

STATEMENT OF

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BEFORE THE
HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION

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I am here today to discuss with you the Federal Highway Administration (FHWA)'s progress in carrying out the provisions of the Surface Transportation Assistance Act of 1978 (STAA/1978 Act). In his letter of March 6, Chairman Johnson asked that we present information to you concerning the schedule and means for effectuating the provisions of the Act, the budget requests for fiscal years 1979 and 1980, and the possible need for technical amendments. Since we are submitting all of this material to you in written form, I would like briefly to discuss some of the highlights with you now. Then, our further discussion can be dictated by your interests and questions.

Last fall when the Surface Transportation Assistance Act was passed and signed into law, we all felt that it represented a significant milestone in Federal assistance for the Nation's transportation needs. It provides a renewed impetus for accomplishing such significant tasks as completing and

rehabilitating the Interstate System, improving the Nation's deteriorating bridges, initiating the new rural and small urban program, consolidating the safety construction programs, improving enforcement of the Nation's vehicle weight and speed limit laws, and developing energy saving programs.

In total the Act contains 117 sections. Of these the FHWA has the primary responsibility for implementing 77. By our count, 29 of the sections, including 9 self-implementing ones, have been fully implemented. Out of the 48 remaining sections, 14 have provisions that are fully operational. The only remaining task is to formalize the changes during our normal directives review process. Another 12 sections require reports to Congress that are due on varying dates over the next three years.

As you can see, in a numerical sense we have been quite successful in quickly implementing the Act. With regard to the remaining 22 sections of the Act, we do not foresee any problems that will prevent timely implementation except in a few cases.

With regard to the distribution of funds authorized by the Act we are particularly proud of the way in which we were able to promptly distribute funds to the States. On November 8, 1978, two days after the Act was signed, we apportioned the Interstate, primary, secondary, urban, and bridge funds. Within a month the other principal apportionments, including those involving new formulas, were made.

In addition we have acted promptly in distributing the major discretionary funds authorized by the Act. As of last Friday, March 9, 1979, \$417 million of discretionary Interstate funds had been allocated to the States. All of the FY 1979 discretionary priority primary funds were allocated in January.

IMPLEMENTATION

1. The Interstate System

The STAA had as one of its major goals the accelerated completion of the Interstate System. We believe that those provisions more than any other recent enactments will expedite the System's completion which is so necessary in this period when costs have risen so swiftly. In order to emphasize the need to expedite completion of the Interstate System, we are going to issue a directive to our Division Offices in each State. This notice will advise the Divisions of ways to emphasize this important area in their contacts with the States. Also, it advises them that the Washington Headquarters' Office plans to take a more active role in monitoring this program, and specifically requests information necessary for carrying out that function.

Apportionments for the basic Interstate and 3-R program were made quickly. Also, we have already allocated approximately \$417 million of the total Interstate Discretionary Fund of \$1.409 billion. These allocations were made to Alabama, Florida,

Georgia, Indiana, Missouri, Montana, Nevada, and West Virginia.

Under section 104(b)(1) of the 1978 Act, where a State's minimum one-half percent Interstate apportionment exceeds its needs and where that sum also exceeds the cost of their Interstate 3-R work, the State may use the excess amounts for Primary, Secondary or Urban System projects or for hazard elimination projects. Thus far, one State has taken advantage of this provision. Three States took advantage of a similar provision in the prior Act.

Regulations on Interstate Substitutions under 23 U.S.C. 103(e)(4) will be revised to reflect the 1978 Act amendments. Two withdrawal proposal requests have been received since the enactment of the amendments and are now in the process of approval.

Section 116(c) of the 1978 Act directed the Secretary to issue guidelines to insure proper maintenance of the Interstate System. A task force is currently drafting these standards which are to be issued by October of this year.

2. Bridges

Another key element of the 1978 Act is the expanded Bridge Program. I am pleased to report that the implementation of section 124 of this Act is moving very quickly. On November 8, 1978, the States were notified of the availability of funds for this program and this money is presently in use by the States.

The administration of the apportioned funds is presently envisioned chiefly as a continuation of the ongoing Special Bridge Replacement Program with a minimum of revised regulations to accommodate the expanded program. We intend to keep the regulations necessary to implement this section to a bare minimum. We have established an implementation plan for the use of discretionary funds. A number of States with deficient and functionally obsolete bridges have requested, and received approval for, necessary funding.

To date, a total of \$29,548,000 has been allocated for twelve bridges. Emphasis is also being placed on the inventory and inspection of off-system bridges with periodic issuance of advisory and training material. We estimate that there are approximately 300,000 off-system bridges. Reports have been received on approximately 100,000 of that estimated total.

I would also like to take this opportunity to report to you that the implementation of section 147 of the 1978 Act, Acceleration of Bridge Projects, is proceeding well. In fulfillment of the expressed intent and expectation of the conferees, the States of Kentucky, West Virginia, and Ohio, have been notified that the U.S. Grant Bridge between Ohio and Kentucky, and the Ohio River Bridge at Huntington between Ohio and West Virginia have been selected to demonstrate the feasibility of reducing the time required to replace unsafe bridges. The FHWA Washington Headquarters Office requested and received financing schedules for these projects. Advisory memoranda have been issued and FHWA expeditors have been selected for each project. Funds have been allocated for each project to the full extent requested or available.

3. Safety

Title II of the STAA is the "Highway Safety Act of 1978." The issue of highway safety has been, and is, of the utmost concern to the Department of Transportation. All Title II authorizations (Sec. 202) required to be distributed by statutory formula have been apportioned.

The Department strongly supports the 55 m.p.h. speed limit and we are greatly concerned about recent attempts by some states to repeal it. We have warned several states of the consequences of repeal. The 55 limit has resulted in energy savings and safety benefits. Ms. Claybrook will discuss at greater length section 205 of the 1978 Act, concerning the national maximum speed limit. However, I will mention that on December 12, 1978, emergency regulations implementing the speed monitoring requirements of this section for the period ending September 30, 1979, were published in the Federal Register. Work is currently progressing to develop a significant regulation which will provide for compliance with 23 U.S.C. 141 (Enforcement of Requirements) for the period beginning October 1, 1979.

Section 207 of the Act, Highway Safety Programs, is jointly administered by FHWA and NHTSA. We are currently working closely with NHTSA in drafting a joint order to fully implement this section.

Title I of the 1978 Act also contains safety programs and these are being successfully implemented by FHWA. For section 127, which extends the Pavement Marking Demonstration Program through fiscal year 1981, an allocation method for FY 1979 funds has been determined and the funds have been

allocated. (FHWA Notice N 4510.83 issued on December 28, 1978). A further notice is being prepared to prescribe an allocation method for fiscal years 1980 and 1981 funds.

The Hazard Elimination Program, section 168 (subsections (a), (b), and (c)), has been implemented through the publication of final regulations covering the Highway Safety Improvement Program in 23 CFR Part 924. Further, the provisions of section 168(d) which amend 23 U.S.C. 219 (Safer Off-System Roads), have been implemented through the publication of the final regulations concerning the Safer Off-System Roads Program in 23 CFR Part 922.

4. Vehicle Size and Weight

A major item of concern to both the Congress and the Department of Transportation is the issue of vehicle size and weight. As you are aware, our concerns center around the safety implications of vehicles of great size and weight as well as on the deleterious impact such vehicles have on our roads. In order to implement section 123 of the 1978 Act, a Notice of Proposed Rulemaking will be published in the Federal Register today. The regulations will require each State to develop a comprehensive process for vehicle weight enforcement. The DOT will exercise oversight by reviewing and approving State developed enforcement plans and by monitoring their operation throughout the year.

Section 123 of the Act also requires that the Department prepare an inventory of the systems that the States have established for granting special permits, and for assessing penalties for violations of the vehicle weight laws. The initial inventory is required to be completed by May 6, 1979.

In our analysis of this section, we have discovered the need for a technical amendment. I will discuss that need later with our thoughts on a possible resolution thereof to be submitted for your consideration.

Section 211 of the 1978 Act directs the Secretary of Transportation to conduct a study of oversized vehicles. A task force has been assigned to develop the report which must be submitted to the Congress and they have been meeting regularly. It is anticipated that this report will be submitted to Congress by May 6, 1979. The study of vehicle weight on the Interstate System mandated by section 161 of the Act is also underway.

5. Rural and Small Urban Public Transportation

The 1978 Act for the first time instituted a public transportation program for small urban and rural areas.

Section 313 of the 1978 Act amends the UMT Act of 1964 by providing Federal assistance for public transportation in nonurbanized areas (50,000 population or less).

Our implementation of this section has been initiated by publishing an emergency regulation on December 13. A letter has been sent to the Governors informing them of the program and requesting designation of a State agency to administer it. Coordination plans with other appropriate State agencies are being requested. The applicability of Section 13(c) of the UMT Act, which conditions Section 3 assistance upon arrangements protecting the interests of employees affected by such assistance, and which may be waived by the Secretary of Labor, is still being negotiated with the Department of Labor.

We hope to publish final regulations implementing this program this summer. We are continuing to work closely with the Department of Health, Education, and Welfare, and the Department of Labor to more efficiently and effectively deliver this program to localities.

In order to effectively assist the States in carrying out the small urban and rural public transportation program, FHWA and UMTA have initiated the development of a training program for Federal and State personnel who will be responsible for the program at the local levels. The training is intended to assist program managers in communicating existing technology,

policies, and available assistance to interested parties. An additional training effort is being planned for potential system developers. This effort will cover the various aspects of planning, designing funding, and operating a small system.

FHWA's 1980 BUDGET

You have requested that the Department's testimony cover budget requests for 1979 and 1980. Our 1980 Budget Estimates were explained to the House Appropriations Subcommittee on Transportation on February 26, and I will submit that statement for your information.

I believe, Mr. Chairman, that the statement and the answers we are submitting pursuant to questions 3-7 of your March 6 letter give a clear picture of FHWA's 1979 and 1980 budget.

This Committee is well aware both of the attempts by the Administration and this Committee to arrive at acceptable authorization levels during the conference on the 1978 Act and of the Administration's continuing budget constraints.

Our budget requests have been formulated with the problems of inflation very much in mind. The Administration has imposed prudent spending targets and FHWA's 1980 budget requests were made within this context of fiscal restraint. Nonetheless, I must point out that FHWA's 1980 budget is

the largest ever for this agency. It has necessarily been the product of some very hard choices with highest priority given to programs likely to produce broad national benefits or greater safety for the motoring public. Lower priority has gone to those programs of limited scope or special purpose that benefit a small portion of the Nation.

There are 12 active appropriation accounts in FHWA's Budget, a reduction of 11 from the 23 accounts in 1979, reflecting completion of some programs or the omission of lower priority programs.

For FY 1980, we anticipate a total of \$8.6 billion in agency-wide obligations; an increase of a half-billion dollars over the levels anticipated in this fiscal year. If these obligation levels are indeed achieved, the 1980 Budget represents the largest highway program, by far, ever proposed. It will exceed the record year of 1975 when \$7.9 billion was obligated, by \$700 million.

The key elements of the 1980 Budget are:

1. For Federal-aid highways - \$8.4 billion
2. For Motor Carrier Safety - \$13.7 million
3. For general operating expenses - \$187.5 million

The 1980 Budget contains an obligational limitation for Federal-aid highways of \$8.5 billion with the Emergency Relief Program being exempt. This is the same amount provided in the

1978 Act for FY 1979. We do not, however, believe the States will reach these limits. We predict Federal-aid highway obligations of \$7.6 billion in FY 1979 and \$8.4 billion in 1980. I should emphasize that these are estimates which will not constrain the States. The only constraints are their available apportionments and the general obligation limitation provision.

This \$8.4 billion budget estimate is an increase of \$800 million over FY 1979, and almost \$1.3 billion above the level actually obligated in fiscal year 1978. We suspect that much of the increase will occur in the Bridge Replacement and Rehabilitation Program. Increases are also expected in 1979 and 1980 because of reallocation of Interstate funds freed up due to the shortened availability period under the 1978 Act.

Obligations for "Federal-aid Highways" reached \$7.1 billion in 1978, making it the second highest year in program history. One major factor responsible for this was the completion of 796 miles of the Interstate System, including 337 miles to close intercity gaps.

Obligations in 1978 for Interstate 3-R activities were \$167 million, up from 1977, due to increased emphasis.

The Bridge Replacement Program continued to attract nationwide attention with obligations in 1978 of \$171 million, bringing total obligations for special bridge replacement to

almost \$800 million since program inception in 1970. The total number of bridges being replaced increased from 1,456 to 1,750. With the program scope and the funding expanded to include rehabilitation, and with the increased funding provided in the 1978 Act for this program, progress should be sustained in 1979 and again in 1980.

The Urban System Program is now well underway. In 1978 for the first time obligations of \$850 million exceeded the new apportionment of \$784 million for fiscal year 1979.

Our Highway Beautification program is at a crossroads. Funding in recent years has not been of sufficient magnitude to make a real contribution in achieving its goals. We propose to conduct a reevaluation of the program in its entirety to assess its costs and benefits. Our assessment will include public hearings. We will keep the Committee informed of this review.

I believe the highway program was quite successful in 1978 in obligating funds. The Department is confident that such program goals of the 1978 Act, as acceleration of the Interstate System, an accelerated bridge program, and cost reductions, can successfully be met within the budget we submitted. We intend to work closely with the Committee in reaching the goals of the 1978 Act while simultaneously carrying out the program within our budget.

Technical Amendments

Early this year the subcommittee staff requested a list of technical amendments to the Surface Transportation Assistance Act of 1978. At that time interest was expressed in amendments necessary for proper implementation of the Act, as well as amendments needed to clarify certain sections or to mitigate the unintended or untoward effects of others.

In his letter of March 6, 1979 Chairman Johnson also asked that we discuss the need for amendments. Accordingly we have included our analysis and the proposed technical amendments in the material we have submitted to you. This material contains 16 proposed amendments, 13 in sections delegated to the Federal Highway Administration (FHWA).

I would like to briefly discuss with you four of the most important amendments, then I can devote more time later to answering your questions on any of the amendments relating to highway programs. The other proposed amendments relate to the Urban Mass Transportation Administration (UMTA) programs and I will leave discussion of them to my colleague Mr. Page.

Section 113 - Utilities on Rights of Way

Section 113 of the Surface Transportation Assistance Act (STAA) amends 23 U.S.C. 109 by adding a new subsection relating to the location of utility facilities on Federal-aid

highway rights-of-way. The new subsection provides that the Secretary shall "first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized . . . which would adversely affect any aspect of safety." (emphasis added).

This language is making it extremely difficult to implement this Section of the law. I note that since the statutory language is quite clear, the amendment we are proposing is more accurately referred to as substantive than technical. We feel, however, that the need for amendment of this section is so crucial that we should bring it to your attention at this time.

The language I cited earlier, if taken literally, seems to prohibit use of a Federal-aid highway right-of-way to accommodate almost any utility facility installed above the ground since it is difficult to envision that such a facility would not detract in some way from some aspect of safety. Also, this language could conceivably preclude the accommodation of some underground utility facilities on the highway right-of-way since such use could adversely affect the safety of both highway and utility maintenance personnel.

This possible reading of the statutory language has led one FHWA regional administrator to advise his Division Offices to

consider withholding approval of any location of utilities on rights-of-way on the Federal-aid systems until the statute is clarified or amended. In turn the States in that region (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin) as well as one of the affected utility companies have called the FHWA with inquiries and complaints.

From our reading of the House report it appears that Congress intended that priority attention be given to safety in determining whether or not to approve utilities on rights-of-way, not that use of rights-of-way for such purposes be prohibited.

Based on this interpretation we are proposing an amendment which would delete the language that prevents the Secretary from approving any utility accommodation plan "which would adversely affect any aspect of safety." The amendatory language would prohibit the Secretary's approval of such plans if they would "significantly impair highway and traffic safety."

Section 115 - Acceleration of Construction of Interstate System

Section 115 of the STAA has had unintended effects on the Interstate System despite the clarity of its language. To remedy this situation we are proposing an amendment more accurately termed substantive than technical.

Section 115 of the STAA amended 23 U.S.C. 118(b) to limit the period of availability of apportioned Interstate construction funds to a total of two years. The section does not specify, however, the period of availability of funds designated for resurfacing, restoring, and rehabilitating the Interstate system, commonly called Interstate 3-R funds. The section says only that 3-R funds must lapse at the end of their period of availability. The FHWA in interpreting this section concluded that all Interstate funds, both 3-R and construction funds, should have the same period of availability, that is two years. Accordingly, on December 22, 1978, the FHWA withdrew all fiscal 1978 Interstate 3-R funds which remained unexpended at the end of fiscal year 1978 (FHWA Notice N4510.81). Five States, Montana, New Jersey, Rhode Island, West Virginia, and Wisconsin, plus the District of Columbia, were affected.

Apparently the conferees did not intend for the 3-R funds to lapse. Rather they intended that they be available for four years.

To resolve these problems we have submitted to you a proposed amendment which would restore the lapsed funds and explicitly state that Interstate 3-R funds are available to States for obligation for a total of four years.

The restored funds which were authorized for fiscal year 1978 would also be available for a total of four years and would lapse at the end of fiscal 1980.

Section 123 - Enforcement of Vehicle Weight Limitations

Section 123 of the STAA which in part amends 23 U.S.C. 141 has had what appears to be an unintended impact on the enforcement of vehicle size and weight limitations. This section authorizes the Secretary to reduce the highway apportionments of States that do not certify before "January 1 of each year" that they are enforcing maximum vehicle size and weight laws on Federal-aid highways. The Secretary may also increase a State's apportionment by the reduced amount if it comes into compliance within one year. However, subsection (e) of section 123 operates to provide a two year grace period during which this enforcement procedure will not be available to the Secretary. We question whether the Congress actually intended this result since the basic change made by section 123 was to the method of enforcement available to the Secretary and since the legislative history does not indicate that Congress intended to provide a two year grace period.

In order to resolve this problem we have submitted to you a proposed amendment which would repeal subsection (e).

Section 401 - Buy America

The last proposed technical amendment which I will address at this time concerns section 401 of the STAA. This section establishes "Buy America" requirements for certain

programs administered by the Department of Transportation. Some words have evidently been omitted from the first sentence of the section so that it is ungrammatical and its precise meaning is unclear. As it now stands it could be read as being applicable to direct Federal procurements as well as federally-assisted programs. The legislative record is very clear and indicates that since direct Federal procurements are already subject to the Buy America Act of 1933 this section was intended to apply only to federally-assisted programs. The proposed amendment we have submitted to you would add language to Section 401 making it applicable to "federally-assisted contracts exceeding \$500,000."

This concludes my statement which I hope has addressed a number of your concerns. I will be pleased to answer any questions you may have. Thank you for the opportunity to work with you on this important implementation effort.
