

the imposition of the penalty beyond January 1, 1969, should the legislature fail to act to provide effective control during 1968."

As I understand this letter, Secretary Boyd has informed the State of Arizona that if its Legislature fails to act to come into compliance with the Highway Beautification Act of 1965, Arizona will be penalized 10% of its Federal-aid Highway funds apportioned in 1969.

(a) Is this correct?

*Answer:* The Secretary stated during the hearing on May 23, 1968, that at the end of 1968, the Federal Highway Administrator will prepare for him a report on the status of the various States relative to the Highway Beautification Program. This report will contain recommendations which will be reviewed by the Secretary's staff. The Administrator and the Secretary will thereafter decide what is to be done to carry out their requirements under the law.

(b) The Legislatures of Puerto Rico and 23 States met during calendar year 1968. Is it the intention of the Administration to impose the 10% penalty of those States whose Legislatures have met and failed to Act?

How about those States whose Legislatures did not meet in 1968?

*Answer:* The answer to Question 2(a) relates to how the question of the penalty with respect to all States will be handled. In addition, the Secretary in response to questions of Mr. McEwen stated that the possibility exists that the State of New York would lose 10 percent of its Federal highway money unless it enacted outdoor advertising control legislation. This possibility exists for any State whose Legislature met in regular session during 1968 and failed to act during that session or prior thereto. With regard to those States whose Legislatures did not meet in 1968, the Secretary has previously stated that in such cases the suspension of the penalty will continue until the adjournment of the next regular session of the State's Legislature, presumably in early 1969.

3. Suppose a State that has entered into the bonus agreement provided for in section 12 of the Federal-Aid Highway Act of 1958 does not come into compliance with the 1965 Act until say 1970 or 1971. Would that State remain eligible for the bonus payments on those projects completed before it complied with the 1965 Act? In other words, would the State lose its eligibility for the bonus on these projects entirely or would the bonus simply be deferred until the State is in compliance?

*Answer:* Section 131(j) provides that a State shall be entitled to receive bonus payments as set forth in its bonus agreement, but no such State shall be entitled to such payments unless the State maintains the control required under such agreement or the control required by Section 131, whichever control is stricter.

Section 131(b) of the Highway Beautification Act of 1965 authorizes the Secretary to suspend for such periods as he deems necessary the application of this subsection to a State whenever he determines it to be in the public interest.

The Secretary is fully authorized to suspend any sanctions against a State for failure to provide for "effective control" of outdoor advertising under Section 131(b) of the Act until such time as the State Legislature has had a reasonable opportunity to act on the basis of explicit information.

This also applies with regard to the suspension of bonus payments under Section 131(j). Bonus States which continue to carry out their obligations to control outdoor advertising along the Interstate System in conformity with their existing bonus agreements may thus be entitled to receive bonus payments when the State has enacted appropriate legislation and entered into a suitable agreement to fully implement the 1965 Act.

Section 131(j) further expressly provides that "The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section."

Bonus States as well as non-bonus States are therefore required to implement and fully comply with the provisions of the Highway Beautification Act of 1965, regardless of whether or not the bonus State elects to remain eligible to receive bonus payments as provided by Section 131(j).

Additionally, if the Legislature of a bonus State has not had a reasonable opportunity to act, prior to January 1, 1968, and the State acts administratively by entering an agreement under the 1965 Act contingent on later ratification or approval by the State Legislature the State's eligibility to receive bonus payments would be preserved without question. Bonus payments, however, would be deferred in such circumstances until the State Legislature actually ratifies or adopts a mutually satisfactory agreement.