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PUBLIC HEARING
before
ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE
on
DISBURSEMENT OF FEDERAL AID URBAN SYSTEM FUNDS

Held:
November 26, 1984
Room 114
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Wayne R. Bryant, Chairman
Assemblyman Paul Cuprowski, Vice Chairman

ALSO PRESENT:

Laurence A. Gurman
Office of Legislative Services
Aide, Assembly Transportation
and Communications Committee

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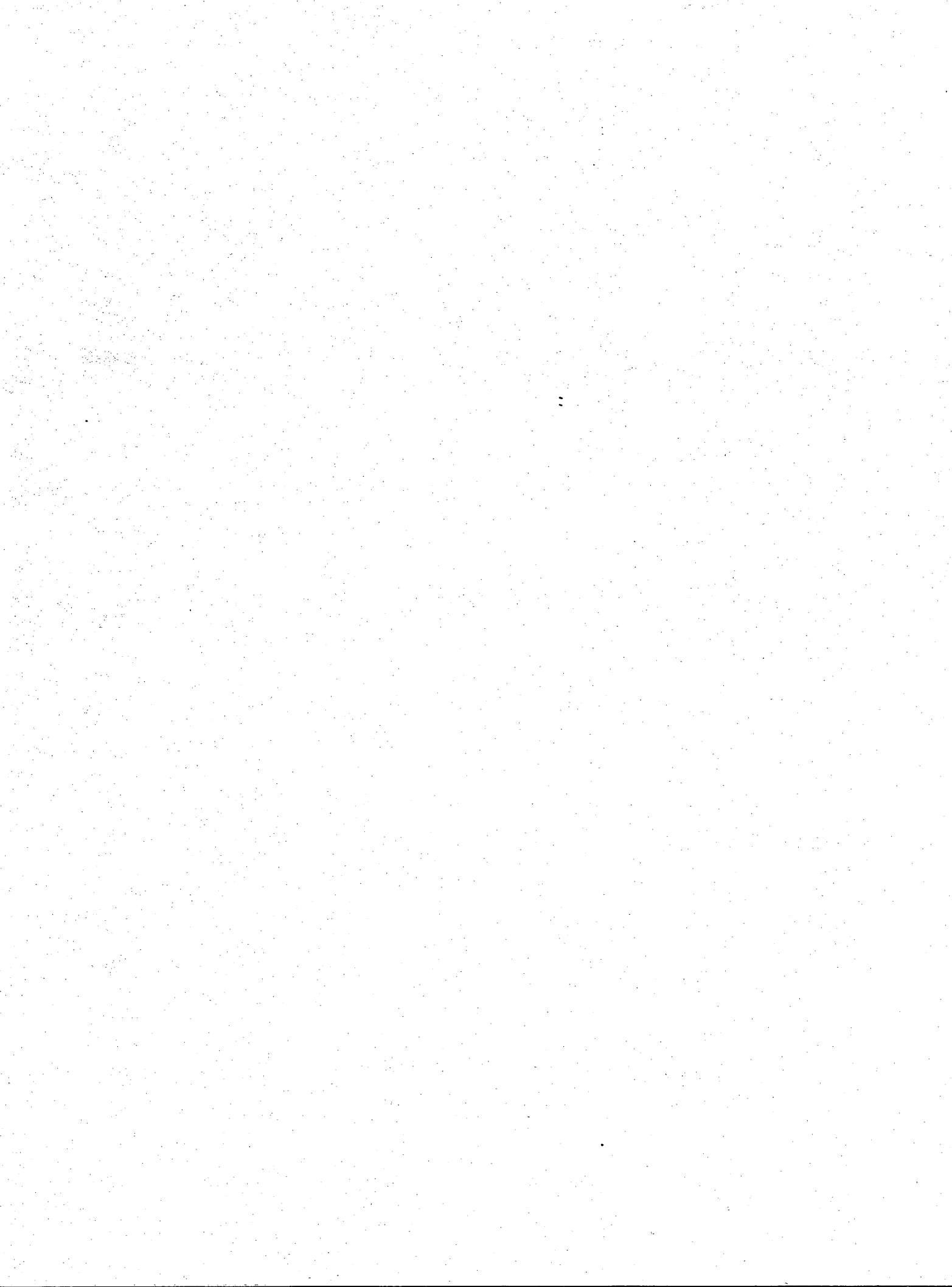
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ASSEMBLYMAN WAYNE R. BRYANT (Chairman): Good morning. This is an Assembly Transportation and Communications public hearing dealing with the FAUS Swap, which came out of the Transportation Trust Fund Authority Act. I am Assemblyman Bryant, the Chairman, and Assemblyman Cuprowski, our Vice Chairman, is here with us.

Basically, this public hearing is to explore exactly what we did in the Transportation Trust Fund regarding the swapping of FAUS funds. I would like to ask all the people who are going to testify if they would treat the Committee and those receiving testimony as if we were unfamiliar with the subject. In other words, be very basic as to the information you are going to provide. It is very helpful because it cuts down on some of the useless questions, and it also brings about a continuity, which I find very helpful.

At this time, I would like to call the first individuals on our witness list, Jarrett Hunt and Jim Pivovar. Are you together? (affirmative response) Mr. Hunt is the Assistant Chief Engineer, Traffic and Local Road Design Department of Transportation, and Mr. Pivovar is the Chief, Bureau of Urban Transportation Planning, Department of Transportation. Welcome, gentlemen.

Please excuse me. I have a cold, so I am a little hoarse today.

JAMES PIVOVAR: Thank you. Exactly how would you like us to start, sir, explaining the program as it is or what?

ASSEMBLYMAN BRYANT: I think it might be helpful to first explain what FAUS is, how it originated, what it is supposed to do, and how funds are divided under the Federal program. Then I guess we should go into what happens with the Transportation Trust Fund Act and any regulations that have been passed by the Department to change the mandates of the Federal government.

MR. PIVOVAR: Okay. The Federal FAUS Program, which is the Federal Aid Urban Systems Program, started in 1972. Funds became attributable to urbanized areas in 1974. That means that the Federal government chose to distribute the FAUS funds going to New Jersey on an urbanized-area basis in urbanized areas over 200,000, which is the majority of the State.

About \$30 million a year is distributed to the various urbanized areas. The vast majority of it -- about \$22 million -- is distributed to our northern counties. About \$5 million is distributed to the Delaware Valley area, and the remainder is distributed to our small urbanized areas in the State.

The funds are allocated also by agreement between the Metropolitan Planning Organizations in the State on a 75% local and 25% State basis. Of the \$22 million in the northern part of the State, 25% of that would be spent on State highways, and the remainder would be allocated to the counties and our two largest cities, Jersey City and Newark.

Those funds, in turn, were allocated to those particular counties on the same basis as the Federal allocation, which is urbanized population, giving each of the counties and the large municipalities "X" amount of dollars each year that they could program through what is called the Transportation Improvement Program.

ASSEMBLYMAN BRYANT: That is the TIP Program?

MR. PIVOVAR: Yes. The Transportation Improvement Program is developed normally at the county level. They have "X" amount of dollars, and this year they have a backlog of so many FAUS dollars. They try to program that out over a five-year period. That Program is endorsed by the freeholders or the city council, be that as it may. It then goes to the Metropolitan Planning Organization for its endorsement. Then it comes to the Department of Transportation for the Department to do its programming.

A project must be on the TIP before the Department can advance it for Federal funding. If a project is on the TIP, that does not mean that the Department has to advance it to construction. So, in effect, a project must be on the TIP to move, but if it is on the TIP, there is no guarantee that it will move.

The Program continued, as I said, from 1974. In 1974, the TIP was basically a wish-list of projects. They put just about everything they wanted to eventually do in the Program. As the years progressed, we tried to constrain the TIP documents to the amount of funds available. That has occurred over the years.

As of July of this year, I took a look at the status of the FAUS Program, and statewide there was about a \$50 million backlog of funds, which was almost a two-year backlog of projects. Those funds will be spent rather rapidly because, as I said, the Program began in 1974. Many projects were started, got into the pipeline, and finally we are in a situation now where all of those projects, which had a great deal of lead time to get started, are ready to come out of the pipeline and be implemented. We expect that the backlog of FAUS funds will be completely dissipated by the end of 1986.

That is basically the status of the Program right now, Assemblyman.

ASSEMBLYMAN BRYANT: Let me ask a few questions. Number one, what type of roads qualified for FAUS funds when you got down to the 75% for the urbanized areas?

MR. PIVOVAR: Under the FAUS Program, roads that were on the Federal Aid System were eligible. To be on the Federal Aid System, you must be within an urban area or an urbanized area, and the road must have a certain function. It can't be a local road; it must be at least a collector road or an arterial road.

ASSEMBLYMAN BRYANT: Secondly, if I am not mistaken, these funds were distributed, or the planning was done by counties, except for the two major urban areas of Jersey City and Newark, which had their own.

MR. PIVOVAR: Yes, that is correct.

ASSEMBLYMAN BRYANT: Were those excluded from the other county portions of Essex County and Hudson County?

MR. PIVOVAR: Yes. The urbanized portion within Essex County was allocated to Newark.

ASSEMBLYMAN BRYANT: When you say there is a \$50 million backlog, does that mean there are projects that have been approved on the TIP and there were no funds available, or does it mean there were funds that were unexpended?

MR. PIVOVAR: There were funds that were unexpended for a variety of reasons.

ASSEMBLYMAN BRYANT: With regard to the Transportation Trust Fund, what happened with funds that were unexpended? I know we took over the current \$30 million or \$35 million.

MR. PIVOVAR: Right.

ASSEMBLYMAN BRYANT: What happened to the funds that were not expended?

MR. PIVOVAR: Those funds stay with the counties and the two large cities.

ASSEMBLYMAN BRYANT: And still go through the normal Federal process?

MR. PIVOVAR: Exactly.

ASSEMBLYMAN BRYANT: When we exchanged the \$35 million for the current year -- or \$30 million; I think it was \$35 million -- what happened with the projects that were on the TIP list? Did the counties make the determination of which ones they were going to move or not move? Let me be more specific. I know in the southern portion of the State, we're finding that most of the municipalities have been disapproved. In other words, the counties are only doing county roads. They are not doing any other municipal roads that have already been on the system. How does that work with this exchange? How does that work?

JARRETT HUNT: With the-- Incidentally, I have copies of the regulations if you or anyone on the Committee would like to have a copy. We would be glad to provide them to you.

ASSEMBLYMAN BRYANT: We would appreciate it if you would provide the Committee with that.

MR. HUNT: Under the Trust Fund, \$35 million was provided. It was stipulated that no county would receive less than they did under the Federal Aid Urban Systems Program. It was further stipulated that no county would receive less than \$300,000, because some counties' annual Federal Aid Urban Systems' allotments were less than \$300,000. It was determined in the procedures that the same format or procedure would be followed in the development of a program for the use of the funds; that is, it would be the responsibility of a municipality to make application to the Board of Chosen Freeholders for their projects

to be incorporated into a county work program. The county work program would list the projects for the use of all of the available funds -- that is, the Trust Fund in terms of the FAUS Swap Program.

This Program would annually be submitted, and it would be a four-year program. Once approved by the Board of Chosen Freeholders-- Incidentally, it would be developed in cooperation with our Bureau of Urban Planning, the county planners, and the various other local interests. Then it would be approved by the Department of Transportation. At that point, we would execute a project agreement with either a county or a municipality depending on which one initiated the project.

In direct response to your question, actually the responsibility for the development of this Program rests with the County Board of Chosen Freeholders.

ASSEMBLYMAN BRYANT: Under the FAUS Program, has there been any comparison done for previous years between projects submitted by the counties and the projects they selected? The reason I am asking that is, I think we have a large duty. Even though they have the planning process, it seems strange that in one year, several municipal roads were included. Then, all of a sudden, you get to the Trust Fund, and you have counties with no municipal roads. It would seem to me that the Department would have some interest in knowing that that is taking place, if, in fact, it is taking place.

MR. HUNT: We, very definitely, have an interest. In fact, I think Jim can allude to that right now because of the fact that his staff has been involved with the counties in the development of the programs.

MR. PIVOVAR: We have been working with the counties in the development of the programs. To answer your question, I would say that the projects are progressing normally. I don't see a concerted effort out there for counties to drop specific municipal projects. That is happening in a small number of counties, but the vast majority of the programs that we are getting involved in are just normal programs. The projects are coming out of the pipeline in a certain manner, and right-of-way funding will be required, or construction funding will be required in a certain manner. That is progressing normally.

ASSEMBLYMAN BRYANT: Under the regulations of the Trust Fund, is there any appeal process for a municipality which feels it has had programs approved by the TIP Program but is now being isolated by its county? In other words, you are saying that the Board of Chosen Freeholders, in those instances, would have to submit them, and then you, as a Department, approve them one way or the other.

For example, let's take the City of Camden. If the City had five particular roads previously approved by the TIP Program -- in the backlog, if that is what you want to call it -- and now we have this new Program-- All of a sudden, you get all county roads from Camden. It would seem to me to be strange that none of those--

MR. HUNT: I honestly don't think it is directly related to the new Program. It is more related to the funds that are available to meet the overall needs.

In the past, under the Federal Aid Urban Systems Program, almost every county had a substantial backlog of funds. There was very little problem in meeting the critical phases of project development, either county or municipal.

The FAUS Program has been in effect approximately 10 years, and we have now reached the point where the majority of the projects that have been in the pipeline are coming to fruition. Suddenly, for the first time, they are faced with a financial problem because they just don't have sufficient funds to meet all of the project needs. This includes even many of the projects that have been developed in some phase under the Urban Systems Program. The money is suddenly coming to the point where the backlog is nonexistent. There hasn't been a reduction in the annual amount.

ASSEMBLYMAN BRYANT: But, in the regulations -- I guess you can answer this -- there is no procedure for a municipality to disagree with a county in terms of how it develops its TIP Program, or which ones they ask to be approved, even though we, as the State, are part of the process. We have to end up approving theirs, right? There is nothing in the regulations at this juncture.

MR. HUNT: There is nothing specifically in the regulations. That is correct. However, I know in working with Jim and his people,

that there have been quite a few instances where we disagreed with counties regarding their initial submission of projects, and changes have been made.

ASSEMBLYMAN BRYANT: But, that is a different issue. You might disagree with the projects that they submitted, but they might not be the projects that a particular municipality wants included. They have no access to the present system.

MR. HUNT: No, there is nothing in the regulations addressing the appeal process.

ASSEMBLYMAN BRYANT: One other problem I have is, one of the purposes the Trust Fund was developed for was to speed up the programs. In other words, it was a very arduous program when you went through the Federal system. I know in many instances they found that more municipal roads were included in the TIP Program because many times counties did not want to go through the system with all the environmental checks, the designs, and those kinds of things. Therefore, you found that maybe they weren't given a preference by counties as a way of having their projects done, and counties funded theirs in various other ways. I am getting information now from other municipalities that-- The purpose of the Trust Fund was to cut through that system to allow projects to be done quickly, so that it would take four or five years for a project to actually come to fruition. All of a sudden, municipalities are at a distinct disadvantage because they have no say as to whether their projects -- even though they qualify as potential TIP projects -- will come to fruition.

I guess my question to the Department is, if, in fact, that is the case, are there any procedures in the works? As one of the legislators involved in this, this was not a way of making sure that municipalities did not have funds going to roads that they had on the TIP Program. This was supposed to function basically like the prior program. It seems to me that if there isn't some type of appeal process when a municipality feels it is not getting justice from the county, then they are at a distinct disadvantage.

MR. HUNT: As Jim alluded to earlier, I am not aware of too many instances where this concern exists. We mentioned earlier -- I

think Jim mentioned it -- that there are two or three counties throughout the State where this has been brought up.

ASSEMBLYMAN BRYANT: How is the Department dealing with those? If there are only three counties, how are they dealing with that situation?

MR. HUNT: Under the Substitution Program, we have a certain small amount of the money set aside as a discretionary fund, which can be used to help in those instances.

ASSEMBLYMAN BRYANT: You are talking about the municipal aid portion?

MR. HUNT: I'm talking about both programs.

ASSEMBLYMAN BRYANT: Under the FAUS Program?

MR. HUNT: Yes.

ASSEMBLYMAN BRYANT: How much is set aside?

MR. HUNT: Well, it amounts to approximately \$3.5 million.

ASSEMBLYMAN BRYANT: Is that just from FAUS?

MR. HUNT: That is the FAUS substitute.

ASSEMBLYMAN BRYANT: Do municipalities know? I mean, are they aware? Have there been notices sent to the municipalities -- assuming they feel aggrieved by the present system -- that they have an opportunity to take advantage of these funds?

MR. HUNT: In the procedures which were distributed in August, it very specifically mentioned a discretionary program. In fact, we have received numerous applications. Unfortunately, this is a relatively small amount of money when you consider the overall State needs. The requests far exceed the available funds, which is not dissimilar to the overall Substitution Program where the needs are far in excess of the resources.

ASSEMBLYMAN BRYANT: Has the Department in any way considered setting up a procedure by which municipalities, feeling aggrieved by being left off the FAUS programs or not being considered through the vote of the freeholders, would be able to approach the Department?

MR. HUNT: Speaking for myself personally, I know of no consideration to do this because, quite frankly, I was unaware that there was a real magnitude to the problem.

ASSEMBLYMAN BRYANT: Do you have any questions, Assemblyman Cuprowski?

ASSEMBLYMAN CUPROWSKI: I wonder if the gentleman would be kind enough to summarize the advantages and disadvantages, if you will, specifically from a municipal point of view and a county point of view, relating to the Swap funds. Can you briefly describe the advantages and disadvantages from the Federal level down to the State level?

MR. HUNT: Yes I can, sir. Under the Federal Aid Urban System Program, in all phases of project development, the Department of Transportation was a contracting party. We worked with the Federal government in terms of developing the projects. This required, for example, development of the original construction plans in terms of design, a four-phase review, and complete involvement with the Federal government in all steps of the way involving environmental considerations. For example, one single thing, consultant selection for design, normally takes nine months to a year when you are involved with the Federal government in terms of meeting all of their requirements, regulations, and procedures. This development of a project normally-- As I said earlier, the FAUS Program has been in effect for 10 years, and many of the initial projects are now coming to the point of construction. So, we found from experience in the 1979 bond issue, that when we transferred this to the local governments and eliminated the reviews and requirements of the Federal government, along with the reviews and requirements of the State government, the counties and municipalities could advance their projects at their own pace.

The counties which have talked to me and to Eunice Bowers, for example, can have a consultant engineer on board to do a design in as little as one month's time, saving right there almost one year in project development. So, the main thing in eliminating Federal and State reviews is that the counties and municipalities are in a position to advance projects at their own pace.

ASSEMBLYMAN CUPROWSKI: Okay. How about the disadvantages? Can you summarize what the disadvantages might be?

MR. HUNT: Certainly. I would say a disadvantage would be that under the previous programs, a county or municipality had no need to really get involved in a project. It was not unusual. Some of the projects took so long to advance under the procedures and criteria that they may have had four or five different mayors in a municipality, and when it came to construction, sometimes they didn't want it. We found with many of the local governments, since they had no real involvement, financial or otherwise, that their concern for the advancement of the project and their interest and knowledge of it were almost nonexistent.

ASSEMBLYMAN CUPROWSKI: Do you see any disadvantages other than-- You stated before that no municipality would get any less than what it was receiving previously, and no county would get less than \$300,000. That seems to be a financial guarantee that it would get no less. I was just wondering, does that also guarantee the full costs of projects, for example, the engineering, design work, and so forth?

MR. HUNT: I believe it does for the 67 municipalities that have been determined to be economically depressed by legislation enacted by the Legislature. Those municipalities would be eligible for 100% of project costs, total project costs, from design right through to construction. The regulations also state that in a hardship case, where a county government can justify a hardship, they would be considered by DOT for the same 100% funding.

Now, with regard to the balance of the municipalities, they are required to perform the engineering and right-of-way. Participation in construction is based on 100% of the cost of construction, plus the cost of construction engineering, inspection, and materials testing, which, incidentally, is a substantial increase in State participation over what took place in the 1979 bond issue.

ASSEMBLYMAN CUPROWSKI: You mentioned hardship. Who justifies the hardship?

MR. HUNT: In the case of a municipality, a hardship has been defined by law enacted by the Legislature. Community Affairs has a list of economically depressed urban and rural municipalities based on the content of the law.

ASSEMBLYMAN CUPROWSKI: Now, unless I am getting confused, you are referring to the Urban Aid cities. Is that what you are referring to? That we know; there is a clear definition of that. But, are other municipalities eligible to apply for a hardship under this 100% allocation?

MR. HUNT: Under the procedures, they are not; however, a county is, if the county is able to justify a hardship.

ASSEMBLYMAN CUPROWSKI: The county is, not the municipality?

MR. HUNT: Yes.

ASSEMBLYMAN CUPROWSKI: Okay, thank you.

ASSEMBLYMAN BRYANT: Just to follow up on that, when you say a municipality could receive 100% of its actual engineering, is that also for right-of-way and land acquisition?

MR. HUNT: That is for 100% of project costs -- engineering, right-of-way, construction, etc.

ASSEMBLYMAN BRYANT: My understanding is that that is a "may" statute or a "may" provision. What about those municipalities which are listed under what is called "Municipalities Qualifying for Depressed Rural Centers" and "Municipalities Qualifying for Urban Aid Money"? Do they actually get it? Has the practice been that 90% of them get it? Someone makes that determination, because it is not clear that they are automatically granted that. I imagine the determination is made by the Department.

MR. HUNT: The ability of these municipalities to get 100% funding would be contingent upon the availability of funds. It goes back to the development of the program.

ASSEMBLYMAN BRYANT: I don't want to interrupt you, but I think you are giving me a circular argument, the availability of funds. If you put more projects in the works, there are going to be less funds. So, you have made a predetermination that they are not going to get 100%. If you had less projects, you could do 100% of the funding. What I am trying to determine, from the Department's standpoint-- It's nice to have language that we may have 100% funding in certain municipalities. I want to know what is actually happening. Are there-- Let me read some of these: Asbury Park, Bayonne, Hoboken,

Camden City, Long Branch, Neptune, Englewood, Elizabeth City, Gloucester Township, Hamilton Township -- are they and their projects getting 100% funding?

MR. HUNT: If one of their projects under the FAUS Substitution Program is included in the work program developed by the county, they would be eligible, yes.

ASSEMBLYMAN BRYANT: You're still not answering the question. I know they have eligibility, but I am trying to determine whether the practice is that they have been getting 100% or not getting 100%.

MR. PIVOVAR: Assemblyman, let me speak from my perspective. If a county chooses to put engineering or right-of-way costs in their program for a particular municipality, from my perspective that is obviously a very important project and the county concurs with the municipality that they should receive engineering and right-of-way costs for that. In my recommendation to the Commissioner, I would say that yes, they should be made eligible.

ASSEMBLYMAN BRYANT: Okay. Therefore, then we go back to the county. In other words, first the municipality must convince the county that they should be included. Now, are the counties informed, besides just by the regulations, that when they are dealing with their particular municipalities which are listed in these categories that they are eligible for 100% funding?

MR. PIVOVAR: Yes, the counties are aware of that through the regulations. Also, in the meetings we have had with the counties, we have pointed out and explained those regulations.

ASSEMBLYMAN BRYANT: Again, assuming a municipality has a project that is listed on the county, they want 100% funding, and the county decides not to list it with engineering and acquisition costs, what is their procedure to appeal that to the State?

MR. PIVOVAR: Under the regulations, there is none.

ASSEMBLYMAN BRYANT: See, one of the problems I have, and I guess one of the things I would like this hearing to bring about, is maybe we need to develop an appeal process as far as municipalities are concerned. It doesn't seem very smart to me to designate all of these

places as depressed rural centers and urban aid funding areas, saying already that they lack the ability to do some of the funding, because that is how by definition you create these towns. Then, they are at the whim of the county, in essence, to say yes. We play games with them. "We'll fund your project, but we are not going to fund your engineering and your acquisition," which, as you gentlemen know, could be anywhere from 10% to 50% of the project. In essence, what you have done, in some way, is gloss over that you are trying to help that municipality, but you're really not, because if we have already determined they are depressed areas, they cannot afford it. Therefore, the project doesn't get done. They get it turned down and we say, "Well, we tried to help you, but you don't want to help yourself." But we know from the beginning by the definition of a depressed area that they cannot afford to help themselves in terms of those kinds of fundings. It seems to me that the Department should consider some way in which -- especially if we are going to fund these programs now that it is all under our control that a municipality is either a hardship or urban area municipality in the definition -- a municipality can present to the Department that their cause is one that is justifiable to be considered and because, whatever the politics might be on the county level, it is not a reality to get the project done, if that is our purpose. I think our main purpose is to get projects done, and if they are important projects that need that kind of funding, to see that they have it. Maybe you ought to tell the Commissioner that we might consider that.

MR. HUNT: Yes. The one thing I would like to point out is, under the Municipal Aid Program, which is included in the Trust Fund, we are doing exactly as you say. Under the Municipal Aid Program, the counties are not involved in project selection, etc. We -- I say we, but the Commissioner is the final approval authority on a project. In all instances, they are again contingent upon the availability of funds. We have received \$110 million worth of requests for construction for the \$19 million that is available. But, in those instances under that program, any municipality, based on the approval of the Commissioner, would be able to receive 100% of total project

costs if it qualifies, the difference being the FAUS Substitution Program, where selections and development of the programs are accomplished at a county level.

ASSEMBLYMAN BRYANT: I guess, as a person who had some small part to play in the development of this bill, I don't want to get confused with the municipal portion. That was done for a particular reason. It was done recognizing the fact that somewhere in the neighborhood of between 80% and 90% of all roadways are in the municipalities, and that they need additional help. In no way was it contemplated by the Legislature that any other present help that municipalities were getting, through whatever form, FAUS being one, would be diluted in terms of getting help in those areas. I separate those two programs clearly, and I understand the mechanism. However, it seems to me that if, in fact, we are the final arbitrators of programs, where before in the FAUS system it was the Federal level which was the final arbitrator, that there should be some type of process for municipalities to appeal those things which they think are inadequate determinations made, on another level. It seems that would only be fair play.

Can you tell me if there has been an analysis, just in terms of percentages, of county projects that are now being presented in this first year versus, say, the last three or four years -- county versus municipal, in the FAUS? Can you compile that information?

MR. PIVOVAR: Yes, I can compile that; I don't have it right now.

ASSEMBLYMAN BRYANT: I would appreciate it if we could get a copy of that. This program is going to move very quickly in four years, and I don't want to be four years out if we need to make some changes in terms of how it is administered. I would think that this Committee would like to know if you can actually start seeing a change in terms of the percentage of projects that are municipal roads versus county in the mix.

MR. PIVOVAR: My initial reaction is that that isn't the case, but I will put those numbers together and will have them sent to you.

ASSEMBLYMAN BRYANT: Thank you. The question was presented, has any municipality appealed to DOT, but there is no appeal process, so I don't know how they could appeal.

MR. PIVOVAR: There have been discussions. Two or three municipalities have met with the Department and expressed their concerns. We have tried to work it out with them and the counties. But, no, there is no formal appeal process.

ASSEMBLYMAN BRYANT: Let me ask you -- you might have this information or be able to get this information -- do you know if any municipal roads were placed in Camden County on their approved program under the Transportation Trust Fund?

MR. PIVOVAR: Municipal roads in Camden County?

ASSEMBLYMAN BRYANT: Right.

MR. PIVOVAR: I believe that all FAUS Swap funding is directed to county roads in Camden County at this point. I have a draft right here. I don't see any local roads.

ASSEMBLYMAN BRYANT: That's interesting. If you can, will you stick around? We don't have any questions right now, but we may have some further questions after we hear some other testimony.

MR. HUNT: May I leave the regulations here, sir?

ASSEMBLYMAN BRYANT: I would appreciate that. I would also appreciate it if you would get back to me, maybe within the next couple of weeks, about whether the Department in any way, through the Commissioner, would consider some type of appeal process on two counts; number one, on an inclusion of municipal roads when they are excluded, and number two, on 100% funding when they have been denied at the county level and they think a need exists.

MR. HUNT: Yes, sir; will do.

ASSEMBLYMAN BRYANT: Thank you. Mr. Wayne Bradley, President, County Transportation Association, Office of Transportation Planning, Essex County.

WAYNE BRADLEY: Good morning, Mr. Chairman and Committee members. I am very happy you are having this hearing on this very important topic. What I would like to do this morning -- if you will bear with me -- is wear two hats. First of all, I hail from Essex County. I am

Assistant Planning Director of the Essex County Division of Planning. What I would like to do initially is read a statement into the record -- I believe all of you have copies of it -- on behalf of Essex County Executive, Peter Shapiro, and then talk a little bit about the position of the County Transportation Association. I will then open myself up to questions. What will be obvious from all this is that you will be getting a county perspective, and hopefully with some questions and interaction, we can get some clarification going. First I would like to read the testimony of County Executive Peter Shapiro.

ASSEMBLYMAN BRYANT: We are pleased to receive that testimony, and you may read it into the record.

MR. BRADLEY: Thank you. It reads: "Mr. Chairman, Committee members, I am delighted to give you this statement on the critically important subject of disbursing FAUS funds. I will focus on the FAUS Substitution Program and how funds are being disbursed under it. As far as counties are involved, the FAUS Program is being replaced by the FAUS Substitution Program, and now counties are using State funds to initiate and implement local projects.

"In calling for the passage of the New Jersey Transportation Trust Fund, I stressed the fact that conceptually the Program was supportable. However, we in Essex County, along with many other counties, were cautious in our endorsement of the FAUS Substitution feature of the Trust Fund Program. In testimony given by individual counties, the New Jersey Association of Counties, and the County Transportation Association, there was clear reference to the impact of implementing the FAUS Substitution Program. In addition, I met personally with Commissioner Sheridan to share with him my concerns about how he planned to disburse the funds.

"In that conversation with Commissioner Sheridan, I made it clear that the FAUS Substitution Program was a good concept. I told him we agreed with the plan because it gives counties more control over implementing their projects, and allows us to build projects faster which reduces the cost to complete our projects.

"I gave the Commissioner my support of the FAUS Substitution Program. I still believe it is a good concept. However, I am

concerned about the cost impacts of its implementation, and I take time today to share my concerns with this Committee. I supported the FAUS Substitution Program and asked that it contain three provisions:

1. That under the law creating the Trust Fund, FAUS funds revert back to the counties if the Legislature fails to appropriate the necessary funds to support the FAUS Substitution Program;

2. That FAUS Substitution funds be restricted to roads listed on the Federal Aid Urban System, as is the case under the FAUS Program; and,

3. That all phases of FAUS Substitution projects be eligible for funding, removing the restriction to fund only the construction phase.

"These provisions formed the basis of the positions taken by other counties and municipalities throughout the State on the FAUS Substitution Program.

"The Commissioner agreed with the first two provisions. Language was included in the New Jersey Trust Fund Authority Act to return FAUS to the counties should a future Legislature decide not to fund the FAUS Substitution Program. The restriction to use FAUS Substitution dollars on Federal Aid Urban Systems' roads was included in NJDOT's regulations implementing the FAUS Substitution Program. The Commissioner did not remove the restriction to use FAUS Substitution dollars on just the construction phase of a project. As a consequence, many counties are suddenly saddled with the costs of design and acquiring right-of-way for projects being implemented using FAUS Substitution dollars.

"It would have been fairer for the Commissioner to provide a grace period during the transition from the FAUS Program to the FAUS Substitution Program, because under FAUS all phases of a project were eligible for funding. For the same projects we were accustomed to using FAUS funds on for the costs of design and right-of-way purchase, we are now told to pick up these costs ourselves. The FAUS Program is being phased out over a three-year period through Federal Fiscal Year 1987. I think it is fair that the counties be permitted to phase into assuming the cost of design and right-of-way over the same three years.

"In Essex, our financial exposure for picking up the design and right-of-way acquisition will be over \$900,000. When we bond this amount, we are required by State law to carry 5% on our operating budget, which for Essex means an additional expenditure of \$45,000 in our calendar 1985 operating budget. Under FAUS Substitution, which is a reimbursement program, counties must also bear the cost of financing capital bonds, and this will also be a 1985 operating budget expense. Excluding the design and right-of-way costs, to ensure we maintain the same projects on our Transportation Improvement Program as we did under FAUS, we will have to bond more than \$17 million during calendar 1985, and support 5% of it on our operating budget. Over the life of the FAUS Substitution Program, we cannot expect to be reimbursed for all of the construction cost. It appears to be a reasonable price to pay for greater control over our projects. However, we will not be reimbursed, according to NJDOT's FAUS Substitution regulations, for any design and property purchase, and my argument is that the counties should be allowed to apply FAUS Substitution dollars against such costs."

I will be brief in my remarks from the perspective of the County Transportation Association. I would like to say at the outset that we appreciate this Committee's efforts in the deliberations which created the New Jersey Transportation Trust Fund. We gave testimony in the Senate, to your counterpart Committee, and we supported the Program as a welcome relief to counties and municipalities in trying to get capital programs built. As the County Executive mentioned in his statement, there was a general suspicion about the FAUS Substitution Program, not from the fact that we were entering a new area and there was just so little information about it, but that we were potentially jeopardizing our financial situation. As the two gentlemen from DOT explained, in the FAUS Program the counties are used to getting quite a bit of funds in terms of all phases of the projects. In addition, we were allowed to, what we call "carry dollars over." If a particular project in a particular year was somehow delayed, we had the ability to plan a contingency and roll those funds over into future years. Under the FAUS Substitution Program, we do not have that. What we have is a-- We are operating under a State fiscal year, which tells us that we

must have our projects authorized for those funds -- for those FAUS Substitution funds -- between July 1 and June 30 of a particular fiscal year, or lose the funds to the State of New Jersey. I must admit, though, that the Commissioner was very receptive to our comments and concerns. We met with him as individual counties and in groups, and I think he was very aware of some of the concerns we had.

I listened with a great deal of interest to the testimony today and to some of your questions in particular, Mr. Chairman, concerning the impacts of the municipalities. We sympathize in many respects with that, and I think there is going to be an adjustment period that we are all going to have to go through.

Basically, the counties' concerns are coming down to, again, this question of picking up design and right-of-way, not so much design, but right-of-way costs. DOT's position on that, as they have explained it to us, was that by having us pick up the design and right-of-way, the counties are, in fact, committing themselves to projects. I can understand their fears and concerns because under the FAUS Program there has been a sort of arrogance on the part of the counties and municipalities that we could spend this money and get into all kinds of design projects, and not really commit ourselves to the final construction of them. But I think that at the least, when we commit ourselves to right-of-way, that is, to getting the right-of-way funded, that the project is pretty much of a certainty. I would think that because of the heavy costs involved in purchasing property, particularly in counties in the southern parts of the State, and even in Essex where we are getting some growth in some enhanced land values, that it might be a good idea for the State of New Jersey to take a look at that, and for DOT to take a look at the regulations in that area and try to build back in some kind of an automatic eligibility for at least the right-of-way portion of the FAUS Substitution Program.

Those are basically my comments, Mr. Chairman. I will be happy to answer any questions.

ASSEMBLYMAN BRYANT: Thank you for your comments and, also, for reading Mr. Shapiro's statement into the record. Let me ask you one question from the county perspective. Assuming you have a

municipality that has a road which qualifies for your TIP Program and which has applied and gone through its planning process, does it have any right to appeal within your county structure?

MR. BRADLEY: There really is no formal structure for a municipality to appeal. That has generally been a county-by-county response. In Essex County, our Board of Freeholders is very sensitive to the concerns of our municipalities. We have been carrying some municipality projects on our TIP. In fact, we are going to be carrying East Orange -- our largest city outside of Newark -- on the program for two projects totaling roughly \$2.1 million. But, we invite our municipalities, during the preparation phase of our work program, to come in, offer projects, and sit down to discuss those projects. We take it upon ourselves to explain to them the restrictions on the funding and any restrictions they might have in terms of eligible costs for the project.

ASSEMBLYMAN BRYANT: Assemblyman Cuprowski?

ASSEMBLYMAN CUPROWSKI: Yes, Mr. Chairman. It is my understanding that the Department of Transportation's position is that if the State, in effect, did not have to pick up the design and right-of-way costs, and those were passed on to the county, as the gentleman indicated-- It is my understanding that the State feels there might be more money available for other projects. Would you agree with that?

MR. BRADLEY: Not necessarily, no. I think that under the FAUS Program, as I said before, there were restrictions in terms of how fast we could get the projects built. But I don't think there is a direct relationship between the State freeing up moneys and letting the counties pick up that burden to build more projects. In fact, as I indicated -- or as County Executive Peter Shapiro indicated in his testimony -- there is an impact on the operating budget. There is an impact on the bonding of the counties. In effect, what it does is, it starts to divert some of the county dollars we normally use for resurfacing roads that are not typically eligible projects under the FAUS Program, and I would imagine that the FAUS Swap Program would begin with major reconstruction. We're talking about just resurfacing

and maintenance kinds of activities. We are going to be raiding the till of the counties to support projects that we have never had to raid the till for in the past.

ASSEMBLYMAN CUPROWSKI: That is an area that should be of concern. Do you feel that the counties would divert moneys that ordinarily would go to other road projects, maintenance, whatever, for the purpose of right-of-way acquisition costs and design costs?

MR. BRADLEY: Well, let me answer that with a not-too-long answer. Under the FAUS Program, we have had problems of delays in implementing major construction projects, but through the Transportation Improvement Program we have sort of raised the expectation that major capital projects related to our ability to grow economically were important and critical. Under the FAUS Substitution Program, we are now in a position where we are committed to those projects. We have to continue to see those projects through to construction, but now with more and more county dollars. Yes, there will be a diversion of some of those funds. I understand, of course, that there is a bill in the Legislature that would provide relief to counties in the form of some county aid, and we are looking forward to seeing that go through. But, in the meantime, over this transition period from the FAUS Program to the FAUS Substitution Program, we are going to be -- and I think this is the point we are trying to make -- in a position where we are going to have to seriously look at our ability to maintain our county roads versus our ability to put funds into the FAUS Substitution Program and build those long-expected, long-awaited major reconstruction projects.

ASSEMBLYMAN CUPROWSKI: So, you feel there should be at least some allowance, if you will, during the transition period to pick up those additional costs.

MR. BRADLEY: Yes. I think it is fair. I think the State Department of Transportation is correct that eventually the FAUS Substitution Program should be supported by-- The program should have some major contributions from the counties in terms of moving big projects. But, those would be new projects, projects that we would have the ability to plan for. Under the FAUS Program, we literally

gave the administration of the projects over to the State and, through a protracted process, we have seen those projects grow with inflation. Now suddenly, we are at a point where we have to absorb some of those costs. I think in all fairness it would be good for the counties to have a transition period in which to adjust to these changes, and then begin a local aid program of a good magnitude.

ASSEMBLYMAN CUPROWSKI: All right, thank you.

ASSEMBLYMAN BRYANT: Are you suggesting that possibly some percentage over a decline percentage should at least be -- even if it isn't mandated -- used for right-of-way or design -- that some percentage can be allowed for those costs on certain projects?

MR. BRADLEY: Mr. Chairman, in our initial conversations with the Commissioner, we asked at least that the FAUS Substitution Program hold us harmless, that is, that we maintain the same level of financial obligation to the projects, and then back down from there if there is going to have to be a need for design.

What happened was, the Commissioner gave the exact dollars, \$35 million, to the counties for disbursement, and then we tagged on extra costs that the counties would have to absorb. I don't know if that will work out in terms of, let's say, making the pot \$40 million and specifying that certain portions of that money go into right-of-way. I think it would be better if the Department of Transportation just basically said that for this year, or at least for the transition period, that right-of-way is now an eligible cost, and if you have to bond for the entire cost of the project, you can get everything back except for the design money you spent. Of course, I won't argue against getting additional money in the counties. It is obvious that we need it; it was obvious to us a couple of years ago that the FAUS Program itself, because of inflating costs, was shrinking in terms of the amounts of dollars available to build these increasingly complex projects.

ASSEMBLYMAN BRYANT: Assemblyman Cuprowski, do you have any questions?

ASSEMBLYMAN CUPROWSKI: No, but the only observation I would like to make is, I think the Commissioner, to everyone's knowledge,

has certainly been very agreeable to some of the suggestions put forth by your particular organization, by the League of Municipalities, and by a representative of the counties. As you indicated, he was agreeable to two of your three suggestions. It has been my understanding that the Commissioner feels there is always room for a discussion, such as we are having here today, to take any constructive recommendations into consideration. I certainly appreciate your coming here before the Committee today and giving those recommendations to us.

MR. BRADLEY: Thank you very much. Just as a parting shot, I would like to emphasize again that it has been a real precedent-setting working relationship between the Department of Transportation, the counties and municipalities, and the Legislature. Again, I appreciate coming before you, and I thank you again for taking the time to hear me out.

ASSEMBLYMAN BRYANT: Mr. Bradley, we appreciate your coming. We found your discussion enlightening. I'm sure the people from the Department of Transportation will take some of your suggestions into account. Would you please thank Mr. Shapiro for presenting his testimony, even though he couldn't be here with us?

MR. BRADLEY: I will, sir.

ASSEMBLYMAN BRYANT: Thank you. Mr. William Dressel, Assistant Executive Director, League of Municipalities.

WILLIAM DRESSEL: Mr. Chairman, my name is Bill Dressel. I would like to recognize Mr. Rohrbach.

ASSEMBLYMAN BRYANT: Okay. I didn't know whether you were together or not. Mr. Rohrbach is from the New Jersey Municipal Engineers Association. Welcome, gentlemen.

MR. DRESSEL: We have prepared statements; your aide is presently passing out copies.

ASSEMBLYMAN BRYANT: We can either make them part of the record, or you may read them into the record.

MR. DRESSEL: We would like to read them into the record, if we may, sir. Thank you.

As I said, my name is William Dressel. I am Assistant Executive Director of the New Jersey State League of Municipalities. I would like to thank you for the opportunity to appear before you today to testify on the disbursement of Federal Aid Urban Systems' funds.

My comments today are, in essence, a restatement of a number of concerns we mentioned last spring before the Senate Transportation Committee on the State Transportation Trust Fund Act of 1984, which is now Chapter 73 of the Public Laws of 1984.

In that statement, we acknowledged a number of advantages of the FAUS Substitution, or Swap Program, over the FAUS funding methodology. They are:

1. The Federal requirements that must be followed when Federal funds are used on local transportation projects will be eliminated, which should expedite the reviewal process of transportation projects;

2. This new program will allow for design under State -- rather than Federal -- criteria, which should reduce project and design costs by eliminating what some might consider over-design under certain Federal standards; and,

3. The FAUS Swap Program will also allow funding of projects which were not eligible under the current FAUS Program.

One of the concerns we have with the FAUS Substitution Program is the ineligibility of design engineering and right-of-way acquisition costs for funding. Under the FAUS Program, these two elements qualified for funding. Under FAUS, the design and right-of-way costs were usually scheduled in each of the two years of funding of a given project. Under the newly adopted rules and regulations to implement the FAUS Swap Proposal, only 60 municipalities -- or 67, as I heard earlier -- that receive urban aid or depressed rural aid would qualify for funding for design engineering and right-of-way acquisition costs. It is our understanding that all other municipalities, approximately 500, either sponsoring or making application for those projects, must pay all design engineering and right-of-way acquisition costs.

According to some municipal engineers, these engineering costs may total 10% to 20% of the project construction costs, dependent upon the size and complexity of the project. Right-of-way acquisition may vary from 0% to 30% of the construction costs on larger projects.

Since these costs are considerable, we would once again like to suggest that consideration be given to either a 50/50 match on engineering and right-of-way costs, or an appropriate contribution toward such expenses.

As noted in our statement last spring, our primary concern with the Trust Fund proposal was the absence of additional funding for local roads. Needless to say, we were quite pleased with the inclusion of \$19 million a year for four years for municipal roads. I might add that it is absolutely essential that the \$19 million be appropriated on an annual basis over the next four years so that local units can anticipate these moneys into their planning and budgeting process. All too often we find during the appropriations process that local funding programs like this one fall victim to the State's budget ax to offset State revenue shortfalls. We hope that this does not happen with this funding program.

We must also note, however, that the \$19 million must be viewed as only a "first step" in addressing our transportation needs at the municipal level. The Trust Fund is expected to produce \$800 million per year of combined State and Federal funds, with about \$240 million per year for public transit and \$560 million per year for highways. The annual \$35 million in the FAUS Swap Program for county and municipal highways and the additional \$19 million for municipal projects all together account for only 9% of the funds for local highways. According to a study that has now been completed by the County and Municipal Government Study Commission, the unmet need in municipal highway rehabilitation and construction costs alone is \$55.9 million per year. Although we recognize this is not the forum for requesting additional funding for our transportation requirements, we would hope that this Committee would consider separate legislation in the not too distant future which will adequately cover our municipal transportation needs.

We commend this Committee for taking the initiative to look at this important funding program, and the League will cooperate in any way it can to assist you in your deliberations.

At this time I would like to recognize Mr. Richard Rohrbach, Municipal Engineer for Cherry Hill Township, and a representative of the Society of Municipal Engineers, who would like to comment further.

ASSEMBLYMAN BRYANT: Prior to hearing from Mr. Rohrbach, may we ask a few questions?

MR. DRESSEL: Sure.

ASSEMBLYMAN BRYANT: Assemblyman Cuprowski, would you like to ask a question?

ASSEMBLYMAN CUPROWSKI: Yes, Mr. Chairman. Mr. Dressel, with reference to one paragraph in your statement -- and I will read it if I may: "Since these costs are considerable, we would suggest that consideration be given to either a 50/50 match on engineering and right-of-way costs, or an appropriate contribution toward such expenses" -- I notice that Mr. Bradley, who represented the County Transportation Association, seemed to put more emphasis on the picking up of shared costs, if you will, on the right-of-way, as opposed to the engineering design work. I would like to know if you feel that is a justifiable suggestion. If there was any weight value at all as to what costs would be picked up, would you give a weight value, or would you stick with the 50/50 match which basically you are requesting?

MR. DRESSEL: We were referring to the whole notion of the pickup costs, generally right-of-way and design costs. I would have to defer to Mr. Rohrbach for specific information on what his Association recommends and what he feels the greater weight should be placed on. I have no feel for whether right-of-way costs are more exorbitant than engineering and design costs. I am not really qualified to give that kind of an answer.

ASSEMBLYMAN CUPROWSKI: Okay. I just want to get a clear distinction because the counties seem to be putting more value on picking up the costs from the right-of-way.

MR. DRESSEL: I think those costs traditionally have been higher. It is my feeling that they have been higher, but, again, I would have to defer to Mr. Rohrbach on that.

ASSEMBLYMAN BRYANT: Let me ask you one question.

MR. DRESSEL: Sure.

ASSEMBLYMAN BRYANT: When going through your testimony -- and it was excellent -- the League of Municipalities evidently does not, as a whole, have a concern as to the allocation of FAUS funds and the participation of municipalities in that area.

MR. DRESSEL: Not in any one specific area per se. Generally speaking, we're interested in funding for municipalities, not for any specific segment or type of community funding.

ASSEMBLYMAN BRYANT: I guess what I am asking is, does the League of Municipalities recognize the fact, as it seems to exist, that you could be excluded from funding under the present FAUS system?

MR. DRESSEL: I guess that is the reason we're here. We hope that that is not the case, and we hope that if there is any thinking along--

ASSEMBLYMAN BRYANT: (interrupting) I am not talking about the \$19 million.

MR. DRESSEL: Yes, I know; you're talking about the \$35 million Swap. That did cross our minds, yes. The percentage of 9% represents the \$35 million, and I thought that was rather generous because, quite frankly, experience has shown us that the municipalities may wind up on the short end of the stick on that.

ASSEMBLYMAN BRYANT: Do you think the suggestion by this Chairman that maybe there should be some regulations-- I don't know what the Department might consider, but I am assuming they will get back to me within a couple of weeks. I may introduce legislation to at least allow municipalities to have some rights to appeal decisions that may seem to be arbitrary when there is really a need, or to provide a way to have some other review as to their ability to participate in FAUS funding. Do you think that might be helpful?

MR. DRESSEL: I heard the concerns you raised with the prior speakers, Mr. Chairman, and I think that would be appropriate. We would support rules along those lines, yes sir.

ASSEMBLYMAN BRYANT: I am somewhat confused, and I am going to bring the Department back after you are finished. I am going to let

the engineer speak, too, because you're telling us, and the county just told us, about acquisition and engineering costs. It was my understanding that 100% could be obtained in at least certain municipalities, but it seems there are various messages being sent out here. That is why I am getting confused. Is it clear to the municipalities -- and I imagine I should ask the counties this also -- that at least with the municipalities which are urban aid and depressed rural centers, that right-of-ways and 100% of design--

MR. DRESSEL: (interrupting) It is my understanding, Mr. Chairman, that under the new rules and regulations that were recently adopted -- I think in September -- urban aid communities and rural depressed communities would, in fact, qualify for acquisition and design costs under the budget.

ASSEMBLYMAN BRYANT: You are using a much broader perspective; you're saying "any."

MR. DRESSEL: We're saying that the other 500-odd communities ought to qualify as well. Those costs are considerable, as noted, and we think they should qualify.

ASSEMBLYMAN BRYANT: Now, let's hear from the engineer. He will probably enlighten us also.

RICHARD ROHRBACH: Thank you, Assemblyman Bryant and Vice Chairman Cuprowski. I appreciate the opportunity to be here today to present some testimony which I would like to read into the record on behalf of the New Jersey Society of Municipal Engineers. I believe some of you have copies of my statement before you; I do not have sufficient copies with me to distribute to everyone. My statement is entitled, "Hearing Assembly Transportation Committee, Disbursement of FAUS Funds."

On behalf of the New Jersey Society of Municipal Engineers, I would like to bring to your attention some of the problems that we have experienced with the FAUS Program, and most recently the FAUS Substitution Program.

The primary concern of the municipal engineer dealing with the FAUS Program was the extensive delays from the time the project was originally authorized to proceed, to the time that the project was fully implemented. Cost estimates at the time of application, in some

instances, more than doubled because of the six to eight-year time delay needed for plan review, property acquisition, etc. Added to this cost as a result of time delay is the cost for utilities relocation work, which was previously not authorized to be funded under this program. As a result, through State legislation, the Transportation Trust Fund authorized a source of substitute funds to be used by counties and municipalities to have more benefit of the dollars allocated to be placed into construction.

One of the problems of the new program is the fact that the costs for engineering design and right-of-way acquisition must be borne by the municipality. Under the former FAUS Program, these costs were covered. In some instances, these costs can range as high as 30%, and possibly more where there is extensive right-of-way taking required, which places an added financial burden on the municipality.

We would ask that consideration be given by your Committee to having a funding program established to offset these costs, if not in whole, at least in part, so that a municipality can, in effect, have the same full advantages as they experienced under the former FAUS Program. The concept of the Substitution Program is to be applauded as a first step to establish a stable level of funding to address the substantial needs of the municipalities' highway maintenance programs. The unfortunate part of the Substitution Program is that some counties have seen fit to retain the full allocation allotted to them with no distribution of any of those funds being disbursed to the municipalities. We believe this only points out the fact that there is obviously a substantial backlog of county highway projects and it is understandable why some counties have seen fit not to disburse the funds to municipalities, but rather to use those funds entirely for their own needs. As a result, some municipalities which were able to receive funds under the FAUS Program are no longer receiving funds either from the FAUS Program or the FAUS Substitution Program.

In addition to the \$35 million available to counties that was to be disbursed to county projects and municipal projects, the new law also provides for \$19 million a year for four years for municipal road projects. With the substantial backlog of municipal road projects

throughout the entire State, each municipality can expect to receive a minimal amount of dollars over the four-year period. An individual community will not be able to receive a second round of funding until all municipalities within that county have received funding for at least one project. In addition, the \$19 million allocation per year is eligible for any road within the municipality not previously designated as a FAUS road, plus only \$15 million is to be spent in accordance with the formula allocation, with the remaining \$4 million to be placed in a discretionary fund by the Commissioner of Transportation. The County Municipal and Government Study Commission Infrastructure Report issued in 1983 clearly noted the extensive deterioration of the municipal road system and the unmet municipal highway rehabilitation and construction needs amounting to approximately \$56 million.

For my own municipality, the Township of Cherry Hill, we have recently completed a Comprehensive Road Management Report addressing our municipal road needs over the next 10-year period. At this stage, we can no longer count on FAUS funding, block grant funding, or substitution FAUS funding to the extent the report -- which was published in April, 1984 -- initially indicated. In order to address the needs of our community, the cost per year will amount to an average of \$2.3 million. Certainly, not just the residents of the Township of Cherry Hill use our municipal road system, as we have county, State, and interstate highway systems with intersections and interchanges allowing vehicles to travel on and through our municipal road system.

I feel the voters in the State of New Jersey took the second step in establishing a stable level of highway funding by voting for the dedication of two and a half cents of the motor fuel tax for transportation needs in the State of New Jersey. The other five and a half cents of the motor fuel tax should also be dedicated and returned to the municipalities to assist with the financing of their highway needs. In 1982, if the Township of Cherry Hill had been a municipality in the State of Pennsylvania, we would have been the recipient of more than \$600,000 in motor fuel tax revenues being returned to the municipality. The cost of the financial burden to the local taxpayer is high and should not be solely through the local purpose tax to fund municipal highway needs.

We would urge that every consideration be given to addressing the need for participation in the cost of engineering design and property acquisition under the Substitution Program and, also, to placing before the voters, at the earliest possible time, the dedication of the remaining five and a half cents per gallon motor fuel tax to be used for municipal road maintenance purposes.

I thank you for the opportunity to present my comments to you. If I may, I would like to touch upon a specific example under the former FAUS Program. Mr. Chairman, I think you raised the question to Mr. Dressel of the costs for right-of-way acquisition. Approximately three years ago -- four years ago now -- we had an intersection which needed to be reconstructed, and the costs for right-of-way amounted to approximately \$22,000. The actual physical construction costs amounted to \$70,000, and the cost for engineering amounted to \$10,000. So, in some instances, you're talking about a very significant cost. On the other hand, we could also have a very small dollar need, if any, for right-of-way acquisition, yet the actual costs for engineering could be substantial -- \$10,000 to \$15,000 -- for the design of the construction.

So, to answer Vice Chairman Cuprowski's question as to what amount of funding would the municipalities look for and would there be more emphasis on right-of-way or on construction, I would have to say we would look for emphasis, particularly where there was a large number of dollars involved, on right-of-way. Certainly that would be where we would like to see the greatest emphasis placed. However, we must also keep in mind that there are a number of projects where there is very little or no right-of-way acquisition necessary for a FAUS project or a FAUS Substitution project. We look to have, and would recommend that you give every consideration to having some allocation of funds attributed toward the municipality to offset the costs for engineering as well.

ASSEMBLYMAN BRYANT: Thank you for your testimony. I think you pointed out many things. Since you are from my home county, you understand the FAUS system too. I don't think it was ever the Legislature's intent that municipalities not share fairly in FAUS

funds, even though we knew the \$19 million did not address the total municipal need, as you pointed out. However, we thought it was at least a start toward the right direction. You will find that this Chairman is committed to the continuation and improvement of these funds, if possible, for municipalities.

I don't know whether you have any other suggestions about how we could ensure giving the municipalities some leverage in terms of making sure the FAUS funds are considered. I guess I have a basic belief that if you make things easier -- which I think we try to do through the Trust Fund in terms of Swap and in terms of getting it moving -- you save dollars, you get projects built, but at the same time, I know counties are somewhat up against it too. One who has sole determination tends to start to make sure that his rates don't go up, and the municipal rates go up. That was never the intent of this Legislature. That is why I am interested in looking at the figures as they come in. I can see in the next four years that if we don't have something in regulations or in statutes to require some kind of a review, the municipalities could be at a severe disadvantage. What is left is this \$19 million pot, which was supposed to be a supplement, not a replacement. From an engineering standpoint, have you seen any of that from any other counties, where people have perceived the \$19 million as replacing their obligations for FAUS funds to give municipalities any funds?

MR. ROHRBACH: I can't say anything on behalf of any of the other counties. I think the Committee would probably have to take a look at the applications made to other counties and whether or not there are any other counties. It is my understanding that there is at least one other county in a similar position to Camden County, which has not seen fit to earmark any funds for the municipal road system under the Substitution Program.

There is one other point I would like to make, and that has to do with the fact that with the FAUS Program, the funding could be used for just those roads under the urban system -- the secondary urban system. Under the new program, we are talking about fewer dollars for virtually any road. You are getting a watered-down effect for that

municipality, and I think there is going to be a need for a greater amount of participation funding-wise from the community just from the standpoint of construction. There are not going to be dollars available for the municipality to proceed with the construction of the project alone, let alone costs for engineering and right-of-way.

ASSEMBLYMAN BRYANT: Let me ask a general question; either one of you may answer it. Have your municipalities been informed about the discretionary funds under FAUS in case they have systems which were not designated by their counties?

MR. ROHRBACH: I can speak on behalf of our community. We are aware -- in fact, we have written the Governor already -- of a county project currently under construction which has created a great deal of unrest in our community by doing a pretty good job of breaking up some municipal roads as a result of some detour traffic. So, I think we are aware at our municipal level. I can't say that is the case for all municipalities, but I think that message has gotten through from the State DOT people to the municipalities.

ASSEMBLYMAN BRYANT: Assemblyman Cuprowski, do you have any other questions?

ASSEMBLYMAN CUPROWSKI: No, I don't think so.

ASSEMBLYMAN BRYANT: Thank you gentlemen; we appreciate it.

MR. DRESSEL: Thank you.

MR. ROHRBACH: Thank you.

ASSEMBLYMAN BRYANT: Is there anyone else who would like to testify? (no response) Will the Department please come back for just a few follow-up questions? I guess you have heard all the testimony and the various problems the counties and the municipalities are facing. I have a question about the \$19 million for municipalities. There seems to be some discrepancy about whether that \$19 million is going to be continued for four years or whether it is a one-shot deal. Do you have any information on that? What is your interpretation of the new Trust Fund?

MR. HUNT: We advised the municipalities by letter that we anticipated it would be a four-year program.

ASSEMBLYMAN BRYANT: Also, that \$19 million has a "cap," doesn't it? It has to be at least a \$10,000 project, if I am not mistaken.

MR. HUNT: That is not true, sir.

ASSEMBLYMAN BRYANT: That is not true?

MR. HUNT: No.

ASSEMBLYMAN BRYANT: Are you saying a municipality could get allocated funds that could not even do a road?

MR. HUNT: I beg your pardon?

ASSEMBLYMAN BRYANT: A municipality could get allocated funds that couldn't even construct a road.

MR. HUNT: They could be allocated funds that could not--

ASSEMBLYMAN BRYANT: (interrupting) Under the formula which deals with population and all the other-- One of the things that happened under the 1979 Bond Act, and one of the things I thought we tried to protect against -- which you're telling me now that we didn't protect against -- was that certain municipalities were allocated funds and those funds were not even enough to construct a road. This doesn't seem to make much sense.

MR. HUNT: I am not aware of any specific cases like that with the 1979 Bond Act, and I was very much involved in that program. In many instances, it may have taken two years to actually build a reasonable project. With the amount of moneys available, if you look at many of the applications, we were receiving applications from municipalities in excess of \$1 million, when their entire county would receive less than that amount.

ASSEMBLYMAN BRYANT: When will those determinations be made? Do you have any idea?

MR. HUNT: Yes, sir. A Municipal Screening Committee will meet this week on Thursday and Friday to review the applications submitted from throughout the State for funding under that program. Hopefully, the final approvals will be made prior to the end of the year. We're doing this, and we built this program around a concerted effort to assist the municipalities in their budget preparations, so they would know in sufficient time for their budgets.

ASSEMBLYMAN BRYANT: The counties raised the point about themselves and the listed municipalities being excluded from right-of-ways and design engineering. Can you give us your thinking about why the Department decided to do that in its regulations?

MR. HUNT: Yes, sir. There are actually three distinct points that we considered, and this dates back, again, to the 1979 bond issue. Under that program, we did not anticipate right-of-way and design engineering costs. I think everyone who has testified here today has indicated to you gentlemen that there is a definite lack of sufficient funds to meet their entire needs. We all recognize this. For example, in 1979 we saw \$450 million worth of applications for \$48 million. Right now, under the municipal program, we have way in excess of \$110 million worth of requests for the \$19 million. These requests were for construction; they were strictly construction costs. So, it appears very obvious that there is no way we can meet their entire needs.

We felt, both in 1979 and in this program, that for the public to obtain the maximum from the dollars available, we wanted to maximize the actual construction, the actual improvements out there, so that the people could actually benefit from the available dollars. If we go into right-of-way, if we go into engineering, and we participate in this, I don't see any way but that it is going to decrease the construction program.

ASSEMBLYMAN BRYANT: Did the Department consider there was any validity to the fact that under the FAUS Program, since they included that, that it was a drastic step to take in terms of an immediate impact, as opposed to maybe a phase-out? You're right; I understand that. If you pay design and right-of-way dollars, you have less construction dollars. But, did they consider a phase-out in any way, where maybe it could be -- as was suggested -- 50/50 for the first year? A point was made by the county, and I think it was a very cogent point. Assuming you are planning -- and we encourage our counties and municipalities to plan -- and you had this one system, which was the FAUS system which allowed all these things, you would not plan in your budget, whether a county budget or a municipal budget, to pick up those

costs, and then all of a sudden in one year, completely change it around. You might not have the kind of budgetary dollars needed to accomplish the same task you had planned that someone else was going to pick up.

MR. HUNT: I understand, and believe me, considerable thought was given to this problem, and not just with the Trust Fund. This goes back many years where this was a major consideration of considerable amounts. Number one, we recognized there were municipalities which were economically depressed which should be given additional consideration. We felt that was essential. That, incidentally, was not intended in the 1979 bond issue either. That is a new consideration.

In terms of county government, we stipulate in the regulations that in a hardship case where they can justify their inability to pay for these costs, that consideration would be given to a county project. We also -- as we state in the regulations -- encourage that the counties use their FAUS backlog funds when they are available for the right-of-way acquisition costs, where under that program, the State would participate in 25% and the Federal government in 75%. Now, I realize there is no guarantee that we are going to have this huge backlog anymore, but these things were all taken into consideration. The bottom line was we wanted to get the best possible shot at giving the public the needed improvements with the available money.

ASSEMBLYMAN BRYANT: You had quite a complex problem. Do you have any further questions, Assemblyman Cuprowski?

ASSEMBLYMAN CUPROWSKI: I don't think so, not at this time.

ASSEMBLYMAN BRYANT: I want to thank the Department and everyone who testified. You have been very open and candid. Please let the Commissioner know that we appreciated your being here. I would like to ask the two things that I asked before. Within the next couple of weeks, please let the Committee know if any consideration will be given by the Department to some type of appeals process in both areas: number one, the area where a project is not included that one might think is necessary, and number two, if a project is included, and you

happen to be from at least one of the municipalities which could apply for 100% funding even though it might not have been included at that juncture. If you could get that to us within the next couple of weeks, we would appreciate it. Thank you, gentlemen.

MR. HUNT: Thank you.

ASSEMBLYMAN CUPROWSKI: Gentlemen, before you leave, I have just one comment to make on the Chairman's suggestion about an appeal process. He is concerned, and certainly I can appreciate that. I'm sure everyone else can also. Relative to the appeal process, if an appeal process is developed, whatever it might be, I hope it will be designed in such a way that it doesn't unnecessarily delay other projects or hold up moneys other than for specific projects under appeal. That is the only concern I have, that we design an appeal process that will take that into consideration.

ASSEMBLYMAN BRYANT: Thank you for bringing that up, Assemblyman Cuprowski. I'm asking, whatever the process, if in fact the Department decides it is something they are willing to pursue, that it be quick, swift, and not something which causes delays, where we get into a year or six months, that type of thing, but something that is done within a relatively short period of time, 30 days or 60 days. I do not want to prolong progress in the counties by whatever is done; there should be a way of getting that moved very quickly.

MR. HUNT: May I make one quick statement? I listened to Wayne Bradley's testimony, and I would like to clarify one point that Wayne brought up. He indicated that if the money was not expended within one year, it would be lost. The way it is established, once a work program is approved by the Department, any municipality or county then has one year to execute a project agreement. That project agreement would establish a mutually agreed upon completion date for the project. So, there is no jeopardy whatsoever.

ASSEMBLYMAN BRYANT: You're saying there has to be a commitment on a project through an agreement within the period of time of one year, even though the dollars might be spent a year and a half to two years later, before construction and all that is completed.

MR. HUNT: That is correct, sir.

ASSEMBLYMAN BRYANT: Thank you. Since there is no one else who wishes to testify today, this public hearing is now adjourned.

(HEARING CONCLUDED)

