



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

SEP 10 1985

The Honorable James J. Howard
Chairman, Committee on Public Works
and Transportation
House of Representatives
Washington, D.C. 20515



Dear Mr. Chairman:

This letter contains the views of the Department of Transportation on H.R. 3129, the "Surface Transportation and Uniform Relocation Assistance Act of 1985". We anticipate that the bill will be marked up shortly and, since we have never had the opportunity to comment specifically on the bill, we wanted to take this opportunity to explain our concerns to you.

The bill contains four titles: Title I, the Federal-Aid Highway Act of 1985; Title II, the Highway Safety Act of 1985; Title III, the Federal Mass Transportation Act of 1985; and Title IV, the Uniform Relocation Act Amendments of 1985.

Title I of this bill would increase the cost of completing the Interstate System and contains many special interest demonstration projects which would cost the Federal government about \$1 billion over the duration of the bill. The Department has opposed and continues to oppose special interest projects which distort state and local priorities, provide Federal funds for specific projects without requiring any matching funds, and are not subject to the obligation ceiling imposed on other types of spending from the Highway Trust Fund. The resources of the Highway Trust Fund should be expended by the states in accord with state priorities in a rational, planned manner; specific project expenditures should not be dictated at the Federal level. Moreover, based on the latest Treasury Department estimates of revenues to the Highway Trust Fund, the budget authority that can be supported by the Highway Trust Fund falls short of the budget authority called for in the bill in 1990.

We also oppose the transit portion of the bill, Title III. We do not support, as the bill proposes, general fund authorizations for the formula program and Mass Transit Account funding for the discretionary program. The Administration proposes to end the discretionary section 3 program and generally to fund programs from the Mass Transit Account by formula apportionment. In this time of deficit reduction efforts, general fund authorizations at the \$2.4 to \$2.5 billion level, along with an increase in the Mass Transit Account authorization level, as this bill proposes, would provide simply too much Federal funding for a program that is essentially local in nature.

The bill would increase budget authority by more than \$3 billion in FY 1987 and \$13 billion over the four-year period from 1987 through 1990, compared to the President's planning levels. This would add significantly to the Federal deficit.

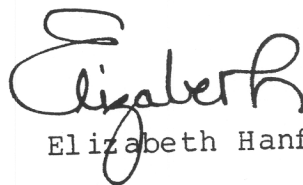
We are greatly concerned that the bill incorporates the approval of the Interstate and Interstate Substitute Cost Estimates (ICE and ISCE). As I indicated in my letter of July 19, 1985, I strongly urge that the approval not be linked to the reauthorization bill. Given the national needs, I recommend that the Committee delete the ICE and ISCE provisions from this bill and pass a clean bill similar to the one approved by the Senate. It would not be fair to the states to withhold release of these funds while Congress deliberates over the reauthorization proposal.

Preliminary comments on selected sections of the bill are provided in the enclosure. We will be happy to provide you with additional comments.

The bill essentially retains all of the existing programs and adds additional requirements, new spending authority and new limitations on state and local decision-making. The new spending authority from the general fund will add to the deficit. The costly additions to the Interstate System will delay the completion of the system. There is not sufficient budget authority in the Highway Trust Fund to carry out the programs proposed by the bill. For these reasons, I would recommend to the President that he veto any bill that contains these provisions.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of our report for the consideration of the Committee and that enactment of this legislation would not be in accord with the program of the President.

Sincerely,



Elizabeth Hanford Dole

Enclosure

ADDITIONAL SPECIFIC COMMENTS

TITLE I

Federal-Aid Highway Act of 1985

Sec. 102(a). The Interstate Cost Estimate (ICE) table approved in this subsection includes in excess of \$853 million in costs for a four-lane I-90, an I-90/I-93 full interchange, and HOV facilities in Boston, Massachusetts. This Department opposes the addition of these elements to the ICE submitted to the Congress in January 1985 (Committee Print 99-1).

Sec. 103. (1) The table being used for Interstate substitution fund apportionments needs to be updated because it does not reflect the current factors.

(2) This section funds substitute transit projects out of the general fund of the Treasury. We recommend funding these projects out of the Highway Account of the Highway Trust Fund since, had the projects not been substituted for withdrawn segments, the Highway Trust Fund would have been the funding source.

(3) This section would require two new Interstate Substitute Cost Estimates to make apportionments. We would prefer to make these apportionments using a formula based upon the withdrawal values remaining in each state.

Sec. 104. While the bill proposes excessive spending in many other areas, section 104 fails to maintain current statutory levels for the Federal-interest Interstate 4R program. This section reduces the Interstate 4R authorization to be apportioned on October 1, 1985, from \$3.15 billion to \$3.035 billion. Section 106 reduces the primary authorization, required to be apportioned on October 1, 1985, from \$2.45 billion to \$2.4 billion. The current authorizations have been certified to the states pursuant to 23 U.S.C. 104(e). Also, these sums will probably be apportioned before sections 104 and 106 of H.R. 3129 could be enacted. Reducing these authorizations would be disruptive to the state formula apportionment process.

Sec. 105. (1) This section contains an unusual number of exemptions from the obligation ceiling which makes it very difficult to control spending and estimate outlays and obligations. These exemptions are generally for demonstration projects in this bill, previously authorized demonstration projects, and other special interest provisions. Exemptions are at the expense of formula programs and work to the detriment of all formula programs including Interstate completion. This Department strongly opposes these exemptions.

(2) Section 105(c)(2) contains a 5 percent factor for distributing obligation authority which rewards states that have been slow to obligate their funds. We oppose the 5 percent factor because it rewards states where there have been delays.

Sec. 106. Section 106(c) continues the 10 percent goal for disadvantaged businesses participation established in the 1982 Surface Transportation Assistance Act. The Administration is developing its position on this troublesome provision.

Sec. 107. This section revises the Interstate 4R formula. Our study performed in response to the Surface Transportation Assistance Act of 1982 concluded that there was not a compelling reason to change the formula.

From a technical standpoint, the Committee should be aware that the amounts of "gasoline used by motor vehicles on highways" and "diesel fuel used by motor vehicles on highways" can only be estimated.

Sec. 108. This section would require a state to pay relocation benefits to a party who is occupying highway right-of-way through a lease arrangement with the state if the state wants to terminate the lease, even if the lease negotiated by the parties did not so provide. We believe that this provides a windfall to such lessees and is an infringement on the rights of the states to enter into contracts. Also, it would discourage airspace usage that would otherwise be in the public interest. We oppose the provision. Such matters should be handled in the contract between the parties. We oppose section 306 for similar reasons.

Sec. 112. This section gives the Harbor Freeway in Los Angeles County special priority for receiving Interstate discretionary funds even if California has not obligated all of its Interstate apportionments. We oppose this provision.

Sec. 114. This section adds additional primary routes to the list of projects that receive priority for funding. We oppose the section and would prefer to repeal all priority primary route provisions.

Sec. 115. This section would extend highway emergency relief (ER) provisions to the territories and would cap ER obligations for the territories at \$5 million per year. We support extending ER to the territories and support the \$5 million cap.

Sec. 117. This section is a special interest provision which applies to Alligator Alley in Florida and the West Virginia Turnpike. The provision permits the extension of tolls on a

toll facility (contrary to a toll agreement) to pay for construction costs that are ineligible for Federal-aid highway funds. The Administration is developing its position on this provision.

Sec. 118. This section provides \$5 million per year to carry out the billboard removal program. We do not believe that additional Federal funding, either from the general fund or the Highway Trust Fund, should be provided to remove billboards.

Sec. 119. This section extends the eligibility deadline for section 139(b) designations from March 9, 1984 to July 1, 1985, and waives the deadline for the Weirton, West Virginia bypass. We oppose the special interest provision to grant a waiver of the new deadline for this West Virginia facility and oppose the deadline extension. We note that the deadline extension will not cover a section 139(b) designation made in Colorado in July 1985.

Sec. 120. This section provides for the construction of an Arkansas bridge to replace certain ferryboat service eligible for bridge funds under 23 U.S.C. 144. We oppose this special interest provision. Bridge funds should be used to replace or rehabilitate bridges.

Sec. 121. (1) The section provides that apportionments withheld due to sanctions should be considered to be apportioned for purposes of calculating the minimum allocation. While we believe this to be the law, we do not object to the clarifying language.

(2) The section also extends the minimum allocation for four years. The Department does not believe that the minimum allocation provision should be continued in its present form.

Sec. 122. This section would create national bridge inspection standards, training programs, and certification of inspectors. The Administration is developing its position on this provision.

Sec. 124. Subsection (e) of this section is unnecessary. The problem in Maryland that it would affect has been addressed administratively. The Administration is developing its position on the other subsections.

Sec. 125. Under the Buy America provision, the domestic content requirement for buses, rolling stock, and associated equipment would be increased from 50 percent to 85 percent but would grandfather plants that were producing these items during the first half of calendar year 1984. We oppose both the increase in the domestic content percentages as well as the grandfather provision, which inequitably protects only certain specific

companies. We also note that the proposal prohibits the use of Mexican or Canadian cement which would, if enacted, be the third change in this area in three years and would give rise to unnecessary confusion. Both provisions are, at the very least, against the spirit of the United States international trade obligations and the Government Procurement Code negotiated during the Tokyo round of trade negotiations and incorporated in the 1979 Trade Act. We are opposed to these changes.

Sec. 126. The Department opposes the costly additions to the Interstate System proposed by section 126. Moreover, while we believe the language would only make the Third Harbor Crossing eligible for Interstate construction funds, proponents of an expansive reading might contend that it also encompasses the eligibility of the depression of the Central Artery. The Department believes that the cost of the depression of the Central Artery is not justified on the basis of the transportation benefits to the nation.

Sec. 127. This special interest provision permits Arkansas to use Interstate construction funds to construct a two-lane primary highway. Another two lanes would be funded as a demonstration project under section 138(a)(11)(A) of this bill. We oppose this provision as being unnecessary and a diversion of Interstate construction funds which will delay completion of the Interstate System.

Sec. 128. This section would require that the State of Illinois expend \$15 million over three years on a toll facility in Chicago. As recognized by the Congress in 23 U.S.C. 145, a state has sovereign rights to determine which projects shall be federally financed. We are opposed to this provision which interferes with state priorities.

Sec. 129. This provision would prohibit construction of the recommended alternative for the Westway. Because this matter is currently in litigation, we do not believe that Congress should take any actions to limit state and local options.

We oppose the provisions to waive the limitation on eligible activities under the 1981 Federal-Aid Highway Act and restrict the kind of substitute projects that may be funded. We also strongly oppose section 129(d) because it would result in additional mass transit funding from the general fund. Highway Trust Funds should be used, not general funds.

Sec. 130. This provision makes HOV lanes for an Interstate facility (Harbor Freeway) in Los Angeles County eligible for Interstate construction funds and also permits withdrawal and substitution of the funds for construction of a fixed guideway

system in lieu of these lanes. The Department opposes this special interest provision.

Sec. 131. This section permits the states of Maryland and Connecticut to modify certain substitute project concept plans. The Governors of the two states would be permitted to select projects. We oppose the section as it constitutes special treatment and because local governments should participate in the selection of substitute projects. We would not object to a provision which generally allowed state and local governments to revise concept plans.

Sec. 132. This section exempts a Can-Am Warehouse Company facility partially located on I-94 right-of-way in Michigan from restrictions in 23 U.S.C. 111 which prohibit commercial establishments on Interstate right-of-way. We do not object to this provision.

Sec. 133. We oppose this provision which permits the market value of land donated for a project in California to be used for the state's share of the project and permits any excess value to be used for the state's share of other projects. While we oppose this special interest legislation, we could support a general provision on donated lands.

Sec. 134. This provision would permit the value of land donated to a California project to be credited toward other projects. We object to this provision.

Sec. 135. Current law permits special Federal funding of the Baltimore-Washington Parkway in Maryland, provided that the state agrees to assume future responsibility for the parkway. This provision would allow funding without requiring the state to assume future responsibility. We oppose this provision.

Sec. 136. This section would authorize such sums as may be necessary (\$700 to \$800 million) to complete railroad relocation demonstration projects under section 163 of the Federal-Aid Highway Act of 1973. Additionally, the section would permit a Carbondale, Illinois project to proceed with \$5 million in contract authority. We are opposed to this section.

Sec. 137. This section concerns maintenance of Conrail railroad-highway crossings. We are opposed to this section as it would provide \$4.5 million annually in Highway Trust Funds for what is essentially a maintenance operation. Title 23 has been structured so that Federal funds can be used for construction purposes and are not available for maintenance activities. Our budget proposal calls for higher funding for the construction of highway-railroad grade crossings than section 209. We

believe that the greatest safety benefit comes from construction funding.

The matter of who pays for maintenance of railroad-highway crossing warning devices is handled on a state-by-state basis and is dependent on state law. We see no reason why the Federal Government should intercede and establish a precedent regarding responsibility to pay for maintenance at crossings. The matter should be left to the discretion of the states.

Sec. 138. This section provides demonstration projects which would cost about \$1 billion. These projects attempt to establish Federal priorities for state projects, do not require any non-Federal match, and are not subject to the obligation ceiling. We strongly oppose section 138.

Sec. 139. This section reprograms \$504,430 of railroad demonstration funds for use on highway projects. We would prefer rescission of these funds.

Sec. 140. This special interest provision allows excess funds not used under section 147 of the Federal-Aid Highway Act of 1978 to be used to construct three bridges across the Ohio River. We are opposed to this provision.

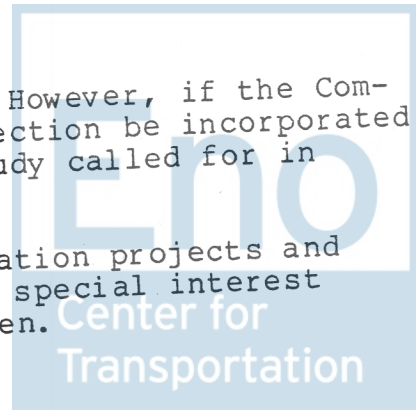
Sec. 141. This section authorizes the Secretary to prepare an environmental impact statement for the Richmond-Willowbrook Corridor in Staten Island, New York. This section is not necessary because of existing statutory provisions.

Sec. 144. We oppose this study of highway expenditures, revenues, and relative needs. The study requires that we determine whether rural areas are receiving their fair share of Federal-aid funds. From a technical standpoint, we do not believe there are reasonable means to estimate Highway Trust Fund receipts attributable to counties within a state. We do not collect information such as motor fuel and vehicle registration data at the sub-state level; therefore, population and perhaps miles of highway would be mainly the only factors that could be used. Likewise, there is no procedure to develop estimates of needs by county.

Sec. 146. We recently received a final report on a study to recommend improvements to the existing bridge formula. However, the thrust of this section's study is to determine the effects of enforcing the existing formula and to suggest modifications to the formula based on a benefit/cost assessment. We have no objection to this effort provided that the impact on pavements and bridges would be studied.

Sec. 147. We do not support this study. However, if the Committee does pursue it we recommend this section be incorporated as a sub-element of the national needs study called for in proposed section 212.

Sections 148 through 156 are all demonstration projects and special studies. We oppose these and all special interest provisions for the reasons previously given.



Title II

Highway Safety Act of 1985

Sec. 202. The authorization levels proposed in section 202 for NHTSA's section 402 program exceed by a considerable margin the funding level requested in the Department's FY 86 budget proposal (\$126.5 million), as well as reasonable projections of future funding needs for this program. The Department believes that the authorization levels proposed in section 202 exceed the maximum level that is needed to carry out the section 402 program in an efficient and effective manner. Because of the overriding need to control spending and reduce the Federal deficit, we oppose the proposed authorization levels. We also oppose the continuance of the earmarking of funds for specified programs, a practice which inhibits the states from allocating their funds in accordance with their own safety priorities.

Sec. 203. This section increases the authorizations for the Motor Carrier Safety Assistance Program. The level proposed for FY 86 exceeds the Administration's budget request by \$16 million. The Administration is developing its position on this provision.

Sec. 204. Section 204 of the bill would provide a new weighted compliance formula (based on speed and type of highway) for the 55 mph national maximum speed limit. A state's apportionment of Federal-aid highway funds would be withheld, under this proposal, if its "compliance score" exceeds a certain amount, which is not yet specified, and NHTSA would be given sole responsibility for the administration of the program.

DOT is currently reviewing options concerning the implementation of current law and would view any proposal to change the current law at this time to be premature. We are not certain that the point system proposed in section 204 represents the optimal approach. We would be opposed to setting a maximum permissible point level which abruptly threatens a large number of states with noncompliance under a modified system. We also object to the proposed transfer of the entire 55 mph program to NHTSA, a move which would deprive the program of FHWA's unique expertise

in traffic counting and speed monitoring techniques, as well as impair the Secretary's ability to determine how to administer this program in the most effective manner.

Sec. 205. This section would amend the 21 year old drinking law to provide for permanent penalty authority. We favor section 205, which would extend the penalty for a state's failure to enact age-21 drinking age laws and limit the lifetime of withheld funds. The need for the lower drinking age will not end in two years, nor should the penalty for failure to have a law.

Sec. 206. We also favor section 206, which would provide a new "modified" basic grant under section 408, for states that otherwise meet the criteria for a basic alcohol traffic safety grant. By setting this grant at 20 percent of a state's highway safety apportionment, the proposal would preserve an incentive for the states to meet the full criteria under section 408. We are analyzing the advisability of extending the availability of current authorizations.

Sec. 207. This section prohibits the use of certain reports as evidence. We support this concept but would prefer a provision which we will submit with our proposed reauthorization bill.

Sec. 208. This section which would add the installation of emergency call boxes to the definition of "highway safety improvement project" is unnecessary as call boxes are already eligible for regular Federal-aid funding.

Sec. 209. The authorization levels provided for the railroad-highway crossings provision are lower than those proposed in the President's budget.

Sec. 210. We do not object to section 210, which would extend the time for establishing procedures, pilot projects, and reports for the new National Driver Register. We have issued the final rule to guide the development of the revised Register, and we have issued a request for proposals for the pilot states under the revised system. An extension of time would enable us to complete this process in an orderly manner.

Sec. 211. The Department opposes this section, which would prohibit the use of funds authorized by section 209 of the Highway Safety Act of 1978 for education or informational programs conducted in connection with the implementation of Federal Motor Vehicle Safety Standard 208. We believe that the goal of the section 209 program -- to develop radio and television campaigns to reduce traffic accidents, deaths and injuries, and particularly to increase usage of safety belts -- is closely related to the Department's July 1984 decision on Standard 208, which likewise seeks to reduce traffic deaths and

injuries through greater belt usage and other occupant crash protection systems.

Sec. 212. This section proposes a railroad-highway crossings needs study. We do not believe that the study is necessary, but if the Committee finds it useful, the study should be combined with the study proposed in section 147 on "orphan bridges".

Sec. 213. This section proposes a study of older drivers. The Department is aware of the problems of older drivers, with respect both to their accident involvement and to their vulnerability to injuries. We are continuing to work with organizations of older persons to make driving safer for their members. At this time, however, we do not see a need for an intensive study by the National Academy of Science as proposed by section 213, and accordingly do not support this section.

Title III

Federal Mass Transportation Act of 1985

As described in the transmittal letter, we oppose the re-authorization provisions in Title III. We believe that it is time for a dramatic restructuring of the transit assistance program. We are concerned that the changes made by this bill would decrease the ability of state and local governments to make responsible transportation decisions and would perpetuate the substitution of Federal decisions for state and local decisions.

Sec. 302. This section would revise the current letter of intent provision in the UMTA discretionary grants program and replace it with a multi-year contract provision that would not be subject to all obligation limitations. We oppose this provision since it would commit the Federal government to certain levels of future funding.

Sec. 303. We oppose section 303 which would require congressional legislation to approve each year's funding levels and allocation of funds for transit projects. Recipients of Federal transit funding need certainty of funding to plan their future activities. This proposal, however, would mean that each year Congress could reallocate funds. In addition, this legislative process could cause delays in the same way that the ICE approval process has caused delays and could disrupt the orderly flow of funds to states and localities.

Sec. 304. This section would make eligible for Federal reimbursement the interest costs of bonds issued for transit projects. We oppose this provision.

Sec. 306. Section 306 is similar to section 108 of this Act. We oppose this provision for the reasons given above.

Sec. 308. This section funds substitute transit projects out of the general fund of the Treasury. We urge that these projects be funded from the Highway Trust Fund.

Sec. 311. We oppose section 311 because it proposes to continue operating assistance to all urbanized areas. Moreover, it would actually increase operating assistance to urbanized areas whose population is less than 200,000. We also oppose the continuation of the trade-in provision for operating assistance. The original provision was intended to provide a short period of transition. That time has now expired and should not be extended.

Sec. 312. Section 312 of the bill would require the Department to establish a University Transportation Center in each of the ten Federal regions. This program would be funded annually from the Mass Transit Account (\$5 million) and the Highway Account (\$5 million) for research purposes. This program would pay the routine operating costs of university programs without any assurance that the work of the Centers would help solve real-world transportation problems. We believe that ongoing focused research efforts in both the highway and transit programs are more than sufficient and we do not see a need for this program.

Sec. 315. Section 315 of the bill would establish required levels of funding for the three general categories of the discretionary program: new starts, rail modernization, and bus activities. We do not support continuation of the discretionary program, so we do not support these changes. Moreover, we do not want to limit local options by Federally imposing these fixed levels of annual funding for specified activities. We also oppose the provision which would make authorizations from the Mass Transit Account available until expended.

Sec. 317. In addition, we are particularly opposed to section 317 which would require us to enter into a multi-year contract with Southern California Rapid Transit District for the completion of the minimum operable rail segment in Los Angeles. If this project is to proceed, it should not be contingent on the continuation of discretionary grants. The more appropriate and manageable Federal role is financial assistance through a more equitable formula delivery system, with state and local governments assuming the extraordinary costs of projects which cannot be accommodated by the formula apportionments.

Sec. 318 and 319. These sections require the Department to undertake studies for two specified areas. Current law allows

such studies at local option. We oppose these provisions since they would Federally mandate the studies.

Sec. 320. Section 320 would limit the ability of publicly subsidized bus operations to take charter business away from private bus companies. The Department supports efforts to prevent unfair competition.

Sec. 321. Section 321 would amend the Interstate Commerce Act to add a new requirement that a bus company would not be allowed to provide intrastate service, except as part of a regularly scheduled interstate route. The Department opposes this attempt to impose new regulatory requirements on the bus industry.

Title IV

Uniform Relocation Act Amendments of 1985

On August 1, 1985, the Senate passed S. 249, a bill based on an earlier Administration proposal to amend the Uniform Relocation Act. Title IV contains a number of objectionable provisions. Accordingly, we recommend deletion of title IV and urge the Committee to give favorable and expedited consideration to S. 249.