effectively through local action. Neither the causes nor the solutions to the widely varying local transit operating problems are simple enough to be

addressed by the proposed subsidy program. Pressures to work out proper local fares, routes, manpower levels, wage rates, traffic regulations, and land uses must be dealt with at the local level, where the real knowledge and responsibility exists. The proper Federal role is that of providing funds for mass transit capital grants, as I have described above, and providing general revenue sharing funds for local uses in accordance with locally determined priorities.

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

