

STATEMENT OF ACTING ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, CHARLES SWINBURN, BEFORE THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS, CONCERNING S. 1108, A BILL TO AMEND THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT. NOVEMBER 6, 1979.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to present the views of the Department of Transportation on S. 1108, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. As a matter of Department policy, we continually seek to minimize the displacement and disruption of communities in our programs. Nonetheless, DOT programs -- principally the Federal-Aid Highway Program -- are responsible for a large number of displacements of families and businesses each year. In Fiscal Year 1978 displacement under our programs amounted to some 5,400 households and some 2,660 businesses, farms and non-profit organizations.

The Uniform Relocation Act provides important policy and operating guidance and has had a beneficial effect on our programs. As it now stands, the Uniform Act reflects many policy and legal initiatives which were developed by the Federal Highway Administration of our Department in its relocation assistance program during the 1960's. Policies and procedures established by the Act assure fair and just compensation to owners of property taken for public purposes and provide equal or improved housing for displaced households.

Mr. Chairman, we commend you and the Committee for proposing amendments to the Act and for holding this series of hearings to

review the implementation of the Act. Based on several years' operating experience under the present law, we believe that some amendments are appropriate.

You have asked that I comment specifically on three proposals contained in S. 1108: first, to establish a central authority to create a set of uniform regulations for the agencies to implement; second, to clarify the intent of Congress that benefits under the Act are to be available to persons displaced as a result of government subsidized ventures, whether they are privately sponsored or sponsored by state and local governments; and third, to adjust payment schedules to 1979 levels.

I will also touch briefly on certain other important issues raised by S. 1108 and will submit for the record a more detailed set of comments addressing a number of provisions of the bill. Staff of the DOT will be available to work with the Committee in the further consideration and refinement of the proposal.

### 1. Central Authority to Create a Set of Uniform Regulations

Section 14 of S. 1108 would amend sections 213(a) and (b) of the Act to provide for a single set of regulations and procedures for use in implementing its provisions, and for a single agency to be designated by the President to assure uniform application and interpretation of the regulations and procedures. We do not object to this amendment, but we believe the Committee should recognize that there are problems in achieving complete uniformity. We think that Congress should study these problems carefully before changing the current law.

DOT has consistently endorsed efforts to achieve uniformity in the Federal real property acquisition and relocation programs. We have made extensive efforts, both internally and in interagency activities, to assure that the implementation of the Act is uniform, both in our own programs, and in relation to the programs of other agencies. The serious discrepancies among the programs of different agencies, which led to passage of the Uniform Act, are in fact no longer a major problem. Although a few inconsistencies remain, the approach encompassed in the present Act is preferable, as it provides needed flexibility for agencies operating vastly different programs.

Absolute uniformity does not appear to be attainable, whether or not a single set of regulations is issued. Moreover, efforts to eliminate the remaining major differences in relocation practices of various agencies have been largely successful.

2. Availability of Benefits to Persons Displaced by Privately Sponsored Actions

Section 2(d) of S. 1108 would amend the definition of a displaced person in the Uniform Act by deleting the requirement that a person move as a result of the acquisition of real property for a federal or federally-assisted program or project. It would make eligible for assistance any person who moves directly or indirectly as a result of a federal or federally-assisted program or project. This change would also extend eligibility for benefits under the Act to persons displaced as a result of federally-assisted private actions, a category of displacees not clearly covered under the existing statute.

As a matter of equity, we agree that it is desirable to expand the definition of a displaced person to include individuals forced to move by federally-assisted, privately sponsored projects. Since the vast majority of our grants are channeled through public agency sponsors, however, this amendment would have no significant impact upon the programs, and I defer to the judgment of others as to its impact.

We do feel that the proposed language in section 2(d) is overly broad and does not provide adequate standards for determining eligibility for relocation benefits. We believe that eligibility for relocation

benefits should continue to be tied to acquisition of a property under a federal or federally-assisted program. The revised definition of a displaced person contained in S. 1108 would be difficult to administer in a uniform manner, and raises problems relating to the payment of relocation benefits when real property occupied by the "displaced person" is not acquired.

We believe that a different, more restrictive formulation is necessary to get at the problem which the amendment is intended to address. We would be pleased to work with the Committee on this matter.

### 3. Adjusted Relocation Assistance Benefit Schedules

S. 1108 would permit increased relocation assistance benefits for several categories of displacees. Based upon our experience with the relocation program over the past several years, we generally concur in the suggested increases in relocation assistance benefits. Specifically, we agree with the provision of section 4(b) that there be an increase in the limitation on maximum payments for moving expenses under section 202(b) for moves made "under a schedule."

We also agree with the proposed revisions of section 202(c) to increase the maximum fixed relocation payment (in lieu of actual moving expenses) for displaced farms and businesses to \$20,000 from \$10,000. We are unaware of any need to increase the minimum payment from \$2,500 to \$5,000, and we disagree with that proposal since it would entitle marginal or part-time businesses to a

possible windfall payment of \$5,000, unrelated to the average annual net earnings standard which applies to most displaced businesses.

The proposed revisions to section 203(a) of the Act would delete the maximum limit for a replacement housing payment to a home owner. We do agree that the present maximum limit of \$15,000 for a displaced owner-occupant is too low since costs in the housing sector have increased significantly since passage of the Uniform Act in 1970. Our average replacement housing payment of displaced home owners is now in the \$8,000 to \$9,000 range, and we are encountering an increasing number of cases where payments in excess of the \$15,000 limit are justified. By raising the \$15,000 ceiling on these payments, we would reduce the need to rely upon "last resort" housing under section 206(a) of the Act.

Because it does not seem prudent to conduct federal programs with no limitation on such payments, we propose a limit not to exceed \$25,000 for replacement housing payments to home owners. We believe this ceiling will be sufficient to cover substantially all cases for a period of several years.

We believe that the Executive Branch should undertake a study of the needs of tenants displaced by federal programs to determine their housing conditions after the expiration of the four-year period established in the Act for rental assistance payments.

#### 4. Additional Comments

An additional area of concern for the Department is the problem of business failures which are directly related to displacement by federally-assisted projects. Small businesses are particularly vulnerable in this regard, and we are currently examining procedural changes in our own programs that will further help displaced businesses. Consistent with the spirit of the Act and the President's Urban Policy, we are examining the project planning process to determine how local jurisdictions affected by projects

might be better able to work with displaced firms at an early stage to plan for successful relocation. As part of a business relocation planning process, for example, cities could develop incentives to keep the businesses -- and the taxes and jobs they represent -- in their communities. Tax incentives and other regular federal programs such as SBA 502 loans can be used in such a manner by the cities at their option.

In addition to these procedural changes, we recommend that the Act be revised to provide additional assistance to farms, non-profit organizations, and small businesses (specifically those with only a single location) facing additional purchase or rental costs at a replacement site. We propose that these displacees be made eligible for relocation assistance payments equal to those provided under sections 203(a) and 204 of the Act (as it may be amended). These payments should be limited to the amounts set under sections 203(a) and 204, with no provision for last resort assistance. There are a number of technical aspects of this proposal on which we would be pleased to work with the Committee to develop appropriate language.

At present businesses, farms and non-profit organizations are entitled only to moving expenses or a lump sum payment that acknowledges certain extraordinary burdens, called "loss of

existing patronage." This situation does not recognize that these organizations face problems similar to those faced by displaced households when comparable relocation sites are more costly than their prior locations. The Department is concerned first and foremost with the loss of livelihood for the persons displaced and those who lose their jobs. Enacting such a provision would ensure fair and equitable treatment for these individuals. It would also help ensure that federal projects meant to help communities would not inadvertently undermine their economy, job base, or services.

I would also like to comment on proposed revisions to section 213(c), which would set up a new process of appeals under the Act, utilizing the agency designated by the President to prepare the single set of regulations and procedures. We oppose this provision. The new appeals process would require additional complex procedures to be developed, for which there is no demonstrated need. We believe the present system of appeals through the operating agencies, and to the courts if necessary, is preferable. As a practical matter, there are very few cases where appeals to the courts are necessary, and we believe the present appeals process adequately protects the rights of displacees.

Also, the elimination of the 180-day occupancy requirement in section 203(a) and the substitution of a "good faith" occupancy provision in sections 203(a) and 204 will create serious problems. The "good faith" occupancy standard will be impossible to administer fairly and uniformly and should be eliminated. The 180-day occupancy requirement in section 203(a) should be retained, or possibly reduced to 90 days if the Committee finds a compelling case for such a reduction.

As a final recommendation, I suggest that section 201 of the Act be amended by adding to the statement of policy a provision that no person shall be excluded from participation in, denied the benefits of, or subjected to discrimination in any activity or program funded in whole or in part under this Act on the basis of race, color, creed, religion, sex or national origin. In order to enforce this policy I also recommend that section 205(5)(d) be amended to require the relocation advisory assistance office to inform displaced persons of their rights under this Act, under Title VIII of the Civil Rights Act of 1968, and other Federal Civil Rights Laws, and of the availability of administrative and judicial remedies and their right to pursue such remedies where appropriate. DOT activities under the Act are carried out in a non-discriminatory manner, but we believe a clear statement of Congressional intent on this subject would be appropriate.

This concludes my prepared testimony. I am submitting more detailed comments for the record and will be pleased to address now any questions the Committee may have.

