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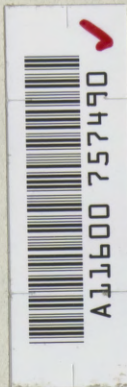
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FEDERAL-AID HIGHWAY ACT AMENDMENTS OF 1963

GOVERNMENT

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HEARINGS

BEFORE

SUBCOMMITTEE ON ROADS

OF THE

COMMITTEE ON PUBLIC WORKS

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 4154, H.R. 4559, H.R. 5590,

H.R. 6044, H.R. 6140, H.R. 6141

MAY 27, 28, 29, AND JUNE 12, 1963

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FEDERAL-AID HIGHWAY ACT AMENDMENTS OF 1963

MONDAY, MAY 27, 1963

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON ROADS,
Washington, D.C.

The subcommittee met, pursuant to call, in room 1302, House Office Building, at 10:15 a.m., Hon. George H. Fallon (chairman of the subcommittee) presiding.

Present: Representatives Fallon, Blatnik, Olsen, Cramer, Baldwin, Schwengel, Harsha, and Quillen.

Mr. FALLON. Ladies and gentlemen, the Committee on Public Works Subcommittee on Roads is meeting this morning for the consideration of several changes in the original Highway Act. There are several bills considered here as identified below.

Without objection, the bills to be considered along with certain explanations thereof will appear in the record at this point.

(The bills and the explanations thereof follow:)

[H.R. 4154, 88th Cong., 1st sess.]

A BILL To amend section 104(b)(3) of title 23, United States Code, relating to the apportionment of funds for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 104(b) of title 23, United States Code, is hereby amended to read as follows:

"(3) For extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas:

"In the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all the States as shown by the latest available Federal census."

[H.R. 4559, 88th Cong., 1st sess.]

A BILL To amend section 104(b)(3) of title 23, United States Code, relating to the apportionment of funds for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 104(b) of title 23, United States Code, is hereby amended to read as follows:

"(3) For extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas:

"In the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all the States as shown by the latest available Federal census."

[H.R. 5590, 88th Cong., 1st sess.]

A BILL To amend title 23, United States Code, to prohibit participation of Federal-aid funds in certain State or local taxes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 121 of title 23, United States Code, is hereby amended by adding thereto a new subsection as follows:

"(f) No payment shall be made under this section which would constitute participation with Federal-aid funds in any State or local taxes based on the value of highway construction contracts or in any State or local sales, use, or other ad valorem taxes on major highway construction materials, the primary purpose of which is to provide revenue for State or local governmental purposes."

SEC. 2. The provisions of section 1 hereof shall be applicable to projects approved under the provisions of chapter 1 of title 23, United States Code, commencing sixty days after the enactment of this Act.

[H.R. 6044, 88th Cong., 1st sess.]

A BILL To amend section 104(b) (5) of title 23, United States Code, to provide for the submission of certain cost estimates for the completion of the National System of Interstate and Defense Highways, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first and second sentences of subsection (b) (5) of section 104 of title 23, United States Code, are deleted and there is hereby inserted in lieu thereof the following:

"(5) For the Interstate System for the fiscal years 1960 through 1971:

"In the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, or the Federal share thereof, bears to the sum of the estimated cost of completing the Interstate System in all of the States, or the Federal share thereof. Each apportionment herein authorized for the fiscal years 1960 through 1971, inclusive, shall be made on a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized."

SEC. 2. The eighth and ninth sentences of such subsection are deleted and there is hereby inserted in lieu thereof the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; June 30, 1969; and June 30, 1970. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1969. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal year ending June 30, 1971."

[H.R. 6140, 88th Cong., 1st sess.]

A BILL To amend section 109 of title 23 of the United States Code relating to construction standards on the National System of Interstate and Defense Highways

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 109 of title 23, United States Code, is hereby amended to read as follows:

"(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards shall be adequate to accommodate the type and volumes of traffic anticipated for such future period of time and under such planning criteria as deemed appropriate by the Secretary. The right-of-way

width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States."

[H.R. 6141, 88th Cong., 1st sess.]

A BILL To amend section 104(b) (5) of title 23, United States Code, to provide for the submission of certain cost estimates for the completion of the National System of Interstate and Defense Highways, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first and second sentences of subsection (b) (5) of section 104 of title 23, United States Code, are deleted and there is hereby inserted in lieu thereof the following:

"(5) For the Interstate System for the fiscal years 1960 through 1971:

"In the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, or the Federal share thereof, bears to the sum of the estimated cost of completing the Interstate System in all of the States, or the Federal share thereof. Each apportionment herein authorized for the fiscal years 1960 through 1971, inclusive, shall be made on a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized."

SEC. 2. The eighth and ninth sentences of such subsection are deleted and there is hereby inserted in lieu thereof the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; June 30, 1969; and June 30, 1970. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1969. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal year ending June 30, 1971."

EXPLANATION OF H.R. 6044, BY MR. BUCKLEY AND H.R. 6141, BY MR. FALLON

H.R. 6044 and H.R. 6141, which are identical bills, would change the formula for apportionment of interstate funds and the number and dates of submission of estimates of cost of completing the Interstate System.

Under existing law, interstate funds are apportioned without taking into consideration variations between States as to the Federal share of the cost of interstate projects, which range from 90 to 95 percent.

These bills would change existing law so that subsequent apportionments of interstate funds would be made on the basis of the Federal share of the cost of completing the Interstate System in each State, rather than the total cost, which would correct any imbalances in prior apportionments.

Under existing provisions of law, the Secretary of Commerce is directed to submit revised estimates of the cost of completing the Interstate System to the Congress within 10 days subsequent to January 2, 1966, 1967, and 1968, which estimates, after being approved by the Congress, shall be the basis for apportionment of interstate funds for fiscal years 1967, 1968, and 1969, respectively. At the time this provision was enacted into law, the last fiscal year for which interstate funds were authorized to be appropriated was 1969. The Federal-Aid Highway Act of 1961 extended the authorization of interstate funds through fiscal year 1971, in recognition of the increased estimated cost of the Interstate System.

Existing law also requires that interstate funds be apportioned on or before January 1 preceding the commencement of the fiscal year for which such funds are authorized. Thus, these two provisions of existing law are inconsistent, for interstate funds authorized for fiscal years 1967, 1968, and 1969 cannot be apportioned, as now required, on or before January 1, 1966, 1967, and 1968, respectively, and at the same time be based upon cost estimates now required to be submitted to the Congress, for approval within 10 days subsequent to January 2, 1966, 1967, and 1968, respectively. It is also necessary to provide for the submission and approval of cost estimates to be used as the basis of apportionment of funds now authorized for fiscal years 1970 and 1971.

H.R. 6044 and H.R. 6141 would advance the date of submission of the cost estimate from January 1966 to January 1965, which cost estimate, after approval by the Congress, would be the basis for apportionment of interstate funds for fiscal years 1967, 1968, 1969, and 1970. These bills would then provide for the submission of one additional cost estimate within 10 days subsequent to January 2, 1969, to be used as the basis for apportionment of interstate funds for fiscal year 1971. By these changes, interstate funds authorized for the last 5 years of the program would be apportioned on the basis of two approved cost estimates; whereas, under existing law separate cost estimates are required to be submitted to and approved by the Congress for the apportionment of interstate funds authorized for each of the last 3 years of the program.

EXPLANATION OF H.R. 6140, BY MR. FALLON

Under the present law (section 109(b) of title 23, United States Code) geometric and construction standards to be adopted for the Interstate System require the approval of the Secretary of Commerce in cooperation with the State highway departments to design and construct primary and interstate highways to accommodate the types and volumes of traffic forecast for the year 1975.

It has generally been the practice of the Bureau of Public Roads and the State highway departments to design and construct primary and interstate highways adequate for traffic forecast 20 years in the future which led to inclusion of the 1975 date in the Federal-Aid Highway Act of 1956. However, as construction of the Interstate System progresses to planned completion in 1972, the designed capacity of new sections of highway may not be adequate to accommodate the types and volumes of traffic forecast 20 years in the future. In fact, it is possible that the full capacity of some sections of highway constructed near the end of the present program may be utilized as soon as the highway is opened to traffic.

This bill would authorize the Secretary of Commerce, in cooperation with the State highway departments, to adopt geometric and construction standards for the Interstate System adequate to accommodate the types and volumes of traffic anticipated for such future period of time and under such planning criteria as deemed appropriate by the Secretary, without any limitation being placed thereon by the Congress.

EXPLANATION OF H.R. 4154, BY MR. BUCKLEY, AND H.R. 4559, BY MR. FALLON

These are identical bills to eliminate the special provision in existing law (since 1944) whereby Connecticut and Vermont towns are considered municipalities, regardless of their incorporated status, for the apportionment of Federal-aid urban funds. The census conditions which originally supported this provision no longer exist. Consequently, Connecticut and Vermont are receiving special treatment by having the population in these towns counted twice (apportionment of both secondary and urban funds). Connecticut and Vermont received \$810,000 and \$73,000 more, respectively, in the 1963 apportionment of urban funds, than they would have received if treated in the same manner as all other States.

EXPLANATION OF H.R. 5590, BY MR. FALLON

In a number of States, at the present time, certain State and local taxes are levied on highway construction and highway materials in which Federal funds participate either on a 90-10 or a 50-50 basis. The primary purpose of these taxes are to provide revenue for State and local government purposes. H.R. 5590

would prohibit the use of any Federal-aid highway funds toward payment of such State or local taxes.

Mr. FALLON. We have with us this morning our distinguished Federal Highway Administrator Mr. Whitton.

Mr. Whitton, will you please come forward in order that we may get the same intelligent response we always get every time you come here. We are pleased that you have time to come here and testify on the legislation before us.

STATEMENT OF REX M. WHITTON, FEDERAL HIGHWAY ADMINISTRATOR; ACCOMPANIED BY F. C. TURNER, ASSISTANT ADMINISTRATOR AND CHIEF ENGINEER; AND J. C. ALLEN, DIRECTOR OF THE OFFICE OF ADMINISTRATION, BUREAU OF PUBLIC ROADS, U.S. DEPARTMENT OF COMMERCE

Mr. WHITTON. I thank you and the committee for this opportunity. May I ask if it would be satisfactory of Mr. Allen and Mr. Turner to sit with me in case of questions?

Mr. FALLON. We have no objection. We are always glad to have your able assistants with you.

Mr. WHITTON. Thank you.

Mr. Chairman and members of the committee, I am pleased to appear before you to present the views of the Department of Commerce and the Bureau of Public Roads concerning six bills; namely, H.R. 4154, 4559, 5590, 6044, 6140, and 6141.

Before commenting specifically on each of these bills, I would like to review briefly for the committee the progress which we have made to date in the Federal highway programs. I am happy to say that these programs are progressing on schedule, as authorized by the Federal-Aid Highway Acts of 1961 and 1962.

The Federal funds authorized by these acts have been apportioned to the States for the fiscal years through 1964, and the States are utilizing their apportionments of both Interstate and A-B-C funds at an acceptable rate.

Authorizations for the fiscal year 1965 in the amount of \$2.7 billion of interstate funds and \$975 million of A-B-C funds are expected to be apportioned to the States early this summer and made available for contract on a quarterly basis throughout the year. Program obligations for engineering, right-of-way acquisition, and construction are expected to total about \$3.8 billion during the fiscal year 1963 and to continue at about this level for the next several years.

The highway trust fund is in sound condition to support a program of this size. Receipts totaled \$16,613 million through April 30, 1963, while expenditures totaled \$15,932 million. The balance of \$681 million which existed on that date is expected to be progressively reduced in future years under the established obligation schedule. Estimated revenues and expenditures are in close balance for the entire trust fund period, with an estimated surplus of only \$19 million remaining at the end of the trust fund period in 1972.

Over 12,200 miles of the 41,000-mile Interstate System have been improved and are opened to traffic, in addition to the 2,368 miles of toll facilities incorporated into the system. The improved nontoll

mileage includes over 9,100 miles completed to acceptable standards for 1975 traffic; 5,000 more miles are presently under construction, and engineering or right-of-way acquisition work is underway on another 11,300 miles of the system. The established goal is the improvement and opening to traffic of half of the Interstate System by the end of the calendar year 1964, which is approximately the midpoint of the trust fund period, and the full improvement of the total 41,000-mile system by the end of the trust fund period in 1972.

The A-B-C program for improvement of the Federal-aid primary and secondary systems and their urban extensions shows continuing accomplishment. Over 152,000 miles of construction projects have been completed since July 1, 1956, at a total cost of over \$10 billion of which about \$5 billion were Federal funds. Projects are underway or authorized at a total cost of over \$3.5 billion, including \$1.8 billion of Federal funds for over 22,000 miles of A-B-C construction.

The achievement of the goal set for the Interstate System, and the continued steady progress on the A-B-C systems are closely related to the bills which this committee has before it for consideration today.

With respect to identical bills H.R. 4154 and 4559, it should be noted at the outset that the foundation of all of the Federal-aid highway programs is the equitable apportionment of funds among the several States. The method of apportioning funds authorized for the urban extensions of the Federal-aid primary and secondary systems relates the populations of municipalities and other urban places of 5,000 or more in each State to the total of such population in all the States. However, an exception is made in the case of towns in Connecticut and Vermont, which are considered municipalities regardless of their incorporated status.

When this provision was enacted as part of the Federal-Aid Highway Act of 1944, its evident purpose was to place Connecticut and Vermont on an equal basis with other States in the apportionment of urban funds. The term "town" in the New England States usually refers to a political subdivision of a State which may contain incorporated or unincorporated places which are urban in character. As used in the 1940 Federal census, the term "urban population" did not include the population of unincorporated areas unless those areas met certain population density standards. At the time of enactment of the 1944 act, much of the population of these towns was urban in fact, although the urban population density standards adopted by the Bureau of the Census had not been met. Subsequently, the definition of "urban population" has been revised by the Bureau of the Census to include as nearly as possible the population of all places which have urban characteristics, regardless of their incorporated or unincorporated status.

Under the present highway legislation (sec. 104(b)(3) of title 23), the population of each town in Connecticut and Vermont with 5,000 or more inhabitants is used as the basis for apportioning Federal-aid urban highway funds regardless of its rural or urban characteristics. Where the area is actually considered by Census as rural in character, it is also included in the rural population data upon which apportionment of Federal-aid secondary funds is based.

The August 15, 1962, report of the Comptroller General to the Congress, entitled "Review of Apportionments of Federal-Aid Highway

Funds, Bureau of Public Roads, Department of Commerce for Fiscal Years 1956-63" outlined the effects of counting certain population twice in these two States. Specifically, it noted that highway legislation resulted in Connecticut receiving approximately \$810,000 more urban funds and Vermont about \$73,000 more urban funds than would have been received if the urban population had been considered in the same manner as in all other States. These amounts represent 18.2 and 22.6 percent, respectively, of the Federal-aid urban highway funds apportioned to the two States for fiscal year 1963.

Consequently, the report recommended that in view of the change in the Census definition of urban population, the Congress should amend this section of title 23, to eliminate or modify the special provision applicable to these two States in the apportionment of urban highway funds.

H.R. 4154 and 4559 would eliminate the special provision entirely. We believe that since the original circumstances which prompted the enactment of this exception to the general rule concerning apportionment of urban funds no longer exists, its repeal is warranted. Accordingly, we recommend enactment of either of these two bills in order to provide for uniform treatment of all States in the apportionment of Federal-aid urban highway funds.

H.R. 6044 and 6141 are administration bills concerning the submission of cost estimates for the completion of the Interstate System. These cost estimates serve as the basis for apportionment of Interstate System funds to the States for the fiscal years 1960 through 1969. Existing law requires a revised cost estimate to be transmitted to the Congress within 10 days after January 2, 1966, and annually thereafter through and including January 2, 1968. Apportionments for fiscal years 1967, 1968, and 1969 are to be based on these estimates.

The present law also requires the Secretary of Commerce to certify to the States the sums apportioned to them for the fiscal years 1967, 1968, and 1969, on or before January 1, of calendar years, 1966, 1967, and 1968, respectively. This requirement of certification will be impossible to meet with respect to these fiscal years, since the estimates upon which the apportionments to be certified are based will not yet have been approved by the Congress.

It should be noted that the Federal-Aid Highway Act of 1961 authorized funds for the Interstate System for the fiscal years 1970 and 1971. However, there is no corresponding provision for apportioning these funds to the States.

We consider it essential that legislation providing for the submission of the next cost estimate for the Interstate System in January of 1965, rather than in 1966, be enacted during the first session of the 88th Congress. Prompt enactment is necessary because the preparation of such a comprehensive estimate must be begun at least a year, and preferably more, in advance of the time of submission of the report to the Congress. This advancement of 1 year in the reporting date provided by these bills would permit the proposed January 1965 cost estimate to be used as the basis for the apportionment of funds for fiscal year 1967. This apportionment would normally be made in the summer of 1965.

We believe that it is desirable also to use the proposed 1965 cost estimate as the basis for apportioning funds for the fiscal years 1968,

1969, and 1970, rather than requiring cost estimates to be made annually as under existing law. A final cost estimate to be submitted in January 1969 under these bills would serve as the basis for the apportionment of funds authorized for the fiscal year 1971. This apportionment would normally be made in the summer of 1969, and would constitute the final apportionment of interstate funds as authorized by the Federal-Aid Highway Act of 1961.

These bills would provide further that apportionment of interstate funds authorized for fiscal years 1967 through 1971 be based on estimates of the Federal share of the total cost, instead of the total cost, of completing the then designated Interstate System, including the State share. If the Federal share of the cost rather than the total cost of completion is used for the estimates, all apportionments based on these two estimates will correct any imbalances which may have previously occurred in apportionments to the States. Such imbalances may have resulted from the fact that the Federal share of the cost of Interstate System projects is not the same in all States, due to the sliding scale provision applicable to public lands States. This provision is fully in accord with recommendations of the Comptroller General in his August 15, 1962, report concerning the apportionment of Federal-aid highway funds. It would assist materially in making available to each State the requisite amount of Federal funds for simultaneous completion of the Interstate System in all the States in accordance with the stated policy of the Congress.

H.R. 6044 and 6141 not only perform necessary corrections in existing law, but provide as well for an orderly method of making apportionments for the Interstate System throughout the remaining life of the Highway Trust Fund. For these reasons, we strongly urge early enactment of either of these two bills.

H.R. 6140 is a bill relating to the design standards for computing estimated costs for completing the Interstate System. Under present law, the geometric and construction standards for the Interstate System are required to be adequate to accommodate the types and volume of traffic forecast for one specific time in the future, namely the year 1975, for purposes of Federal-aid participation with interstate funds. Geometric design standards meeting this requirement were approved by the Secretary of Commerce shortly after enactment of the Federal-Aid Highway Act of 1956.

It is now more than 6 years since the implementation of this requirement. Consequently, the standards now being employed for the Interstate System cost estimates are those accommodating traffic anticipated less than 13 years hence. Since this 13-year period is considerably less than the anticipated life of the average project now being constructed, the continued use of the fixed date, 1975, for geometric and construction standards could ultimately result in the building of new highways with Federal participation less than the usual 90 percent of the total cost.

The method employed by H.R. 6140 is to give the Secretary of Commerce discretion to approve in cooperation with the State highway departments, geometric and construction standards for such future period of time and under such planning criteria as he may deem appropriate. This discretionary approach seems preferable to any of the alternatives such as replacing the year 1975 with another fixed date, or providing a set leadtime instead.

This bill would permit the completion of an Interstate System constructed to the most practical and economic standards with Federal participation in the total cost thereof. Accordingly, we recommend the enactment of H.R. 6140.

H.R. 5590 is a bill which would prohibit participation of Federal-aid funds in certain State or local taxes. For some time, the matter of Federal-aid participation in certain State and local taxes on highway contracts and highway materials has been one of increasing concern to the Bureau of Public Roads. The various taxes involved in this problem are those based on the value of highway construction contracts and State or local sales, use, or other ad valorem taxes on highway construction materials, the primary purpose of which is to provide revenue for State or local governmental purposes.

Contractors, in bidding on Federal-aid highway work, must include in their bids an amount sufficient to cover these tax items. Such taxes thus become an inherent part of the total cost of the project. Costs including these taxes are borne by the States, and moneys from the Highway Trust Fund reimburse the States at a 50-percent ratio on primary and secondary system projects and 90 percent on Interstate System projects.

The ultimate effect of this is to increase the Federal-aid highway project costs. Since not all States and localities impose such taxes on highway construction, and since the rates and types of these taxes vary among other States and localities, some variance will result in the cost of Federal-aid highway projects among the several States on Federal-aid highway projects.

H.R. 5590 would prohibit any payment of Federal-aid funds which would constitute participation in State or local taxes based on the value of highway construction contracts or in any State or local sales, use, or other ad valorem taxes on highway construction materials, the primary purpose of which is to provide revenue for State or local governmental purposes. The bill would apply specifically to the amount of Federal reimbursement payable to the States.

The Bureau of Public Roads does not object to State and local taxes which are of general application. We do object to taxes which, in their practical effect, single out the Federal-aid highway program as an object of special taxation. However, H.R. 5590 is not limited to such special taxes. The effect of State and local taxes on other Federal grant or grant-in-aid programs may also be significant. Moreover, we feel that the effect of H.R. 5590 on State revenues should be carefully considered. Until such consideration of these other interests has been afforded by a comprehensive study, we cannot support H.R. 5590.

On behalf of the Bureau of Public Roads and the Department of Commerce, I wish to thank the subcommittee for this opportunity to discuss the provisions of these six bills.

Mr. FALLON. On behalf of the committee I thank you for your very comprehensive statement.

Perhaps some of the members would like to ask some questions. Mr. Cramer?

Mr. CRAMER. Mr. Whitton, we are glad to see you again.

Mr. WHITTON. Thank you, Mr. Cramer.

Mr. CRAMER. You have mentioned a number of subject matters in which many of us have been interested for a long time and particularly our very distinguished chairman of this subcommittee.

I would like to refer to the last subject matter first, Mr. Whitton, with regard to the chairman's bill concerning State and local taxes. You suggest further study is needed. How would you suggest that such a study be undertaken? What moneys do you think should be used? Should it be executive, should it be legislative or how do you think it should be carried out?

Mr. WHITTON. Mr. Cramer, I don't believe I am qualified to suggest how the study should be made but it does seem to me there are many different Federal programs, difficult programs, besides the public road program and perhaps all of them should be considered instead of singling out the road program. We do object to singling out the road program as has been attempted in some States and tax it alone on the basis of its total cost or the total cost of certain projects and tax that certain project alone for the purposes of raising State revenue.

Mr. CRAMER. Would the Bureau of Public Roads be willing to participate in such a general study?

Mr. WHITTON. To the extent of our involvement.

Mr. CRAMER. You obviously are involved because it is connected with highways.

Mr. WHITTON. Yes, sir.

Mr. CRAMER. So any comprehensive study as you suggest would have to include the agency, would it not?

Mr. WHITTON. Yes.

Mr. CRAMER. Of course, the bill as introduced, as I understand it, relates wholly to highway construction. I understand in your testimony you object to taking this approach with relation to highways in that similar application of State and local taxes would apply to other public works construction by the Federal Government.

Mr. WHITTON. Yes, sir.

Mr. CRAMER. I think your point is not only interesting but perhaps well taken. The problem as I see it with this committee would be on the question of committee jurisdiction insofar as any study by this committee is concerned of the total public works field. I imagine it would involve the necessity for the appointment of a special subcommittee such as the one that now exists on property acquisition. As a matter of fact, the Judiciary Committee of the House does have a subcommittee presently appointed with regard to not the same subject matter but a subject matter in State and Federal taxes where in fact there is, or if there is, preemption by the Federal Government in a field also taxed by the State. I am sure you are familiar with that. I think your suggestion is a very interesting one but it appears so far as your agency is concerned, or the Federal Government Executive generally, there are no present plans for any such study; is that correct?

Mr. WHITTON. There are not to my knowledge.

Mr. CRAMER. I suggest to the chairman of the subcommittee it may be justified to give consideration to how such a general consideration of this question could be taken up either by Congress or jointly by Congress and the executive branch of Government. I don't know how else we could get to it. Do you know, Mr. Chairman?

Mr. FALLON. I don't know of any other way we could get the necessary information for the purposes of effecting legislation. I might say that the organization here known as the—I don't know what the name of it is, but the purpose of it is to look out for legislation that might affect States in their taxing program. They have asked to appear before the committee and present their views. It will be the plan of the chairman to hear this organization at some future date.

This legislation, of course, is directed at the States that have singled out the highway program as a means of balancing their budgets. In one case legislation was introduced in the State legislature that would permit the tax on the highway program to be used for schools. That, of course, is certainly a breach of the intent of Congress. When the highway legislation was enacted, it was not intended to divert highway funds to any other programs except to highway construction. I understand as a result of this legislation being introduced the bill that would transfer funds to another department was withdrawn from this legislation. So as long as this legislation has that effect it is all right but it doesn't help us with the States who have already enacted legislation and who are diverting funds under the program.

It is not, of course, our business here to tell the State where it can or cannot tax but it certainly is our responsibility, I believe, to carry out the intent of Congress, and that is not to single out the highway program as a means of balancing the State and local budgets. I feel that after the hearing perhaps we can get together and determine a way to pursue this so we can rectify the abuses already and maybe keep them from spreading in the future. As you can see, when a local body gets together and looks around for money, this is an easy way. The only place I think objection should come from would be this committee and the Congress.

Anyway, we might make up our minds to pursue this after the hearing, I think it should be done, whether it is by a special committee or whether this committee should pursue it. That is something we can take up after the hearings are completed.

Mr. CRAMER. When consideration of this State tax was underway by the legislature of this State—I don't know what State it is.

Mr. FALLON. It was Alabama.

Mr. CRAMER. Did the Bureau of Public Roads make known its views in any way?

Mr. FALLON. I made known my views.

Mr. WHITTON. About this particular tax?

Mr. CRAMER. Yes.

Mr. WHITTON. We would certainly oppose it. I don't know that we would have an opportunity in that particular State. We would just present our news to you.

Mr. FALLON. I might say in this instance I expressed my views about it by telegram to the proper authorities in Alabama.

Mr. CRAMER. I can understand the gentleman's concern and I join in it. I think there are a lot of problems involved, constitutional and otherwise, and I do hope it could be given broad consideration, and has been recommended.

The bill 6140 relating to design standards—

Mr. FALLON. Mr. Cramer, may we stay on this subject for a minute, if any members have any questions on it.

Mr. Olsen?

Mr. OLSEN. Thank you, Mr. Chairman.

Have any of the States complained to you about this particular bill H.R. 5590?

Mr. WHITTON. No, sir; I believe not.

Mr. OLSEN. You haven't heard any adverse criticism on this proposal?

Mr. WHITTON. Not on this bill; no. The State highway department will testify on this bill.

Mr. OLSEN. Have any of them told you that they have objections?

Mr. WHITTON. No, sir; they haven't discussed it with me.

Mr. OLSEN. Nor with your department?

Mr. WHITTON. Not to my knowledge.

Mr. BALDWIN. I have no questions, Mr. Chairman.

Mr. FALLON. Mr. Schwengel.

Mr. SCHWENGEL. It is a pleasure to have Mr. Whitton before us. You have done a great job in the State of Missouri. I went through and observed firsthand how you built roads without money. We have a real problem down there but generally speaking you have done a great job there. It is good to have you here and we are glad to have your statement on this legislation.

Mr. FALLON. Mr. Blatnik, have you any comments or questions?

Mr. BLATNIK. I have no comment, except it is a pleasure to have our very able and distinguished Administrator before us.

Mr. WHITTON. Thank you.

Mr. FALLON. Mr. Harsha?

Mr. HARSHA. No questions, Mr. Chairman.

Mr. FALLON. Mr. Cramer?

Mr. CRAMER. I think you are correct to proceed on one bill at a time. On 6140, relating to design standards, as I am sure Mr. Whitton knows, I have expressed myself upon a number of occasions as being in favor of some adjustments in the 1975 date for data fixing design standards and computing the estimated cost for completing the system. I would like to examine into the merits of the recommendation proposed.

I would like to ask first, what is going to be the policy of the Bureau under this broad discretion so far as considering the number of years that a road is supposed to be useful in the future, in setting up design standards? I am sure you are aware the policy in the past has been relating to primary interstate highways, that they be adequate for traffic for 20 years; is that not correct?

Mr. WHITTON. That is correct.

Mr. CRAMER. It is true, also, is it not, that this 1975 date in that program is swiftly closing the previous 20-year period of contemplated usage, and as each year passes that period is depressed or decreased?

Mr. WHITTON. Yes, sir.

Mr. CRAMER. What is to be the policy of the Department and the Bureau relating to the future construction, say as of 1968? Is it going to be forecast for 1988 or 1998, or what is going to be the policy?

Mr. WHITTON. Mr. Cramer, we haven't established policies as yet. I would speak personally, if you like.

Mr. CRAMER. Yes.

Mr. WHITTEN. I think there should be some period between 20 and 30 years ahead of the year in which we are building. Perhaps.

even 30. I think this is a joint effort and we should talk with the States about it and agree—this is my opinion, now—we ought to agree on some standard of years we would design for.

Mr. CRAMER. Do you see any reason for it being between 20 and 30 years?

Mr. WHITTON. My personal thought is nearer 30.

Mr. CRAMER. We could be building highways in 1972 for 2002—design standards for 2002. Is that correct?

Mr. WHITTON. In 1972 if we set 30 years as a limit it could be that period.

Mr. CRAMER. Do you see any reason why the Congress should not fix the period, rather than a specific year, to determine how many years in the future this construction should be applicable.

Mr. WHITTON. I would have no particular objection personally to the Congress saying 20 or 25 or 30 years. This is the way we have written it. This is our recommendation.

Mr. CRAMER. I understand the bill as provided would refer, however—obviously, your administrative determination would apply uniformly to all States and all recipients of these funds; is that correct?

Mr. WHITTON. Yes.

Mr. CRAMER. Would it not obviously include the increased cost of the total program?

Mr. WHITTON. Some, but I don't think too much of this program.

Mr. CRAMER. By this program, you mean the Interstate System; is that correct?

Mr. WHITTON. Yes, the one as now laid out, 41,000 miles. I don't think that percentage increase would be too great.

Mr. CRAMER. Has any estimate been made as to what this would be?

Mr. WHITTON. No.

Mr. CRAMER. Would it be possible for the Bureau to submit to the committee an estimate of increased costs before hearings are closed on this matter?

Mr. WHITTON. It couldn't be a very accurate estimate, Mr. Chairman.

Mr. CRAMER. Could you give an idea as to what specifically in subject matter would be involved as compared to the present system of 1975 and using a 30-year usable period, such as six lanes instead of four lanes, providing rights-of-way and so forth?

Mr. WHITTON. That would be the case in some areas. Or the possibilities for bridges and a widening.

Mr. CRAMER. They would have to provide adequate width for six lanes instead of four.

Mr. BLATNIK. Would the gentleman yield at that point?

Mr. CRAMER. Yes, I would be glad to.

Mr. WHITTON. There are not too many instances of that nature though, Mr. Cramer.

Mr. BLATNIK. The gentleman from Florida touches on a very important point, Mr. Whitton. While you may acquire right-of-way for the future at State expense and build four lanes for the anticipated needs of the next 30 years, making it possible to widen to six

lanes beyond that when needed, what do you do in the case of bridge structures or overpasses? You make them four lanes and you know you will need six lanes in 1980 or 1985.

Mr. WHITTON. In a few instances we have provided that a very slight additional cost whereby that could be widened to six lanes instead of four lanes or eight lanes instead of six lanes.

Mr. BLATNIK. In some instances that could be done?

Mr. WHITTON. It has been done.

Mr. BLATNIK. What would be the general rule, Mr. Whitton? Wouldn't that be a rather expensive proposition?

Mr. WHITTON. The provision of making provision for additional widening? It wasn't in the case I have in mind. It was not an expensive operation. To design the bridge so that it could be widened at some future time.

Mr. BLATNIK. Would you say that would be generally true of all the bridge structures or most of the bridge structures?

Mr. WHITTON. This was a bridge over the Missouri River at Omaha and the additional cost percentage was not very much. We made provision for future widening. If we could do it on that bridge I would say we could do it on any bridge.

Mr. BLATNIK. That is all.

Mr. WHITTON. This was really about one-half of 1 percent, Mr. Congressman. That is not a great cost.

Mr. CRAMER. Can you give us other examples of where there might be an increased cost?

Mr. WHITTON. I think the additional right-of-way would certainly be very minor—the additional width of right-of-way that might be necessary. The original putting through of the right-of-way is the great cost and you can get 300 feet for a little more than you buy 250 feet or whatever it is. In some cases we do the grading perhaps and the bridging that would make provision for future lanes if we were going for 30 years. Those would be the instances that I have in mind.

Mr. CRAMER. What would be the increased cost of grading for six lanes as compared to four lanes?

Mr. WHITTON. I would have to guess. I would guess it would be less than 10 percent.

Mr. CRAMER. Of the overall cost of the structure?

Mr. WHITTON. Yes. It wouldn't apply clear across the board for every remaining job because every route may not justify an additional six lanes or an addition to six lanes in 30 years or eight lanes in 30 years.

Mr. CRAMER. Has any estimate been made of what percentage of the U.S. system would require these additional standards?

Mr. WHITTON. I am told we have made some estimates but it is still a very small percentage of the additional cost.

Mr. CRAMER. May we have an idea of what that percentage is?

Mr. WHITTON. We will be glad to give it to you. We do not have it in mind right now. We would like to supply it to the committee in the next day or two.

Mr. CRAMER. That is satisfactory.

(The information requested follows:)

About 3,000 miles will be affected.

Mr. CRAMER. This would result though, would it not, in the States that now would get, as a result of this enactment, approval for standards 30 years hence suitability, it would give them an advantage over the States to have particularly over the last 4 or 5 years, used a 20-year or less suitability period, would it not?

Mr. WHITTON. You mean the States that have already built their roads?

Mr. CRAMER. Yes.

Mr. WHITTON. All the States will get that advantage. Some of them are further advanced than others and those who are further advanced will be penalized, though the people have had their roads during these years and this is an advantage.

Mr. CRAMER. You see no overriding argument against your proposal?

Mr. WHITTON. No, sir, if something is right we ought to do it. I think the good for the total amount of people will greatly override the disadvantage to a few.

Mr. CRAMER. Would the additional highway be given any additional Federal matching funds to come up to the new standards on the mileage already constructed?

Mr. WHITTON. Again I will have to give you a personal opinion.

Mr. CRAMER. The bill doesn't provide for it.

Mr. WHITTON. The bill doesn't provide for it.

Mr. CRAMER. What would be your personal opinion?

Mr. WHITTON. It would depend a lot on the single situation. I don't think I can give you a rule that will apply to all. It will depend on the condition of the road itself, in my opinion, and the volume of traffic on it.

Mr. CRAMER. Let's say the road broke down and was unable to carry the traffic—let's say the traffic was too great and the road needed widening in a given area by 1975 or even before, where it has already been constructed. Do you think those areas in those States should be entitled to an additional Federal matching amount to conform to the future 30 years, then? Of course I realize the bill doesn't provide for that.

Mr. WHITTON. Of course we are doing that in some cases where we have been using a road built previously as part of the Interstate System and we come in and provide for widening, shoulder paving, and such things, to bring it up to standard.

Mr. CRAMER. For usability up to 1975?

Mr. WHITTON. That is right.

Mr. CRAMER. It is not for usability up to 1985 or 1995?

Mr. WHITTON. That is right.

Mr. CRAMER. I assume if the bill is enacted and as the matter unfolds you will give consideration to this?

Mr. WHITTON. That is right. If we come along and approve that old road we will improve it to 30 years hence instead of 1975.

Mr. CRAMER. That is all.

Mr. FALLON. Do you expect the 41,000 miles to be completed by 1975?

Mr. WHITTON. No, sir, 1972. Very definitely so.

Mr. FALLON. So it is well to have this legislation enacted as soon as possible?

Mr. WHITTON. We would like it very much, Mr. Congressman.

Mr. BALDWIN. Mr. Whitton, let me ask a question on this bill: Up to this time the Congress has given a clear indication of what is intended as the target. I have the former section 109(b) here and it says specifically:

Such standards shall be adequate to handle the types of traffic forecast for the year 1975.

Now, the bill before us today, H.R. 6140, removes that target and doesn't say whether Congress has in mind lesser standards or greater standards.

I wanted to ask this question: Would you have any objection, where the bill on the first page, last sentence, says:

Such standards shall be adequate to accommodate the type and volumes of traffic anticipated for such future period of time and under such planning criteria as deemed appropriate by the Secretary—

would you have any objection to putting in a proviso that would be, after "Secretary," adding a comma and saying: "but such standards shall in any case be adequate to accommodate the types and volumes of traffic forecast for the year 1975"? I for one want to give a clear indication that I don't want the bill to lessen its requirements from what we originally specified as a target and yet the bill wouldn't indicate whether we had such intention or not.

Mr. WHITTON. It is not our intent to lessen the requirements. So far as I am concerned I would have no objection to the phrase.

Mr. CRAMER. Will the gentleman yield on that? I see what the gentleman is attempting to accomplish.

Referring to the year 1975, even though it is suggested as minimal, we might end up with a problem similar to the one we have now where 1975 is suggested as the maximum. Where in fact Congress would intend the minimums to be made 1985, really.

Would the inclusion of a specific date rather than—what you might do is say:

But such standards should in any case be for a period 20 years after construction—

or something of that sort.

Mr. BALDWIN. Let me make an observation at this point. I think Congress made a very clear indication to the country what it had in mind when it passed the Federal and State Highway Act of 1956. We indicated that we wanted to complete this program and meet the needs of traffic in 1975 at that time. I do not particularly have any objection to setting greater standards but as far as I am concerned I still want to indicate very clearly that 1975 is the absolute minimum standard that Congress has in mind and we have had some discussions from time to time in the subcommittee headed by Mr. Blatnik about failures of States to meet certain standards that we felt were absolute rockbottom minimum. My only purpose would be to indicate clearly this is still the rockbottom minimum. If you want to go beyond that, fine, but under no circumstances do we want to set a target date less than the traffic need of 1975.

Mr. WHITTON. Certainly it is not our intent, Mr. Baldwin.

Mr. CRAMER. If the gentleman will yield further, I think the gentleman's point is well taken about setting the minimum. I would feel safer if we set a minimum of 20 years subsequent to the construction period.

Mr. BALDWIN. Let me make this observation. I am not at all certain as to whether all highway engineers could necessarily make a complete objective target of what will come 20 years from now. I think in some areas the highway engineer might have been working in 1939 not knowing we were going to get into World War II and not knowing the tremendous migrating of population that would be caused because of that, that caused communities to double and triple in population. I am not sure we have the competence to determine the proper target date. I want to be sure we have set 1975 as a minimum and I think we should reiterate that is the minimum as far as we are concerned.

Mr. QUILLEN. Would the gentleman yield?

Mr. CRAMER. Yes.

Mr. QUILLEN. In what year did Congress pass the law?

Mr. BALDWIN. 1956.

Mr. WHITTON. Mr. Chairman, I think the act was written in 1955 and you were really shooting at 20 years.

Mr. BALDWIN. We had a bill before us in 1955; it was defeated in the House of Representatives. The bill was not passed until 1956.

Mr. WHITTON. That is right. You did not change the bill you had in 1955.

Mr. FALLON. Mr. Blatnik?

Mr. BLATNIK. In your statement, under the explanation of the bill H.R. 6140, you say, "may be utilized as soon as the highway is open to traffic."

Would it be correct to say that many of the stretches of highway will be filled to capacity on roads now under construction, and many of those when completed will be utilized to maximum capacity when opened; is that not true?

Mr. WHITTON. It is true in this way, particularly in urban areas where the system is not completed when we open one section or one route in a city, traffic flocks to that route rather than using the rest of the system and when the system is totally completed in any particular city we do not contemplate it will be filled to capacity.

Mr. BLATNIK. Then would the wording of the proposed amendment, H.R. 6140, give you the latitude and flexibility to provide for estimated future needs that your department feels is adequate to meet the needs of the States?

Mr. WHITTON. Yes, sir.

Mr. BLATNIK. Mr. Whitton, a little off the point but related, I, in particular, have been worried, and several other members of the committee have been worried about the States building new toll roads, and intermingling these and existing toll roads with the interstate highway system. Has the Bureau of Public Roads any views or recommendations on these abuses of intermingling free and toll roads on the interstate system? I am thinking of one important detail, in the New York Thruway at Buffalo, where as I recall (and I have all the details in the file and have gone over them), there were short sections that looked obviously like toll road traps. Is that type of abuse continuing?

Mr. WHITTON. No, sir.

Mr. BLATNIK. What controls do you have over preventing the continuation of that kind of abuse?

Mr. WHITTON. Well, as I see it we just would not approve an interstate project in that sort of a way. We are presently resisting some of that type of project at this time.

Mr. BLATNIK. There is nothing that would stop a State, if so determined, to have a certain section involving a bridge or complicated interchange or overpass—there is nothing to stop a State right now from going ahead and building a toll section in a small area, the throughway leading to and from it, which later on the State could either turn back or have included as part of the freeway, and be reimbursed for it.

Mr. WHITTON. We have successfully stopped one State, and I think we have another one pretty well blocked and our method is simply to not approve a project that would lead up to it.

Mr. BLATNIK. What is the current total mileage of Interstate Highway System in use?

Mr. WHITTON. 14,300, I believe.

Mr. BLATNIK. And how much of that is in some form of tollway?

Mr. WHITTON. The figure I used here is 2,540.

Mr. BLATNIK. Approximately one-sixth, a little less than one-seventh of the total.

Mr. WHITTON. But that mileage was already constructed at the time—

Mr. SCHWENGEL. Will the gentleman yield?

Mr. BLATNIK. I yield.

Mr. SCHWENGEL. Is there any evidence to show that these 2,300 miles will be freeways one of these days? Is there any assurance?

Mr. WHITTON. That is our understanding, that they will be.

Mr. SCHWENGEL. How soon?

Mr. WHITTON. I cannot answer that. I do not know.

Mr. SCHWENGEL. Are there figures available that would indicate how soon they might be?

Mr. WHITTON. I am told most of them will clear in about 40 years from the time they were built.

Mr. BALDWIN. If the gentleman will yield, that would be when the bonds are normally amortized according to their amortization schedule.

Mr. BLATNIK. What disturbs them, the New York Thruway to Buffalo, is not so much the mileage as the traffic. The mileage is very short. It is in the order of 1, 2, or 3 miles. Someone traveling hundreds of miles hits these, as I call them, at least, toll traps. There is a cop there. You pay the toll, supposedly to get through the short section. The receipts are used to retire bonds. They are obligated to pay those back into the general fund or the road fund to be used in paying for building local highways in the State.

Mr. CRAMER. I am glad to hear the gentleman express himself. I am sure the gentleman is familiar with the efforts that I have put forth with regards to trying to eliminate toll traps, or at least prevent their further construction on the Interstate System. I introduced a bill last session to try to accomplish that. As I understand it in the New York Throughway situation, of course, the Bureau was asked for

and did give its approval, is that not correct, for these about a mile long trap insertions?

Mr. WHITTON. The Bureau approved them.

Mr. CRAMER. That is similar to the action the Bureau took in the State of Florida, over which I raised considerable objection, which is a different situation, but still affects the Interstate System, where the State constructed a toll road with the tollway authority agreeing not to construct the Interstate System and leaving certain missing links until at least 1972 and until after that if it appeared that the toll road would unfavorably compete with the free road, or vice versa, and thus they could not finance it until after 1972. The result of that, which might be called indirect missing links caused by toll roads, the indirect result is that there won't be any Interstate System serving Cape Canaveral until at least 1972 and maybe not thereafter, with there being a specific plan, 20-mile missing link south of Daytona link and a 20-mile missing link north of Fort Pierce, which are the north and south, or in the middle of which is Cape Canaveral.

When we enacted this act in 1956, it was considered in 1955 and I was on the subcommittee, it was my understanding that one of the principal justifications for 90 percent Federal money as compared to the previous 50 percent, it was to serve our Defense Establishment. That was one of the principal justifications.

Mr. WHITTEN. Yes, sir.

Mr. CRAMER. Here we have one of the major defense installations in the United States not having the services of the Interstate System until at least 1972 and not thereafter if the competing free road will not permit the toll road to earn adequate moneys to pay the toll road off. That is what the turnpike authority agreed to and that is what the State road board also sent a letter to the turnpike authority agreeing to. I realize the State sent you a letter to the contrary.

Mr. WHITTON. I wanted that in the record, too.

Mr. CRAMER. I will put that in the record. This is double talking, if I have ever heard it. They sent a letter to you saying we are going to finish this Interstate System by 1972 but they just got through telling the toll road authority that they would agree in writing that it would not be completed in 1972 by the State road department if it would compete with and prevent paying off of the bonds. They cannot have their cake and eat it, too. This is about as clear a case of double talking as I have heard.

They say they will agree with the bonding authority and it is even submitted to the court, approved by the court on the one hand and they are not going to complete in 1972 if it is competitive; they tell you on the other hand they are going to complete it by 1972. What is the solution of that type situation?

Mr. WHITTON. Mr. Congressman, those are two different roads as I view them.

Mr. CRAMER. In the same traffic corridor.

Mr. WHITTON. I do not think so.

Mr. CRAMER. There isn't any question about it because the court so found when the bond issues were floated.

Mr. WHITTON. That is the court's opinion and they are entitled to it, but to my way of thinking they are not in the same traffic corridor and they are two different roads.

Mr. CRAMER. If they were on the same traffic corridor what would be your opinion?

Mr. WHITTON. Well, as far as I know we cannot prevent the building of a toll road. We just do not have to make a connection with the interstate to it.

Mr. CRAMER. That is precisely—well, that is not necessarily the case because the toll road does connect with Interstate 95 and Interstate 4 to Orlando and then it connects up to the toll road and goes to Miami. It connects up again or is expected to connect up with the free road south of Palm Beach. Of course, the Bureau did approve that.

Mr. WHITTON. The law permits that. It permits those connections.

Mr. CRAMER. With regards to toll traps, I submitted a bill, H.R. 3494, this year attempting to overcome the objections made by the Bureau of my bill last session and in this bill I provided that "after July 1, of 1963, all agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that no toll road, bridge, or tunnel would be constructed on the Interstate System route involved without the official concurrence of the Secretary. The Secretary shall not concur in such construction unless he finds that under the particular circumstances existing the construction of such road, bridge or tunnel as a toll facility rather than a toll-free facility is in the public interest. The Secretary shall promptly report in writing to the Committees on Public Works of the Senate and the House any action taken by a State or other agency after July 1, of 1963, and without prior concurrence of the Secretary to construct such a toll road, bridge, tunnel, or any route designated as a part of the Interstate System."

It provides further for congressional action in that case.

There was requested on February 25 of this year a report on that bill. I was hoping that bill would be part of this series of hearings so that perhaps the Congress could help strengthen your hand in doing what apparently you are trying to do in many instances now, by enacting legislation still leaving the discretion in your hands or that of the Secretary of Commerce and your hands with some form of review by the Congress as a policy matter. Could I ask as to why the report has not been received on that legislation?

Mr. WHITTON. Well, I cannot answer the question. I do not know.

Mr. CRAMER. Do you have any objection to such legislation if it would strengthen your hand in this field?

Mr. WHITTON. We have not finished our study apparently on that bill and I just cannot report on it.

Mr. CRAMER. I would like to request that the report be forthcoming at the earliest possible time because it appears that this is a matter of current importance with the States as you have indicated making plans for such insertion of toll traps. This has perhaps a direct effect on the Interstate System, such as in Florida. The Bureau should give immediate consideration to it and submit a report. Perhaps we can strengthen your hand, Mr. Blatnik, in this area of toll traps.

Mr. WHITTON. We will endeavor to get that done, Mr. Cramer.

Mr. BLATNIK. Mr. Whitton, do I understand correctly that no State can build any section or segment on the Interstate Highway System as a toll road without the approval of the Bureau?

Mr. WHITTON. No. I said to you, Mr. Blatnik, that if a State permitted the building of a section of toll road on the Interstate System, then we could refuse to build a connection to it or relocate traffic. We are near enough to the end of the program now that we think the rest of the program ought to be free roads. There may be some exceptions like a tunnel under the Hudson River in New York, where they might want to put another tube alongside the present tube that we would not object to, but generally speaking we think we are near enough to see the end of this 41,000 miles and we see no need of financing any part of it as toll and we think Congress said and intended for the Interstate System to be free roads. Yet at the same time I think that long sections of the freeway like across New York State and Ohio and Indiana, that we ought not come along there and build an interstate parallel to that long section, so those have been included in the Interstate System.

Mr. BLATNIK. Yes, and I think very properly so. I am getting back again to instances such as Buffalo, New Rochelle, and New York. These are very short sections. I think one is just a mile long. This is for no apparent reason, at least to me. Do you recall offhand what the justification on the part of the State was for building those short sections?

Mr. WHITTON. I hate to say that I was not here then, but the only thing I can say is that sort of thing won't happen again if I can personally prevent it.

Mr. BLATNIK. They use the toll revenues not only to pay their bonds and interest on the short section itself, but apparently they use it for the highway program elsewhere in the State.

Mr. WHITTON. Frank tells me that only goes to the throughway, the revenue off of those short sections. It goes to the throughway with which to pay off their bonds.

Mr. BLATNIK. They are using the short section. The road is entirely toll free. They use the toll point to retire bonds so they can pay for a toll road in New York?

Mr. WHITTON. Yes, sir.

Mr. BLATNIK. They do not use it for building the Interstate System elsewhere in the State?

Mr. WHITTON. No, sir; it just goes to the throughway as I understand it.

Mr. BLATNIK. It seems to be a very unfair situation. You pay the toll on the long stretch that you actually use. Then you have an entirely different thing, where you have a freeway and a short little stretch. You have tollgates mounted. You have to pay tolls to help pay off the bonds on the toll road that exists elsewhere in the State.

You say that cannot happen now?

Mr. WHITTON. I would say I would be against it happening.

Mr. CRAMER. If the gentleman will yield, what happens when the State goes ahead and does it anyway? You have issued an opinion that permitted the State of New York to go ahead with those two.

Mr. BLATNIK. Am I correct; this happened before you took office?

Mr. CRAMER. The letter was written by Mr. Whitton and signed by him.

Mr. WHITTON. Permitting those to go ahead.

Mr. CRAMER. Saying it was not illegal to do so.

Mr. WHITTON. It is not illegal to do so.

Mr. CRAMER. That is what I am saying. Such an opinion was issued by you; was it not?

Mr. WHITTON. It is not illegal but it is against my personal principles to approve of such an operation.

Mr. CRAMER. Carrying out your present policy, trying to prevent the States from inserting a toll trap, let's assume the State says, "We appreciate your opinion. We respect it. We respectfully disagree with you and we are going to build a bridge." Such is happening in Jacksonville right now.

Mr. WHITTON. I believe the bridge is not going to be toll in Jacksonville.

Mr. CRAMER. It must have been changed recently. Has it been changed recently?

Mr. WHITTON. I believe so.

Mr. CRAMER. I congratulate you. I am glad to know it has been changed. Let's assume the State says, "We respectfully agree with you. We are going to build this toll bridge because we think we are going to need the interstate money someplace else."

What right do you have under law to do anything about it?

Mr. WHITTON. We would say we would not build a connection to it.

Mr. CRAMER. How do you define a connection, up to what, a 100 yards from the bridge? You have to build the Interstate System approaching it somewhere.

Mr. WHITTON. We could make it far enough away that it would have control, I am sure.

Mr. CRAMER. How far away do you think you can make it?

Mr. WHITTON. Five miles, ten miles, far enough away to control it.

Mr. CRAMER. Do you think you have that authority?

Mr. WHITTON. I believe, yes, sir; we are able to.

Mr. CRAMER. Are you actually exercising it in that manner now?

Mr. WHITTON. We have.

Mr. CRAMER. Don't you think legislation along the lines proposed would strengthen you in that effort?

Mr. WHITTON. Sure.

Mr. CRAMER. That is all.

Mr. FALLON. Let's see if we cannot get back to the legislation before us. I appreciated the education on these matters, but I think we should consider that at some future date.

Mr. Baldwin?

Mr. BALDWIN. No more questions on H.R. 6410.

Mr. FALLON. Mr. Schwengel, do you have any questions on 6140? Mr. Quillen?

Mr. QUILLEN. Mr. Whitton, how are the States progressing?

Mr. WHITTON. Across the board they are in good shape but there are some ahead and there are some behind. We are working on those behind.

Mr. QUILLEN. I know it is not a provision under the bill that this could be done, but Mr. Cramer raised the question in the specifications on a 20-, 25-, or 30-year basis if grading would be done on a six lane or eight lane, depending on what the traffic would be at that time.

Is it your intention that the Secretary might reasonably set specifications where some of the States which have progressed further than others would conceivably get their road widened before the whole system is completed in the United States?

Mr. WHITTON. Well, it would be an unusual case if that were true, Mr. Quillen.

Mr. QUILLEN. I would hope that it would. I appreciate your saying that because I think that the complete system should be completed before any thought of widening.

Mr. WHITTON. That is right. There are instances now where the State had built a part of the Interstate System to a lower standard. The need was contemplated for 1975. We will grant that State, and it could well be Tennessee, an opportunity to surface their shoulders and maybe widen the pavement from 20 to 24 feet to bring it up to the normal 1975 standards.

Mr. QUILLEN. I can understand that. Suppose the Secretary should say their specifications should be 30 years and the present system is built on a contemplation of 20 years.

Mr. WHITTON. Personally I do not believe we should go clear back and start all over again.

Mr. QUILLEN. I think that would be most unfair.

Mr. WHITTON. So I don't want to say we will not do it at all because there might be some case where it is justified but generally speaking we will be trying to finish what is not finished up to the 20- or 25-year standard rather than backing up to bring up to date something that had been finished 5 or 6 years ago. That is generally or will be generally our policy and there will be no exceptions unless there is some unusual circumstance that I cannot detail at this time.

Mr. QUILLEN. I think that is very fine. I can see why you would bring up certain sections of roads up to the 20-year standard now but if the specifications were broadened I cannot see any need for bringing those up to date until the whole system is completed.

Mr. WHITTON. Yes, sir.

Mr. FALLON. Are there any other questions?

Mr. Olsen?

Mr. OLSEN. I just wanted to finalize the number of years that the Department thinks should be the minimal.

Mr. WHITTON. It certainly should not be less than 20.

Mr. OLSEN. And you said it might run as high as 30. Would 25 be a really good figure?

Mr. WHITTON. If this committee says 25, we will be happy to work with it.

Mr. OLSEN. I meant to meet Mr. Baldwin's objection that there might be some tendency to argue that the States do contend for a lesser standard, that we ought to put in a minimal number of years standard.

Mr. WHITTON. We would not object to a minimum number of years.

Mr. OLSEN. Thank you.

Mr. FALLON. Are there any other questions?

Mr. WHITTON. Let me add this point, Mr. Chairman: We estimate that 75 percent of the system will be adequate to at least the year 2000 the way it is presently designed, so that answers your question about great additional cost. It just won't happen.

Mr. CRAMER. I think that is helpful, Mr. Whitton, in trying to estimate what the cost may be.

Mr. FALLON. Mr. Whitton, at the beginning of this program when we were trying to formulate an Interstate Defense System and subsequently, several years after the program got underway I think the criticism mainly was the overdesign, and we were building highways, big, expansive, wide highways with very little traffic. Our critics were right in those days. In order to keep from making the mistake our critics made I think it is necessary to enact and enact as soon as possible.

We have seen so much evidence of underdesign in the past 10 years. I have to call your attention to the Chesapeake Bay Bridge from the eastern to the western shore. It was built less than 10 years ago and the first 7 months it was opened it handled the traffic that was estimated for a year. That is slowly dropping now to 50 percent. In 6 months there is traffic that was estimated on it for a year when the bridge was built. Right now the engineers are studying an additional bridge that would be either east-west or west to east so that you can see in such a short period of time, an honest mistake was made; they did the best they could with the figures they had but at that time if they had known what was going to be in the future it would have saved a lot of money by building it adequately for the next 20 years. I might say that we were criticized for overdesigning. Don't let us fall in the trap where we will be criticized 5 or 6 years from now because we did not have sense enough to see the mistakes of our critics in the past.

I would say it might be well if we use the same rule of thumb that we did back in 1955 and extend the design date 20 years. You could come back in another 10 years if necessary, or 7 or 8 years, which we have used up so far and take another look at it.

Are there any other questions on H.R. 6140?

We are operating backward in your statement, Mr. Whitton. Next is 6044 and 6141, to amend the United States Code to provide for submission of certain cost estimates.

That is the revision of the cost estimate dates.

Mr. WHITTON. Yes, sir.

Mr. FALLON. Mr. Cramer, do you have any comment on Mr. Whitton's statement in this regard?

Mr. CRAMER. I just have a couple of brief questions.

With regard to the first section relating to the revised cost estimate, keying it to 1969, do you contemplate any additional cost to the toll road program resulting from making the estimates at a later date, increase or decrease? I will put it either way.

Mr. WHITTON. Well, we feel that the costs and the standards are reasonably well stabilized and we do not anticipate any large increase. I think we can visualize where there might be a slight decrease because of relocations or other reasons.

Mr. FALLON. Would you yield?

Mr. CRAMER. Yes.

Mr. FALLON. Just at that point, you do not anticipate any increase, appreciable increase in the construction. Do you anticipate any increase in revenue?

Mr. WHITTON. Well, I think that the revenue is showing a slight increase. The actual revenue, Mr. Allen tells me, is running a little better than the estimates at this time.

Mr. FALLON. And with the increasing numbers of vehicles and drivers, shouldn't the revenue increase to the point where there is a slight or appreciable increase that would take care of it?

Mr. WHITTON. I would think so. I drove yesterday from about Albany into Washington and I would say it ought to be increasing by the number of people I saw on that road north and south of Baltimore.

Mr. FALLON. Thank you for yielding.

Mr. CRAMER. With regards to the apportionment of State funds in the second section of the bill, being based on the estimates of the Federal share of the total cost instead of the total cost, it being the then designated system including the State's share, what will be the result of the total cost of the program by implementing that section?

Mr. WHITTON. Very small.

Mr. CRAMER. There will be some increase, though, will there not?

Mr. WHITTON. Slightly.

Mr. CRAMER. Has there been an estimate?

Mr. WHITTON. We have to increase it. You have no choice so we are just providing for it year by year rather than waiting until the last year to do it.

I think the Congress passed legislation providing States with considerable public land areas that they would get up to 95 percent of the cost of the Interstate System. We are now apportioning men to them on the basis of 90 percent—we are apportioning on 90 percent but paying on 95 so we really just want to put into effect what we are actually doing.

Mr. CRAMER. This is in effect a bookkeeping section which will bring it into conformity, what you are actually doing with what has been apportioned?

Mr. WHITTON. Yes. There will be some additional cost but then it is not enough to be alarmed about.

Mr. CRAMER. Is it a cost that we would have to include eventually anyway?

Mr. WHITTON. That is right, unless you change the law. There is no way of keeping from paying the States more money that have great, large areas of public lands but there is a limit of 95 percent.

Mr. CRAMER. Such as the State of Arizona, which we just held hearings on, which receives something like 95 percent matching funds. You have been paying the 95 percent.

Mr. WHITTON. Yes, and apportioning 95 percent.

Mr. CRAMER. I have no further questions.

Mr. FALLON. Mr. Blatnik?

Mr. BLATNIK. No questions.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. Mr. Whitton, on this matter of whether they use the estimate of the cost or the Federal share thereof, let me be sure I understand. This provision in H.R. 6044 says:

In the ratio which the estimated cost of completing the Interstate System in each State as determined as approved in the manner provided in this paragraph, or the Federal share thereof, bears to the sum of the estimated cost of completing the Interstate System in all of the States, or the Federal share thereof.

Now the old wording of the act just did not have those two clauses, "or the Federal share thereof." Do I understand this correctly? This, in effect, gives the Bureau flexibility to use one or the other?

Mr. WHITTON. We will use whichever is the greater. Read section 2, they tell me, line 20, "The Secretary shall use the Federal share." That is section 2, line 21, in the same bill.

Mr. BALDWIN. I am reading from the bill that is now before us, H.R. 6044.

Mr. WHITTON. That same bill in line 21, on down at the bottom.

Mr. BALDWIN. "Shall use the Federal share." I see.

Mr. WHITTON. Mr. Turner says that may need clarification between the two statements.

Mr. BALDWIN. In other words, the first provision standing alone gives you the alternative of using either one but down on line 21 it requires you for these last specific years only to use the second provision, the Federal share, even though you have used the other one before?

Mr. WHITTON. In either case we would have to do what the Congress has said in another law and pay them 94, 93.5 percent. We have some proposed words changes that would take care of the problem.

Mr. BALDWIN. Thank you.

Mr. FALLON. Mr. Schwengel?

Mr. SCHWENGEL. No questions.

Mr. FALLON. Mr. Olsen?

Mr. OLSEN. No questions.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. Do you have those proposed word changes ready to read to us at the present time?

Mr. WHITTON. Yes, sir.

In line 4, it would read this way.

Mr. OLSEN. Line 4, page 2.

Mr. WHITTON. Line 4, page 2, following the word "States," "Interstate System in all the States"—"except that for the fiscal year 1967 and subsequent years the ratio shall be based on the Federal shares of such estimated cost."

Then above there, in line 2, we would strike out the words "or the Federal share thereof."

Mr. BALDWIN. In other words, you are putting up there a provision that is equivalent to what you have down in line 21?

Mr. WHITTON. That is right.

Mr. BALDWIN. I think that is certainly clear.

Mr. CRAMER. Would the gentleman yield?

Mr. BALDWIN. Yes.

Mr. CRAMER. On this question of 1972 date and particularly as it relates to payments to the States, I understand that the Bureau issued a letter May 13, 1963, which was sent to all States by the Bureau which, in effect, points out that payments of interstate funds to the States will cease on October 1, 1972, and that the system must be actually completed and all payments to the States made by that date, October 1, 1972.

I understand further that some States insist the funds were intended by Congress to be available for the year for which authorized and thus the 2 following fiscal years, 1973 and 1974, would be included. This would permit completion of payments to extend to June 30, 1973. Would you care to comment on that, Mr. Whitton?

Mr. WHITTON. We thought it was the intent of Congress to have the system completed by 1972 and the present wording of the law says final, or all disbursements must be made by October 1, 1972. I believe that is what the law says. We are just notifying the States ahead of time what the act calls for. If there needs to be some clarification or change—

Mr. CRAMER. That is your administrative interpretation of what Congress intended?

Mr. WHITTON. Yes, sir; that is right.

Mr. CRAMER. If you did not take the interpretation which you propose would it be true that under the general highway statutes funds are considered to be expended when a project agreement is entered into, so that actual construction or payment could be extended beyond June 30 of 1973 and almost without limit? Is that a correct statement?

Mr. WHITTON. Yes, that is true but the trust fund, as I understand it, October 1, 1972.

Mr. CRAMER. That is, the receipts of the trust fund; is that correct?

Mr. WHITTON. The law says, "for making expenditures after June 1, 1956, and before October 1, 1972." We could not pay for any work out of the trust fund under this present law as we interpret it after October 1, 1972.

Mr. CRAMER. And that determination rests, practically, does it not, upon the Finance Committee report on the 1956 act?

Mr. WHITTON. Yes, sir.

Mr. CRAMER. Which states in effect:

Both the House and your committee's bill provide amounts of the trust fund are to be available to the extent provided by appropriation acts for expenditures after June 30 of 1956 and before July 1 of 1972—

which has been changed now to October 1 of 1972.

Mr. WHITTON. That is right.

Mr. CRAMER. I thought it should be called to the attention of the subcommittee and perhaps the letter itself included in the record.

Mr. FALLON. If there is no objection, it is so ordered.

(The letter referred to follows:)

DEPARTMENT OF COMMERCE,
BUREAU OF PUBLIC ROADS,
Washington, D.C., May 13, 1963.

To Each State Highway Department:

Several inquiries have been received concerning the availability of highway trust fund revenues for making payments to States for interstate construction on and after October 1, 1972.

The inquiries apparently stem from a conflict between the Highway Revenue Act of 1956, as amended, which provides that amounts in the trust fund shall be available for making expenditures before October 1, 1972, and section 118 of title 23, United States Code, "Highways," which provides that the sums apportioned for any fiscal year shall remain available for expenditure for a period of 2 years after the close of the fiscal year for which authorized. Under this provision of section 118, the funds are considered to be expended when covered by formal project agreements; and the 1971 apportionment would remain available for placing under agreement until June 30, 1973.

Section 209(f) (1) of the Highway Revenue Act of 1956, as amended by section 207(d) (1) of the act approved June 29, 1961, reads as follows:

(f) EXPENDITURES FROM TRUST FUNDS.—

(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1956, and before October 1, 1972, to meet those obligations of the United States heretofore or hereafter incurred under the Federal-Aid Road Act approved

July 11, 1916, as amended and supplemented, which are attributable to Federal-aid highways. * * *

The word "expenditures" appearing in the above provision is construed to mean cash disbursements, in line with the intent of Congress as reflected in the following paragraph which appears on page 15 of Senate Finance Committee Report No. 2054 on the 1956 act:

(b) *Highway expenditures from the fund.*—Both the House and your committee's bill provide that amounts in the trust fund are to be available to the extent provided by appropriation acts for expenditures after June 30, 1956, and before July 1, 1972 (now October 1, 1972), to meet obligations of the United States incurred under the Federal Aid Road Act to the extent that the expenditures are attributable to Federal-aid highways * * *. These expenditures may include obligations incurred before June 30, 1956, to the extent they represent expenditures made after that time. *On the same basis the expenditures do not include obligations incurred before July 1, 1972 (now October 1, 1972) which are not spent until after that date.* [Italic added.]

Accordingly, under present law the trust fund is not available as a source for appropriations from which to make disbursements to the States on and after October 1, 1972.

The trust fund and the revenues accruing thereto have been established by Congress to provide the necessary funds to reimburse the States, prior to October 1, 1972, for the Federal share of the cost of completing the improvement of the presently designated Interstate System. In line with the intent of Congress in establishing the trust fund, and its declared policy for the "prompt and early completion" of the Interstate System, the States are expected to set their construction schedules so that the Interstate System can be accelerated to completion and the States fully reimbursed for the Federal share within the trust fund period as now provided.

REX M. WHITTON,
Federal Highway Administrator.

Mr. FALLON. Are there any other questions on 4044? If not, we will move on to H.R. 4154 and 4559, which cover certain provisions that were given to several States under another act.

It has been testified that these should be changed so that each State receives the same uniform treatment as other States receive under the Federal highway funds. Are there any questions?

Mr. BLATNIK. No questions.

Mr. FALLON. Mr. Cramer?

Mr. CRAMER. Very briefly, Mr. Whitton, then Connecticut and Vermont have been receiving these what might be called bonus payments since the 1956 act was put into effect; is that correct?

Mr. WHITTON. Yes, sir.

Mr. CRAMER. And it amounts to \$810,000 for Connecticut, \$73,000 in Vermont.

Mr. WHITTON. Mr. Turner reminds me that it is since 1944, Mr. Cramer.

Mr. CRAMER. The receipt relates to prior to 1956?

Mr. WHITTON. Yes, sir.

Mr. CRAMER. And the need for the change results from the change in the policies of the Census Bureau taking their census which now permits you to make proper adjustments without this special provision; is that correct?

Mr. WHITTON. That is right.

Mr. CRAMER. Have any objections been raised by the States of Vermont and Connecticut to this proposal?

Mr. WHITTON. Not with us. I assume that they will, at least I would if I were—they didn't like to lose money, I am sure, but then I still think they ought to be on the same basis with the other States.

Mr. CRAMER. In other words, so far as you are concerned, it is an inequitable windfall that resulted.

Mr. WHITTON. Yes, sir, called to our attention by the Comptroller General.

Mr. FALLON. I understand a representative of the Connecticut Highway Department wants to testify on the bill. We would like to hear his reasoning.

I can understand his reasons, I might add, but I would be anxious to hear from him, why they should be treated differently than all the rest of the States.

Are there any other questions?

Mr. CRAMER. I can understand, if the chairman will yield, that there would be some argument made if it is as much as 18.2 percent in Connecticut and 22.6 percent in Vermont.

That is all, Mr. Chairman.

Mr. BALDWIN. Mr. Chairman, I have one question. I would just like to ask how this will go into effect. As I understand this bill, this bill would become effective automatically on the day it is signed. What about a contract that has already been let to a State? How will your cutoff date apply to contracts at all different stages of construction?

Mr. WHITTON. The next apportionment, but it would not have any effect on any contract that is let. It just has effect on the amount of money that they will get.

Mr. BALDWIN. From the Federal Government?

Mr. WHITTON. Apportioned to them; the total apportionment. It will not have any effect on any individual contract in reducing our share of that particular contract, but it will affect the total amount of money that that State gets.

Mr. BALDWIN. I understand because your apportionment is based upon their estimate, that is on file with you, of the remaining cost of construction?

Mr. WHITTON. We are talking about urban funds now, Mr. Baldwin. They get urban funds on the basis—well, they get 25 percent of the ABC money. That goes to the urban area and of the money that goes to the urban area it is divided among the States in accordance with the population in the urban area, in proportion. That is why they are getting—their urban areas have been laid out larger than the others and they get a percentage of money on the basis of that enlarged urban area and then for the same people that are out in the rural part of that so-called urban area they get money on the second area so you see they are getting money on double people.

Mr. BALDWIN. I think I understand. The point you are making primarily is our allocation has nothing to do with any individual specific contract.

Mr. WHITTON. No, sir.

Mr. BALDWIN. It is just a pool that is given them by the Federal Government which they can then apportion any way they see fit.

Mr. WHITTON. That is right. It would go into effect in the future and not be retroactive.

Mr. BALDWIN. Thank you.

Mr. CRAMER. If the gentleman will yield.

Mr. BALDWIN. Yes, sir.

Mr. CRAMER. In what year will it be effective,

Mr. WHITTON. I assume on the next apportionment. If you pass the bill on the present assignment, before we make the apportionment in July, it would be effective then.

Mr. CRAMER. What, calendar year 1965?

Mr. WHITTON. The apportionment we make this July would be the 1965 apportionment and it would be effective then.

Mr. FALLON. Are there any other questions?

I think that covers the number of bills that we have this morning. If there are no other questions of the membership, Mr. Whitton, I would like to again, on behalf of the members of the committee, thank you and your staff for coming up here this morning and giving us the expert testimony that you always do.

Mr. WHITTON. It is always a pleasure to appear before this committee, Mr. Chairman.

Mr. CRAMER. I, too, want to thank Mr. Whitton. I would suggest that there seems to be a different opinion with regard to the traffic corridor.

Mr. FALLON. There is one witness here this morning who does not appear on the agenda. We have no other witnesses appearing today. I wonder if the committee wouldn't give a few minutes to Mr. Warren M. Creamer. Is Mr. Warren Creamer here? He is director of highway staff service, Connecticut State Highway Department.

Mr. Creamer, I understand that you want to testify on H.R. 4154.

STATEMENT OF WARREN M. CREAMER, DIRECTOR OF HIGHWAY STAFF SERVICES, CONNECTICUT STATE HIGHWAY DEPARTMENT

Mr. CREAMER. Chairman Fallon, honorable members of the Subcommittee on Roads, I am Warren M. Creamer, director of staff services for the Connecticut State Highway Department. I would like to read a prepared statement, sir, commenting on House Resolutions 4154, 6140, 6044 and companion bill S. 1416, if I may.

Mr. FALLON. Go right ahead.

Mr. CREAMER. I thank you for this opportunity to appear before you to state the position of the Connecticut Highway Department with respect to H.R. 4154.

The Connecticut Highway Department wishes to oppose this bill. It would delete from section 104(b), (3), of the United States Code the last sentence regarding the apportionment of urban funds as follows:

For this purpose of this paragraph, Connecticut and Vermont towns shall be considered municipalities regardless of their incorporated status.

This proposed modification would reduce the Federal aid urban apportionment to Connecticut by approximately 15 percent. This percentage, applied to the 1964 apportionment is equivalent to approximately \$690,000.

The sentence which is proposed to be deleted from the current statute was included in the Federal Aid Highway Act of 1944 in recognition of the governmental units of Connecticut as well as the population distribution of the State. Under the present law, 92 of the 169 towns in the State are included as "urban" as shown on a map entitled "Towns, 5,000 and over, 1960 population".

A town in Connecticut is a distinct governmental body and not a collection of villages as the census tabulation implies. Connecticut is rapidly becoming an almost continuous urban complex and is part of the major urban complex from Washington through New York, Boston and into Maine along the northeastern seaboard.

Those who are familiar with the development of Connecticut will note that the towns having a population of 5,000 and more are urban under reasonable definition and that there are many other areas, notably along Connecticut's shoreline, which have a density of population which give these areas urban characteristics although the areas are not included within the limits of towns having more than 5,000 population.

As urban Federal aid funds are distributed to the State with the intent of assisting in the development of highway systems in urbanized areas, it is desirable that the population base upon which this apportionment is to be made be cognizant of the type of development in the northeastern part of the Nation.

It has been called to our attention that on the basis of the existing census information that some of the population of Connecticut is counted twice in arriving at the Federal aid apportionment to Connecticut but we would like the committee to take note that if the proposal made under H.R. 4154 is enacted that there would be a substantial group of Connecticut's population which would not be counted either as rural or urban in the computation of Federal aid apportionments.

The present law provides funds grossly inadequate for the rapidly mounting traffic in the urban areas over the Nation. Urbanization of Connecticut is a continuing process and a reduction of the Federal aid for urban highway construction at this time would reduce our program when even more funds are needed to meet the needs of the urban traffic.

In view of the foregoing indicated situation, it is requested that the committee reject this proposed amendment to title 23.

Mr. Chairman, if I may take a few more moments of your time, I would like to indicate briefly Connecticut's position on two other bills which I understand are before you this morning for consideration.

H.R. 6140: Connecticut is in favor of this proposed legislation as the present legislation establishing the 1975 date has a rigid control and is contrary to accepted engineering practices in highway construction. Highway engineers have for many years recognized the practical value of highway design related to providing reasonable service for 20-25 years after the date of construction. This is considered economically sound in designing highways and is a recognized practice still applicable to projects not on the Interstate System. It is especially important that this principle be recognized on all highway systems in order that an integrated highway system may be developed with standards of design applicable to all systems based on traffic service to be provided.

H.R. 6044 and companion bill, S. 1416:

The Connecticut Highway Department is in favor of enactment of this proposed legislation.

While Connecticut may be penalized slightly in the immediate future by the rewording of the present statute it was certainly the intent

of the legislation to distribute the interstate apportionment on the basis of the Federal share of the cost of the projects in order that the work might be completed simultaneously throughout the Nation.

With respect to the second portion of this bill which designates a revised date for the next interstate cost study, it is desirable that the estimate be prepared sufficiently early in order that the estimate may be reviewed and the funds apportioned substantially before the beginning of the fiscal year during which they may be expended. This leadtime is necessary in order that the highway departments may plan their operations and develop the projects for physical construction.

Thank you for your courtesy and attention.

Mr. FALLON. Thank you very much, Mr. Creamer.

Are there any questions?

Mr. BLATNIK. Mr. Creamer, why do you feel that your situation or problem is any different from that existing in any other State?

Mr. CREAMER. I have no positive position on which to stand except in evaluating the legislation which was passed in 1944, the Congress became convinced that there was that characteristic about those two towns.

Mr. BLATNIK. You don't give any real justification why your State should get funds somewhat in excess of those for urban or rural purposes as allocated for other States.

Mr. CREAMER. Certainly the State of Connecticut—and I can't speak for Vermont—would certainly not wish to ask of this committee any special considerations or any special apportionment but it would like to take the position that we do not feel we have been getting something we have not deserved. I close on that note.

Mr. BLATNIK. Previous testimony indicated you were getting 15 or 18 percent more than you would be getting if you were apportioned your allocated money on the same basis as other States.

Mr. CREAMER. Mr. Congressman, it depends entirely again on the accepted definition of "urban areas" and that gets us into semantics upon which I do not feel able to give an opinion. Answering your question directly, I don't know.

Mr. BLATNIK. I don't think the problem is so much the definition of urban areas—whether or not that is an urban area, that is applied uniformly to all other States except yours. We get into a conflict on the legal definition of the governmental local subdivision, as we have in the case of your State of Connecticut.

For instance, the problem of rapid urbanization and also of the overlapping in the rural or semirural areas would be quite similar in the State of New Jersey as in Connecticut, would it not?

Mr. CREAMER. Except I do not understand the legal structure of your minor civil divisions of New Jersey. Whether it breaks down into towns, and the subordinate minor civil divisions thereunder. I am not familiar with the legal structure of the government of New Jersey, so I couldn't answer that question. I think what you have said probably would be true; yes.

Mr. CRAMER. I think the point made by GAO is stated in their report of August 1962 that actually the legal structure in a State under their new formulas of Census Bureau makes no difference but other areas in which there is a population in excess of 5,000 or more are considered a rural area and areas in which there are 2,500 or less are con-

sidered a rural area and admittedly there is a gap of between 2,500 and 5,000 regardless of legal definition. Whether it is considered a municipality or a township or a suburb or whatever it is. Isn't that correct?

Mr. CREAMER. I believe that could be correct.

Mr. CREAMER. So Connecticut is getting the same treatment, or if the bill is adopted it would be getting the same treatment as all other States but, admitting of course, that there is this gap in existence in all other States as well.

Mr. CREAMER. Yes, I would think, Congressman Cramer, the only possible justification for Connecticut having received this particular share of the distribution would be on the basis of some unique characteristic of its government. I don't know.

Mr. CREAMER. The Federal Aid Highways Act of 1962, section 104(b) (3) says:

For expenses of Federal-aid primary and Federal-aid secondary systems within urban areas. In the ratio in which the population of municipalities and other urban places of 5,000 or more in each State bears to the total population of municipalities and other urban places of 5,000 or more in all the States as shown by the latest available Federal census. Specifically for the purpose of this paragraph, Connecticut and Vermont towns shall be considered municipalities regardless of their incorporated status.

Now, as I understand it the reason for that exception no longer exists because the Bureau of the Census now does not take census on the basis of the legal definition of these areas but rather on the basis of the population itself regardless of what the legal definition is, is that correct?

Mr. CREAMER. I believe that is the assumption.

Mr. CREAMER. That is what the General Accounting Office indicated as its reason for believing this exception should be stricken out. Otherwise the States of Connecticut and Vermont would get a windfall and I think the best way to exemplify this is in the GAO report. It says:

However, in the States of Connecticut and Vermont the sum of the two population elements used in computing the apportionments of Federal-aid secondary and urban highway funds exceed the total population of the States.

For example, quoting further:

The 1960 Federal census shows a total population of 2,535,234 for the State of Connecticut. The urban and rural population figures used in apportioning fiscal year 1963 Federal-aid highway funds were 549,667 and 2,350,937, respectively, for a total of 2,900,604 or, in effect, about 365,000 more than actually exist in Connecticut. Therefore the State of Connecticut was getting more money than could be attributed even to the total population of Connecticut.

Now, Mr. Creamer, don't you think that is an unfair windfall in favor of Connecticut? Shouldn't it be just the same as all other States?

Mr. CREAMER. Yes, if the position of the GAO and the Census Bureau is tenable, of course, what you say is true.

Mr. FALLON. But you don't agree with it, do you, Mr. Creamer?

Mr. CREAMER. I am not sure, sir. I have included within my statement the extent of my knowledge on the subject.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. Mr. Creamer, as I understand it, the law as it exists today means that if you had another State with the exact same county and city setup as Connecticut, the other State would not get as much of an apportionment as Connecticut would. Now, that on its face

seems unfair to me. The purpose of this bill is just to make sure that the two States, if they had exactly equivalent urban areas and those that were termed municipalities and those that weren't, the purpose of this bill is simply to make sure that if we had two such States, Connecticut and one other, they both would receive the same allocation and I think that is the only proper thing for this committee to do.

Mr. CREAMER. What the committee does is in the conscience and judgment of the committee. I have no further comment to make. Unless you want me to comment. However, I have no comment other than what I have previously said.

Mr. CRAMER. I will say to Mr. Creamer I can understand why he would be pleading the case of the State of Connecticut for continuing to get additional funds. I certainly can understand that very well and I am sure that he can understand if the committee should in its wisdom differ.

That is all.

Mr. FALLON. There are compliments on both sides, so I think that is a good way to adjourn this meeting. We will meet again at 10 o'clock tomorrow morning at which time we will have as our witnesses the representatives of the association of State highway officials.

The meeting is adjourned.

FEDERAL-AID HIGHWAY ACT AMENDMENTS OF 1963

TUESDAY, MAY 28, 1963

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON ROADS,
Washington, D.C.

The subcommittee met, pursuant to recess in room 1302, House Office Building, at 10:15 a.m., Hon. George H. Fallon (chairman of the subcommittee) presiding.

Present: Representatives Fallon, Blatnik, Clark, Murphy, Cramer, Baldwin, and Quillen.

Mr. FALLON. Ladies and gentlemen, the Subcommittee on Roads of the Public Works Committee of the House of Representatives is meeting again this morning for consideration of several bills which amend the Federal-Aid Highway Act.

Gentlemen, we have the benefit of the evidence of witnesses from the Bureau of Public Roads yesterday.

This morning we have representatives of the American Association of State Highway Officials. Mr. John Mackie who is the president and is presently the State highway commissioner of the great State of Michigan. Along with Mr. Mackie is the usual expert on highway affairs, the executive secretary of the State highway officials.

Mr. Mackie, would you like to come up to the witness table and give us the benefit of your experience and knowledge on the questions that are before the committee this morning? If Mr. Johnson would like to accompany you at the table he may do so.

STATEMENT OF JOHN C. MACKIE, PRESIDENT, ACCOMPANIED BY ALFRED E. JOHNSON, EXECUTIVE SECRETARY, AMERICAN ASSO- CIATION OF STATE HIGHWAY OFFICIALS

Mr. FALLON. Mr. Mackie, the committee would like to get your opinion on one bill and then let us hesitate for any questions the members would like to ask you on your testimony for that one bill. When the questioning is through you may proceed to the next bill.

Mr. MACKIE. That is very fine with us.

Mr. FALLON. Go ahead, Mr. Mackie.

Mr. MACKIE. Thank you very much, Mr. Chairman and members of the committee, I am John C. Mackie, State highway commissioner for the State of Michigan, and have the honor of appearing before you today as the president of the American Association of State Highway Officials.

As per our custom, the testimony that I shall give today represents the consensus of the chief administrative officers of the several State highway departments.

At first, I shall address my remarks to the four legislative subjects that were enumerated in the letter of May 8, 1963, received from the Honorable Charles A. Buckley, chairman of the House Committee on Public Works, inviting us to appear today.

1. H.R. 4154 and H.R. 4559, to amend title 23, United States Code, relating to the apportionment of funds for extensions of Federal-aid primary and Federal-aid secondary systems within urban areas.

As we understand this proposed legislation, it deals with the factor of urban population in the formulas for apportioning A-B-C Federal-aid funds, and most directly involves Connecticut and Vermont.

The association discussed this matter and has taken no position on the proposed legislation.

Mr. FALLON. What is the reason for the association not taking a position on this legislation?

Mr. MACKIE. A discussion came up about 2 weeks ago at a meeting here in Washington and since it involves two States only the association felt it would be inappropriate to have an official position at variance, let us say, with two of the individual members.

Mr. FALLON. Members of your association?

Mr. MACKIE. Yes, sir.

Mr. FALLON. Are there any questions?

Proceed, Mr. Mackie.

Mr. MACKIE. 2. H.R. 5590, to amend title 23, United States Code, to prohibit participation of Federal-aid funds in certain State or local taxes.

This proposed legislation was discussed in detail at a meeting of the chief administrative officers of the highway departments held here in Washington on May 12.

It is our position that we firmly support the intent of the proposed legislation, which we interpret as prohibiting reimbursement from the trust fund the Federal pro rata share of special taxes imposed specifically on the highway program for the purpose of yielding State and local financing. The bill should be clarified to the point that it is not interpreted to cover conventional general sales taxes that have been general usage for some time, it should not cover the existing taxes on petroleum products, or conventional taxes on performance and surety bonds, where applicable. To include such items would cause considerable confusion and an almost impossible job of book-keeping in order to segregate the amount of such taxes that might be chargeable to a particular Federal-aid highway project.

Mr. FALLON. Is it your belief that certain taxes directed particularly at the construction of the interstate system—which we have evidence that certainly they are—would increase the cost of construction of these projects?

Mr. MACKIE. Yes, sir, it is the position of the association that these taxes to which you refer would increase the cost of construction probably more than the amount of the tax.

Mr. FALLON. In that case there might be a time when we will have to levy additional taxes to pay these taxes to the State; is that correct?

Mr. MACKIE. I think that would be a reasonable conclusion.

Mr. FALLON. It is the belief of the organization that we should find some means to stop this Pandora's box from opening too far and cause the loss of a lot of gasoline tax money with which Congress intended to construct highways?

Mr. MACKIE. This we feel would be a diversion of gasoline taxes before they are collected. We support the bill with a slight modification suggested here to clarify the intent of the bill.

Mr. FALLON. Are there any questions?

Mr. CRAMER. I would like to ask one question, Mr. Chairman. Has your association given any consideration to constitutional questions involved in H.R. 5590? That is what constitutional authority has the Federal Government or should the Federal Government exercise to directly or indirectly affect State enactment in the tax collection field so long as those taxes are within the jurisdiction and authority of the State to collect?

Mr. MACKIE. This area to which your question is directed was a little outside of the field of the association. That is we do not consider ourselves attorneys and did not concern ourselves with that phase of the bill.

Mr. CRAMER. I generally would hope that through persuasion and otherwise the Bureau, the Department of Commerce, and Members of Congress could perhaps discourage by persuasion the States from collecting these taxes but there is some question as to what should be the Federal function to force States not to tax in areas where the States otherwise have authority to do so.

Mr. BALDWIN. It seems to me if the Federal Government was enacting a prohibition against the levying of such taxes we would be in clear violation of a constitutional provision.

However, all this bill says is we will not provide any reimbursement for the portion of the tax that would otherwise be reimbursable and I think that violates no constitutional provision at all.

Mr. CRAMER. To me it presents a pretty effective persuasion to cut off funds. That is it raises the separation of powers question, from a policy standpoint at least. What should be the Federal Government function as it relates to State taxing authority. Whether it would be a violation of the Constitution or not, to me it raises the vertical separation of powers policy question as between the Federal and the State. It is to that point I address my question.

Mr. MACKIE. I see your point, Mr. Cramer, but the association does not feel qualified to answer the question.

Mr. CRAMER. Of course this program has constantly been referred to as a partnership program, which I presume your association firmly endorses.

Mr. MACKIE. Yes, sir.

Mr. CRAMER. With the States having the administrative function and the determination of many phases of policy concerning it, locations, areas of construction and so forth. Also, they have the actual administration of the program. That is a concept, of course, which I too support and this proposal seems to be going in the opposite direction.

Mr. MACKIE. May I say many States at the State level are doing what they can to prevent this.

Mr. FALLON. Are there any further questions?

Proceed, Mr. Mackie.

MR. MACKIE. 3. H.R. 6044 and H.R. 6141, to amend title 23, United States Code, to provide for the submission of certain cost estimates for the completion of the Interstate System.

The present law requires three more such cost estimates to be prepared by the Secretary of Commerce in cooperation with the State highway departments. The proposed bills require only two more.

These bills recognize that an adjustment is necessary in the schedule for the submission of cost estimates to conform with the revised time schedule for the apportionment of funds and the completion of the Interstate System, that was specified in the Federal-Aid Highway Act of 1961.

The next specified time for transmitting a cost estimate to the Congress is January 1966, and the apportionment of the 1967 funds is contingent upon the approval of that estimate. Either the next cost estimate should be submitted in January of 1965, as outlined in the proposed legislation, or the 1967 apportionment of interstate funds should be predicated upon the 1961 cost estimate, that has already been approved, to avoid a delay in an orderly apportionment of funds. The change in dates, as proposed in the bills, would be preferable, inasmuch as certain sections officially added to the Interstate System subsequent to 1957 were not included in the last cost estimate. The States involved have not been getting apportionments for the financing of those sections.

In accordance with the proposed legislation, only one additional estimate, after the one to be delivered in 1965, would be transmitted to the Congress in January 1969, which would be the basis of the final apportionment of the program, covering the 1971 fiscal year.

It is our feeling that the presently specified three, instead of only two more, cost estimates would be of value, even though it would involve more work for the State highway departments. However, each estimate involves only the cost of completing the Interstate System, so each successive estimate involves a decreased amount of work.

The estimates for completing the program are used for apportioning the Federal-aid interstate funds to the several States on the basis of need, as shown by such estimates.

This method of apportionment is a self-correcting mechanism, that was written into the program to theoretically supply each State with the proper amount of funds to simultaneously complete its portion of the Interstate System in 1972 to adequate design standards for the traffic demands.

An additional estimate would further refine the process and make the closing apportionments more nearly correct to do the job.

Otherwise, during the closing months of the program, and at a time when the trust fund is going out of business in October 1972, some States could have an excess of apportioned funds and some faced with a deficit.

It is suggested, therefore, that the 1965 estimate be used for the apportioning of funds for the 1967-68-69 fiscal years with the next estimate that would be transmitted in 1968, being used to apportion the 1970 funds, and the final cost estimate delivered in 1969 being used for the 1971 and final apportionment. The proposed legislation would use the Federal share of the cost of completing the Interstate System

in making future apportionments, thereby recognizing the sliding scale of matching in the public land States. Such a procedure is equitable and proper and we believe that it was the intent of the original language in the act of 1956.

If there is no question here, it is the position of the American Association of State Highway Officials that we have still three more cost estimates in the years 1965, 1968, and 1969.

Mr. FALLON. Mr. Mackie, at the last apportionment, when does that last apportionment come?

Mr. MACKIE. In 1969.

Mr. FALLON. What happens in 1972 at the end of the program?

Mr. MACKIE. We have a problem at the end of the program in that the trust fund goes out of business in 1972 which could lead to several alternatives and the association is a little concerned and confused as to what will happen in 1972. Now, this would mean normally that the final contracts placed by each of the States would have to be let probably by 1970 in order that they could be completed or at least finaled out far enough in order that we could be reimbursed by the time the trust fund goes out of business in 1972.

Mr. FALLON. In other words, that last apportionment is in 1970 and the contracts would have to be completed and paid for by 1972? Is that the fiscal year 1972?

Mr. MACKIE. No, the last apportionment would be in 1971. What I intended to say was, at the operating level and due to the length of time involved in construction we would have to place under contract our last sections of the Interstate System early enough so that they could be completed or finaled out by October 1972. This would mean we would have to place them under contract perhaps sometime in 1970.

Mr. CRAMER. The letter I placed in the record yesterday I assume you received. It was dated May 13, 1963, coming from the Bureau of Public Roads. It stated that October 1, 1972, is the last date for expenditures under the trust fund according to the House-Senate committee reports.

Mr. MACKIE. Yes, sir.

Mr. FALLON. That would create quite a situation. It might not be as practical as we thought it would be back some years ago. Is that correct, Mr. Mackie?

Mr. MACKIE. Yes, sir. And we raise the point and request your committee give consideration to the problem that will occur during that period.

Mr. FALLON. Has your association made any recommendations at that point?

Mr. MACKIE. No, sir, we have not. We will be happy to in the near future, if you would desire.

Mr. FALLON. You are the people who are doing the job. We expect you to know more about it than we do since you have to plan, construct, and pay for it. If you can give us an answer as to what we can do about it we would appreciate it.

Mr. MACKIE. Thank you.

It does involve the large problem, however, of whether the interstate program will continue or whether another one will start after 1972. This is the area we feel should be your prerogative. Perhaps if we had some indication as to what will happen with regard to any future

interstate systems beyond that time we accordingly could make recommendations based on your thinking.

Mr. FALLON. I cannot speak for future Congresses. My personal opinion would be that there would be a continuing program. I think we would have to proceed on the assumption that we will carry out the present will of Congress in the law as now written. If we can do something about the program after this measure is concluded I think we should do that.

Mr. MACKIE. We will consider it and give you our recommendation.

Mr. FALLON. Are there any questions?

Mr. CRAMER. I would like to first concur in the chairman's thoughts with regard to the program as such. I would contemplate Congress would be considering in 1966 or 1967 what should be the future of the Interstate System in that it takes 4 or 5 years to tool it up. Otherwise it would cause a slackoff which could be very costly. In 1966 and 1967 Congress will have to give consideration as to what should be the future of the program after 1972. I would contemplate as our distinguished chairman suggests, there will obviously be found, I would think, numerous areas where things have happened in the preceding 12 years since 1956 which have obviously shown need for constructing what have now become missing links in the Interstate System for example. I can think of one in Florida, for instance, between Tampa, St. Petersburg, and Miami. Two Interstate Systems dead end in the Tampa-St. Petersburg area. There are thus obvious missing links along the west coast of Florida, as an example. I would assume Congress would give policy consideration to a continuation of the program, filling in missing gaps and determining the need perhaps for additional mileage and how it should be accomplished. I would suggest, it being 1963 already, maybe basic policy consideration should be given by the Administrator to the program, as well as by your organization—at this time and in the next few years. Is such a program being planned or thought of by your association?

Mr. MACKIE. Further on in the testimony, Mr. Cramer, we make some reference to it.

Mr. CRAMER. I didn't mean to anticipate it.

The Bureau yesterday in testifying—to return to this particular H.R. 6044—stated in his testimony—that is Mr. Whitton—very clearly they felt this adjustment of certification dates is necessary and stated:

This requirement of certification will be impossible to meet—that is under the present law—

with respect to these fiscal years, since the estimates upon which the apportionments to be certificated are based will not yet have been approved by Congress.

Perhaps I should read the previous sentence:

The present law also requires the Secretary of Commerce to certify to the States the sum apportioned to them for the fiscal years 1967, 1968, and 1969, on or before January 1 of calendar years 1966, 1967, and 1968, respectively—

and then they would follow up with the conclusion I just read.

Would you care to comment on that, Mr. Mackie?

Mr. MACKIE. We concur with that in our statement.

Mr. CRAMER. Your statement is not at variance with that?

Mr. MACKIE. As I understand it, the way you read it I don't think we are in disagreement with that.

Mr. CRAMER. Then you are in line with the present law.

Mr. MACKIE. There are two in the present law and we suggest there be three more at different times than under the present law. The present law calls for two as we understand it.

Mr. BALDWIN. Mr. Mackie, I am interested in your recommendations for three remaining cost estimates. It seems to me on this point we should give great weight to the recommendations of the States because the States are the only ones that have to do the work. There is really no great burden on the part of the Federal Government since we simply receive the estimates and use that as a basis of allocation.

If the States feel that this would be a more reasonable order of steps as we get toward the end of the program, to get one estimate in 1965, one in 1968 and a final one in 1969 so that all the adjustments won't have to be made just in one fell swoop in the last apportionment, but can be gradually worked out in the last 2 years, it seems to me we should give great weight to the recommendations of the States.

Are the States pretty unanimous on this recommendation?

Mr. MACKIE. Yes, sir.

Mr. BALDWIN. Are they unanimous?

Mr. MACKIE. Let me put it this way: There was no disagreement voiced at our last meeting on this.

Mr. BALDWIN. Thank you.

Mr. FALLON. Are there other questions?

Mr. Mackie, you may proceed.

Mr. MACKIE. 4. H.R. 6140, to amend title 23, United States Code, relating to construction standards on the Interstate System.

Legislation on this subject is essential, as it is time that reference to a 1975 terminal design date be eliminated in order to preclude the possibility of premature obsolescence in designing sections of the Interstate System.

This matter is covered thoroughly in item No. 16 of our attached 1963 American Association of State Highway Officials policy statement.

It is our feeling that the language of the bill should be more definitive than is included in H.R. 6140 in order that the various State highway departments will know the intent of the Congress and will be able to plan accordingly.

The general practice is to plan and design major highways for traffic of 20 years in the future. We suggest, therefore, that the bill include an expression of intent of Congress that the design date be projected 20 years into the future from the construction time, rather than leaving the date completely at the discretion of the Secretary of Commerce.

Reference has already been made to our attached 1963 policy statement. We would appreciate it if you would glance over this document. We do suggest that your committee staff review it in detail.

That concludes the discussion on that bill, Mr. Chairman.

Mr. FALLON. I think we are all in agreement on the subject except there were some suggestions on what date we should use. Whether it should be left to the Department of Commerce or use a date.

Your recommendation is that we use the date 20 years from the beginning of construction.

Mr. MACKIE. We wouldn't attempt to pin that down too closely.

Mr. FALLON. Twenty years into the future from the construction time is the way it is worded.

Mr. MACKIE. Yes, sir.

Mr. FALLON. I believe the Department witnesses yesterday suggested they would not object to a date rather than leaving it to the discretion of the Secretary of Commerce. I believe you are practically in agreement except there were recommendations for 25 years and 30 years. I believe the members felt if we started out with a 20-year period we could very easily agree on a 20-year period.

Are there any questions?

Mr. CRAMER. I would like to ask one. Have you a copy of H.R. 6140?

Mr. MACKIE. Yes.

Mr. CRAMER. Yesterday Mr. Whitton said his opinion was somewhere between 20 and 30 years should be the future design standard period. There were two questions raised, one by Mr. Baldwin about making certain that 1975 be the minimal date which is as it is in present law. We should not imply in any way by eliminating 1975 that we may not consider 1975 as the bare minimum but that when it comes to the maximum Mr. Whitton indicated that 20 to 30 years would be a proper period. You suggest 20 years as the maximum.

Would you care to comment on that difference of opinion?

Mr. MACKIE. As far as 1975 being the minimum is concerned we are suggesting a 20-year period in lieu of that in that as we get closer to 1975 it will no longer be adequate unless additional action is taken in the future.

The 20-year period was discussed some time ago in Miami—not recently—perhaps I should speak for Michigan rather than the association at this particular time in answer to your specific question and say that we feel a 20-year period is adequate. It would be desirable to go beyond that length of time but when you get beyond 20 years you are getting into the realm of, let us say, unreliability—you are getting so far into the future that you are getting a little speculative. We suggest a 20-year period as a more reasonable, realistic design period.

Mr. CRAMER. Looking at the bill itself, how can that be accomplished? For instance, on the first page, line 8, starting that sentence:

Such standards shall be adequate to accommodate the type and volumes of traffic anticipated for such future period of time and under such planning criteria as deemed appropriate by the Secretary.

There would have to be added there, would there not, some language such as—

but such standards in any case shall not be less than those required for use within a 20-year period after the date of construction—

or some words to that effect to accomplish what you suggest?

Mr. MACKIE. That sums up very well what our suggestion is, that a sentence or a phrase be inserted in there for a 20-year period from the date of construction, from the date of programing, from the date of approval, but from the current date 20 years from the date it is placed under contract.

Mr. CRAMER. That is the second point I wanted to get at. A 20-year period is the position of your association?

Mr. MACKIE. Yes, sir.

Mr. CRAMER. That settles the time, but when does it start running? When, from an administrative standpoint, and from the standpoint of the States, should it start running? What is the practical time to have it start running?

Mr. MACKIE. From the date that it is intended to be placed under contract. From the date construction begins.

Mr. CRAMER. Which is it? That would be two different dates. What terminology do you think could be used to start the 20-year period running? What would be the most practical phraseology? "Approval by the Bureau," "the letting of the contract"? "Commencement of construction" would be too difficult to establish.

Mr. MACKIE. We didn't go into too much detail again, at our last meeting where we discussed this but I would suggest from the date of programing with the Federal Bureau of Roads. That would pin it down. That is from the date the Bureau of Public Roads approves the project.

Mr. CRAMER. Approves it for what, acquisition of right-of-way or for actual construction?

Mr. MACKIE. Approves the project for construction.

Mr. CRAMER. Now, construction includes what? Does it include engineering, right-of-way, actual construction? Is that right?

Mr. MACKIE. No. We can program with the Bureau for right-of-way acquisition, for example, with final approval coming when the final designs are submitted. It may require a little thought here to get the exact words.

Mr. CRAMER. That is what I am trying to get from you, some thinking as to what commencement point should be used.

Now, obviously the Bureau gave tentative approval of the whole 41,000-mile Interstate System as such and then they periodically gave approval to the States' intention to construct by 1972. Then they gave approval to the States' request for right-of-way acquisition. Then they gave approval for engineering services. Then they gave approval for actual construction. Some of those dates are very much in advance of the construction itself. Which do you think should be used?

Mr. MACKIE. I would suggest from the date of initial project approval by the Bureau of Public Roads.

Mr. CRAMER. By that you mean what?

Mr. MACKIE. By that I mean the first time the project is programed with the Bureau of Public Roads. If this was for right-of-way only I realize there could be a considerable time differential there, but it still would assure probably a minimum of 15 years and a practical time limit of something like a minimum of 18 years. Normally we would not program a project with the Bureau unless we were ready to proceed with construction or acquisition. If it were acquisition of right-of-way only it would be—again, I am speaking for Michigan—a minimum of 18 years. Between the time we acquired the right-of-way and started construction.

Mr. CRAMER. In Florida they technically claim to have programed the entire interstate highway by 1972. They have gotten design standard funds for the link between Jacksonville and Daytona Beach but completion of construction is not expected to take place for 2 or 3 years. The other is not expected to be constructed until 1971 or 1972. That is too much of a gap in time.

Mr. MACKIE. I don't understand that, in that we have difficult programming of right-of-way. I am not certain of the exact period but if it exceeds a certain time then there is no Federal participation in the right-of-way if it is required that far in advance.

Mr. CRAMER. That is 7 years.

Mr. MACKIE. As I understand, there is a question in law as to whether it is 5 or 7 years.

Mr. CRAMER. There is no question that the amendment which I introduced was adopted for 7 years. There couldn't be any question. I introduced the amendment. I hope there is no question about the 7 years.

Would your association give some consideration to making a recommendation on when the 20 years should start running?

Mr. MACKIE. Yes, sir. I think we could do it very soon and suggest some specific language.

Mr. CRAMER. I yield to Mr. Quillen.

Mr. QUILLEN. Is it not true the States submit plans to the Bureau of Public Roads for approval prior to the letting of the contract?

Mr. MACKIE. Yes, sir.

Mr. QUILLEN. Would that not be a good time—in preparing plans if you are going to have a 20-year minimum, you will have to know the date when the Bureau of Roads approved the plans and specifications for that particular link of highway? Would that not be a good date?

Mr. MACKIE. That would be satisfactory with us.

Mr. QUILLEN. Would there be any objection?

Mr. MACKIE. No, sir; no objection.

Mr. QUILLEN. Then you would definitely get 20 years, wouldn't you?

Mr. MACKIE. As I understand the problem Congressman Cramer is outlining here, it is that the 20-year design period would involve widths and types of interchanges which would directly affect the acquisition of right-of-way. So whether the period started actually from construction or whether it should start prior to acquisition of right-of-way, and if there is a considerable period of time between right-of-way acquisition and construction date, then we have a problem.

So far as the specific language is concerned I think we can make a suggestion there, but we should give it a little thought rather than something coming off the top of the head.

Mr. CRAMER. I don't think right-of-way acquisition is the correct date. You discourage their taking advantage of the right-of-way acquisition provision in the present legislation intending for States to purchase along in advance of construction.

Mr. MACKIE. On the other hand, if you are designing for a 20-year period and you program right-of-way with the Bureau, the acquisition will be directly dependent on the design. The types of interchanges and so on during a right-of-way acquisition period.

Mr. CRAMER. That is true but you are not irrevocably committed. You can always obtain additional right-of-way 7 years later, can you not?

Mr. MACKIE. Some of the States may have difficulty acquiring additional right-of-way, depending on the local laws concerning the rights of eminent domain.

Mr. BALDWIN. Mr. Chairman, the thing I object to in the wording of H.R. 6140, is that in the original act the Congress indicated at least our intention that it should be adequate at least to 1975 and the wording of H.R. 6140 takes away that objective.

Mr. FALLON. I might say this is the recommendation from the Department of Commerce.

Mr. BALDWIN. I understand that but it seems to me when we take away the definite date we should state why we did.

In the first hearings, of our Highway Investigating Subcommittee, they were on inadequacy of bridge standards. There were no target dates set by anyone. I for one would not be in favor of passing a bill worded in the way the bill was submitted. I think we have to present a target date of 20 years or do something like I suggested yesterday, saying that in no case will the minimum be below the requirement for 1975. I would like to suggest we carry out Mr. Cramer's recommendation and ask for a specific draft proposal to be submitted by AASHO, and have that submitted in turn to the Bureau of Public Roads for their comments before we take further action on this bill.

Mr. FALLON. I think, if the gentleman will yield, the Bureau expressed through Mr. Whitton yesterday that they were not wedded to this particular bill; that the intent of everybody was agreeable but he suggested that you could put a date in there. He mentioned 20, 25, and 30 years. I agree with you, let there be no mistake that the minimum remain 1975. I think we all agree on the intent. It is just a matter of getting the language in the bill that will take care of not only the intentions expressed by the American Association of State Highway Officials but also by the Director of the Bureau of Public Roads.

Mr. BALDWIN. The chairman mentioned we might have an executive session on this bill, say, around June 11. I think it is very essential that we ask that the proposed draft wording from AASHO be submitted and available to us prior to that time so that it might be made available to all the members to look at before we have that final meeting.

Mr. FALLON. I am sure that can be furnished.

Mr. MACKIE. We agree to that. We will agree to have it in prior to that time. I might point out that as long as we have in that language the 20-year design period, this would preclude anything prior to 1975; that is, we have the 20-year language. We do not have to refer to 1975.

Mr. FALLON. Mr. Mackie, Mr. Whitton yesterday testified that 75 percent of the construction plans and design for the Interstate System was adequate for the year 2000. We are talking about the 25 percent that is not included. I was wondering if there is any design for that 25 percent or it has been a design or under design.

Mr. MACKIE. I would respectfully suggest that Mr. Whitton might be in a better position to answer that. I cannot speak for the individual States in that regard.

Mr. FALLON. Are there any other questions on this section?

Mr. BLATNIK. Mr. Chairman.

Mr. FALLON. Mr. Blatnik.

Mr. BLATNIK. This is a little beside the point of testimony but pertinent to what happened yesterday, the tragic chain reaction crash on the superhighway near the Newark Airport in the Jersey Meadows area. In relation to geometric standards, Mr. Mackie, could you give us some idea in general terms—we do not want a detailed report—of what new advanced developments have taken place, or may be taking place, in connection with the safety factors of these highways, the high-speed throughways? I am particularly speaking about electronics gear—sound devices, in addition to light devices.

My recollection is that the new highway system still relies mainly on the old visual method of a sign. Though signs are much larger, there is quite a distinct limitation of the effectiveness of visual observation. You have many signs. You are traveling at high speeds and you have speeding automobiles or trucks on each side of you. In short, how can we avoid future repetitions of what happened yesterday?

Mr. MACKIE. The basic minimum design standards for the Interstate System now, if the visibility is good, I think are adequate for the posted speeds; that is, no one should experience difficulty in negotiating the Interstate System at the posted speed with the minimum curves and degree of curvature. As I understand the accident to which you referred occurred during the fog when visibility was restricted. There have been projects underway, most of them experimental, to precipitate fog, to eliminate it, and I understood New Jersey was one of the States that was using this. In Michigan there are many projects underway. We have one in particular, a TV scanning control project, with automatic signs and signals; however, I agree with you a hundred percent that the more signs we get erected the more immune the traveling public becomes to them and tends to disregard them.

The answer I think lies in the field of automated highways, and again there are many firms doing research in this area such as automatic sensing devices to tell how far behind a vehicle you are during periods of restricted visibility, block systems, even automatic guidance of the automobile itself. But I think, and I regret to say that as long as we have the human element involved in negotiating these highways there are bound to be failures occasionally. I attempted to make that very brief.

Mr. BLATNIK. So, even though the road is built according to a geometric construction standard to be adequate in the future, this would not preclude the later addition of electronic devices and sensing devices, would it?

Mr. MACKIE. Yes, it would not preclude. Some of these sensing devices are already available for use on existing highways and as nearly as we can determine from some of the research we have done, depending, we can proceed in several directions as far as automatic highways are concerned but the farthest one out would be a relatively simple matter to modify the existing highways to take care of the new developments in the form of automation.

Mr. BLATNIK. There is a rapid development in the electronics field. Even a wild guess would not be a reasonable estimate of what may be available 20 years from today as changes are so rapid, year by year. I am thinking, for example, of a time when, if there occurred a limited

range of visibility, a photoelectric cell—installed at a not too great additional cost—would register an alarm. It would be radio, not wire. Radio works through very inexpensive solar cells that would charge up during the bright summer days. An alarm would be flashed—either a fog horn, which would be a sound, in addition to warning lights, or perhaps a buzzer in the automobile—not to exceed the speed limit 45 instead of the 65 that he is traveling at. That would be one speculative possibility about these warning devices. Does that sound feasible?

Mr. MACKIE. Yes, sir. Some of these are available right now. Most of the research in this area going on at the present time is to make this automatic so when these sensing devices are operating and issue the warning, they are built into the automobile so that the driver cannot disregard them, so that it will automatically reduce the speed.

Mr. BLATNIK. The fog condition problem has lasted for a long time.

Mr. MACKIE. Yes, sir.

Mr. BLATNIK. In days gone by it was not a problem. You had horses and buggies. They were on slower highways. It only now—when you have the availability of the freeway with the high speeds—becomes an awesome threat of mass catastrophe. Once you have a collision or obstruction, nothing will save the vehicles from behind from stopping too late, unless they have advance warning. We have fog conditions in Minnesota, along the Great Lakes, in northern Wisconsin. I wondered how much attention was being paid by your safety engineers to the utilization of new development in the electronic field to improve or upgrade a modern warning system.

Mr. MACKIE. Considerable attention, I might say, Congressman. For example, we are in the process of developing one right now, an automatic sign, that when, for example, bridge decks will freeze prior to the road surface itself due to the fact there is no heat underneath and when temperature and humidity conditions become conducive to freezing then it will automatically ignite or light a warning sign saying, "Bridge deck iced area." There is considerable research in that area.

Mr. BLATNIK. Thank you.

Mr. MACKIE. If I could venture a guess, I would say within the 20-year period we are talking about we will see a considerable amount of automation.

Mr. BLATNIK. As things now stand, there is nothing to prevent repetition of this large-scale chain reaction collision we had yesterday is there, if the high speeds are permitted and the warning is not given in time? There is nothing to prevent the repetition of these things from happening wherever such fog and weather conditions exist?

Mr. MACKIE. Not without automatic controls on the vehicles themselves.

I am not familiar with the details of this tragic accident to which you refer, but it would appear to me that if conditions were foggy that perhaps the trucks were traveling too close and consequently there was a human failure.

Mr. BLATNIK. The newspaper account stated the lead truck suddenly hit an unexpected fog bank. Apparently he himself had not had enough warning. He got into the fog bank. He slowed down. In the meantime the truck behind traveling at a normal rate of speed

for good weather, night-time driving, apparently struck this truck from behind. There may have been a jackknife. There was a complete obstruction. The lead truck driver got out and as he was getting out he heard the series of impacts all the way down the line. I think it ran for a stretch of several miles behind him. In spite of a modern, first-rate up-to-date highway designed to take care of traffic for 20 years in advance, we find a dangerous built-in situation, unless we have some advance and very prompt, if not automatic, warning system.

Mr. MACKIE. They could be available and as I touched on very briefly earlier, there is also available fog precipitators that would automatically come on and disperse the fog. One of the problems there is the high cost of energizing the precipitators.

Mr. Johnson would like to comment here?

Mr. JOHNSON. Yes. I would like to give a few observations on Mr. Blatnik's question.

There have been two proposed methods of automatic operation of highways. One would use a conductor in the shoulder and another use a conductor in the center of the roadway of the lane itself. The design standards that we are using could be adapted to either system.

There has been a gadget developed that would indicate that you were closing in too close to a vehicle or fixed object by buzzing on the dash of the car. Electronic development is going ahead at a pretty rapid rate. It is going to take some time, of course, before all of the components can be developed to where you can let human life depend on these things. For instance, one of the problems we had in the test road itself was that we have never been able to design an electrical component that can stay buried in the ground under the moisture, the vibration, and pressure of the ground and have a life of over 2 years. That has to be whipped as one of the things before you would start trusting human life to an electronic system. Another thing, of course, would be equipping all the cars that would use the system. There has been a development proposed now that would lend itself to a car that would have electronic equipment on it and would also have a visual system which they call a rooster tail. There would be lights along the shoulder every so many feet and you would stay in the lighted area. There would be a bunch of lights along the side of you. You would stay in the lighted area all that time. Of course, that would have some disadvantages because collisions and things like that and maintenance, these lights would be in the way, but we are very definitely thinking about it. As Mr. Mackie said, this matter of dispersing fog requires a good deal of energy, just like the matter of cutting ice off of bridges. It takes a good deal of heat in order to do that.

We may get some routes that will justify that sort of thing. At the present time we are putting our energies to developing component parts that will later be used to automate a highway. One of the first things we might get into would be feeding of traffic from an entrance ramp into high-speed lanes. That right now is a difficult thing for a new driver to learn when he starts driving on interstate highways.

Mr. BLATNIK. Instead of accelerating, they usually stop.

Mr. JOHNSON. Yes. He does not use acceleration lanes. He does not use it properly. He goes down and stops and creates some kind of a traffic turbulence. Those things are very much in development.

Another thing we are looking at, we have signs, reflector signs, delineators that work well in perfect weather but we are going to have to get something now that will do the same thing, convey the same thing whenever you have adverse weather, whenever you have certain conditions of bad visibility.

I understand that the fog condition in New Jersey was one of the very serious ones to where the visibility was almost zero. There, of course, every highway man dreads that sort of situation and especially when a car gets in there and decides to stop. That is a bad condition. We are working on the thing and as Mr. Mackie says, in 20 years I am sure we will have some of the things actually in use.

Mr. BLATNIK. Thank you.

Mr. FALLON. That is a very interesting conservation and certainly one of the most important problems that we could talk about, not only at this time but in the future. At this moment I think maybe we will just proceed on the legislation that is before us because I am so interested in it I could sit here all day and listen to the subject of electronic gadgets that might promote safety. I have seen some of them in experimental operation and I am sure if they can be produced and installed at a price that can be afforded in the near future we could probably get what we call a real safe highway.

Mr. Mackie, would you proceed on your testimony, please?

Mr. MACKIE. Yes, sir.

May I say one more sentence on this automatic highway and that is when the Secretary of Commerce announced 2 years ago that we were going to build one this year, all these preparations were made to build the first section of the completely automatic highway in conjunction with the General Motors Research Center. Equipment was allocated. When the money is available we are prepared to build the first section of the completely automatic highway.

We call your special attention to item No. 4 in the policy statement, which disapproves of any Federal agency, other than the Department of Commerce, having the power of approval over Federal-aid highway projects. Periodically, proposed legislation is introduced that would extend such approval to other Federal agencies.

We also invite your attention to items Nos. 8 and 17. It is our considered opinion that we are progressing with the currently authorized A B C and interstate program to where the Congress should direct the Secretary of Commerce, in cooperation with the State highway departments, to study the continuing and future highway needs of this country and to report back to the Congress at some specified date. It should include the needs of the Federal-aid systems by States and for the Nation, and it should point out the most pressing highway needs of the decade following 1972.

You should have this information in time that appropriate programs can be developed and legislation passed before the currently authorized Interstate program is concluded. Highway transportation is important to the expanding economy of this Nation and a major interruption in the highway program could have major consequences. We would suggest that such a report be transmitted to the Congress in January 1967.

In our policy statement, the State highway departments pledge their full resources and assistance to the Congress and to the Secretary of Commerce in making such a study.

The State highway departments have most of the basic information that would be needed for such a study, and they would all assign sufficient personnel to work with the Secretary of Commerce, through the Bureau of Public Roads, in initiating and completing such a study.

In the recent meeting of the chief administrative officers in Washington, the State highway departments voted to support S. 626, which would amend section 121(d) of title 23, United States Code, to make the allowable amount of construction engineering 15 percent instead of 10 percent. This would be permissive, and we would not object to it being applied to those States that could show reason for the increase to the satisfaction of the Secretary of Commerce.

Certain of our States that have a large number of smaller A B C projects that are widely distributed but have short construction seasons, find that they are having some difficulty staying within the allowable 10 percent.

The American Association of State Highway Officials originally inaugurated and activated the AASHO road test project in Illinois, to develop data on the effect of certain loads on representative bridge types, to develop the relationship of known loads to pavement design, and to obtain data to develop a revised recommended weight and size policy for vehicles using the highway system, in an effort to obtain an optimum balance between the maximum use of the highway and the best life of the highway. At a later time, the Congress recognized the road test project and directed certain requests to the Secretary of Commerce with respect to certain findings from the research project.

We are still in the process of developing a revised recommended motor vehicle weight and size policy, and in this respect we call to your special attention item No. 25 in our 1963 policy statement. We presume that your committee will discuss this matter in detail at a later date, when the Secretary of Commerce submits his report to you on the subject.

The American Association of State Highway Officials was organized in Atlanta, Ga., in 1914, to assemble in one group the State and Federal public officials, who have the responsibility of administering the State and Federal-aid highway programs, in order to develop technical policies, standards, and specifications for the conduct of such programs, to act as a forum for technical and administrative techniques and developments, and to disseminate such information.

This newly created organization helped draft the original Highway Act of 1916, in the belief that the Federal Government's roadbuilding effort in the form of aid to the several State highway programs, would evolve a vast network of highways throughout the Nation. This belief has been substantiated.

Next year, in 1964, and back in Atlanta, Ga., AASHO will observe its 50th anniversary. We would indeed welcome some recognition by the Congress. We believe that the State highway departments' contribution to this Nation's growth has been significant and would justify recognition.

On the occasion of our 25th anniversary, the Congress adopted a Concurrent Resolution No. 10, on July 5, 1939, recognizing our contribution to highway development, and sent an official delegation, representing both Houses, to our annual meeting.

We would hope that your committee could see its way clear to setting such action in motion for our golden anniversary meeting next year.

We would also hope that we could get your support in getting a commemorative postage stamp issued on the occasion of our 50 years of service to the Nation.

In conclusion, we would like to give a short progress report on some of our major activities.

The State highway departments, jointly, have established a cooperative research program that is to supplement and not replace the current research activities of the individual States. It is a pooled fund program, and it is designed to do those projects that are of mutual interest to the State highway departments, but beyond the capacity of a single one to undertake. This pooled fund program involves approximately \$2½ million a year, and is being administered through the Highway Research Board of the National Academy of Sciences.

The 1963 fiscal year program includes 6 major research areas that have been separated into 31 projects, and the contracts are being executed with various universities, consultants, research agencies, etc., that have been selected to handle these individual projects because of their competence in the respective areas. Recently, the State highway departments approved 12 more projects to constitute the 1964 program.

These projects cover a wide spectrum of highway research. Most of the research is in the applied area and deals with specific problems facing the highway program. None of the funds are being used for purely theoretical basic research grants, as pooled public funds do not lend themselves to such use.

A considerable amount of emphasis is being placed on urban transportation needs in the research program. The urban picture is very complex and little research has taken place in this particular area. We refer to such things as the socioeconomic factors that influence urban transportation, the motivating forces that cause people to use certain types of transportation, the relationship between land use and transportation, and the justification for the various modes of urban transportation.

We are just completing a series of regional conferences on urban transportation planning. These conferences were held in cooperation with the American Municipal Association and the National Association of Counties, and the three agencies requested and received assistance of the Housing and Home Finance Agency and the Bureau of Public Roads. The conferences were held to acquaint urban areas with the necessity of the proper cooperative planning of transportation facilities and their relationship to other phases of desirable urban development.

These conferences advised the various cities of the importance of the section 134, "Transportation planning in certain urban areas," that was added to title 23, United States Code, by the Federal Aid Highway Act of 1962, and of the July 1, 1965 date that is set as the time after which a satisfactory cooperative planning process will be a prerequisite for the approval of Federal-aid highway projects in urban areas of 50,000 population and over.

The American Association of State Highway Officials has developed an outstanding reference book on right-of-way procedures, and a special committee developed recommended training courses for right-of-way personnel, covering both beginner and refresher courses. Several States are using the material to conduct right-of-way training schools.

We have a special committee at work now developing the same type of background and reference material and recommended training courses for materials, bridge and roadway inspectors.

This fall, we will have ready, for official adoption, one of the most important highway documents to be developed. It is a basic guide construction specification using uniform nomenclature, construction items, methods of measurements, basis of payments, specified tolerances, and penalties, for State highway department construction specifications. It is also updating construction methods to encourage greater production at the lowest costs consistent with high quality, yet leaves the flexibility needed in the various State highway departments to include references as to their local construction materials, their soils, and climatic conditions.

We are working closely with the complete highway industry in developing this document.

We wish to thank the committee for the privilege of appearing and presenting the thinking of the men who administer the State highway departments.

Mr. FALLON. Thank you, Mr. Mackie, for your very fine statement.

As always, the information brought to us by your organization is appreciated by the committee. It certainly helps us in formulating the necessary legislation to carry on this great public works program.

Are there any questions?

Mr. BLATNIK. I have no questions, but I certainly join most highly with the chairman in his commendation of you, Mr. Mackie, and of your able assistant, Mr. Johnson. I observed with interest the last pages of your statement in which you project for the future and also indicate what the States have already done and the splendid most commendable cooperation between them and the Federal agency, the Bureau of Roads, as well as with the industry people in the construction field. I most enthusiastically join the chairman in offering congratulations and commendations to you and your officers and your fine organization.

Mr. MACKIE. On behalf of the 50 States, we want to thank you very kindly for your statement, Congressman Blatnik.

Mr. FALLON. Are there any questions?

Mr. Cramer?

Mr. CRAMER. I wanted to just for a minute ask a couple of questions concerning your statement on page 8 relating to section 134, written into the law in 1962, relating to transportation planning in urban areas. As I recall the Bureau asked for more strict language than that that was finally approved by the Congress but it presently reads (sec. 154):

After July 1, 1965, the Secretary shall not approve under section 105 of this title any programs or projects in any urban area of more than 50,000 population, unless he finds that such projects are based on a "continuing comprehensive transportation planning process" carried on cooperatively by the State and local communities in conformance with the objectives stated in this section.

You indicate that a number of regional conferences on regional transportation planning have taken place. Have you attended any of those conferences, Mr. Mackie?

Mr. MACKIE. I have attended those in Michigan that have taken place, not in other States, Congressman.

Mr. CRAMER. You haven't attended those conferences?

Mr. MACKIE. Yes, sir.

Mr. CRAMER. You have?

Mr. MACKIE. Yes, sir.

Mr. CRAMER. Could you indicate what your reaction is to, for instance, the interpretation of this language "comprehensive transportation planning process" particularly as stated by Mr. Grant Mickle, Deputy Federal Highway Administrator, who I understand has addressed these conference on this subject matter? Are you familiar with any of his remarks and speeches on what Congress intended by this and what the Bureau is going to do concerning it?

Mr. MACKIE. I would not say in complete detail but I am familiar with Mr. Mickle's approach and thinking.

Mr. CRAMER. Would you care to comment on this approach and thinking?

Mr. MACKIE. Let me say that this language, and again I am speaking for the association, now, was in complete agreement with the language, let me say, in particular in Michigan. We informed the municipalities in 1957, almost 6 years ago, that we would not consider for construction any project within an urban area unless they had such a comprehensive transportation project underway and extended our services to help each of these communities develop their own.

We, speaking again for the organization, think the language is good. We think the intent is good and I am speaking for the majority of the States when I say the highway departments will assist any of the communities in the development of these transportation programs.

Mr. CRAMER. The thing that I was concerned about when I read these remarks, particularly, of Mr. Mickle on March 28, 1963, before the annual meeting of AASHO officials, North Atlantic States, and I would like to have in the record at this point, Mr. Chairman, with their 1963 policy statement.

Mr. FALLON. If there is no objection, it is so ordered.

(The documents follow:)

THE FEDERAL-AID HIGHWAY ACT OF 1962 AND ITS IMPACT ON URBAN PLANNING

(Remarks by D. Grant Mickle, Deputy Federal Highway Administrator, Bureau of Public Roads, U.S. Department of Commerce, at the workshop on urban planning, annual meeting of the Association of Highway Officials of the North Atlantic States, Chalfonte-Haddon Hall, Atlantic City, N.J., March 28, 1963)

The aspects of urban planning are manifold and distinct, yet all are closely interrelated. I suspect no one speaker, nor one workshop such as this, can possibly cover the whole subject thoroughly in any reasonable period of time.

I for one am not going to try, today. I want to touch on just one aspect, which I think is of considerable current interest. This is the impact of the Federal-Aid Highway Act of 1962 on urban planning.

In fact, I shall limit myself even further. The 1962 act will certainly have its impact on urban planning in many ways. It provides an increase in A-B-C Federal aid, including the urban share. It provides for the use of Federal-aid

secondary funds in urban areas. It provides for relocation assistance. And it requires that the 1½-percent funds be used wholly for planning and research, with permissible use of an additional one-half percent of A-B-C apportionments for those purposes.

But today I want to dwell primarily on section 9 of the act. Let me quote it, paraphrasing a little for simplicity. And I would like to read it as three separate but interrelated passages. The first part is a broad statement of policy:

"It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively."

The second part is a call for cooperative action:

"To accomplish this objective the Secretary [of Commerce, acting through the Bureau of Public Roads] shall cooperate with the States * * * in the development of long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation, and which are formulated with due consideration to their probable effect on the future development of urban areas of more than 50,000 population."

You will note that there is no future deadline or starting point in this passage. Unquestionably, it means cooperative planning action, now. Such action is going on now, as I will discuss later.

Finally comes the part with the deadline, which has gained most of the attention:

"After July 1, 1965, the Secretary [of Commerce—meaning the Bureau of Public Roads acting for him—] shall not approve * * * any program for [Federal-aid highway] projects in any urban area of more than 50,000 population, unless * * * such projects are based on a continuing, comprehensive transportation planning process carried on cooperatively by States and local communities * * *."

These three passages, forming a unified whole, are the words of the Congress of the United States. They implement the proposal made by President Kennedy in his transportation message last year. They comprise a very concise statement of a very broad concept.

Five months have elapsed since this law was enacted. Over 2 years remain, to July 1, 1965. There is reasonable time to be ready, so that no Federal-aid urban highway programs need be denied for lack of a continuing, cooperative, comprehensive transportation planning process in being.

The Bureau of Public Roads will in due time necessarily have to formulate policy and procedures governing urban program approvals after July 1, 1965. But meanwhile, some definitions are in order; and these will be the subject of a soon-forthcoming instructional memorandum.

First, what is an urban area of more than 50,000 population? We believe the "urbanized areas" established by the Bureau of the Census will serve very well for this purpose, although in some cases it may be desirable to set other limits by agreement between the State and Public Roads.

Of course, the area encompassed by the planning process need not be restricted to the census urbanized area. Conversely, we would expect that only rarely would the planning area include less than the census urbanized area.

For planning purposes, all of an area likely to become urbanized in the forecast period—say 20 years—ought to be included. And if two or more census urbanized areas now adjoin, or are likely to become adjoining during the forecast period, it seems reasonable that the planning process should embrace the entire area.

Now, what we are supposed to have in being by 1965 is a comprehensive, cooperative, continuing transportation planning process. Let's take these words one at a time.

The comprehensive character of the planning process requires—

1. That the economic, population, and land-use elements be considered fully;
2. That estimates be made of the future demands for both public and private movement of both people and goods;
3. That terminal facilities and traffic control systems be included in the planning; and
4. That the entire area within which the forces of development are interrelated should be included—not just as it exists now, but as it is expected to be urbanized within the forecast period.

The cooperative character of the planning process would seem to us to require that there be formal understanding and agreement between the State highway department and the governing bodies of the local communities affected. Or a properly constituted areawide agency, qualified to act for the local communities, might act on their behalf. Such an agreement should establish the procedure for carrying out the planning process.

The procedure should be such that the planning decisions will reflect and be responsive to the programs of the State highway department on the one hand, and the needs and desires of the local communities on the other. But the refusal of a single small community to join the endeavor should not be permitted to negate the planning process for the entire area.

The continuing character of the planning process means that transportation plans ought to be reevaluated, and updated if need be, at least at 5-year intervals. We must recognize that conditions may change from those initially analyzed and forecast. Thus it is necessary to maintain current data on land use, travel and transportation, and related items. Whether the continuing staff is at the State or local level, and whether it operates full time or intermittently, will depend on the size of the urban area.

The important thing is that changes be recorded and evaluated. This applies, for example, both to changes in land use, expected or unexpected, and to the effectiveness of each portion of the transportation plan as it is placed in operation.

So much for the meaning of the qualifying adjectives—comprehensive, cooperative, and continuing. Let's consider now how to define the transportation planning process itself.

Briefly, it is the operating procedures and working arrangements by which short- and long-range highway and other transportation plans are soundly conceived, developed, and evaluated.

The planning process has a twofold purpose: First, to guide government in selecting courses of action and in establishing practicable capital improvement programs in anticipation of community needs and desires. Second, to guide private individuals and groups in their planning decisions; for these, too, can be important factors in future urban patterns.

In defining "comprehensive," I have already said that transportation planning must be concerned with all facilities used for the movement of people and goods, including terminal facilities and traffic control systems.

The planning process should encompass an orderly sequence of operations. First, the collection, analysis, and interpretation of data concerning the past and the present. Second, the establishment of goals and objectives. Third, the forecasting of future development and future travel demands.

Thus the planning process provides for the development and evaluation of a transportation plan through the appraisal of practicable alternatives. Since it is a continuing process, it should periodically review such plans and modify them if need be.

To be practical, the planning process must include the preparation and dissemination of information needed by government bodies in their consideration of proposals and programs, and for the encouragement of public understanding and support.

The planning process must also include the preparation of recommendations for the scheduling and financing of improvements; for the coordination of these with other development programs; and for any needed changes in ordinances, regulations, and legislation.

And finally, the planning process must be closely coordinated with policymaking and program administration. And it should be organized—from the beginning—with the objective of achieving agreement on action programs, founded on factual information.

This, then, is our concept of the full meaning of "the comprehensive cooperative, continuing transportation planning process." This is the process we must bring into being in the urban areas of more than 50,000 population, before July 1, 1965.

Using the census urbanized areas as a measure, there were 216 such places in the United States in 1960. Some 50 of them, or almost one-fourth of the total, are in the States comprising your association. They range in population from 52,000 in Meriden, Conn., to 14 million in the New York-northeastern New Jersey metropolitan area.

Fortunately, we are not starting from scratch. The urban transportation planning process has evolved during the past decade or so into a skillful, technically

sound, and eminently practical science. Its techniques have been field tested and proven successful.

Of course, the planning process has not been reduced to mathematical certainty. Maybe it never will. We realize the need for more research in this field, and much is being done. In fact, actual urban planning studies are often the laboratory for such research.

In a good many cities, development programs, based on some form of the planning process, are already being implemented. In many others, the planning process is well underway or is now being initiated. The 1962 Highway Act stated the requirement for planning; but it was the obviousness of the need that really established the inescapable requirement in the first place.

That we have not waited for a legal requirement for planning is evidenced by the action program for urban transportation—a program jointly sponsored by the American Association of State Highway Officials, the American Municipal Association, and the National Association of County Officials, and backed by the Bureau of Public Roads and the Housing and Home Finance Agency.

This joint Federal-State-city-county effort has two basic objectives: to promote the development of urban transportation planning and to assist in training State and local staffs in the techniques of this work.

To explain the program, 7 regional or statewide conferences, covering 27 States and the District of Columbia, have been held during the past 10 months. Plans are now being formulated to cover the remainder of the country during the forefront of this year.

Over 1,000 city, county, State, and Federal officials participated in the seven conferences held so far. They have learned both the "why" and "how" of the urban transportation planning process.

Pilot city programs have been designated in about half of the States represented. In other States, urban planning programs were already underway before the action program was launched. In still others, a pilot city has not been designated because a statewide program is being developed.

The action program is urging concentration in the urban areas of 50,000 to 250,000 population. Thus its lower range corresponds with that of the 1962 Highway Act. The upper range was set simply because practically every larger city already has extensive planning studies completed, underway, or in the initiation stages.

In concluding, I would point out to you that the 1962 Highway Act need not stop or delay a single urban Federal-aid highway project in 1965 and thereafter, if you initiate your own action program now—if you have not already done so.

We in the Federal Government are doing all we can to help. But the heavy burden of responsibility rests with the State highway departments for it is they who initiate the programs of Federal-aid highway projects.

This is not to say that the cities and counties do not have equal responsibilities—and perhaps even a greater stake—in urban planning. They cannot afford to be apathetic, or passive, or critics *ex post facto*. They must share in the job.

If, then, there is a single word that sums up the purpose, the method, and one of the major objectives of the planning process, that word is cooperation.

AMERICAN ASSOCIATION OF STATE HIGHWAY OFFICIALS 1963 POLICY STATEMENT

(As developed and adopted by the Chief Administrative Officers of the State Highway Departments at their meeting in Bal Harbour, Fla., Dec. 3, 1962)

(1) That the State highway departments, working together and with the Federal Bureau of Public Roads, have been responsible for the major road-building efforts and highway technological advances of this Nation. This proven "partnership" between the State highway departments and the Bureau of Public Roads should continue to be utilized in the same manner as in the past in planning and constructing present and future Federal-aid highway programs.

It is in the public interest that the major Federal effort in the highway field continue in the form of Federal aid to the State highway construction programs.

(2) That the State highway departments should vigorously oppose any proposals that would require a particular type of organization and operation for a State highway department as a prerequisite for receiving Federal-aid highway funds, inasmuch as all State highway departments are departments of sovereign State governments and must have the latitude of determining the type of organization and operation preferred by the people and that best suited to the individual needs of the States.

The Federal-Aid Highway Act of 1916 required that the State highway organization be adequate for its purpose which, together with safeguards in existing Federal law, adequately protect the Federal interest.

(3) That upon the completion of a Federal-aid highway project, the road which belongs to the State and is maintained entirely at State expense, should be policed, operated and maintained completely by the State and without any Federal requirements other than those currently set out in Federal law.

(4) That no Federal agency or official other than the Bureau of Public Roads, should have the approval power over Federal-aid highway projects initiated by the State highway departments. However, the State highway departments should develop their projects in close cooperation with other affected agencies at all levels of government. To extend the area of project approval could invite controversy and delay the initiation of vitally needed highway improvements.

(5) That the development of controlling highway design standards and highway signing and traffic control methods for the Federal-aid systems is engineering in nature and should never be established by legislation.

(6) That it is of the utmost importance that the highway construction programs of this Nation be kept in balance for the various Federal-aid systems involved.

(7) That the present basic percentages for the States matching Interstate and A-B-C System programs be continued, and that strong opposition be exerted against any proposed decreases in the Federal percentage of participation, in light of the many and increasing demands made on State highway funds, to furnish and maintain highways.

(8) That the A-B-C Federal-aid highway programs be continued with a \$25 million annual incremental increase until it reaches \$1 billion total yearly authorization, at which time the matter of the size of and justification for Federal aid to these highway systems should be further evaluated.

The State highway departments, through the American Association of State Highway Officials, offer their assistance and resources to the Congress and the Secretary of Commerce in making such a study.

(9) That the State highway departments strongly support the current division of the total authorized A-B-C funds of 45 percent to the Federal-aid primary system, 30 percent to the Federal-aid secondary system, and 25 percent to extensions of Federal-aid systems in urban areas, inasmuch as the 20-percent transfer provision of 104(c) of title 23, United States Code, "Highways," provides sufficient flexibility to meet the needs of the individual States.

The State highway departments also support the current adjustment in effect for a State matching Federal-aid funds to compensate for the public lands within a State, when they exist in excess of 5 percent of the total area.

(10) That the association endorses the secondary road plan as set forth in section 117 of title 23, United States Code, "Highways."

(11) That the association vigorously opposes the use of any Federal highway trust fund moneys for any purpose other than now authorized by law.

(12) That the contract authority procedure created by the Federal-Aid Highway Act of 1922, which gives the State the right to initiate Federal-aid highway projects as soon as the official apportionment of funds is made, should be restored and that the reimbursement planning procedure, which was installed as a temporary expedient in 1959, during the time that the Federal highway trust fund balance was below its requirements, should be eliminated in order that the individual State highway departments may plan a more orderly construction program and more efficiently utilize their State highway funds.

(13) That apportionments in the full amount of congressional authorizations for all Federal domain roads should be made and utilized, and such funds should not come from the Federal highway trust fund.

(14) That the association endorses the Interstate System completion schedule as outlined in the Federal-Aid Highway Act of 1961, and reassures the Congress of the individual State highway departments' ability to efficiently complete the interstate program within the time schedule, and warns of adverse economic impact of any interruptions, cutbacks or stretchouts in the program.

(15) That the association endorses the periodic interstate estimates, as provided in section 104(b) (5) of title 23, United States Code, "Highways," as the only equitable and proper basis for the apportioning of Federal funds to the several States to achieve simultaneous completion of the Interstate System in all of the States to adequate and proper standards.

(16) That there should be no sacrifice in the standards currently adopted for and being applied to the Interstate System, and that the matter of design standard development should never become static, but should be constantly reviewed and updated through the State highway department-Bureau of Public Roads partnership process. Such standards should always be applied in such a manner as to accommodate the traffic needs 20 years in the future to avoid premature obsolescence. The present 1975 statutory design date provision for the Interstate System, therefore should be amended accordingly.

(17) That adding mileage to the Interstate Highway System at this time could seriously impair the completion of the presently designated interstate routes. The matter of additional routes should be considered only when a greater percentage of the currently designated system is completed, and when proposed additions can be more accurately evaluated.

In the near future, Congress should reappraise the Nation's highway needs to determine if it is in the national interest to extend the interstate program, and if so, to what extent. The State highway departments, through the association, offers their assistance and resources to the Congress and the Secretary of Commerce in making such a study.

(18) That the urban portion of the Interstate System is an integral and an essential part of that system, which should be planned and developed by the State highway departments in close cooperation with local governmental units and interested Federal agencies. The responsibility of initiation of projects must remain in the State highway departments and of final decision with the State highway departments and the Bureau of Public Roads.

The various modes of urban transportation should not be considered as competitive, but where conditions and needs warrant highways plus other modes of transportation, they should be planned to complement each other and any controversy over the merits of the two modes of transportation in regard to serving the needs of a particular part of the city should not be allowed to delay essential highway construction that is vital to the overall urban area development.

(19) That there should be no change in the law prohibiting the establishment of commercial services on the right-of-way of the Interstate Highway System, as set forth in section 111, of title 23, United States Code, "Highways."

(20) That there should be no change in section 113, of title 23, United States Code, "Highways" whereby the Federal determination of wage rates would be extended to projects on road systems other than the interstate, nor should there be legislation to provide additional Federal control or jurisdiction over wages paid on projects located on the Interstate System.

The period for which wage determinations for interstate highway projects are valid should be extended from 90 to 120 days.

(21) That the State highway departments recommend that Federal legislation be enacted so that Federal-aid highway funds may be used for the construction of connections to existing or future toll roads, where such toll roads and the connections are on any one of the Federal-aid highway systems.

(22) That appropriate action, by legislation if necessary, be taken to facilitate the acquisition of adequate rights-of-way for highway purposes over Federal lands. Present difficulties, particularly with regard to military facilities and land subject to withdrawal for power purposes, seriously delay and materially increase the cost of needed highway improvements.

(23) That actions in response to requests made by State highway departments for reasonable and economically desirable vertical and horizontal navigational clearances at highway crossings over navigable streams, indicate a continuance of a previous recognized necessity for legislation, making it mandatory that except in special cases where the requirements of National Defense govern, such clearances be determined on the basis of minimal costs to all the forms of transportation involved and that the determination of both vertical and horizontal clearances be considered an engineering matter and not legislative.

Highway funds should be called upon to insure only the reasonable clearance needs of normal waterborne transportation for the foreseeable future.

(24) That the State highway departments have approval of any and all proposals and plans designed to set aside elements of any highways, under its jurisdiction, for the purpose of installing rail transit or for the exclusive use of a special type of motor transport.

Such special use should be considered only after comprehensive studies show it to be the most economical and efficient arrangement possible, that it is in the public interest, and that such an arrangement will not create a safety hazard. The expenditure of highway funds should be limited to that portion of the facilities that are for highway purposes.

(25) That is the considered opinion of the association, in order to effectively protect the Nation's enormous highway investment that Congress continue a legislative ceiling on the size and weights of motor vehicles allowed to operate on the routes comprising the Federal-aid primary highway system, including the Interstate System, and the ceiling should be one that would provide an optimum balance between the most efficient use and the best economic life of the highways. Any State allowing the use of vehicles in excess of the prescribed ceiling would be ineligible to receive Federal-aid highway funds.

The ceiling should not be construed as restricting oversize and overweight motor vehicle movements, allowed by the several States under their respective special permit procedures, nor should it be less than the weights and sizes in effect in the individual States on July 1, 1956.

(26) That it is in the public interest for the Congress to authorize a special revolving fund from the Federal highway trust fund to finance the advance acquisition of right-of-way for Federal-aid highway projects, wherein a State would reimburse the special revolving fund from its appropriate Federal-aid apportionments at the time construction of a given Federal-aid highway project is authorized.

(27) That Federal financing, as now provided for the current Federal-aid highway program, be continued and protected so that the expressed intent of Congress, as outlined in section 101(b) of title 23, United States Code, "High ways," will have meaning. It was on the basis of this expression of the Congress that the State highway departments and the highway industry increased organizations and resources to handle the enlarged program.

All of the justifications that existed for the activation of the accelerated enlarged Federal-aid highway program in 1956, still exist and are even more apparent than at that time.

(28) That is the expressed policy of the State highway departments, acting through AASHO, to pledge readiness and willingness to render proper service to public camping and recreational areas that may be authorized to be established, built, and administered by governmental agencies other than the State highway departments. It is the further expressed policy that if these areas should be adjacent to the Interstate System right-of-way, they be accessible only through established interchanges. Rest areas established on the interstate right-of-way by the State highway departments are not to be used as or converted to camping and recreational areas.

Mr. CRAMER (continuing). In which he took this language apart and stated what he thought the Bureau's position would be relating to the processes that would be required by the State, the programs that would have to be in effect by 1965 in order for the States to qualify for funds in urban areas. Let me read some of them. They are very, very comprehensive. This is what I wanted your comment on:

The planning proposal of an area likely to become urbanized in the forecast period, say 20 years, ought to be included.

Mr. MACKIE. That is right.

Mr. CRAMER (reading).

The comprehensive character of the planning process requires—
he is defining comprehensive—

one, that the economic population and land use elements be considered fully;
two—

this is all conditioned upon getting Federal money—

that estimates be made of the future demand for both public and private movement of both people and goods; three, that terminal facilities and traffic control systems be included in the planning; four, that the entire area within which

the forces of development are interrelated should be included, not just as it exists now but as it is expected to become urbanized within the forecast period—meaning 20 years. Now what is meant by the cooperative character? All these things have to be finalized. It is their interpretation that that is what is meant by this legislative language, “comprehensive, transportation planning process,” that the projects should be based on a continuing comprehensive transportation planning process carried on “cooperatively.”

Obviously it has to be something the States and local communities agree to, in all these aspects.

The cooperative character of the planning process would seem to us to require that there be formal understanding and agreement.

This is not a planning process. This is a formal understanding and agreement, meaning in writing apparently—

between the State highway department and the governing bodies of the local communities affected or a properly constituted areawide agency qualified to act for the local communities. Such agreement should establish procedure for carrying out the planning process. The procedures should be such, the planning decisions will reflect and be responsive to the programs of the State highway department on the one hand and needs and desires of communities on the other. The refusal of a single small community to join the endeavor should not be permitted to negate the planning process of the entire area.

The continuing character—

now he is defining continuing—

The continuing character of the planning process means that transportation plans ought to be reevaluated and updated if need be, at least at 5-year intervals. We must recognize the conditions may change from those initially analyzed and forecast. Thus it is necessary to maintain current data on—

listen to this, now, these are the requirements—

current data on land use, travel and transportation and related items. Whether the continuing staff is at the State or local level, whether it operates full time or intermittently will depend on the size of the urban area. The important thing is that changes be recorded and evaluated. This applies, for example, to both changes in land use, expected or unexpected, and to the effectiveness of each portion of the transportation plan as it is placed in operation, et cetera.

I would like to ask your comment on it. It may be unfair to ask for a comment at this point, but if it is I would like to ask for AASHO to consider it and give the committee its opinion with regards to the interpretation of the Bureau of what Congress intended in this respect and whether or not the States can live under these criteria. This apparently is the embryonic form of future regulations that the States and local communities will have to live up to. I remember very well a discussion of this section and it was very clearly the intent of Congress that the Federal Government not inject itself into determining exactly all the details of what type of planning should go on in the local communities with regards to urban planning of the transportation system. They should not dictate to the local communities but only that a planning process should be put in motion to accomplish what the local community decided it wanted in conjunction with the State.

Mr. MACKIE. I think perhaps different words mean different things to different people. Speaking for the association, there was no disagreement with this language. As a matter of fact, we supported it. Let may say, when you are speaking to a planning engineer or some-

body engaged in that business, I would say Mr. Mickle's interpretation as spelled out there means exactly what all of the planning engineers thought it meant. These elements such as population growth, existing land use, projected land use, all of these elements are a basic part of a comprehensive transportation plan and they are necessary. Speaking for Michigan for just a moment we have already accomplished this in all of our major urban areas of over 50,000 population. I think many of the other States have already done this and I do not think it unreasonable to expect that perhaps all of the States will have accomplished this by 1965.

Speaking for myself, I think it is necessary to design a comprehensive highway plan. How, otherwise, can you do it without considering all of these elements as outlined by Mr. Mickle.

The only reservation I might have would be in his statement where he said there must be a signed agreement. As long as you are dealing with human beings there is bound to be some difference of opinion and there may be an area where each of the urban areas throughout the Nation of over 50,000 population, you may not have a signed agreement but tremendous steps can be made in that direction.

Mr. CRAMER. It is going to take a tremendous amount of effort on the part of each community in excess of 50,000 to conform to the 1965 date as well as approval and cooperation with the State because the planning process has to be in conjunction with both.

Mr. MACKIE. Yes, sir.

Mr. CRAMER. Do you think the States can conform to that; that is, each community in excess of 50,000 can conform?

Mr. MACKIE. Many of them already have. I think it is reasonable to expect that they could do this by 1965 if there is enough prodding to have them do it.

Mr. CRAMER. I approve of the language as stated by Congress that a comprehensive transportation planning process be put into motion by 1965. The question I have with regard to Mr. Mickle's approach was whether or not he was requiring the local communities and States to enter into too definitive a program prior to the time when they might be ready to do so, and secondly, whether or not he was trying to dictate to them too much about what the program should consist of.

Mr. JOHNSON. Mr. Cramer, our committee on urban transportation planning helped prepare what you have just read there.

Mr. CRAMER. I am glad to know that. That is reassuring to me. Thank you.

Mr. FALLON. Are there any further questions of Mr. Mackie?

Mr. BALDWIN. Mr. Mackie, at our West Virginia hearings last year there was testimony that in a number of cases in West Virginia the highway construction contracts had been let when people were still living on the right-of-way over which the contract was going to be constructed, where a decision had not yet been made—a legal decision—to acquire title by the State and where no legal determination had been made to remove the people from their residences. So we had a number of poor people coming in here saying that they were in a house on the right-of-way and the contractor was out working on the right-of-way and was practically ready to bulldoze their house down and they had been given no legal information as to their status.

I would like to ask whether in your observation and experience there are many States in AASHO that are doing this kind of thing, letting highway construction contracts where people are still living on the right-of-way and have not yet had their legal rights determined.

Mr. MACKIE. I would suspect, Congressman, that this is the exception rather than the rule. I know there have been isolated instances in Michigan where this has happened, where offers have been made but normally the individual involved living in the house in the right-of-way has had a minimum of at least 1 year, knowing that the highway department was attempting to acquire the property and for some other reason had not acquired it.

It is difficult to imagine that a homeowner would be living there and not have been approached or told what was going to happen. Sometimes where it is necessary to acquire this property through the rights of eminent domain maybe some of the calendars in courts are jammed and there are some delays involved and when the wheels are set in motion a contract can be let where the grading is actually started, say, on both sides of the property involved but the individual then is not forcibly ejected without the proper legal procedures having taken place. I would say this is the exception.

Mr. BALDWIN. The thing that bothered me is that it became pretty evident from some of the testimony that the proper legal procedures had not yet taken place. I can understand in most States the State can go in and get, by a legislative decree, an easement over the property before the final adjudication on the settlement on the amount to be paid is made, which may take a court trial. It can go in and get an earlier action giving it the right of access for construction. But there has been no legal authority yet granted at all in several of the cases that came before our committee and as I say, I was personally deeply disturbed as I am sure some of the other members of the committee were. I hope if AASHO has any influence on its members that you might bring this up at a future AASHO meeting and endeavor to resolve some policy that would avoid this kind of thing happening. This is the kind of thing that just lends itself to a Huntley-Brinkley report saying, "Here are these poor people. They do not even know what is going on and a construction man is out with a bulldozer ready to push their house over the edge of the highway."

Mr. MACKIE. Yes, sir. I appreciate your suggestion and this sort of thing is a subject of continuing discussion at these meetings and the reason for the initiation of many of our committees and development of standard right-of-way acquisition procedures for example, we have developed manuals and hope that all States will conform to the procedures that are established to prevent these things from happening but we certainly will at your suggestion consider, or I should say continue our search for ways to minimize or eliminate these things from happening.

Mr. BALDWIN. Thank you.

Mr. FALLON. Mr. Schwengel, any questions?

Mr. SCHWENGEL. No questions.

Mr. FALLON. Mr. Robison?

Mr. ROBISON. Mr. Chairman—Mr. Mackie, I have been leafing through the AASHO 1963 policy statement and I find that item 17 thereof refers to your recommendation or implies your recommenda-

tion that adding mileage to the Interstate System now would seriously impair the completion of the presently designated interstate routes.

I notice that item and that nowhere else in the policy statement do you make any reference to the perennial question of reimbursement for the toll roads of the various States, including your State of Michigan, that have been incorporated into the Interstate System.

I wonder if you would care to comment on this perennial problem and whether or not in your judgment it ought to be considered by Congress when it reappraises the Nation's highway needs to determine where we go after the completion of the present Interstate System.

Mr. MACKIE. Speaking for the association, we have no position, no official position on the toll roads. In item No. 17, what we are referring to here generally is the addition of pieces of mileage under the present system. I think the association generally agrees that after the completion date, but preparing in advance of that completion date, that additional mileage be included in an extension or a new interstate program but that, again, whatever additional mileage Congress would agree to allocate be done on a reasonable basis, such as need, such as the original allocation of the 41,000 miles.

As far as the financing, I think I am speaking for the organization when I say we would assume that the present system of financing would continue.

Mr. ROBISON. Would be extended beyond the present target date for termination?

Mr. MACKIE. Yes, sir.

Mr. ROBISON. To ask you to answer my question further, would you not feel that some resolution of the reimbursement question ought to be made at or prior to that time?

Mr. MACKIE. If you feel it appropriate and offer this as a suggestion, I will be happy to propose this at our next convention or our next meeting.

Mr. ROBISON. Well, it is a perennial question in which I know the chairman shares my own personal interest as do other members of this committee. I do think it would be useful, as we approach or begin to approach the termination date for the original program, that this question of reimbursement be not lost sight of and that we plan, or at least attempt to plan, what should be done in connection with that problem, if anything, and in sufficient time so that we will know where we are going before the present program is ended.

Mr. MACKIE. To make sure I understand you properly, you mean reimbursement for the existing Interstate System.

Mr. ROBISON. Toll roads.

Mr. MACKIE. Toll roads only.

Mr. ROBISON. For the preexisting toll roads, well, and the free roads, too, that were incorporated into the Interstate System under the original act, without reimbursement to the States that constructed them, at their own or at the tollpayers' expense.

Mr. MACKIE. You are speaking of the present system and not a future system?

Mr. ROBISON. Yes, Mr. Mackie. When you talk about toll roads in that sense, as an association, a minimum of States are concerned with the toll problem and, again, the problems that exist are unique to those States and it is questionable that we could adopt an official posi-

tion representing all the States but at your suggestion, again, we will be most happy to bring it up and see if we can arrive at some recommendation.

Mr. BALDWIN. If the gentleman will yield, Mr. Mackie, I think it only fair to record that there is great difference of opinion on this committee on this issue so I hope you won't convey to AASHO that you have got a united committee request to come up with a recommendation on this because there are a considerable number of members of the committee that do not think anything should be done on this particular issue.

Mr. MACKIE. Thank you.

Mr. FALLON. Are there any further questions?

I might also say that that subject has come up before. As a matter of fact, I do not recall a hearing that we have had that that same subject has not been brought up. The committee has disposed of it, I think very properly so, in the past. I hope some day we can satisfy the gentleman from New York and give him some light on what the future might be for the cause he has so valiantly worked for, spoken for, and I wouldn't say "fought for," but almost to that point.

Mr. Mackie, let me again thank you and your association. We thank your always available and helpful secretary, Mr. Johnson. You have been very helpful on every occasion when we have considered the subject of Federal highways for this country.

Mr. CRAMER. I, too, would like to express the appreciation to the AASHO officials, the cooperation Mr. Johnson and others have always given to this committee. It has certainly been most helpful.

Mr. MACKIE. Thank you.

Mr. FALLON. If there is nothing else before the committee at this time, we will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, at 11:50 a.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, May 29, 1963.)

FEDERAL-AID HIGHWAY ACT AMENDMENTS OF 1963

WEDNESDAY, MAY 29, 1963

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON ROADS,
Washington, D.C.

The subcommittee met, pursuant to recess, in room 1302, House Office Building, at 10:15 a.m., Hon. George H. Fallon (chairman of the subcommittee) presiding.

Present: Representatives Fallon, Murphy, Edmondson, Cramer, Baldwin, and Quillen.

Mr. FALLON. Gentlemen, the Subcommittee on Roads is meeting this morning, continuing hearings on a number of bills before the committee. We have had 2 previous days' hearings. We have heard Mr. Whitton of the Bureau of Public Roads and yesterday President Mackie of the Association of State Highway Officials.

This morning we are pleased to have two very distinguished national associations here to testify. First I would like to call on General Prentiss of the American Road Builders' Association accompanied by Burton F. Miller.

STATEMENT OF MAJ. GEN. LOUIS W. PRENTISS, U.S. ARMY (RETIRED), EXECUTIVE VICE PRESIDENT; ACCOMPANIED BY BURTON F. MILLER, DEPUTY EXECUTIVE VICE PRESIDENT, AMERICAN ROAD BUILDERS' ASSOCIATION

Mr. FALLON. General, I want to thank you on behalf of the committee for taking time to come up here this morning to give us the benefit of the very valuable information and experience this committee has always received from you and your organization. I want to thank you not only for being here this morning but for the advice, guidance, and information that you have given us in the past.

General PRENTISS. Mr. Chairman and members of the committee, my name is Louis W. Prentiss, and I am the executive vice president of the American Road Builders' Association, with headquarters in Washington. We are a national organization, organized in 1902, with membership representative of the entire highway industry and the highway engineering profession. Our approximately 6,000 members include highway contractors; manufacturers and distributors of highway construction equipment; materials producers and suppliers; faculty members and students of colleges and universities offering instruction in highway engineering; highway officials and engineers

at all levels of government; engineers in private practice; and investment bankers.

Mr. Chairman, it is again a privilege for me, and for American Road Builders' Association, to come before this committee with comments on highway legislation. This committee has always given us an attentive hearing and thoughtful consideration. Your adherence to the policy of approaching each question with an open mind has no doubt been an important factor in the production of sound legislation.

With reference to H.R. 4154 and H.R. 4559, relating to the statutory formula for the apportionment of funds for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas, we believe that these identical bills have been adequately discussed in previous testimony and, consequently, we have nothing to add.

H.R. 5590, which would prohibit the participation of Federal-aid funds in payment of certain State or local taxes, is a matter of major concern to the highway industry.

When I appeared before this committee a year ago, I pointed out that, as nearly as we could determine, that State and local taxes on construction contracts, and on the gross receipts of highway contractors, and sales and use taxes on major highway materials were draining at least \$35 million a year from the highway trust fund.

At that time, we found that only 11 States levied taxes based on the value of highway construction contracts, and the rate of taxation was, in a majority of cases, not high enough to create a serious problem. It was the trend of events which concerned us.

Now we are more concerned than ever, as other States are initiating steps to take advantage of the legal loophole which is offered as a means of financing general State program from the highway trust fund.

A few weeks ago, the State Legislature of Alabama considered and ultimately rejected a proposal to levy a tax of 10 percent on the value of highway construction contracts in that State.

For the sake of illustration, suppose the Alabama legislation had been passed and that subsequently, a contract in the amount of \$1 million was awarded for an Interstate System project. The tax on such a contract would be \$100,000 and any prudent contractor would have adjusted his bid price accordingly. Inasmuch as the Federal share of interstate construction costs is 90 percent, the Federal Government under the present Federal code would be required to bear nine-tenths of the contract cost, including the burden of the tax in this instance. Thus, the sum of \$90,000 would be transferred, through the contractor payments, from the highway trust fund to the general fund of the State of Alabama. At the same time, a sum equivalent to one-tenth of the tax, or \$10,000, would be transferred from the highway fund of the State of Alabama to that State's general fund.

It is difficult to determine how much money is now being lost from the highway trust fund in this manner each year. The amount diverted from the highway trust fund is substantial. It will become much larger unless Congress takes steps to prohibit the participation of Federal-aid funds in the payment of these taxes. The contractors of California complain bitterly of the "4 percent use and sales tax" on all work subcontracted under highway contracts.

It should be made clear that H.R. 5590 is not intended to interfere in any way with the power of the States to levy such taxes as the States

may deem appropriate. If H.R. 5590 is enacted into law, the States could continue to levy taxes on highway construction contracts or to apply sales and use taxes to major highway construction materials purchased for use in Federal-aid projects. The bill would, however, give the Secretary of Commerce the necessary legal authority to withhold from the States what is now the Federal share of the tax payment.

To return once again to the hypothetical case I have just cited, the Federal Government would reimburse the State the sum of \$810,000, representing 90 percent of the actual construction cost of the project, but the Federal Government would refuse to pay the additional \$90,000 chargeable as the Federal share of the tax payment.

A sound precedent for the enactment of this legislation is the Hayden-Cartwright Act of 1934, which states the principle that:

It is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways.

The act went beyond the statement of principle, providing for the denial of up to one-third of a State's Federal-aid apportionment as a penalty for the diversion of highway-user tax revenues in excess of the diversions already in effect when the act was passed on June 18, 1934.

We also support H.R. 6044 and H.R. 6141, providing for adjustments in the schedule of cost estimates for the completion of the Interstate System.

Speaking from the point of view of the highway industry, we especially wish to emphasize the essentiality of an orderly continuity in the program. The gearing up of industry to accomplish any given volume of work involves careful planning and the investment of large amounts of capital. Stopping and restarting the program is costly and disruptive. Therefore, any deviation from the established procedure of making the apportionments to the States would have most serious effects on construction projects and construction costs.

With reference to construction costs, we concur in the comment made here on Monday by the Federal Highway Administrator to the effect that he expects the interstate program to be completed, on schedule, at a total cost very close to the estimate. Let me point out, however, that factors beyond the control of the highway industry may have a profound influence on costs. A bill now awaiting clearance by the House Rules Committee (H.R. 6041) would provide for the inclusion of fringe benefits in Davis-Bacon wage determinations. The enactment of such a bill would result in a serious distortion of the wage pattern on interstate projects and would result in substantially increased costs.

H.R. 6140, relating to the geometric and construction standards for the Interstate System, is necessary legislation. The requirement that our "backbone system" of highways be designed on the basis of the traffic anticipated in 1975 is insupportable. The situation is becoming increasingly more serious.

We are in sympathy with the position that the Congress should draw up specific guidelines, legislatively, rather than giving the Secretary of Commerce a completely free hand to determine the geometric and construction standards administratively.

When Congress enacted the Federal-Aid Highway Act of 1956, establishing 1975 as the "design date" of the Interstate System, the ap-

parent intent was to provide for the construction of highways designed to accommodate traffic 20 years in the future.

This same intent can be preserved by providing for a periodic and automatic adjustment of the design date in 5-year increments. We should now be designing highways for a design date no earlier than 1980. Beginning in 1966, and continuing through 1970, the year 1985 would be a reasonable and conservative design date. Beginning in 1971, the design date should be advanced another 5 years, to 1990.

Of course, all design work on the presently authorized Interstate System should be completed prior to 1971, but it is already evident that we will need to continue the construction of interstate-type highways at the conclusion of the present program.

In that regard, Mr. Chairman, the American Road Builders' Association considers it imperative that comprehensive studies be commenced in the near future to consider the highway construction needs of our Nation in the decade beginning in 1971. These studies should be conducted by the Bureau of Public Roads in cooperation with the State highway departments, and a report should be made to Congress at the earliest feasible date, perhaps by January 1966.

The success to date of the present interstate program illustrates the wisdom of the long-range approach to highway development. We cannot afford to abandon the interstate concept of long-range goals and construction schedules coupled with adequate financing.

Recently, the Federal Highway Administrator, discussing the progress that is being made toward the completion of the Interstate System, pointed out that the final construction contracts under the present program should be let to contract in 1970, that the final design work and right-of-way acquisition should be underway no later than 1968, and that right now we should be making the last of the studies on route locations and winding up that phase of the work.

On that basis, the orderly continuation of the highway development program requires that new route location studies be commenced in the near future so that there will be a firm program with contracts ready to let, to take up where the present program leaves off.

We fully concur in the proposition that we should finish the planned 41,000-mile system before beginning the construction of extensions to that system. But this does not mean that we should not be planning now for the foreseeable future. In the time context of long-range planning, 1970, is just around the corner.

This is an appropriate occasion to comment on the problems associated with the utilization of engineers in private practice for design engineering work on Federal-aid highways.

When the legislation which became the Federal-Aid Highway Act of 1956 was under consideration, the American Road Builders' Association was asked by this committee to make capacity studies to determine whether or not the highway industry of the United States had the capability of performing the magnitude of work contemplated in the accelerated program then under consideration.

These ARBA task force reports, as they were called, pinpointed a potential shortage of engineering talent. The task force reports concluded that this shortage could be overcome by supplementing the engineering force of the State highway departments by utilizing the services of existing and qualified organizations of private engineers.

The conclusions of the task force reports proved to be sound. The early progress of the work toward the completion of the Interstate System would have been much slower had it not been for the volume of design work accomplished by engineers in private practice.

Private engineering firms are still doing about one-half of the design work on Interstate System projects.

In its continuing audit of the Federal-aid highway program the General Accounting Office has several times criticized various State highway departments for what they consider to be too much dependence on private engineering firms.

The argument advanced by the General Accounting Office is, first, that the statutes require every State, as a prerequisite for Federal aid, to have a State highway department "suitably equipped and organized to discharge" the duties required of a State highway department by title 23 of the United States Code, and, second, that the Federal Government, by participating in payments to private engineering firms is paying a portion of the general overhead and profit of these firms. It is argued that this is not consistent with the statutory requirement that Federal aid for engineering be limited to those engineering expenses directly attributable to the cost of the project to which it is charged.

It is our contention that this is an unnecessarily restrictive interpretation, which is contrary to the intent of Congress. The advantages of having a strong private enterprise engineering profession are very great. The recent history of our highway program and the outstanding record of service of private engineering firms in times of national emergency should be sufficient to demonstrate the need for maintaining the strength of the private component of the engineering profession. The principal economies in the use of private engineering firms derive from the fact that such firms can be hired for one specified project and then released, while State highway departments find it very difficult to reduce their own engineering payrolls after a peakload period has passed.

Private engineering firms typically undertake a diversity of operations in the construction field, covering a much broader spectrum than that covered by the State highway departments. This broad experience is frequently useful in highway design. There is an interplay of ideas, a freshness of approach.

We believe that the design of Federal-aid highways should be shared by public and private engineers, and that each State highway department having first been equipped and organized to supervise construction and perform its engineering responsibilities as outlined by title 23, United States Code, be permitted the freedom to determine to what extent and for what tasks consulting engineers should be utilized in the respective States.

Mr. Chairman, it seems appropriate at this point to comment very briefly on the message sent to Congress on Monday by the President with regard to the development of a rail transit system in the Metropolitan Washington area. The President suggested a delay and re-study of certain segments of the planned Interstate System within the District of Columbia on the premise that the provision of a suitable rail transit system might make the construction of these freeway links unnecessary.

The great weakness in this premise is that it overlooks the fact that the rail transit system will effectively serve only certain portions of the commuter traffic load, while the planned freeway system is needed to serve not only commuters but also the 24-hour needs of freight transportation and passenger automobile traffic of all kinds, including tourist traffic, the diffuse patterns of local traffic, substantial amounts of through traffic, and the requirements of the national defense.

We are confident that the proposed restudy will reaffirm the need for the freeways in question. The tragedy of the situation is that we may be deprived of the use of these freeways for a period of years, much to the detriment of the national capital region.

We are grateful indeed for the opportunity to appear before this committee and for the consideration which this committee has given in the past to the views of the American Road Builders' Association.

Thank you very much.

Mr. FALLON. General, thank you very much.

I think some of the members may wish to ask questions if you will remain with us for a few minutes.

Mr. CRAMER. I have just a couple of questions, General. I want to also thank you for your testimony, which I am sure is going to be most helpful to the subcommittee in its deliberations.

With regard to H.R. 6140 concerning the geometric standards and construction standards and the period of time in the future that should be considered, it has been my thought throughout the hearings that consistent with your testimony—at least partially—that a minimum 20-year period should be the design standard period. I note in your testimony you suggest every 5 years there should be a readjustment. Quoting you at page 5:

When Congress enacted the Federal Highway Act of 1956 it established 1975 as the "design date."

This same intent can be preserved by providing for a periodic and automatic adjustment of the design date in 5-year increments.

Meaning in 1970 you would have a 15-year period. In 1966 you would have a 20-year time period; is that right?

General PRENTISS. That is right.

Mr. CRAMER. Would it better accomplish the objective if the 20-year time was the period required at all times? I have a proposed amendment to accomplish this which I would like to read to you. The present language is as follows:

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards shall be adequate to accommodate the type and volumes of traffic anticipated for such future period of time and under such planning criteria as deemed appropriate by the Secretary.

The proposed amended language of that sentence would read as follows:

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. As applied to any project for actual construction, such standards shall be adequate to accommodate the types and volumes of traffic anticipated for the 20-year period beginning on the date the Secretary approves, under section 106 of this title, the plans, specifications, and estimates for such project deemed appropriate by the Secretary.

What has been your opinion with regard to using that standard as a minimum 20-year design period?

General PRENTISS. I would not be critical of it at all, Mr. Congressman. The thinking that went behind the recommendations that I made was that the planning on many of these projects takes place well before the project construction is initiated and that this would permit a detailed forecast of traffic requirements and have that forecast brought up to date every 5 years. We realize that sometimes the project may be designed and planned and not put under construction for a period of 1 or 2 years because of the priority given to other projects. So that was the only thinking we had, that we did not want to have money spent for planning and design of a project and then have to have it done all over again because of a technicality of 1 or 2 years. I didn't feel that forecast of traffic 20 years in advance could be sufficiently accurate to throw a project out because now it is only 19 years. That was our thinking. We would make it a bracket of 5 years in there.

Mr. CRAMER. I agree with your general criticism, which is not only basic to this question but many others, and that is, Congress delegating its powers and authorities to make these basic decisions to somebody else in the executive branch in blanket form. That apparently is what the effect of the proposed legislation by the Bureau would do. They would have blanket carte blanche authority in setting at any time any number of years they wanted.

General PRENTISS. It was my feeling that when the Congress prescribed 1975 back in 1956 that we didn't give thought at that time to the fact that in 10 years' time we would be projecting our traffic only 10 years into the future and I think it was the intent of Congress that we continue to provide for highways 20 years in advance.

Mr. CRAMER. I agree with you and so expressed myself at the ARBA national convention.

I was interested in your comments on page 5 with regard to future planning and on page 6, the second paragraph where you mentioned that the Federal Highway Administrator pointed out that the final construction contracts under the present program should be let to contract in 1970 and that the final design work and right-of-way acquisition should be underway no later than 1968 in order to terminate in 1972. You say:

On that basis, the orderly continuation of the highway development program requires that new route location studies be commenced in the near future.

I would like to ask your opinion of what you consider to be the near future as it relates to needed congressional action in order to get such a study underway.

General PRENTISS. This year Congress should direct the initiation of this study that will make possible a continuing program so that we do not take this big industrial machine that has been tooled up to do a terrific public construction job and suddenly have it stop because we have no more work for it to do.

In my opinion, and I think in the opinion of most of those closely associated with the highway needs of our country, we are going to need a continuing program after this present 41,00 miles and I think we should be taking steps now to establish what that program should be. I think in fairness to industry we should know what that program is

going to be so industry can either tool up or slow down and not be subjected to unnecessary losses.

Mr. CRAMER. I thank you for your contribution suggesting the report should be made by no later than January 1966 as to what is to be the program after 1972. If we are to have a continuing program and not suffer the losses which would result from a gap or a slowdown in work for the industry that is already tooled up.

It is extremely well taken and it is of value to me and I am sure the subcommittee in that this has been a matter that I have been concerned with a great deal, and the question that has been in my mind is when should such a study get underway. Aren't we approaching that time? I think your testimony is most valuable in indicating that even now would not be too early to act and if we wait much longer it will be too late to do the job and do it right. As I recall, there were at least 3 or 4 years—put into the prestudies of the Interstate System, including the action and inaction by Congress prior to 1956 when it was enacted. The Clay Committee report, and so forth, preceded that by about 3 years. I think that is well taken and I think the subcommittee ought to give consideration to possibly this year a resolution or next year at the latest, possible resolutions from the Congress instructing studies be made in certain fields with regard to continuation of the program.

You have certainly made a fine contribution in that respect.

I was interested also in your comments with regard to the Washington plan in the District of Columbia plan presented by the President in his message on Monday suggesting delays in the number of highway programs, including segments of the planned Interstate System. Delay and restudy.

I still can't get to Congress over decent highways coming to work in the morning over 14th Street Bridge, for one example. There is still a missing link in the expressway to the South here connecting with even the Capitol. How long do you think such a delay and such a restudy would take, do you have any idea?

General PRENTISS. No, sir; I do not. I believe that all of the information that is necessary has already been collected by the Planning Agency, the District Highway Department, the National Capital Planning Commission, and I think the authorized planning agencies for the District of Columbia have already come to the conclusion that these projects are essential to the future highway needs of the District.

Mr. CRAMER. I am very interested in your reasons and I think they are very sound for proposing not holding up the basic arterial highways in the District of Columbia and I don't think there are many cities in the United States that have a worse traffic problem than the District of Columbia. I think perhaps a great mistake was made when the jurisdiction over highways within the District of Columbia was assumed by the District of Columbia Committee rather than the Public Works Committee. I am not being critical of that committee necessarily but it appears to me that the highway situation in the District of Columbia is about as botched up, hodgepodge and slipshod as any in the United States of America. As a matter of fact, I had a study made with regard to delays on present projects and out of 31 projects underway now 21 of them have been delayed for periods ranging from 16 days to 9 months beyond the termination date of

construction. As I say, there is no way to get to the U.S. Capitol over 14th Street Bridge and Shirley Highway on the expressways system even though the system is now constructed. It is not connected up.

If we are going to have an indefinite delay in the future again, when are we going to get any relief for the District of Columbia highway traffic? I mean you can't say highway traffic is not going to continue and is not going to increase, can you, regardless of what type of a rail transit system may be devised.

As you point out, you have commuter traffic which may be assisted in some respects by the rail transit system but you have got in addition to that passenger automobile traffic needs, tourist traffic, patterns of local traffic, substantial amounts of through traffic. I haven't gone through many cities in the United States where you have more trucks going through a city than in the District of Columbia and the reason is obvious, that there is no other way for them to get to the Northeastern United States except through the District of Columbia on U.S. 1, and so forth.

General PRENTISS. I don't believe there is any city that has more tourists than we and I don't think any tourist is interested in riding into Washington on a rapid transit system. Most of them will come in here in their own automobiles or by buses.

Mr. CRAMER. Tourists certainly wouldn't want to leave their automobiles some distant place when they want to visit the District of Columbia.

A further restudy of highways to make way for a commuter system is completely overlooking the essentiality of the Interstate System for moving traffic between States and, in addition, as you point out, for defense purposes. How is the Defense Establishment going to move over rapid transit systems? It isn't going to do it is it, General?

General PRENTISS. I would like to make one comment if I might. When I was a member of the National Capital Planning Commission 10 years ago we firmed up the concept that the inner belt of Washington was the basic essentiality to solving the problem of congestion in Washington's downtown business area. That conclusion was arrived at after a very comprehensive origin-destination survey made by an outstanding firm of consulting engineers. They found that for 50 percent of the people who crossed the line, which now roughly is the line outlined on this map as the inner belt, they did not have a destination inside the inner belt. They had a destination beyond. The origin-destination survey showed 50 percent of the people who were causing the congestion within the inner belt were not there because they wanted to be there, they were there because it was the only way to get to where they wanted to go. The whole concept of this express highway around the inner belt with the radials tying into it and permitting people to get to their destination without going into the central city, it is not anything of any recent thinking, it was the approved program 10 years ago.

Mr. CRAMER. As I understand it then, the President's recommendation was that the north segment of the inner loop and the Potomac River freeway leg which is referred to on this map—and I would like to have this map made a part of the record, Mr. Chairman.

Mr. FALLON. Without objection, it is so ordered.

(The map follows:)

Mr. CRAMER. Nos. 1, 2, 20, 18, and those numbers, that is the portion of it which includes the Three Sisters Bridge that is being proposed for restudy and is to be thus delayed, is it not?

With regard to the inner belt, you have about two-thirds of the inner belt that won't connect with each other unless these missing links are completed, is that right?

General PRENTISS. And the essential thing is that no section of this belt can carry out its full function until the belt is closed.

Mr. CRAMER. Until it is completed?

General PRENTISS. Until it is closed, yes. It can provide expressway service from point A to point B but it doesn't let anybody get to point C where they want to go, as they could do by following the completed inner belt.

Mr. CRAMER. And any proposed rail transit system is not going to solve that problem of the automobile highway users of that missing segment of the inner belt.

General PRENTISS. In my estimation the rail transit system is going to reduce the peak demands at morning and at night but the great majority of people are very probably like you and me, we want to see other people using that rapid transit so we can drive downtown in comfort because it happens to be more convenient for us to drive our automobile.

Mr. CRAMER. You are getting into now the question of the basic psychology of American independence, even in getting to town. They want to go to town the way they want to go to town. I don't know how rapid transit is going to change that. I am not opposed to rapid transit or that type of approach to commuters or those who want to use it but I don't think you can substitute it entirely for the highway system.

General PRENTISS. The American Road Builders' Association is not opposing the rapid transit but we feel the highway program is absolutely essential and should not be delayed. That the rapid transit has to stand on its own legs and not stand on legs that are supported by taking away what careful studies by experts have indicated is absolutely essential to the solution of the transportation problems of this city.

Mr. CRAMER. I have just one more question, General. I don't want to delay the proceedings but do you have any information or other examples, perhaps, of large metropolitan areas where similar rapid transit planning is causing a holdup or restudy or reconsideration of particularly interstate highways?

General PRENTISS. I believe the major rapid transit project in this country that has been planned recently is that in the city of San Francisco and the bay area of San Francisco. I am not familiar with what the impact of that is on the highway program. I haven't studied it in detail but I know there has been some demand to hold up while we get the rapid transit system.

Mr. FALLON. I might say I have only seen one newspaper editorial on the President's message. The editorial recommended that the city where this newspaper is printed and circulated take a "stop and look" attitude on the planned expressways in the city and make a further

MAP OF THE PERMANENT SYSTEM OF HIGHWAYS DISTRICT OF COLUMBIA

PREPARED IN THE OFFICE OF THE
Surveyor, D. C.
BY DIRECTION OF THE
Engineer Commissioner, D. C.

Scale
1000 FEET 0 1000 2000 3000 4000 5000 6000 7000 8000 9000 10000 FEET
1 MILE 0 1 2 3 4 5 6 7 8 9 10 MILES

1960

ESTIMATED COMPLETION DATES
MAJOR HIGHWAY PROJECTS
IN THE DISTRICT OF COLUMBIA

LEGEND

Interstate
A B C

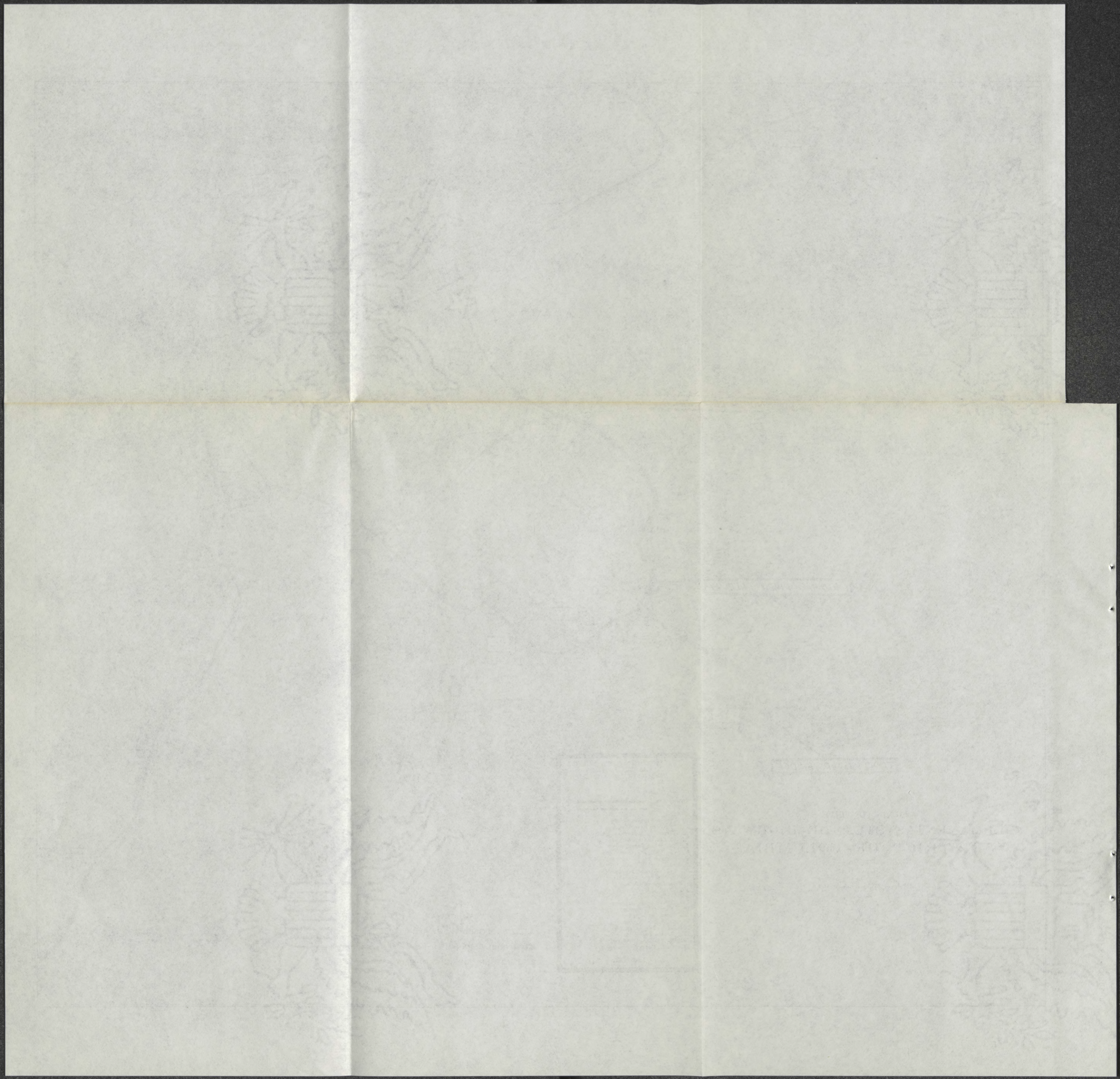
1. Three Sisters Bridge
2. Potomac River Freeway
3. Theodore Roosevelt Bridge
4. K Street Expressway
5. E Street Expressway
6. South Leg - Inner Loop
7. George Mason Memorial Bridge
8. Washington Channel Bridge
9. 12th Street Expressway
10. 9th Street Expressway
11. Southwest Freeway
12. Southeast Freeway
13. Interchange C
14. 11th Street Bridges
15. Anacostia Freeway
16. East Leg - Inner Loop
17. Northeast Freeway
18. North Leg - Inner Loop
19. Center Leg - Inner Loop
20. NORTH LEG - Inner Loop
21. North Central Freeway

APRIL 1963

LEGEND

- EXISTING HIGHWAYS
- PROPOSED HIGHWAYS
- PUBLIC PARKS
- OTHER PUBLIC PROPERTY





study on the rapid transit and rail transportation. That is another instance where it hasn't been thought of probably or hasn't been recommended in this city and the newspaper came out with its editorial this morning recommending that this city do the same thing at Washington. That could spread all over the country in a very short while and change the thinking of a lot of people, and it might impede and certainly will hinder the construction of a much needed Interstate System in those cities.

Mr. CRAMER. I will go a step further. So far as I am concerned I will say it appears to me that might be the objective of making Washington the guinea pig or test case and thus the focal point of this whole mass rapid transit program which is to some extent faltering in other areas, as justification for the rapid transit, mass transportation bill now pending which has passed the Senate and is being considered by committees in the House—to try to give greater emphasis and push behind that program. That is just my personal opinion. To do so to the detriment of the Interstate System is not the proper approach.

Mr. FALLON. That is my personal opinion, too, if the gentleman will yield. Certainly if the press is in some instances going to recommend that nothing be done in other cities until they see what happens to the Washington study or action, this will obstruct the building of these highways in most of the large cities of the United States.

General PRENTISS. I would like to point out these interstate routes coming into Washington are a part of that system of highways which the Congress of the United States has stated they want to have completed by the end of our present accelerated highway program and Congress has stated they expect the interstate-type highways not only to connect these major cities but to go into, around, and through and we are certainly not going to be able to do that if we stop the construction of our interstate highways out on the border some place and look at rapid transit.

Mr. CRAMER. That point is well taken. Another aspect of it is, that after you get the Interstate System generally established between terminal points, you get complete changes of location, as happened in West Virginia, you have termination of proposed routes for the Interstate System, you have it dovetailed into the turnpike in West Virginia—people who have planned their entire economy, whether they have a motel, hotel, restaurant, home, or what have you, their long-range planning for improvements have been made, and what they anticipate would be an Interstate System in the future doesn't materialize and they end up off the Interstate System, and I think this is one of the greatest hardships of the program itself when there is no real certainty, continuity, or completion of it.

Admittedly, there is justification for some change but a lot of changes have been made which couldn't be justified, in my opinion, and the uncertainty of it is very unfair to people who own property in these areas. I think that deserves some consideration and that is involved in this Washington restudy thing as well.

That is all, Mr. Chairman.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. I have just one question.

General Prentiss, you gave an estimate of \$35 million as the amount you felt at present was being diverted per year from the highway trust fund because of State and local taxes on construction contracts and on gross receipts of highway contractors, and sales and use taxes on major highway materials.

Now, the general gist of the comments on Mr. Fallon's bill, H.R. 5590, have been that it is probably going to have to be rewritten to make sure it doesn't apply to any "across the board" type of sales taxes or use taxes which apply on everything, not just particularly highway materials.

Is this figure of \$35 million that you have given a figure limited just to taxes that are limited just to highway contracts and to sales and use taxes on highway materials as distinct from any general sales taxes that would apply to these as well as everything else?

General PRENTISS. That was my understanding of the \$35 million.

Mr. BALDWIN. Thank you.

Mr. OLSEN. I want to make this observation on the inner loop in Washington. I am a newcomer here but it can only get more expensive if we delay construction of the inner loop. Mr. Murphy and I were talking here and made the comment between us that demolition, acquisition of right-of-way and so forth can only get more and more expensive and the congestion will get greater and we will just be getting for ourselves a much bigger bill and delaying the inner loop.

Mr. FALLON. Are there any other questions?

General, we will tell you again not only do we appreciate your appearing and testifying on the bills that are before us but we appreciate your bringing to the attention of the committee this morning what we think is a serious problem insofar as the highway progress is concerned, the rapid transit system.

We are interested in seeing the program initiated by Congress in 1956 go forward to completion by 1972. From your testimony this morning and from the comments of the members it certainly seems this is going to be one of the greatest obstacles to the completion of the system if these delays are carried out, not only in Washington but throughout the Nation.

I again want to thank you for bringing to the committee's attention this morning this subject. You and your efficient aid, Mr. Miller, have been of great service to this committee.

Thank you very much.

General PRENTISS. May I thank you and all the members for this opportunity. I appreciate it.

Mr. FALLON. Our next witness this morning is the president of the Associated General Contractors of America, Mr. Rogers. Mr. Rogers, would you come to the witness table, please? If you so desire you may bring your able assistant, Mr. Sprouse, in.

**STATEMENT OF W. RAY ROGERS, VICE PRESIDENT, ASSOCIATED
GENERAL CONTRACTORS OF AMERICA, INC., ACCOMPANIED BY
JAMES M. SPROUSE, DIRECTOR, HIGHWAY AND HEAVY DIVISIONS**

Mr. ROGERS. Thank you, sir.

Mr. FALLON. Mr. Rogers, to you, sitting there listening to my introduction of the American Road Builders, I do not want to seem like a poll parrot, but seriously I might say to you your organization has

been a great benefit and help to this committee, and certainly the help of your able assistant, Mr. Sprouse, is appreciated. I want to, on behalf of the committee, thank you for the many times you have not only been before us, but in many other instances where we have needed your help or information it has always been available.

Mr. ROGERS. Thank you.

Mr. Chairman and members of the committee, I am W. Ray Rogers, a highway contractor from Portland, Oreg. I am accompanied by James M. Sprouse, director of the highway and heavy divisions of the Associated General Contractors.

The Rogers Construction Co., of which I am president, has done a considerable amount of highway construction in Oregon, Washington, Idaho and Alaska, including participation in the construction of the Alaska Highway.

In addition to my business activities, I have taken an active part in the interests of the construction industry, and am proud to appear before you today as vice president of the Associated General Contractors of America, composed of nearly 7,300 of the Nation's leading general contractors.

Nearly half of the contractors in our organization are engaged in highway construction, and many others perform work related to highways.

I have outlined this background to indicate the concern which the AGC has in matters pertaining to highway legislation. It goes without saying that one of these matters is taxation.

ASSOCIATED GENERAL CONTRACTORS SUPPORT H.R. 5590

The bill you are considering, H.R. 5590, is one which the Associated General Contractors supports. We have urged such legislation in the past, and the need for its enactment is more urgent today than ever. Certain State and local taxes are estimated to cost the highway trust fund \$50 million a year. At its 43d annual convention in Los Angeles, in 1962, the AGC urged Congress to enact legislation prohibiting Federal-aid participation in taxes applied to gross receipts of highway contractors.

Again in 1963, at its 44th annual convention in New York City, the AGC expressed its concern, and the following resolution, titled "Taxation of Highway Contracts and Materials," was unanimously adopted by that convention:

Whereas certain State and local taxes are estimated to cost the highway trust fund \$50 million a year; and

Whereas this reduces by the same amount the funds available for the construction of highways, the purpose for which the trust fund was established: Now, therefore, be it

Resolved, That the 44th annual convention of the Associated General Contractors of America, meeting in New York City, March 4-7, 1963, urges the 88th Congress to enact legislation prohibiting Federal-aid participation in taxes applied to gross receipts of highway contractors, and sales taxes applied to materials used in highway contracts.

TAXES DEplete HIGHWAY TRUST FUND

It seems unfortunate that many State and local governments seem to see in the Federal-aid highway program a solution to their local financing problems.

Since the advent of the Federal-aid highway program in 1956, a growing number of States have enacted tax legislation aimed directly at highway construction. A year-old survey conducted by the Bureau of Public Roads on State and local taxes shows that at least 24 States and the District of Columbia have tax laws which directly affect highway construction. At the time of the survey, at least two other States were considering enactment of similar legislation.

It has been estimated that these taxes are draining from \$35 to \$50 million a year from the highway trust fund and are being used for purposes other than intended by the fund; namely, the advancement and improvement of highway construction.

Presently, 36 States have sales tax regulations and 13 permit local governments to impose such taxes for the purpose of getting additional revenue. New York is an example, and New York City has recently raised its sale tax from 3 to 4 percent, which will mean an additional tax on materials used in highway construction. These taxes must be reflected in the contractor's bid. They are as much a part of the contract as the payroll and equipment. The contractor must take them into account if he is to remain in business.

LOCAL TAXES HINDER ADVANCE OF HIGHWAY PROGRAM

If I may suggest it, a philosophy of taxation seems to be involved here. Those States which have enacted tax laws aimed at highway construction seem to be following the classic, but always risky, philosophy of getting while the getting's good. The weakness of this sort of thinking is evident. Maryland, as you probably know, is already being made aware of this. The State is faced with the task of repaying \$8 million in sales taxes which the court of appeals has ruled was collected illegally from contractors on Federal projects over a 3½-year period. The court ruled that the State discriminated against contractors on Federal projects by exempting State projects from the 3-percent tax on materials.

Unfair taxes on highway construction slow down the advance of the highway program, misuse highway trust fund moneys, bring about an emphasis on efforts to evade the taxes, and increase construction costs.

West Virginia is an example of what can happen when excessive demands are made on construction. Here, in a State badly in need of economic development, taxes on construction have made it improbable that the needed push will come from this industry. Only 6 miles of new interstate highway were opened to traffic in West Virginia in 1962. In the face of the State's disproportionate tax setup, contractors are not encouraged to do new construction.

In West Virginia a general contractor pays a State gross sales tax of \$2.60 per \$100 of construction. This same rate is levied on the sub-contracts. The municipal government also get into the act. The result is a pyramiding tax which amounts to 7 to 10 percent on new construction and actually means that on a million dollar interstate contract the State can collect \$70,000 to \$100,000, 90 percent of which is paid by the highway trust fund.

TRUST FUND MONEYS GO TO NONHIGHWAY USES

The Federal-aid program's trust fund was established to provide money for highway research and development, among other things. Research into a number of highway problems is badly needed today. We need to find better products to build better highways, to help solve the individual construction problems of various areas, to discover improved highway designs that will permit the use of particular materials available in different parts of the country.

State and local tax measures are annually taking huge chunks from the highway trust fund and using the money for purposes other than highway development.

A rundown of the list of States which levy taxes on highway contracts and materials shows that revenue raised by these means goes into general funds, school funds, support of local governments, public welfare and pension funds, and old-age assistance. While these are all worthwhile purposes, they should not be supported with moneys expressly intended for roads and highways. In fact, of the States that levy direct taxes on highway contracts and materials only two, Iowa and North Dakota, put this tax revenue directly into road funds.

CONSTRUCTION COSTS

Most of the factors dictating construction costs are beyond the contractor's control. New and increased taxes are one of these factors.

We in the AGC are proud of the role contractors have played in the development of our Federal Interstate Highway System. We hope, as I'm sure you do also, that one-half the system will be completed by next year—the half-way mark of the Federal highway program.

By helping to hold down highway costs and to keep Federal highway funds working toward their intended purposes, legislation such as H.R. 5590 can assist in realizing the goal of the Federal highway program.

INTEGRITY OF TRUST FUND

The highway trust fund was established by the Congress for the specific purposes of financing the construction of highways and the administrative functions of the Bureau of Public Roads. The AGC has many times, in testimony before this committee, urged that the integrity of that fund be protected.

The creation of the trust fund was thoughtful, well-conceived legislation. Today the fund is well financed, ably administered, and adequate to finance the highway program. But the Congress did not intend or expect that it would be used to solve the tax problems of States and municipalities, and unless this Pandora's box is closed the Congress will eventually be confronted with the hard choice of either reducing the size of the highway program or again increasing taxes to pay for it.

Mr. Chairman, we urge the passage of H.R. 5590. The public will be the benefactor.

Mr. FALLON. Thank you very much, Mr. Rogers.

You did not testify on any of the other bills. That does not mean that you have any objection to them, does it?

Mr. ROGERS. No, sir.

Mr. FALLON. I guess you are familiar with the other legislation that we are considering this morning. Has your organization taken any official position or made any official recommendations on the other bills such as changing the 1975 date for construction criteria design?

Mr. ROGERS. I do not believe we have taken an official poll on this but I am sure that we would agree with legislation that the planning should be a minimum of perhaps 20 years as has been testified here this morning.

We cannot put on a stop-and-go program and be able to do it economically nor can the economics of the country in my opinion be benefited by this type of system.

Mr. FALLON. Mr. Rogers, you do most of your work in Oregon, Washington, Idaho, and Alaska. Is this type of tax we are discussing here levied in those States?

Mr. ROGERS. I would have to answer that in two parts. In Idaho and Oregon, no, we do not have this type of tax; in Washington, yes.

Mr. FALLON. And, of course, it is your belief and the belief of your association that if this tax continues to spread through other States, unless some check is made on it that it is going to reduce the size of the program quite a bit.

Mr. ROGERS. Past history will prove that this is the case. We believe that this is a tax on a tax and we are not in favor of this type of taxation.

Mr. FALLON. Of course, it is possible that if the tax continues we might have to raise the gasoline tax to pay for the tax.

Mr. ROGERS. This is true.

Mr. FALLON. How have the prices of contractors bids been running generally or in your section, Mr. Rogers?

Mr. ROGERS. Through the survey of the Bureau of Public Roads in the first quarter of 1963 they have increased 2.2 percent; in 1962 I believe the increase over 1961 for the whole year was 3.9 percent.

Mr. FALLON. Are there any questions?

Mr. CRAMER. I have just a couple of questions.

Mr. ROGERS, has the Associated General Contractors made a study of these special taxes relating to highway construction in all of the 50 States, to your knowledge?

Mr. ROGERS. I do not believe they have specifically, no. I think we have generally checked this out and feel that we are reasonably safe on it through the Bureau of Public Roads and our own means.

Mr. CRAMER. The reason I asked the question is could your association provide a table indicating taxes relating to highway construction or materials relating to the specific States and the types of taxes for the record?

Mr. ROGERS. Yes, sir. I believe we could.

Mr. CRAMER. That would be most helpful, I think, if you could.

Secondly, on page 4 you refer to West Virginia, which pays a gross State sales tax of \$2.60 for \$100 of construction and similarly on sub-contracts, the municipal government gets in the act as well. Do these taxes in West Virginia relate only to highway construction contracts?

Mr. ROGERS. No. I do not believe so.

Mr. CRAMER. That is a point that I would like to have covered in such a memorandum, where obviously the State levy is for the purpose

of taking advantage of highway construction contracts or materials and other types of taxes that are not levied generally across the board. I would like to ask you a question relative to that. Doesn't it pose a rather interesting and perhaps serious problem to the Congress of trying to prevent the States enacting general taxes that do affect highway contractors as well as everybody else the same way, to sort out just highway contracts and say, "No, we refuse to contribute to taxes paid on highway contracts." Doesn't that present a rather difficult problem for the Congress and doesn't it present further constitutional problems involved in Federal-State relations?

Mr. ROGERS. I would say that you would have a problem there; however, our testimony is that we do not believe that they specifically should spell out highway funds tax and raise the price on that, on construction.

Mr. CRAMER. Can you give me some examples of some States where they tax only the highway contracts in some form or another as compared to other contracts?

Mr. ROGERS. May my helper answer this one?

Mr. CRAMER. Yes.

Mr. SPROUSE. I have here, Mr. Congressman, a tabulation, Department of Commerce, Bureau of Public Roads, State and local taxation of highway contracts and materials. I do not believe there is any tabulation here of a State which levies a tax only on highway contracts and not on other types of contracts. The philosophy as expressed by Mr. Rogers in our testimony is our position to this type of tax, not only as a highway contract, but there might be other Federal-aid programs as well, for example, the Federal airport program. This could also be fixed out as a part of the problem. There seems to be no point at which this might logically end. It could go on ad infinitum, as expressed by General Prentiss.

Mr. CRAMER. I am sympathetic to the problem that it poses to the trust fund, these State taxes, but I am also aware of a number of other problems that may be involved from a policy standpoint as it relates to the State and Federal Governments. It is rather difficult for me to justify sorting out highways alone. I think consideration should be given, as you suggest, if it is going to be given, to taxes affecting all types of Federal public works projects. You have problems there, too, as to the extent of a Federal aid, in that I think it would be difficult to justify considering legislation solely relating to highways. What would be your thought on that?

Mr. SPROUSE. I agree with you, Mr. Congressman, that we, and I presume you have this same view, are very reluctant to try to say anything which would in any way be critical of the States rights to levy and collect taxes. We certainly do not propose any such thing, but it is difficult to sort out the things that for example certainly should not apply to the taxes which are levied by the States on the gasoline tax, for example, and taxes on bonds and sureties and other things that go into a contractor's project. Our objection, as we have already stated, is that many of the States and municipalities seem to see in this vast highway trust fund, which was set up for a specific purpose, a solution to their own tax problems.

Mr. CRAMER. An example might be the gasoline used by these trucks and equipment that do the highway work for the contractors. You pay gas taxes on that, too, don't you?

Mr. SPROUSE. That is correct.

Mr. CRAMER. So there is double taxation there, too, really.

Mr. FALLON. I was just going to call attention to the testimony of General Prentiss, which pointed to the fact that many years ago the States were penalized if they diverted taxes levied by the State on other than highway purchases. You have sort of a precedent there for at least looking into this thing.

Mr. ROGERS. Yes, sir.

Mr. CRAMER. Let me make certain that the record does not indicate that I do not think this matter ought to be given serious consideration and perhaps some congressional action might result from that. I certainly did not mean to intend that because I think it is a serious problem.

Mr. FALLON. I have been sitting alongside of you for 3 days. We have expressed some concern over this money going to other purposes than construction of highways. Certainly I think the best way to get an answer or formulate some method in which we can correct this is to bring it out and discuss it like we have been doing for the past couple of days. I might say that since this discussion has started in the hearings since Monday the national association of State tax people want to be heard on it and I think maybe by that time we can have some real information. We might be able to question them on just how this tax is levied, how it is directed, whether the highway construction program is singled out in any case and maybe from their testimony we can formulate something that will either correct or stop this, what I call, raid on the trust fund.

Mr. CRAMER. That is all I have, Mr. Chairman.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. Mr. Rogers, following up the point that Mr. Cramer has gone into a bit, I do not share his worry about the possibility of a bill of the type of H.R. 5590 having a constitutional problem because this bill does not prevent any State from levying any tax it wants to. All it says is the Federal Government is not going to provide any Federal aid to help pay the tax. For that reason I do not think there is any constitutional problem. I think there would be only if we levied a flat prohibition against the State levying such a tax, but I think the intent of this bill, H.R. 5590, is sound and I think we are going to have to take action in this field.

We are going to need some background in this certainly. I notice there seems to be considerable difference between the estimated figure per year that you have given in your statement as compared to that given by General Prentiss. He has estimated \$35 million per year as being diverted now from the trust fund for such taxes. Your statement estimates \$50 million a year. I asked General Prentiss if his estimate was based on taxes that were specific taxes, just for this purpose as compared to a general State sales tax applied not only to this but also everything else and I would like to ask you the same question. Is this \$50 million your best estimate as to the tax? Is it just specific taxes dealing with highway construction contracts or do they also include general State sales or use taxes applied to a great number of other things and also applied in the process of their application to highway construction materials?

Mr. ROGERS. I believe our estimate is on the specific material and not on the overall picture.

Mr. BALDWIN. Then I would like to ask whether you have any explanation as to how or why your estimate would differ to such an extent from General Prentiss' estimate.

Mr. ROGERS. I could not answer that one.

Mr. SPROUSE. On page 3, Congressman Baldwin, we say:

These taxes are draining from \$35 to \$50 million a year from the Highway Trust Fund.

Thirty-five million dollars a year I think is probably an official estimate. At least that is the estimate the Bureau of Public Roads has made. We have seen in various other estimates, surveys and in the press figures actually ranging up to \$100 million a year but \$50 million seems to be the one more commonly used. I would say that \$35 million is probably the official estimate. Fifty million dollars is another estimate.

Mr. BALDWIN. Thank you.

One further point on this subject, Mr. Chairman, I feel very strongly that we should act in this field of taxation and I recall that the chairman has mentioned that we are going to hear from the people representing the county and State taxing bodies. I would like to suggest or ask if we could have our own legal counsel of this committee working with whomever he wants to call to work with him, to endeavor to draw up a draft along the lines that the members of the committee have indicated. I think there has been no difference of opinion on the committee. All of us that have expressed an opinion have felt that we should take action in this field and we should endeavor specifically to apply our bill to those taxes that are made specific on the highway construction costs of materials as compared to general costs of materials levied across the board. Couldn't we ask our counsel to draft something so we would have it ready for discussion when we have a meeting with the State officials?

Mr. FALLON. Confined to that specific tax?

Mr. BALDWIN. Yes.

Mr. FALLON. I think so. I might say that one of our members is missing this morning. He has a very valid excuse. When his office was called he was on his way to the hospital, where his wife gave birth to a lovely little girl. That is Mr. John Blatnik. Congratulations and my very best wishes to Mr. and Mrs. Blatnik.

Mr. Rogers and Mr. Sprouse, again on behalf of the committee may I express appreciation for your taking your time to come up here this morning to give us the benefit of your experience and knowledge on the subject. Thank you very much.

Mr. ROGERS. Mr. Chairman, we appreciate the opportunity to appear before you.

Mr. FALLON. Thank you, Mr. Rogers.

(Whereupon, at 11:25 a.m., the committee was recessed subject to the call of the Chair.)

FEDERAL-AID HIGHWAY ACT AMENDMENTS OF 1963

WEDNESDAY, JUNE 12, 1963

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON ROADS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 1302, Longworth Building, Hon. George H. Fallon (chairman of the subcommittee) presiding.

Present: Representatives George H. Fallon (Maryland), John C. Kluczynski (Illinois), John A. Blatnik (Minnesota), John M. Murphy (New York), William C. Cramer (Florida), John F. Baldwin, Jr. (California), and James H. Quillen (Tennessee).

Also present: Richard J. Sullivan, chief counsel; and Clifton W. Enfield, minority counsel.

Mr. FALLON. Ladies and gentlemen, the Subcommittee on Roads of the Public Works Committee of the House is meeting this morning for further consideration of several bills.

Our witness this morning is a representative from the General Accounting Office. Our witness will be Mr. Arthur Schoenhaut, Civil Accounting and Auditing Division, General Accounting Office.

Would you introduce the gentlemen accompanying you this morning?

STATEMENT OF ARTHUR SCHOENHAUT, ASSISTANT DIRECTOR, CIVIL ACCOUNTING AND AUDITING DIVISION; ACCOMPANIED BY CLERIO P. PIN, ASSISTANT DIRECTOR, CIVIL ACCOUNTING DIVISION; AND MILTON J. SOCOLAR, ATTORNEY, OFFICE OF THE GENERAL COUNSEL, GENERAL ACCOUNTING OFFICE

Mr. SCHOENHAUT. Yes, sir. On my right is Mr. Clerio P. Pin, an Assistant Director, Civil Accounting and Auditing Division, and on my left is Mr. Milton J. Socolar, an attorney in the Office of the General Counsel.

Mr. FALLON. Which particular bills presently under consideration are you addressing yourself to this morning?

Mr. SCHOENHAUT. All six bills. I have a statement to present.

Mr. FALLON. You may proceed.

Mr. SCHOENHAUT. Mr. Chairman and members of the subcommittee, we appear before you today at the request of the chairman of the Committee on Public Works to present the views of the General Accounting Office on six bills that would amend the basic legislation governing the Federal-aid highway program administered by the Bureau of Public Roads, Department of Commerce.

With me today are Mr. Clerio P. Pin, Assistant Director, Civil Accounting and Auditing Division, and Mr. Milton J. Socolar, attorney, Office of the General Counsel.

Our audit effort at the Bureau of Public Roads has been directed principally toward consideration of the effectiveness of the various actions taken by the Bureau in administering the Federal-aid highway program and the conformity of those actions with applicable Federal legislation and regulations.

The results of our examinations of the Federal-aid highway program have been included in 18 reports to the Congress since 1957. Those aspects of the Federal-aid highway program which would be affected by the six bills presently being considered by this subcommittee have been discussed in certain of these reports. For convenience of presentation to this subcommittee, we have summarized the matters described in our reports that relate to the proposed legislation that is before the subcommittee.

Problems associated with the statutory requirement for design of the Interstate System to accommodate traffic forecast for the year 1975: In the course of reviewing the Federal-aid highway program we observed that certain significant problems have developed in administering the statutory requirement that the design standards adopted by the Bureau of Public Roads for the Interstate System—

* * * shall be adequate to accommodate the types and volumes of traffic forecast for the year 1975.

These problems are of such importance to the ultimate design, construction, and cost of the Interstate System that we brought them to the attention of the Congress in a report dated May 28, 1963, in order that it might consider the need for legislation to clarify the intent of the statute.

The manner in which this statutory requirement is interpreted, that is, whether "adequate" may be construed as a minimum or a maximum criterion, has a significant effect on the type of highway to be constructed and the amount of Federal interstate funds that may be properly expended for the construction of interstate highways.

The Bureau has interpreted the statute as specifically limiting Federal interstate fund participation to the cost of constructing those highway design features needed (1) to "adequately" serve estimated traffic volumes as of a fixed point in time, 1975; and (2) to incorporate "flexibility" in the design of the highway so that needs beyond 1975 may also be met by future expansion of the highway.

There are two generally accepted highway design practices which are pertinent to this interpretation. Engineering authorities believe that the maximum period for reasonably estimating traffic as the basis for highway design should be in the range of 15 to 25 years, with 20-year forecasts being the generally accepted practice.

A second generally accepted practice is that highways should be designed with flexibility to permit future expansion in any case that it is practicable and economically feasible.

The intent of the provision of the legislation for design of interstate highways "adequate" for the traffic needs forecast for the year 1975, and the relationship between this provision and the two generally accepted design practices referred to above are not clear. While we believe that it is reasonable to assume that the Congress intended that

interstate highways be designed and constructed in accordance with generally accepted engineering practices, neither the law nor its history is clear with respect to the intended extent of interstate fund participation in the cost of such design features as may be constructed (1) to meet traffic needs beyond the year 1975; or (2) to provide flexibility for possible future expansion.

The practical effect of the legislation as it is being presently administered is that certain highways constructed during the later years of the program will not adequately serve traffic shortly after their completion if States cannot provide funds to take advantage of the provision for expansion by physically upgrading highways to meet increased traffic demands.

Both the Bureau and the States consider that designs adequate only for 1975 traffic, even with flexibility to provide for future expansion, become increasingly unsound from an engineering and economical standpoint as the completion date (1972) for the Interstate System is approached.

Generally, highways serving low-traffic areas are being designed with full Federal interstate fund participation, to include ample provision for expansion after 1975, and, to the extent practicable, all known features of safety and utility both before and after expansion.

In contrast, Federal interstate fund participation in the design of highways, or segments thereof, serving high volumes of traffic is being allowed for only those features (1) needed to serve 1975 traffic; or (2) needed to serve 1975 traffic and provide varying degrees of flexibility and safety for traffic anticipated after 1975.

Several States have advised us that the existence of the statutory criterion has not had a substantial negative effect on the engineering and economic decisions related to projects constructed during the early years of the interstate program because design of these projects, even with the 1975 limitation, was predicated on traffic projections for periods ranging from about 15 to 18 years.

However, the general consensus of both the Bureau and the State highway departments is that continued administration of the interstate highway program under the existing statutory design criterion will require that certain engineering concepts be compromised in the later years of the program which, in turn, will result in the uneconomical expenditure of public funds.

H.R. 6140 would amend section 109(b) of title 23, United States Code, by deleting reference to the specific year, 1975, and by giving to the Secretary of Commerce discretion to approve, in cooperation with the State highway departments, geometric and construction standards for such future period of time and under such planning criteria as the Secretary deems appropriate.

The proposed modification of the governing legislation carries with it several potential complications which we believe should be considered by the Congress.

1. One of the express objectives of the statute is that the Interstate System be brought to simultaneous completion in all States. If the 1975 limitation is eliminated in a manner that would permit application of the revised concept to completed projects, the Bureau could be required to approve additional work on certain completed projects in order to bring the design of these projects within the revised design criteria.

The precise effect that this situation could have in States which are already heavily concentrating financial resources and roadbuilding capabilities on completion of the system, as presently conceived, is not determinable.

2. Another factor of major importance is the potential increase in Federal and State expenditures for the Interstate System and the possible need for an increase in highway-user taxes to finance such expenditures. Modification of the 1975 requirement to conform with the generally accepted engineering concept of basing highway designs on traffic forecasts 20 years in advance would probably mean that increased volumes of traffic would have to be provided for in the design of the highways.

Where such increases are appreciable, substantial additional costs may be incurred in constructing the highways to accommodate the additional traffic volumes projected beyond 1975. Whether the existing resources of tax revenues will provide sufficient income to meet such costs so as to avoid delays in completing the Interstate System has not yet been determined by the Bureau of Public Roads.

3. An additional matter for consideration concerns the possible inequitable treatment of the States. If revisions to projects either completed or under construction were precluded by revised statutory language, several States could be penalized for their prompt and aggressive efforts to complete the Interstate System in consonance with the declaration of the Congress that the prompt and early completion of the System is one of the primary objectives of the governing Federal legislation.

In contrast, those States which have not been as expeditious in carrying out the program could benefit by reason of the fact that more modern and expansive highways may be constructed to handle larger volumes of traffic than would be the case if the 1975 limitation remained.

For the reasons previously enumerated, we suggested in our May 1963 report that the Congress may wish to request the Secretary of Commerce to make available a detailed estimate of the additional costs that may accompany any proposed change in the legislation. In addition, the Secretary could be requested to submit a projection of the revenues to be collected from existing sources and make a determination as to whether sufficient revenues will be available in the trust fund to meet any increased cost of the Interstate System.

Submission of such estimates should furnish the Congress with more accurate information as to the effects that any enacted legislation would have on the estimated cost, anticipated revenue needs, and progress toward completion of the Interstate System.

State taxes included in the cost of highway construction: Among the various costs eligible for Federal participation under the Federal-aid highway program are amounts paid by the States to highway construction contractors. These contractors must include in their contract prices amounts to cover such taxes as may be imposed by the States or their political subdivisions on the construction contracts or on the materials and supplies to be used in contract performance.

Inasmuch as the taxes paid by the contractors are not offset in arriving at the net costs of highway projects, Federal funds participate in State costs which, through taxes, are returned to the States or their political subdivisions.

The General Accounting Office has not made an extensive review of the effect that State and local taxes may have on the cost of highway construction. We have on two occasions, however, questioned the propriety of Federal participation in amounts paid by States to contractors which were offset, in part, by taxes paid by the contractors to the States.

These were similar situations in the States of Idaho and Montana, involving motor fuel taxes. In both instances the amounts represented by taxes did not, in our opinion, constitute costs to the States, but the Federal Government participated in these amounts on the basis that they represented bona fide State costs.

In a report to the Congress dated October 3, 1963, on review of the Federal-aid highway program in the State of Idaho, we expressed the view that the motor fuel tax assessed against highway construction, the effect of which was to provide funds for local governmental purposes at the expense of the Federal Government, was inappropriate. In this situation the Bureau concurred in our proposal that it explore with the State appropriate reductions in Federal participation in project costs based on the amount of motor fuel taxes refundable to contractors under Idaho statutes.

By letters dated May 15, 1963, to the Federal Highway Administrator and the attorney general of the State of Montana, we questioned whether the amount of a State tax on motor vehicle fuel consumed on Federal-aid highway construction projects constitutes a cost for computing the Federal share payable under the provisions of 23 United States Code 120.

We pointed out that under the State's procedure, a contractor includes in his price an amount to cover a tax for which the State renders him no service and the State stipulates that any refund of the tax which the contractor receives shall inure to the benefit of the State. The Federal Highway Administrator and the State attorney general have been requested to furnish us with their views on this matter.

H.R. 5590 would add a new subsection (f) to section 121 of title 23, United States Code, to prohibit payments to a State which would constitute participation with Federal-aid funds in any State or local taxes based on the value of highway construction contracts or in any State or local sales, use, or other ad valorem taxes on major highway construction materials, the primary purpose of which is to provide revenue for State or local governmental purposes.

The effect of the bill would be to redefine the costs of highway construction eligible for Federal participation, to exclude specific classes of taxes assessed by the States or their political subdivisions against highway construction. We believe that certain aspects of this proposed legislation require further consideration.

If the purpose of the bill is to only preclude Federal participation in State and local taxes as typified by the situation in Idaho and Montana, we wish to point out that the present bill goes beyond this purpose. The language appears to be more far reaching and would affect amounts represented by taxes, Federal participation in which would not be objectionable on the same basis as in the situation in the two States.

However, if the purpose of the bill is to exempt the Government from all State and local taxes, then the bill would appear to require

modification in that it would not exempt the Government from certain taxes which may be significant in amount.

The bill would apply only to taxes based on the value of highway construction contracts, and sales, use, and other ad valorem taxes on major highway construction materials. Concerning taxes on materials, the application of the provision only to major construction materials may limit its effectiveness in accomplishing its intended purpose. The degree of effectiveness would depend in part upon the manner in which major construction materials are defined.

Excluded from the application of the provision, and presumably contemplated by the bill for indirect participation with Federal funds would be taxes on all highway construction materials not classified as major, taxes on supplies consumed in the performance of construction, taxes on construction equipment, and taxes on wages.

In this connection, an estimate prepared by the Bureau of Public Roads indicates that out of an annual total of about \$49 million in State taxes—not including local taxes—assessed against Federal-aid highway construction, about \$10 million represents taxes on equipment. These taxes would not be covered by H.R. 5590. Of the \$33 million of taxes on materials included in the estimate, only the portion related to major construction materials would be covered. Although taxes on wages and construction supplies were not included in the Bureau's estimate, the amount very likely would be substantial.

Need for modification of statutory formulas for apportionment of Federal-aid highway funds: Our review of apportionments of Federal-aid highway funds among the States for the fiscal years 1956 through 1963 disclosed a number of matters which warrant consideration by the Congress of the need for legislation to modify the existing statutory formulas. These matters are included in our report to the Congress dated August 20, 1962, on review of apportionments of Federal-aid highway funds for fiscal years 1956-63.

Connecticut and Vermont preferred in apportionments of urban highway funds: Due to the political subdivision structure in Vermont and Connecticut as related to the basis upon which the Bureau of the Census compiled its population statistics, a special provision was included in Federal-aid highway legislation in 1944 to accord these States a measure of equality with all other States in the apportionment of Federal-aid urban highway funds. Because of a change in the Bureau of the Census definition for urban population which appears to place these two States on an equal basis with all other States, there is no longer a need for a special provision concerned with the apportionment of urban highway funds to the two States.

In each State the sum of the rural and urban population elements used in computing the apportionments of Federal-aid secondary and urban highway funds have exceeded the total population of the States shown by the Federal censuses. As an example of the effect of the duplication in the population counts, in the apportionment of Federal-aid urban highway funds for the fiscal year 1963, Connecticut received about \$810,000 more and Vermont about \$73,000 more than would have been received if the population had been considered in these two States in the same manner as in all other States.

We recommend in our report that the Congress consider amending section 104(b)(3) of title 23, United States Code, to eliminate or

otherwise modify the special provision applicable to these two States in the apportionment of Federal-aid urban highway funds. H.R. 4154 and H.R. 4559 are identical bills which would eliminate the special legislative provision. Accordingly, we favor the enactment of either of these bills.

Need for amendment of legislation governing apportionments of Interstate System funds: The legislation governing the apportionment of Interstate System funds among the States appears to be in need of amendment in order that (1) each State may receive the amount of Federal funds needed to finance the Federal share of the cost of the Interstate System, and (2) the Secretary of Commerce may apportion funds authorized for fiscal years 1967 through 1971.

The existing statutory basis for annual apportionment of Federal-aid Interstate System funds among the States will not, over the life of the interstate program, result in each State receiving the amount of Federal funds needed to finance the Federal share of the cost of the Interstate System. Twelve States will each receive less than the Federal share required to finance the cost of the system within the State, and each of the other States will receive slightly more than is needed.

In our August 1962 report to the Congress, we pointed out that changing the basis for apportionment of interstate funds from the total estimated cost of completing the Interstate System in the respective States to the Federal share of such cost would make available to each State, on a current basis, the Federal funds to which it is entitled, thereby permitting more even progress in construction of the Interstate System in the individual States and the simultaneous completion of the system in all States.

We recommended that the Congress consider amending section 104 (b) (5) of title 23, United States Code, to provide for the apportionment of Interstate System funds on the basis of the Federal share of the estimated cost of completing the Interstate System in the several States rather than on the basis of the total estimated cost of completing the Interstate System in the several States.

In our report we also called to the attention of the Bureau of Public Roads the need for amendment of the legislative provision which requires that Interstate System funds for the fiscal years 1967, 1968, and 1969 be apportioned on the basis of cost estimates transmitted to the Congress for approval within 10 days after January 2, 1966, and annually thereafter through and including January 2, 1968.

We pointed out that since the Secretary of Commerce is required to certify to each of the State highway departments the sum apportioned for the fiscal years 1967, 1968, and 1969 before January 1, 1966, 1967, and 1968, respectively, it would not be possible for the Secretary to make the required certification because the estimates upon which the apportionments are to be based will not yet have been approved by the Congress. We also pointed out that the existing legislation does not state the method to be used in apportioning Interstate System funds among the States for fiscal years 1970 and 1971.

H.R. 6044 and H.R. 6141 are identical bills and we favor enactment of those features of either of these bills which would (1) provide for apportionment of Interstate System funds based on estimates of the

Federal share of the total cost of completing the system; and (2) amend the existing legislation to permit the Secretary of Commerce to apportion the funds authorized for fiscal years 1967 through 1971.

However, we believe that the desirability of the language which would require only two additional cost estimates to be transmitted to the Congress is dependent upon the legislative action taken in connection with H.R. 6140 and its possible effects on the ultimate cost of the Interstate System. We, therefore, suggest that this feature of the bills be considered concurrently with H.R. 6140.

That completes our statement, Mr. Chairman. We would be pleased to answer any questions the subcommittee members might have.

MR. FALLON. Thank you very much for your statement, Mr. Schoenhaut. I think the committee will benefit by your testimony here this morning.

I think we can proceed to correct the necessary points to make this legislation workable. However, I feel that it is going to take a little bit more time than we anticipated because of the corrections that you point out in the two bills.

There have been some suggestions that instead of two dates there be three dates in the bill for the estimate cost. I understand one or two of the members have other amendments to take care of that.

Have you any questions, Mr. Murphy?

MR. MURPHY. Yes, Mr. Chairman.

On page 8 of the testimony concerning H.R. 5590, at the beginning of the second paragraph, it says:

Concerning taxes on materials, the application of the provision only to major construction materials may limit its effectiveness in accomplishing its intended purpose.

Throughout that statement, do you intend to modify the language in 5590?

MR. SCHOENHAUT. No, sir. All we are pointing out is that if the purpose of the bill is to include all State and local taxes on highway construction, the bill would not accomplish this purpose. With reference to the major construction materials, you would need a definition of what constitutes a major construction material.

MR. MURPHY. How about on equipment license plates? Some States require where material is carted in interstate commerce, if it is going to a State job, where State funds are involved, that that State's plates must be purchased for that purpose, for servicing that job, even though it is an extra plate.

Would it preclude that type of tax?

MR. SOCOLAR. I think in making this comment to the bill, we aren't attempting to state what the General Accounting Office feels should be included or should be excluded. Our only purpose in making this comment was to point out that the bill may not cover as many taxes as the committee members might like to have covered.

We are not in any sense taking the position that tax X or tax Y should be included or should be excluded.

MR. MURPHY. Mr. Chairman, in some States there is no differentiation between taxes, licenses and fees, which would cause a conflict, particularly in New York State. They just had that conflict this year.

I would like to let the record reflect that fact. That is all I have, Mr. Chairman.

Mr. FALLON. Mr. Cramer?

Mr. CRAMER. I, too, want to congratulate you on a very helpful statement, Mr. Schoenhaut.

Mr. SCHOENHAUT. Thank you.

Mr. CRAMER. You have always been most helpful, not only to this committee, but the Highway Investigating Subcommittee as well.

I would like to ask a few questions. I think the best way to start would be with regard to H.R. 6140, geometric construction standards discussion, in which you suggest a 15- to 25-year period, on page 2, at the bottom of the page, with a 20-year forecast being the generally accepted practice.

The bill as presently worded, of course, leaves to the discretion of the Secretary of Commerce to determine what the criteria should be and the usability time should be. Some thought has been given in the subcommittee, and I tend to favor it, and have prepared an amendment to accomplish it, that there should be written into the legislation itself a minimal 20-year provision.

Could you comment on the two approaches? Which of the two you think would be preferable?

Mr. SCHOENHAUT. Actually, Mr. Cramer, we don't state a preference for either. What I have said in the statement is that the engineering authorities believe that a range of 15 to 25 years is what is generally used, with the 20-year forecast being the generally accepted practice.

We would have no position on whether this modification of the legislation should be 20 years or left to the discretion of the Secretary of Commerce.

Mr. CRAMER. Let me ask it this way: I realize it is a policy question for the committee. I was hoping you could assist us in making that policy decision.

On page 2, you again refer to another subject matter, flexibility. Do you see any reason why the insertion of a 20-year minimal period would in any way affect your attitude with regard to flexibility? Would it adversely affect that aspect of it? You pointed out two points, the second of which was flexibility.

Mr. SCHOENHAUT. The Bureau has presently adopted the principle of flexibility in the design of most of these highways. If you change the legislation to 20 years, and the legislative history clearly indicates that the Congress wishes that the principle of flexibility be continued, I don't see any problem.

Mr. CRAMER. All right. On the bottom of page 4, you point out a problem which, of course, we recognize exists in changing, in effect, the ground rules at this date, particularly as it relates to previously constructed projects, indicating that the projects in the future with the higher standards are going to receive more Federal funds, and thereby possibly penalizing those States that have advanced their programs more rapidly. We realize that problem exists.

Do you have any suggestions for a solution? Or should there be a solution in your opinion?

Mr. SCHOENHAUT. This, too, I think is in the nature of a policy determination that has to be made by the Congress. If the Congress wishes to go back and have the Bureau of Public Roads and the States go back and reconstruct some of the existing facilities that

have been constructed within the 1975 design year as the criterion, this would be within the prerogative of the Congress.

Mr. CRAMER. Let me ask it this way: From your experience, is there a means by which the additional construction costs could be properly estimated, or are we dealing in a subject that would not lead to a proper and equitable solution?

Mr. SCHOENHAUT. I think a study by the Bureau of Public Roads, a section-by-section analysis of the Interstate System as presently conceived, compared with what the Congress would like the Interstate System to look like, can be made and an estimate of cost can be made of those sections that would be required to be upgraded or reconstructed to meet a 20- or 25-year period.

Mr. CRAMER. Then from your experience, you don't see any roadblock or any impossibility of making such an estimate and putting backpayment provisions into effect, if Congress, as a policy matter, should so decide?

Mr. SCHOENHAUT. I don't see any roadblock except you would also have to consider where the revenues would come from to pay for the additional costs, or stretch the program out and extend the current tax provisions to cover the costs.

Mr. CRAMER. H.R. 6140, as I understand the chairman's intention in introducing it, which is probably the best evidence of what it says, Mr. Chairman, is not intended to cover adjustments for already constructed highways. It, therefore, obviously would require an amendment to accomplish this.

I assume your recommendation is you don't think Congress should act on it until a cost estimate is made available?

Mr. SCHOENHAUT. This is correct. We basically have three things in mind that we are attempting to caution the Congress on. One is to ascertain the additional cost involved in any revision of the legislation. The second is to obtain an estimate of whether the existing tax revenues will cover the additional cost, or whether revenues need to be increased. The third is to firmly establish whether the revision is to be prospective only, or retroactive in any one of many varying circumstances.

Mr. CRAMER. Is your position the same with regard to prospective effect as to retroactive effect? Relating to cost estimates, is it your opinion that Congress should not enact H.R. 6140 or similar legislation with only a prospective effect until those estimates are available?

Mr. SCHOENHAUT. That is correct.

Mr. CRAMER. You have no idea how long it will take to make such an estimate?

Mr. SCHOENHAUT. We think it can be made in the same manner that the present cost estimates are required to be made by the Bureau of Public Roads and the States. This takes, I think, anywhere from a year to 18 months for the Bureau of Public Roads and the States to come up with.

Mr. CRAMER. We then are faced with the practical problem of having this 20-year period for projection of geometric and construction standards put off for another year and a half.

Mr. SCHOENHAUT. That is correct.

Mr. CRAMER. Do you think that Congress should pay that price for getting the cost estimates which may actually result in additional cost

to the Federal Government by not changing the standards as soon as possible? Don't you think one pretty well outweighs the other?

Mr. SCHOENHAUT. We believe the Bureau of Public Roads could come up with an estimate of the cost of those sections that should now be designed to 20 years in advance, if that be what the subcommittee wants, within perhaps a shorter period of time than the 1 year to 18 months I stated.

Mr. CRAMER. What you are now suggesting is that we segment the thing for our consideration and have the Bureau give us an estimate as soon as possible on projects that are expected to be gotten underway in the near future. Then on the basis of that estimate, proceed without knowing what the balance of the cost is going to be. This is a very practical problem on which I am seeking your advice.

Mr. SCHOENHAUT. We recognize it is a practical problem all right.

Mr. CRAMER. How about a practical solution?

Mr. PIN. I would like to point out a couple of things. I don't know whether it would take them a year to 18 months, because basically much of the work that they would need to do has already been done in connection with the two estimates already furnished to the Congress. This should tend to mitigate the amount of time needed by the Bureau in order to prepare the estimate.

The second feature which I would like to bring out, and one of the Bureau's regional engineers brought it out to us, is the problem of making it prospective. There are certain sections of the Interstate System that have been built in somewhat short and unconnected sections. If you made it applicable to the prospective projects, you could find yourself in a situation of designing a six-lane highway in between two four-lane sections, and more or less committing yourself to the need for six lanes on those sections already completed. This is the practical problem.

Mr. CRAMER. That is very interesting and helpful. I think it is an observation well taken.

Do you think in drafting legislation to take care of that situation, that we should give consideration to providing authority for the Secretary, in his discretion where the practicality would necessitate, to build all the sections or segments of a highway the same? That is what you are getting at, isn't it?

Mr. SCHOENHAUT. That is right.

Mr. CRAMER. That the Secretary be given discretion with regard to the retroactive effect in those instances.

Mr. PIN. Again, I don't know how logical this is, but the man who offered it to us, and I think quite highly of his abilities, thinks that when you look at these sections of the system you ought to consider them between major control points.

Mr. CRAMER. Then to overcome that problem, it would be necessary to amend H.R. 6140 further to authorize the Secretary to have such discretion, whether it be between control points or otherwise, in order to get a uniform stretch of highway.

Would that be your recommendation?

Mr. PIN. I would think so.

Mr. CRAMER. I think that is a very helpful point, and the subcommittee should give consideration to it.

Let me ask you one further question concerning H.R. 6140, with regard to the estimated costs. Let me state it this way: In my opinion, I think the necessity of giving the Secretary unquestioned discretion on a 20-year projection basis is imminent and needs solution now. That is just my personal opinion.

That being the case, I gather your major objection is as to whether or not the trust fund income will be able to finance this additional cost, whatever its estimated cost may be. Is that correct? Is that your basic reason for concern?

Mr. SOKOLAR. I think, on this whole question of estimating the cost, the point we want to make is that there has been a considerable question as to whether the increased cost of going ahead on the 20-year basis will be material or relatively insignificant. What we are really trying to point out here is that if the subcommittee is prepared to go ahead with this legislation regardless of the cost, then that is a policy determination that can be made without respect to what the estimates will turn up.

But we just want to point out that these estimates could disclose that the cost of going ahead on this basis might ultimately turn up to be more than the subcommittee had envisioned at the time this particular legislation is enacted.

Mr. CRAMER. I appreciate that observation, but it doesn't help too much in solving the problem.

Mr. SOKOLAR. It is really a question that has to be answered in terms of whether this legislation is necessary regardless of cost. If the answer is "Yes" to that question, then the cost estimates don't become—

Mr. CRAMER. That is the Bureau of Public Roads position. As I recall their testimony it was to the effect that they didn't believe the cost would be substantial, or words to that effect.

Mr. FALLON. Will the gentleman yield?

I think that question was asked of the Bureau. Mr. Whitton testified that he thought better than 75 percent of the highway was designed for the year 2000, and that the increased cost would be on less than 25 percent of the Interstate System. They thought they could get over it without very much trouble, when we talked about additional costs.

Mr. CRAMER. Do you have any additional information on that?

Mr. SCHOENHAUT. We visited 12 States in connection with this review, and in each State we asked the State highway department whether they could come up with an estimate of the increased cost that would be involved in the changing of the legislation to construct these highways to a design adequate for 20 years in advance.

In just about every instance, the States refused to hazard a guess as to the increased cost. Several of them expressed the view that there would be increased cost. Some of them thought it might be substantial. In one case we got a cost estimate that was suggested to us as being a very rough approximation of the increased cost. In this one State they estimated a cost of \$60 to \$100 million within that State.

Mr. CRAMER. You are talking only prospectively?

Mr. SCHOENHAUT. Prospectively. And \$75 to \$125 million if they upgrade one particular freeway that they considered underdesigned.

Mr. CRAMER. What State was that?

Mr. SCHOENHAUT. Oregon.

Mr. CRAMER. What is that State's annual allocation? Do you know?

Mr. SCHOENHAUT. About \$450 million. This would represent somewhere between 20 and 25 percent of the annual apportionment.

Mr. CRAMER. That was not an annual cost, was it?

Mr. SCHOENHAUT. No. The cost to complete, I think, is \$450 million, in the 1961 cost estimate. This would represent an increase of about 20 to 25 percent. But they cautioned us that this was a very rough approximation.

Mr. CRAMER. I must admit it is considerably higher than the testimony on this point would lead us to believe.

Mr. SCHOENHAUT. There is also some evidence in Bureau correspondence that some of the Bureau officials believe there will be an increase in cost.

Mr. CRAMER. What correspondence is that?

Mr. SCHOENHAUT. We have a copy of a letter dated December 19, 1961, from the Deputy Director for Engineering to an attorney in the Bureau of Public Roads. I will quote from a portion of the letter. He says:

There is general agreement that designing for 1975 traffic is no longer realistic. At the same time, substituting a requirement for designing for traffic a certain number of years ahead could jeopardize the intent of the Congress for simultaneous completion of the Interstate System and could require appreciable additional financing.

Another piece of correspondence from the Bureau's General Counsel to the Department of Commerce General Counsel withdrawing a proposal for legislation to amend section 109(b):

The proposed legislation undoubtedly would raise the question of possible additional financing for the Interstate System inasmuch as design standards for this system under 23 U.S.C. 109(b) are necessarily related to cost estimates to complete the system required for apportionment purposes under 23 U.S.C. 104(b) (5). The Bureau of Public Roads is of the opinion that raising the question of additional financing at this time may be undesirable.

So there is some evidence within the Bureau of Public Roads that additional financing will be required.

Mr. CRAMER. Who wrote that letter, and what was the date?

Mr. SCHOENHAUT. The date didn't print on the copy we have, but it went from the General Counsel of the Bureau of Public Roads to the General Counsel of the Department of Commerce on February 16, 1962.

Mr. CRAMER. And that was a statement by the General Counsel of the Bureau?

Mr. SCHOENHAUT. That is right.

Mr. CRAMER. Then apparently they have changed their position since that time.

Mr. SCHOENHAUT. I don't know, sir.

Mr. CRAMER. They testified for the bill the other day. They must have changed their position.

I would suggest, Mr. Chairman, that I think this is a question that the subcommittee and the committee will obviously be answerable for and properly so. I think we should make every effort to support in the record and know what information is available as to what the additional cost may be before we take action on the bill.

Mr. FALLON. I might say that the witnesses who have appeared here on H.R. 6140 all testified that it was necessary that we have this legislation as soon as possible so that the design criteria could be changed to a period of 20 years in advance, depending on when you want to start the 20 years, but they treated the extra cost of this change in design very lightly.

The only answer that we got is what I said before when the question was asked of Mr. Whitton. He conferred, I think, with Mr. Turner at the time and said they didn't think it would be an appreciable cost, and it wouldn't be necessary at this time to even consider an increase in revenue.

As I said before, he said that the increased cost would be on less than 25 percent of the system. I don't know what the cost of the 25 percent would be, what the percentage would be of the cost, but they didn't seem to dwell on it very lengthily and the committee didn't pursue it much further because we were very happy about the answers we were getting at the time.

Now that you have come up this morning, have magnified this cost, I think probably the bill will take considerably more study on this problem than we thought we would have at the beginning. We had a very fine and rosy hearing on H.R. 6140 and thought it was just a matter of meeting in executive session with an amendment for clarifying language and then report it out. However, it seems to me that the committee is going to have to go further into it and get a little more information so that we can come up with a solution as quickly as possible.

I understand the legislation as now written in the 1956 act prevents the approval of any plans or surveys to go beyond what was estimated to be the design past 1975. Is that correct?

Mr. SCHOENHAUT. Except for the provision of flexibility in the design.

Mr. CRAMER. Do you question the legality of that construction?

Mr. SOCOLAR. No, we have not questioned the legality.

Mr. FALLON. As I understand it, some projects have been approved beyond the 1975 design, and the question was whether they could be paid for or not. Is that correct?

Mr. SCHOENHAUT. Some portions of a project have been designed for beyond 1975, and in given instances the question has been raised as to the legality of paying for those costs.

Mr. FALLON. Then the flexibility didn't go very far.

Mr. SCHOENHAUT. That is right.

Mr. FALLON. The word "flexibility" doesn't mean too much so far as what is actually needed beyond 1975.

Mr. SCHOENHAUT. No, it is left to the discretion or judgment of the engineer in a particular circumstance who happens to be exercising the judgment.

Mr. CRAMER. Then the present so-called "flexibility" doesn't give authority under existing law to construct for a 20-year period. That is the problem.

In view of the rollcall, I have just two brief additional questions.

U. S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

STATE AND LOCAL TAXATION OF HIGHWAY CONTRACTS AND MATERIALS

(Status as of January 1, 1962)

HIGHWAY STATISTICS
TABLE 12-1-61
SHEET 5 OF 5

STATE	STATE OR LOCAL TAXES BASED ON THE VALUE OF HIGHWAY CONSTRUCTION CONTRACTS				STATE OR LOCAL SALES, USE, OR OTHER AD VALOREM TAXES ON MAJOR HIGHWAY CONSTRUCTION MATERIALS				EXEMPTIONS TO HIGHWAY WORK AND HOW APPLIED ^{1/}		TAX PROPOSALS TO HAVE AN IMPACT ON HIGHWAY EXPENDITURES, IF ENACTED
	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	MANDATORY OR OPTIONAL	DESCRIPTION	
Utah	No				Yes	Sec. 59-15-4 (1953) Sec. 11-9-3 & 4 Sec. 59-16-3	State sales tax of 2.5% 0.5% local sales tax permitted State use tax on property brought into the State but purchased in another (2%) 0.5% local use tax	95-2/3% to General fund and 13-1/3% to Uniform School Fund Local government unit Emergency relief fund Local government unit	Mandatory	Exempt from sales and use tax on purchases by the State only but not exempt when purchased by independent contractor for use on State or Federal highway. However, purchases by contractor of roadbase, gravel, and fill materials from landowner are exempt for State's use, when State has an option on the materials	None
Vermont	No				Yes	Title 32 Sec. 3603	Local personal property tax on construction equipment used for first time in State		None		None
Virginia	No				Yes	Ch. 12 Code City of Bristol Sec. 12-1 through 12-121	Local sales tax of 3% in Bristol	Special fund for capital improvements, retirement of bonds, and schools	Mandatory	Exempt from local sales tax to purchases by the State	None
Washington	Yes	Ch. 82.04.280	Indirectly-Business and occupation tax on gross income of .44%	General fund	Yes	Ch. 82.08 R. C. W. Ch. 82.12 State Tax Comm. Rule 171 Ch. 84.40	Retail sales tax of 4% Compensating (use) tax of 4% Property tax on equipment and inventory	General fund General fund General fund	Mandatory	Cost of labor and services exempt	None
West Virginia	Yes	Ch. 11, Art. 13 Sec. 2-(e)(1955) Ch. 11, Arts. 4 and 5 Yes Ch. 8, Art. 4 Sec. 13(b)	Business and occupation tax at rate of 2.6% of gross income for all work done in the State, county, and city real and personal property tax A municipality may impose, by ordinance, a business or occupation tax not to exceed rates in effect January 1, 1959, maximum 2%, (range is 3/4 to 1-1/4%)	General fund General and school funds	Yes	Ch. 11, Art. 15	State consumer's sales tax of 3%	General fund	Optional Optional	Exempt of sales tax on materials purchased for use on State contracts if business and occupation tax is paid Tax may be applied against business, occupation, and/or privilege at discretion of municipality	None
Wisconsin	No	Ch. 71	State income tax-corporate and individual-on net income earned	40% to State; 10% to county in which income is earned; 50% to towns, cities or villages in which district income was earned	Yes	Ch. 70.04	Local personal property tax	Local tax district	None		
Wyoming	No				Yes		Sales and use tax of 2%, but at present, tax is not levied on materials included in the projects, not by law, but only by agreement between tax commission and highway commission		Mandatory	Exempt motor carriers from compensatory fees (ton-mile tax) when operating wholly within confines of any construction project	None
Dist. of Col.	No				Yes	Sec. 47-2602 Sec. 47-501	2% Sales and use tax on construction, repair or alteration of real property Advalorem tax on business tangible personal property (2% of assessed value)	General fund General fund	(Mandatory ((	Exempt on materials to be incorporated into project with D. C. or Federal government	None
Puerto Rico	Yes	Act 319	Levy of 0.1% of amount of contract	Puerto Rico Institute of Engineers	Yes	Excise Act of 1956	Sales tax of 3¢ per 100 lbs. on hydraulic cement	General fund	None		None

^{1/} In Colorado and Iowa a tax of 2% is imposed on all highway materials, including those paid for with Federal aid. The sales tax is then refunded to the State Highway Department and is treated by it as new and additional income.

No.	Name	Age	Sex	Religion	Occupation	Education	Remarks
1	John Doe	25	M	Christian	Farmer	High School	
2	Jane Smith	30	F	Protestant	Teacher	College	
3	Robert Johnson	40	M	Catholic	Engineer	University	
4	Mary White	28	F	Methodist	Nurse	High School	
5	William Brown	35	M	Baptist	Doctor	College	
6	Elizabeth Green	22	F	Presbyterian	Student	High School	
7	James Black	45	M	Anglican	Businessman	University	
8	Sarah Grey	38	F	Quaker	Homemaker	High School	
9	Thomas Red	50	M	Evangelical	Retired	College	
10	Anna Blue	20	F	Non-denominational	Artist	High School	
11	Charles Yellow	32	M	Protestant	Writer	University	
12	Patricia Purple	27	F	Catholic	Librarian	College	
13	Richard Pink	42	M	Methodist	Engineer	High School	
14	Linda Orange	33	F	Baptist	Teacher	College	
15	George Brown	55	M	Anglican	Farmer	High School	
16	Helen Green	29	F	Presbyterian	Nurse	University	
17	Frank White	48	M	Evangelical	Businessman	College	
18	Grace Black	24	F	Non-denominational	Student	High School	
19	Harold Grey	37	M	Protestant	Engineer	University	
20	Barbara Blue	31	F	Catholic	Teacher	College	
21	Edward Yellow	44	M	Methodist	Doctor	High School	
22	Carol Purple	26	F	Baptist	Nurse	College	
23	Albert Pink	52	M	Anglican	Retired	University	
24	Deborah Orange	23	F	Evangelical	Student	High School	
25	Joseph Brown	36	M	Protestant	Engineer	College	
26	Kimberly Green	34	F	Catholic	Teacher	High School	
27	Donald White	41	M	Methodist	Businessman	University	
28	Christina Black	21	F	Baptist	Student	College	
29	Kenneth Grey	49	M	Anglican	Farmer	High School	
30	Angela Blue	28	F	Presbyterian	Nurse	College	
31	Gregory Yellow	39	M	Evangelical	Engineer	University	
32	Heather Purple	25	F	Protestant	Teacher	High School	
33	Timothy Pink	43	M	Catholic	Doctor	College	
34	Stephanie Orange	27	F	Methodist	Nurse	University	
35	Christopher Brown	51	M	Baptist	Retired	High School	
36	Michelle Green	24	F	Anglican	Student	College	
37	Jonathan White	38	M	Evangelical	Engineer	University	
38	Rebecca Black	32	F	Protestant	Teacher	High School	
39	Benjamin Grey	46	M	Catholic	Businessman	College	
40	Victoria Blue	29	F	Methodist	Nurse	University	
41	Samuel Yellow	54	M	Baptist	Farmer	High School	
42	Crystal Purple	22	F	Anglican	Student	College	
43	Isaac Pink	35	M	Presbyterian	Engineer	University	
44	Brittany Orange	26	F	Evangelical	Teacher	High School	
45	Jeremiah Brown	47	M	Protestant	Doctor	College	
46	Amber Green	30	F	Catholic	Nurse	University	
47	Timothy White	40	M	Methodist	Businessman	High School	
48	Vanessa Black	23	F	Baptist	Student	College	
49	Patrick Grey	53	M	Anglican	Retired	University	
50	Shirley Blue	37	F	Evangelical	Teacher	High School	
51	Harold Yellow	45	M	Protestant	Engineer	College	
52	Cheryl Purple	28	F	Catholic	Nurse	University	
53	Clarence Pink	56	M	Methodist	Farmer	High School	
54	Janet Orange	25	F	Baptist	Student	College	
55	Wayne Brown	33	M	Anglican	Engineer	University	
56	Crystal Green	27	F	Presbyterian	Teacher	High School	
57	Lawrence White	42	M	Evangelical	Doctor	College	
58	Shirley Black	31	F	Protestant	Nurse	University	
59	Terence Grey	48	M	Catholic	Businessman	High School	
60	Debra Blue	29	F	Methodist	Nurse	University	
61	Samuel Yellow	57	M	Baptist	Farmer	High School	
62	Crystal Purple	24	F	Anglican	Student	College	
63	Isaac Pink	36	M	Presbyterian	Engineer	University	
64	Brittany Orange	27	F	Evangelical	Teacher	High School	
65	Jeremiah Brown	46	M	Protestant	Doctor	College	
66	Amber Green	30	F	Catholic	Nurse	University	
67	Timothy White	40	M	Methodist	Businessman	High School	
68	Vanessa Black	23	F	Baptist	Student	College	
69	Patrick Grey	53	M	Anglican	Retired	University	
70	Shirley Blue	37	F	Evangelical	Teacher	High School	
71	Harold Yellow	45	M	Protestant	Engineer	College	
72	Cheryl Purple	28	F	Catholic	Nurse	University	
73	Clarence Pink	56	M	Methodist	Farmer	High School	
74	Janet Orange	25	F	Baptist	Student	College	
75	Wayne Brown	33	M	Anglican	Engineer	University	
76	Crystal Green	27	F	Presbyterian	Teacher	High School	
77	Lawrence White	42	M	Evangelical	Doctor	College	
78	Shirley Black	31	F	Protestant	Nurse	University	
79	Terence Grey	48	M	Catholic	Businessman	High School	
80	Debra Blue	29	F	Methodist	Nurse	University	
81	Samuel Yellow	57	M	Baptist	Farmer	High School	
82	Crystal Purple	24	F	Anglican	Student	College	
83	Isaac Pink	36	M	Presbyterian	Engineer	University	
84	Brittany Orange	27	F	Evangelical	Teacher	High School	
85	Jeremiah Brown	46	M	Protestant	Doctor	College	
86	Amber Green	30	F	Catholic	Nurse	University	
87	Timothy White	40	M	Methodist	Businessman	High School	
88	Vanessa Black	23	F	Baptist	Student	College	
89	Patrick Grey	53	M	Anglican	Retired	University	
90	Shirley Blue	37	F	Evangelical	Teacher	High School	
91	Harold Yellow	45	M	Protestant	Engineer	College	
92	Cheryl Purple	28	F	Catholic	Nurse	University	
93	Clarence Pink	56	M	Methodist	Farmer	High School	
94	Janet Orange	25	F	Baptist	Student	College	
95	Wayne Brown	33	M	Anglican	Engineer	University	
96	Crystal Green	27	F	Presbyterian	Teacher	High School	
97	Lawrence White	42	M	Evangelical	Doctor	College	
98	Shirley Black	31	F	Protestant	Nurse	University	
99	Terence Grey	48	M	Catholic	Businessman	High School	
100	Debra Blue	29	F	Methodist	Nurse	University	

U.S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

STATE AND LOCAL TAXATION OF HIGHWAY CONTRACTS AND MATERIALS

(Status as of January 1, 1962)

HIGHWAY STATISTICS
TABLE 12-1-61
SHEET 4 OF 5

STATE	STATE OR LOCAL TAXES BASED ON THE VALUE OF HIGHWAY CONSTRUCTION CONTRACTS				STATE OR LOCAL SALES, USE, OR OTHER AD VALOREM TAXES ON MAJOR HIGHWAY CONSTRUCTION MATERIALS				EXEMPTIONS TO HIGHWAY WORK AND HOW APPLIED 1/		TAX PROPOSALS TO HAVE AN IMPACT ON HIGHWAY EXPENDITURES, IF ENACTED
	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	MANDATORY OR OPTIONAL	DESCRIPTION	
North Dakota	No				No	Ch. 57-39 Ch. 57-40 Ch. 57-02	2% retail sales or use tax Contractor's road and bridge materials on hand April 1, are subject to assessment and taxation as personal property	7/12 to education 5/12 to old age assistance Support State and local government, school, and local roads	None	Exempt only to work done by the State and local governments in force account highway maintenance and construction	None
Ohio	No				Yes	Sec. 5735-01, R.C.	State sales tax and use tax of 3%	General fund	Optional	Exempt on materials incorporated in project under contract with the State or political subdivision	None
Oklahoma	No				Yes	68-O. S.-1951 Sec. 1251	2% sales tax on materials	State assistance fund	None		Increase sales tax from 2 to 3%
Oregon	No				Yes	O.R.S. 307.030	Ad valorem tax on all real and personal property	State, county, and other taxing units, such as school districts, road districts, cities and towns, etc.	None		None
Pennsylvania	No				Yes	P.L. 1228 (1956) Sec. 223 and Regulation 224	State sales and use tax, now 4%, amended August 20, 1959	General fund	None		None
Rhode Island	No				Yes	Sec. 44-18-16	State sales and use tax of 3%	General fund	Mandatory	Exempt to the State and its political subdivisions and to contractor for materials to be physically incorporated into government project. Contractor shall not charge tax to exempt agency. If any of the property is used for nonexempt purposes, contractor must pay sales tax due on it	None
South Carolina	No				Yes	Sec. 65-1361, 65-1361.1, 1421, 1421.1 of Code of 1952	(3% sales and use tax on all materials and equipment consumed or included in project)	Construction, maintenance, and operation of schools	None		None
						Sec. 65-1628, and 1644 of 1952	Local ad valorem taxes on equipment and material on hand on December 31	General fund of county or city	None		None
South Dakota	No				No	Ch. 57-32 Ch. 44-0108 Sub. 9 Ch. 44-0111 Ch. 57-0310	2% State sales tax Property levy (local)	General fund, except from sale of motor vehicles and accessories, which goes to State highway fund Local government	None		None
Tennessee	No	Sec. 67-4001 Item 30	\$250 privilege tax, but not based on value of contract for road contracts	General fund	Yes	Sec. 67-3003	3% sales tax on materials and equipment	12-1/2% of 2% to municipalities. 1-1/2% of 3% to Sinking Fund. Balance to General Fund for schools	None		None
	No	Item 31	Additional tax for bridge contracts based on aggregate contract price for contracts for any one year ranging from \$10-\$200								
Texas	No				Yes	Ch. 18, Title 122A Taxation General	2-3/4% per CWT on all cement manufactured in or imported into the State and thereafter sold in intrastate commerce	1/4 to available school fund; 3/4 to omnibus tax clearance fund; from which \$15,000,000 per year is allocated to farm-to-market roads General Revenue Fund	Mandatory	State is exempt on materials which it purchases, rents, or consumes	None
						Ch. 20 Title 122A	2% retail sales and use tax on personal property except motor vehicles, motor fuel, and cement		Mandatory	State is exempt on materials which it purchases, rents, or consumes	

U.S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

STATE AND LOCAL TAXATION OF HIGHWAY CONTRACTS AND MATERIALS

HIGHWAY STATISTICS
TABLE 12-1-61
SHEET 3 OF 5

(Status as of January 1, 1962)

STATE	STATE OR LOCAL TAXES BASED ON THE VALUE OF HIGHWAY CONSTRUCTION CONTRACTS				STATE OR LOCAL SALES, USE, OR OTHER AD VALOREM TAXES ON MAJOR HIGHWAY CONSTRUCTION MATERIALS				EXEMPTIONS TO HIGHWAY WORK AND HOW APPLIED 1/		TAX PROPOSALS TO HAVE AN IMPACT ON HIGHWAY EXPENDITURES, IF ENACTED
	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	MANDATORY OR OPTIONAL	DESCRIPTION	
Massachusetts	No				Yes		Unincorporated business and individuals subject to local personal property tax on road materials. Incorporated businesses subject to combined income and personal property tax in lieu of local personal property tax.	State and city general fund	None		None
Michigan	No				Yes	Act 167, P.A. of 1933 as amended Act 94, P.A. of 1937 as amended	1/2 sales or use tax on all tangible personal property used in fulfillment of State Highway contracts	Sales tax - Public schools, local and State government. 2% for schools; 1-1/2% for municipalities and townships; 1-1/2% for State General Fund. Use tax for State General Fund	Mandatory	Government Force Account Projects (Federal, State and Local)	None
Minnesota	No				No				None		None
Mississippi	Yes	10.110	Contractor's tax of 1-1/2% of the contract price when the compensation received exceeds \$10,000	General fund	Yes	10103 to 10108 10146-01 to 10146-16 9877	3% sales or use tax on materials and equipment not becoming part of the structure; 2% on automobiles, trucks and truck-trailers 1/8 of 1% on materials to become part of structure (except sand and gravel taxable at 3%) License tax of \$25 on all contracts over \$10,000 plus 50¢ fee for each \$1,000 County ad valorem tax on materials and equipment on hand as of January 1	General fund	Mandatory	Contracts of \$10,000 and less are not subject to contractor's tax of 1-1/2%; contractor pays retail rate of tax on materials purchased	None
Missouri	No				Yes	Ch. 144 (1959)	2% general sales and/or use tax. Evidence of payment must be presented before refund. To be included in bid amount	General revenue fund	None	Only government, (city, county, State, and Federal) is exempt	Present 5¢ fuel tax subject to reduction to 3¢ by referendum scheduled for 3/6/62
Montana	No				No	84-1101 to 1114 84-1202 to 1212	License tax of \$1.00 plus 4¢ per barrel on cement imported. License tax of 4¢ per barrel on cement produced	General fund General fund	None		None
Nebraska	No				Yes	Sec. 77-201	Ad valorem tax on construction materials owned by contractors, not incorporated into project	General fund	None		None
Nevada	No				No	Ch. 397 (1954-55)	Sales and use tax of 2%	General fund	None		None
New Hampshire	No				No				None		None
New Jersey	No				Yes	R.S. 54:4-9	Local personal property tax on construction materials	General fund of municipality	None		None
New Mexico	Yes	Sec. 72-16-4.7 (1959) Ch. 399	1% privilege tax on gross receipts of every person engaged in construction	Schools	Yes	Sec. 72-16-12 Sec. 72-1-1 Sec. 67-16-15 Sec. 72-17-1-30 Sec. 72-18-1-28	State sales tax of 2% Personal property tax (State) Local occupation tax Compensating or use tax Severance tax	Schools State general fund Municipalities' general fund State general fund Severance tax bond fund	Mandatory	Exempt from sales of personal property to State and Federal government	None
New York	No				Yes	Ch. 278 (1947) Ch. 873 (1934)	Local sales and use tax New York City sales and use tax	General county purposes General fund of city	Mandatory	(Sales tax exempt to Federal, State, and county government, but not to contractor)	None
North Carolina	No	Schedule B, Sec. 122, G.S. 105-54	\$100 Annual license fee, and up to \$625 scaled "project" tax annually based on value of project	General fund	Yes	G.S. 105-164-6	3% sales taxes County and city ad valorem taxes on materials on hand on January 1	General fund County or city general fund	None		None

U. S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

STATE AND LOCAL TAXATION OF HIGHWAY CONTRACTS AND MATERIALS

(Status as of January 1, 1962)

HIGHWAY STATISTICS
TABLE 12-1-61
SHEET 2 OF 5

STATE	STATE OR LOCAL TAXES BASED ON THE VALUE OF HIGHWAY CONSTRUCTION CONTRACTS				STATE OR LOCAL SALES, USE, OR OTHER AD VALOREM TAXES ON MAJOR HIGHWAY CONSTRUCTION MATERIALS				EXEMPTIONS TO HIGHWAY WORK AND HOW APPLIED 1/		TAX PROPOSALS TO HAVE AN IMPACT ON HIGHWAY EXPENDITURES, IF ENACTED
	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	MANDATORY OR OPTIONAL	DESCRIPTION	
Hawaii	No				No	Ch. 117, Sec. 117	General excise, sales, use and contract taxes, but not specifically on highway contractors	State general fund	None		None
Idaho	No	63-3024, 25, 27	Indirectly-tax on income derived from contracts	General fund	No	Art. 7, Sec. 17 49-127 49-1230	Gasoline tax Ton mile tax Diesel, propane	General highway fund General highway fund General highway fund	None		None
Illinois	No				Yes	Ch. 120, Par. 439.3, 439.9, 441, & 442 Ch. 120, Par. 509 Ch. 24, Par. 23-111 Ch. 34, Par. 409.1	State sales and use tax of 3-1/2% Property tax based on value of personal property in hands of contractor on April 1 and real property as of January 1 Municipal or County sales tax of 1/2% where adopted by the municipality or county	2/7 to Common School Fund, remainder to State general revenue fund Various government agencies for whatever purposes tax is levied Various funds of municipality or county	None		None
Indiana	No	Sec. 64-901 No Sec. 64-2603	Specifically exempt from intangibles tax Gross income less \$1,000 taxed at 1-1/2% except portion representing material physically included in highways which is taxed at 3/8%	State General Fund	Yes	Sec. 64-103	Property tax on materials in possession of contractor on March 1	General fund of counties	Mandatory	Highway construction materials incorporated in a highway are exempt from 1-1/2% income tax but are subject to 3/8%	None
Iowa	No				Yes	Sec. 422.43	2% State sales tax on construction materials to be reflected in the bid price or force account work	Primary road fund or farm-to-market road fund, depending upon from which fund contract was financed	Mandatory	(sec. 422.45(6) Iowa Code and Sec. 1109.08 Standard Spec., 1960) Any government subdivision may make application for refund of sales tax Highway commission claims reimbursement from tax commission for deposit in primary road fund or farm-to-market road fund	None
Kansas	No				Yes	G. S. 79-101 Sec. 79-3606, 1959 Supp. to G.S. as amended by Ch. 457, L. of 1961 and Ch. 458, L. of 1961	Ad valorem tax applies to construction materials owned by contractor at time of annual assessment 2-1/2% retail sales tax and/or compensating tax on personal property of contractor	Sec. 79-3621 of the 1959 Supp. to G.S. as amended by Ch. 459, L. of 1961 (No part is distributed to State highway fund)	Mandatory	G. S. 79-201 Property of State or U.S. Government is exempt from ad valorem tax	None
Kentucky	No	Ch. 141 R. S.	Income tax based on profits derived from contracts or other sources	General fund	No	Ch. 139	Sales and use tax of 3% of gross receipts, including highway materials Ad valorem property tax on materials on hand on January 1	General fund Local support of public schools and local government	None		None None
Louisiana	No				Yes	Title 47- Sec. 301-318 (1950) Sec. 631-646	State sales tax of 2% on materials Local sales tax of 1% in various cities and/or parishes Severance tax	Public welfare, pensions, and education General fund of city or parish 1/5 of proceeds to local city or parish and balance to severance tax fund	None		None
Maine	No				Yes	Ch. 17, R. S. 1954	Sales and use tax of 3%	General fund	Optional	Exempt from sales tax on materials used in structure of road for State and Federal government	None
Maryland	No				Yes	Art. 10-02-6	State sales tax of 3%	General fund	Optional	Exempt on materials incorporated in the project, and on State contracts	None

U.S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

STATE AND LOCAL TAXATION OF HIGHWAY CONTRACTS AND MATERIALS

HIGHWAY STATISTICS
TABLE 12-1-61
SHEET 1 OF 5

(Status as of January 1, 1962)

STATE	STATE OR LOCAL TAXES BASED ON THE VALUE OF HIGHWAY CONSTRUCTION CONTRACTS				STATE OR LOCAL SALES, USE, OR OTHER AD VALOREM TAXES ON MAJOR HIGHWAY CONSTRUCTION MATERIALS				EXEMPTIONS TO HIGHWAY WORK AND HOW APPLIED ^{1/}		TAX PROPOSALS TO HAVE AN IMPACT ON HIGHWAY EXPENDITURES, IF ENACTED
	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	YES OR NO	STATUTORY CITATION	DESCRIPTION	DISPOSITION OF REVENUE	MANDATORY OR OPTIONAL	DESCRIPTION	
Alabama	No				Yes	Act #100-Sec. 2 (1959) Title 51-Sec. 788 (1940) Title 51-Sec. 21 (1940)	State sales tax (3%) State use tax (3%) Ad valorem, personal property tax on road materials	(Educational trust fund and school purposes) General fund	Mandatory Mandatory Mandatory	Exempt from sales, use, and ad valorem taxes on projects for State, counties, or municipalities.	None None None
Alaska	Yes	Ch. 43 SLA 1949	Only indirectly-Business license and business license tax on gross receipts of 0.5-0.25%	General fund	Yes		Local sales tax in cities	General fund of city	None		Proposal that general contractors register and be licensed, with initial fee of \$125 annual renewal of \$100
Arizona	Yes	Title 42-1361	1-1/2% Gross tax on total contract less direct construction labor and related payroll taxes and industrial insurance (clerical and engineering costs not deductible). City tax of 1/4 to 1/2% on contracts in Chandler, Glendale, Nogales, Phoenix, Prescott, Scottsdale, Tucson, and Yuma.	1% to general fund 1/2% to school fund General fund of respective city	Yes	Title 42-1312 and 42-1361	3% State sales tax on materials, supplies, and equipment not physically incorporated into the structure. City sales tax of 1/2 to 1%.	2% to general fund 1% to school fund General fund of city	Mandatory	Materials physically incorporated into the structure and direct construction labor are exempt. Cities: Same exemptions as State.	None
Arkansas	No				Yes	Act 19 of 1957 Act 136 of 1947	State sales and use tax on highway construction material, 3%.	General fund	None		None
California	No				Yes	R & T Code Sec. 6201 Sec. 7200-7207 R & T Code Sec. 101-5145	State use tax of 3% Optional county use tax of 1% on storage, use, or consumption of tangible personal property purchased from any retailer. Local ad valorem taxes on personal property owned as of 1st Monday in March	General fund Various county funds Various	None		None
Colorado	No				Yes	Ch. 138, Art. VI (1953) Sec. 152 #2189 H. B. 221	State sales tax on all purchases at retail and use tax on storage and use of personal property purchased at retail (2%) Sales and use tax in Denver city and county Sales and use tax in city of Pueblo Sales tax districts can impose sales and use taxes which could mean taxing of construction materials similar to State sales tax	(8% to old age pension fund; 10% to public welfare fund; 5% to administrative costs) General fund of municipalities	Mandatory	Purchases by the State or for a State project are exempt	Proposal for a sales tax ordinance allowing cities to receive tax money
Connecticut	No				Yes	Ch. 219, Sec. 12-806-432 Amended 1961	State sales and use tax of 3-1/2%	Public health, welfare, and education purposes	Mandatory	Exempt from sales tax on materials and supplies to be physically incorporated in the project, and is to be considered when calculating bid price	None
Delaware	Yes	Title 30, Ch. 25, #2501-3	Contractor's license, fee of \$5.00 plus .1% of gross receipts of each \$1,000 to \$100,000; .05% over	General fund	No				Mandatory	Contractor's license not required for contracts for Federal government on government land	None
Florida	No				Yes	Sec. 212.08 (1959)	3% State sales and use tax on construction materials	General fund	None		None
Georgia	No				Yes	Retailers and Consumers Sales and Use Tax Act 1951, Code of 1942	3% State sales tax on all construction materials	General fund	Mandatory	Exempt from sales tax when construction is performed by State or local government	None

STATE AND LOCAL TAXATION BY HIGHWAY

STATE	LOCAL	TOTAL	PERCENT
ALABAMA	1.00	1.00	100.00
ALASKA	1.00	1.00	100.00
ARIZONA	1.00	1.00	100.00
ARKANSAS	1.00	1.00	100.00
CALIFORNIA	1.00	1.00	100.00
COLORADO	1.00	1.00	100.00
CONNECTICUT	1.00	1.00	100.00
DELAWARE	1.00	1.00	100.00
FLORIDA	1.00	1.00	100.00
GEORGIA	1.00	1.00	100.00
ILLINOIS	1.00	1.00	100.00
INDIANA	1.00	1.00	100.00
IOWA	1.00	1.00	100.00
KANSAS	1.00	1.00	100.00
KENTUCKY	1.00	1.00	100.00
LOUISIANA	1.00	1.00	100.00
MAINE	1.00	1.00	100.00
MARYLAND	1.00	1.00	100.00
MASSACHUSETTS	1.00	1.00	100.00
MICHIGAN	1.00	1.00	100.00
MINNESOTA	1.00	1.00	100.00
MISSISSIPPI	1.00	1.00	100.00
MISSOURI	1.00	1.00	100.00
MONTANA	1.00	1.00	100.00
NEBRASKA	1.00	1.00	100.00
NEVADA	1.00	1.00	100.00
NEW HAMPSHIRE	1.00	1.00	100.00
NEW JERSEY	1.00	1.00	100.00
NEW YORK	1.00	1.00	100.00
NORTH CAROLINA	1.00	1.00	100.00
NORTH DAKOTA	1.00	1.00	100.00
OHIO	1.00	1.00	100.00
OKLAHOMA	1.00	1.00	100.00
OREGON	1.00	1.00	100.00
PENNSYLVANIA	1.00	1.00	100.00
RHODE ISLAND	1.00	1.00	100.00
SOUTH CAROLINA	1.00	1.00	100.00
SOUTH DAKOTA	1.00	1.00	100.00
TENNESSEE	1.00	1.00	100.00
TEXAS	1.00	1.00	100.00
UTAH	1.00	1.00	100.00
VERMONT	1.00	1.00	100.00
VIRGINIA	1.00	1.00	100.00
WASHINGTON	1.00	1.00	100.00
WEST VIRGINIA	1.00	1.00	100.00
WISCONSIN	1.00	1.00	100.00
WYOMING	1.00	1.00	100.00

On Monday, I introduced House Joint Resolution 464, the title of which is:

Joint resolution to provide for a study of needed Federal-aid highway programs for 10 years following the termination of the present Interstate and Defense Highway program by requiring the Secretary of Commerce to make a comprehensive investigation and study of highway traffic and needs based upon 20-year projections, and the changes determined necessary in the Federal-aid highways systems as a result thereof, and to report the results of such study and his recommendations for a 10-year highway program commencing June 30, 1971, to Congress.

As I understand it, when it comes to questions of retroactive effect and reconstruction of sections already built, it could be delayed for inclusion in the 10-year study program envisioned by this resolution. That retroactive matter could be part of a study starting as soon as this resolution is passed, for inclusion in the 10-year future program if Congress should decide so to legislate.

Mr. SCHOENHAUT. Except for the situation that Mr. Pin outlined for you, where you might have unconnected sections that would vary from four to six to eight lanes, if we just stayed with the 20 years.

Mr. CRAMER. I am impressed with that observation. I think we will have to consider additional points, Mr. Chairman, with regard to some discretion relating to uniformity within given highway sections to make sure of uniform construction.

Mr. FALLON. I am wondering whether we can get the information on just how extensive this problem is. We probably could secure it from the Bureau.

Mr. CRAMER. I just have one other point.

I have here, and I think counsel has it, too, a table of State and local taxation of highway contracts and materials, which I think is the most exhaustive study we have had made available to the committee.

Mr. SULLIVAN. That is right.

Mr. CRAMER. I would like to ask if that may be made part of the record?

Mr. FALLON. If there is no objection, it is so ordered.

(The table referred to follows:)

Mr. CRAMER. One question on that.

How can you differentiate between general taxes relating to all types of construction under all the definitions and questions that you raised? Assuming all those were included in a broad bill, those subject matters, how do you differentiate? What justification does the Federal Government have for differentiating and saving. "All right, you can tax construction projects on some Federal-aid projects, but not on highways"? That is what you would have to do, in effect, is it not?

Mr. SCHOENHAUT. It would seem to me that that is congressional policy, too.

Mr. CRAMER. That is what you would have to do, is it not? These taxes are not solely on highway construction contracts, are they?

Mr. SCHOENHAUT. That is correct.

Mr. CRAMER. And the two States you cited as examples are not solely on highway construction contracts, are they?

Mr. SCHOENHAUT. That is correct.

Mr. CRAMER. So that is recognized as a policy question that Congress would have to deal with.

Mr. SCHOENHAUT. Yes, sir.

Mr. CRAMER. That is all, Mr. Chairman.

Mr. FALLON. Mr. Baldwin?

Mr. BALDWIN. On this question of whether or not we should establish a 20-year target, I feel very strongly that if we do that, and if we allow the year 1975 to continue as a goal, then we are just setting ourselves up as a target for criticism for actually freezing this on an inadequate basis. I personally feel that we are going to have to make a change to the 20-year target, even if it does involve some fairly material costs.

I do not feel that we should be retroactive for sections of road as a unit that have been completed, because we have made a commitment, I think publicly all through this program, to try to get a system of interstate highways completed as near to our target date as possible. But I personally think that we should go ahead and set up this 20-year target date by legislation now, because we are going to get the next estimate of costs by January 1, 1965, if we pass one of these bills, and if we pass this legislation now, setting a 20-year target date, then when we get these new estimates on January 1, 1965, they would be on the new basis.

If there is some substantial amount of variance in cost, we may have to extend the end of the program for 6 months or a year, something of that kind, which I don't think would be too difficult to do.

Do you have any comment on that, if we did have to extend the end of the program and the taxes for another 6 months or a year?

Mr. SCHOENHAUT. No, sir. This, again, is a basic policy question that we just wouldn't take a position on.

Mr. BALDWIN. One other question.

One of these bills provides for two remaining estimates, one to be due by January 1, 1965, and the other to be due in 1969. AASHO in their testimony, urged that we have three, 1965, January 1, 1968, and January 1, 1969, so that they wouldn't have to make such an adjustment in the last year of the program. It seems to me that three such estimates would become even more important if we passed a bill and set a 20-year target date, because that would perhaps involve a more substantial change in estimates.

The only difference in setting a 3-year series of estimates is that the States would have to do a little bit more work. It wouldn't really change the work from the Bureau standpoint substantially. Since the States are recommending this, it seems to me that we should provide these three additional estimates.

Would you have any objection from your standpoint to that being done?

Mr. SCHOENHAUT. No, sir. In fact, we point out in our testimony and in our report that any decision on eliminating the cost estimates presently required be delayed pending the first estimate under a new concept of 20-year construction.

Mr. BALDWIN. Thank you.

Mr. CRAMER. Would you yield for a moment?

Mr. BALDWIN. Yes.

Mr. CRAMER. I just have one more question.

Have you made other recommendations with regard to amendments to the basic highway law, in addition to those which you mentioned in your statement?

Mr. SCHOENHAUT. Yes, sir.

Mr. CRAMER. Briefly, can you state what some of them are, as examples?

Mr. SCHOENHAUT. In our report to the Congress on review of apportionments of Federal-aid highway funds for fiscal years 1956 to 1963, we pointed out that a segment of the population was not being considered in the apportionment of secondary or urban highway funds. The population of places of from 2,500 to 5,000 inhabitants which are located outside densely settled urban fringe areas are not given consideration in the statutory formulas for apportioning Federal-aid secondary or urban highway funds.

Because the legislative history does not indicate that the exclusion of this segment of the population was considered at the time the governing legislation was enacted, we brought this matter to the attention of the Congress for consideration of amendatory legislation clarifying the statutory formulas.

Mr. CRAMER. Could I suggest, due to the fact that I do not want to cut the witness off, but I am interested in these items, that a summarization of them and an analysis of each one of them be submitted by Mr. Schoenhaut, Mr. Chairman, for the record?

We will say those in the last 2 or 3 years, of any major significance.

Mr. SCHOENHAUT. Yes, sir.

(The information to be furnished follows:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 18, 1963.

B-125052.

HON. GEORGE H. FALLON,
Chairman, Subcommittee on Roads,
Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: On June 12, 1963, representatives of this Office presented testimony at hearings before the Subcommittee on Roads, House Committee on Public Works, on six bills that would amend the basic legislation governing the Federal-aid highway program. Those aspects of the program which would be affected by the six bills have been discussed in certain of our reports to the Congress.

At the close of the hearings on June 12, Congressman William C. Cramer requested that we submit for the record of the hearings, a summary and analysis of any recommendations we have made within the past 2 or 3 years, for amendment of the Federal-aid highway legislation, that were not included in the statement presented by our representatives. The following additional matters have been included in our reports to the Congress.

1. *Segment of population not considered in apportioning secondary or urban highway funds.*—The population of places of from 2,500 to 5,000 inhabitants which are located outside of densely settled urban fringe areas is not given consideration in the statutory formulas for apportioning Federal-aid secondary or urban highway funds. The legislative history does not indicate that the exclusion of this segment of the population was considered at the time the governing legislation was enacted. In a report dated August 20, 1962, on review of apportionments of Federal-aid highway funds for the fiscal years 1956-63, we recommended that the Congress consider amendatory legislation to clarify section 104(b), title 23, United States Code, to indicate whether the population of places of from 2,500 to 5,000 inhabitants should be recognized in some form—either as urban or rural—in the statutory formulas for apportioning Federal-aid secondary or urban highway funds.

2. *Need for study of postal route mileage data.*—The rural delivery and star route mileage data furnished to the Bureau of Public Roads by the Post Office Department do not appear to provide the most equitable basis for apportioning Federal-aid primary and secondary highway funds among the several States. There are certain inconsistencies in the compilation of the data and the data represent neither road nor vehicular mileage. Because mileage data have a substantial effect upon amounts apportioned among the States, we recommended in our report dated August 20, 1962, that the Federal Highway Administrator initiate a study, in cooperation with the Post Office Department, to ascertain whether rural delivery and star route mileage data available to the Post Office Department can be compiled in a manner that will continue to serve the needs of the Post Office and at the same time provide a more equitable basis for apportioning Federal-aid highway funds among the States.

We also recommended that the results of the study be presented to the cognizant legislative committee of the Congress for their information and consideration of such amendatory legislation as may be deemed necessary or desirable in the circumstances. The Bureau of Public Roads has accepted our recommendations and is now cooperating with the Post Office Department in the conduct of the necessary study.

3. *Preferential treatment of certain States in financing Interstate System projects.*—Under section 120(g) of title 23, United States Code, Federal-aid highway funds may be used to reimburse States for 100 percent of the cost of those portions of Federal-aid highway projects which are constructed on non-taxable Indian lands within Indian reservations, or on lands within national parks or monuments. The history of the legislative provision and the new concept in Federal financing of projects on the Interstate System—on the basis of the cost to complete the system in each State—indicate that section 120(g) now permits preferential treatment in financing the Interstate System in certain States without a sufficient basis for such preference. In a report dated October 3, 1962, on review of selected activities of the Federal-aid highway program in the State of Idaho, we recommended that the Congress consider the advisability of eliminating the provisions of section 120(g) of title 23, United States Code, with respect to Interstate System highway projects.

We trust that the above information is fully responsive to the request of Congressman Cramer.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Mr. FALLON. Mr. Schoenhaut, you and your associates have been very helpful to the committee this morning, bringing out some problems that we didn't know we had.

On behalf of the committee, I want to tell you that we appreciate your taking the time to appear before us this morning. Thank you very much.

Mr. SCHOENHAUT. Thank you, sir.

Mr. FALLON. The following document will be made part of the record.

(The documents follow:)

STATE OF VERMONT,
DEPARTMENT OF HIGHWAYS,
Montpelier, Vt., June 4, 1963.

HON. ROBERT T. STAFFORD,
House of Representatives,
Washington, D.C.

MY DEAR MR. STAFFORD: In reference to your letter of May 31 relative to H.R. 4154, which would change the formula for providing Federal-aid funds for urban areas, we offer the following comments.

As stated in our letter to Senator Aiken, reduction of Federal-aid funds on extension of Federal-aid primary or secondary routes into urban areas would have a serious effect on our long-range highway program. Our 1964 Federal apportionment of \$329,669 (including 1½ percent funds earmarked for planning

and research) would be reduced to \$255,041 with a loss of \$74,628 or a total loss of nearly \$150,000 annually including both Federal and State matching funds. Under the present apportionment we would have available with both Federal and State funds \$659,338 approximately for each year. On the average this would build about 1 mile of highway.

What does this mean to Vermont?

The section 210 study authorized by Congress in 1958 showed that Vermont's urban needs amounted to 46 miles at an estimated cost of some \$23 million. With the increase in standards, both construction and geometric, with increased labor and construction costs during the last 5 years, it is roughly estimated that our urban needs may be approaching the \$30 million mark today. But on the basis of the 1958 needs and today's Federal apportionment, it would take about 35 years to complete the needs of 1958. With the proposed reduction, it would take about 45 years.

With all the emphasis being placed on local planning in cities and urban areas by the present administration through its Housing and Home Finance Agency and the Bureau of Public Roads, the development of a long-range plan of urban highway improvement should be predicated on the availability of future funds for implementation of the plan, in order to arouse the complete interest and cooperation of local officials.

It is our firm belief that the best plans are achieved in combination with a definite financial plan that would provide funds with which to accomplish certain portions of the transportation plans within a reasonable length of time. The excellent planning on the Interstate Highway with a definite financial budget to complete the entire project within a 15-year period, is one of our best examples of modern long-range planning for highways.

In the light of this analysis, it is interesting to note that section 104 of title 23, United States Code, lists minimum percentage apportionments of not less than one-half of 1 percent of each year's apportionment be allotted to each State for the Federal-aid primary and Federal-aid secondary systems.

There appears to be some ambiguity here in relation to the extension of these systems into urban areas since no minimum apportionment is provided. This is inconsistent with the standards of construction required in urban areas since a certain minimum type of highway is required regardless of the size of the urban area.

In view of this inconsistency, it is hereby requested that the last sentence of section 104(b) (3) of title 23 be deleted to exclude reference to Connecticut and Vermont and to insert therefor the following sentence: "No State shall receive less than one-half of one per centum of each year's apportionment."

Further study of this problem indicated that 39 States or 75 percent now receive more than one-half of 1 percent of each year's apportionment on extension of the Federal-aid primary and Federal-aid secondary systems into urban areas. The remaining States are receiving considerably less, with Vermont's share being slightly more than one-tenth of 1 percent.

A precedent has been established by setting a minimum for the Federal-aid primary and Federal-aid secondary systems, presumably on the basis that these systems were considered more important at the original passage of the act. Highway studies of today indicate that urban needs are generally more pressing than rural needs and thus deserve comparable financial consideration.

We hope this will provide you with some data with which to combat the impending legislation in Congress and if we can provide you additional information, please advise.

Very truly yours,

RUSSELL A. HOLDEN,
Commissioner of Highways.

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 13, 1963.

HON. GEORGE H. FALLON,
Chairman of the Subcommittee on Roads, Public Works Committee, House Office Building, Washington, D.C.

DEAR MR. FALLON: In accordance with our recent personal conference I am submitting to you herewith on behalf of the Vermont commissioner of highways, the Honorable Russell A. Holden, his statement to me with respect to the impact of H.R. 4154 upon the plans for urban highway construction in various towns and cities in the State of Vermont.

I am also supplying a copy of a memorandum from H. F. Farrington, highway planning engineer for the State of Vermont, to Mr. Holden, commissioner of highways.

I would deeply appreciate it if Mr. Farrington's statement, and the statement of Commissioner of Highways Mr. Holden, may be made a part of the hearing of your subcommittee with respect to this legislation.

Let me point out also, that Vermont is one of the smallest States in the Union in terms of population, with an extremely limited tax base from which to draw revenues for the performance of vital State and local functions. Nevertheless, Vermont has always stood high in comparison with its sister States in the effort it makes to finance essential services at the State and local level. To date it has been difficult for the State to raise its share of the cost of the Interstate Defense Highway because of its low population, and the very large interstate mileage.

It is in consequence most important to preserve the apportionment of A-B-C funds at the present level, if this meets with the approval of the Congress.

Sincerely yours,

ROBERT T. STAFFORD,
Member of Congress.

HIGHWAY DEPARTMENT OFFICE MEMORANDUM

MARCH 15, 1963.

To: Russell A. Holden, Commissioner of Highways.
From: H. F. Farrington, highway planning engineer.
Subject: Senator Aiken's letter of February 27, 1963.

We have reviewed the proposal relative to an amendment to section 104(b) (3) of title 23, United States Code, relative to the apportionment of Federal-aid urban highway funds to Vermont and Connecticut.

It would appear that Vermont has been receiving some preferential treatment over other States especially since the 1960 census, for this reason.

In the original 1944 selection of urban areas, using the town population, each town had an incorporated or unincorporated area within its boundaries that could be designated as an urban place having the required 5,000 population. In one case, White River Junction, it was necessary to include the villages of Wilder and Hartford and contiguous areas to obtain the required population.

The 1960 census, however, included the population of the town of Middlebury for the purposes of allocating urban funds, and after investigating every possibility we were unable to designate an urban area within the town that would include the required 5,000 population and in which urban funds could be spent. Also, since the original selection was made, the population of the town of Rockingham has decreased to the point that we have been unable to designate Bellows Falls Village and adjacent area as an urban area; however, again this population has been included for purposes of urban fund allocation under existing law.

The proposed amendment would exclude Middlebury and Rockingham, towns in which we have no designated urban area, plus the town of Hartford, in which we do have a designated area; and also the town of South Burlington, a portion of which is annexed to our Burlington-Winooski-Essex Junction urban area. If these latter two towns are excluded under the proposed amendment, presumably we would be unable to spend any urban funds in these areas, which are certainly urban in fact.

The loss of \$72,664 in urban funds from our present allotment of \$320,993 represents a loss of 23 percent, which would be a serious blow to our Federal-aid urban program, for which we have insufficient funds even now to take care of all requests.

Possibly some compromise, which would continue to include town population as a basis for urban apportionment, if an urban place within the town containing the required 5,000 population can be designated, would be a legitimate recommendation. This would result in our retaining our White River Junction and South Burlington urban areas.

It is estimated that the loss of population for the towns of Middlebury and Rockingham in computing urban apportionment would decrease our annual urban appropriation by approximately half of the proposed decrease.

[Telegram]

MOUNT HOLLY, N.J., May 28, 1963.

Hon. FRANK THOMPSON,
Old House Office Building,
Washington, D.C.:

We respectfully submit our support of your efforts in revising title 23, Federal Code, section 109, subsection b, in the submission of the following resolution passed by the Board of Chosen Freeholders of Burlington County, N.J., May 28, 1963, at a regular stated meeting.

"Whereas the Board of Chosen Freeholders of the County of Burlington is extremely concerned about the construction of Route 295 bridges and whereas the Subcommittee on Roads of the House Public Works Committee is meeting in Washington, D.C., this week to consider amendments to the Federal Code, title 23; and

"Whereas the committee is considering House bill 6140 specifically or a modified version changing the reference date of 1975 in section 109, subsection b, to 1984 and whereas the 1984 date should be a great help in getting adequate design widths for bridges over Route 295 in Burlington County by virtue of the fact that good design criteria dictate a minimum of 20 years from completion of project: Now, therefore, be it

"Resolved by the Board of Chosen Freeholders of the County of Burlington, That we go on record with the House Subcommittee on Roads supporting an amendment in the United States Code, title 23, section 109, subsection b, to the effect that the minimum design criterial date be 1984; and further support a design criteria based on AASHO recommendation of '20 years from date of completion of a project'; and be it further

"Resolved, That the board of freeholders seek a hearing before the Subcommittee on Roads and present this resolution and our engineering report for their consideration and action."

Respectfully submitted for the board of freeholders.

DONALD S. McBRIDE,
Director of Roads and Engineers.

Mr. FALLON. The subcommittee will be in recess until 10:30 tomorrow morning.

(Whereupon, at 11:20 a.m., the subcommittee recessed, to reconvene at 10:30 a.m., Thursday, June 13, 1963.)

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