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INCREASING THE FEDERAL MATCHING SHARE FOR HIGHWAY CONSTRUCTION

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HEARING

BEFORE THE

COMMITTEE ON TRANSPORTATION

OF THE

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 952

A BILL TO PROVIDE STATES UNABLE TO MEET THE
MATCHING REQUIREMENTS FOR FEDERAL-AID HIGHWAY
FUNDS WITH MONEYS TO COVER FEDERAL HIGHWAY
ADMINISTRATION APPORTIONMENTS

H.R. 3786

AN ACT TO AUTHORIZE THE INCREASE OF THE FEDERAL
SHARE OF CERTAIN PROJECTS UNDER TITLE 23, UNITED
STATES CODE, AND

H.R. 3787 and H.R. 3130

ACTS RELATIVE TO THE PREPARATION OF
ENVIRONMENTAL IMPACT STATEMENTS

APRIL 30, 1975

SERIAL NO. 94-H13

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CONTENTS

OPENING STATEMENTS

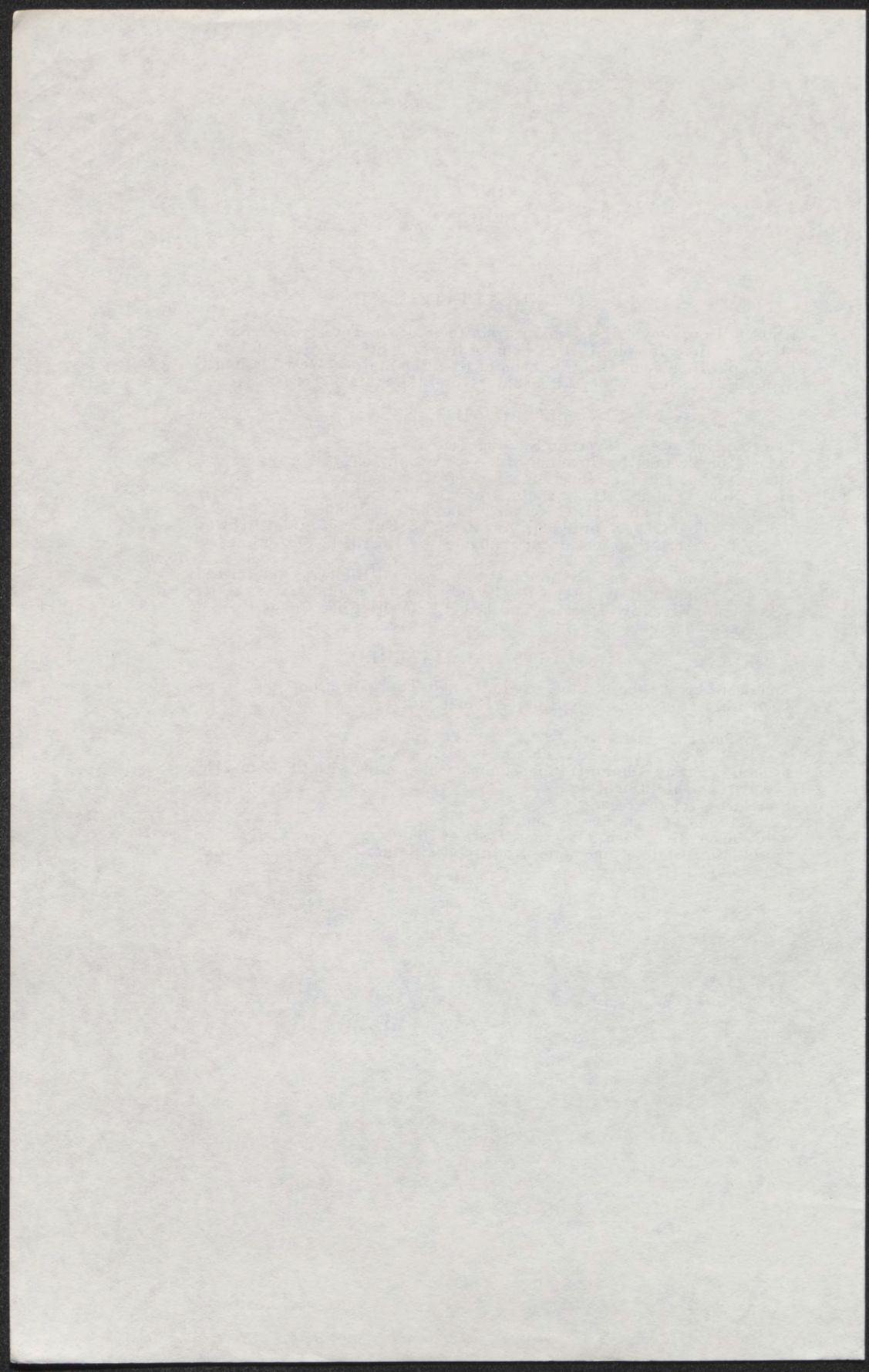
	Page
Bentsen, Hon. Lloyd, U.S. Senator from the State of Texas.....	1
Montoya, Hon. Joseph M., U.S. Senator from the State of New Mexico..	5
Randolph, Hon. Jennings, U.S. Senator from the State of West Virginia..	2
Stafford, Hon. Robert T., U.S. Senator, from the State of Vermont.....	4

LIST OF WITNESSES

Blanton, Hon. Ray, Governor, State of Tennessee.....	54
Evans, Hon. Daniel J., Governor, State of Washington.....	59
Mandel, Hon. Marvin, Governor, State of Maryland.....	58
Moss, Hon. Frank E., U.S. Senator from the State of Utah.....	52
Rampton, Hon. Calvin L., Governor of the State of Utah.....	56
Ritchie, William S., Jr., president, American Association of State Highway and Transportation officials, accompanied by Henrik E. Stafseth, execu- tive director.....	46, 66
Tiemann, Hon. Norbert T., Administrator, Federal Highway Administra- tion, accompanied by Joseph R. Coupal, Deputy Administrator; Lester P. Lamm, Executive Director, and David E. Wells, Chief Counsel.....	13
Prepared statement.....	30

ADDITIONAL MATERIAL

American Association of State Highway and Transportation Officials, re- sponses to questions from Senator Randolph.....	68
Bills, reprints of:	
S. 952.....	8
H.R. 3786.....	11
Federal Highway Administration, summary of meeting with the Council on Environmental Quality.....	21
Statements for the record:	
National Association of Counties.....	70
Walker, Hon. Dan, Governor, State of Illinois.....	62
Washington, State of, memorial from the legislature.....	69



INCREASING THE FEDERAL MATCHING SHARE FOR HIGHWAY CONSTRUCTION

WEDNESDAY, APRIL 30, 1975

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
SUBCOMMITTEE ON TRANSPORTATION,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to call, in room S-407, the Capitol, Hon. Lloyd M. Bentsen (chairman of the subcommittee) presiding.

Present: Senators Randolph (chairman of the full committee), Bentsen, Montoya, Burdick, and Stafford.

OPENING STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator BENTSEN. Gentlemen, if you will take your seats, we will get this meeting underway.

Today we are going to receive testimony from Governor Tiemann and five of the Nation's Governors concerning the problems affecting our Federal-aid highway program.

The principal focus of today's hearings will fall on measures introduced in the House and Senate to temporarily increase the Federal matching share for highway construction.

On May 5, we will hear testimony concerning various House bills which seek to clarify a decision of the Second Circuit Court of Appeals, which required environmental impact statements to be prepared by the Federal Highway Administration rather than the States. We have asked some of today's witnesses to offer their comments on both subjects to avoid their having to return at a later date.

Since late last year, when the Nation's unemployment problems became acute, I had been urging the President to release impounded highway funds so that we could put people to work, not on public service jobs but on long-term quality improvements in American life. On February 12, the President ordered the release of \$2 billion in impounded highway funds.

In a meeting with Governors several weeks ago, however, this committee received reports that the present condition of the economy and rising highway maintenance costs were beginning to restrict the capability of some States to match previously released funds. Because of our deep concern to see that released highway funds and future highway funds have the maximum employment impact, this subcommittee will explore the problem with Federal and State officials to determine what our course of action should be.

With unemployment now at the highest level in 34 years, with the prospect for even greater joblessness over the next several months, with unemployment in the construction trades now exceeding 15 percent, it is imperative that we give careful attention to the full utilization of highway funds.

The House has passed H.R. 3786, which would increase the Federal matching share for Federal-aid highways and certain mass transportation projects up to 100 percent of the increase in the Federal share before January 1, 1977. We have that proposal before us, as well as other measures introduced in the Senate by Senators Montoya and Moss.

In any examination of this question, the committee will know how many States need suspension of the matching requirement in order to take advantage of the \$2 billion, how many need the flexibility offered in the House bill which offers States the opportunity to shift highway funds among most of the major categories, and whether the time constrictions for repayment in the House bill will render the legislation ineffective.

We want to explore these questions without preconceptions; however, I should note that the Federal-aid program has long been based on cooperative relationship between the Federal Government and the States. In whatever the committee decides to do on a temporary basis, we will want that shared responsibility to be maintained.

The other House bills, H.R. 3130 and H.R. 3787, are directed at a problem which recently arose in the Northeast because of a decision of the Second Circuit Court of Appeals.

The decision, which required environmental impact statements to be prepared by Federal, rather than State agencies, had a disruptive effect on highway projects in three States.

Although matters have improved in recent weeks, the committee is interested in determining whether projects remain stalled, whether legislation is necessary to get projects moving again, and whether the language of the House bill accomplishes the dual purpose of clarifying congressional intent on environmental impact statements and allowing properly prepared highway projects to continue.

We will have a joint hearing with the Interior Committee on these latter bills on Monday of next week.

Senator BENTSEN. I recognize the chairman of the full committee.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Mr. Chairman, under your able leadership, the Subcommittee on Transportation meets today on what may not receive too much comment, or coverage in the press.

The issue before the Subcommittee on Transportation this morning was raised, ironically, by the release of \$2 billion in impounded highway funds last February. While this action by the President was welcomed, we were informed that some States could not take advantage of this opportunity to accelerate their roadbuilding.

A decline in State highway revenues, plus the fact that the additional funds were unexpected and thus could not be planned for meant that these States would have to stand by and watch the new

money go elsewhere. The result would be the obligation of these funds but their uneven distribution among the States.

The hearing today was scheduled to explore the nature and extent of the State matching shortage and to consider what Federal remedies for this situation might be necessary and feasible.

Relief legislation was passed by the House of Representatives earlier this month, and that measure—H.R. 3786—is before the Senate Public Works Committee. Another bill—S. 952—was introduced in March by Senator Montoya and approaches the problem from another direction. In addition, a third proposal was introduced by Senator Moss and is pending before the Finance Committee.

There are several facets of the matching issue which must be discussed this morning. At a time when inflation is reducing the buying power of the highway dollar, States should be able to utilize all of the Federal-aid funds available to them. This is true not only because improved roads are needed, but also because of the substantial antirecession factor built into the highway program.

In moving toward these goals, we must be careful that we assess the situation correctly. In receiving the matching problem with our witnesses, I hope we can determine which States cannot match Federal highway funds and the reasons for this inability. Is it a temporary problem caused by the sudden release of the \$2 billion, or is there likely to be a long-term shortage of State revenues that will affect construction for several years? What would be the effect on other State activities if revenues were reallocated to match highway funds?

The proposals for easing the ability of the States to obligate the newly available money generally center around loans or advances of various sorts. While the problem may be immediate, I hope we will keep in mind that these loans must be repaid.

After the February release of the impounded money there was considerable pressure to obligate these funds before the end of the fiscal year on June 30. The passage of Senate Resolution 69 last week released the remainder of the highway funds and thus alleviated the need to meet the June 30 deadline. We will want to know if this easing of pressure also eased the matching problem.

The question of shifting funds among the various categories of highways also is important to our purposes. Some States may have adequate matching funds but have nearly reached their apportionment limits in the classifications where they are able to move most rapidly. There is, therefore, an understandable desire to increase the flexibility among categories—especially since we want to expand the highway program to create jobs. We must review, however, the impact of such shifting on the overall highway program.

The witnesses who will appear today all are deeply concerned with the highway program. Each of them is experienced in some facet of building roads. Our colleague, Senator Moss, has looked at the problem carefully and will discuss his bill. I am particularly pleased to have with us Governors Rampton, Evans, Mandell, and Blanton—the men who face the responsibility for providing State funds. Governor Tiemann shared these duties before he became Federal Highway Administrator. And from West Virginia, highway commissioner William S. Ritchie, Jr., will look at the problem as president of the American Association of State Highway and Transportation Officials.

With the opportunity to counsel with men such as these, I know we can find the proper answer to this problem.

Thank you, Mr. Chairman.

Senator BENTSEN. Are there other members of the committee?

**OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR
FROM THE STATE OF VERMONT**

Senator STAFFORD. Mr. Chairman, I have a brief opening statement. I will not have to ask unanimous consent about placing it, because in the order of things I know it will come third after your own and that of the chairman of the full committee.

The Transportation Subcommittee today convenes the first of 2 days of hearings on immediate problems affecting orderly progress in the Federal aid to highway program.

During these hearings subcommittee members will seek assistance from witnesses in assessing the magnitude of the problems and what, if any, legislative relief is required. A highway project in my own State is at the center of one issue we must confront.

The Second Circuit Court of Appeals in enjoining construction of a segment of the U.S. Route 7 near Bennington, Vt., has ruled procedures followed by the Federal Highway Administration did not comply with the requirements of the National Environmental Policy Act. This decision brought about a virtual halt in the major Federal highway projects in three States under the jurisdiction of the second circuit, Vermont, New York, and Connecticut.

Today and next Monday this subcommittee, together with the Environmental and Land Resources Subcommittee of the Interior Committee will inquire into the reasons for an extent of the standstill in new highway construction in the area I just mentioned.

We will investigate whether administrative action can alleviate the problem. If it is evident that legislative relief is necessary, we will have to determine what language will permit needed highway projects to move forward while insuring the intent and procedures of the National Environmental Policy Act are complied with.

We will receive testimony from witnesses well qualified to assess the practical and legal consequences of any decision we might make.

I am certain with the benefit of the record we make during these hearings the committees involved can act to protect the environment while alleviating threatened disruption of worthwhile highway construction and increased unemployment.

The other issues we face concern temporary adjustments which may be needed to permit States to take advantage of recently released highway funds. I think it is important for all of us participating in these hearings to keep in mind that we are dealing only with what measures, if any, are needed in this short run to promote effective use of increased highway funds. Any changes made at this time could restrict our ability later in the year to responsibly and comprehensively revise the highway program.

I look forward to hearing from Governor Tiemann, Mr. Ritchie, and the panel of State Governors this morning. I am hopeful they will provide us with factual information upon which we can base productive and responsive decisions.

Thank you.

Senator BENTSEN. Mr. Montoya?

**OPENING STATEMENT OF HON. JOSEPH M. MONTOYA, U.S. SENATOR
FROM THE STATE OF NEW MEXICO**

Senator MONTOYA. I have a brief statement. If you will excuse me later, since I am a member of this subcommittee, I will have to chair some hearings before the Appropriations Committee this morning starting at 10 o'clock.

Senator BENTSEN. Senator Montoya, I plan to testify before the Appropriations Committee at 10 o'clock. We will get someone to fill in for both of us.

Senator MONTOYA. As you know, I am one of the sponsors of S. 952, our esteemed chairman has joined me in sponsoring this as well as Senator Bayh, Senator Magnuson, and others since we introduced the bill.

I stated on March 5 when I introduced this legislation that it was designed to give badly needed financial relief to States which find themselves unable to make full use of their apportionments of the trust fund to build roads. Two very significant events have occurred since that time to increase the urgency of the need.

First, unemployment has risen to even higher levels than on March 5, and is going even higher. Each billion spent on roads will generate 125,000 to 150,000 jobs of various types, which ranks among the best investments in curing unemployment that is available to us in any public works. In March, the Department of Labor reported 8.7 percent, which did not include over a million who have quit looking for a job this year. To further deepen the crisis, the construction industry has now reached 24 percent on an unadjusted basis. Neither figure shows signs of bottoming out. Despite optimistic predictions by the administration, the unemployment crisis continues to deepen. It will require action, not predictions, to cure unemployment. This bill is a vital part of that action.

Second, Senate Resolution 69 on April 23 rejected President Ford's deferral of \$9.1 billion of authorized trust fund expenditures. This money, paid into the Treasury through road use taxes, is now available to build roads. However, many States are in a very weak position to use the money.

The 1975 Joint Economic Report supports the urgent nature of the unemployment crisis, on page 27, where it states, "At unemployment rates of 8 percent and higher, a federally administered public service employment program is also needed. This should provide for 500,000 jobs at an 8-percent unemployment rate and an additional 500,000 jobs for each percentage point by which the unemployment rate exceeds 8 percent. Federal administration of this program is desirable for the following reasons:

"(1) A number of appropriate work projects are primarily or exclusively Federal in nature. These include work on a national transportation system, work in the national parks, forests, and recreation areas, work on Federal demonstration projects, and work of many other types.

"(2) The Federal Government, more readily than State and local governments, can provide work on temporary projects of 1 to 2 years' duration, avoiding the problem of displacement of regular employees by special public service workers.

"(3) Unemployment is especially severe among persons between the ages of 16 and 25. In February the unemployment rate was 20 percent for those age 16 to 19 and 13 percent for those age 20 to 24. While the Federal component of the public service employment program should be open to persons of all ages, it would be especially suitable for these younger persons who are more mobile and better able to accept employment of a temporary nature and who would benefit from the job experience provided by this program."

I stated on October 9, 1974, on the occasion of the EPA waste water construction hearing, that if present trends—of unemployment—continue, 15 percent could become 25 percent by the end of 1974. We cannot take the position that there is no answer. There is an answer, and part of that answer must come out of our hearings today. The prediction of 25 percent unemployment was unfortunately accurate, and the upper limit is not in sight. I trust that the second part of my prediction, that there is an answer and part of that answer must come out of our hearings today, will also prove to be true. The hearings on October 9 produced a quickened pace of road construction.

The opinion can be heard that increased Federal assistance is not vital; that the States will find some way to respond if the usual Federal share is provided or if a short-term loan is offered.

There was a revealing article in the Washington Post on April 25 entitled, "U.S. Funds Unclaimed By Local Governments. Several billion dollars in Federal grants—for programs ranging from drug control to flood prevention—have yet to be claimed by local governments." Speaking to the road issue, the article continues, "Interstate highway funds are also plentiful. Massachusetts and the District of Columbia have already rejected \$70 million to build Interstate highways, and many millions earmarked for other States have yet to be obligated under the 1973 Highway Act, which expires June 30. For instance, as of March, Delaware had claimed only \$3 million of an allotted \$24 million, and Iowa had received only \$5 million of \$128 million."

Department of Transportation spokesmen say in some cases local governments can't meet the 10 percent matching requirements on Interstate funds and the 30 percent matching requirements on Interstate Federal highways. Many projects, as in the case of the District, are also threatened by citizen opposition to highways or adverse court decisions.

In most cases, unused Federal funds revert to the agencies that dispense them and are added to the next year's allotments—but not always to the same States. Thus, alert local governments can increase their share by claiming unused funds.

"That's one good feature of people not taking what they're entitled to," said Richard Eckfield, who has been retained by the cities of San Jose, Dayton, and Seattle, to oversee their acquisition of Federal funds. "I am in the midst of building my own interstate in San Jose out of funds not claimed by other States—and I've already got money for a few miles."

Federal money, without making it usable, is obviously not enough. There is further compelling evidence in the recent "Joint Economic Report" that States cannot carry an increased burden. It states:

State and local governments have experienced a significant deterioration in their fiscal position in the past year. The aggregate State and local government deficit for 1974 was above \$7.5 billion, compared to a \$4 billion surplus in 1972 and a balanced position in 1973. This weakened financial position of State and local governments is a result of both inflation and recession.

Later the same report continues:

Unfortunately, Federal Government assistance to State and local governments has not been sufficient to stabilize State and local finances in the present situation. In 1974, when inflation and recession were already beginning to squeeze State and local governments, the real value of Federal grants-in-aid actually declined 2 percent (NIA basis) from the level of aid offered in 1973. For 1975 and 1976, when the impact of inflation will continue and the impact of recession will be even more severe, the fiscal year 1976 budget offers less than a 6-percent increase in Federal assistance. Furthermore, Federal aid to State and local governments will decline for the third successive fiscal year as a percentage of total Federal outlays, as a percentage of total domestic Federal outlays, and as a percentage of State and local expenditures.

The alternative to increased Federal funding of the sagging roads construction program is increased State taxation to raise revenues for the State matching share. Certainly such taxation, however painful to less prosperous States, would be preferable to losing job intensive road construction projects and Federal apportionments. If it is done, it will just as certainly undermine Federal Government efforts to initiate an economic recovery by returning purchasing power to consumers through easing the tax burden. We must face the hard fact that we cannot halt deepening national unemployment by looking to the States. I strongly favor a financially sound and conservative approach to road construction, with its excellent job opportunities. But we cannot equate a conservative approach with a do-nothing approach. What it takes to halt deepening unemployment is jobs, and what is now required to translate released trust funds into jobs is financial relief to the States. I trust that this hearing will give us full information to proceed without delay to give the States that relief.

That is my position on this legislation, Mr. Chairman. I hope Governor Tiemann can address himself to the particular needs of the States and to the contribution that this legislation may make to ease the unemployment situation in this country.

Thank you very much.

Senator BENTSEN. Thank you very much, Senator.

[S. 952 and H.R. 3786 follow.]

S. 952

IN THE SENATE OF THE UNITED STATES

MARCH 5, 1975

Mr. MONTOYA (for himself, Mr. BAYH, Mr. MAGNUSON, and Mr. RANDOLPH)
introduced the following bill; which was read twice and referred to the
Committee on Public Works

A BILL

To provide States unable to meet the matching requirements for
Federal-aid highway funds with moneys to cover Federal
Highway Administration apportionments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. For the purpose of assisting any State in
4 meeting the requirements for State funds to match any sums
5 apportioned to such State under the provisions of section 104
6 of title 23, United States Code, prior to June 30, 1975, the
7 Secretary of Transportation is hereby authorized upon the
8 request of any State to provide an increase in the Federal
9 share payable for any project. The increase of the Federal
10 share shall be made available from future apportionments of

1 Federal-aid highway funds for that State: *Provided, That*
2 the amount of such increase in the Federal share shall not
3 exceed two-thirds of the State's share of the cost of such
4 project.

5 SEC. 2. The total amount of any increases in the Federal
6 share as are made pursuant to section 1 above, shall be repaid
7 to the Federal Government by making deductions of sums
8 equal to the amounts so expended for projects on the Inter-
9 state System, Federal-aid primary system, Federal-aid sec-
10 ondary system, and the Federal-aid urban system in two
11 equal installments from amounts available to such State for
12 expenditure on such highways under any apportionment
13 heretofore or hereafter authorized to be appropriated therefor
14 for the fiscal years ending September 30, 1977, and Sep-
15 tember 30, 1978.

16 SEC. 3. Approval by the Secretary of Transportation of
17 any project on which the Federal share is increased under
18 provisions of this Act shall be deemed a contractual obliga-
19 tion of the Federal Government for the payment of such
20 increase in the Federal share.

21 SEC. 4. It is hereby declared to be the intent of Congress
22 that sums made available under section 1 shall be supple-
23 mentary to any prior apportionment of funds to the State for

1 expenditure on the Interstate System or any Federal-aid
2 system and is available for State matching of any Federal-aid
3 funds withheld from apportionment prior to January 31,
4 1975.

94TH CONGRESS
1ST SESSION

H. R. 3786

IN THE SENATE OF THE UNITED STATES

APRIL 14, 1975

Read twice and referred to the Committee on Public Works

AN ACT

To authorize the increase of the Federal share of certain projects under title 23, United States Code.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding any other provision of law, the Fed-
4 eral share of any project approved by the Secretary of
5 Transportation under section 106 (a), and of any project for
6 which the United States becomes obligated to pay under
7 section 117, of title 23, United States Code, during the period
8 beginning February 12, 1975, and ending June 30, 1975
9 (both dates inclusive), shall be such percentage of the con-
10 struction cost as the State highway department requests,
11 up to and including 100 per centum.

1 SEC. 2. The total amount of such increases in the Federal
2 share as are made pursuant to the first section of this Act
3 for any State shall be repaid to the United States by such
4 State before January 1, 1977. Such repayments shall be de-
5 posited in the Highway Trust Fund. No project shall be
6 approved under section 106 or section 117 of title 23, United
7 States Code, for any project in any State which has failed
8 to make its repayment in accordance with this section until
9 such repayment has been made.

10 SEC. 3. Notwithstanding any other provision of law,
11 any money apportioned under section 104(b) of title 23,
12 United States Code, for any one Federal-aid highway system
13 in a State (other than the Interstate System) may be used
14 during the period beginning February 12, 1975, and ending
15 June 30, 1975 (both dates inclusive), for any project in
16 that State on any Federal-aid highway system (other than
17 the Interstate System). The Secretary shall deduct from
18 moneys apportioned to a State under section 104(b) of
19 title 23, United States Code, after the date of enactment
20 of this section for a Federal-aid highway system on which
21 money has been used under authority of the preceding sen-
22 tence, an amount equal to the money so used, and the de-
23 ducted amount shall be repaid and credited to the last appor-
24 tionment made for the system for which the money so used
25 was originally apportioned. Each deduction made under the

- 1 preceding sentence shall be at least 50 per centum of the .
- 2 annual apportionment to which the deduction applies until
- 3 full repayment has been made.

Passed the House of Representatives April 10, 1975.

Attest:

W. PAT JENNINGS,

Clerk.

Senator BENTSEN. Governor Tiemann.

**STATEMENT OF HON. NORBERT T. TIEMANN, ADMINISTRATOR,
FEDERAL HIGHWAY ADMINISTRATION, ACCOMPANIED BY
JOSEPH R. COUPAL, DEPUTY ADMINISTRATOR; LESTER P. LAMM,
EXECUTIVE DIRECTOR, AND DAVID E. WELLS, CHIEF COUNSEL**

Mr. TIEMANN. Thank you very much, Mr. Chairman.

For the record I would like to submit the formal statement which I will not read because it is rather lengthy. I will spare you the agony of that. I have synopsisized the lengthy version and I would like to make some comments based on the original testimony. [The statement appears at p. 30.]

As was indicated in your comments and comments by other members of the committee, the President, in February, released \$2 billion additional, making the total obligation level for fiscal year 1975, \$6.6 billion, up from \$4.6 billion. The basic reasons were the growing unemployment in this Nation.

We agree as Senator Montoya said, each \$1 billion generates approximately 125,000 on- and off-site jobs, as has been stated on other occasions.

The time of the release, the States began to tell us they had matching problems. They did not have sufficient cash on hand to meet their share of the Federal-State effort.

At the same time they were finding that they were utilizing most, or a lot of the apportionment in the various categories of highway programs. In some cases where a particular category had sufficient apportionment, they had no projects ready to go.

During the past several weeks we have discussed this with several congressional committees and we again repeat here today with regard to the matching provisions, that we continue to oppose the principle of waiving State matching requirements.

We do not believe that the States can really utilize much above the the \$6.6 billion that has already been proposed. For evidence of that, our latest survey of the States indicates that only five States could take advantage of postponing any matching funds. The five States indicate they could utilize \$176 million this fiscal year. Of that \$176 million, one State indicated it could use \$100 million. We are a little suspect of that figure.

I am saying we do not believe that the waiver of the matching is really an overriding national consideration.

With reference to that feature of H.R. 3786, which permits a State to borrow temporarily from one class of apportioned funds for use on another class, and under its terms these loans also would be repaid, we support this proposal. We feel that the States need the flexibility to implement their programs. And consonant with that position in the 1975 Federal highway legislation coming up shortly, we will be combining the 38 various categories into 4 categories.

Senator BENTSEN. If you will excuse me, Governor, I have to testify before another committee. I will be back in a few minutes.

Mr. Chairman, would you chair?

Senator RANDOLPH [presiding]. Please proceed.

Mr. TIEMANN. The four major categories that will result will be the interstate, urban, rural, and safety. This we feel is compatible with our thinking on H.R. 3786.

With regard to H.R. 3787 and H.R. 3130, both of which have passed the House, there is need, we feel, to clarify the National Environmental Policy Act. As Senator Stafford pointed out, the second circuit court's decision was contrary to the circuit decisions in five other cases, and we feel that either one of these bills would give us the relief that we seek.

We should point out to you that the true success of NEPA is measured in the environmentally unsound projects that never surface, rather than the number of projects rejected or modified by the environmental impact statements.

H.R. 3130 and H.R. 3787 recognize these facts and we basically support them.

I would like to point out that H.R. 3130 could cause some unintended problems for other agencies. The present wording in the bill, State agency or official, is susceptible to an interpretation which would include only statewide agencies or officials.

This would make the present grant procedures for some Federal agencies voidable. So in order to overcome this ambiguity and avoid litigation, we suggest the bill be amended to specifically provide that any EIS might also be prepared by both State and local officials operating under State law.

We also suggest with regard to H.R. 3787, that it be broadened to include all States rather than just the three States that are subject to the court decision in the case of the *Conservation Society of Southern Vermont v. Secretary of Transportation*.

Mr. Chairman, this concludes my brief synopsis of our formal testimony. We would be pleased to answer any questions you may have.

MATCHING PROBLEMS—FISCAL YEAR 1976

Senator RANDOLPH. Thank you very much, Governor, and Administrator, and, I wish to say, dedicated public official.

In reference to Senate Resolution 69, its passage in the Senate completes the congressional action. It is not, as you understand necessary to have House action. What do you think its passage and the release of funds will mean to the matching situation in 1976 for the States?

Mr. TIEMANN. I suspect, Mr. Chairman, that this will depend on the action of the administration after June 30, 1975, as to whether or not another deferral resolution might be forthcoming.

Assuming—only making an assumption—that the funds are still made available after June 30, 1975, that the States' matching funds problems might be much more serious than they are now.

STATES WITH PRESENT MATCHING PROBLEMS

Senator RANDOLPH. What are the States by name, if you would give them to us, who have this serious matching problem now?

Mr. TIEMANN. Yes. The five States that indicated problems in a recent survey are Arizona, Delaware, Illinois, Kansas, and Ohio.

Mr. LAMM. In addition to those five States, Pennsylvania has also indicated some difficulty with State matching funds, but our information is that their problem would not be cured by any short-term loan provisions, such as are contained in the legislation which you are considering now.

The problem in Pennsylvania would apparently be cured only by long-term 100-percent Federal provisions for the entire Federal-aid highway program.

Senator RANDOLPH. Thank you, Mr. Lamm.

While we are talking of the States in question, I would like to inquire, because you mentioned it, what is the approach adopted recently in the Commonwealth of Virginia to meet what was said to be a problem there?

Mr. LAMM. In some of our earlier estimates, Mr. Chairman, Virginia was indicated as being a State which had some temporary matching problems and, therefore, would not be able to utilize any of the \$2 billion release.

Our current information is that the Governor has provided additional funds that existed within the budget of the State of Virginia from other categories outside of the province of the department of highways—

Senator RANDOLPH. \$25 million.

Mr. LAMM. Yes, sir, this is our information. As a result, the short-term problem which the State of Virginia was facing for the period between now and June 30, 1975, is not now a problem.

I might mention that there have been actions taken in several other States also. Each time we go out and survey the individual States to determine what their matching fund problem is, we have a different list of States. The total has never exceeded 10 or 11, but during the period since February 11, some Governors and State legislatures, to their credit, have taken the bull by the horns and solved their temporary matching problem.

Senator RANDOLPH. What is the problem in Arizona?

Mr. LAMM. Mr. Chairman, we may want to supplement these remarks with additional information for the record. Arizona's problem, as I understand it, is what you might call the start of a long-term problem.

I might characterize Arizona as being a State that depends extensively on collections of State highway user revenues to finance its highway programs.

Senator RANDOLPH. Now, apparently we are going to have very severe revenue reductions from reduced travel that brings in funds from the consumption of gas. Does that situation bear on Arizona or other States?

Mr. LAMM. Yes, sir. It bears on Arizona and it also will weigh heavily on the future funding potential of 27 or 28 other States which have similar provisions within their State budgets.

REDUCED TRAVEL AND FUEL CONSUMPTION

Senator RANDOLPH. Would you wish to make a policy expression, anyone, as to why there is a reduction in the use of gasoline for the operation of motor vehicles?

Mr. TIEMANN. I would think there are several reasons. One is the conservation measures that were introduced, first of all by the Congress, establishing the 55-mile-an-hour speed limit. You were a leader in enacting this into law. Several other conservation measures were enacted and were imposed by the States.

Additionally our carpooling efforts, and the awareness of the people of this country that we simply cannot afford to buy the fuel at the higher prices, and the price itself all are reasons why there is reduced travel.

Senator RANDOLPH. There are many different situations and we do realize that. Some States with tourist or resort areas, with people coming long distances to those States, would be affected by less consumption of gas.

LONG-TERM FUNDING PROBLEMS

Mr. LAMM. Mr. Chairman, you did refer to this question of the potential long-term funding problems that some States would face in your opening remarks, and I believe you also indicated you were interested in having our opinion as to whether the current bills which you are considering would provide any relief.

In our estimation the long-term problem cannot be solved by H.R. 3786 or S. 952, or Senator Moss' bill or any of the other temporary relief provisions being considered.

We have, of course, considered this as a potential problem facing the Federal-aid highway program and have concluded that the 1975 administration highway legislation ought to contain some provision which would help this situation. The treatment which we would propose at this point will probably involve a partial return to the States of the Federal highway user revenues which presently come into the highway trust fund.

These funds could be made available to individual States and at their option could be used to make up the deficit in local collections of highway user revenues.

Senator RANDOLPH. You speak for the administration, and Mr. Ritchie will be speaking for the States from the standpoint of their administration of Federal and State funds.

He will discuss these matters as you have. But I thought very quickly we ought to run through these five States, and possibly the sixth State. I am not certain we need to go into detail, but if there is something you could make a quick comment on in reference to Delaware?

PROBLEM IN DELAWARE

Mr. LAMM. Delaware has been right from the initial survey a State which has indicated that they have problems with the limitations on their current budget.

I am not certain that the problem is anything other than the fact that the legislature has already agreed on a fiscal 1975 budget and there isn't the flexibility within the Delaware budget to shift funds from one account into another.

I am not certain Delaware faces the same long-term funding deficit which Arizona would be faced with.

Senator RANDOLPH. Of course, as in any State—I presume the former Governor here would agree with me—legislative bodies can be brought back into session with specific subject matters.

Senator STAFFORD. And some danger, Mr. Chairman.

PROBLEM IN ILLINOIS

Senator RANDOLPH. How about Illinois?

Mr. LAMM. Illinois, Mr. Chairman, has been one of the leaders in the effort to obtain long-term financial relief for the State matching requirements in the Federal-aid program.

I would believe that Illinois would prefer to have permanent relief as opposed to the provisions of H.R. 3786 or S. 952. But, here again, I would not presume to be speaking for the State. It appears they do have a serious problem, as Governor Tiemann indicated. They have indicated to us that if their temporary matching fund problems are solved, they could utilize an additional \$100 million of Federal-aid highway funds between now and June 30, which would indicate a sizable problem.

On the other side of the coin, they have already indicated in comparison with the roughly \$200 million which was their share of the original \$4.6 billion highway program, that they have an ability to finance an additional \$73 million without the financial problems being solved.

So that I would not want to give the impression that no additional employment will be generated in the State of Illinois without the passage of the matching fund relief.

PROBLEM IN KANSAS

Senator RANDOLPH. Kansas, sir.

Mr. LAMM. Kansas, I believe, Mr. Chairman, is another State similar to Arizona which depends on State collection of highway user revenues, and will be facing a recurring financial problem in fiscal years to come.

PROBLEM IN OHIO

Senator RANDOLPH. Ohio?

Mr. LAMM. Ohio, I would characterize again, based on our limited information which we have here in Washington, as being a State which would need to enact additional revenue sources at the State level in order to prevent this situation from happening in future years.

I might mention that several of the States which originally appeared on our survey to have matching problems have solved those problems

by enacting or proposing the enactment of additional highway user revenues at the State level, which is an obvious alternative to increasing the Federal matching share.

PROBLEM IN PENNSYLVANIA

Senator RANDOLPH. You mentioned Pennsylvania. I was not sure of the relationship of Pennsylvania to the five other States.

Mr. LAMM. Pennsylvania is not on the list of five States. Our information is that the State of Pennsylvania's matching fund problem is severe enough as to be unsolvable by the provisions of the temporary financial relief which you are considering here, Mr. Chairman.

It appears that—and here once again, I would not presume to speak for the Governor of the State of Pennsylvania—the State would prefer to have permanent relief in terms of a total waiver of the State matching requirement to the Federal-aid highway programs, which as Governor Tiemann has mentioned, we would oppose as not being in the Federal interest.

GENERAL SOLUTION TO CASH PROBLEMS

Senator RANDOLPH. Then as I understand it, Governor, the statement that you have made is that the cash problems which exist within the States, will have to be resolved by the procedures within the States themselves?

Mr. TIEMANN. Yes, Mr. Chairman. We feel very strongly, and having been on the other side of the table where the Governors are now, I believe in this situation they simply have to exercise the leadership that is necessary and go to their legislatures and ask for the additional revenues.

I reject out of hand the theory that Governor Shapp of Pennsylvania mentioned to me sometime ago, when he said the States do not have the ability to go into deficit financing, and they want a waiver of the matching requirement because the Federal Government does have that ability.

That is a different kind of economic situation than I was brought up on. We think the States can meet this problem, if they want to.

We also believe if the additional funds are available out of the so-called impounded funds in fiscal 1976, the matching requirement will be more serious then than it is today.

Senator RANDOLPH. If we put up some of the money at the beginning, bond them and let them pay later, would that throw everything out of gear?

Mr. TIEMANN. I would go back to my original statement; we don't feel that five States indicating a problem is an overriding national issue. Whatever type of solution there might be would be of benefit to these States.

Senator RANDOLPH. I am sure others will speak on this subject. I would ask the privilege of questions that may be given to you for responses for the record, so that we may have a complete analysis of this problem Senator Stafford?

ENVIRONMENTAL IMPACT STATEMENTS

Senator STAFFORD. Thank you, Mr. Chairman. I appreciate the appearance of Governor Tiemann and his colleagues this morning, and I shall start with a frankly, somewhat parochial view of the situation I mentioned in my opening statement concerning Vermont, Connecticut, and New York, the three States involved in the opinion of the U.S. Second Circuit Court of Appeals decision.

I might start, Governor Tiemann, by just asking you if you have any preference between the two bills which have thus far passed the House?

Mr. TIEMANN. We feel the bill that applies nationwide would be more applicable in this instance than the one that addresses itself just to the three States.

Senator STAFFORD. That is H.R. 3130, I believe.

Mr. TIEMANN. That is correct.

Senator STAFFORD. And that would be probably the basis for your recommendation that the other bill, if it became a bill the Senate acted on, should be broadened to cover all of the States, so we get a nationwide solution here, not one just narrowed to a few States?

Mr. TIEMANN. That is right. In my original comments and testimony before prior committees in the House considering both bills, we indicated that same thing. H.R. 3787 is a perfectly good bill if it were amended to include all States.

POSSIBLE ADMINISTRATIVE REMEDY

Senator STAFFORD. This Senator as an individual agrees with that position, that in spite of the fact my basic interest is my own State, I think the solution should be if we can achieve it, a nationwide solution.

During the hearings, Governor, before the House Public Works Committee, reference was made to meetings between the Federal Highway Administration and the Council on Environmental Quality representatives. The stated purpose of these meetings, as this Senator understands it, was to seek an administrative remedy to the problem posed by the Second Circuit Court of Appeals decision.

A report on H.R. 3130 alludes to the fact that CEQ and the FHWA reached no agreement as to a satisfactory administrative solution.

Could you tell this subcommittee what actions were explored in those meetings and why no administrative relief could be agreed upon?

Mr. TIEMANN. With your permission, I would ask Dave Wells, the chief counsel, to make comment on that.

Mr. WELLS. Senator, the Department represented us and I was not there at those specific meetings to which you refer. We can provide for the record what was discussed.

Senator STAFFORD. You are not in a position to tell us even a broad view?

Mr. LAMM. We could characterize the nature of the meetings, but we would like to supplement this for the record. The opinion of

the Council of Environmental Quality has been and still is, perhaps, that the regulations which the Department of Transportation and FHWA issued to implement the Environmental Policy Act provide sufficient mechanism to carry out the reforms that were suggested by the second circuit court decision.

However, in our estimation, our regulations already provide the basic framework for the State role and the Federal role, and we feel that there is no way we could rewrite the regulation to make it any more clear and feel certain that we could avoid additional court decisions such as the second circuit decision.

ROLES OF FHWA AND CEQ

Senator STAFFORD. For the record of this committee, could you briefly describe the role of the Federal Highway Administration and CEQ in terms of the regulations which you now have and their applications in the Federal-State role?

Mr. WELLS. Senator, the Council of Environmental Quality issued general guidelines for all Federal agencies. Then each Federal agency, taking those guidelines, applied them to its own program law and issued regulations implementing the guidelines, the National Environmental Policy Act, and the program law of the agency. And that is what we did.

Our program, as you know, is one in which we worked very closely with the States as partners. So in order to develop that, we have through our regulations put in an action plan which requires each State to have a unit that is capable of doing environmental work, processing environmental impact statements, having the necessary disciplines on board; all the different qualifications that one would need in order to do an impact statement adequately, and then we have very detailed procedures.

In fact, they constitute about 11 pages of fine print in the Federal Register, of what will go into an impact statement by the State.

With this type of approach, we work very closely with the State in the field. We have area district engineers and division engineers in each State, and they supervise and monitor the State's preparation of the impact statement. That is what the procedures call for. And the impact statement is prepared in this manner: It comes up in a draft to our Division Engineer. Our Division Engineer adopts that statement as his own, because he has worked very closely and his people, his employees have worked very closely in its preparation, with the State personnel.

He is therefore prepared and able to adopt that statement as his own. That statement is then processed forward to the region where it gets an independent review, a completely independent review by the regional administrator and his staff. At the region we have an environmental team of multiple disciplinary people that have all of the same qualifications that we require the State to have, and it gets another review at that level.

Then, of course, it comes on into Washington and is reviewed here and goes over to the Council of Environmental Quality as a final statement. It also gets, of course, a review by all the other Federal agencies, which is another independent review when it is circulated in Washington.

That is basically the outline of how it works.

Senator STAFFORD. Thank you, Mr. Wells. I think this subcommittee would appreciate the gist of the actions explored between CEQ and FHWA.

Since time is of the essence, we would appreciate them as quickly as they could be furnished to the subcommittee.

Mr. TIEMANN. We will submit them.

[The following information was subsequently supplied:]

SUMMARY OF THE MEETING BETWEEN FHWA (OST) AND CEQ

Inquiry was made of the Federal Highway Administration (FHWA) by Senator Stafford on April 30, 1975, as to why we disagreed with the Council on Environmental Quality (CEQ) and did not feel a change in our regulations could solve the problems engendered by *Conservation Society of Southern Vermont v. Secretary of Transportation* (C.A. 2, No. 73-2629), concerning preparation of environmental impact statements.

The court's holding appears on a slip opinion p. 707 where it states:

"Turning now to the cases before the court, in *Conservation Society of Southern Vermont*, we affirm the judgment of Judge Oakes that the requisite EIS be prepared by the FHWA, the responsible Federal agency."

On slip opinion p. 699, it is recognized the test is whether the Federal agency conceived, wrote or edited the EIS, not whether it is substantively adequate. In the opinion below Judge Oakes recognized that Vermont initiated writing of the EIS because of FHWA regulations, and that there was frequent communication between the State and the FHWA as the EIS was being prepared. 362 F. Supp. 627, 629-630 (D. Vt. 1973). The responsible Federal official for the work communicated with the State two or three times a week during the statement preparation. The FHWA Division Engineer for Vermont visited the site of the proposed work and discussed its environmental considerations with the State: its environmental agency representatives and its environmental consultants. Upon submission of the proposed final EIS to the FHWA Regional Office for independent interdisciplinary review, the statement was rejected and sent back to the State for further discussion of future land use effects of constructing the highway, relocation of people and businesses and the effect on local governments' tax base.

The appeals court held this was not enough. It felt that the Federal agency must produce its own statement, as NEPA placed a primary and nondelegable duty on the Federal agency to genuinely prepare the statement with its own personnel. Slip opinion pp. 703, 705. Similarly, in dealing with *Vermont Natural Resources Council v. Brinegar*, consolidated in the same appeal, the court stated that although there was extensive Federal involvement and contributions in the preparation of the EIS, this was not enough under NEPA. Slip opinion p. 707. Thus it appears that under the Second Circuit's interpretation of NEPA nothing short of writing of the statement *ab initio* satisfies NEPA.

This case voids the present FHWA regulations which require substantial Federal involvement in the preparation of the impact statement. 23 C.F.R. Part 771, 790, 795, 39 F.R. 41804-41821 (December 2, 1975). Part 795 sets out guidelines for the organization of the State highway departments to deal with environmental matters and to prepare impact statements. Part 790 sets out the necessity and scope of public hearings. See also 23 C.F.R. 771.12(c). Part 771 addresses the preparation of an EIS in great detail. Instructions on just the content of the statements comprise three closely printed pages in the Federal Register. 39 F.R. 41811-41813 (December 2, 1974). The preparation of the draft EIS is a joint effort of the State and the FHWA Division office, which must agree and take responsibility for the statement (23 C.F.R. 771.12):

"(a) The draft EIS shall be prepared by the HA in consultation with the FHWA for major actions which are Federal actions and which significantly affect the quality of the human environment. The administrative record should include evidence of the FHWA involvement in the development of the EIS, particularly the consultations with the HA on environmental determinations, decisions or conclusions.

"(b) The FHWA Division Engineer shall review the draft EIS and if in agreement with the scope and content, take responsibility for the draft EIS by signing and dating the title page before it is released for comment."

The Final Impact Statement and the comments received from the public and other agencies are reviewed by FHWA on a Regional level to assure Federal agreement in the identification and evaluation of the environmental impacts (23 C.F.R. 771.14):

"(a) A final EIS shall be prepared by the HA in consultation with FHWA for major FHWA actions which significantly affect the quality of the human environment.

"(b) The Regional Federal Highway Administrator shall review the final EIS, including the comments and the evaluations of comments attached thereto, before processing the statement. Appropriate members of the FHWA Regional Office staff, such as engineering, environmental design, right-of-way, civil rights, etc., should be an integral part of the review process. The final EIS shall also be reviewed for legal sufficiency by the FHWA Chief Counsel or his designee. When the Regional Federal Highway Administrator is satisfied with the scope, content and the identification and evaluation of potential significant environmental impacts affecting the quality of human environment, the final EIS shall be processed in the manner specified by paragraphs (c) through (e) of this section."

The CEQ proposal for avoiding the impact of the Conservation Society case would merely amend 23 C.F.R. 771.12 to provide:

"(a) An environmental assessment shall be prepared by the HA in consultation with the FHWA for major actions which are Federal actions and which significantly affect the quality of the human environment. The administrative record should include evidence of the FHWA involvement in the development of the assessment, particularly the consultations with the HA on environmental determinations, decisions, or conclusions.

"(b) The FHWA Division Engineer shall review the environmental assessment and make changes, if any, as necessary to assure that all relevant factors are included and that all reasonable alternatives are properly considered. The Division Engineer, after making his own evaluation, if in agreement with the scope and content of the environmental assessment as submitted or it may have been so revised, may determine that it meets all the requirements for a draft EIS. If so, he should take responsibility for it as such by signing and dating it as a draft EIS before it is released for comment."

This appears to us to be merely a cosmetic of changing the name of an environmental impact statement to an environmental assessment prior to the FHWA's division engineer's acceptance of the statement. No more is required than in the present regulations which already have the Division Engineer only approving the statement if he agrees with its scope and content. He assures that all relevant factors and alternatives are considered. If he does not agree with its scope or content, he does not sign it until it is revised to meet the requirements of law.

The CEQ proposal, in our estimation, added nothing. Under either form of the regulations, district courts in the circuit will require genuine Federal preparation of the statement as defined by the appeals court. It does not meet the requirements of the *Conservation Society* case of having the statement genuinely "prepared" by FHWA as the court used the term. We do not think a change of name would have led to any different conclusion concerning an alleged improper delegation of preparation.

Further, at a minimum, it would lead to additional litigation holding up projects to see if the revised language met the requirements of the *Conservation Society* case. The issue must be squarely faced so that projects may be substantively evaluated and carried forward if meritorious rather than cosmetically changing regulations in such a manner as to only lead to further litigation and additional injunctions.

It should be noted that five courts of appeals have specifically approved the preparation for an EIS by someone other than the Federal agency. See *Iowa Citizens for Environmental Quality v. Volpe*, 487 F. 2d 849 (8th Cir., 1973); *Life of the Land v. Brinegar*, 485 F. 2d 460 (9th Cir., 1973), cert. denied 414 U.S. 1052 (1974); *Citizens Environmental Council v. Volpe*, 484 F. 2d 870 (10th Cir., 1973), cert. denied 416 U.S. 936 (1974); *Movement Against Destruction v. Volpe*, 500 F. 2d 29 (4th Cir., 1974), aff'g. 361 F. Supp. 1360 (D. Md., 1973); *Sierra Club v. Lynn*, 520 F. 2d 43 (5th Cir., 1974); and *Finish Allatoona's Interstate Right v. Volpe*, 484 F. 2d 638 (5th Cir., 1973), aff'g. 355 F. Supp. 933 (N.D. Ga. 1973); but see *Swain v. Brinegar* (7th Cir., April 30, 1975). The principal district court cases are in accord. *National Forest Preservation Group v. Volpe*, 352 F. Supp. 123 (D. Mont., 1972); *Citizens for Mass Transit v. Volpe*, 357 F. Supp. 1269 (D. Ariz., 1973) and *Citizens Airport Committee v. Volpe*, 351 F. Supp. 52 (E.D. Va., 1972).

In each of these cases as in others, the EIS prepared in accord with our regulations would have been struck down by the Second Circuit, whereas these courts approved the statement and the FHWA procedures. We do not feel that a semantic change in our regulations to call the State submission an environmental assessment, rather than an environmental impact statement, as CEQ has suggested, would change the result in court.

SEGMENT INVOLVED IN COURT DECISION

Senator STAFFORD. Was the length of segment involved in the second circuit court decision at Bennington, was that a major factor in the decision?

Mr. WELLS. Yes, sir. The segmentation issue was raised in that case and adversely ruled on from our viewpoint. We have asked that the Solicitor General also appeal or seek certiorari on that point, as well as the preparation of the impact statement.

Senator STAFFORD. How long was that segment?

Mr. WELLS. 208 miles, I believe. Two hundred and eighty miles, excuse me.

Senator STAFFORD. This would be the entire route from Connecticut way north then?

Mr. WELLS. Yes, sir.

Senator STAFFORD. That was not all involved just in the *Bennington* decision as far as the segment of highway which construction was sought, was it?

Mr. WELLS. No; the entire route, sir, could be said to be largely in a planning stage. It was in the planning process. It was something projected in the future. The Bennington part, of course, was I think ready to go to construction or they had started construction.

Senator STAFFORD. A very small piece, wasn't it?

Mr. LAMM. Yes; it was a small piece. It included just a bypass of the Bennington urban center itself. In our estimation the bypass could stand as a usable segment of highway without regard for future plans for development from Long Island Sound to the Canadian border, on the entire route of U.S. 7.

Senator STAFFORD. So the impact statement actually thrown out by the circuit court was one involving only a very short piece of highway, in effect, the bypass of Bennington, which is a town of about 10,000 or 12,000 people; is that correct?

Mr. LAMM. Yes, sir, this is true.

CURRENT PROJECT PROCEDURES

Senator STAFFORD. Thank you. Exactly what, Governor, and your colleagues, are your current procedures for advancing projects in the three-State area affected by the court decision, aside from the enjoined section at Bennington?

Mr. WELLS. Senator, when the decision came down it was analyzed and we issued a memorandum. This, of course, was done through our regional administrator. We in the Office of the Chief Counsel felt that the court's decision really had the effect of striking down our regulations and procedures, and, therefore, we could not proceed with any projects until we could come up with a new procedure.

Subsequently, after further discussions with the Solicitor General and the General Counsel and discussions in the Federal Highway

Administration, I sent to Regional Administrator Kirby a memorandum suggesting that we try to move some projects on the basis that he complete a personal review of the projects himself.

If he concluded that he would have written the EIS the same way as the State had written it, and it was just to be a rewriting job in order to make it meet muster, then to try to pass that project. I have testified previously that it is my opinion that this procedure would not be invulnerable. It is a procedure that is very risky and I feel that the district courts would strike down projects passed under this procedure. But we felt that we should try to move something and not have a complete halt.

Even so, I feel that under the second circuit decision, if any project so approved is attacked in the Federal district court, that the project will be enjoined.

PROJECTS MOVING FORWARD

Senator STAFFORD. Do you know of any projects moving forward in the three-State area?

Mr. WELLS. When we testified, I think 2 weeks ago, one such project had been received by the regional administrator, and I believe he had approved it. Maybe Mr. Lamm has other information on that.

Mr. LAMM. There are projects moving in the three affected States, Senator Stafford, although there are, as well, other projects which are held up, even under the more permissive procedures which Mr. Wells has just enumerated. We have had indicated to us by the State of Vermont that they intend to put about \$27 million worth of highway projects under obligation during fiscal 1975.

Now, that represents a \$9-million increase over what their original share of the \$4.6 billion program would have been. So as an illustration, the projects are certainly continuing to flow in Vermont as they can under the existing provisions of the second level advice we have given.

In the other two States in the second circuit, New York and Connecticut, the program is slow. Neither State would estimate at this time an ability to use funding over and above their share of the original \$4.6 billion highway program.

The problems, though, in those States, tie more closely to specific problems in developing individual projects, and not entirely to the second circuit court decision.

PROJECTS IN OTHER AREAS

Senator STAFFORD. What about the rest of the country? Are projects going ahead in the other circuit court of appeals areas?

Mr. TIEMANN. There were five circuits that ruled favorably—agreed with our procedure, and those projects are going. I think there are two presently in litigation.

Mr. WELLS. We have a case pending in the seventh circuit which we understand simply by the grapevine is not going to be handed down because they are waiting to see what happens in Washington. But, nevertheless, the issue is pending there. It could be adverse. They could follow the second circuit. It is possible.

Mr. LAMM. The program in general is moving quite well around the country, Senator Stafford. Governor Tiemann's full remarks, which he did not read in their entirety, give you an estimate that as of last Friday, April 25, the highway program nationally had proceeded to the extent that a total of 32 States had already exceeded their original share of the \$4.6 billion program, and in effect were beginning to benefit from the February release of the President's.

PUBLIC PARTICIPATION

Senator STAFFORD. At what point does the public have an opportunity and right to participate in the actions or decisions of the Federal district regional highway officials?

Mr. TIEMANN. Each State has prepared an action plan in which they have outlined the point in a project where the public participation is the most advantageous from the standpoint of the public. This would be at the public hearing stages of which there are at least two. In some cases there are more. So the public does in fact have ample opportunity to make comment.

Mr. WELLS. May I supplement that, Senator, by pointing out that our regulations require that when the draft environmental impact study is ready, the State is to hold a public hearing on the statement and the alternatives are then presented to the public at the hearing for comment. The public comes in and comments on the location, the various possible locations of the highway. And after that, the State selects the alternative that has the least adverse impact on the environment, and then the Federal Highway Administration reviews that and approves it.

EFFECT OF DECISION ON FHWA EMPLOYMENT

Senator STAFFORD. Can you give us any estimate as to how many additional employees FHWA would need to prepare environmental impact statements for projects in Vermont, Connecticut, and New York, or for that matter, the whole country?

Mr. WELLS. Senator, I cannot give you figures based on my own study, but Regional Administrator Kirby testified in a similar hearing recently that in his region, I believe it would take 300 additional people.

Mr. TIEMANN. I think as I recall in earlier testimony, Senator, that we concluded that nationwide we would probably have to add about 1,800 to 2,000 people.

STATE COSTS

Mr. COUPAL. It might be of interest to hear of the report of one of the States, California, on what it spent in direct costs for environmental impact statements, and that was \$50 million.

Senator STAFFORD. Thank you.

Senator RANDOLPH. How was that money spent?

Mr. COUPAL. The cost of preparing the impact statements and the litigation involved, since the Environmental Impact Act has been adopted for highway projects.

Senator RANDOLPH. How many people involved?

Mr. COUPAL. We can find that out from the State of California and submit it to you.

Mr. TIEMANN. That is in 1 year.

[The following information was subsequently supplied:]

MANPOWER USED IN CALIFORNIA FOR PREPARING EIS STATEMENTS

The California Department of Transportation estimates that a total of 470 man-years were expended in F.Y. 1974 toward the preparation of Environmental Impact Statements. California also estimates that approximately 500 man-years will be exerted in F.Y. 1975.

The following paragraph relating to cost is extracted from a letter addressed to the FHWA by the Director of Transportation, State of California:

"In July 1973, we did a bench mark estimate of the identifiable costs incurred to that time by the emphasis on environmental issues brought about by Federal and State legislation, i.e., NEPA, CEQA, the Coastal Zone Protection Act, etc. The accumulative cost was approximately \$38 million. We now find that upon completion of the 1974/75 Fiscal Year we will have expended another \$22.8 million for a total of \$60.8 million because of these issues."

CURRENT FHWA PROCEDURES

Senator STAFFORD. With respect to specific language in 3130, is it your opinion that current FHWA procedures require that Federal officials participate in the preparation of an impact statement?

Mr. TIEMANN. What we are essentially saying is that the legislation would in fact reinforce our procedures; that is, the Federal Highway Administration is involved in the preparation of this from its inception. As I indicated in my comments, the real impact of NEPA is the number of undesirable projects that do not surface as the result of the required preparation of an EIS.

INTERSTATE SYSTEM TRANSFER OF AUTHORITY

Senator STAFFORD. With respect to letting States use apportionments from one category on a different system, what is your opinion of extending the provisions in H.R. 3786 to include transfer of funds to and from the Interstate System category?

Mr. TIEMANN. We are opposed to transferring the apportionments from the Interstate System. The transfer between other categories, we fully support.

Senator STAFFORD. Thank you very much. I appreciate the testimony and I yield the floor.

TIME FRAME FOR TRANSFERS

Senator BENTSEN. Thank you very much, Senator Stafford.

Governor Tiemann, when you are talking about transfer of funds to the different categories, you said a good part of that flexibility would be lost and negated because of the time frame.

What if you had an extension of that beyond the July 1 date and put it out to September 30?

Mr. TIEMANN. Obviously, any additional time would be of benefit to the States as projects progress and are available for letting. This would be to the State's advantage.

Senator BENTSEN. Would you have a recommendation as to the time frame?

Mr. TIEMANN. Yes, generally speaking, we would support the provisions of the bill and whatever the time frame, the longer the time frame, the more beneficial to the States.

Senator BENTSEN. What do you think is reasonable in the way of a time frame?

Mr. TIEMANN. I would think that, as I indicated, June 30 is not sufficient time. September 30 would be a little more time. I suspect you should probably give the flexibility until the 38 categories are reduced to 4, by the 1975 legislation.

Mr. LAMM. Senator Bentsen, the problem that exists now will somewhat be alleviated from the State's point of view when the 1977 apportionment of regular Federal-aid funds is made. This is scheduled to take place before January 1, 1976. Any relief I would suppose ought to be extended no longer than the date at which the 1977 apportionments are made.

Senator BENTSEN. Now, one of the reasons you said you opposed the 100-percent match was that it might establish some kind of precedent. But it is true that we put that kind of an increase in, in the 1958 recession and it did not become permanent.

Mr. TIEMANN. That is correct. We still believe it is bad precedent, however, and the precedent could be set that every time there is a problem, the States come to the Federal Government for relief. That is a bad precedent.

1975 HIGHWAY LEGISLATION

Senator BENTSEN. You said in the administration's 1975 highway bill you would meet many of the problems we were talking about; and that would be before us shortly. As I recall, it was a couple of months ago it was going to be shortly. What does "short" mean? How shortly is shortly?

Mr. TIEMANN. I wish I could be more definitive. The FHWA input finished a long time ago. It went through the various stages before it finally progressed to its present position, which is on the desk of the Director of the Office of Management and Budget.

Senator BENTSEN. We run into a real time problem here, as you know, Governor. We are having our hearings, trying to expedite, move along, and then to have it brought to us late in the game, then have the executive branch say, "Congress dragged its feet," this is hard to take.

Mr. TIEMANN. I think there was a mitigating circumstance I should point out. First, the legislative review by the Secretary was completed by Secretary Brinegar. At that time the Secretary resigned and Secretary Coleman came on board. During his confirmation hearing, he indicated he would re-review the 1975 legislation. That necessarily took additional time. There was a delay which was unavoidable.

PROJECT LEAD TIME

Senator BENTSEN. We have been told from time to time that the average time from the beginning of the planning of a project to the beginning of its construction is about 7 years.

Now, the House bill tries to define the responsibility on the environmental impact statement as to which agency.

If that legislation is not passed, what kind of time frame are we talking about then? How much do you think that adds to that 7 years?

Mr. TIEMANN. It obviously would add some, at least initially. If we were to staff up, prepare all the EIS's ourselves, we would need to hire the additional 2,000 people. First of all, we would have to get the authorization to add that many positions.

Second, we would have to take the process and revamp it, though it is working very well. Even though 7 years is not a good number, we think the process of preparation is good. It would add to the 7 years.

By what amount, I could not make a definitive determination at the moment. It certainly would add some time.

Mr. LAMM. One way of estimating the increase would be if it were presumed that the question of the level of the Federal involvement in EIS preparation remained an open issue, we could speculate that many more highway projects would come to litigation on that point.

We found that the process of arriving at a judicial decision takes 2 to 3 years, during which time no work goes on in development of the projects. So that is a pure addition of time prior to the development of a project.

Senator BENTSEN. Senator Burdick, do you have a question?

APPLICABILITY OF PROPOSED LEGISLATION

Senator BURDICK. Mr. Chairman, during the course of the questioning this morning, particularly with Senator Stafford, it was clearly developed that any change you should make should apply to all 50 States. Do you still adhere to that principle?

Mr. TIEMANN. Yes, sir.

INTERSYSTEM APPORTIONMENT TRANSFERS

Senator BURDICK. In your statement, you say you are referring to the feature of H.R. 3786 which permits a State to borrow for the period from February 12 to June 30, 1975. These are loans that must be repaid, you state.

You do not oppose this because it gives the States greater flexibility in the use of their apportionments.

You have just testified that only five States are not in a position to match. I presume those would be the five States you would make loans to? Who would be permitted to make these loans?

Mr. TIEMANN. The States would not be borrowing from one another.

Senator BURDICK. They would be borrowing from the funds.

Mr. TIEMANN. From whatever apportionment there is a surplus in.

Senator BURDICK. What about the 45 States that either through their legislature or otherwise taxed their citizens, borrowed moneys, transferred funds to make this possible, and they will not be in a position to borrow the money.

Mr. LAMM. Senator Burdick, we have also inquired from the States as to which States would take advantage of this provision of H.R. 3786, which we call the mix provision. The entire bill might be called a mix-and-match bill. The mixing of apportionments also has a relatively small potential of States planning to use that between now and June 30, 1975.

Our first estimate showed that about nine States would transfer somewhat less than \$200 million collectively from one of their own apportionments into another.

Senator BURDICK. Aren't they borrowing from funds to make up the proportion they did not match?

Mr. LAMM. No, sir, it is not a question of removing the State-matching requirements. They would continue to have to match the funds under the apportionment which they end up using. Let's take North Dakota, for instance.

North Dakota very quickly uses up its Federal-aid secondary money. This provision would permit North Dakota, if it were in the position of having no apportionment remaining in the secondary program, yet having a secondary project ready to go, to shift funds from the Federal-aid primary account into the secondary account, and then advance that project.

I might mention though that North Dakota is not one of the nine States which proposed to use this feature.

Senator BURDICK. I understand that. They are borrowing from their own categories, is that right?

Mr. LAMM. They are in effect advancing a project for which they would have to wait another 6 months otherwise.

Senator BURDICK. That makes me feel somewhat better. North Dakota has—let me tell you what they have done on the floor here.

We in North Dakota managed our operations and funds in such a manner as to be able to match all Federal funds released. We are in a position to catch up on apportionment as the authorized matching requirement. This has been accomplished by reducing personnel, reducing maintenance programs. We have been helped by State legislative action and the highway distribution fund and depositing driver license revenues in the highway distribution fund.

We have done a lot of things to keep this program going. I did not want to be singled out by being penalized by taking all those extra steps.

Mr. LAMM. We would congratulate North Dakota for having advanced the program as well as they have. Our estimates show the final 1975 total for the State is going to be more than twice as much as they would originally have obtained out of the original \$4.6 billion release.

So North Dakota obviously is a State which is profiting from the addition of the release of obligating authority.

Senator BURDICK. To make it perfectly clear, the borrowing you talk about is from other categories which the States are entitled to?

Mr. LAMM. It is within a single State and doesn't entail any waiving of Federal match.

Senator BENTSEN. Thank you, Senator Burdick.

If there are no further questions, thank you, Governor Tiemann, Mr. Wells, Mr. Coupal, and Mr. Lamm, for your testimony.

[Governor Tiemann's prepared statement follows:]

STATEMENT OF NORBERT T. TIEMANN
ADMINISTRATOR

FEDERAL HIGHWAY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

BEFORE THE SENATE COMMITTEE ON
PUBLIC WORKS

April 30, 1975

Mr. Chairman and Members of the Committee:

On February 11, 1975, the President directed that an additional \$2 billion in obligating authority be immediately released to the States for use in expanding their "Federal-aid Highway" programs. The release increased the total available for these programs from the \$4.6 billion originally planned for F.Y. 1975 to \$6.6 billion. It was made from contract authority already enacted by Congress through F.Y. 1976, and it reduced the amount of that authority which had been impounded at that time from \$11.1 billion to \$9.1 billion.

The objectives of the February release which permitted the \$6.6 billion program were straightforward and simple. It was designed to help reverse the growing trend in unemployment while, at the same time, making a useful and productive capital investment with Federal funds.

Almost simultaneously with the announcement of the expanded highway program, it was reported from several quarters that many of the States would not be able to participate because they lacked the cash necessary to meet their shares of this joint Federal-State effort. Estimates of the number of States with matching problems have varied widely, ranging from only a few to 20 or 30.

Concurrently with this particular issue, another impediment to program expansion was identified in some quarters. Several States were dismayed to find that they had already utilized all or most of their apportionment for a particular category in which projects were ready to move ahead. In other categories where they did have a balance of apportioned authority, projects were not ready for one reason or another. Thus, they were stymied in their ability to make the most effective use of the additional release.

Both Houses of Congress have introduced legislation which will give temporary relief to the matching problem. The bill recently passed by the House of Representatives also contains a provision to partially alleviate the impasse resulting from lack of authorizations by permitting certain inter-system transfers.

We are here today to discuss with you the relative merits and needs for this prospective legislation -- S. 952 dealing with the matching problem, and, H.R. 3786, dealing with both matching and transfer of authority.

Before commenting on these proposals, I wish to report on the progress that has been made so far in the Federal-aid Highway programs. At the time of the release, more than seven months into Fiscal Year 1975, program obligations were \$2.7 billion. As of April 18, they were \$4.3 billion. In the ten weeks since the release, the States have obligated \$1.6 billion, or twice the rate which has been our normal experience for this period of the year. In the two and one-half months remaining, they must obligate an additional \$2.3 billion if we are to meet our goal of \$6.6 billion. This is a formidable challenge, but we are optimistic that it will be met.

I should point out, however, that we do not believe the program can be increased much above the \$6.6 billion level. Give or take a small percentage, this is about optimum considering both the capacity of the program itself to expand and the constraints which it faces, such as environmental issues, alignment controversies, transit substitution questions, and others.

I will now turn to the matching issue.

We have examined this problem in some depth over the past several months. We have discussed various elements of it before this Committee, the Senate Appropriations Subcommittee, the House Public Works Committee, and the House Appropriations Subcommittee in recent weeks.

H.R. 3786 and S. 952 both include provisions which permit Federal payments for certain projects approved between February 12 and June 30, 1975, to be increased above the statutory Federal share if so requested by the State. In

the House Bill, the increased payment may cover 100 percent of the State's share. In the Senate Bill, the increase may not exceed two-thirds of the State's share.

Both Bills also require that any increased payments made thereunder be repaid at a future date. In effect, they provide for relatively short-term interest-free loans.

We continue to oppose the principal of 100 percent Federal funding because we do not believe it is necessary nor that it will achieve the intended or desired results.

As I mentioned earlier, we do not think the program can extend much above the \$6.6 billion level for F.Y. 1975 regardless of this proposed relief in matching requirements. Past surveys have shown that fewer than eight States have cash flow problems, and many of these can be resolved through other avenues by the States themselves. In some cases they already have.

Furthermore, such legislation has several potential drawbacks:

- 1) Even though temporary, such legislation may establish precedence for a permanent position.
- 2) The anti-recessionary potential of the \$2 billion release may be lost if it does not result in a truly expanded highway construction program, which, without matching funds, would be reduced by about 20 percent.
- 3) If perpetuated, such a course of action could become inflationary in itself.
- 4) There are potential inequities in that several States have used most or all of their current apportionments and could not participate in these legislative features.

I now refer to the feature of H.R. 3786 which permits a State to "borrow," again temporarily for the period from February 12 to June 30, 1975, from one class of apportioned

funds for use on projects on any Federal-aid highway system other than the Interstate System. Under terms of the proposed legislation, these too are loans and must be repaid.

We do not oppose this proposal for we feel it has some virtue in helping the States to implement their own priorities by giving them greater flexibility in the use of the rather narrow categorical apportionments. This would also permit them to more readily concentrate on labor-intensive projects.

Some States have been quite successful in several of their categorical programs and already have begun obligating their apportionments from the F.Y. 1976 authorizations. As they approach the apportionment ceiling in one or more categories, there is a reduction in their choice of projects because they are limited to those categories which still have balances of authority. These may not be the most important to the State nor the most effective in helping to reverse the economic recession.

The proposed legislation could alleviate the situation, yet, because of its temporary nature and payback feature, would not change the program mix which Congress initially authorized in the substantive legislation.

I will also point out that one of the elements in our proposed 1975 highway legislation that will shortly be submitted to the Congress is to combine all of the various present categories into four broad program areas: Interstate, Urban, Rural, and Safety. The objective is to increase the flexibility of State and local jurisdictions in setting their own priorities and moving ahead with the possible, rather than being hamstrung with the impossible. The transfer authority feature of H.R. 3786 is compatible with our thinking in this respect.

I would also like to address H.R. 3787 and H.R. 3130, both of which have passed the House. These bills would clarify the intent of the National Environmental Policy Act (NEPA). Such a clarification is necessary as a result of the decision of the United States Court of Appeals for the Second Circuit in the case of Conservation Society of Southern Vermont v. Secretary of Transportation. The holding in that case was that NEPA requires the FHWA to prepare environmental impact statements (EIS) ourselves, rather than requiring our grantees, the State highway agencies, to prepare them under FHWA supervision.

Federal-aid highways are planned, designed, constructed, owned, and maintained by State highway agencies. To qualify for Federal aid, they must meet Federal statutory and regulatory standards with respect to all aspects of highway development. These requirements are not only the technical ones of design and specifications, but also those of Federal policies on relocation housing, fair labor standards, civil rights, public participation, and, of course, environmental concerns. Federal approvals are required at various steps along the way in the development of a particular highway project, but the responsibility for meeting these requirements is placed on the States. In the 59 years since the enactment of the original Federal-Aid Road Act of 1916, the States have all developed highly sophisticated highway agencies to comply with Federal law. The Federal Highway Administration has remained throughout essentially a reviewing agency. It maintains a relatively small division office in each State, which works closely with the State highway agency, providing advice and assistance to the State officials and employees who actually do the basic work. An additional review staff is maintained in regional offices for broader policy questions.

When the requirement that environmental considerations be documented was added to the list of Federal requirements for highway projects by the enactment of NEPA, the responsibility for preparing EISs was assigned to the States, under the oversight of FHWA and with the cooperation and assistance of FHWA. Recognizing that the NEPA is addressed to Federal agencies and covers Federal actions, our procedures provide that the environmental impact statements prepared by the States would have to be reviewed substantially and adopted as FHWA statements.

Under this program, those who work out the details of a project take environmental considerations into account at the earliest stages because they know that they must document these considerations for later FHWA approvals. NEPA is thus made a live substantive requirement in the highway development process, rather than a dry procedural one that must be met by someone else later on. Delays are reduced by this approach, while the responsibility for Federal agency oversight is met. If FHWA personnel were to produce EISs on Federal-aid projects at the review stage, they might well have to

keep sending projects back to the States for modification in the light of their after-the-fact environmental analysis. We believe that the true success of NEPA is measured more in the number of environmentally unsound projects that are never proposed than by the number of projects rejected or changed on the basis of an EIS. By the time a project is formally submitted for Federal-aid, considerable time and effort has been spent, and changes are wasteful and difficult. If the environment is taken into account at all stages, project approvals should flow smoothly. Now that we and the States are familiar with the NEPA process, they do. We therefore think it best that the States continue to prepare impact statements, with FHWA cooperation, assistance, and oversight.

H.R. 3130 and H.R. 3787 recognize these facts. Accordingly, the FHWA basically supports their provisions.

H.R. 3130 has a more widespread application and we would like to address its provisions at this time. It would have country-wide application to the activities of all Federal agencies. It permits the preparation of the EIS by State agencies and officials in a manner consistent with Part 770 of FHWA regulations. The FHWA furnishes guidance

through consultations in the preparation of the statements. At a later stage, the FHWA makes an independent examination of the statement prior to its approval.

We would like to point out that H.R. 3130 might cause unintended problems to other Federal agencies, under their present procedures. This would depend upon judicial interpretation of the phrase "State agency or official." The Department of Transportation interpretation of the phrase would include all agencies or officials created under State law, including municipal officials and officials of regional authorities. Other Federal agencies besides FHWA, such as the UMTA, FAA, EPA, and the LEAA have statements prepared for them by such local and regional authorities.

The present wording in the bill, "State agency or official" is susceptible to an interpretation which would include only statewide agencies or officials. Such an interpretation would make the present grants and grant procedures of some Federal agencies voidable.

In order to resolve this potential ambiguity and avoid litigation over the issue, we suggest that the bill be amended to specifically provide that an EIS might also be prepared by both State and local officials and agencies operating under State law.

H.R. 3787 would provide a solution for the FHWA in the three States which are subject to the court decision in the Conservation Society of Southern Vermont case, but the problem might still arise in other States. The question is presently pending in the Court of Appeals having jurisdiction in Illinois, Indiana, and Wisconsin. Also, a District Court in New Hampshire has ruled that the EIS must be physically written by the Federal Government. Therefore, we recommend that the limitation be removed and the legislation broadened to encompass all States.

Other Federal activities may also be involved. A case is presently pending involving a grant to a local airport in Syracuse, New York. H.R. 3787 should be broadened to include all Federal activities.

The highway program in Connecticut, Vermont, and New York, the three States affected by the Conservation Society of Southern Vermont decision, has been dealt a severe blow. The FHWA has been obliged to halt approvals for most highway projects that require EISs in those States pending preparation of impact statements by our own staff. This has imposed an additional delay of at least six months to the processing of such projects. As a result of this delay, and because a possible Supreme Court hearing on an appeal is still some time distant, we have concluded that the 1975 construction season will be lost for major projects in these States. This delay comes at a time when the States can ill afford the consequent unemployment.

It is our belief that nothing in NEPA prohibits the States from writing impact statements under the guidance of a Federal agency, and subject to that agency's study, review, and adoption. If the procedures are changed at this time, it might expose the thousands of projects approved under them to the potential of an injunction.

The value of NEPA lies only partly in the requirement that an EIS accompany a proposed project through existing agency processes. A further contribution is NEPA's requirement that agencies with "jurisdiction by law or special expertise" review and comment on the proponent agency's environmental assessment. Such agencies are to be agencies without direct involvement in the project. In other words, agencies without any institutional bias also contribute to the planning process.

The decision in the Conservation Society of Southern Vermont case seeks to circumvent an alleged bias in the State highway agencies. We do not believe this is a serious problem on highway projects since all FHWA statements are circulated for critical comment to other agencies prior to final action. Any lack of objectivity in a draft statement is not likely to escape such multi-agency, interdisciplinary review.

In the five other U.S. Courts of Appeals in which the question has arisen, those in Richmond, Atlanta, St. Louis, San Francisco, and Denver, the courts approved the procedures

under discussion. They have held that the EIS might be "prepared" by a State, subject to review and evaluation by the FHWA. The test in each case was not who had prepared the statement, but rather whether the FHWA had reviewed and evaluated the statement prior to its approval.

The Conservation Society of Southern Vermont case is particularly troublesome because the EIS in that case was found adequate in all respects other than authorship. If extensive FHWA involvement in the preparation of what was found to be an adequate EIS is not enough, we at FHWA do not know what we can add to improve the findings.

While certain projects may meet court criteria for approval with the State-prepared EISs, these projects are few and may yet be subject to legal challenge. Mr. Kirby, the Regional Administrator for Region 1, can speak to the possibility of such approvals.

This concludes my prepared statement. I will be pleased to respond to any questions.

Senator BENTSEN. Our next witness is Mr. William S. Ritchie, Jr., president of the American Association of State Highway and Transportation Officials.

Mr. Ritchie, if you would come forward, please.

You are accompanied by Mr. Henrik Stafseth, the executive director. We are very pleased to have you. Knowing the State you are from, I would like to again defer to the chairman of this full committee.

Senator RANDOLPH. Thank you, Mr. Chairman. I am gratified personally that the highway commissioner of West Virginia holds the important position of president of the American Association of State Highway and Transportation Officials.

In his role in West Virginia he has given to us splendid leadership, one which has been creative, resourceful, and realistic as we have continued to construct our highway system under the leadership of Governor Moore.

And in his role today, he will be able to interpret for us the picture State by State, which we face in connection with the moving forward of this very substantial new construction program in the United States, at a time when it is very much needed for the reasons that I have stated earlier in the hearing.

STATEMENT OF WILLIAM S. RITCHIE, JR., PRESIDENT, AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS, ACCOMPANIED BY HENRIK E. STAFSETH, EXECUTIVE DIRECTOR

Mr. RITCHIE. Mr. Chairman, we appreciate the opportunity of appearing before you to testify on S. 681, S. 952, H.R. 3786, H.R. 3787, and H.R. 3130.

For the record, I am William S. Ritchie, Jr., commissioner of the West Virginia Department of Highways, appearing before you today in my capacity as president of the American Association of State Highway and Transportation Officials. I have with me Mr. Henrik E. Stafseth, executive director of the association. I would like to briefly comment on the association's position in regard to the proposed bills.

The release, on February 11, of \$2 billion in impounded funds is welcomed by the association, and we have pledged to the President our best efforts in quickly putting these moneys to work along the general guidelines provided. However, for all States to be able to immediately take advantage of this program, we feel that there should be special provision made by the Congress to permit those States which do not have available matching funds to proceed expeditiously with their work because unemployment is high in all States in the Nation.

By easing some of the administrative and fiscal restraints, this will give the States an opportunity to quickly capitalize on the \$2 billion additional obligational authority which means additional jobs.

Historically, we have found that any given major shift in the Federal highway program, such as the creation of a new program, a substantial monetary shift in emphasis in programs, or, as has happened recently, the sudden release of unanticipated funds, will leave some States in a position of being unable to immediately respond to the program.

A survey, done in January, shows that our member departments have had to reduce their personnel by 6,700 people within the last year.

The current actual job figures provided by the Federal Highway Administration demonstrates that for every billion dollars worth of work 126,050 jobs are generated. To that, we can add approximately 8,000 additional employees at various governmental levels for planning, designing, and supervising the contract work. The induced employment, as a result of the additional governmental employment, would be 28,000 jobs. Thus, each \$1 billion in the highway program means a total of over 150,000 jobs throughout the Nation.

In the same poll, 31 of our member departments indicated they felt some temporary adjustment in traditional matching ratios would be in order. We feel that temporary relief from the matching requirements of title 23 would be in order.

We feel that the issue of flexibility of funds in addressing the problem of unemployment is very important. As all of you very knowledgeable gentlemen know, the normal build-up time of any new Federal-aid highway program is at least 2 years. This, coupled with the long leadtimes of over 7 years for major project development, has made it difficult for the States and their political subdivisions to move quickly in implementing the new Federal-aid urban program. As of March 31, 1975, the States had obligated 17 percent of their non-interstate funds inside urbanized areas, and 83 percent outside of urbanized areas.

Yet, the States had advised us prior to the February release that they had about \$2 billion worth of projects on the shelf, over and above their expected 1975 fiscal year obligational releases. Thus, with the ability to transfer funds between categories, and the adjustment of matching fund requirements, the States should be able to expand the entire release by June 30, 1975.

However, the closer we come to the June 30 date without any modifications in existing law, the more difficult it will be to fulfill everyone's desire to respond quickly in all parts of the Nation. Consequently, we suggest that these provisions be made longer term than until June 30, 1975.

In the first 60 days following the release of the impounded funds, the States obligated funds at the rate of \$31 million per working day. In order to fully utilize the funds, we need to step that rate up to \$400 million per day.

Without the provision of interest-free loans, or waiver of matching requirements, several States which traditionally have large construction programs are not able to move forward, due to shortfalls in State income.

According to the U.S. Bureau of Mines' figures for 1974, released on April 3, 1975, gasoline consumption in 1974 fell 2.17 percent below 1973 levels. Traditionally, States have based their fiscal projections on a growth factor of between 4 and 5 percent per year. Rates of consumption this year, in most States, are up slightly over 1974 levels. Thus, State fuel tax revenues for a 2-year period have been at a virtual standstill, rather than increasing 8 to 10 percent, as might be expected; this has occurred at a time when construction costs have escalated over 30 percent, and costs of 100 percent State-financed activities have similarly increased.

Most States are prohibited from having budgets that are not in balance, and, thus, are not able to respond to rapidly changing economic circumstances by deficit financing.

The States are faced with longer-term deficits, as a result of many of the proposals for energy conservation. For instance, the Ways and Means Committee has roughly estimated that the effects of increased automobile efficiency will result in the following decreases in gasoline consumption:

Year:	Billions of gallons/year
1976	-0.3
1980	-3.8
1985	-9.2

It has been estimated that if increased costs equivalent to 25 cents per gallon were to be imposed, the results would be:

Year:	Billions of gallons/year
1976	-1.5
1980	-8.4
1985	-10.7

It is imperative that any Federal action taken to reduce gasoline usage recognize the economic hardship that this will have on State governments. Such actions must be structured so that they will permit the States to be made whole. A provision to allow States to enact new State taxes, in lieu of, or at least part of, any new Federal tax, would be entirely consistent with overall fuel conservation efforts, and provide some relief to the States. We estimate that actions currently underway, such as the 55-mile-per-hour speed limit; improving car efficiency by 40 percent by 1980; and the embargo tax on imported oil will have the effect of reducing State revenues by \$5 billion per year.

Another important factor to remember is that State and local government will be called upon to provide more energy-efficient means of transportation, and that total dollar needs for these new methods will be increasing.

The recent decision by the court of appeals in the second circuit involving an environmental impact statement for a segment of Route 7 in Vermont, has created a situation in which highway improvements needed for safety and efficient transportation may be delayed for 2 or 3 years, at a time when delays are aggravating an already severe unemployment situation.

The three States affected by the decision in the second circuit have estimated that projects with a total cost of \$1.5 to \$1.6 billion scheduled for this year and next year will be delayed for at least a year, and probably longer, if the Federal Highway Administration has to redo environmental impact statements which have been completed, or are now being prepared.

New York reports 51 approved environmental impact statements, and 88 under preparation for projects with a total estimated cost of \$3.3 billion, including projects costing \$1.275 billion scheduled for approval in this year and next. Connecticut has 8 approved environmental impact statements, and 26 under preparation for projects with a total estimated cost of \$1 billion of which projects, with a total cost of \$260 to \$300 million, were scheduled for construction. Vermont has had 11 environmental impact statements, with 6 more under

preparation, for projects with a total estimated cost of \$110 million, of which projects estimated to cost \$46.4 million are scheduled the next 2 years.

These delays are being caused by procedural objections, not on the merits of environmental impact statements which have been completed, or are nearly completed. If the statements are deficient, they are still subject to challenge on the merits. These delays on procedural grounds are unlikely to result in any significant change in the projects which are affected.

The Federal Highway Administration does not have the staff capabilities, nor the widespread expertise that the States enjoy in assessing various environmental aspects. Many States are required, by little NEPA acts, to provide the same sort of environmental analyses as is required by the national act. Thus, any analysis which might be done entirely by a Federal agency would be duplicative of that activity done by the State.

Courts of appeal in five other circuits have ruled that the Secretary of Transportation could discharge his responsibilities by accepting environmental impact statements prepared by the States.

We believe that the second circuit decision misinterprets the purposes of NEPA, but until such time as the Supreme Court might overturn this decision, the construction programs of at least New York, Connecticut, Vermont, and the Commonwealth of Puerto Rico, may be disrupted at a time when there are already severe unemployment problems in the construction industry.

It was suggested, in testimony before the Committee on Public Works, that the problem faced by New York, Vermont, and Connecticut could be resolved administratively, and that the decision of the court in the second circuit could be reconciled with those in five other circuits upholding the procedure of preparation of environmental impact statements by the States. We would like to believe that this was the case, but we would not be testifying in support of legislation, if we were confident that the matter could be resolved administratively.

The States carefully develop environmental impact statements for projects, relying on established procedures endorsed by the Council on Environmental Quality. For 5 years, the Federal Highway Administration has been discharging its responsibilities under NEPA by working with States which have developed environmental impact statements, subject to the supervision and approval of the Federal Highway Administration.

Guidelines published by the CEQ for the preparation of environmental impact statements provide for the preparation of statements by States, subject to the supervision and approval of responsible Federal officials, and the CEQ endorsed this procedure in its annual report for 1974.

Congress has recognized and endorsed this procedure of working with the States in the preparation of environmental impact statements, and in the Federal-aid Highway Act of 1970 enacted provisions, which are now included in section 109(h) of title 23, to establish guidelines for the process and preparation of environmental impact statements.

In the Housing and Community Development Act of 1974 [Pub. L. 93-383], Congress recognized that acceptable environmental impact

statements need not even be subject to Federal approval, and allowed the Secretary of the Department of Housing and Urban Development to permit applicants to assume all of the responsibilities for environment review, decisionmaking, and action.

We believe that the requirements for an environmental impact statement should be for the project submitted for approval, and should not include an unreasonable review of the entire length of connecting roads, including the assessment of projects which may or may not be developed.

We believe that any bill should cover environmental impact statements prepared in the past, now under preparation, or to be prepared in the future. We believe that any bill should cover all States to prevent a situation, such as developed for New York, Connecticut, and Vermont, from occurring in any other State.

From personal experience, I recall an instance in which an environmental impact statement was prepared entirely by a Federal agency for my State on a project that was somewhat controversial. A period of 3 years elapsed in this preparation, and in this period of time, the construction cost doubled. With the large volume of construction contracts anticipated, I can envision, at a very minimum, a period of 3 to 5 years of adjustment while the Federal Government geared up to prepare hundreds of environmental statements. During this period of time, I envision very little construction or planned development, if any, which would cause the loss of a great many jobs to a lot of people.

The association would very strongly support any activity by your committee which would insure the continuation of the present Federal Highway Administration's procedure of accepting environmental impact statements prepared by the States, subject to its supervision and approval.

It is our feeling that the wording of H.R. 3787 or H.R. 3130 would continue the present procedure and would not entail additional procedures, yet would correct the concerns expressed in the second circuit court.

Thank you, Mr. Chairman.

Senator RANDOLPH. If given a choice, which method of repayment do you believe most State transportation agencies would favor? That one-time approach as embodied in H.R. 3786, or deductions from future apportionments as contained in Senate 952?

Mr. RITCHIE. Senator, I believe most States would prefer the deduction from future apportionments.

Senator RANDOLPH. I have read your testimony and you indicated that if allowed to transfer money from one category to another, about \$2 billion worth of urban projects could be removed from the shelf.

In other words, they are ready to be put into construction. Do you feel that any States would use this money to begin mass transit projects, or to purchase buses, this type of equipment? You mention if allowed to transfer moneys from category to category, \$2 billion worth of urban projects could be taken off the shelf. Isn't that in your statement?

Mr. RITCHIE. Yes, sir. Without surveying the States, Senator, I don't believe we would be able to say whether any mass transit or bus purchasing would be made out of that fund. I think the other part of the same statement is that transfer between rural and urban funds is a big problem, too, in several States.

Senator RANDOLPH. You can also document that further.

Mr. STAFSETH. May I give two suggestions? Delaware has an extreme difficulty with having sufficient rural funds. They have only one urbanized area. And then in the other direction, the States of Arizona and Nevada have difficulty that their rural demands are not very great and the urban demands are great.

Our information we provided here was basically a transfer between rural and urban, and not geared to mass transit. There are some States that would be using some on mass transit, such as California, but like the President says, we have not surveyed the States on this issue.

Senator RANDOLPH. Two more questions, very quickly, Mr. Ritchie and Mr. Stafseth.

As we consider H.R. 3787, we would like to focus attention very quickly on the current rate of unemployment in the construction industry.

Now, let's take Connecticut, New York, and let's take Vermont. What is the picture?

Mr. RITCHIE. Senator, we don't have any unemployment figures in those States available to us right now. But I think in the testimony it does point out that in New York, for instance, there is \$3.3 billion or projects that the environmental statements are under preparation for which includes projects costing \$1.275 billion proposed for approval this year and next year. That must carry over into the other States.

With the unemployment rate in construction nationwide, that would indicate that the unemployment rate in those States would be significantly higher, I would think, because other States have been able to move construction projects to contract.

Senator RANDOLPH. I move to another State not in that list of three. But in the State of West Virginia, as we move forward now in an accelerated program of highway construction, how are we able to do that?

Mr. RITCHIE. We have been able to do it, of course, with the release of the \$2 billion in impounded funds. We have been able to do it because of the passage by the people in our State in the last 6 years of \$1,050 million in bonding authority, of which we are working under a \$500 million bond authority right now.

We find ourselves in a unique position in our State that our limiting factor is going to be the apportionment level on interstate, which will not permit us to go beyond certain projects and right now we are against our apportionment level on interstate in our State, which would bring up the problem I am sure you were discussing earlier this morning about having a new highway bill and extending apportionments as soon as possible.

We have an indication that there are several States in the country that will approach this position by July of this year.

Senator RANDOLPH. Thank you, Mr. Ritchie.

Do you agree with the estimate of \$1 billion creating 125,000 direct and indirect jobs in construction?

Mr. RITCHIE. Yes, sir, we do.

Senator RANDOLPH. That is made as a careful estimate, is it?

Mr. RITCHIE. Our figure is a little higher. We show \$1 billion in a highway program means a total of over 150,000 jobs throughout the Nation.

Mr. STAFSETH. Senator, let me suggest where that figure comes from. It comes from the payrolls kept on the Federal-aid projects by the Federal Highway Administration. Then the figures are extended for offsite and for the materials, using the Bureau of Labor Statistics' factors.

Senator RANDOLPH. It has been estimated by various people and organizations that this program, if these funds are used, if the States move forward, that we will be employing 300,000 persons that are now unemployed.

Is that a correct figure?

Mr. RITCHIE. I would say yes, sir; \$2 billion and 150,000 for each \$1 billion, yes, sir.

Senator RANDOLPH. You would disagree with Senator Proxmire who said on the Senate floor that there would be no employment, in essence?

Mr. RITCHIE. I hate to disagree with the Senator any time, but I think our figures show a \$2 billion release—I know in my State it means many more jobs. You can see them the minute you let the contracts, yes, sir.

Senator RANDOLPH. My final question as we return to S. 3787: If the second circuit decision were to stand, how many persons in the three affected States would face unemployment then because of such a decision?

Mr. RITCHIE. If we use the same employment figures, \$1.6 billion would indicate slightly under 300,000 people, if we use the national average.

Senator RANDOLPH. Mr. Chairman, do you have any feeling about that court decision before I leave? Do you have any sense of what might be done by an upholding of that decision affecting the three States?

Senator BENTSEN. No, I don't, Mr. Chairman.

Senator RANDOLPH. Is there anyone on our staff?

I am reminded that on Monday those three States will be testifying through officials. That could bring this out, which I think is very important.

Thank you again, Mr. Ritchie, and your associate, Mr. Stafseth.

Senator BENTSEN. Mr. Ritchie, I want to apologize to you, but I would like to have you let Senator Moss, who has a 5-minute statement, and then Governor Blanton, who has a legislature in session, proceed.

STATEMENT OF HON. FRANK E. MOSS, U.S. SENATOR FROM THE STATE OF UTAH

Senator Moss. Thank you very much, Mr. Chairman, for your courtesy. I apologize to the witness for being interjected in here. But like so many of us, I am trying to be in three places at once this morning. I did want to make a very brief statement. I don't think it will take very long.

I do appreciate the opportunity to testify briefly this morning on the question of State matching funds for Federal-aid highway projects. In February, the President released \$2 billion in impounded highway funds with the professed hope that such expenditures would combat rising unemployment.

As of March 31, only 16 States had been able to claim a total of \$356.6 million. Eleven of these States had unemployment rates below 8 percent. Two of them had the lowest unemployment rates in the Nation.

So the impounded money spent to date has not always gone to States with greatest economic need.

One reason, in my opinion, for the slow and uneven distribution of these funds is that many States, especially those in the worst economic straits, are unable to meet the matching requirements for Federal-aid highway projects. The predicament of the States is by no means a new one. It originated from the oil embargo which induced gasoline shortages, resulting in reduced gas tax revenues to the States.

It is now compounded by the recession and by the prospect of severe gasoline conservation measures, and ironically, by the release of impounded funds.

At the February meeting of the National Governors Conference, 30 State executives said they would be unable to meet the matching requirements if the entire amount of impounded moneys were released. They will be put to the test by the Senate's adoption last week of Senate Resolution 69, disapproving the withholding from the States of \$10.7 billion in highway obligational authority.

Some skeptics have speculated the Governors are crying wolf and that their States will raise taxes or juggle their budgets rather than lose the Federal assistance.

But even if those alternatives were feasible, they would place a heavier burden on taxpayers or would mean the sacrifice of other vital programs. Equity, moreover, argues for the relief from the matching requirement. Not only did the administration impound trust fund moneys over a long period when the States were better able to match them, but also the ensuing inflation has reduced the value of the funds that were withheld.

The House recognized the problem in approving H.R. 3786 authorizing advance payments to the States to meet their matching obligations. I am afraid, however, that the measure is inadequate. It relates only to the \$2 billion released already by the President, not to the funds which should become available as a result of Senate Resolution 69.

The payback provisions are short term and the penalties are Draconian. There is little assurance that the economy will recover sufficiently by January 1, 1977, to put the States back on their feet. If a State fails to meet the deadline for repayment, it will lose its entire Federal highway apportionment.

In short, the bill seems to assume that the States were merely taken unaware by the release of funds and need a few months to make the necessary budget adjustments.

It does little for those States whose difficulty in raising matching funds is chronic.

S. 681, which I have introduced, proposes an alternative remedy. It would allow the use of some Federal-aid highway funds without requiring matching State contributions. It applies to one-half of the apportionments for rural and urban projects requiring the largest State contribution of 30 percent. The 100-percent Federal funding provision expires when the amount spent as a consequence of this

provision equals the sum previously withheld from the States by the Federal Government.

For example, fiscal year 1976 apportionments for rural primary and secondary and urban highway systems total approximately \$2.5 billion.

Under my bill one-half of that amount, \$1.25 billion, would be available on a nonmatching basis. Of that figure, the States would save 30 percent, \$375 million, or an average of \$7.5 million for each State.

Once a State's cumulative savings equals all of its impounded apportionments, the matching requirement would automatically resume.

While it is true this bill could result in slightly less highway mileage being built, it would not require an advance payment of funds or produce greater Federal expenditures. It would simply result in savings to the States.

Mr. Chairman, I realize my bill, S. 681, was referred elsewhere. I am therefore in the unusual position of testifying on a bill which is not formally under consideration by this committee.

However, I believe that it is a necessary step to enable a great many hard-pressed States to qualify for the trust fund moneys apportioned to them.

I would urge that you consider the provisions of S. 681 as an amendment to any legislation which this committee may report.

Thank you, Mr. Chairman.

Senator BENTSEN. Thank you very much, Senator Moss, for an excellent presentation.

I may submit some questions to you concerning your testimony in writing and have you prepare answers. I am sure Senator Stafford would also.

Senator Moss. I would be delighted to respond if there are questions. This is simply trying to get this long-impounded money to work when the States cannot pick it up right now.

Senator BENTSEN. Thank you very much.

Again, Mr. Ritchie, if you will forgive me, I would like to ask Governor Blanton if he would testify now.

We are very pleased to have a former colleague of ours who is now the very distinguished Governor of the great State of Tennessee.

STATEMENT OF HON. RAY BLANTON, GOVERNOR, STATE OF TENNESSEE

Governor BLANTON. I want to say a very heartfelt thanks to the distinguished chairman of this committee for his allowing me this time and to say congratulations to my former colleague, the distinguished Senator Stafford.

I will be very brief and would like to thank the gentlemen for yielding their time, because as pointed out by the chairman, my legislature is in session and you have been through that and understand it.

I want to say first off that I totally support the distinguished Senator Moss' position and his legislation. I think it is a good step in the right direction as to a solution to our problems.

Governor Rampton has testified and given a very capable explanation of our problems in regard to the recently released highway funds.

I would like to add my strong recommendations for retaining two particular items in these bills. One is in the Senate bill and one is in section 3 of the House bill.

The first is the item waiving the matching requirement for these funds. Waiver of this requirement is vital to Tennessee. Our highway revenues are down. We have been forced to cut back on a number of projects.

Our department of transportation, in fact, had to cut its budget \$2 million in anticipation of reduced revenues. Elimination of the matching requirement would provide Tennessee with broad enough latitude to reinstate these projects and to create much needed jobs.

The second item that I strongly urge be retained is one in House bill 3786 which would allow the States to transfer funds.

While I do not agree with the loan provisions prescribed in the bill, I do agree with the provision allowing the States to transfer funds between noninterstate categories.

In the past, many critical projects have been delayed because available moneys were locked into other categories.

I am aware that the demand on the 24 different categories may vary from State to State. In Tennessee, we found ourselves at times with the money available for certain good projects fully expended—and with all other available funds locked in categories of less importance to Tennessee.

By allowing the State to transfer necessary funds from one project to another, we would be able to implement our priorities without violation of the Federal mandate in each category.

There is still another item in the House bill I would like to speak about: The deadline of June 30, 1975, for committing impounded money.

Tennessee's department of transportation had done much ground-work on projects slated for funding prior to the impoundment.

That situation, and the question of when these funds would be released, created considerable disruption in this planning and engineering work. The release of the funds has thrown us back into gear in this process, but as you know, time is required for agencies to pick up and reprogram.

I would urge that you allow 3 years for the released moneys to be committed, as is the normal highway trust fund allocation process.

One great advantage of the highway trust fund, from the State's perspective, is the dependability of funding. There is no way to measure the amount of money that has been saved by good transportation planning, stimulated to a large degree by predictability of funding.

I understand that this hearing is not directly on the question of where trust fund moneys should be used, or how they should be structured. Let me just say that I strongly recommend that the trust fund be left as it is now. We have found it to be very useful and efficient in Tennessee in its present form.

In summary, Tennessee's position is essentially in favor of waiving the matching requirement on the moneys which were impounded.

We have more than 61,000 miles of roads which have never involved Federal funds.

Moneys which would be available by the waiver would allow us to upgrade many miles of these roads, which are primarily in the rural feeder system.

They are roads which lead from the working man's home to his place of employment. They are roads which allow movement of the farmer's crops to the marketplace.

They are roads used by many people who rely on the automobile for transportation.

Upgrading of these rural systems is badly needed.

As I mentioned earlier, by allowing transfer of funds, we can meet our priorities to better advantage. And we can alleviate our feeder road system problems considerably.

Thank you for giving me the opportunity to speak on this very important issue. I will be happy to answer any questions you might have.

Senator BENTSEN. Thank you very much, Governor.

Senator STAFFORD. Governor, I see that many of the problems that your State faces, are tied to those of my own State, in our rural areas where it is necessary to get people to work on roads that are secondary or less, and also our produce to market.

Senator BENTSEN. Mr. Ritchie, if you would proceed, sir, with your statement.

Mr. RITCHIE. Governor Rampton has arrived, and if you would rather have them proceed—

Senator BENTSEN. If you would not mind. Governor Rampton take the witness stand.

Senator STAFFORD. This Senator, having been a Governor, realizes how important it is to get home when the legislature is in session.

Senator BENTSEN. Governor Mandel, we welcome you also.

STATEMENT OF HON. CALVIN L. RAMPTON, GOVERNOR OF THE STATE OF UTAH

Governor RAMPTON. Mr. Chairman, members of the committee, I would first like to express appreciation to the committee for changing the schedule of these hearings to meet the convenience of the Governors who happen to be in town at this time. It does make it much easier for us, rather than to have to come back for a special trip. We are very grateful for that.

Senator BENTSEN. We wanted your input and contribution.

Governor RAMPTON. I would like to make a general statement about the position in which the highway departments of the various States find themselves at the present time.

We are caught in a squeeze on the one side between either declining or at least very, very slowly increasing gasoline tax revenues.

We have experienced over the years an average increase of about 7 percent. Last year in my State, and I think in most others, it dipped below the preceding year a little, and this year it will show about a 2-percent increase. But with this kind of a diminution of revenue to be met and on the other hand, with the tremendous increase in costs we are experiencing, it leaves us in a difficult position indeed.

There is no other function carried on by State government, in my opinion, where the costs have gone up so dramatically as they have in the field of road construction and road maintenance. This is due in large measure to the cost of asphalt, where it went up 138 percent in 1 year. Of course, on your maintenance budget, that is a major factor. Equipment rentals went up 65 percent, with the fact that our overall maintenance budget went up about 35 percent in 1 year. And to attempt to meet that out of a declining revenue is most difficult.

Now, on the 1976 budget, we have not put it together yet even though the legislature has gone home. They said bring us back when we know what the Feds are going to do. We will pass a bill at that time.

So I very tentatively set a special session for the 23d of June.

But in regard to the 1976 fiscal year, we will be able to provide no money at all for 100 percent State construction. By the time we have met the appropriations to other agencies, such as Public Safety, by the time we have met administrative costs, and by the time we have covered maintenance costs, we will have left in our highway budget from the highway fund less than \$2 million.

For this next year I am going to ask—in fact, the legislature has indicated—for the first time in history we will appropriate about \$3.5 million of general fund money to bring that figure up to about \$5 million to \$6 million, which we would have to have if we are going to meet the matching on the present basis.

Looking forward to the 1977 fiscal year, however, by the time we have covered our fixed costs and our maintenance, we will be in a deficit position of about \$3 million—that is before any Federal matching funds—we will be in a deficit position of \$3 million.

We have got to know where we are going and where you want us to go. There are so many things happening in the Congress at the present time—the Congress and the administration—that are going to impact on this problem, that we just don't know where to go.

Five of the States have increased their gas tax this session. Many of the others are doing what we are doing, saying we will come back again when we get a signal of what is going to happen. We do not like to put on an extra tax at the State level, because we read where Mr. Ullman is proposing 3 cents now, and up to 30 cents later, or figures of that kind.

I get so many figures I am not sure, but it is in that magnitude. For us to attempt to come in with an increased State tax, we are just loading the thing too heavily. So, the bill which you have before you is similar, about the same thing that the Governors Conference endorsed 2 years ago on a proposal that came in from Governor Lucey, except that it would not have been a loan program, it would have been a grant without matching up to a certain level.

Now, as I understand it, Senator Moss' bill on that subject is before the Finance Committee of the Senate, and Senator Long has indicated he does not intend to hold hearings on it, but it would be a simple thing to just draft the Moss bill into this bill because other than that one feature, they are completely compatible.

If in fact you go the route of the loan of the matching money which has to be paid back, this has been done once before and at that time the loan was forgiven. I am sure if you go that route this time, there will be great pressure to forgive the loan.

It would appear to me to be a clear thing, an easier thing to administer, if the bill were amended merely to provide the release without matching up to whatever figure this committee decides is advisable to release at the present time.

Senator BENTSEN. I did not have the opportunity to welcome you, Governor Evans. We are delighted to have Governor Evans, of the beautiful State of Washington, here with us.

Governor Mandel, we are pleased to have our neighbor here, Governor of the fine State of Maryland.

STATEMENT OF HON. MARVIN MANDEL, GOVERNOR, STATE OF MARYLAND

Governor MANDEL. Thank you, Senator.

Senator BENTSEN. I would like to have each of you testify before we ask questions.

Governor MANDEL. I would just like to echo what Governor Rampton has said. We are in a different position in our State. We have adopted our budget. We adopted it the past session that ended in April. In addition to that, we have the unified transportation fund. That is that all revenues from every source of transportation go into a common fund. Then we can spend it in that area in which we feel it is most needed.

However, gasoline revenues were off close to 7 percent last year. Right now we are projecting they will be off 6 percent this year.

Now, in addition to that, registration fees were way down, license fees were down. Every source of revenue that goes into that fund has suffered a reduction as a result of the energy problem, so that our revenues and our ability to use revenues have been drastically reduced because of the energy problem.

The result has been that we have had to reduce all of our building programs. Right now, again, we are facing the problem that we will not be able to match the funds that have been released. We just don't have the dollars to do it at this moment.

Second, if I am correct, the bill requires, I think, by June 30 to have the programs in. That will be again an impossibility.

Senator BENTSEN. What do you think would be a reasonable extension of that?

Governor RAMPTON. It would depend upon—I would not want to give that figure. As far as we are concerned, if we could have 90 days after the decision is made to commit the money, we could do it all right because our planning on these projects is pretty well complete. What I will do, if this committee would like, is to do a survey of the States and determine just how long each State would take to commit its entitlement, assuming—we will assume a figure, 2 billion, 3 billion, 4 billion; whatever you want us to assume.

Senator BENTSEN. That would be helpful.

Governor MANDEL. In discussing it with our highway people, January 1 could be a reasonable date. Of course, we don't know when the Congress is going to adopt any legislation in this area. So when I use that date, I am only using it, hoping that something will be done within the next 30 to 60 days in Congress, so that by the January 1 date we could be totally prepared to submit whatever has to be done. We would need that time.

The big problem in addition to that is the matching fund, from our point of view. We are not capable of matching it at this point. We just do not have the funds and there is no indication while gasoline revenues have increased slightly, it is going to be a long time before we even get back to anywhere near normal growth of revenues.

So, I am just echoing really what Governor Rampton has said, and these are the major problems, the match and the date. If a solution could be found for that, we could move ahead within the next 6 months.

Senator BENTSEN. Governor Evans?

STATEMENT OF HON. DANIEL J. EVANS, GOVERNOR, STATE OF WASHINGTON

Governor EVANS. Let me just echo a few things and reemphasize those which have been already mentioned by Governor Rampton and Governor Mandel.

We are in a somewhat better position than either of the other two States. We have come to the point Cal has mentioned. Next year, the reduction in revenues, the escalation of maintenance costs, have caught up to us to the point where there is no money for Federal match. We will have a very, very serious reduction in our ability to match Federal highway revenues, and as a result a very serious reduction in highway construction programs during the course of the next year, unless there is some relief.

We are caught in a Catch-22 proposition, with the great emphasis today on increases in Federal taxes, on motor vehicle fuels, particularly as Governor Rampton mentioned, and the ones which Congressman Ullman has suggested, with the end result a decline in use which is the end result being sought, and the resulting reduction in State revenues, and the resulting point that we are at of insufficient funds left to match highway revenues from the Federal Government, leading us to the point where we need to raise our own State taxes in order to replenish State funds to match Federal resources, but we cannot do it because of No. 1, which is the increase at the Federal level in the gasoline taxes making it infinitely more difficult to do the job at the State level.

We go around in a circle with seemingly an inability to come to a definite conclusion.

We are still in session in our legislature. We have not adopted our highway budget. It will probably be the last thing we do, if we do it at this session, for the same reasons mentioned earlier. There are several proposals for State gasoline tax increases in our State.

I just do not know at this time whether they will be adopted. Every time we come close to adopting one, there is additional release about rapid increases at the Federal level in gasoline taxes and they pull off.

We have a unique position, and I suppose it is partially responsible for the added difficulty we find ourselves in. We share more than half our gas tax collections in the State of Washington with local communities, with counties and cities.

We have a fairly high gas tax, 9 cents at the State level. We also run the biggest ferry system in the United States which has had its problems in terms of required subsidy. The fuel for those ferries has

tripled in the last year. The problems lead us to a subsidy for that system of over \$9 million during the course of the next 2 years.

I would like to refer back to the sharing of moneys with local communities, because it is precisely what I strongly believe ought to be done at the national level. That is, not to look at a temporary loan program but rather a sharing of federally collected revenues with the various States, not seeking a matching requirement, not seeking repayment requirements.

I personally believe this is a revenue sharing proposition which ought to be, with the possible exception of the Interstate System, a continuing process. As a temporary solution, I believe it is better than the temporary loan program which still requires repayment at some future date when we will be less capable than today of repayment.

We have shared State raised gasoline tax revenues with our cities and counties for many years.

We require no matching, no reporting, nothing other than that they live up to certain basic construction standards, and they set their own priorities. As far as we are concerned, that is essentially money for the cities and for the counties to carry on their road programs.

They do an exceptionally fine job of that. We have found that our traditional revenue sharing program has worked exceptionally well. We added to it about 10 years ago. I served in our legislature about 12 years ago and sponsored the bill to add to that shared revenue and we started it out on the basis of matching requirements by the cities. After 2 or 3 years, I had since become Governor, we dropped the whole matching requirement concept and joined that fund with all of the rest of the shared revenues in essentially a revenue-sharing program.

I commend this to you. I think it works exceptionally well. It certainly, it seems to me, provides a reasonable and rational answer to the immediate problem we face. I might add one other element that has not been spoken of this morning, and that is the enormous largess, the released funds that are now apparently going to come to the various States with the impoundment asked for by the President and being overturned by the Congress, it may be a gift we cannot afford.

Because of the matching requirements, we are incapable of meeting them.

Senator BENTSEN. Thank you, Governor.

I am particularly pleased we changed the date of these hearings where we could get the input of you gentlemen who, in effect, are under the gun in trying to come up with the State's share. We have had some very conflicting testimony. I am delighted to have you give us your side of it.

Governor Tiemann, the administrator of the Federal Highway Administration testified and said in his statement that the problem of adequate matching funds was overblown by the States, and that there really is no need for this legislation. He said there were only eight States that had a cash flow problem and in fact he finally got down to five.

He said there were five States that had matching problems and didn't name any of your States. He named Arizona, Delaware, Illinois, Kansas, and Ohio. Obviously there is some failure in communication.

Governor RAMPTON. Suppose I get a statement from Governor Exon. I suspect Nebraska is in the same state we are.

Senator BENTSEN. What I would really like——

Governor EVANS. He is too long from being Governor, I guess.

Senator BENTSEN. I would like a list of those States, if we could, that have a serious cash flow problem in this regard.

I would like to say to you, Governor Mandel, when you said you did not know when the Congress was going to act on this, we don't either. You said 30 to 60 days. I would seriously doubt it. The reason I would is because we have been urging the administration to give us their version of a bill.

We were assured 2 months ago that it would be coming up shortly. I have not been able to find out how shortly is. We tried to get something on that this morning. We again were told that they were not sure when it would be coming up. We do want to give them consideration. We want their ideas in this. We will probably hold until we hear that. We may not if they continue to drag it out, because the problem is so urgent and serious.

Governor RAMPTON. One of the proposals coming from the administration as I understand it is to allow, among other features, allow the States to preempt 1 cent of the present 4 cents on the Federal tax, which we would like to see very much.

Even that 1 cent is not going to cure the situation for us, because looking at my 1977 budget here, I am going to be \$18 million in deficit. The 1 cent, if we preempted it, would raise only one-third of that. We need this relief even with that.

Senator BENTSEN. Yes.

Governor EVANS. I would strongly recommend it as a concept, however, if the proposals of Congressman Ullman or other proposals of the same kind, in an attempt to reach conservation practices, have the effect of greatly extending the gasoline tax, we will have a serious added reduction in terms of revenues with a growing inability at the State levels to raise taxes at the same time in order to supplant that.

I would strongly recommend that some share of whatever growing Federal tax be set aside for State preemption, if those States feel it necessary, in order to meet their expanding needs with declining revenue.

One of the things we have gotten ourselves into, and perhaps it is a good problem, but nonetheless, is a financial problem now, is that with the steady movement toward completion of the Interstate System, we have built ourselves an extensive system of expensive roads to maintain.

In place of a two-lane or a four-lane road, we have six- and eight-lane divided highway with much greater maintenance costs for those highways, and when that added amount of maintenance is multiplied by the rapid escalation Governor Rampton mentioned in maintenance cost, we are going to be far less capable of doing what I think we would all like to do in terms of economic recovery, and that is get on with the construction program.

Senator BENTSEN. I would say, Governor Evans, I have a deep interest in this approach of letting the States have part of this gasoline tax back to administer themselves and put it where they think it ought to be.

The question here is should we do it on a temporary waiver basis by this legislation of the matching shares, or should we dig into it deeper and do a restructuring of how this is done.

Governor EVANS. It seems to me both are necessary. One is a fairly simple and straightforward temporary resolution of a problem which is immediate. The other may very well require more time to decide how best to restructure, what ultimately will be the national approach toward petroleum conservation, if that is going to be a national goal, and if we are going to get at it through some means of cutting the amount of petroleum used on our highways, then we do have the problem I mentioned of escalating maintenance costs, of reducing revenues, and if the taxes are going to be utilized as a method of conservation, some standardized share of that increase in tax ought to be available for preemption by the States.

So the tax is fairly uniform across the country, whether it comes to the Federal level or the State level would depend on State needs.

Senator BENTSEN. Would we be complicating your problems if we worked on the temporary waiver and had the knowledge we might do a major restructuring later? Would that get you to defer any from exercising these interest-free loans, or not. Is that a problem?

Governor RAMPTON. If the interest-free loans are made available, we will do it that way. We would much prefer not to have to do that, because really if we get the interest-free loans, about the only thing that it is going to do is we will be able to hold the money that much longer and earn interest on it because we can't afford to go ahead without making a sinking fund of some kind to repay that money. The interest-free loans are not that much of a solution to the problem.

Governor EVANS. I think Governor Rampton has mentioned an important point, that if we work on this basis of an interest-free loan with some period for repayment, we are always working against that problem of repayment and it will unquestionably slow the development of new highway contracts and putting people to work, which is I think one of the elements we would like to see, and the continuation of a needed highway program.

If there is a choice between interest-free loans and a temporary, if you would like to use the term, temporary revenue-sharing approach, it seems to me that the temporary revenue-sharing approach has the considerable benefit of insuring the maximum speed and the use of the money.

Senator BENTSEN. This flexibility among the four categories, the State of Illinois, and some of the others talked about, also having flexibility from the interstate pot, do you gentlemen go along with that idea or not?

Governor RAMPTON. I have a statement that Governor Walker asked me to put in which I have not read. Maybe he covers that in here.

Senator BENTSEN. We would be pleased to have the statement as a matter of the record.

[The statement follows:]

STATEMENT OF HON. DAN WALKER, GOVERNOR, STATE OF ILLINOIS

As you know, at the February meeting of the National Governors' Conference in Kansas City, President Ford announced that he would immediately release \$2 billion in previously impounded highway funds in order to stimulate highway construction and thus reduce unemployment. The funds are to be allocated to the States on a first-come-first-served basis, and funding is limited to projects that can be obligated by July 1, 1975, and advertised by August 15, 1975.

While all the Governors at the Conference applauded the President's action, they also pointed out that the inability of the States to match the released funds and the categorical restrictions on the use of the money would significantly reduce the impact of the President's program in terms of producing needed jobs unless corrective legislation was enacted on an emergency basis. On February 20, the Conference adopted a resolution urging a two-year moratorium on State matching requirements with regard to the released funds and increased flexibility in the use of such funds.

Subsequently, Representative James J. Howard introduced H.R. 3786, which would permit the States to defer payment of their matching share of projects funded with the released funds until January 1, 1977. The bill was amended in Committee to permit States to transfer remaining apportionments in any Federal-aid category, except in the interstate, to any category for the purpose of undertaking projects with the released funds. The bill, subsequently passed by the whole House, requires that apportionments be restored to categories from which they are borrowed through deductions from future apportionments. Deductions would amount to a minimum of 50 percent of each year's future apportionment until borrowed funds were restored to the category.

To be effective in fighting unemployment today, funds must be channeled into projects which can be started quickly. For many states, this means emphasis on widening, resurfacing, and bridge replacement. Such is the case for Illinois. Other states which have been able to advance their remaining Interstate highway work, may desire to accelerate Interstate highway projects. Either way, the States must have the flexibility necessary to accelerate work in areas where unemployment is greatest and where needed projects are ready to be put under contract. H.R. 3786 should therefore, be amended to remove all categorical restrictions, including the Interstate Highway category restrictions, subject to a "pay-back" provision which would assure that no system, including the Interstate, would be permanently affected.

H.R. 3786 should also be amended to extend the June 30, 1975, deadline for obligating Federal funds and the August 15, 1975, deadline for advertising contracts. The Congress has deliberated H.R. 3786 for more than three months. During this time States having problems with providing matching funds and/or which have effectively used up their apportionments in those categories which could be accelerated have not been able to take advantage of the \$2 billion release. Enactment of H.R. 3786 now would not allow such States sufficient time to accelerate their programs before the June 30, 1975, deadline. Where States are able to accelerate their programs, projects would be bunched to the extent that inflationary price increases could be expected. Illinois suggests that the deadline for obligating Federal funds be extended at least three months, until September 30, 1975, and that the deadline for advertising be extended until November 15, 1975. This would allow a more orderly flow of funds into the economy as well as a more rational development of an accelerated program to provide jobs and improve transportation facilities.

The importance of deferring matching requirements should not be underestimated. On the surface it may seem that only a few states will be unable to match newly released funds. While this may be technically true, it should be realized that in many cases, matching newly released funds will be robbing Peter to pay Paul. Regular State only programs will be sacrificed to capture newly released Federal dollars.

In summary, the State of Illinois recommends that H.R. 3786 be amended to permit transfers among all categories including the Interstate Highway category and to extend the deadline for deferring State matching requirements and for obligating funds at least three months to September 30, 1975, and the deadline for advertising contracts to November 15, 1975. The Senate, and particularly the Subcommittee, is to be commended for passing a resolution last Thursday which in effect makes all impounded highway trust funds available in this critical period of unemployment. This action on your part makes it all the more important that you now provide the interim legislation necessary to facilitate the flow of these urgently needed funds into the economy.

Governor MANDEL. You are talking about using that money for other purposes, the interstate funds. I am talking about our own money—

Senator BENTSEN. I am speaking of the Federal.

Governor MANDEL. Let me say this, Senator. We are talking about a short-range problem and a long-range problem. I think the two have to be treated separately. I think the long-range problem has to be faced. If we don't face it, and it is not just a facet of it, I think the whole problem has to be faced, because with the escalation of costs—the escalation of costs is unbelievable.

Unless you are dealing with it every day, you don't really know the impact of it. Also the escalation of time. It takes us today in our State 84 months from the time we plan a highway to the time we get it under construction. Just to start construction; 84 months; you escalate that cost at anywhere from 20 to 30 percent a year, as it has been escalating, and take 7 years from the time you start planning a highway until you start constructing it, that highway is costing us a minimum of 150 to 200 percent more than it would have cost us when we started planning it.

A perfect illustration is down at the Patuxent River, where we are building a bridge authorized in 1967 for \$10 million. We are building it now. We finally got the last permit from the Coast Guard and the Corps of Engineers about a year and a half ago, and that bridge is costing us \$28 million. It is the same bridge we designed in 1967.

Senator BENTSEN. Governor, I tell you how these things really make an impact, when they relate to you personally. I built a road into my ranch home down in Texas 7 years ago and I resurfaced it last year, and it cost me more to resurface it than it did to build the road.

Governor MANDEL. If you were building the road today and had to get all the permits you had to get, do you know when you would build that road? In 1985. And I am serious. It is costing us a fortune in dollars because of the endless delay in getting under construction what has to be built. We are not a private industry that can say, "The heck with it, we will not build it."

We have to build it. As each year goes by and those costs go up, and we are still standing by to get those permits from all of the different agencies we have to get them from, those costs keep escalating. We are out of money because of the cost factor, not because we have not raised our taxes to provide our own funds.

We raised our gasoline tax 2 cents a few short years ago in Maryland. How many times can we keep raising it?

Governor RAMPTON. Are you 7 cents now?

Governor MANDEL. We are 9 now. We raised it 2 cents 5 years ago in anticipation of this problem. How much can we keep raising it? The increase is only paying for the increased costs. It is not paying for the new construction. As this continues, we have got another bridge that has to be built that we started 7 years ago planning. It will be another 3 years before it is built. It started out at \$5 million. Today the estimates are \$27 million and going up. We still have not gotten permission to build.

I would hate to tell you the reason. If I told you, it is because there are some ducks and fish in the way.

We had testimony just before our board the other day where there was a permit we had to give under our wetlands law. The company came in that was going to do the work, it would cost \$4 million more because they are required to move the line because there were two

bald eagles nesting in a tree. They offered to build a house for the eagles. That wasn't any good. I told them I heard that eagles were migratory birds. Suppose the eagles moved the same time they moved the path of the line.

I am serious. This is not hearsay. This is what happened just last Wednesday—\$4 million to move the line because of the two eagles. That is fine; I want to preserve eagles. It would have been much simpler to move the eagles. We would not have hurt them a bit.

Governor RAMPTON. You know how we are going to solve the predator problem? Hathaway is going to teach the American eagles to eat coyotes. [Laughter.]

Governor MANDEL. Until we face up to these issues of getting action and getting things done—whether they are going to tell us yes or no—let them tell us something.

Senator BENTSEN. I could not agree with you more, and we have had EPA before us and a number of the other agencies stressing the very things you are talking about.

A fellow who spent most of his adult life in business, it is awfully difficult to understand these delays.

Governor EVANS. To speak directly to that question of flexibility of use of interstate moneys, I think there is a great desire on the part of every State and also a national interest in the completion of the Interstate System so it does become totally the system it was intended to be. We have, however, in our State, I guess a horror story even worse in length of time than the one Governor Mandel mentioned, a major end of an interstate cross-country system which finally ends in Seattle. From the crest of the Snoqualmie Pass west to Seattle is about 50 miles and we have approximately 15 interstate projects in that length.

A year ago every single one of the 15 projects, some of which had been placed under construction and then stopped; some of which were stopped at various stages of the planning process, all 15 projects were stalled because of various hearing requirements, court suits, decisions of the circuit and appeals courts on various environmental problems.

What originally started out to be the necessary costs for completion of that stretch, \$200 million or \$300 million, is now well over \$1 billion for completion of what admittedly is a very complex stretch of Interstate System. And only now are we beginning to get some of those elements out from under the court suits, which in one case has held the major crossing of Lake Washington to get into Seattle, a project which went to its first hearing in 1960; and it is 15 years later and the cost of that project has escalated from \$100 million to a project which has shrunk in scope and size by almost half, and the total cost will be over \$400 million for that one area.

We are still not at the point where we have approval of it.

Senator BENTSEN. I guess we each have our stories on these things. I had one on an expressway across San Antonio where we had two launching plans out there for 11 years blocked. I think it was about 5 acres they were taking off the corner of a 200- or 300-acre park. I took that one on and we finally won it.

But I wish you had seen the mail I got in the process while I was trying to save working people some time getting back and forth across town to their jobs so they could spend more time with their families.

There is hope on some of these.

I appreciate very much your testimony. Do you have anything further?

I would like to preserve some time.

Governor RAMPTON. We will get the supplemental information to you.

Senator BENTSEN. I know some of the Senators would like to submit questions to you. Thank you.

Mr. Ritchie, I apologize to you, sir. You were very considerate in letting them testify.

You go ahead, sir.

STATEMENT OF WILLIAM S. RITCHIE, JR., PRESIDENT, AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS—Resumed

Mr. RITCHIE. I think we are talking about really three different items today, and the one that is uppermost on the Governors' minds as well as ours is the creation of jobs in this country in construction because of the high unemployment rate.

The figures we discussed with Senator Randolph, and we will prepare a written reply to his questions and submit them to him in the next day or so, but I think the creation from each \$1 billion of over 150,000 positions, and 126,000 of those generated in the actual construction work in the administration of the contracts, is a very important part of being able to obligate these funds as quickly as possible, that all States want to do.

But in order to do this, we feel there should be some temporary relief from the matching requirements of title 23 at this time to permit us to do this part of our work.

The other item of paramount importance, I feel, is the flexibility of funds that has been discussed here this morning: to give us the ability to transfer between items of apportionment, especially in light of the release of added funds.

We have discussed the length of time, and you are quite familiar with it, sir, that 7 or 8 years, that the projects we do have on-shelf, and we have money to build those projects in some other line item.

This is especially true between the rural and the urban areas. I think it is pointed out as of March 31 of this year, the States had obligated 17 percent of their noninterstate funds inside the urbanized areas, and 83 percent outside of the urbanized areas.

I think that points the problem out that we have of building in the urban and outside, which would indicate that you would have funds in the urban areas that you could not obligate in this period of time that we could obligate in the nonurbanized areas.

So I think that if these provisions could be made and some change in being able to transfer between line items, and possibly an extension to make the term longer than June 30, this would be appreciated by all the States.

Senator BENTSEN. What do you think if you moved it up to September 30? Would that be adequate?

Mr. RITCHIE. My personal opinion is that it would be.

Mr. STAFSETH. It would help considerably.

Mr. RITCHIE. It seems in the first 60 days following the release of the impounded funds, the States were obligating funds at the rate of \$31 million per working day. To fully utilize these funds before June 30, we would have to step that up to \$45 million per working day. That is quite a jump.

I am sure, as you know, the easy projects come first and the ones that are harder to achieve would be on the end of it.

Senator BENTSEN. This freedom to transfer funds in the four categories; a number of States are interested in transferring out of the interstate.

Has your organization taken a position on that?

Mr. RITCHIE. Our policy position has been against that.

Senator BENTSEN. Are you speaking in the past or the present?

Mr. RITCHIE. One just established last week.

Senator BENTSEN. Why?

Mr. RITCHIE. I think it is in the interest of all the States, as the Governor mentioned, to be sure we complete the interstate to make it a workable system as soon as possible. I know in my State that is very important to us.

In West Virginia, a 3-mile section not completed is as bad as 100 miles in Kansas. We have some short sections we need to complete very urgently.

Senator BENTSEN. Would you give us a list of the States you feel could not match the recently released \$2 billion? Can you work up a list? Would that be a problem for you?

Mr. STAFSETH. Yes, it would be a problem, Mr. Chairman. There seems to be some concerns of the Governors and some of our State departments could be embarrassed if they represented something contrary to the wishes of the Governors.

There are some States which have some difficulties, but we would like to pass that question, if we may.

Mr. RITCHIE. There are many other ways in lots of States that the money could be expended that they could make use of, as the Governors pointed out earlier, if the money was 100-percent grant, which the highway departments would not be familiar with.

Senator BENTSEN. All right.

Mr. RITCHIE. If I might mention one other thing, Senator, that troubles us. The Governors discussed earlier the long-term financing problems that we are going to be facing. If I might mention those this morning, that States—we base our fiscal projections on a growth factor of between 4 and 5 percent a year. And because of the energy situation, the reaction to it, this growth factor is not there. The growth is leveling off and indications are that it will be the same this year, the income the same as last year.

Construction costs have escalated over 30 percent in the same period of time. If we look down the road a little bit and look at the effect that just a better operating vehicle or better mileage per gallon of gas would have, by 1980 we estimate—not we estimate, but the Ways and Means Committee roughly estimated just from automobile efficiency by 1980 there would be a minus 3.8 billion gallons of gas used per year.

If you consider on top of that an increase cost equivalent to 25 cents per gallon would be imposed, by 1980 would reduce consumption by minus 8.4 billion gallons a year.

The taxes collected by the States on that lesser amount of gasoline is I think what the Governors were referring to as a big problem we are all going to face as far as maintenance of higher priced highways is concerned.

Senator BENTSEN. Are you concerned that the House bills on the environmental impact are not clearly enough drawn, and they result in just more delays and litigation?

Mr. RITCHIE. If I understand the House bills correctly, they are intended to continue what we have been doing, which is working as well as can be expected right now. Of course, it doesn't work as well as we would like for it to. But I think the States and the Federal Highway Administration have developed procedures to the point that we consider every possibility in the preparation of our environmental impact statements.

Senator BENTSEN. I believe one of them amends EPA.

Mr. RITCHIE. If we could continue the way we have, and I have my story in my State, the same as everybody else does, that we had a bridge funded by 100-percent State funds with no Federal funds.

By having a Federal agency, in this case the Coast Guard, the lead agency that prepared the environmental statement, and because it was a controversial location, this entered into the fact that the Federal Government was preparing the environmental statement.

A decision was withheld for a period of about 3 years. The cost of the structure went from someplace in the neighborhood of \$8 million that we had in a bond program to construct it, and you know, you have to review the cost estimate daily, but the last day I looked at it it was in the neighborhood of \$18 million to \$20 million.

There isn't a penny of Federal aid in it. We are building it right where we proposed 3 years ago. So this is a problem that we see in the Federal Government, preparing all environmental impact statements.

The period of time in the first place it would take the Federal Government to hire the 1,800 to 2,000 people that Governor Tiemann suggested would be necessary. There is no question in my mind he is going to be looking at our State people to do those jobs because they have the expertise. Then the period of time it will take for environmental statements to be written and approved will be, in my estimation, tremendous.

Senator BENTSEN. Thank you very much, Mr. Ritchie, and Mr. Stafseth. You had another comment?

Mr. STAFSETH. I would like to emphasize one comment that our president made, and that is we have reviewed the question you asked about the two environmental bills as to whether they are satisfactory. Our attorney says that he thinks it will correct the situation and will not entail any more activity and will carry out the processes. So either bill is satisfactory.

[The following information was subsequently supplied:]

AMERICAN ASSOCIATION OF STATE HIGHWAY AND
TRANSPORTATION OFFICIALS,
Washington, D.C. May 2, 1975.

HON. JENNINGS RANDOLPH,
Chairman, Senate Public Works Committee, Washington, D.C.

DEAR MR. CHAIRMAN: We wish to thank you for the opportunity of testifying before your Subcommittee on Transportation, in which we addressed S. 681, S. 952, H.R. 3786, H.R. 3787, and H.R. 3130.

In your examination of our testimony, you asked basically three questions that we would like to clarify and add to for your information. Your first question was how should the money loaned to the States be repaid. We indicated that it should be deducted at a rate of not more than one-half of the future yearly apportionments.

Your second question was how much money had been transferred from highway funds to mass transit projects. Our information is, as of April 18th, 1975, we have indications that three States are asking to buy buses with urban funds. They are as follows: California—\$1,713,000; Illinois—\$1,875,000; North Dakota—\$36,000. One State, Massachusetts, has asked to transfer \$52,110,000 from Interstate to a mass transit project.

Your third, and final question asked what effect the Second Circuit Court of Appeals decision would have on employment in the States of New York, Vermont and Connecticut. We have tabulated this material, as follows:

	Vermont	Connecticut	New York
Estimated amount of highway construction work for 2 yr held up by Second Circuit Court of Appeals.....	\$46.4 M	\$300 M	\$1.275 B
Job potential if work is placed under construction: Direct employment.....	1,200	7,800	33,200
Current unemployment of construction workers in each State.....	5,500	20,000	60,000
Percent of construction work force unemployed.....	50	33	33
Total employment effect: Direct, indirect and induced.....	6,900	45,000	191,500

If you have any further questions, we would be pleased to provide the information.

Respectfully submitted,

HENRIK E. STAFSETH,
Executive director.

Senator BENTSEN. Thank you very much, gentlemen.

I will include in the record a memorial from the Legislature of the State of Washington and a statement from the National Association of Counties.

[The documents referred to follow:]

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C. May 6, 1975.

HON. JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I enclose Washington State Senate Joint Memorial No. 105 recommending elimination of the state matching requirement for federal highway funds. The same Memorial makes certain other recommendations with respect to the federal highway program. I would very much appreciate the Committee's giving this Memorial its close attention in connection with its consideration of H.R. 3786 and S. 952. I would also appreciate your making it a part of the official hearing record on those bills.

Additionally, I would think the Washington State Senate's position on this matter would be of interest to the Committee in connection with its hearings later this year on broader highway legislation.

Best personal regards.

Sincerely,

WARREN G. MAGNUSON, *U.S.S.*

IN THE LEGISLATURE OF THE STATE OF WASHINGTON CERTIFICATION OF ENROLLED
SENATE JOINT MEMORIAL NO. 105

To the Honorable Gerald R. Ford, President of the United States, and to the President of the Senate and the Speaker of the House of Representatives, to the Senate and House of Representatives of the United States, and to the Secretary of the Department of Transportation, in Congress assembled

We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

Whereas, The stated policy of the National Administration is to significantly reduce fuel consumption below current consumption levels; and

Whereas, Said reductions in fuel consumption will reduce state motor vehicle fuel excise tax revenues; and

Whereas, Inflation within the highway construction and maintenance areas has been far in excess of the general level of inflation; and

Whereas, Current federal statutes require state matching in order to obtain most federal highway funds; and

Whereas, Current federal policies preclude access to all authorized and apportioned highway funds by limitations of obligational controls; and

Whereas, Current federal statutes and policies preclude federal participation in state highways maintenance, administration and overhead costs; and

Whereas, The courts have in the immediate past released a rather substantial amount of funds which were heretofore impounded; and

Whereas, The states are hard pressed to meet current allocated funds and they will have greater difficulty in matching the released funds; and

Whereas, All of the above financial conditions are exacerbated by increasing levels of unemployment and a general recession in the national economy; Now, therefore,

Your Memorialists respectfully pray, That the Administration and Congress consider elimination of the state matching requirement for obtaining federal funds; and provide additional federal funds in lieu of said state matching requirement; and eliminate the restrictions of obligational controls; and in addition provide additional federal funds to finance no less than 50% of all maintenance costs of state and local highways on the Federal-Aid Highway System; and provide additional federal funds to compensate the state for administrative and overhead costs associated with the implementation of the federal highway programs.

Be it further resolved, That copies of this memorial be immediately transmitted to the Honorable Gerald R. Ford, President of the United States, to the President of the United States Senate, and the Speaker of the House of Representatives of the United States, to the Secretary of the Department of Transportation, and to each member of Congress from the State of Washington.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., May 8, 1975.

HON. LLOYD M. BENTSEN,
Subcommittee on Transportation, Senate Committee on Public Works, Washington,
D.C.

DEAR SENATOR BENTSEN: Enclosed is a statement of the National Association of Counties submitted to the Subcommittee on Transportation for the record in connection with hearings on proposals relating to federal-aid highway matching requirements.

We hope our comments will be helpful to the Subcommittee in its deliberations on this important issue.

Please let me know if we can provide additional information or assistance.

Sincerely,

RALPH L. TABOR,
Director, Federal Affairs.

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES

This statement is submitted by the National Association of Counties (NACo), the only organization representing county government at the national level. The purpose of our statement is to support legislation to allow the borrowing of highway matching funds from future federal-aid apportionments.

At its meeting of February 25, 1975, the NACo Board of Directors adopted a resolution which urges Congress to "enact a mechanism to allow states and local governments to borrow, at no interest charged, necessary matching money from future apportionments of federal-aid highway funds. Such loans should be deducted from future allocations if not repaid in two years."

The NACo Transportation Steering Committee reaffirmed support for this concept at a meeting on April 23-24, 1975, with the provision that the 100% matching authority should apply to the \$2 billion of previously impounded funds released by the President on February 11. We believe it would be patently unfair to penalize state and local governments whose already tight budgets do not include sufficient funds to match the release of these funds, particularly at the time when reduced fuel consumption is cutting gas tax revenues.

We would urge speedy action on this legislation as an effective means to reduce unemployment, particularly in the hard-hit construction industry; to allow state and local government to catch up on long delays in needed highway construction resulting from administrative impoundment of funds; and to deal with the severe fiscal hardships facing state and local governments as a result of substantial increases in the price of petroleum products construction materials and the decline in gasoline tax revenues.

We believe the payback of the borrowed match should be required. Not to require the payback would cut the future non-interstate program by the amount of the matching funds, or 30 percent.

Of those bills pending before the Transportation Subcommittee of the Senate Public Works Committee, we find H.R. 3786 most nearly compatible with NACo policy. We would, therefore, support H.R. 3786, with the following amendments:

1. The states should be authorized to apply the 100% matching authorization to as much of the \$2 billion released by the President as they wish to borrow, without the restriction of the inflexible June 30, 1975, deadline.
2. Repayment of the loan should be two years after the passage of the legislation, rather than by the January 1, 1977, deadline in the bill.
3. The drastic provision in Section 2 requiring a cut off of a state's projects for failure to make repayments should be amended to authorize repayment of such loans out of future apportionments.

In order that we might move ahead with vitally needed highway programs, the National Association of Counties urges the Subcommittee to act on H.R. 3786 with all deliberate speed.

[Whereupon, at 12 o'clock noon, the subcommittee recessed, to reconvene subject to the call of the Chair.]

