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U. S. Department of Transportation
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STATEMENT OF ALAN S. BOYD, SECRETARY OF TRANSPORTATION
BEFORE THE SENATE SUBCOMMITTEE ON ROADS OF THE SENATE
COMMITTEE ON PUBLIC WORKS, JUNE 28, 1967

Mr. Chairman, Senator Cooper, distinguished members of the Committee, I appreciate the opportunity to appear before you on behalf of S. 1467 which would provide for authorizations to carry out the programs of the Highway Beautification Act of 1965.

That the protection of natural beauty is important to all Americans is evident in a number of ways. It is first of all evident by the legislation which the Congress has enacted in recent years. Secondly, it is evident by the amount of attention that conservation in general and highway beautification in particular has received from the mass media, industry groups, civic organizations, conservation groups and the general public.

Although it is true that the Highway Beautification Act has had both defenders and detractors, it is a more meaningful fact that everyone -- legislator, businessman, bureaucrat, and average citizen alike -- agrees on the need for the preservation, restoration and enhancement of our Nation's natural beauty resource. It was true in 1965 and it is still true today. The national mandate to which the Congress responded in 1965 is still with us today and calls for continued implementation of our highway beautification programs.

Mr. Chairman, I call your attention to the words "continued implementation" and "programs." Much of our attention with regard to the Highway Beautification Act has been focused on its outdoor advertising aspects under Title I. Without detracting from the importance of these aspects, we must, it seems to me, keep in mind that billboard control is but one of three major programs contained in the Act. Titles II and III embody the equally important junkyard control and scenic enhancement provisions of the Act. In both of these programs, the States have made substantial progress and that is why I use the word "continued" advisedly.

The authorization bill before your Committee will allow us to continue the programs initiated under these three titles. We are requesting a total of \$380 million in authorizations for FY 1968 and 1969, of which \$160 million is for FY 1968 and \$220 is for FY 1969. These funds will enable us to make progress in meeting the goals of the Act's provisions as they relate to control of outdoor advertising and junkyards, as well as to roadside development including landscaping, acquisition of scenic strips, and construction and improvement of roadside rest and recreation areas.

We consider these requested authorizations to be extremely modest in amount. No final cost estimate for completing all programs under the Act can be ascertained until every State has entered into an agreement under Title I, since the cost of administering that title will depend upon the precise provisions of those agreements. However, I would estimate that roughly \$1.3

billion may be required over a period of years for the programs authorized by the Act.

A detailed analysis of the estimated costs of this program is contained in Senate Document No. 6, transmitted to the Congress on January 10, 1967. I will not take the Committee's time, Mr. Chairman, by recapitulating the contents of that report. However, let me point out that as a result of our current plans for administering Title I of the Act, we anticipate that the total Federal share of the outdoor advertising program under the Title will be considerably lower than the \$558 million estimated in that report. An exact estimate must await the completion of agreements with the States under this program, since the scope of these agreements may vary considerably from State to State, consequently affecting the total cost of this program.

I think it may be both appropriate and beneficial, Mr. Chairman, for me to review briefly the actions taken by the Administration to implement the Highway Beautification Act.

Immediately after President Johnson signed the Act into law, the Bureau of Public Roads convened a series of seminars to explain the provisions of the Act to representatives of State and Federal governments, roadside and advertising industries, and conservation and civic organizations. At the same time plans were being prepared to comply with Section 303(a) of the Act which requires that public hearings be held in each State before promulgation of advertising and junkyard controls and standards.

You may recall, Mr. Chairman, that at this time a set of draft standards was published in the Federal Register. And these were clearly identified as guidelines intended merely for discussion purposes at the hearings. It was felt that in order to obtain maximum benefit from the hearings in terms of gathering all relevant and useful information, the hearings would have to be structured so as to provide everyone with a common frame of reference. Both the quality and quantity of the testimony received at the fifty-two State hearings point to the value of issuing the draft proposals.

Concurrently, studies were undertaken to comply with two other provisions of the Act which required the Secretary to report to the Congress on the estimated cost of carrying out the programs, and on their economic impact.

At the conclusion of the State hearings, at which more than 2,100 witnesses testified, the 60,000 pages of oral and written testimony and supplemental exhibits were reviewed and evaluated. The next step was one not explicitly prescribed in the law, but which the Administration felt was necessary and desirable in light of the potentially far-reaching effect that any control standards were bound to have on the advertising industry, on roadside business and on the esthetic quality of our country. A set of proposed standards and criteria, reflecting the hearings testimony on a national basis, was prepared and given wide circulation. It included an invitation for public comment and recommendations, with the assurance that any recommendations would be

carefully considered for incorporation into standards to be recommended to the Secretary for use in negotiating agreements with the States. Also during this period, we responded to all requests of trade associations, private businessmen, industry leaders and conservation representatives to discuss the proposed standards with administration officials.

The guidelines reported to the Congress in Senate Document No. 6, then, reflected the hearing testimony and also comments and recommendations generated by the draft standards issued in July of last year. But more than that, the January 1967 report standards embodied other clearly stated criteria taken into account during their development. In addition to customary use and accepted industry practices, we carefully considered the protection of the public investment in our Federal-aid highway system, promotion of the safety and recreational value of public travel, and the preservation of natural beauty.

The preparation of these guidelines has raised some misunderstandings. Probably most widespread is the misunderstanding of the Federal role in billboard control. Although we have time and again attempted to clarify our position it is apparently a difficult concept to grasp. Mr. Chairman, I cannot emphasize too strongly the fact that we have not promulgated "national federal standards" for the control of outdoor advertising. The Act is quite clear on this point. It prohibits the Secretary from unilaterally promulgating standards pertaining to the definition of unzoned commercial and industrial areas and the size, lighting and spacing controls to be applied in both zoned and unzoned

commercial and industrial areas. Rather, as I am sure you are aware, it requires that these items be determined by agreement between the Secretary and the several States.

We look upon the implementation of the highway beautification programs in the same manner as all of our other Federal-aid programs, and anticipate the same kind of Federal-State cooperation. From the beginning we have encouraged State participation in the determination of billboard control standards. Indeed, State representatives were invited and did sit as members of the hearing panels in each of the 52 State hearings.

We are fully aware of the differences in customary use and need which exist from State to State, and therefore we cannot and do not assume uniformity among States. Substituting Federal thinking for State determination is an onerous practice. We have avoided it whenever possible in the past, and we do not anticipate it now with regard to billboard control. I have expressed myself on this point on a number of occasions, most recently before the House Subcommittee on Roads, and more recently still in a letter to the Chairman of that Committee, Mr. Kluczynski.

In that letter, Mr. Chairman, I reiterated the Administration's position on what appeared to be the areas of misunderstanding over our posture in negotiating agreements with the States under Title I. For the record, permit me to repeat those points, and I quote directly from the letter:

- "1. As the law directs, we are fully prepared to accept state determinations with respect to zoned commercial and industrial areas.
- "2. Concerning unzoned commercial and industrial areas, we shall be happy to request the guidance and suggestions of the several states with respect to designating these areas. The only absolute requirement upon which we would have to insist would be the existence of of at least one commercial activity in any such area.
- "3. With regard to the determination of what constitutes "customary use" in the zoned commercial and industrial areas, we shall be glad to look to the states for certification that either the state authority for a bonafide local zoning authority has made such a determination. With respect to unzoned areas, we will recognize local practice on customary use as mutually agreed to by State and Federal agencies. It will be our policy to assume the good faith of the several states in this regard.

"The only exception to the above would be a situation in which a State or local authority might attempt to circumvent the law by zoning an area as 'commercial' for billboard purposes only. We think you will agree that this is a reasonable position, since we know that the Congress does not wish for the law to be deliberately evaded by subterfuge.

"4. What is determined in good faith by a bonafide local or state zoning authority as 'customary use' will be an acceptable basis for standards as to size, spacing and lighting in the commercial and industrial areas within the geographical jurisdiction of that State or local authority."

I would like to digress for a moment, Mr. Chairman, to address myself to two areas which are the subject of Senate bills introduced in this session of Congress.

Senate Bill S. 539, introduced by Senators Magnuson and Jackson, deals with the subject of compensation for those signs which become illegal under the law. The Administration's position on this matter, simply stated, is one of equity. Compensation for a loss suffered by an individual in the interest of a broad public benefit is a long-accepted principle which the Administration fully endorses. We feel that the provisions of the Act, as written, provide the most equitable approach.

The other bill, S. 1666, introduced by the distinguished ranking minority member of this committee, Senator Cooper, addresses itself to the possibility of controlling outdoor advertising in scenic areas, instead of through the present statutory process.

In essence, the Highway Beautification Act of 1965 is a scenic highway piece of legislation. Its stated purpose is the protection of the public investment in highways, the promotion of the safety and recreational value of

public travel and the preservation of natural beauty. It specifically recognizes the rightful place of outdoor advertising -- with which we fully agree -- by stating that it shall be permitted and, in fact, promoted, within zoned and unzoned commercial and industrial areas, subject to certain limitations mutually agreed to between the Secretary and the States.

We recognize the difficulty of developing definitions, regulations and standards to deal with such a complicated area of economic activity. But we would stress that defining commercial and industrial areas through the local zoning process is a well established and accepted procedure. We likewise feel that definition of unzoned commercial or industrial area is just as susceptible to quantification through agreement between the Secretary and the States.

Suggestions to change the basic statutory policy to one of excluding advertising from scenic areas should be reviewed very carefully. It is quite possible to define and measure a commercial or industrial activity. But is it as easy to define and quantify something as highly subjective as scenic areas?

If we can accept the fact that our Interstate and primary system highways, with the exception of zoned and unzoned commercial and industrial areas, are scenic and worthy of protection, I think you will agree that the Highway Beautification Act as written is a scenic area law.

Finally, let me briefly recount to you the progress that the States have made in carrying out programs under the Act.

With respect to State legislation, ²⁵~~26~~ States have enacted laws to control outdoor advertising. Of those, ¹⁶~~15~~ appear to have provided the State agency with adequate authority to negotiate and enter into agreements.

In addition, ³³~~29~~ States have enacted legislation necessary to carry out the junkyard control provisions of the Act and ⁴⁰~~39~~ States have enacted laws which will permit them to make use of Federal funds outside the highway right-of-way as proposed in Title III of the Act.

As I have stated earlier, the States have made considerable progress particularly with regard to the junkyard control and the landscaping and scenic enhancement programs. More than 4,000 projects have been authorized and we anticipate that when the books are closed for this fiscal year, the States will have been able to obligate virtually all of the funds made available to them.

In addition, since March of 1965, the States have obligated another \$190 million of regular Federal-aid funds as a part of normal construction for such things as erosion control, development of roadside rest areas, acquisition of scenic easements and screening of unsightly areas.

With regard to achieving agreements with the States for the control of outdoor advertising, we have also made progress, particularly in light of the

fact that until the completion of the House hearings, where a number of misunderstandings were aired and resolved, the States were not prepared to sit down at the negotiating table.

I hope you will agree with me, Mr. Chairman, that this real progress, demonstrating that the Act as written is being implemented in the public interest. The proven principle of negotiation with reason is the keystone to the success of these programs, and it works just as well whether we are negotiating for safer highways, or better schools, or the preservation of natural beauty.

We must continue to preserve our natural resources, whether they be scenic vistas, air, water, or wildlife, while there is still something to preserve. The Highway Beautification law enacted by the Congress in 1965 goes far toward achieving this goal. It was a good law then and it is a good law now.