PUBLIC HEARING

before

NEW JERSEY SENATE COMMITTEE

on

SENATE BILL NO. 1298

Held:
November 7, 1974
Council Chambers
City Hall
Jersey City, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Eugene J. Bedell, Chairman

Senator Raymond Garramone

Senator Joseph W. Tumulty

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INDEX

SENATOR TUMULTY: I would like at this time to call to order the Intergovernmental Relations Committee of the New Jersey State Senate. Present at this time is Mr. James Carroll, Executive Director of the Committee, Senator Eugene Bedell, Chairman from Monmouth County, Senator Raymond Garramone, a member of the Committee from Bergen County, and myself.

This afternoon we are going to proceed on Senate Bill 1298. I want on behalf of the City of Jersey City, the County of Hudson, to welcome my Senate collegues to Jersey City. I hope you will return and try to make you as comfortable as we possibly can.

At this time I would like to turn over the meeting to Senator Bedell, who is the Chairman of the Committee.

SENATOR BEDELL: Thank you very much, Joe. Mr. Carroll, the Executive Director of the Committee, is right here. If anyone who is in attendance or who may come into the meeting subsequent to our opening and has not had their name on the list of those who wish to testify, please see Mr. Carroll. Also, if you have prepared statements which you want incorporated in the record, please present them to Mr. Carroll before you make your statement.

With that I would like to call upon Mr.

Flannery of the Associated General Contractors, if he is present.

MR. TRAUTMANN: Mr. Trautmann will make that presentation.

SENATOR BEDELL: Fine.

MR. TRAUTMANN: Good afternoon. I am the Executive Director of the Associated General Contractors of New Jersey. In the face of rising unemployment and declining construction volume, the contractors performing work on fixed price contracts bid prior to December 31, 1973 have experienced catastrophic increases in prices of many, if not all, construction materials. There are many reasons for the increases in prices but the primary cause was the expiration of controls particularly on prices.

In the period from September 30, 1973 until the present petroleum and many metal products have increased in price in excess of 100%. For example: Liquid asphalt, 115%; Asphaltic emulsions, 125%; Steel mesh, 120%; Reinforcing steel, 129%.

These increases have hit our industry particularly hard at a time when other costs as a result of inflation are on the rise.

Contractors have traditionally taken the risks of labor increases, weather and delivery of materials as a standard for doing business under open and competitive bidding procedures. However, the costs of materials have generally increased at a predictable rate. During this period when the price controls were removed and contractors had to complete projects paying the going price materials instead of the price quoted at the time of bid. The addition of this other variable factor in pricing a project has caused serious economic hardships on the entire construction industry.

Other states had recognized this problem and have enacted legislation to permit price relief for fixed price contracts bid prior to December 31, 1973, and put in place after the increases in prices had taken effect. Two states in the East, New York and Massachusetts, have legislation to give contractors relief. Other efforts are being made in other eastern states to produce price relief.

The Federal Highway Administration has directed that on a project-by-project basis, where the state has enacted legislation, the federal government will participate, on a matching basis, in reimbursing contractors for the increases in prices of these materials. New Jersey's share of the increases on federal aid projects would not exceed

50% on the matching fund basis.

One of the most serious implications of this problem is the number of small speciality sub-contractors and suppliers who face financial disaster because of being victims of the price increases on their major materials. Many of these firms could default on their sub-contracts and cause the general contractor to seek new sources of supply at greatly increased prices. Obviously, all of the elements are in line to create the domino effect and potentially destroy a good portion of the construction industry. New Jersey can ill afford the loss of an important segment of its construction industry.

The Associated General Contractors of New Jersey representing more than 175 contractors, sub-contractors and suppliers of materials and services and employing over 30,000 people believes that the public interest is served by the passage of S-1298 as is stated in the purpose section of the bill: "In order to perpetuate the benefits derived by the general public from the existing system of public bidding and to assume the continuance of the orderly performance of contracts heretofore awarded, it is in the public interest to provide equitable relief to those contractors (sustaining damage)".

We urge this Committee to release S-1298 for a vote by the Legislature as quickly as possible. Time is of prime importance to grant relief before disaster strikes. Thank you for allowing me to appear before you on this important matter.

If I may speak off my prepared text, I would like to call your attention to several problems that have occurred, particularly that this bill covers steel products. In our industry, which is basically highway and heavy construction, we have one other product of serious difficulty, and that is aluminum. That as aluminum bridge railing and other products used in highway and heavy construction that would need some relief. We can say from our own standpoint, looking at the asphalt, steel and aluminum, that this is most critical to our business where we have sustained large losses and we hope that you will consider this legislation and push it over into the Senate and into the Assembly as soon as possible. Thank you very much.

SENATOR BEDELL: Remain before the microphone just a moment, please.

MR. TRAUTMANN: Yes.

SENATOR GARRAMONE: I have a few questions for my own edification, sir.

On the increase on the asphalt products and steel products, the percentages are fairly substantial. What are the absolute prices that you work with? A year ago, in September of '73, what did you pay for asphalt, paving materials? What were the unit prices, as an illustration?

MR. TRAUTMANN: As far as asphalt is concerned, that is the one I am most familiar with. I think the prices of asphalt were $27 a liquid ton. This is the raw asphalt. Currently it is running somewhere around $66 a ton.

SENATOR GARRAMONE: In that area that you have this expertise, when you put a price together, what component of your total price would be material as opposed to labor? On a $100,000 project, to make the numbers easy for ourselves, what component would you attribute to material?

MR. TRAUTMANN: Senator, that is a variable factor primarily because of the kind of work we are talking about. Some projects incur more labor costs than others. I would say in the asphalt area, somewhere around -- and I am just generalizing now. I don't really know. There are people here who know better than I. It is somewhere around forty percent of the big paving jobs.

SENATOR GARRAMONE: Forty percent material and sixty percent labor?

MR. TRAUTMANN: Yes.

SENATOR GARRAMONE: On a major steel job, something of this nature, is the proportion higher, steel to labor?

MR. TRAUTMANN: On a structural steel bridge, I would say it would be in the same area or slightly higher, maybe fifty percent.

SENATOR GARRAMONE: So forty percent, fifty percent would be an approximation of what the material components of the present contracting arrangements are?

MR. TRAUTMANN: Yes.

SENATOR GARRAMONE: Would you happen to know what the absolute dollars were for steel in September and what they are today?

MR. TRAUTMANN: I do not.

SENATOR GARRAMONE: Thank you.

SENATOR BEDELL: I have no questions. Thank you very much.

I call upon Mr. Arthur Young, Building Contractors Association.

MR. YOUNG: Thank you, Senator Bedell, distinguished Senators. On July 29, 1974 over 20,000 hardhats marched on Trenton to protest the record unemployment in construction in New Jersey today.

Unemployment figures in our industry now range from 30% to over 50% in certain crafts dependent upon the field of endeavor -- general, highway, or home construction. Of equal importance, however, is the converse impact on construction firms in this State. With volume dipping as much as 40% in general construction -- and I have alluded to several exhibits to substantiate what I am saying -- to a virtual standstill in highway and home building. The financial integrity of the entire New Jersey construction industry is threatened as never before in our history. Today bankruptcies, dissolvements, project abandonment, contractural defaults, costly litigations and resultant delays are commonplace. The reasons for this are multiple and complex. Contractors today are faced with tight money and mortgage restriction, energy and material shortages, belt tightening on the part of major construction users, cut-backs in public funding, elaborate environmental regulations causing incredible delays and worsened by a sea of red tape and a variety of other inflationary prompted problems. The worst of these is of course construction material escalation. As the tables attached indicate (Exhibit B) certain materials which are asphalt or steel related have escalated well over 100 times since the fall of

1973. For instance: Steel mesh, 120%; Rebar, 129%; Asphalt emulsions, 125%; Asphalt paving materials, 102%.

This rate of escalation has not been experienced in any other commodity group or sub-group in use in the Nation reported by the Bureau of Labor Statistics.

The principal reasons for the exceptional price increases in asphalt and steel products appear to be the extraordinary large rise in the price of raw materials. For instance, two and a half times for asphalt as one year ago. Faced with these increases, manufacturers are, also, confronted with sizable increases in labor costs, fuel and power costs and the cost of other supplies and are forced to pass them on. As a result, it does not take an expert to understand the plight of the building contractor. In the past, most bids were fixed price and other costs fairly stable, so that the contractor was confident he could do the job at the price bid and realize a reasonable profit. Today, he has been caught in an unbearable cost squeeze on fixed price contracts with little or no warning. Moreover, if he attempts to make allowance in his bids for future increases, he runs the risk not only of an inadequate allowance, but of losing the bid to another contractor who merely makes a different guess on future prices. As S-1298 states in the purpose section: "In order to perpetuate the benefits derived by the general public from the existing system of public bidding and to assume the continuance of the orderly performance of contracts heretofore awarded, it is in the public interest to provide equitable relief to those contractors (sustaining damage)"

We must also point out to this Committee that S-1298 is minimal in its request for a measure of relief. Four States that we know of have already passed similar legislation -- Oregon, Washington, New York, and Massachusetts, with Delaware accomplishing the same end by regulation. The New Jersey Bill is much less demanding by comparison. S-1298 allows escalation on only two categories of material asphalt and steel products, even though all products have skyrocketed. The percentage base has been kept minimal, 15%, as compared for instance to Massachusetts asking for 25%. The Bill only effects bids awarded prior to December 31, 1973 and the act expires April 30, 1976.

There are additional implications as to the effect this legislation might have on the future of construction. For example, the Federal Highway

Administration will consider escalation in ongoing contracts on a project-by-project basis, only if the State involved has enacted statutes which allow reimbursement on carryover work.

We realize that nearly every walk of business in New Jersey is faced to some degree with the same dilemma. It is not our intent to be singled out for preferential treatment. We do believe however that the degree to which our industry has been effected is without comparison and as a result has already significantly diminished our financial stability, employment potential and our ranks.

The construction industry traditionally acts as a barometer for our economy. What happens to us today comes home to roost on the overall economy, in the not too distant future. Somethings must be done now to breathe life back into the industry or the consequences will be grave. If you were to ask most constructors what the first and major step should be -- he would answer "Provide for escalation on ongoing contracts." We urge you to release S-1298 for vote by the State Legislature as quickly as possible. Time is of the essence. Thank you for allowing me to testify on this important matter today.

SENATOR BEDELL: Senator Garramone, do you have any questions?

SENATOR GARRAMONE: How many construction employees do we have in the State?

MR. YOUNG: In our industry we have about one hundred thousand craftsmen.

SENATOR GARRAMONE: How many are unemployed?

MR. YOUNG: Thirty to thirty-five thousand. This is industrial and in general.

SENATOR GARRAMONE: How many are normally employed on State projects? Do you have any field of that?

MR. YOUNG: If there are eighty thousand working at any given time, I would say certainly thirty-five percent.

SENATOR GARRAMONE: About a third of your active labor force is engaged in State work?

MR. YOUNG: And more if we start considering public road construction.

SENATOR GARRAMONE: Do you think for limited time contracts, the escalation is as critical as for ongoing contracts?

MR. YOUNG: No. I think it is most critical for ongoing. The big hurt has been done. Now we understand the situation. We are trying to make some provision, but it is really of a critical, critical nature.

SENATOR GARRAMONE: I have the same question I posed to the gentleman before you. Would you agree that the material component of a contract falls within this forty percent to fifty percent?

MR. YOUNG: Yes, in our business that is what it is.

SENATOR GARRAMONE: Thank you.

SENATOR BEDELL: Senator Tumulty.

SENATOR TUMULTY: Would you be able to give us any idea of how many existing jobs or projects will be affected by this legislation?

MR. YOUNG: I don't really have the figure, but it is millions of dollars. There are a lot of contracts issued.

SENATOR TUMULTY: That's all.

SENATOR BEDELL: Mr. Young, I note in your presentation that you compare the legislation before us with the legislation enacted by the State. You also make mention to the categories affected in New Jersey. Certainly you would not be adverse to this Committee, if it so desired, to amend the legislation and make it more broad in its application, would you?

MR. YOUNG: Not at all. We deliberately kept this restrictive in terms of our own desires because we wanted it passed. These are the two basic things.

There are other people, too.

SENATOR BEDELL: Thank you, Mr. Young.

MR. YOUNG: I want to add that the Structural Steel Association had planned to be here today. They called me on the phone here. They can't make it but they are a fifty-member association and is one hundred percent in favor of the bill as it stands. That is the New Jersey Structural Steel Association. That is the manufacturers, fabricators of steel products.

SENATOR GARRAMONE: Is this where Bethlehem falls in?

MR. YOUNG: No. These are the intermediate fellows, the warehouse distribution and erectors of steel products. They are one hundred percent behind it. Thank you very much.

SENATOR BEDELL: The prime sponsor of the legislation had intended to be here today and cannot be here. Is anyone here in his stead? Is Mr. James Alexander with us? He is here. Mr. Alexander is the Bureau Chief, Local Management Services, Department of Community Affairs.

MR. ALEXANDER: We do not have any prepared testimony to offer. We have conducted some preliminary analysis of the bill. We do have a few procedural questions with respect to its relationship to the local budget law, things of that nature. But as to its purpose, at this point we do not have any position to express.

SENATOR BEDELL: Do you think that the Department would be prepared to lend their support, if it were, or present any questions when this Committee retires to Trenton on the bill?

MR. ALEXANDER: I can't really express any policy on the matter, but we do plan to give it very close attention within the next several days, and certainly would be prepared to provide information to the Council's office.

SENATOR BEDELL: We would find it very helpful.

SENATOR GARRAMONE: Do you have some magnitude of the number, in terms of dollars, on those public projects that are presently being engaged in in the State, local or County or State work?

MR. ALEXANDER: No. It would be useful, it would be fairly substantial.

SENATOR BEDELL: Could you get it for us?

MR. ALEXANDER: I think it would be extremely difficult. We have ready access to budgeted figures and things of this nature. But in terms of contracts outstanding, just the mechanics of contracting five hundred sixty-seven towns, twenty-one counties would be a very slow and tedious process.

SENATOR GARRAMONE: But in your division of local government, you would have an idea of the contracts in terms of public works would be available, would you not?

MR. ALEXANDER: We can give you the amount of bond indebtedness outstanding and the amounts appropriated for capital improvement purposes, things of that nature, yes.

SENATOR GARRAMONE: This might be desirable.

MR. ALEXANDER: Yes.

SENATOR TUMULTY: I have no questions.

SENATOR BEDELL: Thank you very, very much.

MR. ALEXANDER: Yes, sir.

SENATOR BEDELL: Is anyone present representing the New Jersey Asphalt Pavement Association?

MR. ESOLA: Yes, sir.

I am Lou Escola, President of the New Jersey Asphalt Pavement Association, which is comprised of approximately sixty independent companies engaged in the manufacture, sale and installation of bituminous concrete pavement. I consider this forum a privileged opportunity to express for our members their convictions on the subject of Senate Bill #1298.

This association, through its members, advances for common benefit, both public and private, the bituminous concrete industry. Its efforts include, among other things, assurance that competitive bids as submitted by its members on work for the State of New Jersey and others, shall emanate from viable, proficient and economically sound companies.

The great majority of our members as well as many other non-association members of the industry, have lump-sum contracts with the New Jersey Department of Transportation, the New Jersey Highway Authority, the New Jersey Turnpike Authority, as well as with various municipal governments, or, they act as subcontract suppliers under contracts with such entities.

During the period September, 1972 to September, 1973, industry members entered into many contracts to supply asphalt pavement to the various agencies mentioned above, which contracts contemplated performance over an extended period of time with anticipated completion by the end of 1974 at the earliest. I cite the various projects on the Inter-State System that because of their complexity cannot be started and completed within a working season and usually extend over several years. Substantial work remains to be performed under these and other contracts, with more than 2.5 million tons of asphalt pavement remaining to be supplied by members of this industry.

Bituminous concrete, or blacktop, which is used in the paving of highways as contemplated in the contracts being discussed here, contains an essential element commonly referred to as asphaltic cement, the cost of which represents a major factor in the composition of the bids and of the total cost of the paving material manufactured and installed.

For a long period prior to the bids by industry members on the carryover contracts in question, the market price of asphalt cement had been stable. From January, 1964 up to January, 1974, a 10-year period, prices rose by approximately 2.9% per year -- from $21.00 a ton 1/1/64 to $27.00 a ton 1/1/74. During the period of time from the middle of 1972 until the Fall of 1973 when members of the industry bid on these carryover contracts, the price of asphalt cement continued to remain stable, giving members no reason to anticipate the wildly escalated prices that occurred in January 1974 and shortly thereafter.

However, after members of the industry were awarded their contracts and commenced work, there occurred during the end of 1973 an extraordinarily severe and totally unanticipated shortage of petroleum and petroleum derivatives including asphalt cement, which resulted in a phenomenal escalation of the price of asphalt cement. During the 7-month period January to July 1974, the price of asphalt cement rose 130% -- from $27 to $62 per ton, or an annual increase of 260%. This so-called energy crises apparently occurred as a result of several factors, including: (a) The war between certain Middle Eastern countries, on result of which was an embargo on the sale of crude oil to the United States by the oil-producing countries in the Near East; (b) Inadequate production and supply of petroleum-derived products in the United States; (c) Again, a series of State and federal governmental restrictions on the sale, use and allocation of the available supply of petroleum products throughout the country, and finally, (d) A tremendous increase in the wellhead price of oil charged by the oil-producing nations after the embargo was lifted.

The price increases faced by our people are well illustrated by the attached graph on page 5.

The extreme price escalation, as well as the original limited supply of asphaltic cement available at any price, so increased, and continues to increase, the costs of the materials our members need to execute their carryover contracts. Accordingly, continued performance of their contracts at the prices originally negotiated is economically impracticable.

The continued performance on such contracts without some relief will result in a degree of instability that could threaten the continued economic viability of the members of this association and other non-members of the industry; it could affect the availability of stable, competent and financially sound companies to bid on or perform bituminous concrete in the State of New Jersey could be markedly reduced.

As mentioned previously, the New Jersey Asphalt Pavement Association has determined that its membership and other non-related companies will be required to furnish 2.5 million tons of bituminous concrete to various State agencies pursuant to contracts entered into during 1973 or before. The present and predicted costs increases will undoubtedly affect many companies if their current contracts are performed without equitable readjustment.

Because the members of the industry face an economically disastrous situation if held to the contract prices as originally negotiated, due to the extraordinary rise in cost of asphaltic materials, many have contacted the various State agencies in an effort to negotiate equitable adjustments of the contract prices so that they could continue performance and avoid economic ruin. The sum total of the numerous and repeated efforts of these firms to secure some kind of consideration from the contracting agencies has been a complete and total rejection of any claims for increased prices. For example, New Jersey Department of Transportation has indicated in its response to some members that it would not even consider any claim for increased compensation under existing contracts.

As a result of the refusal of these agencies to even consider any claim, passage of Senate Bill #1298 is of critical importance to us.

This Bill provides that bituminous concrete contracts bid before December 31, 1973 may be adjusted where the contractor has experienced an increase in cost in excess of fifteen per cent in purchasing and furnishing materials containing petroleum derivatives. It is clear that unless legislative or judicial relief is granted to companies in this industry who are obligated to fulfill contracts based upon the 1973 cost of asphaltic cement, substantial harm will result in both the public and private sectors from the financial instability and threatened viability of these concerns.

It is no less urgent that relief in some form be provided to this important industry of our State, without further delay.

In conclusion, I would stress these points: First, that New Jersey would not be setting a precedent by the passage of Senate Bill #1298. Already four states have passed legislation of this nature; Washington, Oregon, Massachusetts and New York. Second, the Federal Highway Works Administration has realized the severity of the problem and had decided to lend Federal financial assistance to states having provided legislation for adjustments to the type of contracts we are dealing with. New Jersey, in passing legislation such as Senate Bill #1298 would not have to bear the whole cost of any adjustments allowed.

The Federal Highway Administration will pay up to 90% on federal aided work.

It is our estimate that the financial cost of Senate Bill #1298 on price adjustment resulting from Federal Highway assistance will be less than one million dollars for the asphalt industry.

I trust that in any further understanding you may have obtained from my remarks of the seriousness of our situation, you will be guided to favorable treatment of Bill #1298 - for which we thank you very much.

SENATOR GARRAMONE: I am interested in the number arrived at, this one million dollar cost to the State. Maybe you can guide me through some of this arithmatic.

MR. ESOLA: That was prepared by our Executive Secretary. On some of the contracts, it is 50-50 and different degrees. He has taken the tonnage that would apply, lumped them, applied the cost, the additional cost of the asphaltic concrete, and ranging from the $27 to the $64, and of course, making allowance in areas for the fifteen percent, you know, backing off to that degree.

Look, we are practical businessmen, and we anticipate some slight increase from year to year. I think that is the reason why we treated this bill in this fashion. We are not going whole hog on the thing. If you take that fifteen percent back off against the $27 price, that gives you some idea of the extent to which we backed off.

We are saying in effect, and I know my own company I work for, we looked at it that way. But you can't lose sight of this fact: contracts our company had were, oil companies, for instance over a two-year period in '73 and '74, contained a maximum increase of $1.25. That is a maximum of $8 over a two-year period. The oil companies did nothing in the first year and in the second year, despite the increase of crude oil during the course of the year, they only raised it one dollar.

In effect, there is an evidence of bad faith on the part of the oil companies, but we are really the unhappy victims of it. We are confronted right at the end of that particular year, '73, with a rapid escalation. No one under the sun could anticipate anything like that. If the oil companies anticipated anything like that, they should have certainly told the producers. This is an uncomfortable position the producers are in.

SENATOR GARRAMONE: Just a few more questions. I see you have a figure of two and a half million tons of bituminous concrete to various State agencies that have contracted in '73 or before. If you take that two and a half million tons, and you look at the absolute increase from $27 to $6 a ton, there is a differential of $35 a ton, and if I multiply that at two and a half million tons, I come up with something like eighty-seven and a half million dollars.

MR. ESOLA: The amount of asphalt --

SENATOR GARRAMONE: Is that arithmetic wrong?

MR. ESOLA: Yes. The amount of asphalt in the two and a half million tons, there is a factor of six percent that a ton emits. You would take six percent of two and a half million.

SENATOR GARRAMONE: It is what proportion, the bituminous concrete?

MR. ESOLA: We will use a range of five and a half to six percent. If you multiply it by six, which is a correct number, it would be one hundred fifty thousand tons of liquid times the differential.

SENATOR GARRAMONE: That is the component of material, one hundred percent worth of material, is that correct?

MR. ESOLA: Yes. It is staggering. Just look at that alone and say six percent of a $35 increase, that is a substantial amount of money per ton of material.

SENATOR GARRAMONE: One last question. Do you also subscribe to the breakdown between material and labor?

MR. ESOLA: I would like to put it this way to you: you have to be careful when generalizing. You take a ton -- I think a ton of mixed material at plants, it was probably in the neighborhood of $12.50 a ton. You take the price of asphalt at $65, and that will come pretty close to $4 a ton of that ton of mix that is sold. That is a substantial product right there. You can see that.

The labor factor, to put that down on a one hundred thousand dollar contract, you can have a one hundred thousand dollar contract with the same kind of tonnage as a contract where you might lay one thousand tons a day, five thousand tons a day. If you consider, for example, that a union organization, asphalt organization is probably working in the neighborhood of one thousand dollars, eleven hundred dollars, twelve hundred dollars, if it only places three tons a day, it is guided by that because it is labor at $3 to $4 a ton. If you can get eight hundred tons down, it will proportionately be lower.

So I don't think we can say as a general rule. Maybe we can say on a very large contract, to lay down that type of contract without much preparation, that it might be more in the neighborhood of twenty-five percent, thirty percent, thirty-five percent. It is very difficult.

SENATOR GARRAMONE: It is only twenty-five percent, thirty percent on that?

MR. ESOLA: No. You have your other factors there. You have to put in your equipment rental, too. I separated, first of all, from the value of the material.

SENATOR GARRAMONE: I understand that.

MR. ESOLA: When we contractors make up bids, everything is put together. You go from there. I would say probably on the basis of current-day prices, in all probability the cost of the labor could be in that twenty-five percent to thirty percent range.

SENATOR GARRAMONE: Thank you.

SENATOR BEDELL: Senator Tumulty.

SENATOR TUMULTY: You indicated in the past you approached the State Departments to seek an adjustment and you have gotten a cold shoulder. Have you been able to obtain any adjustments from any of the subdivisions of the State Government, Counties, municipalities or agencies?

MR. ESOLA: Not a bit. In fact, the company I work for --

SENATOR TUMULTY: Have they ever in the past before this crunch, ever given you adjustments?

MR. ESOLA: Well, of course, as I said, the factor of an increase in the past has been so negligible. For instance, if you have a one dollar increase and you take six percent of a dollar and you have six cents. You never chintz around for something like that. But this is serious.

SENATOR TUMULTY: How about correspondence?

MR. ESOLA: I have correspondence with the Delaware Port Authority. It is with one of the very large general contractors and we are a subcontractor. I have written correspondence from them where they have turned us down on two large projects connected with the new bridges across the Delaware River, from Jersey to Pennsylvania. There have been others, too. I know there has been evidence of other things. I believe on the New Jersey Turnpike there is one other job we started in 1972, and we have gotten no expression from the State as far as any relief. We have had to perform --

SENATOR TUMULTY: They could have if they wanted to?

MR. ESOLA: The indication so far is no. It seems to be. I think that seems to be the question of what I understand it. I know its legal aspects. I could understand the complications before we got relief from the Federal Government. If Uncle Sam would back off and say the hell with you -- I shouldn't use the word. But the heck with you, and then the

State certainly isn't going to go with it. Here we have the Federal Government saying we will pick it up, and all you have to do is pass a bill. I don't think we have a better opportunity with very little harm to the State, very little. It is no harm to the State, really. We are taking a pretty darn good licking.

SENATOR GARRAMONE: I have one last question. Would you be able to give us the back-up where you could indicate where it will only cost the State one million dollars to pick up?

MR. ESOLA: I will ask our Executive Director that compiled the figures.

SENATOR GARRAMONE: I would be interested in seeing that.

MR. ESOLA: When do you wish this information?

SENATOR GARRAMONE: Whenever you can get it. It would be desirable before we release the bill from Committee.

MR. ESOLA: I don't know when Mr. Abbot can do it. Thank you very much for consideration.

SENATOR BEDELL: Is Mr. Robert Byrne present?

Is there anyone representing the National Electrical Contractors Association?

Mr. William Bulman, is he present? Is there anyone to speak on behalf of the Mechanical Contractors

Association?

This is the extent of names I have before me. Jim, is there anyone else that is intending to speak?

Is there anyone present who would like to address the Committee at this time? If there is, approach the microphone and state your name. Yes, sir.

MR. DUNN: Good afternoon, Senators. My name is John Dunn. I am President of the John J. Dunn Construction Company.

We were low bidder on three contracts with the State of New Jersey Department of Transportation in the period from August 1972 to June 1973. These Contracts are funded 90% by Federal funds and 10% by State funds. We have a bonded obligation to complete these Contracts.

When asphalt paving operations commenced in the Spring of 1974, our supplier would not supply us with the necessary asphalt paving material unless we agreed to pay his increased cost which amounted to some $30.00 per ton of asphaltic oil then and now amounts to $34.00 per ton. The amount of asphaltic oil per ton of asphalt paving mix is relatively small, thereby, causing his price to us per ton of paving material to increase by $1.70 per ton. In view of the 300,000 tons of asphalt paving material we had yet to place on these contracts, our added cost is estimated to be $500,000 for the asphaltic oil only.

We sought relief from the N.J. Department of Transportation by having these Paving Items eliminated from our contract and they told us that they would not eliminate this paving from our contract, even though they were aware of the increased cost.

We have continued to fulfill our contract obligations at a great financial loss which may result in our economic ruin and the ruin of many other responsible contractors caught in this same situation.

The explosive price increase arising out of the unanticipated crisis involving crude oil, along with our bonded obligation to complete these contracts at fixed unit prices, makes it imperative to our survival that you act positively on this legislation.

With the passage of this legislation, the Federal Highway Administrator will have the legal basis required to participate in the payment of their 90% of this added cost - without this legislation, they cannot.

SENATOR GARRAMONE: Of this $500,000 added cost, what was your overall project?

MR. DUNN: Fifty million dollars. The added cost is $500,000, which is one percent, and the states involved in that would be one-tenth of one percent, which is $50,000.

SENATOR GARRAMONE: The $500,000 added cost was a cost of ten percent increase to your contract?

MR. DUNN: One percent increase. The cost to the State will be one-tenth of one percent of the total contract value.

SENATOR GARRAMONE: Again, let me pose a question. Of this fifty million dollar contract, what was your break-out in terms of material and labor?

MR. DUNN: As a general rule of thumb, it is a third and a third and a third.

SENATOR GARRAMONE: How would you break it down?

MR. DUNN: Labor, material and equipment.

SENATOR GARRAMONE: Labor, material and equipment?

MR. DUNN: Yes.

SENATOR GARRAMONE: You would be capitalizing equipment?

MR. DUNN: Utilizing new equipment.

SENATOR GARRAMONE: Thank you.

SENATOR TUMULTY: No questions.

SENATOR BEDELL: Thank you very much, Mr. Dunn.

Is there anyone else that would like to testify? Sir, please come forward. Please state your name and your organization which you represent.

MR. COLLINSON: My name is Thomas Collinson. I am a resident of New Jersey. I am here to represent the fence industry, and more particularly the Fence Association of New Jersey.

I happen to be a Vice-President of the International Fence Industry Association, and the problem that we are facing here in New Jersey is nationwide. Many of the other states are working on the same problem. Some of them have given their contractors relief, but more particularly, the Board of Directors and the membership of the Fence Association of New Jersey have passed a resolution supporting the enactment of this legislation.

The material used in fencing have increased a minimum of fifty percent from January 1, 1974 until now. Tnat forgets putting aside the increases we had in 1973 which were also quite substantial. Therefore, we feel it would be in the best interest of the State to provide relief on ongoing contracts.

If the established contractors in the State of New Jersey suffer severe economical losses due to reasons beyond their control, namely the energy crisis, and we are forced out of business, it would be detrimental to the public interest.

If there is any additional information or backup that you would like, I would be glad to submit it to you. Thank you.

SENATOR BEDELL: Mr. Garramone.

SENATOR GARRAMONE: No questions.

SENATOR TUMULTY: No questions.

SENATOR BEDELL: Thank you very much.

MR. COLLINSON: I also am here as an individual contractor, Consolidated Fence Company. It is one of New Jersey's largest independent contractors, and we are primarily engaged in fencing for municipal bodies, public agencies and private agencies. About fifty percent of our work is done with the Department of Transportation. Over and above the costs, the basic dollar that you pay for an item like -- I think you asked before for one item. We used to pay twenty-five cents and now we are paying seventy-eight cents. I had firm prices from suppliers, legitimate companies, major material suppliers. We are under contract to the State or under contract to the general contractors, and what it came down to is they said yes, that you have an agreement but that is only a salesman's written thing. So you confirmed it. It is, yes, we know that, but, Tom, if you want the material, you better agree to pay what the going price is, or sue us. It is a real problem.

One other thing. In this bill you have used the word "steel products". I for one, and I think many of the other contractors would like to see that changed to metal products, because we supply the State with aluminum fence, or other agencies, or steel fences or aluminum-coated or vinyl-coated fencing. It would be a lot easier or better for all concerned.

Again, I see no reason why the State of New Jersey cannot proceed with this if other states can. We are entitled to our share if the Federal Government, who has looked into this long and hard, have come up with a determination that it is a real energy crisis for a real material crisis. Thank you.

SENATOR BEDELL: Thank you, Mr. Collinson. I think your point is well taken on the use of the word "metal" as opposed to steel. I want to see a representative of the Electrical Contractors Association or individual contractors mentioning something to do with copper. So I think it is a point well taken. Thank you.

MR. COLLINSON: Thank you.

SENATOR BEDELL: Please step up.

MR. VALENTINE: My name is Heath Valentine. I represent an individual company, Magnode Products, Inc. We are extruders and fabricators of aluminumum products that go onto the highways.

In addition to my corporate involvement, I am also Chairman of the Aluminum Association's Highway Applications Committee. I am here really for two purposes. One is the obvious economic impact on our own company and that of our suppliers. But there is a broader purpose and a broader message that I think can be brought to this Committee's attention, and I would appreciate your opportunity, or the opportunity you give me to bring that message.

Earlier today there have been requests for specifics. I have brought some specifics with regard to metal prices, and they have been supplied to the Clerk. But I want to address this point, if I may.

The aluminum users and the many of the fabricators of steel products users, and you just heard from Mr. Collinson of the fence companies -- many of these people are small contractors that are subcontractors to the State. Many of these people are at the mercy of escalating prices to a tremendous degree. That is, that such a large percentage of the price of their product is in the cost of their raw materials; that they are inordinately injured by what has occurred in the United States, or in the world for that matter, for the last eighteen months. Our company is probably the broadest base company of highway products. I am talking about the signs, bridge railings, that sort of thing. I mention it only to point out that we see a large cross section of small contractors throughout the United States. They are particularly hard-pressed. We are seeing a great many mergers in the large corporations. We are seeing small men, small companies, generally older operated companies, men who have made it up, have put something together for themselves, and we are seeing that on the verge of evaporating. We are seeing men fighting against bankruptcy. I don't use that word lightly and I don't present the matter lightly.

It is one that is a great problem morally, ethically, consciously. We want to see these people survive as I know you want to see them survive, and as I know all of us realize is necessary if the construction industry is to serve the purpose that they are organized to serve, and if they are going to be able in the future to continue to serve the State of New Jersey.

It is particularly important to these people and important to us all. It is particularly important to these people, whose material costs are at such a great percentage, perhaps eighty-five percent of the price of the product they sell, that consideration of this bill be granted to them if you can do it.

Our company itself and many of the people that are in our Association -- and I don't pretend to represent the Association -- is probably not going to be severely injured no matter what happens. We will have disruption in markets; we will have dislocations that might last six months or a year and a half, but we will survive. Many of the independents are not going to survive. Many of the contractors, the subcontractors particularly upon whom our general contractors rely, are not going to survive. It does -- I think I read the testimony here earlier. It does set up a domino effect.

If the primary contractors cannot secure good subcontractors at reasonable costs, then, of course, the State, the Federal Governments cannot get the job done at their level for a reasonable cost.

We are forewarned now, and I think we are responsible enough to say if we can get protection on ongoing contracts, that we don't need protection on newer contracts. We are forewarned.

Let me give you an example, a brief one. For fifteen years ending in 1973 the price of the aluminum products that many of these people use to build signs and bridge rails and that sort of things, was virtually flat. They paid about the same, within five percent, ten percent for fifteen years for the same product. Then their product escalated one hundred percent, one hundred thirty percent, one hundred fifty percent in a year and a half time. These are people whose saleable item is made up in the area from seventy-five percent to as much as ninety percent of the cost of the metal they buy.

In response to an earlier inquiry about specifics, I have brought with me specifics as far as aluminum ingots are concerned, the ingots from which we draw a rod or extrude something, and they are submitted in the testimony in the form of prepared testimony.

I ask your consideration as much for the general contractors as for the subcontractors, as for the little men, frankly, like myself and others that are in our position, where we can survive, and the subcontractors and the contractors can survive with relatively little cash out-of-pocket on the part of the

State of New Jersey inasmuch as the Federal Government will help a great deal in this regard, and provide a stable basis for a continuation of the contractors-supplier relationship that you have in the State of New Jersey. Thank you.

SENATOR BEDELL: Thank you. Senator Garramone.

SENATOR GARRAMONE: I gather you supply the materials purchased by subcontractors, is that correct?

MR. VALENTINE: That's correct.

SENATOR GARRAMONE: Is a normal product an aluminum ingot?

MR. VALENTINE: Yes, and we convert that to a tube or structural shape.

SENATOR GARRAMONE: To get back to the dollar size, what are you paying now as compared to what you paid a year ago, and what are you charging the subcontractors as to what you charged them a year ago, to give us a handle as to what this is about?

MR. VALENTINE: I am very pleased to answer this question. In the spring of 1973 we bought aluminum ingots for .251 dollars per pound. There is generally a fabrication conversion charge of anywhere from twenty cents to forty cents, depending on whether it is a tube or solid. It is added onto that when you sell the product.

We are currently paying .581 dollars per pound for the same product.

SENATOR GARRAMONE: You went from a quarter of a dollar to a half-dollar per pound?

MR. VALENTINE: Yes, sir.

SENATOR GARRAMONE: What are you selling the product for?

MR. VALENTINE: It is a direct pass-through. The differential in the produce price has been anywhere from twenty cents to thirty cents depending upon the recovery of the metal. That is, when you buy an ingot, you use a pound of ingot and you don't necessarily get a pound of angle out of it. You have a yield factor.

SENATOR GARRAMONE: Make it easy for me. Is it a lamppost or what?

MR. VALENTINE: Let us use a light pole tubing.

SENATOR GARRAMONE: How many pounds of aluminum goes into that light pole?

MR. VALENTINE: That light pole, typically, would have one hundred forty pounds of tubing in the main shaft.

SENATOR GARRAMONE: One hundred forty pounds of the raw material. What did you sell it for then and what now?

MR. VALENTINE: That product sold for about sixty cents a pound a year ago and sells for about eighty-two cents a pound now.

SENATOR GARRAMONE: So you have increased your price twenty-two cents a pound. Do you have other costs along the way or have I missed something?

MR. VALENTINE: It was less than the metal increase, but we can find the reverse example. Let us take a post for a fence item that might have to have a special structural thing on it. That has been passed through generally directly as a material increase. Labor doesn't play that large a part in the cost of converting our ingots.

SENATOR GARRAMONE: I can appreciate that the contractors are buying material at exorbitant prices. You are supplying part of these raw materials to a contractor. I am trying to establish what is it you pass on. Is it something you inherently have to pass on within your occupation as an increase, or is it strictly cost of raw material that you pass on to the contractors?

MR. VALENTINE: Well, I can say as testimony here that as of completion of the first half of 1974, we failed to pass on, our particular company, 1.4 cents a pound. In other words, we absorbed increases of 1.4 cents a pound from May 1973 through the end of June 1974. Not that we particularly wanted to, but we couldn't avoid absorbing them. Most of our contracts are not highway contracts, and so it is passed through. It is the poor fellow that doesn't have any escape, and he is principally a fixed price contractor to a Federal or State agency that is being hurt worse in this situation. Virtually all of us have some escape. We can get a raise from our employer. We can raise the price of a refrigerator or an automobile. These fellows have no escape. It seems unconscionable that they should be left without some reasonable way to survive. I would certainly support that.

SENATOR GARRAMONE: That's all I have.

SENATOR TUMULTY: No questions.

SENATOR BEDELL: Thank you very much.

MR. VALENTINE: Thank you, gentlemen.

Magnode Products, Inc.
P.O. Box 292
Trenton, Ohio 45067

November 5, 1974

To: Whom it May Concern

Re: New Jersey Senate Bill S-1298
Aluminum (Metal) Products

The attached data sheets dated October 30, 1974 detail pricing changes of aluminum extrusion ingot from the basic mill producers from January 1973 through the present time. The data is supplied as a background for the following specific information.

A principal use of aluminum by the construction industry in New Jersey is railing systems on the State's bridges. Those systems are extruded from aluminum extrusion ingot and then fabricated into posts and rails. A third major part of the system is the stainless steel anchorage used to connect the railing to the bridge. The following price increases have been experienced:

Material	Average Last Date "Normal Price" Range Experienced	Average % Price Increases From Normal to May 1, 1974	Avg. % Price Increase From Jan. '74 to Oct.'74
Aluminum Extrusion Ingot	Spring 1973	65% ($.411/# to $.251/#) Or if allocation is exceeded, other sources would supply yielding: 99% ($.50/# to $.251/#)	49% ($.501/# to $.336/#) Or if allocation is exceeded, other sources would supply yielding: 73% ($.58/# to $.336/#)
Stainless Steel Rod	Spring 1973	23% ($.71/# to $.575/#)	58% ($1.045/# to $.66/#)

In summary, our average buying price of aluminum extrusion ingot has escalated from $.251/# in Spring 1973 to $.501/# in October 1974, an increase for <u>aluminum</u> of 99%. Our average buying price of stainless steel rods has risen over the same period from $.575/# to $1.045/#, an increase for stainless steel of 82%.

/s/ Heath E. Valentine
Vice-President Marketing
Magnode Products, Inc.

SENATOR BEDELL: Is there anyone else? Yes, sir.

MR. GAGER: My name is Curtis Gager, and I am Vice-President and co-owner of the Ward Weller Company in Massachusetts. I appreciate the opportunity of being able to fly down here this morning to be with you. Naturally we feel quite strongly about the subject. It is a matter of record that the State of Massachusetts has passed one law, and I have a copy of that for your reference in this folder which I will leave with you. Should you have any questions concerning that particular legislation, I would be only too pleased to answer the questions.

Early last spring -- I should address myself first to the fact that the Ward Weller Company are suppliers, fabricators of aluminum bridge rail components, primarily of pedestrian and overpass items. We have a lot of our rail, as does another company here, in the State of New Jersey. Our field of operations are basically the six New England States, New York State and New Jersey. We have been in business for twenty-five years. We believe that we have established a very good track record, and I dare say that we probably supplied every major contractor in your State.

We are pleased on one hand, but our legislation did pass in Massachusetts. Just to say in general the fact was very evident. If we didn't do something up there an awful lot of us would fall by the wayside. We are also pleased that out-of-state contractors could now, as soon as this law becomes effective next week, will be able to also go through the mechanics of getting equitable adjustments. We have quite a few contractors from out-of-state who have called us and asked us how to proceed.

Perhaps the question could be asked, how do you relate aluminum to an energy crisis, because if you will, that is how this whole thing started, for an energy crisis. So permit me to read just a little bit from my notes. Again I will leave this with you.

Power is one of the most costly ingredients of aluminum metal. Over the last three or four decades, the amount of electrical energy necessary to produce a pound of aluminum has been driven down constantly. In 1930 more than 12 kilowatt-hours of power was required to produce a pound of aluminum, but now it is some eight kilowatt-hours or the equivalent of 16 kilowatt-hours a day for the average household or two pounds of aluminum. All this is to say -- and I have reference here in this report. I don't want to belabor you with a lot of statistics. It is that the aluminum industry in 1973 probably used four percent of the energy capacity in the United States.

Historically primary producers -- and this is one step back of Mr. Valentine. The aluminum companies of America, the Reynolds Aluminum, the Kaisers and the others that we can mention, they are there. They saw a plentiful and relatively inexpensive hydro source first. As this became scarce they located near bituminous coal fields and in other areas where lignite and natural gas could be used for power generation. Though coal fields and natural gas may afford somewhat a non-interruptible source -- and that could be questioned -- the shortage of oil has driven more consumers to these sources, thus aggravating supplies and therefore costs. It requires sixteen tons of coal to produce one ton of aluminum. We may expect that cost toward inflation will continue in this area. We all read the newspapers as to what is happening in coal today.

Energy Crisis: You can be asked how do you relate the supply of aluminum to the energy crisis. Permit me to quote from Metal Statistics in 1974 as published by the American Metal Association: "Together with comparative price stability, ready availability has been a hallmark of aluminum's rapid rise on a broad spectrum of markets and applications. In 1973, however, the combination of an unexpected 20 percent jump in demand, energy problems (particularly in the Pacific Northwest) and the lure of higher prices abroad brought the word 'shortage' into the aluminum lexicon for the first time. It took 800,000 tons of stockpile metal, plus record primary and secondary production (despite the energy problems) to keep pace with domestic demand on a sharp rise."

This goes on. Needless to say, when Bonneville Power last year was forced to cut back the aluminum suppliers -- and that was the Aluminum Company of America, Reynolds, Kaiser, Martin-Marietta, Harvey Aluminum, they took away, in that short period of time, 350,000 tons of prime area capacity, or roughly, in round numbers, nine percent of the aluminum capacity in the United States. So you have sort of a complex situation. You have world-wide inflation and a power shortage in the United States, which further aggravated this whole situation.

It gives you a little background as to what happened in the aluminum industry. It is a matter of record as to prices. Do I have to repeat that.

We were given, historically, a fixed price for our metal for the period of the contract. This is the way that we have been operating for twenty-four-something years. The aluminum supplier would say, what is your contract. For argument sake, let us say it is lighted rail around the Newark Airport. Okay. When is the period of completion. Well, we will say perhaps one year.

We will say, okay, here is your price for one year, and maybe if you go over that for six months, it will be another three percent. We knew where we were. In May of 1973, the aluminum suppliers for the first time said, gentlemen, the ballgame has changed. From here on in it is price in effect at the time of shipment. Moreover, if you don't take the material when you say you are going to take the material at our prices, we can divert it someplace else and you just won't be in a position to buy aluminum. You had to maintain your balance. Also, gentlemen, we are on allocation. We couldn't even hedge our bets because had you gone to an aluminum supplier at that time, let us say for argument, you wanted to buy one million pounds, and you couldn't have it. Moreover, you had to wait three or four months and be told what your allocation was going to be four months hence. So it was a very difficult period for us. So you had a choice, really. One was to obviously not quote, but after all, this is our livelihood. So we went ahead and quoted. You might ask yourself, were you prudent. We ask ourselves that in hindsight every day. But at that particular time, the Cost of Living Council had the lid on prices and they had it at the rate of five and a half percent. Inflation was running at approximately six percent of the time.

Going back to 1942, the greatest escalation on aluminum ingot was never more than nine percent, and that was in the year of 1956.

If you took the period of time from 1942 until 1973, the average annual increase of basic raw material dces not exceed 3.9 percent.

So this is remarkable stability, and for very good reasons. This is how aluminum is able to penetrate the marketplace, and we in bridge rail have experienced nothing but stable prices for six or seven years. The price to the taxpayer hasn't even gone up for all those years.

So here we are today and confronted with the fact that we have to complete our contracts. We have no desire to do anything but complete our contracts. We are working very closely with our prime contractors. We are going to them for what relief we may possibly achieve, but then again, where can they go? There problem is the same as our problem. So this is the dilemma we are confronted with today, gentlemen. It is quite serious.

I would like to go on but I think that sums it up very well.

SENATOR BEDELL: Do you have any questions?

SENATOR GARRAMONE: Again, just for our own information, assuming the aluminum illustration, if you would, you work with aluminum.

MR. GAGER: We buy aluminum extrusions. Of our contract, metal content comprises roughly seventy percent.

SENATOR GARRAMONE: You do not install?

MR. GAGER: We also install.

SENATOR GARRAMONE: You also install?

MR. GAGER: Yes. We are only speaking of the metal that we buy. The way we are working it in our home state, we know what our costs were according to the invoices that were paid for at the time of the bid. That is a matter of record.

SENATOR GARRAMONE: So seventy percent is material cost and the balance is labor and other things?

MR. GAGER: Labor, incidentals, operations, overhead, what have you.

SENATOR GARRAMONE: What has been the increase over the last year for, let us say, a typical application?

MR. GAGER: I can document it because I had to do it up there. From May of 1973 until the present it is one hundred thirty percent.

SENATOR GARRAMONE: How about giving us something per pound or whatever your unit is?

MR. GAGER: It would vary with the supplier at two cents or three cents a pound, depending on how you buy at the time, and in what quantity. Let me say in round numbers, if we were buying a hollow bridge rail at forty cents a pound, today I can show you a quote at eighty-five cents a pound.

SENATOR GARRAMONE: That would be eighty-five cents a pound?

MR. GAGER: Yes.

SENATOR GARRAMONE: Would you be doing any work on this rail in your own shop?

MR. GAGER: Oh, yes.

SENATOR GARRAMONE: So at forty cents a pound, it would be less than seventy percent of your sale price to the ultimate consumer?

MR. GAGER: No. That plus the steel that goes into the anchor bolts would pretty much represent the seventy percent. Straight raw material costs, on that I am only talking invoices. There is no value added whatsoever.

SENATOR GARRAMONE: Thank you.

SENATOR TUMULTY: Do you have any exhibits that you would like to leave with our aide?

MR. GAGER: Yes, sir. I have costs showing percentage increases, the Massachusetts State Law and so forth. I will leave that with you. Thank you very much.

SENATOR BEDELL: Thank you very much. We appreciate you coming down with us and lending us your expertise. Is there anyone else that wishes to speak before the Committee?

MR. LANG: My name is Robert Lang. I am President of the Tri-County Asphalt Corporation of

Roseland, New Jersey. We are independent producers of asphaltic concrete. This represents approximately thirty percent of our business. The plant production of asphaltic concrete, that is. I thought I might add a little more light on what has already been said on the subject.

To a large degree it is the plant producer that has been hurt in this case of escalated prices.

A ton of asphaltic concrete is comprised of forty-seven percent coarse aggregate, forty-one percent fine aggregate, six percent filler and six percent liquid asphalt.

At the time in the fall of 1973, the raw materials in a ton of asphaltic concrete had an average cost of around $6.50. This is the raw materials that went to produce a ton of mix.

At that time the plant producer was paying $50 a liquid ton for his asphalt delivered to his plant. Six percent of $30 is $1.80. So at that point twenty-eight percent of his raw material cost was involved in liquid asphalt.

Now, between December of 1973 and June of this year, or earlier than that -- I guess it was April of this year, prior to the start of the paving season, liquid asphalt escalated to $65 a ton delivered to his plant. On the basis of the same six percent ingredient, the price then was $3.90 a ton of his original mix. This meant a $2.10 a ton increase to him per ton of mix or it actually increased his raw material cost thirty-two percent.

This to me is in the area of asphalt, where the direct costs have increased. This is the place where relief is so badly needed, because in the majority of this, we are faced with fixed price contracts to the same Highway Department and to other ongoing agencies in the State. Thank you.

SENATOR BEDELL: Do you have any questions?

SENATOR GARRAMONE: Who do you buy it from, liquid asphalt?

MR. LANG: We buy it from Exxon, the oil companies are practically the only suppliers. There was a time when tar was used and there was a time when you could use natural asphalt, but that has been in the pretty far past at this point.

SENATOR GARRAMONE: Thank you.

MR. LANG: Today we are unable to get a firm contract from the refinerers. We have a contract with Exxon, both our attorney and even Exxon's people say in there that it is just a piece of paper. It allows them to raise the price at any time they see fit.

We just experienced another price increase recently due to this last escalation of taxes in the oil-producing companies. They have passed it onto us.

SENATOR TUMULTY: No questions.

SENATOR BEDELL: I have no questions. Thank you very much, Mr. Lang.

Is there anyone else who wishes to speak before the Committee?

There being none, I would declare the hearings closed. I would make mention to all of you that the Committee will be taking this legislation under consideration at Trenton on a date to be announced. If you wish to come by at that time, you will get sufficient prenotice of it for any further testimony or to take part in any amendment or change you might desire to make. You are certainly welcome to come to the meeting that will be open to the public. Thank you all very much for your time, your efforts in behalf of this legislation which we hope we can move with some dispatch. Thank you.

* * * * *

CERTIFICATION

I, HEYWOOD WAGA, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of my stenographic notes as taken by me, at the place and on the date hereinbefore set forth.

HEYWOOD WAGA

My commission expires

Senate Bill #1298

Statement of

THE NEW JERSEY ASPHALT PAVEMENT ASSOCIATION

Princeton, N.J.

Municipal Assembly Chambers

Jersey City

November 7, 1974

TESTIMONY

I am Lou Esola, President of the New Jersey Asphalt Pavement Association, which is comprised of approximately sixty (60) independent companies engaged in the manufacture, sale and installation of bituminous concrete pavement. I consider this forum a privileged opportunity to express for our members their convictions on the subject of Senate Bill #1298.

This association, through its members, advances for common benefit, both public and private, the bituminous concrete industry. Its efforts include, among other things, assurance that competitive bids as submitted by its members on work for the State of New Jersey and others, shall emanate from viable, proficient and economically sound companies.

The great majority of our members as well as many other non-association members of the industry, have Lump-sum contracts with the New Jersey Department of Transportation, the New Jersey Highway Authority, the New Jersey Turnpike Authority, as well as with various municipal governments, or, they act as subcontract suppliers under contracts with such entities.

During the period September, 1972 to September, 1973, industry members entered into many contracts to supply asphalt pavement to the various agencies mentioned, which contracts contemplated performance over an extended period of time with anticipated completion by the end of 1974 at the earliest. I cite the various projects on the Inter-State System that because of their complexity cannot be started and completed with'N a working season and usually extend over several years. Substantial work remains to be performed under these and other contracts, with more than 2.5 million tons of asphalt pavement remaining to be supplied by members of this industry.

Bituminous concrete, or "blacktop", which is used in the paving of highways as contemplated in the contracts being discussed here, contains as essential element commonly referred to as asphaltic cement, the cost of which represents a major factor in the composition of the bids and of the total cost of the paving material manufactured and installed.

For a long period prior to the bids by industry members on the carryover contracts in question, the market price of asphalt cement had been stable. From January, 1964 up to January, 1974, a 10-year period, prices rose by approximately 2.9% per year (from $21.00 a ton 1/1/64 to $27.00 a ton 1/1/74). During the period of time from the middle of 1972 until the Fall of 1973 when members of the industry bid on these carryover contracts, the price of asphalt cement continued to remain stable, giving members no reason to anticipate the wildly escalated prices that occurred in January 1974 and shortly thereafter.

However, after members of the industry were awarded their contracts and commenced work, there occurred during the end of 1973 an extraordinarily severe and totally unanticipated shortage of petroleum and petroleum derivatives including asphalt cement, which resulted in a phenomenal escalation of the price of asphalt cement. During the 7-month period January to July 1974, the price of asphalt cement rose 130% (from $27 to $62 per ton) or an annual increase of 260%. This so-called "energy crisis" apparently occurred as a result of several factors, including:

(a) The war between certain Middle Eastern countries, on result of which was an embargo on the sale of crude oil to the United States by the oil producing countries in the Near East.

(b) Inadequate production and supply of petroleum-derived products in the United States;

(c) A series of State and federal governmental restrictions on the sale, use and allocation of the available supply of petroleum products throughout the country, and;

(d) A tremendous increase in the wellhead price of oil charged by the oil-producing nations after the embargo was lifted.

The price increases faced by our people are well illustrated by the attached graph (page 5).

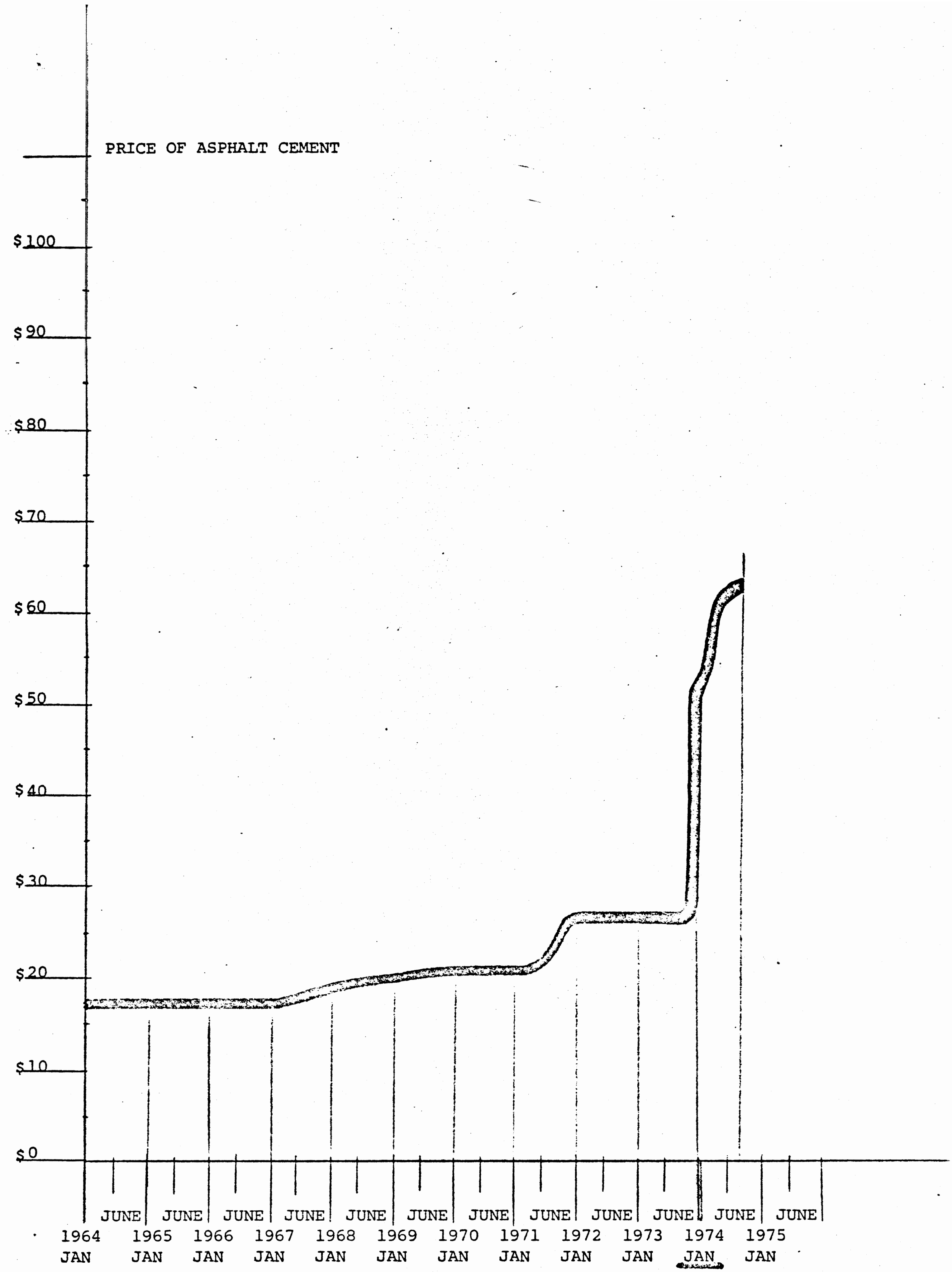
The extreme price escalation, as well as the original limited supply of asphaltic cement available at any price, so increased and (continues to increase) the costs of the materials our members need to execute their carryover contracts. Accordingly, continued performance of their contracts at the prices originally negotiated is economically impracticable.

The continued performance on such contracts without some relief will result in a degree of instability that could threaten the continued economic viability of the members of this association and other non-members of the industry; the availability of stable, competent and financially sound companies to bid on or perform bituminous concrete in the State of New Jersey could be markedly reduced.

As mentioned previously, the New Jersey Asphalt Pavement Association has determined that its membership and other non-related companies will be required to furnish 2.5 million tons of bituminous concrete to various State agencies pursuant to contracts entered into during 1973 or before. The present and predicted costs increases will undoubtedly affect many companies if their current contracts are performed without equitable readjustment.

6% mix asphalt 150 M Tons of liquid

Because the members of the industry face an economically disastrous situation if held to the contract prices as originally negotiated, due


PRICE OF ASPHALT CEMENT
$100
$90
$80
$70
$60
$50
$40
$30
$20
$10
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JUNE JUNE JUNE JUNE JUNE JUNE JUNE JUNE JUNE JUNE JUNE JUNE
1964 1965 1966 1967 1968 1969 1970 1971 1972 1973 1974 1975
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to the extraordinary rise in cost of asphaltic materials, many have contacted the various agencies in an effort to negotiate equitable adjustments of the contract prices so that they could continue performance and avoid economic ruin. The sum total of the numerous and repeated efforts of these firms to secure some kind of consideration from the contracting agencies has been a complete and total rejection of any claims for increased prices. For example, New Jersey Department of Transportation has indicated in its response to some members that it would not even consider any claim for increased compensation under existing contracts.

As a result of the refusal of these agencies to even consider any claim, passage of Senate Bill #1298 is of critical importance to us.

This Bill provides that bituminous concrete contracts bid before December 31, 1973 may be adjusted where the contractor has experienced an increase in cost in excess of fifteen per cent (15%) in purchasing and furnishing materials containing petroleum derivatives. It is clear that unless legislative or judicial relief is granted to companies in this industry who are obligated to fulfill contracts based upon the 1973 cost of asphaltic cement, substantial harm will result in both the public and private sectors from the financial instability and threatened viability of these concerns.

It is no less urgent that relief in some form be provided to this important industry of our State, without further delay.

In conclusion, I would stress these points:

First - that New Jersey would not be setting a precedent by the passage of Senate Bill #1298. Already four states have passed legislation of this nature: Washington, Oregon, Massachusetts and New York.

Second - The Federal Highway Works Administration has realized the severity of the problem and had decided to lend Federal financial assistance to states having provided legislation for adjustments to the type of contracts we are dealing with. New Jersey, in passing legislation such as Senate Bill #1298 would not have to bear the whole cost of any adjustments allowed.

The Federal Highway Administration will pay up to 90% on federal aided work.

It is our estimate that the financial cost of Senate Bill #1298 on price adjustment resulting from Federal Highway assistance will be less than one million dollars for the asphalt industry.

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I trust that in any further understanding you may have obtained from my remarks of the seriousness of our situation, you will be guided to favorable treatment of Bill #1298 - for which we thank you very much.