

P U B L I C   H E A R I N G

before the

JOINT TRANSPORTATION AND COMMUNICATIONS COMMITTEE

on

ASSEMBLY CONCURRENT RESOLUTION No. 3011  
(A Concurrent Resolution concerning federal aid for  
transportation projects.)

Held:  
Assembly Chamber  
State House  
Trenton, New Jersey  
May 20, 1975

COMMITTEE MEMBERS PRESENT:

Senator John J. Horn (Chairman)

Assemblyman Michael P. Esposito

Assemblyman Gordon A. MacInnes

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SENATOR JOHN J. HORN (Chairman): There are several Assemblymen and Senators who haven't arrived yet, but we are going to proceed. The sponsor of the resolution is not here and I had intended for him to speak first. Nevertheless, we are going to start.

Assembly Concurrent Resolution 3011 directs the Senate and Assembly Transportation Committees jointly to study, evaluate and report on the adequacy and effectiveness of the Department of Transportation's policies and procedures concerning its application for, and its receipt and expenditure of, Federal aid for transportation projects.

In order that we get the story firsthand, we are going to ask the representatives of the Department of Transportation to present their case first. Then I am sure they will respond to questions by the legislators.

If you are ready, Commissioner Sagner, you can begin.

A L A N S A G N E R: Thank you, Senator Horn, Assemblyman Esposito and Assemblyman MacInnes. I appreciate this opportunity to be here. I will read from my prepared statement, and I want you to note that I do have a number of inserts that are not in the printed text, which I think will amplify some of the points I will be making.

This legislative hearing is the result of Assembly Concurrent Resolution Number 3011, introduced on February 20, 1975, by Assemblyman Van Wagner. I would like to read some of the pertinent parts of that resolution which Senator Horn did not read. He read the introduction.

The resolution states:

"WHEREAS, The Department of Transportation, . . . is empowered to 'apply for and accept on behalf of the State any grants from the Federal Government or any agency thereof . . . and may comply with the terms, conditions

and limitations thereof, for any of the purposes of the department'; and

"WHEREAS, Substantial sums of Federal money -- including two billion dollars of previously impounded funds -- have been made available to the several states to facilitate the construction and improvement of highways and mass transportation facilities; and

"WHEREAS, Assertions have been made that the Department of Transportation has not received or could not expend within the Federal time limits the maximum amount of funds available to it under the various Federal transportation programs, and further might be unable to meet the project eligibility requirements for any of the recently released money; and

"WHEREAS, It has been asserted that failure to expeditiously apply for, receive and expend the maximum amount of available Federal funds may be attributable to inadequate and inefficient policies and procedures within the Department of Transportation; and

"WHEREAS, As a State with the Nation's highest unemployment rate, a budget deficit of outstanding proportions, and a readily demonstrable need for improvements in its highway and mass transportation systems, it is imperative that New Jersey apply for, receive and expend on a timely basis the maximum amount of Federal transportation funds available to it; now, therefore . . ."

The rest of the resolution has been read.

This resolution outlines four areas within our Department that seem to call for a hearing by this committee. I would like to point out that on March 20, 1975, I wrote a detailed letter to both Senator Horn of the Transportation Committee of the Senate and Assemblyman Esposito of the Assembly Transportation Committee fully detailing the nature of the federal-aid highway system and addressing the issues raised in the resolution. As

soon as I conclude these remarks, Deputy Commissioner Carballo will fully explain the federal-aid to highway process.

I would like to address those concerns raised in the resolution. I believe they are areas which can be disposed of relatively simply, but I would like to stress that although we are aware that this hearing was called to determine areas of implied inefficiency and to probe the alleged causes of delay in highway construction, we have come here today not only to resolve the controversy surrounding those inquiries, but also to explain to you the intricacies of the operations of our department. We hope by the end of this session, you will have come to a fuller understanding of our philosophies and goals and will be better able to judge our performance.

We plan to hold nothing back. We offer you our failures as well as our successes, our problems as well as our achievements. I have brought with me today members of my staff, all of whom will be available to provide you with information on any aspect of the department you so desire.

I would like to begin now with the first of the charges against the department. In reference to the statement that the \$2 billion of previously impounded funds have been released and the implication that New Jersey will not benefit from that release, I restate today what I stated on February 11, 1975 when President Ford announced that release - specifically, that what some have characterized as the President's public relations gesture has distracted us from the real transportation needs of New Jersey and that we cannot, under the terms that were laid down by the President, benefit our program.

It is our professional opinion, arrived at after much discussion with representatives of the Federal Highway

Administration, both locally and in Washington, and our Congressional Delegation, that the release of those funds will have a minimal effect on New Jersey due to normal red tape, processing, and unnecessarily long time frames mandated to fulfill federal requirements. Furthermore, the likelihood that the impoundment release will cause major changes in construction patterns is as improbable on a nationwide level as it is in New Jersey. An injection of new funds into programs which require continuity for their very existence, cannot magically revitalize them. To release an inordinately high level of funding suddenly without providing time for preliminary work, can effect only minimal results. Moreover, the time limit of July for us to draw down these funds, which caused alarm that we would lose our share because we couldn't obligate by that date, is moot. It has been determined and confirmed that this money is ours by law, authorized by Congress, and that we will spend every penny of it within the legal time provided by Congress for us to do so.

Although the impoundment has been lifted, we still live with its residual effects. Impoundment has made many projects appear unreal. Programs which previously enjoyed continuity were interrupted. Approved projects were delayed due to a lack of funding. Then, when we were free to use impounded funds, we found we were blocked by new federal requirements which retroactively affected those approved projects.

An example of the effects of impoundment, in Essex County, for example, is Route 280, which was completed with money that was available as far as the Stickle Bridge. Monies that would have enabled us to continue that road to Harrison along an approved corridor were held up by impoundment. Then, when the new monies were available to us the next fiscal year, new federal regulations required new studies and held that project up the point where we

are still delayed. The combination of impoundment and inflexible after-the-fact standards was a great source of frustration to us, and I will give other examples of this.

The second accusation - that the department has not received nor could expend the maximum funding available to it under various federal transportation programs - is again a greatly misunderstood premise. I read to you from a March 20th letter which I sent to Senator Horn and Assemblyman Esposito:

"New Jersey has utilized every cent of federal formula funds made available since the inception of the federal highway program and not 'lost' one penny. Moreover, there is every reason to believe, barring Congressional changes in statute or any other unforeseeable events, that this will continue to be the case.

"The federal-aid highway program is not a grant-in-aid program. No matter what this state did, it could not receive more federal-aid highway funds than are apportioned to it by statutory formula."

We have also been criticized specifically for not obligating all available funds for highway safety. I would like to address this criticism by explaining that much of the work we undertake to construct is done because its very nature is conducive to improving highway safety. The federal funds available to New Jersey under the special highway safety program total only \$22.7 million over a two-year period. As indicated on the chart, we have spent more than \$38 million on specific safety projects in the past two years. The first line on the chart is the amount we have under the special program that was announced in November, 1973. We have \$1,686,000 that will be obligated by June of 1975. By September, we will obligate \$5,499,000. I cannot see the bottom line.

SENATOR HORN: It says, two years, total 43 projects.

COMMISSIONER SAGNER: In two years, we have completed

in the safety area forty-three projects that total \$38,109,000.

SENATOR HORN: Could I ask you a question?

COMMISSIONER SAGNER: Surely.

SENATOR HORN: When you say a two-year period, which two-year period are you talking about, because it looks to me, as of June 30, 1975, which has not arrived yet, you have only obligated \$1,686,000?

COMMISSIONER SAGNER: 1973, I believe, and 1974. The point that we are trying to make is that much of the safety work that we do, we have been doing out of regular categories and not out of this special safety category, which was not announced until November, 1973. It wasn't until mid-1974 that it was decided that these funds would go to the Department of Transportation. There was an option in the State Administration for these funds to go to the Department of Motor Vehicles, which is also concerned about safety. And it was decided that the bulk of these funds would go to the Department of Transportation.

What we are attempting to do is to channel most of this money through the local aid program, to use this money for small projects which are not eligible and do not require large sums of money, and to assist the counties in solving their safety projects. And that program has been underway now for the last year, and we will obligate all of the \$22 million dollars within the time.

Furthermore, the magnitude of those safety projects that we have undertaken, as shown on the next chart, would exhaust entire categories of the safety funding program were other federal funds not expended to provide capital needed for the improvements. This chart shows just how greatly out of proportion the highway safety funds are to the need for safety improvements.

For example, we put one project in. There is a category in the safety program for high hazard areas, and our entire allocation is a little over \$2 million.

On one project on Route 21, we spent \$3,150,000. Our plan has been, rather than take that entire \$2 million and spend it on one state highway project, as I said before, to take that \$2 million and divide it up among the counties in the State for many small high-hazard projects within those counties. This process takes time to work out with the local county engineers.

The other categories -- for example, on Route 95, roadside obstacles - our total allocation or apportionment in that category is about \$2 million; and on one project on Route 95, we spent almost a million and a half dollars.

On Route 17, we spent \$290,000 for a pedestrian bridge, a very important safety project, and that type of project is not even eligible under the safety program.

SENATOR HORN: Assemblyman MacInnes has a question he would like to ask.

ASSEMBLYMAN MAC INNES: Commissioner, are those statutory or Federal Highway Administration regulations or are those a result of the New Jersey State Plan, the high-hazard areas, for example?

COMMISSIONER SAGNER: No, the safety program is divided into a number of categories, and the \$2 million is divided among those various categories, according to a formula.

ASSEMBLYMAN MAC INNES: What I am trying to get at is this: Is the \$2 million that is available to New Jersey out of the \$21 million, or whatever it is, for high-hazard areas, determined by New Jersey or is that determined by the federal government?

COMMISSIONER SAGNER: It is determined by the federal government. In other words, we receive \$21 million and it goes to a number of categories, and the amount of money in each of those categories is determined in the appropriation to us.

ASSEMBLYMAN MAC INNES: By the Feds?

COMMISSIONER SAGNER: Yes. I want to repeat again that we think that better planning and better utilization, especially in view of the fiscal problems that the counties have and the fact that we have been forced to curtail the entire State Aid Program, would be to channel this money into important safety projects in the counties to relieve some of the burden on them.

In talking about safety, just for a moment, I would like to point out that the New Jersey safety record on the whole is a good one, and in the printed report I give some statistics. The chart illustrates it. In fatalities, we are among the lowest in the nation; and in fatal accidents, we are among the lowest in the nation.

ASSEMBLYMAN MAC INNES: Isn't the low fatality rate a result of the low average rate of speed in New Jersey rather than necessarily being the result of any particular safety program we have? Aren't we, in terms of average vehicle speed, the slowest state in the country because of the density?

COMMISSIONER SAGNER: Well, we do have a lot of high-speed roads, Assemblyman. Despite thoughts to the contrary, we do have some interstates that are open. We do have some freeways that are open. The figures from the Turnpike are in here, as well as the Parkway, which are pretty high-speed roads.

I agree with your premise, though, that the most important ingredient in safety would be speed.

ASSEMBLYMAN MAC INNES: In fatalities.

COMMISSIONER SAGNER: Yes, and in the whole safety picture.

The third criticism mentioned in the resolution refers to, and I quote, "inadequate and inefficient policies and procedures within the Department." This is the

part of the resolution that hurts the most. I will say that the entire resolution -- and I will say this parenthetically and maybe off the record -- hurt, because I think we could have had this whole inquiry in a different manner. I am again reminded of the quotation from the humorist, Pogo, who said, "I have met the enemy and they are we."

But this one about the inefficient procedures in the department is the one that hurts the most. Until the time that I was fortunate enough to take this position as Commissioner of the Department of Transportation, I had a modestly successful career in business as a builder, and I, admittedly, didn't know too much about academic transportation theories when I took this job, but I did know one thing - I knew how to get a job done, and on time - because that is where the profits were. I believe that this criticism is certainly one that needs some explanation and some clarification.

So let me take some time here to outline for you some of the reasons for delays that have become all too apparent to us in the past year and a half. Some are inherent in New Jersey Transportation bureaucracy, as in any bureaucracy, and others are imposed upon us by the Federal Highway Administration.

Another personal remark I would like to add is that in the 27 years that I was in the building business, I often did millions of dollars worth of contract work with contractors with only a handshake. And it was a revelation to me to get involved in government and the federal bureaucracy where it takes us six months, not to get a job done, but six months - and that's a good time - to draw a contract with a consultant to begin a project. But this is necessary when we are using federal funds and state funds to make certain that the public interest is protected. But this is a given that we have to deal with.

I would like to provide a bit of background, setting the stage as it was in January, 1974, when this administration first came into office. If you will recall, it was a time of mile-long gas lines, skyrocketing inflation, and a time when people realized that bountiful and cheap energy was a luxury of the past. Congress had previously foreseen these problems as real and had enacted the Clean Air Standards Act of 1970, which required that each state have a State Implementation Plan which would establish acceptable levels of pollution.

The element of the State Implementation Plan which relates to transportation is the requirement for a Transportation Control Plan which sets standards of allowable emissions as well as various strategies to achieve them. New Jersey did not meet the August 1973 deadline to establish a Transportation Control Plan of its own; therefore, the Federal Environmental Protection Agency imposed one upon us in November 1973.

The standard of allowable pollutants called for under this plan imposed on New Jersey was for a 67 percent reduction in hydrocarbons in the Tri-State area, the northern part of the State, and a 47 percent reduction in the Camden area. This translates into various strategies, which include car-pooling, conversion from heavy truck usage, stricter automobile inspection, and, what is most important to this inquiry, over-all reductions in vehicle miles traveled by 58 percent in the Tri-State region and 15 to 23 percent in the Camden region. I cite all of this as an example of the climate which I inherited in January, 1974, the height of fuel awareness.

It was for this reason, therefore, that when this administration came in it dedicated itself to improve public transportation. It did so as a deliberate and philosophical outgrowth of public opinion and need at that

time. It was more than a liberal political reaction. It represented a commitment to conservation and long-range planning. James Gannon of the Wall Street Journal, on May 15th, last Thursday, cautioned national leaders in his article not to avoid difficult political decisions which are aimed at long-range economic solutions rather than interim short-term gains. He cited this type of political courage was lacking in England and, as a result, the British economy has never faced its real problems and is faced with a sliding economy which may have five to ten years of stagnation and unrest. This is certainly a course that we do not want to follow in New Jersey. Today, the Federal Energy Office continues to emphasize that the energy crisis is just as serious now as it was then. It was and will continue to be an opportunity to correct the historic imbalance in transportation modes.

We came to this department and found, despite an energy crisis, a division of commuter services without a director and without sufficient staff to attempt to resolve the pressing public transportation needs of our highly-urbanized state. We concentrated on building the staff. Through that effort, we were able to bring more money for mass transit to this state in one year than New Jersey had received in the ten-year history of the Capital Assistance Program of the Urban Mass Transportation Administration.

However, our dedication to improved public transport was to make up for past neglect and did not mean ignoring the highway area and its requirements. That would have been asinine in view of the fact that 75 percent of the people today and in the foreseeable future will be traveling to work by private cars.

In the highway area, the department had been without an Assistant Commissioner for Highways since July of 1973. The staff of the planning and highway

area had not been strengthened to meet the increasingly complex processes required by NEPA nor to meet other requirements that have revolutionized highway construction.

This next chart shows an effort we have made to increase the number of positions budgeted to do environmental work. We took office in January, 1974. The NEPA act was passed in 1970. Yet in 1971 and '72, in the Bureau of Economic Analysis, there were three employees. In 1973, this was increased to eight, which we found when we arrived. We have increased it to eleven, and we project by July of this year to have twenty positions. We hope to have twenty additional people in environmental testing. So we will have a total of forty people, as opposed to sixteen that we had when we came here in 1974, and eight that were in the department prior to that.

Remember what we said about building a highway being an ongoing planning and development process, and you can see why we are where we are today.

Our 1976 budget request for more planners to do environmental work, however, did not receive your complete concurrence. Planning funds are always unfortunately the first to go. We have requested \$4,995,382 for planning. We received \$3,739,944, a 25 percent cut.

Let me continue to outline some additional reasons why New Jersey appears to be behind on obligating as much federal money as we would like:

The relative stagnation of the public transit section of our department and the lack of buildup in planning and in the environmental area was a reflection of the essentially leaderless department which evolved from former Governor Cahill's primary defeat in June of 1973. One of the more acute consequences of the department's lethargy was the lack of a federally-approved Action Plan. This is an essential element. An Action Plan, which Mr. Keith Rosser, the Director of Research and Planning,

will discuss later, details a step-by-step process through which every construction project must pass to be eligible for federal funding. Federal regulations required that there be an approved plan by November 1, 1974, but it was not until our administration gave the plan its proper emphasis that we even began to develop one, and finally had it approved five months late in April of 1975.

I must emphasize, gentlemen, that this is not merely a question of collating and putting into print something that took so much time to do. The processes that are described in that book that are essential for us to be eligible for federal financing had not been thought out, had not been organized, had not been delineated and had not been thoroughly understood between our department and the federal agencies and the community groups involved. It was for that reason that the report was not ready in time.

That delay represents the failure of the department prior to 1974 to organize along lines needed to qualify for federal funds under current regulations. It also reveals that the department's philosophical bent at that time was not directed toward taking the steps necessary to develop and implement the required plan. Without this plan, the federal funding process could only be delayed further.

Another point is that program development, such as the Master Plan, which is also essential for federal financing, is impeded by New Jersey's lack of coordinated, statewide planning. However, we have our hands tied in this effort since transportation planning without land-use planning is a tortuous and nearly impossible task. The state is desperately in need of comprehensive land-use planning which will enable us to build transportation facilities that link rationally-planned development. However, this government's ability to implement land-use

planning is equally frustrated by our archaic tax structure. Although this hearing is not called for the purpose of my delivering a commercial on tax reform, I feel obliged as the Transportation Commissioner to explain to you the difficulty of managing a state without a rational tax base. Municipalities cannot be required to follow regional or state land-use planning when they must rely on fiscal zoning, as they do presently, to develop revenues.

Throughout the sixties and thus far in the seventies, planning has been strictly an intellectual exercise. Now it is becoming recognized as increasingly essential. Although it is not totally comparable, our department employs some 170 planners while Pennsylvania has 250 and New York 590.

Our efforts to build our staff, both in depth and breadth, is slowed by budget limitations and by our inability to compete with salaries in the metropolitan area, both with authorities and neighboring states.

The third point: Our system of highway funding has led us into bad habits that are also partly responsible for where we find ourselves today. Since 1968, New Jersey has relied on bond issues to fund capital construction programs for highways, avoiding the more thorough and complicated federal processes. Rather than teach the department to plan in accordance with federal regulations, the failure of the '72 bond issue only served as a setback to be overcome "next year." Because our ability to comply with the federal process was stalled, we unwisely attempted a 1974 bond issue which also failed. I would like to point out too that we made every effort, because we felt those projects were needed, to sell that bond issue. And I would like to make note to those who are now complaining about the lack of work that there was not the wholehearted support of that bond issue by the construction industry, by business and by organized labor. I think they now realize

that and have joined together to form the Alliance for Action and perhaps will put the proper effort forth if there is another bond issue. In November, there is the possibility the State may well offer another bond issue authored by the Capital Needs Commission in the hopes of securing funds to continue statewide capital construction. Although I favor such a bond issue at this pressing economic time, I caution us not to repeat our past failures by attempting to fund with bond issues those programs which could be processed and funded out of federal moneys. However, on the bright side of a bond issue this fall, there are a number of projects which could be included which cannot be funded federally and, therefore, do not run contrary to this lesson.

In discussions with my counterparts in other states which have been able to obligate impounded funds more rapidly, I find a generous state appropriation annually from dedicated gasoline tax or from the general budget. This gives those states the continuity needed for a sustained construction program. I have also found that these states follow, and have been following for years, the full federal procedures, even for all state-financed projects, so that when impounded funds are released or the federal authorization is increased, they can shift state jobs to federal financing.

In New Jersey in the past, this was not the practice. We have determined that this will be the practice in this department and all projects, whether they are going to be done with federal money or with state money, will follow the procedures of the Action Plan.

New Jersey has not provided our department with such generous gifts, but instead has limited our budget and cut back on funding requests. Specifically, in order to balance our budget and finance projects that we could not possibly eliminate, we have had to curtail and

practically eliminate State aid to the counties and municipalities. If \$12 million of capital were available for State aid in fiscal '75, 52 local projects that are ready to go to construction, amounting to \$19.3 million, could be obligated immediately. We don't have the matching money because you don't have it to give to us.

Each administration faces critical decisions in allocating, for specific use, the limited funds which the Legislature has appropriated. The previous administration, for example, tried to maximize its dollar investment in actual construction and it limited expenditures on engineering and right-of-way acquisition. This resulted in visible improvements at the time, but produced a delay in the progress of future construction. In other words, what we saw last year in terms of frustrations and what we are seeing this year was the result of actions taken, or rather not taken, two or three years ago.

Before I outline the steps we have taken to improve some of these problem areas, let me address the fourth and final point raised in Resolution 3011. That includes a reference to New Jersey's unemployment rate, outstanding budget deficit, and the need for improvements to the highway system, which seem in that resolution for some reason to be connected as an entry.

I would like to make clear that were I to have available to me an unlimited source of funds for highway or mass transit projects without restriction or red tape, I would not invest one nickel of it on any project which had not been subject to the most sound planning and critical environmental testing procedures possible. All possible impacts of a project on the environment, the economy, the land-use process and the like, must be thoroughly analyzed and approved within all rules of reason before I would allow my department to undertake such a project.

Assuring that construction projects provide environmental compatibility is a commitment to which this department is dedicated. However, while I support new federal requirements created with an eye toward protecting the environment, I will continue to fault the way the regulations apply to New Jersey by retroactively requiring additional studies.

A major example of this is the construction of the easterly portion of Route I-195 between Route 527 and Route 34. Despite a successful corridor hearing in 1959, an approved environmental impact statement in 1971, an FHWA-approved design phase in 1974, we cannot acquire right-of-way because new regulations have been subsequently issued which require new air standards and, therefore, make our old EIS invalid, and have returned us to the proverbial drawing board to reanalyze the impact of this project. We have learned to deal with federal red tape, but will continue to be frustrated by the bulk of delays and unnecessarily-wasted energies caused by retroactivity. We have requested the inclusion of "grandfather clauses" for certain regulations but, thus far, have been unsuccessful in persuading the federal officials to implement such a change.

I would also like to insert in my remarks, Mr. Chairman, another area in which I am in disagreement with the orthodox environmentalists. There are a number of projects which now require an environmental impact study which do not have a major impact on the social, economic or environmental areas. And we would hope either through regulation of the FHWA or through Congress to liberalize the interpretation of those projects which require a major environmental project study. I am hoping we make progress in that area.

I should also like to point out here that New Jersey is unique in its population density. It is the most densely populated state in the nation by far. We cannot

and should not, if we want to be objective, attempt to compare ourselves with other states in relation to highway construction. Our citizens are becoming aware and resistant to highway construction. The failure of the last two bond issues demonstrates that. Last October, for example, we determined that 29 projects proposed for state funding were eligible for federal aid. A requirement for federal aid is a resolution indicating local support. Only 21 of those projects, projects initiated by local county engineers, have received the necessary local resolutions of support. This represents \$27 million worth of construction that cannot move out of the initial phases, despite the technical assistance and the processing that our department has provided. The communities are no longer unconditionally desirous of our building roads.

I distributed in the packet today a clipping from Piscataway Township, in which they have rejected a \$500,000 plan for the improvement of Stelton Road. I have a whole file of clippings of this type.

Recognizing New Jersey's unique complexities, we have, nonetheless, begun to improve both internal and external communications and taken positive actions to speed the highway construction process. Briefly, I will describe what we are doing.

Number one, we have identified a need for a project management system which would provide a better control on a project-by-project basis and improve our internal communications beyond the present level.

Number two, in June, 1974, in conformance with federal regulations, we established an Office of Community Involvement to foster a better understanding between our department and the members of the communities affected by our construction. Despite statements by irresponsible columnists and equally irresponsible members of your

august body, this is not a public relations gimmick. Formerly at these hearings, engineers who had prepared the plans went out to discuss them with the community. Our experience was that animosity was created, as these men who were competent in their engineering expertise told the community what they truly believed was best for them. That is not how you play the game today. By providing both an educational process and an automatic feedback mechanism, we can effectuate changes without causing delays. The office provides a free flow of information, opportunity for true community input, coordination of activities between the divisions, and an ability to foster early identification and resolution of problems. By developing a scope of community needs at the beginning of a project, we can afford the community the opportunity to participate in the planning process rather than merely requiring them to concede what our engineers tell them. Unfortunately - and this is a small point, but I think symptomatic - the Office of Community Involvement's \$11,500 budget request - this is for aids, for such things as tape equipment, slide equipment, mailing, etc, not salaries - was cut from \$11,500 to \$4700 for fiscal '76, which can only detract from the operation of this office, one of our more successful and valuable in the department.

Number three, we have also undertaken a number of industrial engineering studies to determine the most efficient means to streamline our engineering functions. Consequently, we will be better able to speed the highway construction process.

Number four, to further improve communications, we have held informational sessions with local, state and federal officials. A recent all-day conference that we arranged with the Department of Environmental Protection, that was attended by Commissioner Bardin and me, has developed better liason between our departments and has

greatly helped improve the internal operations of our department.

Since this administration has been in office, we have been commended by the federal EPA for improving the dialogue between our department, the Federal Highway Administration, and the Environmental Protection Agency. We now meet regularly to head off problems before they arise.

It is our opinion, Mr. Chairman, that as a result of these efforts, we will in 1975 obligate about \$80 million. This represents the 1973 appropriation. We were looking forward in fiscal 1976 to obligating over \$230 million, provided there are no new surprises for us. This will represent our appropriation for fiscal '76 plus part of the impounded moneys that were held back.

I would like to conclude with a rather brief statement on my view of this hearing.

I believe that the attempt to find a "scapegoat" for the desperate unemployment situation in New Jersey, and in the construction trade in particular, in the operation of one branch of government borders on demagoguery. The real danger, however, is that this diversion turns us away, intentionally or otherwise, I don't know, from the true and serious problems facing our state and the nation. The situation in which we find ourselves today has deep roots. Among them are: the tragic war in Vietnam, which aside from the human toll, drained our country of \$150 billion of material resources; two, the ever-increasing demand of all segments of the population for a higher standard of living, a bigger piece of the pie, a pie, however, which unfortunately is not getting any bigger in terms of satisfying everybody's appetite for better things. Too much of our gross national product pie is for wasteful military expenditures and boondoggles of various kinds. Three, the desire to postpone paying the bill for what we enjoy through an equitable tax system, both

at the state and local level; the complete absence of an income tax in New Jersey and the disgraceful loopholes in the federal system have resulted in devoting much of our wealth for non-essential, frivolous expenditures and an ever-increasing gap between the growing numbers of poor and the more affluent. The poor in our shattered cities consisting more and more of minority groups and the abandoned elderly have been neglected. This is where we could wisely spend dollars and create jobs. And the fourth point, and one that is in the papers today and every day, is the pervasive corruption in every level of activity that creams off money that should go to help rebuild our society.

We at the DOT will build in a proper and legal manner those highways that are essential and those public transportation facilities that are rational; but if we want to restore economic health in New Jersey, we must look beyond the DOT for programs that will provide for rational land-use planning, for an equitable tax program, and for moral behavior by those in government, labor, business and the press. Thank you. (See page 1X for additional material.)

SENATOR HORN: The only thing I can say with regard to those last remarks, Commissioner, is the old adage: A good offense is the best defense. But I can appreciate your concerns about the chaotic situation in this State relative to employment, especially in highway construction, and our problems with mass transit. Our bankrupt railroads are sufficient reason to call for this type of public response. I am sure that is the purpose of the sponsor of the resolution, who I see has arrived and has been here all through your presentation.

There are several questions that I have, but from what you have said, it appears that you have your Deputy Commissioner and your Director of Research and Planning with you to make statements and then you will be available

to answer any questions we may have.

I would like, at this time, to give the sponsor of the resolution an opportunity to be heard.

Before I do that, does anyone have any questions?

COMMISSIONER SAGNER: Do you want to do that before we briefly explain to you the Action Plan? We can do it either way.

SENATOR HORN: In all fairness to the sponsor and in line with the courtesy extended to legislators, which doesn't happen too often, only when it is provided by other legislators, I am going to ask Assemblyman Van Wagner to make his case. Assemblyman Van Wagner.

R I C H A R D V A N W A G N E R: Senator and members of the Committee, before I begin my prepared statement, in which I list some questions that I would like the Committee to raise and have answered, I would like to reiterate my motivation in asking for the study as set forth in ACR 3011. It was based not only on the fact that New Jersey is suffering from the highest unemployment rate, but also on the fact, as the Commissioner has stated himself, there seems to be on the part of many members of the Legislature and, indeed, perhaps even members of the administration, as well as the public, questions as to the functioning of the Department of Transportation as it is now constituted in relation to its ability to obtain federal funds and its ability to complete within a reasonable amount of time those projects which it has started.

It was with this motivation that I introduced ACR 3011. I do not pretend to have the staff or the expertise to complete the kind of report or Action Plan as set forth by the department, the final draft of which, I understand, was completed as of April. I must, to be fair, commend the Department of Transportation for its action in completing such a plan because I think as

this hearing continues, perhaps the public will become more aware of the problems, not only of the Department of Transportation but the problems which the Commissioner mentioned which are related to other areas of concern in our State. In no way, do I feel that the Department of Transportation operates in a vacuum. I don't think any department of government today can operate in a vacuum.

I am aware that many of the problems faced by the Department of Transportation are related to problems of land use, environmental protection and the general State's economy. But I think this public hearing gives all of us the opportunity to lay to rest once and for all many of the criticisms that have been levelled and perhaps move New Jersey forward in the vital areas of mass transit and highway construction.

For the reasons stated, I wish to submit a list of questions to this Committee for its consideration and I am sure during the course of this hearing many of these questions will be answered.

It is my hope that the Committee will investigate and find the answers to these question and issue a final report of its findings. With the proper investigation and a sifting of the testimony that has already been given and the testimony which is about to be given, I believe that this issue will be resolved once and for all, and New Jersey will be able to move forward.

There has been considerable discussion about lag time between planning contracts and actual work beginning. I have seen a flow chart which indicates approximately an 83-month period between the inception of a highway program and the actual completion of the road. I think one of the areas that might be discussed with the Commissioner could be how we can shorten this lag time and where does it exist?

There has been considerable discussion about the use of consultants. I think it is important that a determination be made as to at what point the Department of Transportation uses consultants and whether there are any delays concerning projects by the use of consultants.

In line with the use of consultants, the question might be raised: Can the department within its own ranks handle much of the work that is now being done by consultants? Commissioner Sagner mentioned the need for additional staff. If this is the case in order to implement the capabilities of the department, then perhaps the Legislature must address itself to this particular problem in terms of appropriations. It must, of course, keep in mind whether or not it would be a cost-effective program to pursue.

A question that I have raised publicly and also at the informal hearing that we had prior to this hearing was: At what point does the DOT apply for 90-10 funds? I see in the letter that was addressed to Senator Horn and Assemblyman Esposito there is a full explanation of the method and procedures by which the 90-10 funds are requested.

There is some question as to the relationship between the Department of Environmental Protection and the Department of Transportation. In his testimony, which I listened to carefully, the Commissioner indicated that there now has been created and initiated an on-going dialogue between these two departments. I, personally, feel that this is perhaps one of the most critical areas in terms of completion of highway projects.

I still think there has to be considered the amount of lag time that occurs between studies completed by both departments. I think a question that will be raised at some point by the Department of Environmental

Protection, itself, is the question of adequate staff within this department in order to complete these studies. Then if the Department of Environmental Protection submits a report on a Department of Transportation project stating that it is environmentally unsound, who determines whether or not the project will continue to its completion, and how long does it take to effectively work out a compromise?

There is question relative to the purchase of equipment which has been raised in some areas. I think that could probably best be handled within the department structure itself, and I don't pretend to have the expertise to approach that question.

There has been a great deal of criticism and questioning as to the actual staffing of the department. Sometime last April, I believe it was, there was an announcement of a number of layoffs within the department. The question has arisen as to whether these layoffs occurred among the lower-level personnel while at the same time replacement at higher levels was taking place. If, indeed, a management plan has been instituted, then I think this question could probably be adequately handled.

Let me conclude by saying this: There has been a great deal of dialogue in connection with ACR 3011, sometimes vituperative, concerning the ability of the DOT to function effectively. I think I would be personally remiss if I did not state here and now, as I have stated on the floor of this Legislature many times, that in introducing ACR 3011, there was no desire on my part at any time to imply any personal criticism.

It cannot be expected that a Commissioner of the Department of Transportation, as massive as that department is, who has been in that position for less than two years, can be aware of and can be on top of processes which have been carried on over a number of years. I

think that was adequately said not only by myself but by many members of the Legislature, both in this House and in the Senate. Perhaps this hearing and subsequent Committee investigation will lay to rest any future criticism.

Whether or not the DOT is solely responsible for some of the problems that have been stated is certainly not what is at question. The fact is that the DOT is a very critical and important part of our State government and has served the public well. It is my desire to clear the air of the criticisms and, if these criticisms are unwarranted, I think that it is the Legislature's responsibility once and for all to assist the DOT and the people of this State, if that assistance is necessary.

Thank you, Senator.

SENATOR HORN: Are there any questions by any members of the Committee?

ASSEMBLYMAN MAC INNES: I have one.

Assemblyman, is it your understanding that the Department of Environmental Protection has automatic review over major DOT projects? I am asking this out of ignorance because I don't know myself. But that is assumed by your question.

ASSEMBLYMAN VAN WAGNER: There does seem to be some evidence of interplay between the two departments. I think the Commissioner mentioned the fact that the Department of Transportation had, itself, initiated dialogue between the two departments, which would indicate that there is a degree of interplay between the two departments.

I have to agree wholeheartedly with the Commissioner in terms of the federal government. The Federal EPA has for sometime built in additional environmental protection standards, which in some cases negate impact

studies that have been already done. Again, from my own experience in dealing with funding areas, the Commissioner is entirely accurate when he says in the area of impoundment this is particularly damaging. When funds are impounded and during that time new regulations are promulgated, every impact study that has been completed by any department at that point is completely wiped out and new studies have to be initiated. So impoundment can have a very dilatory effect on all the work that is done prior to that point. And in this instance, that seems to be the case.

I have noted the Commissioner when he has testified in Washington a number of times has brought this point across to the congressional committees; just recently, it was the Subcommittee on Surface Transportation.

But in terms of the interplay between the Department of Environmental Protection and the Department of Transportation, I don't know specifically at what point in a project that interplay takes place. However, I think from the Commissioner's remarks and some of the research that I have done on my own there is a degree of approval necessary at the Department of Environmental Protection level.

SENATOR HORN: Any other questions? (No response.)

Assemblyman, thank you for your presentation. I suggest you stay and listen to the rest of the Department of Transportation's presentation since we did cut them off to allow you to speak.

ASSEMBLYMAN VAN WAGNER: I intend to.

SENATOR HORN: Thank you, Assemblyman.

COMMISSIONER SAGNER: For the record, Mr. Carballo, who is the Deputy Commissioner for Transportation will now briefly explain the process for federal financing and how the appropriations system works. Perhaps he will be able to answer some of Assemblyman VanWagner's questions.

M A N U E L C A R B A L L O: My name is Manuel Carballo. I am Deputy Commissioner of the Department of Transportation. I will be brief since a good deal of the material that I intend to cover has been presented in the letter that you have received from the Commissioner. Essentially, what I would like to do is explain in narrow compass the statutory framework in which we operate.

The purpose of the hearing is to determine what can be done to increase the flow of federal funds to the State. By definition that means: what are the federal laws we are operating under and what are the federal constraints?

I think it might be well to begin by showing you a flow chart that was developed by the Texas Highway Department. The Texas Highway Department is considered to be one of the most efficient and productive highway departments in the country. Its flow chart calls for, from inception to completion of a highway project, seven years and three months' time. The chart, which I have here and will make available to the committee, is at least two yards long and itemizes the various steps in the process. The complexity has been increased substantially in recent years by a great deal of federal legislation in the environmental area.

In 1966, the Congress passed a provision of law, commonly known as Section 4-F, which requires that, for any transportation project passing through a park or natural preserve, a study be undertaken to determine whether there is

any feasible or prudent alternative to passing through that park. Perhaps a classic example of how well-intentioned legislation can be turned into a fiasco by administrative determinations is the way in which this provision has now been applied to the construction of bikeways. We have been advised, within the last month, that, in order to construct a bikeway through a park, we must submit an environmental analysis indicating that there is no feasible and prudent alternative to building the bikeway in the park, which is where we wanted to put it in the first place. That kind of interpretation of otherwise reasonable legislation is definitely counterproductive and definitely the type of interpretation that has caused us great difficulty.

Another statute was passed in 1966 which was the National Historic Preservation Act. The statute itself refers to the preservation of historic and archaeological sites throughout the country as included in the National Register. Recently published federal regulations - again, an administrative action taken in December of 1974 - have expanded the scope of the study required to include not only those sites that are included in the National Register, but those sites which are eligible for inclusion in the National Register. The determination of what is eligible requires archaeological analysis and evaluation of an extensive sort not contemplated by the statute but imposed by regulation almost eight years after adoption of the initial statute.

The statute with which most people are familiar is the National Environmental Protection Act of 1969, NEPA. That was adopted toward the end of 1969, and initial federal guidelines and interpretation of that statute were issued in 1970. That is the statute

which requires the environmental impact analysis to which we frequently refer. The difference is in terms of the nature of the environmental analysis which is required. The 1970 NEPA Act was supplemented by a subsequent Clean Air Act in 1970 which requires an additional type of analysis. Subsequently, in 1973, requirements were issued as to noise controls and noise pollution that did not previously exist.

As each of these regulations has been issued, generally speaking, there has been a failure to recognize, in the issuance of federal regulations, that projects can be quite far along and that we are required, by these regulations, to stop, go back, and redo an analysis that was previously done in full conformity with the environmental standards of that time.

That entire picture is further complicated by the most rapid change in federal highway legislation and in federal transit legislation in the history of such legislation within the last two years. The most significant change was the Highway Act of 1973. What the Highway Act of 1973 did insofar as its impact on this State is rather substantial.

First, the Highway Act of 1973 made it possible to transfer highway funds to public transportation projects. Second, the Highway Act of 1973 created rather major funding for a new system of roads called the "urban system roads." The important part of that is that it inserted a new requirement that there not only be local consent to urban system roads, but that there indeed be local initiation of those roads. In other words, the initial request must come from the local jurisdiction affected. The significance of that is that, while, historically, federal funding has generally been most heavily in the interstate category, there has been

a shift in funding to the urban system and rural categories.

The urban system category becomes increasingly important to New Jersey. There is apportioned to it annually approximately \$31 million in funds, and these funds will accumulate and not be disbursed unless there is local initiation of projects.

The Act, in allowing for the transfer of interstate funds to public transportation, has had an impact in terms of our trying to make a reasonable comparison of where we stand nationally in the interstate picture. The essence of it can be stated by saying that, if you are looking at what percentage of the interstate system we have completed compared to other States, the base has changed. For instance, in New Jersey, we have added mileage to the federal aid system. In other States, mileage has been deleted. In Massachusetts, for instance, there has been a transfer of approximately a half billion dollars from the interstate category to transit. That is one way to increase the completion of the interstate system. If you cut it back, the percentage that is completed is clearly higher, and that has happened, and that has made it very difficult to make comparisons.

There is, in the table now before you (referring to chart on display), comparisons in the different phases in which the interstate system stands, the percentages nationally and the percentages in New Jersey. You can see that, roughly speaking, New Jersey has, under construction or open to traffic, about 10 per cent less than the nation as a whole. On the other hand, the problem is in comparing what that means. When we took, for instance, interstate 278 and transferred it to interstate 195, which was done many years ago, we increased the mileage that was on the New Jersey system. Consequently, the numbers for comparison are very elusive.

On the next table, we also have an indication of how many additional miles of state roads have been put on the federal aid system. This is the basic precondition for making projects eligible for federal funding. We have increased the amount of mileage on the federal aid system dramatically. We have taken advantage of, basically, every new provision of federal law as quickly as possible.

The other aspect of transportation financing which should be stressed is the difference between the highway program and the transit program. The highway program is a program which allocates funds to jurisdictions on a formula basis. In order that every jurisdiction may have sufficient time in which to appropriate those balances, the law recognizes what is essentially a three and a half year time frame from the date of allocation of funds to the date on which they must be expended or they will be lost. Consequently, when we received the fiscal 1975 apportionment, we had until the end of fiscal 1977 to spend it, and that was within the contemplation of federal law. To date, the State has expended all of those funds. The most important thing to state about the highway program is that the only way in which we can increase the federal dollars coming to the State is to increase the mileage on the federal aid system. Those steps have been taken. Everything else is limited to what that formula gives us, and we make use of the full amount of the formula allocations.

The transit program is in marked contrast. The transit program was adopted in 1964 as a discretionary program. Actually, the area where you really have to work at getting federal money is the transit area, because, in comparison with the highway program where you know exactly what funds are available - essentially, you go with your application, and you say, "This is our

share and we want it" - in the transit area, there is no share. There is a national appropriation this year of one billion, one hundred million dollars for capital construction of transit facilities. New Jersey has received, and actually signed contracts for, \$136 million of that. That is well over 10 per cent, which is to say, we have done a remarkable job in drawing down federal funds in the transit area. One of those grants is for the acquisition of badly needed buses throughout the State. We expect to acquire between 1500 and 1800 new and reconditioned buses. The other one is for the Erie-Lackawanna Railway and the acquisition of transit cars. We have, as you know, been pursuing aggressively the PATH extension project which, if approved, will bring almost \$320 million of federal aid to the State of New Jersey which, if the project is not approved, will go elsewhere. That is the basic distinction between the transit program and the highway program.

In the case of the highway program, if the money is spent within the period allowed, the money will not go elsewhere. It remains allocated to this State. In the transit program, if application is not made and pursued, the money will go elsewhere.

That led, early on, to an emphasis within the Department, as the Commissioner has stated, on securing transit funds, and we think that we have been successful.

I would like to address briefly some of the questions that Assemblyman VanWagner raised.

The first question raised was with regard to the use of consultants. I think it should be pointed out that the initial decision to rely rather heavily on the use of consultants was made by Dwight Palmer many years ago with the initiation of the interstate program. At the time, it was a rational, well-considered decision. The interstate program, in 1956, was a program that had a

finite time frame. The federal law said that, between 1956 and, probably, early 1970, the interstate system would be completed. The decision made then was essentially that, for a 14 year time period, it did not make sense to add large numbers of people to the state payroll, and, at the end of that period, lay them off because the work had been completed. As I said, at the time, the decision was rational.

It now appears and will continue to appear that the interstate program and other highway programs will extend indefinitely. Therefore, the case is now much stronger for the creation of an in-house capacity to do a good deal of the work that is presently done by consultants.

On the other hand, areas will always remain where specialties are required. This is especially true in the environmental area. For instance, to undertake an environmental analysis today could require disciplines as different and as difficult to find as archaeologists and marine biologists, specialties in which there are a limited number of people nationally. In order to build a career civil service pattern for those titles, salaries would have to be set at much higher than their current levels, and the difficulty would always remain that the chain of promotion within, for instance, the Department of Transportation would be limited. At most, we probably could use one or two archaeologists. Therefore, that is an area in which we will always require consultants.

The next question was the one about the relationship to the Department of Environmental Protection. Pursuant to federal regulations, the environmental impact analysis that is to be submitted is an analysis prepared by the State for the Federal Highway Administration. That means that, technically, the environmental

analysis that we prepare is not ours; it is the statement of the Federal Highway Administration in conformity with the federal environmental laws. That approach has just recently been overturned in the Second Circuit covering New York, Vermont, and New Hampshire with the result that, as of today, there is almost no new highway construction going on in those jurisdictions. Congressman Howard has sponsored legislation which will make clear that the process that we have followed during these many years is the correct process. It is the process that is being followed in New Jersey, and the legislation has passed the House of Representatives, and we have reason to believe that it will pass the Senate.

If the Department of Environmental Protection reviews one of our statements and concludes that it is inadequate, there is also, concurrently, a review by the Federal Environmental Protection Agency. The decision as to whether that will deter the project from going forward is made by the Federal Highway Administration or, ultimately, the Federal Secretary of Transportation. The federal law requires that environmental impacts be considered, and I must underline the word "considered." After they have been identified and after they have been measured, the judgment can be made by the Federal Secretary of Transportation to proceed, having given due consideration to all of the impacts.

Finally, there was a question with regard to the layoffs within the Department of Transportation. We considered those layoffs, to say the least, difficult and undesirable. The fact of the matter is that the reduction in force was in areas in which, due to the delay in highway construction, the personnel were excess. To be exact, the personnel were in the areas of highway inspection, that is, construction actually underway in the field, and right-of-way acquisition, and that, too,

requires ongoing construction projects.

There have been additions in staff as the Commissioner pointed out. Among those have been additions in the community involvement area, which is essentially required by federal regulations, and in the environmental analysis area, which was pointed out earlier. Without those additions, we would never obtain the objective of being able to rehire those laid off. With the additions, we have increased the amount of work, so construction inspectors will have something to do.

Before Mr. Rosser continues with a brief description of the Action Plan, which sets out the entire process in greater detail, I would be happy to answer any questions you might have.

SENATOR HORN: Assemblyman MacInnes.

ASSEMBLYMAN MAC INNES: Mr. Carballo, I'm confused. I note that the Department is retaining people as environmental testers, presumably, to prepare environmental impact statements. Is it a fact that there is also the right of review by the New Jersey Department of Environmental Protection on major projects?

MR. CARBALLO: That is correct. On a federal aid project, pursuant to federal regulations, the statement, as it is prepared, is submitted for comment to the State Department of Environmental Protection and to the Federal Environmental Protection Administration for their review prior to adoption of the statement by the Federal Highway Administration. It's an administrative requirement.

ASSEMBLYMAN MAC INNES: So you have prepared, either by staff members of the Department or on a contract basis, an environmental impact statement which, before it becomes a document on which action can be taken, has to be reviewed by the New Jersey Department of Environmental

Protection and the Federal Department of Environmental Protection. Then it can go to the Federal Highway Administration, and the Director of that agency can decide whether the project should or should not go ahead.

MR. CARBALLO: That is correct.

ASSEMBLYMAN MAC INNES: Is it specified, either in the statute or in regulations, the period of time which is permitted for that review by the two environmental protection agencies?

MR. CARBALLO: No, there is no requirement. Basically, we have an understanding with the Department of Environmental Protection that, unless there is some unusual characteristic, its review will take no longer than 30 days. Generally speaking, it has adhered to that requirement. Basically, it's an administrative working arrangement that has been worked out between the two agencies. Obviously, we have no control over the Federal Environmental Protection Agency.

ASSEMBLYMAN MAC INNES: Is the review by the Federal Environmental Protection Agency a source of delay?

MR. CARBALLO: It can be. Very frequently, the delay comes from questions that are raised by the federal agency. For instance, if we have collected certain data for an analysis, the federal agency may say that additional data is needed before a judgment can be made. Then the fact is that the delay is, in effect, in two parts: one, they have asked us a question, and, two, we have to go out and collect the data.

ASSEMBLYMAN MAC INNES: Are those documents, as developed, accessible to the public for its review and comment?

MR. CARBALLO: Yes.

ASSEMBLYMAN MAC INNES: Is that in the form of a public hearing, or is that in terms of just being available in the file?

MR. CARBALLO: The draft environmental impact statement is the subject of a hearing. It is made public, and there is wide circulation of it.

ASSEMBLYMAN MAC INNES: There are a number of projects in my legislative district which we have been trying to facilitate, and very often I find that the reason for delay is not so much because of the flow chart, but because of the fact that the State doesn't have the money to proceed on projects which previously were funded by either state appropriations or bond issues. Yet, in the testimony of the Commissioner and in your testimony, there is very little mention made of the dollar shortage as a source of delay. Am I mistaken in my impression? Are these just a couple of unique projects, or is this a continuing source of delay because we don't have the funds to proceed without federal participation?

MR. CARBALLO: The answer is a mixed one. There are a number of projects that were originally proposed for full state financing which, because of federal regulations, can never be made eligible for federal funding. For instance, under federal regulations, if you have acquired the right-of-way for a project with state funds, but without having followed federal regulations, you are forever banned from getting federal funding for that project. Therefore, if there are no state monies for that project, that project cannot proceed. The Commissioner did address that in this respect: He addressed it in terms of that being, in essence, the policy of the past. What this State has done is this: Whenever it found itself in a hurry to get some work out, it relied on 100 per cent state

funding. In doing that, it bypassed federal requirements in order to move quickly. The result has been all too often, especially in the types of projects that you have been talking about, that, in the move for speed, the projects have been made ineligible for federal funding. Then, if state funds are unavailable, the projects cannot proceed until state funds are made available.

There are other reasons which we presented to the Capital Needs Commission which are also important. If one looks at a five year time horizon, there is no question that the level of federal funding that is made available to this State by federal formulas is inadequate to meet all of the highway construction needs of the State and that, indeed, some additional state funding is necessary. The Capital Needs Commission, I believe, recommended an amount in excess of \$470 million for highway construction, and that would be for projects over and above the amount of money that would be available for federal systems.

ASSEMBLYMAN MAC INNES: Are there any projects that could be done or started in the near future if we had the matching funds that are not being moved because of the lack of state matching funds?

MR. CARBALLO: Are you talking about the federal aid system?

ASSEMBLYMAN MAC INNES: I am talking about state matching funds for federally assisted projects.

MR. CARBALLO: All of the federally-assisted highway systems with the exception of the small category called "rural secondary" are presently matched by state appropriations. The matching, at the moment, is not a difficulty. That is not true, I might add, in the transit area. We are now running short of state matching for transit projects. Basically, the only funds that have

been available for transit have been from the 1968 bond issue, and no additional state appropriations have been made. We are now in a position where new projects require either a new bond issue or a policy of state appropriations for matching.

There are state matching funds missing in other areas. As the Commissioner mentioned, there are a large number of projects in the state aid categories, state aid to counties and municipalities, that are designed and ready to go but which require additional appropriations of state funds to match county and municipal funds. At the present time, we do not have sufficient funds to allow those projects to proceed.

ASSEMBLYMAN MAC INNES: Are you able to answer whether New Jersey moves construction projects into federal assistance categories that are handled solely by state appropriations in other States? I have the impression that some projects which we place under various federal categories are projects which, in other States, because they have dedicated highway funds, etc., are handled by the States directly. Is that an incorrect impression?

MR. CARBALLO: I think it is probably a correct impression in terms of continuing funding. The exception to that rule is when the State succeeds in getting a bond issue in which case there is a great deal of 100 per cent state-financed construction. Since this State does not have dedicated trust fund revenues, there is not a steady stream of regular annual appropriations for construction. For instance, in this year's budget, fiscal 1975, 100 per cent state appropriations out of the regular budget were less than \$20 million. As I remember, about \$12 million of that was to pay past construction projects that had been undertaken by various authorities. So

there is a very limited amount of purely state-financed construction in New Jersey except when there is a bond issue.

ASSEMBLYMAN MAC INNES: So, if we had a steady source of annual appropriations for highway projects, then it would be possible to remove some projects from federal assistance in the future and have others totally state funded.

MR. CARBALLO: That is correct with one caveat. There are, presently pending, regulations by the Federal Environmental Protection Administration governing what are called "indirect sources," that is, sources of pollution that include roads. The issuance of those regulations was postponed from January to July. It now appears that they will be postponed again until the coming January. If and when those regulations are issued, any private or public construction, whether or not there are state funds involved, will require a permit from the Federal Environmental Protection Administration. Translated, that means that an environmental impact analysis will be required for most major highway projects, whether or not they are funded with state monies.

ASSEMBLYMAN MAC INNES: Thank you.

SENATOR HORN: Assemblyman Esposito.

ASSEMBLYMAN ESPOSITO: You made a statement about the layoffs in the areas of highway inspection and right-of-way acquisition. What is the reason for this?

MR. CARBALLO: Basically, what we did was project the amount of construction and the amount of right-of-way acquisition anticipated during this calendar year. Based on those projections, it was apparent that there would not be sufficient work for those employees. What we did was this: We tried in every way possible to relocate those employees in other

areas within the Department where there was work and where there were people needed. For instance, some of the people who are going into the environmental analysis area are people coming from the right-of-way area. We have moved some of the highway inspectors into bus and rail inspections. Notwithstanding that, there were still a number of layoffs, which was regrettable. On the other hand, in terms of protecting the taxpayers' dollar, we didn't feel that it was warranted to have people on the payroll who were not engaged productively.

ASSEMBLYMAN ESPOSITO: I understood Commissioner Sagner to say that, in 1975, your Department is obligated to spend something like \$85 million.

MR. CARBALLO: That is correct.

ASSEMBLYMAN ESPOSITO: Can you be more specific?

MR. CARBALLO: In terms of which projects?

ASSEMBLYMAN ESPOSITO: Yes.

MR. CARBALLO: We can submit to the committee a complete list of those projects. I don't have it with me.

ASSEMBLYMAN ESPOSITO: On one of your charts, you showed interstate mileage during the period of 1956 to 1973, and approximately 1400 miles were added. What has been added since 1973?

MR. CARBALLO: Do you mean federal aid money?

ASSEMBLYMAN ESPOSITO: I am talking about interstate roads.

MR. CARBALLO: On interstate roads, there has been no addition to the mileage in this State since the transfer of I-278.

ASSEMBLYMAN MAC INNES: Assemblyman Esposito, are you referring to the federal aid chart?

ASSEMBLYMAN ESPOSITO: Yes.

MR. CARBALLO: That chart refers to federal aid systems, not interstate only. The biggest factor in that growth has been the growth of the so-called "urban system" category which includes roads primarily off the state highway system, principal arterial streets or county roads. For instance, Communipaw Avenue in Jersey City is an urban system street and eligible for federal funds. By placing a street like Communipaw Avenue on the federal aid urban system, we have made it eligible for federal funds.

ASSEMBLYMAN ESPOSITO: Commissioner Sagner talked about a highway safety record which we should all be proud of. I am inclined to disagree with him, because I happen to come from Hudson County, and you cannot be proud of Tonnele Avenue, for instance. I think we have the worst safety record in the nation.

MR. CARBALLO: I don't think the Commissioner said that we could be proud of it; I think he said that, generally speaking, it is a good one. That doesn't mean that there is not a great deal of improvement needed. I think he was referring to things like the development of the Jersey Barrier which is a New Jersey invention and which has prevented accidents throughout the country and has been adopted by other jurisdictions throughout the country.

ASSEMBLYMAN ESPOSITO: I would like to know the status of the 109 Freeway project. It was supposed to alleviate the Tonnele Avenue situation.

MR. CARBALLO: We will get you a status report shortly.

SENATOR HORN: Thank you very much.

COMMISSIONER SAGNER: Mr. Keith Rosser, Director of Planning, will now explain to you the flow chart that is the basis of the Action Plan.

K E I T H     R O S S E R: My name is Keith Rosser. I am the Director of Planning and Research for the Department of Transportation.

I would like to preface my remarks by stating that I have been a member of the Department of Transportation for 27 years, having joined the previous Highway Department in 1947. In that time period, spanning five Governors and five Commissioners, I have watched the evolution of planning requirements as they relate to highways. They were quite simplistic in those days. As a matter of fact, the same people located a highway who had designed it, and they also did most of the construction survey work. Since that time, with the advent of our concern for the environment and the energy crisis, we have sophisticated the process to the point that it now drags out the length of time required from conception to execution to anywhere from eight to 13 years, depending on the individual project and the problems we encounter.

Early in the 1970s, I was a member of a Blue Ribbon Panel that was selected by the Federal Highway Administration to help implement a requirement of Section 109-H of Title 23, which was a mandate by the Congress of the United States to the Secretary of Transportation that he provide the Congress with assurances that all of the economic, social, and environmental impacts of any project undertaken by his Department would be adequately considered. This was a very difficult assignment, and our initial reaction was to develop technical guidelines that would quantify each of the impacts and set up standards and regulations for the 50 different States. We discovered very early that it was an emerging science; in fact, it was still an art, and it was impossible to set up those quantified limits.

So it was almost by default that we decided the only sensible plan was to have each State prepare for approval of its Governor a set of process guidelines which, in

essence, would say how that State Highway Department or Department of Transportation would provide to the Congress and the people of their respective States those assurances that were required by the Congress.

The specific document that each State had to produce was an Action Plan. I believe each of you has received a copy of our Plan. It spells out in detail, step-by-step, how a project evolves, what checks and balances are used, and which unit in our Department has the responsibility for each particular step. Since you each have a copy, I will not take the time to spell it out. However, to help stimulate some possible questions, I would like to run through, with you, some of the major components.

On the board, we have a blown-up picture of chapter III, figure 8, which is a brief pictorial description of some 20 steps that are involved in the development of a highway project. Directly behind that exhibit in the Action Plan is figure 9 of chapter III, which indicates a more detailed statement of these steps and shows the units in the Department that are involved in each as well as the entities outside the Department that may have an interest at each step.

Basically, the process involves three overall steps. We classify one step as "system development," which manifests itself in the Department's master plan ultimately. The second step is the "location process," and the third step is the "design stage" leading to the award of contract.

The systems process basically consists of the professional staff of the Department evaluating the demand indicators, such as population in numbers and dispersal, location of employment, location of recreational trips, and things of that type that indicate what the travel demand in New Jersey is at the present

time and will be over the next 20 years. In addition to that process, which is done internally, we have in each of the urbanized areas of 50,000 population or more what we call the "3 C process," which is an urbanized planning process that is comprehensive and coordinated. This planning process does a similar task. By using census data as well as other data collection, they attempt to determine what the demands will be on our transportation system involving all modes. These agencies consist of not only state representatives, but also county and municipal officials. They set the policies for the region, and the staff prepares plans commensurate with those policies. With these inputs, the Department then prepares a draft master plan which, traditionally, we circulate to the 21 counties, the major municipalities, the urban transportation groups, and other interested citizens and the legislators.

As a result of their review and completion of the accompanying questionnaire, the Department then refines its draft master plan, leading to a final version which is adopted by the Commissioner. It is from this document that the Department establishes its priorities and selects those projects which will come on line next.

The next step in the process is to perform a feasibility study on an individual project. This is done basically to make a determination of public reaction to the project, what engineering problems will be encountered, what specific alternatives are available insofar as alignment is concerned, what the estimated costs of the projects will be, what the physical constraints will be, and whether the project is in fact feasible. If, for instance, the highway project is determined to be infeasible, it is returned to system planning for evaluation by another mode. Possibly

the corridor could be best served by express bus service or a rail line.

If, however, the feasibility study proves the project to be feasible, we then go through the next layer of checks and balances which is called "the project notification and review system." Locally, it is known as the "A-95 review system." This is a federal mandate in the Office of Management and Budget that the Department, as early as possible, when it intends to seek federal authorization of funds, will circulate its intent among the many clearing houses. In New Jersey there are 11 such clearing houses: the State, five metropolitan clearing houses, and five non-metropolitan clearing houses. The non-metropolitan clearing houses consist of specific county planning boards.

The project is reviewed by these agencies to determine if it is in conflict with their plans and if it is in conflict with any other federal proposals which will be funded by other federal agencies. These comments are returned to the Department and eventually to the federal agency which will fund the project - in our case, the Federal Highway Administration.

The next step in the process is the corridor location study. The corridor location study is, more or less, a refinement of the feasibility study, wherein we take the various alternate alignments, we examine in greater detail the engineering concerns, and we prepare a draft environmental impact statement which is circulated 30 days prior to the corridor public hearing. Based on the comments received from this process, we prepare a final environmental impact statement subsequent to the public hearing.

It is in this area, as has been indicated by the Commissioner and Deputy Commissioner, where the greatest

growth in sophistication has occurred. As an example, there is, in Gloucester County, the route 55 Freeway, which is a proposed highway extending from the north side of Millville into the Camden area. In 1972, the Department prepared, and had accepted by the Federal Highway Administration, a draft environmental impact statement which described the specific environmental impacts that we could project if the highway was constructed. That document is this one (displays document). After we had received all of the comments from the public and had refined our estimates, we produced this week - it's been sent to the Federal Highway Administration, but it has not been approved - this document, which is the final impact statement (displays document). The growth from this (indicating first document) to this (indicating second document) is attributable to two reasons: 1) This one (indicating second document) contains every comment that has been made by the public or elected official relative to the project and our response to that comment, and, 2) all of the new regulations that have been implemented since 1972. This is just an indication of how sophisticated the process has become.

Following the public hearing and the approval of the final draft of EIS, the project is presented to the Federal Highway Administration for approval. Subsequent to its approval as to location, the corridor is adopted by the Commissioner.

The next step in the process is the transfer of the project to our design forces. Then a very sophisticated process of design with four specific phases occurs. The first phase is preliminary engineering, which is the development of 200 scale drawings - by that I mean, one inch equals 200 feet - which show the design concept of the project. This permits us to start the preliminary

process of acquiring permits. There are a number of permits that may be required by a typical highway job. These involve permits from the Corps of Engineers on navigable waters of title lands, by the Corps of Engineers on non-title navigable waters, by the Department of Environmental Protection on wetlands and stream encroachments, by the Federal Highway Administration for any projects within two miles of an airport, etc. Each of these processes for a permit requires a complete review of the project by the agency involved.

The next step in the design process is to hold a design hearing to review these schematics and to get approval from the Federal Highway Administration to enter into the final phases of design. There are three such phases, phases 2, 3, and 4 of the design process. The second phase develops 30 scale drawings in sufficient detail to permit the Department to develop right-of-way drawings. The third phase refines this pictorial view, and the fourth phase prepares it for advertisement, acceptance of bid, and award of contract.

That is a rather hasty review, and I think I've exhausted the stenographer. I just wanted to try to impart how detailed an action is involved. At each and every step of the way, our Office of Community Involvement is relating the process to the community, to the citizenry, and receiving feedback which is then put into the process and refined. At several steps in this process, we are subject to litigation and extensive court battles. These delays, these feedbacks, and the series of recursive steps are the things that really cause the project to be delayed. It's not that it's sitting still; it's just that it's constantly being refined.

If we elect to fight at any point and reject these inputs, which is an option that we have, we might

lose the project, particularly in a court battle. It has been the Department's philosophy that it is much better to negotiate a reasonable settlement, an amelioration of whatever impact people are concerned with, than it is to stonewall it and possibly scuttle the entire project. That period of negotiation does drag the project out.

I would be happy to answer any questions you might have.

SENATOR HORN: Are there any questions? Assemblyman Esposito.

ASSEMBLYMAN ESPOSITO: I am looking at chapter III, figure 8, in the Action Plan. From phase 1 to phase 18, how much time elapses?

MR. ROSSER: That would vary. Based on our own personal experience, we have found that the planning phase itself, from phase 1 to phase 9, can require, and does require, a total of about four years. We find that the design of a project requires, on the average, two years; some of the more difficult ones can require three years. Concurrent with the latter stages of design, we start our right-of-way acquisition. On most complicated jobs, that right-of-way acquisition will require a minimum of two years. Since it is running concurrently, it is going to require four or five years to do the design and acquire the rights-of-way. Added to the four years to reach step 9, it's up to about nine years.

ASSEMBLYMAN ESPOSITO: It's about nine years, then, before you start to build the highway?

MR. ROSSER: That's right.

ASSEMBLYMAN ESPOSITO: Don't you think that's where all our problems are? Do we need all those phases? Don't you think it's a waste of the taxpayers' money?

MR. ROSSER: There are elements in this process that are, frankly, offensive to me, having lived through the "go-go" years where we designed and built a highway within a period of two to four years. However, I realize the reasons why we have a process like this today, and those reasons are very valid. We have to pay the price. Most of this is dictated by either state or federal law. It's not optional; we cannot short-circuit it; we must do it this way. There is built into this process, in my personal view, some redundancy that requires time that we should not spend. Basically, though, I believe that this is a new era, it's what we have to live, we have to accept it, and the best way to go about it is in a very professional way.

ASSEMBLYMAN ESPOSITO: Has anything been done about streamlining this process?

MR. ROSSER: We have made attempts, as has been indicated here. Mr. Sagner has been to Washington on a number of occasions and has appeared before committees of the Congress in an effort to somehow streamline the projects so we can move much more quickly.

ASSEMBLYMAN ESPOSITO: With inflation, this lengthy process could cost you three times as much for a highway.

MR. ROSSER: We have records indicating that.

ASSEMBLYMAN ESPOSITO: I think your Commissioner should continue going to Washington and find out why they cannot streamline this process. I think this is nothing but a roadblock to keep us from building the highways.

SENATOR HORN: Mr. Rosser, I have a couple of questions relative to a locality that is parochial to me, Camden. I would like you to give me some kind of report on I-676. We met in regard to this a year ago February along with the Mayor of the City of Camden, his planners, and the people involved with this highway.

I might report to you that that is still a highway that goes nowhere. Could you tell me what the delays are? It was my understanding that, within six months, that highway would proceed.

MR. ROSSER: Sir, I don't want to dodge bullets, but that one is not in the planning stage; it's in design, and I am not familiar with the exact circumstances.

SENATOR HORN: I raised the question to illustrate delays in highway construction and the problems that are created in employment.

COMMISSIONER SAGNER: Mr. Chairman, that is another example of impoundment. That whole corridor was designed and could have been completed at one time. The reason why part of it was not constructed is this: The money was impounded by the Nixon Administration, and work was stopped. While the work was stopped because there was no money, new regulations came out that made the other approval invalid. Possibly Jack Freidenrich, Director of Engineering and Operations can add to that.

MR. FREIDENRICH: The combined corridor design public hearing for 676 is scheduled for this summer, hopefully by the end of June. One of the things that delayed the project beyond the earlier schedule is something that you heard about today, continuing proliferation of federal requirements which are retro-active. In this particular case, making the air quality study was an add-on that we had to address before we could complete all of the environmental concerns which must be ready prior to the scheduling of a public hearing.

SENATOR HORN: I'll have more questions about that later.

MR. ROSSER: There is one other thing that I would like to address myself to, and this relates to a question Assemblyman MacInnes raised with Mr. Carballo.

You have to bear in mind that there are some ten different categories of federal funds set up and established by federal systems. I know that Assemblyman Esposito is most interested in Tonnele Avenue. People in Bergen County are interested in the interchange of 4 and 17. The 109 Freeway, which would be a reliever route to Tonnele Avenue, is on what we call "the primary urban extension system." So is the interchange of 4 and 17. About \$12 million of federal money is annually funded to that system. It is estimated that the 109 Freeway will cost approximately \$100 million. The reconstruction of the 4 and 17 interchange in Bergen County will cost an estimated \$35 million to \$40 million. Each of these projects would wipe out the total state urban system money for the category therein for a period of four to ten years. Although we have federal dollars, whether or not the funds are adequate for a project depends on which funding category that particular project is in.

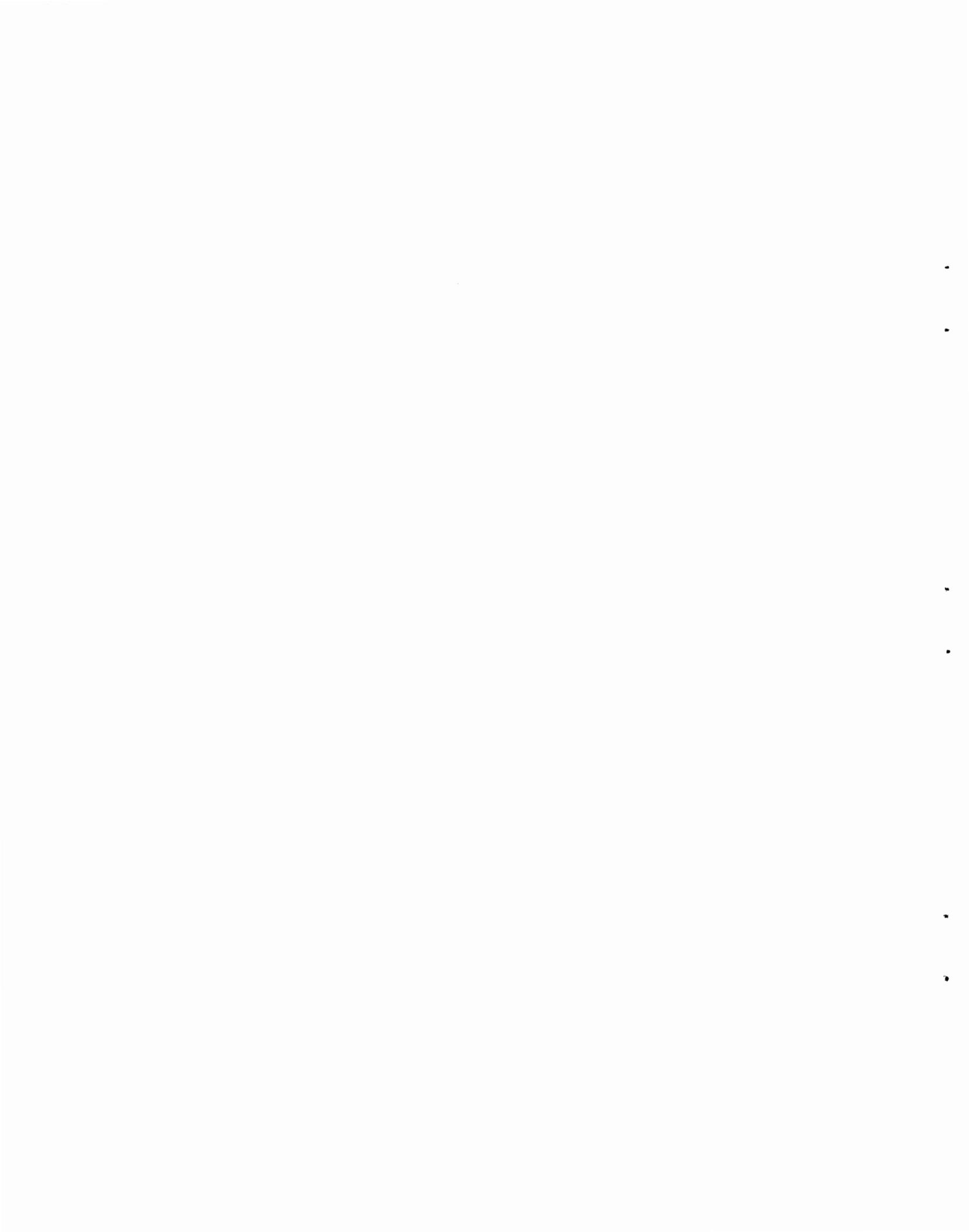
ASSEMBLYMAN ESPOSITO: In reference to the 109 Freeway, can't that be tied in with the interstate system?

MR. ROSSER: That is the plan we are studying now. We are looking at the feasibility of, in essence, changing the system and putting it into one where the funding might be adequate. Of course, in this case, it would be the interstate system. We are not sure how successful we'll be in doing that.

SENATOR HORN: Thank you, Mr. Rosser.

We will now take a ten-minute recess to give the stenographer a chance to relax her fingers.

(Short Recess)



AFTER RECESS

ASSEMBLYMAN HORN: We will now hear from Jack Pearson, the Business Manager of Local 825, Operating Engineers.

For the record, Mr. Pearson, would you mind giving your full name and title?

J A C K P I E R S O N: I am Jack Pierson, Assistant to the Business Manager of Local 825, Operating Engineers, Newark, New Jersey.

ASSEMBLYMAN HORN: Proceed.

MR. PIERSON: Gentlemen, I am Assistant to the Business Manager of the Operating Engineers, Local 825 and its affiliates and I offer this testimony on behalf of George Frawley, President and Business Manager, officers, and 10,000 members of our organization, their families and friends. All are citizens of the State of New Jersey and are vitally interested in your proceedings because it affects their very existence. They want you to know that they appreciate being given this opportunity to present to you a factual summary of the sad conditions of the Federal and Interstate Highway systems within our State, affecting not only our economy but also the progress of a well-planned method of automotive transportation caused by the inability of the New Jersey Department of Transportation to make timely applications for Federal Highway Trust funds.

We call this condition "the roads to nowhere", a black book of New Jersey's uncompleted highways. One hundred million dollars in State funds could today buy one billion dollars in Federal funds to complete the incredibly neglected Interstate Highway system in New Jersey.

New Jersey, today, is the land of highways to nowhere, vast and expansive stretches of concrete and steel that end abruptly at the edges of forest, decayed

urban areas and rivers. Hundreds of millions of dollars lie trapped in inert construction because roads and bridges are not completed and are useless.

New Jersey is the most heavily traveled traffic corridor in the nation and it ranks 49th in the use of Federal funds for highway construction. Furthermore, the Federal money that is today available for highway construction will be gone forever in less than one year because of the State's inaction.

I would like to make a point at this particular time. I am led to believe that the Department of Transportation has made application for all funds but I want it known and I want it on the record that come next year and two years from now and four years from now and five years from now, we are heading for the same situation. We want it known at this time that we would like to have a month-to-month running record of what they are going to do, when they are going to do it, and when the money is going to become available.

If concrete plans to complete the Interstate system are not presented to the Federal Government by next summer, that money is forfeited and those broken highways remain monuments to disaster. If this money isn't applied for and if the money isn't used, we know that it will eventually go back into the Highway Trust Fund and other states can apply for the money and the State of New Jersey will lose this money.

This situation exists at a time when the heavy construction industry is in worst slump since World War II, an artificially-induced slump caused by deliberate government failure to provide allocated funds.

Unemployment in the industry is running 50% and worse, yet motorists are trapped for hours on smoking highways because roads that should be built are ignored.

Under the terms of the Federal Aid Highway Act of 1973, the United States Secretary of Transportation must remove from the system any uncompleted roads for which completion schedules are not submitted by July 1, 1975. The completion of these Interstate Highways could have been done for less than \$800 million this year. It will cost a billion dollars next year.

Every year, the people of New Jersey pay into the Highway Trust Fund - the source of this Federal funding - up to \$200 million. The State has been getting back less than a hundred million dollars a year. This attrition goes on whether or not New Jersey chooses to complete the job because any money New Jersey does not take simply goes back to another state.

Some environmentalists argue that no highway work should be done before their full impact on the ecology can be studied, perhaps for another year or two. All the Interstate Highways were very carefully studied, at great cost, for their impact on the environment. In each case, their benefits were found to greatly outweigh any disadvantages.

Here is a roll call of the incomplete highways of New Jersey, which could be financed by available Federal funds. Gentlemen, I have a map and I think it would be to my best advantage and to your best advantage if we describe the roads that are uncompleted in the State of New Jersey, the amount of monies that are involved, and the sections that are uncompleted. Do you have the maps?

ASSEMBLYMAN HORN: Yes, we have them.

MR. PIERSON: By the way, it was through the Commissioner and his Chief Engineer that I was able to secure these maps and, gentlemen, it was through the Commissioner that I was able to secure the facts and the figures on each and every section of these roads that are uncompleted in the Interstate Highway Program.

On Route 76, where you have four tenths of one mile uncompleted, there is \$4,700,000 to be spent to complete this particular section of road.

On Route 78 there is, at the present time, 2.4 miles in the New Jersey-Pennsylvania line area and \$27,364,000 to be spent on that particular section of road.

On Route 78 in the Plainfield area - from Plainfield Avenue to Route 24 Freeway - there is \$38 million to be spent on that particular section. That is the section from Springfield to Berkeley Heights. That is one of the few sections that is an uncompleted section of Route 78.

Route 80 is completed.

Route 95 - there is 19.4 miles from I-295 to the county Route 514 and there is \$107 million to be spent there.

On Route 95 - 13.7 miles on the county Route 514 to I-287 and there is \$95 million to be spent in that area.

In these two particular sections there is \$203 million to be spent on uncompleted highways.

On I-95 there is 1.7 miles from Route I-295 to South Broad Street and there is \$20 million to be spent on that particular section.

Also on I-95, 17.2 miles, county road 527 to State Highway 34 there is \$65 million to be spent on that particular section.

The total is \$86 million to be spent on two sections of I-495.

On 278, that particular area is completed. I-278 is up in the Elizabeth area where you come off of the Turnpike and that money, because of the problems that they had in that area with trying to get the right-of-ways, was diverted down into 195 and that section will probably never be completed.

On 280 there is 2.6 miles to be completed. That's the Stickle Bridge to Route I-95. There is \$63 million to

be spent there.

May I make an observation on this particular road in this area? Two months ago we heard from the Department of Transportation that this road had the go-ahead. Within "x" number of months - and this was all "paper talk" - this road was ready to go. Probably this road will take another five or six years to go because since this announcement we find that there have been homes built in this section and they have to destroy these homes and they may not be able to get the right-of-way for this particular section of highway to be built.

I-287 has 19.8 miles from Rt. 202 the New Jersey line to the New York line and there is \$246 million worth of work in that area.

I-295 there is 7.3 miles from Rt. 130 to Delaware Street and \$8 million.

I-295 there is 2 miles from Delaware Street to Hessian Avenue and \$17 million.

I-295 from Rt. 130 to Custer Road there is \$59 million.

In all, on I-295, there is still \$85 million to be spent on the Interstate Highway system.

495, New Jersey Turnpike into the Lincoln Tunnel is 1.3 miles - this is an expressway for busses, it is an express lane - I don't know when that is going to get started but from what I heard this morning, it is going to take anywhere from 4 to 9 years for a study and a completion. We may never get the Interstate Highway completed in the State of New Jersey.

I-676, 1.3 miles from Atlantic Avenue to Route I-676 - \$38 million.

I-695 - \$15 million.

I-895 - \$37 million.

In all, gentlemen, there is \$882 million in work to be completed on the uncompleted Interstate Highway system in the State of New Jersey.

The question I ask -- We have, at the present time, 55% of our organization of capable operating engineers that do not want to go on any kind of relief, that do not want food stamps, they don't want hand-outs and they are out of work. I am asking the Department of Transportation what they are going to do, when they are going to get the system going so that we can put people to work from Local 825 and all the other Locals in the State of New Jersey.

I also would like to refer to the construction of the Alfred E. Driscoll Expressway from the New Jersey Turnpike in South Brunswick to Roms River. This would provide us with a shore route, ending the traffic congestion that now makes week-ending at the shore a nightmare for most motorists.

The Expressway is one of the most carefully studied highways, from the point of view of environmental impact, ever designed. It will provide a tremendous economic boost to the shore area.

Gentlemen, let me say this about the Expressway: This will cost, at the present time, \$325 million. We have been in touch with the principals of the Turnpike Authority. This work-- There were 5 to 6 jobs that were bid on this particular Expressway. One job was already awarded and they gave this company somewhere in the area of \$70 thousand for the engineering they did on the job.

This job - or jobs - on the Driscoll Expressway could start within weeks if we could get the go-ahead from not only the Department of Transportation but from the Governor of the State of New Jersey.

We need the work. We want to work. Please, I am a little emotional because we have many, many of our people out of work and I can't see, during the months when we could have our people working, why they should not be working at the present time.

Now, as far as the bond issue is concerned - the

Director mentioned something about the Highway Bond Issue going down the drain - yes, it was defeated but the Department of Transportation didn't do anything to help put this bond issue across. In fact, from some information I received, some people in his Department were against it. They went out and they were against this particular bond issue and they led the fight against the bond issue.

Dedicated funds - I would agree with the Commissioner on dedicated funds. We should have dedicated funds for the highway work in the State of New Jersey - the gas tax, the oil tax, the license plate tax. These taxes should be dedicated funds and dedicated to the Highway Department.

On the bill that you are co-sponsor of, Senator, we've had the meeting with the Department of Transportation. We are negotiating certain situations that you directed us to negotiate. We are somewhere in the final stage but we haven't come to a complete agreement. That is the Bill, 3108, that confines the Department of Transportation to a thousand tons of material within a 5 mile radius and we are still working on that. I just want you to know this.

What we want to know from the Department of Transportation is, what work is available now, or within the immediate future?

I would like to thank you very kindly for your indulgence and I would like to turn this over to Leo Brach, the Assistant to the President of Local 825.

SENATOR HORN: Thank you, Jack.

L E O A. B R A C H: My name is Leo A. Brach and I am the Assistant to the President of Local 825 of the Operating Engineers, George Frawley.

I don't have a prepared speech here. I just made some notes, while Commissioner Sagner was adjusting his halo, to clarify some of his remarks.

First of all, the Commissioner was very much aggrieved over the fact that his Department seems to be the scapegoat as far as this economic situation is concerned. Well, maybe it is the scapegoat, and logically so.

What the Commissioner failed to tell anyone here is the fact that this is where the money is available. This is where the money comes from. These funds have already been put into the Highway Trust Fund, by virtue of the Federal gasoline taxes and their utilization in no way will affect the taxpayer through increased taxation.

While the Commissioner was talking he sort of, I think, chided this particular resolution because he sort of implied that this committee would be running something similar to what has been going on in Washington for a good number of years.

Believe you me, at the risk of saying that's true, I think the committee has accomplished much of its purpose through the resolution in that we are learning things today that we never knew of before. We have been sitting down with the Commissioner of Transportation for about a year, trying to find out what's holding up many of these projects that were cited by Jackie Pearson here.

Without any reasonable explanation it has been a ping-ponging saying, "well, it is the Feds this; we get this from the Feds; it's the State's" and vice versa. But right now we are at least getting into the fundamentals of the Department and finding out what the processes are and what, in a sense, is going on.

This, at least, will give us an opportunity to raise some questions and I have some questions as a result of that. One of them is this: While this presentation was being made, there was very little reference made to the budgetary process - what has actually been included in the budget and what has been asked for. We learned that there is a formula of allocation, as far as the Federal

Government is concerned in connection with the Interstate Highway, where, after this allocation is made to the states, there is a three and one-half year period in which the state is protected for the use of these funds. What I would like to know is, at what step within this three and one-half year period is preparation made for including this in the budget process? Are budgetary requests being made?

We must realize that this three and one-half year situation keeps on overlapping. That is, if funds are granted in 1972, the state has until 1975, plus six months to utilize those funds. If it is allocated in 1973 then it would be 1976, plus the additional six months - there is a constant overlapping. Yet, from the way I read the budget - at least the past two budgets - I find not only a failure to include funds to match the appropriations that are allegedly available, but also a failure to request any, and this is what bothers me. I think the failure to request, then, is directly within the Department of Transportation itself.

Commissioner Sagner says he is a good businessman and he is looking to a profit. I think I have been trained as a businessman, although I have not been so successful as Commissioner Sagner. Nevertheless, I think I would put up \$10 anytime to get \$100 back in spite of the fact that there are many intervening regulations. I'd at least protect myself - hedge myself - to the extent that I'd make sure that a sufficient amount of money was appropriated so if and when you do overcome the regulatory mumbo jumbo, or whatever you want to call it, you are at least in a position to take advantage of the funds because you have met that particular requirement.

Much has been said about the process of conception to execution. I think that is very well termed - that 8 year space - because it is conceived and the execution can

be a very little one, where it is chopped off and it is dead. I'd like to see that terminology changed from "conception" to "action" and the 8-year period, instead of flowing in a line-flow - in a domino fashion - streamlined to the point where things can be run concurrently; instead of making the flow 8 years, let's try to make it 4 or possibly 2 by doubling up these studies and have them run concurrently instead of consecutively. This could shorten much of the process.

I think, too, the Commissioner might avail himself of a better means of communication. If there is something holding up a project - be it Statewide or be it on a Federal level - he should manifest a spirit of cooperation by calling in labor and businessmen and telling them what the problems are so we can work on them together, to the point of accomplishment. In that way, each one will understand what the responsibilities are and what the particular problems happen to be.

The Commissioner and some of the members of his staff gave you the impression that it was our purpose to try to increase the Federal Interstate mileage request within a state. That's far beyond our purpose because we are not looking to increase, we are looking to finish what's been unfinished - the work that has been brought out by Jackie Pearson here and that you will see in the charts and the maps that were passed around.

We have attempted, for a long time, to get many of these answers. I think what this investigation, as a result of the resolution, is accomplishing is, it is at least giving us a basis for asking questions and when you ask questions, I think, there is a spirit of togetherness and maybe we might be able to work things out.

Thank you for listening, Senator.

SENATOR HORN: Thank you. Are there any questions?

ASSEMBLYMAN ESPOSITO: One thing, for the record. You made a statement, Mr. Pierson, about Alan Sagner not pushing the bond issue. I can attest to the fact that he was the only man out there pushing the bond issue because he came to Jersey City and Hudson County two days and he contacted every mayor in Hudson County eliciting support for the bond issue. One day he did it in the rain.

SENATOR HORN: Thank you, Assemblyman Esposito.

Thank you, Jack. I will have some statements to make at the end of this meeting.

Our next witness will be Frank Carroll. Mr. Carroll, will you please give your name, your title, and who you represent.

F R A N K C A R R O L L: My name is Frank Carroll. I am the State Business Agent of the Amalgamated Transit Union. While we are concerned, Senator Horn and Assemblyman Esposito, I can also understand the worry and concern of the highway construction workers. We are concerned but not to the extent that they are.

Two years ago when I sat here in this seat I could be a little bit more critical of the Department of Transportation than I can be today. While the present Department has only been in since 1974, we have received good cooperation from them.

I have no literature except this letter and I was going to read it, however, since receiving the letter I spoke with the Commissioner and our International Vice President and he tells me that this letter is obsolete now.

We do have much to be concerned about. However, as you remember, back in February we were told that we could very easily go out of business unless a subsidy was forthcoming from the State.

We were down here on February 27th. We walked through these Chambers and through the Chambers of the

Senate. It was late at night when they finally passed the subsidy bill that kept us in business. However, that bill, as I understand it, was only good up until June. So, we are concerned now about what is going to happen in June.

At the end of this week I expect to fly over to Ireland--

SENATOR HORN: Stay out of Belfast.

MR. CARROLL: I hope when I am smiling at the Irish colleens I won't have to worry about going out of business back here.

While we do get a subsidy, there are always matters that we worry about. As an example, there was an article in the Union City paper - the Hudson Dispatch - where they claimed that one of our Assemblymen was addressing a group of independent bus owners and they were told that it would be much easier for the taxpayers in Hudson County if the franchises were taken away from the TNJ buses and given to the independents.

Four of our business agents were down here yesterday, two of them from Hudson County, myself and our Vice Chairman, and we did talk with one of the Assemblymen from Hudson County and he immediately got on the phone and made some calls and he did relieve our minds to a certain extent.

However, we do have these conditions. We are told that because we get a subsidy, where other independents have parallel lines they could take our lines away and let the independents run their operation. Of course the independents have a lower rate of pay than we do and it would be cheaper for the State.

Let me tell you, when you have something like 300 employees in the Greenville Garage in Jersey City and have almost 500 in the Union City Garage, what are you going to do with these people when they take our franchise away from us?

Some of our legislators insist upon sponsoring bills allowing the boards of education to use their school buses for transporting senior citizens to functions, outside of school hours. We always had this kind of work. We have, today, many combination runs. These runs are worked in the morning rush hour and, again, in the afternoon rush hour, and they lay up during the day.

In speaking with Commissioner Sagner, he stated that he would always like to see these buses used. We would too. We think that instead of letting the boards of education run these buses, our people should be given a chance to run these buses. We can employ more people and have a better understanding.

As far back as 8 years ago, our union people went down to the Department of Transportation trying to get exact fare boxes for our buses. As you know, our people are harassed, they are robbed at gun-point, they have bayonets put at their throats and knives and everything else. We got nowhere. However, since 1974 Commissioner Sagner has gone to work on this and he just told me last week that the bids are in and the boxes are on their way. So, in one short year he has done more than the Department has done in the last 8 years.

I don't know any more I can say except we would like to be assured that come this June we don't have to do the same thing we did last February - walk in the halls wondering if we were going to go to work on March 1st.

SENATOR HORN: Thank you, Frank. I can assure you that I know the efforts that Commissioner Sagner put into getting the subsidies and I am happy to have been a part of that effort and I will continue to be a part of that effort.

I also want to indicate to you that I have so far, with a lot of help, successfully blocked the legisla-

tion that would provide for those unsafe school buses to carry adults and I will continue to use my efforts along those lines because of the interference with private enterprise. That bill is in my committee for consideration.

I might also say that I realize the problems of the buses. We are plagued in this State with 5 bankrupt railroads, so this would just compound the problem.

A lot of people don't realize the number of bus companies in this State. You can rest assured - and I am sure that Assemblyman Esposito will agree with me - that we won't stand by and watch a low-rated bus company put out of business a company like TNJ, with the kinds of services that your people provide.

Do you have any questions, Assemblyman Esposito?

ASSEMBLYMAN ESPOSITO: No questions.

SENATOR HORN: Thank you, Frank, for coming here today.

We have one more witness, Mr. David Hull. Will you please give your full name and the title of any organization you might represent, Mr. Hull?

D A V I D H U L L: My name is David Hull. I am the New Jersey Director of the Institute for Public Transportation, 50 Park Place, Newark, New Jersey.

The Institute is a non-profit research organization which has been active in New Jersey in the field of transportation for the past two years.

I would like to, first of all, complement the Joint Transportation Committee, under the leadership of Senator Horn and Assemblyman Esposito, for holding these public hearings. I would also like to complement the Department of Transportation, the Commissioner, the Deputy Commissioner, the Director of Planning and Research, and staff, on the fullest and best presentation to date of the workings of the Department and of the realities of federal and state funding.

This presentation is particularly useful because there has been a considerable amount of loose talk on this subject in one or two cases from the Department itself, but, generally, from other sources.

I am not critical, however, of Assemblyman Van Wagner for calling for this examination into the procedures of the Department of Transportation and I am certainly not critical of this committee for holding these hearings. On the contrary, only by full and open inquiry can the public be apprised of the realities of the situation.

As a public interest organization, we have consistently worked for this kind of public airing of the issues.

I would like to comment, and in deference to this committee I will be brief, on a couple of issues that have been brought up, however. I would like to agree with Mr. Carroll about the record of this Department in the area of public transportation, as compared to previous administrations.

There has not been enough done to satisfy me and there probably never could be enough done to satisfy me, I have to be honest about that at the outset. But I think that important strides have been made and I think they need to be recognized. Acquiring those two grants per month are, of course, major accomplishments that dwarf the previous accomplishments in the public transportation area.

The second thing I would like to address is the question of interstate freeways because I think we too often look at the interstate mileage and say, "okay, this is the mileage; this is how much we need to complete; this is the percentage we haven't completed."

Mr. Carballo pointed out one of the complications of that, in that Massachusetts, by using Interstate transfer

provisions, deleted a number of miles from its Interstate system, applied that money to mass transportation projects in the Boston area and, thereby, has a better record of percentage completion of Interstate systems.

I think that is not a bad way to go about it, I might add, and I think that there are Interstates in New Jersey that are eligible for that and possibly should be used in that way.

I would like to try to make a distinction between some of those Interstates which clearly are the types of necessary, uncompleted lanes in our highway system, and those which constitute major new super highways and to which different criteria should be applied.

The kinds of roads that fall into the first category are Interstate 676 in Camden, Interstate 280 from Newark to Harrison and the section of Interstate 287 around Morristown that was recently completed. These are the types of projects that, whatever one thinks about the conception of those Interstates a decade or more ago, are clearly links that need to be completed now. There is more damage being done - there was more damage being done on 287 by not completing it - then there would be by not completing them, and I think a concern over getting those completed quickly is legitimate.

I might point out that the cause for delay, in many cases, has not been from not trying to move fast enough but from trying to move too fast and shortcutting procedures. I think this was pointed out in some of the testimony.

The attempt to shortcut these procedures in the Action Plan, in the Federal regulations, etc., often lead to a project taking much longer, rather than less time. In many cases the problem in the past has been that the review process was not done properly. The public was

not consulted at times, when they legally had to be consulted, and this left the Department open to law suits and to rulings from the Federal Government which delayed projects much more than was necessary.

So, I think that because most of these laws are legitimate and serve legitimate purposes and, so that that type of problem doesn't arise, I think the fullest carrying-out of the procedures in the action plan is what is appropriate, rather than to attempt to shortcut them.

I'd like to also say something about last year's highway bond issue in New Jersey. I was one of the leaders of the opposition to that bond issue for reasons which I still consider to be valid. In fact, I took a one-month leave of absence, without pay, from my job to serve as Executive Director to the Committee To Beat The Highway Bond Issue.

I do not appreciate being confused with other people of the same last name and I do not appreciate charges that members of the Department of Transportation worked against that bond issue. I think I would be aware of anyone who worked actively against that bond issue and I can state, categorically, that no members of the Department of Transportation worked against the highway bond issue last year.

I can also confirm what Assemblyman Esposito said about Commissioner Sagner's efforts in favor of the highway bond issue. He traveled all over the State and spoke effectively in favor of the bond issue. I felt, in many cases, he spoke too often and too effectively in favor of the bond issue, from my personal prospective. But I think it is particularly unfair for him to be charged with not having supported something which he put a major effort into.

I think, however, that the fact is - and he indicates that he learned from that experience and from

the previous experience of the 1972 bond issue, which occurred in another administration - there is a public sentiment in this State about highway construction - about continued highway construction. I am not talking about these small, incompletd links, I am talking about major new highway construction. This sentiment has to be recognized and it would certainly be appropriate for the Legislature and the Administration to recognize this in formulating any bond issues this year.

This brings me to my final point - which is actually two points in a sense - and that is, the legitimate concern for jobs which has been mentioned here today. People representing their unions faithfully, as they must, speak with understandable feeling about the human tragedy of unemployment. I think we must, as a society, deal with the question of unemployment; we cannot fix that problem on one department or, specifically, one area of one department - that is, highway construction - but we must deal with it in a much broader way. We must, at the same time, deal with it in a way which recognizes some fundamental realities.

The prime fundamental reality I want to suggest we recognize today is that major highway construction has come to an end. I want to repeat that because I think there can be misunderstanding on this point. I am not saying that I wish that major highway construction would come to an end, although it is my opinion that the emphasis over the last 20 or 30 years, not just in New Jersey but nationally, has been too much in the direction of highway construction, as opposed to other elements of a balanced transportation system.

I am really stating something else, something I percieve to be a fact of life, nationally, particularly in the more urbanized states, of which New Jersey is a prime example: Highway construction - major highway

construction - has come to an end. It has been disapproved by voters whenever they have been given an opportunity. It has run into local community opposition, in many, many cases, which has defeated it. And I think that if we are going to be concerned about getting needed projects done and providing jobs, we are going to have to provide those projects and those jobs in areas which the public will accept. For very legitimate reasons the public emphasis has switched, due to considerations of energy, of environment, of community disruption, to feel that we need to correct some of the mistakes of the past and build a more balanced transportation system in the future which focuses on a greater commitment to public transportation.

That has begun and various efforts to advance highway construction through federal funding are continuing. In some cases I have differences with the Department of Transportation. I have often been critical of them in the past - they have been moving too far on certain of those projects. But I think we have to understand the fundamental realities which were well presented today in terms of the complicated Federal and State guidelines, which the Department of Transportation faces. I want to go beyond that to emphasize the point that whatever the Department of Transportation would choose to do, whatever a particular Commissioner would choose to do, they are faced with some basic limits and constraints and the prime among those is that major highway construction has come to an end. Thank you.

SENATOR HORN: Thank you very much, Mr. Hull.

Assemblyman Van Wagner, did you want to add any remarks before we call on the Commissioner to respond to some of these statements?

ASSEMBLYMAN VAN WAGNER: Yes, Senator. I had

planned to make these comments before the last speaker but in light of the last speaker's remarks, I think they become more germane to the topic of this discussion.

First of all, let me say that I think one of the things that has been accomplished today - as has been pointed out by Mr. Brach and several of the other witnesses who testified - is that, if nothing else, it has created a dialogue between a major department of government and many of those affected by its operations.

I think that rather than reduce ourselves to a polarized situation between the question of highway construction and the question of public transportation, there is something that we, as legislators - I know the Commissioner and I discussed this when he was in Monmouth County campaigning for the highway construction bond issue, as well as the mass transit bond issue - all have to recognize within the State of New Jersey and that is, because of the structure of the State of New Jersey - and this, perhaps, may relate to remarks made regarding land-use and the necessity for a comprehensive plan in that regard - and because of the, for want of a better word, suburban sprawl that exists, it is almost impossible to create the kind of public transportation system that is necessary in the State without a comprehensive road system to provide feeder roads to those collection points, if you will, which will, in turn, provide the public transportation to the large urban areas where most people work within the State.

So, I think when we look at - and, again, I am sounding a note that was sounded earlier in the testimony - the overall question of transportation, whether it be public or highway transportation we can look at neither in a vacuum, as we can't look at the operation of the Department of Transportation, or the Department of Environmental Protection, or the Department of Community Affairs in a

vacuum. This is a total State operation, as is any master plan for developing public and highway transportation within the State.

I think it is important, because of your leadership and Assemblyman Esposito's leadership in the area of transportation, that we make it a priority as we approach the major concerns that we have to approach within this State. Regardless of, and notwithstanding any other consideration, this State suffers, now, the highest unemployment rate in the nation - or close to the highest. It is our responsibility, within the State of New Jersey, whether it be in the area of public transportation, whether it be in the area of highway construction, or whether it be in brand new areas of endeavor that perhaps we haven't even arrived at yet, that we make sure as many of the people within our economy who need to work, work. That's what is paramount.

I don't think it is important at this point whether they work in programs that are environmentally directed or whether they work in programs that are directed toward the improvement of public transportation. The important thing is that we get down to work and move this State ahead.

I think the action of the Department of Transportation in finally developing, from a fragmented set of circumstances, an Action Plan, is giving us the impetus to that direction. I hope these hearings are a beginning. I thank you for allowing my resolution to be brought to a public hearing and I thank you for allowing me to be heard. Thank you, Senator.

SENATOR HORN: Thank you, Assemblyman. Commissioner Sagner.

We don't want to turn this into a town hall meeting. We are going to let Commissioner Sagner give testimony in response to some of the questions that have been raised and then, Leo, if you want to respond, that

will be the end of the hearing.

COMMISSIONER SAGNER: I would like to correct one point for the record. Assemblyman Van Wagner reminded me that, I think, in my written testimony I might have implied that the Action Plan hadn't been started until we took office. It was under way. Our people moved it to completion after it had lagged for some time.

I also want to say, responding to Assemblyman Van Wagner, that I appreciate the opportunity to be here and, as I told him out in the corridor, his resolution gave us an opportunity, in preparing for it, for a period of self-examination.

However, in responding to Mr. Pierson and Mr. Brach, let me say, first, that I appreciate the problems that, as leaders of their Union, they are faced with. In going into the hall and seeing a number of men who are capable and desirous of employment and not being able to find work for them, provides for a great deal of frustration.

I will say again, half seriously and half facetiously, that if I thought by my resigning from my position, as requested by Mr. Pierson's President and by Mr. Marciante, I could alleviate the suffering, I'd be only too glad to do so. If any of those gentlemen have any specific ways in which my removal would expedite this process, I would carry out this commitment.

As far as our communicating with Local 825, I would like to state for the record that it was at Mr. Frawley's suggestion that we arranged to have a meeting in which we did, in synopsis, what we did here today. At my suggestion, through Mr. Marciante and John Brown of the A.F.L., we have had two meetings in Washington with our Congressional delegation in which, essentially, we described the problems that we are now faced with and requested their assistance.

I would like to say that our Congressmen, particularly Congressman Howard, in his position as Chairman of the Sub-Committee on Surface Transportation, have tried to cut through some of the red tape and remove some bottlenecks that we think are not necessary.

On a few specifics, just so we can set the record straight, there is an aritmetical error - one hundred million dollars would not buy one billion dollars, that is a ten-to-one ratio, roughly. The ratio, for most of the construction other than Interstate, is 70-30.

The statement was made that the least we could do is to put the money in the budget. Now, I don't understand how someone could have such a complete lack of knowledge because we have never said that we don't have the money to match the federal funds that are available to us. In fact, I have always been very proud, under the fiscal strain and duress that our Legislature is operating under, that they have assiduously avoided taking that money, that is reserved to match federal funds, to use for other purposes. Even this year, the Appropriations Committee saw fit to appropriate for us the full amount of money to match the federal funds that had been appropriated for us by Congress.

I did have a note here to ask Tim Hull to stand up. He is the tall one with the beard, who is my assistant. He is related to David Hull, the one with the mustache who works for the Institute for Public Transportation but, because we have civil rights and non-discrimination laws in the State of New Jersey, and despite all of my difficulties with David Hull on occasions, particularly on the bond issue - he dogged my footsteps all around the State - I still think that I am entitled to hire his brother, who didn't go around the State fighting against the bond issue.

There are several more corrections I would like to make. I said this before and I am repeating it again. Sometimes I wonder what the purpose is of everybody patting themselves on the back saying that things are explained, because when they are explained, people keep on making the same statements anyway. We will not - I repeat, "not" - lose the Interstate money. It will not go to another state. It is ours and we will spend it within the time provided by Congress.

On the specifics - and I will just touch on a few of them - on Route 287, this project was prepared to go to contract over a year ago. Congressman Monroe introduced an amendment to the Highway Act requiring the state to do a study of other possible corridors and we have completed that study and we will be having a new public hearing. I can say now that instead of having one group in opposition to Route 287, as a result of having studied two additional corridors, we now have three groups in opposition to 287.

On the question of Route 78, we had a public hearing. There were 300 questions and comments at that public hearing and we are required by law to respond to those. We have prepared our responses and we will be having the beginning preparations of the public hearings next month.

On Route 78, at the other end, that is not completed because Pennsylvania has not decided where they are going to terminate on the other side of the river. The reason they haven't decided is they are in court with an environmental group and we cannot complete our section of the road until we know where to go.

On Route 895, we have our section under design. We might have to scrap that road because we are getting signals from Pennsylvania that they are about to abandon the part on their side. We can't build - to borrow an expression - "a road to nowhere."

In summary, Mr. Chairman, I would say that every Interstate we have on our program is being pursued by us in accordance with the law and in the manner in which we are to pursue it. We will decide after we have had the public hearing and have heard from the public and are permitted to go ahead, whether or not we will go ahead or whether we will transfer that money to public transportation. We have not reached any decision in that regard. But I would say that I would like some demonstration of - if I am quoting directly - a deliberate government failure, or a deliberate step on our part not to proceed with these projects. Thank you.

SENATOR HORN: I have a few questions, now that it appears all the testimony is in. I am curious as to some of the statements that were made today and some of the charts that were presented.

I read some statements in the Currier Post Editorial, dated April 23, 1975, entitled "Tap the Road Funds" - and I would like some response from you on this - which were relative to the auto safety of New Jersey.

In the fourth paragraph of that editorial it reads: "According to the center for auto safety, New Jersey has committed only \$94 thousand of the \$7 1/2 million available to the State in the current fiscal year for safety programs, funded by the Federal Government's 1973 Highway Act. The report is based on figures provided by the Federal Highway Administration."

Now, that, to me, would seem to run contrary to the charts that you have presented here today and I would appreciate some clarification of that situation from you.

COMMISSIONER SAGNER: Senator, I am not responsible for the editorial. I will be responsible for the information that we gave you on the chart. Tim Hull will put it up on the board and we will go over that again.

SENATOR HORN: While we are on that same subject there is another paragraph that refers to the hazards. It mentions a high hazard location program which is designed to identify and improve high hazard areas on Federal and State highways. It sets the Interstate system, with the states meeting 10% of the cost. There is \$75 million in federal funds available. New Jersey's allocation is \$2,043,952.00 and the State has not committed any of the available money.

COMMISSIONER SAGNER: Senator, there are the numbers - the \$2,043,952. We have the money. We have been spending highway money in other categories - urban system, primary system - for these large projects. The reason there is a discrepancy in the article that you read in the Currier Post and the million something - if you look at the other sheet--

SENATOR HORN: Are you telling me the state does now have the \$2,043,952?

COMMISSIONER SAGNER: We have the authorization to spend that money, yes.

SENATOR HORN: The article only says that you have not committed it.

COMMISSIONER SAGNER: We have not committed it, that's correct. We are committing parts of it now. When they said that we only spent \$90 thousand, that was as of that date, and in Washington. As of this date, and through the local office, we will have obligated \$1,686,000 and by the time that money lapses next year we will have spent all of that money.

What we are trying to do is, instead of using it for large state projects for which we have other federal money, we are attempting, as I said earlier, to assist the counties in correcting their safety projects and do it on a number of small projects around the State.

SENATOR HORN: The editorial, if I may continue,

indicates that the Safer Roads Demonstration Program - this is similar to the two programs listed that I have just talked about - is restricted to roads constructed without federal aid, and that New Jersey has allocated none of its available \$2,736,668.

COMMISSIONER SAGNER: It's all the same story.

SENATOR HORN: That would go with the unobligated balance of \$21 million?

COMMISSIONER SAGNER: That's correct.

SENATOR HORN: I would also like some questions answered because in my area it appears that 676 is being held up because of environmental factors, as I understand the situation. The federal government has come along at a subsequent date, after the highway was started, with new environmental impact studies which are to be held. They were to be held last November - this was my impression - and I don't know whether they have been postponed or not. I heard today - if I understood rightly - that they are not going to be until this Fall, which is another year's delay.

I would like to know who does your environmental impact statements - is it in-house or is it done by consultant?

COMMISSIONER SAGNER: Both, Senator. We do some in-house and some we do with consultants.

SENATOR HORN: If you hire consultants, how do you categorize the consultants and on what expertise do you base the hiring of those consultants?

COMMISSIONER SAGNER: Well, we have a consultant selection committee, consisting of people in our Department who have the expertise in that area. Consultants who think they are qualified present their backgrounds, their staff, their experience and this is evaluated by our consultant selection committee.

SENATOR HORN: Do they operate under contract?

COMMISSIONER SAGNER: Yes.

SENATOR HORN: Does their contract include a penalty clause for late studies or are they free to miss deadlines? Do we have a penalty clause?

COMMISSIONER SAGNER: I can't answer that. I would ask Mr. Freidenrich, who is Chairman of that Committee.

MR. FREIDENRICH: Senator, there is no penalty clause other than if a consulting firm does not produce and delays a project for no reason, other than his lack of performance, he would not receive another project from the department.

SENATOR HORN: In other words, if his report was not sufficient for the needs of the federal government requirements, there is a penalty clause for that?

COMMISSIONER SAGNER: He doesn't get paid.

SENATOR HORN: That's a penalty.

COMMISSIONER SAGNER: That is not the problem, in fact. The shoe is usually on the other foot. The delays are the result of a lack of coordination between our Department, the Federal Highway Department and the local D.E.P. This is a thing that we have been working on - the all-day conference that I described to you - where we are trying, with the D.E.P., the Federal E.P.A. and the Federal F.H.W.A., to set down guidelines. As a matter of fact, the consultant is penalized by the delays, even if it is not specified in the contract, because his costs go on and on. This is a complaint that we receive.

SENATOR HORN: I would like your Department to provide to this committee a list of the names of your consultants on environmental impact statements so that we can determine whether a complete study was accepted by the Department for the Federal Government.

COMMISSIONER SAGNER: We will supply you with that.

SENATOR HORN: I would also like to get into

the bus situation. Your letter to me indicated there was \$136 million to be spent for buses and railroad cars. Is any of that being spent in the State of New Jersey for purchase of these items, to create employment?

COMMISSIONER SAGNER: We have not worked on the final specifications in the preparation of the bidding documents, Senator. I don't know if any of the industry in New Jersey will bid on those or not, either as prime or sub-contractors.

SENATOR HORN: I have no other questions.

ASSEMBLYMAN ESPOSITO: There is one question I'd like to ask. The last speaker mentioned bus subsidy money being exhausted in June.

COMMISSIONER SAGNER: That's correct.

ASSEMBLYMAN ESPOSITO: What is being done now for after June?

COMMISSIONER SAGNER: Hopefully, we will have a new budget. It is nip and tuck though.

SENATOR HORN: We are working on it.

COMMISSIONER SAGNER: We might all be walking.

ASSEMBLYMAN ESPOSITO: Where is the money coming from?

COMMISSIONER SAGNER: As the old saying does, that is in your hands. We need a budget for 1976 or, worse than the buses not working and the A.T.U. not getting paid, even I won't get paid.

SENATOR HORN: Are there any other questions?

(no questions)

Thank you, Commissioner.

Mr. Brock, do you have any questions?

MR. BROCK: I'd like to ask the Commissioner a question.

SENATOR HORN: Sit down, Commissioner. You can stay right there.

MR. BROCK: In your testimony, Commissioner, you

bring out the fact that some 21 out of 29 communities took advantage of the road programs and that 8 rejected the road programs. Then you make statements about the bond issue - two bond issues being rejected by the public. From that you conclude that there is a reluctance on the part of the public toward highway construction. Would you, then, draw the same conclusion from the fact that many more communities have rejected bond issues on education? Would you then construe that the public is saying that education is on its way out?

SENATOR HORN: I think you are referring to school board budgets, not bond issues.

COMMISSIONER SAGNER: I don't think you can make that same analogy because I don't share Mr. Hull's complete view on the future of building highways, although I think there is a lot of truth in it and it is farsighted and something that union leaders should look into - as to how they will provide work in future years for their union members. I mean that very seriously.

I don't believe that the failure of the bond issue can be compared to the failure of school budgets. There are a number of other factors involved. I don't think this is the proper forum for us to go into those.

I will point out to you, though, that in the same bond issue where the highway bond issue was defeated by a very large margin, the green acres bond issue passed rather haphazardly - and I will take responsibility for that public transportation bond issue - and received a greater number of votes than the highway issue. I think if we delude ourselves and do not want to face the possibility that the public doesn't want roads - or at least they don't want them in their community - we are not coming to grips with something that we are going to have to deal with.

SENATOR HORN: We will now hear from Mr. Pierson and then I will close with a few remarks.

MR. PIERSON: Thank you, Senator. I have just one last remark. The Commissioner stated that there were going to be hearings. I would like to know the time and the place of these hearings so that we can jam these halls and the Commissioner and I can work together. Thank you very much.

SENATOR HORN: Thank you. I am sure the Commissioner will advise your large organization of these hearings.

Thank you, Commissioner and Deputy Commissioner Carballo.

I would like to commend Assemblyman Van Wagner for making this public forum possible. His resolution has cleared up a lot here today. I think this resolution will have a lasting effect on the line of communication that appeared to be lacking in the past between the D.O.T., the Legislature, the Federal Government, the labor unions involved and the citizens of this State.

I want to thank all of the groups and you, Commissioner, for coming here so well prepared today. I am sure that Mr. Pierson, Mr. Brach, and Mr. Hull are much better informed, as we are. Thank you for making all of these facts available to us and the Amalgamated Transit Union, who has a great contribution to make to this State.

We will, in accordance with the resolution, be recording our findings and recommendations to the Legislature. Probably through some Bills we may desire to recommend and adopt some of the recommendations that have been made here today.

You can rest assured, Commissioner, and the rest of the groups that provided the information here today, that in the preparation of that legislation, you will all be a party to it.

We will be making a final report and you will all be made aware of it. Copies will be presented to each

and everyone of you, and anyone in the public sector who cares to have one.

If there is no one else who wishes to come before this committee today, I will declare this meeting adjourned. I want to thank everyone for attending.

(Hearing Concluded)

[OFFICIAL COPY REPRINT]

ASSEMBLY CONCURRENT RESOLUTION No. 3011

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 20, 1975

By Assemblyman VAN WAGNER

(Without Reference)

A CONCURRENT RESOLUTION directing the \***[Office of Fiscal Affairs]**\*  
*\*Senate and Assembly Transportation Committees jointly\** to  
study, evaluate and report on the adequacy and effectiveness of  
the Department of Transportation's policies and procedures con-  
cerning its application for, and its receipt and expenditure of,  
Federal aid for transportation projects.

1 WHEREAS, The Department of Transportation, established pursuant  
2 to the "Transportation Act of 1966," is empowered to "apply  
3 for and accept on behalf of the State any grants from the  
4 Federal Government or any agency thereof . . . and may comply  
5 with the terms, conditions and limitations thereof, for any of  
6 the purposes of the department"; and

7 WHEREAS, Substantial sums of Federal money—including two  
8 billion dollars of previously impounded funds—have been made  
9 available to the several states to facilitate the construction and  
10 improvement of highways and mass transportation facilities; and

11 WHEREAS, Assertions have been made that the Department of  
12 Transportation has not received or could not expend within the  
13 Federal time limits the maximum amount of funds available to  
14 it under the various Federal transportation programs, and  
15 furthermore might be unable to meet the project eligibility re-  
16 quirements for any of the recently released money; and

17 WHEREAS, It has been asserted that failure to expeditiously apply  
18 for, receive and expend the maximum amount of available Federal  
19 funds may be attributable to inadequate and inefficient policies  
20 and procedures within the Department of Transportation; and

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill  
is not enacted and is intended to be omitted in the law.**

21 WHEREAS, As a State with the Nation's highest unemployment rate,  
22 a budget deficit of outstanding proportions, and a readily  
23 demonstrable need for improvements in its highway and mass  
24 transportation systems, it is imperative that New Jersey apply  
25 for, receive and expend on a timely basis the maximum amount of  
26 Federal transportation funds available to it; now, therefore

1 BE IT RESOLVED *by the General Assembly of the State of New*  
2 *Jersey (the Senate concurring):*

1 1. The \***[Office of Fiscal Affairs]**\* *Senate and Assembly Trans-*  
1A *portation Committees jointly are*\* hereby authorized and directed  
2 to study, evaluate and report on the adequacy and effectiveness of  
3 the Department of Transportation's policies and procedures con-  
4 cerning its application for, and its receipt and expenditure of,  
5 Federal aid for transportation projects.

1 2. The \***[Office of Fiscal Affairs]**\* *Senate and Assembly Trans-*  
2 *portation Committees jointly*\* shall report \***[its]**\* *their*\* findings  
3 and recommendations to the Legislature, together with any legis-  
4 lative bills which it may desire to recommend for adoption by the  
5 Legislature, no later than 45 days following enactment of this  
6 concurrent resolution.

HMB

*Impoundment*  
4-11-75



ALAN SAGNER  
COMMISSIONER

STATE OF NEW JERSEY  
DEPARTMENT OF TRANSPORTATION  
1035 PARKWAY AVENUE  
TRENTON, N. J. 08625

March 20, 1975

Dear Senator Horn:

Recent publicity has created a great deal of confusion and misunderstanding with regard to this State's ability to use Federal Highway funds. In essence, what some have characterized as a Presidential public relations gesture, has created a "red herring" to distract us from the fundamental questions we face in meeting the transportation needs for the State of New Jersey. Decisions made during the Nixon Administration regarding the impoundment of Federal highway funds, which have time and again been found illegal by Federal courts, like other actions of that same Administration, linger on. The problem has been further compounded by the extremely complex nature of the subject matter which has led us to hasty and ill-conceived conclusions that Federal funds would be "lost." It is the purpose of this letter to try to clarify the effect of the release of federally impounded funds by President Ford on the State of New Jersey and assist you in your review of the performance of the New Jersey Department of Transportation.

I. The Effect of Impoundment and its Release

During the Nixon Administration the President, through his Office of Management and Budget (OMB), "impounded" funds for a large variety of Federal programs and projects authorized by Congress. In effect, the President said that notwithstanding the fact that the Congress has enacted legislation appropriating funds for such purposes as water pollution control and highway construction, that he would slow the rate at which such funds could be expended on an annual basis and thereby effectively reduce the Congressional level of appropriation. To illustrate, where Congress said we could have \$100 a year, OMB would say we could have \$50 a year for two years. This action immediately raised the question as to whether impoundment was legal.

The courts have consistently concluded that the process of impoundment is illegal. Most recently the Supreme Court of the United States in the parallel cases of Train v. City of New York, #73-1377 and Train v. Campaign Clean Water, #73-1317, ruled that impoundment of water pollution control funds was illegal. More significantly, for our purposes in the highway area, similar rulings have prevailed, although the cases have not yet reached the Supreme Court. In fact, the timing of those rulings is quite revealing.

In February in a speech before the Kansas State Legislature, President Ford announced, almost as an afterthought to his prepared text, his decision to release \$2 billion of impounded federal highway funds. In what can only be described as a remarkable coincidence, on the next day, the United States Court of Appeals upheld a lower court determination that federal impoundment of highway funds was illegal. Shortly thereafter, the Supreme Court ruled on the water pollution cases.

Those decisions have broad implications. Fundamentally, it now appears that the impoundment which has slowed highway projects over these many years is illegal and will have to be totally abandoned during the coming fiscal year. The apparent time limits set on the released \$2 billion are probably illegal. This fact creates rather substantial opportunities for New Jersey to move ahead in a greatly accelerated highway construction program for essential projects during the coming fiscal year.

Before passing to that question, however, it should be made clear exactly what the President's release on impoundment accomplishes this fiscal year. After extensive discussions with our state representative of the Federal Highway Administration (FHWA), who has been very cooperative with us in this matter throughout, and discussions in Washington with our Congressional Delegation, it is our conclusion that the release on impoundment changes very little. Although the formal release of \$2 billion from impoundment controls occurred on February 12, 1975, actual guidelines for the release were not published by the FHWA until March 10, 1975 or received by this Department until March 18, 1975. Some clarification had been afforded prior to that time by exchange in correspondence between my Deputy and John Kessler, Federal Highway Administration's Division Engineer for New Jersey. The exchange of correspondence is attached as Appendices A and B, and the recently issued guidelines as Appendix C. The entire picture can be summarized by saying, "The more things change, the more they remain the same."

The question is then logically asked: Whether something has changed or not, how much highway construction can the State of New Jersey expect between now and the end of Fiscal 1976? In order to answer this question, a somewhat detailed excursion into the mechanics of the Federal Aid Highway Program is necessary.

## II. The Nature of the Federal Aid Highway Program

The Federal Aid Highway Program extends back to the 1920's. Its more modern manifestations, however, can be traced to 1956 when the essential framework of the interstate program and the Highway Trust Fund was established. Essentially two categories of federal highway funds were made available to the states. The first of these was to construct the interstate system of highways. These highways are intended to serve national and regional transportation purposes and were initially justified in part by considerations of national defense. Although there is no formula which allocates a set amount of funds to build interstate highways, the Federal government must approve the interstate system within each state. The Federal commitment is then basically to pay 90% of whatever it costs to build that system.

Comparative statements about how "successful" New Jersey has been in using interstate funds are therefore essentially meaningless. If a project is on the interstate system and not withdrawn by subsequent federal legislation or by action of the states pursuant to the Federal highway laws, it will be funded and built. What impoundment and other red tape restrictions have done is slowed the rate to which it can be built. There have been cases in which this State was prepared to advertise and award contracts to build portions of the interstate system and federal funds were not made available during that year. They have always been made available in the subsequent years.

It should further be pointed out that New Jersey, like other highly urbanized states, has encountered substantial difficulties in completing certain remaining portions of its interstate system. Indeed, not all portions of the interstate system as presently designated in the state may be completed. Which portions of the interstate system should be completed will be resolved as a result of complete environmental impact analyses and after appropriate public hearings with the communities affected.

The Department of Transportation takes as its legal responsibility not only the construction of adequate transportation facilities, but as mandated by State and Federal law, the safe, decent and sanitary relocation of families displaced by transportation projects and the preservation of the environment. If at any point we reach the conclusion that any part of the interstate system cannot be completed within these constraints, we will either transfer that segment to another highway use (as was done in the case of the transfer of funds from I-278 to I-195) or to public transportation projects (as authorized by the Highway Act of 1973). In no event will the funds be "lost."

Notwithstanding all these constraints and considerations, New Jersey presently has either open to traffic, under construction or under design and acquisition of right of way, 98% of the presently authorized interstate mileage. This compares with a national average of 98%. A comparison of the amount of interstate highway work either under construction or open to traffic shows New Jersey with a lower ratio than the national average. New Jersey has 78.7% of its interstate system either under construction or open to traffic while the national average is 91%. A comparison, however, with interstate completion in urban areas of other states makes New Jersey's performance far more creditable. Massachusetts, for instance, has abandoned almost \$600 million worth of interstate highway construction in the Boston area and transferred the funds to mass transit. In New York State, a cross-Manhattan Expressway and a cross-Brooklyn Expressway were abandoned and the funds transferred to rebuild a new West Side Highway, a considerable delay in that State's program. Other examples in urban areas abound, The District of Columbia, San Francisco, New Orleans, Philadelphia-- wherever there is an urban area -- major interstate construction has been slowed or stopped. When it is recognized that New Jersey is essentially totally an urban area -- the most urbanized state in the nation -- New Jersey's accomplishments in the face of this situation, despite constant delay and dissatisfaction, are remarkable.

The second major type of Federal highway funds available can be described as "formula funds." These are funds which are apportioned to each State based on certain statutory formula. The relevant formulas are outlined in Appendix D. New Jersey is legally entitled to these funds. It cannot lose them except through a process called "lapsation." Lapsation results when funds which have been apportioned to a state have not been used within approximately three years of the annual apportionment date. Thus, for example, funds for Fiscal Year 1975 were "apportioned" in December, 1973, and New Jersey has until July, 1977 (i.e., the end of Fiscal 1977) to spend these funds. Appendix E has a diagram which might help in visualizing the process.

Also attached as Appendix F is a table indicating the Federal fiscal year apportionments from Fiscal 1968 to the end of Fiscal 1975.

New Jersey has utilized every cent of federal formula funds made available since the inception of the Federal Highway Program and not "lost" one penny. Moreover, there is every reason to believe, barring Congressional changes in statute or other unforeseeable events, that this will continue to be the case.

The Federal Aid Highway Program is not a grant-in-aid program. No matter what this State did, it could not receive more Federal-aid highway funds than are apportioned to it by statutory formula.\* Nor could it create new interstate segments beyond the national total of 43,000 miles or segments which do not meet the Federal criteria for the interstate system.

Why, then, is there this continuous assumption that New Jersey is doing so poorly in the area of highway construction? Why, then, is there a feeling that we somehow are not getting our fair share of federal aid? Why, then, has there been such an enormous tempest in a teapot over the federal release of impoundment?

The confusion arises in the combined effect of the three-year period in which the State may act to use the Federal funds; a failure on the part of many to fully understand what the effect of impoundment is and was; and a seemingly interminable series of delays and postponements in the construction of projects that some communities feel are urgently needed.

Each of these deserves further elaboration.

#### A. Three Years to Commit.

Federal law quite rationally recognizes that massive public works projects of any kind sometimes encounter delays. It also recognizes that in order to plan effectively, local jurisdictions must know what funds are available. In fact, one of the major justifications for the creation of the Highway Trust Fund was that it established a continuing, secure and foreseeable level of federal funding. It is for this reason that Federal statute (23 U.S.C. 188 and 104) allows somewhat over three years lead time before any state loses the funds to which it is entitled by statute. The fact that funds are certified as available this early in the process, however, frequently leads people to believe that there are huge

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\*There are some minor exceptions to this rule for small programs, such as bikeways and certain "safety" areas.

unexpended balances which must be spent immediately. For instance, as of February 24, 1975, the state has "credited to its account" through apportionment, \$461 million.\*\* This amount, however, includes the amount apportioned for Fiscal 1976 (which we have until July, 1978 to spend) as well as all previous unexpended apportionments for Fiscal 1973, 1974 and 1975. Except under unusual circumstances, we cannot draw down the \$155 million that is apportioned for Fiscal 1976 until July 1, 1975. They have yet to be matched with State funds. It is there so that we may plan against it. The public impression, nonetheless, is that somehow all of it should be spent within this fiscal year. Yet, until February, 1975, and President Ford's release of impoundment and recent court decisions, it was not allowable by executive action of the President. Of the \$461 million apportioned to date, this State had been authorized to spend only \$114 million this fiscal year.

Well, then, now that impoundment has been lifted by a total nationally of at least \$2 billion, how much can be spent and how quickly?

#### B. Impoundment.

In order to answer the question of how much may be spent in the near future, it is necessary to look back a little at the past. As stated earlier, one purpose of the Highway Trust Fund was to provide some certainty as to what funds will be available. The effect of impoundment was to defeat that purpose since, notwithstanding statutory formula, the amount a state could spend was governed by the whim of the Federal executive.

Impoundment had two insidious effects. First, delaying the rate to which federal funds could be expended (although in a manner calculated never to force any state to lapse its funds at the end of a three-year period), it served to delay moving projects to construction. This, in turn, subjected many projects well along in their design to new regulations and frequent reanalysis along lines that will be discussed below.

Second, and more subtly, impoundment tended to cut down on the size and speed of projects "in the pipeline." The previous State Administration, in order to maximize the amount of actual construction underway, used almost all of the available federal funds for construction purposes and limited the amount of funds used for engineering and right of way acquisition. This resulted in a very impressive record of construction achievements reflected in the table attached as Appendix G. Even that record, however, including as it does funds from the 1968 Bond Issue, showed a marked slackening off of activity from Fiscal 1972 to Fiscal 1973.

Third, a number of projects have been brought through the design stage, in the Federal Urban Systems program. However, these projects cannot proceed without official local concurrence. In a number of projects that have been requested by the local engineer and other officials met with objections by citizens to the improvements and withdrawal of approval and a necessity for initiating the process over again in another location. In the

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\*\*Includes \$29.4 million in Highway Safety funds administered through the Department of Law and Public Safety.

last two years, 15 projects were thus aborted.

This highlights the problem caused by Federal allocation of funds in categories. Major and minor categories of funding total fourteen. The inability to shift monies from the category where projects are delayed or not wanted to those desired and ready has complicated going to contract.

The problem was further complicated by the lame duck status of the Cahill Administration for most of calendar 1973. It is not an insult to the hardworking professionals of the Department of Transportation to say that following former Governor Cahill's primary defeat, the Department of Transportation stood essentially leaderless and without direction from the top. A new Administration beginning in January of 1974 in effect found the ship lying dead in the water. The last year has been spent "getting up speed." As will be discussed below, the prospects for the coming years are very good.

### C. Other Constraints.

Perhaps the most frustrating has been the constant heaping of new requirements and criteria on the construction of highway projects and the attendant delay caused by retroactive application of these new standards to projects already very far along. In Greek methology, Sisyphus was sentenced in Hades to the endless task of rolling a boulder up to near the top of a hill and watching it roll down again so that he could push it up the hill anew until infinity. The professionals in the Department of Transportation must be developing a great deal of empathy for Sisyphus. Perhaps one of the clearest examples of this type of problem is given by the chronology for construction of the eastern portions of I-195 between County Route 527 and New Jersey Route 34.

1. The Corridor hearing was conducted in December, 1969.
2. An Environmental Impact Statement (EIS), in compliance with the regulations then current, was completed in the fall of 1971.
3. The EIS was approved by the Federal Highway Administration in November, 1971.
4. Design was initiated and the Design Public Hearing was conducted in March, 1973 with
5. Initial design phases approved by FHWA in 1974.
6. Notwithstanding this long history of analyses, review and approval, we are today prohibited from acquiring the right of way for this needed project because new regulations have been subsequently issued with regard to air quality and we must once again reanalyze the impact of this project.

We do not argue that we should fail to consider all relevant aspects of the environment and other economic and social factors. Congress has enacted environmental laws to stop the continued irreparable damage to our environment and to our very society by the failures of the past and new projects should be required to meet reasonable standards and be subject to

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considered public scrutiny.

On the contrary, it is our position in the case of a number of badly needed highway links through this State, due consideration of these factors would result in the conclusion that these portions of interstate highway should be built immediately. The list includes, in addition to I-195, I-676 in Camden, I-78 in Union County, I-280 through Harrison and the remaining portions of I-295 and Route 29 just southeast of Trenton. Thus, while we are proceeding to meet the newly imposed federal requirements as quickly as possible, we are also pursuing before Congress changes in federal legislation and regulations which would result in our being able to accelerate these badly needed projects.

### III. Prospects

Against this background, one can now weigh what has been accomplished and what we expect to be able to accomplish before the end of Fiscal 1976. These projections are based on existing laws and regulations. They assume that no new Congressional enactment, impoundment or federal regulation will serve to delay what can be done. Further, it is assumed that the decision holding previous impoundments illegal will be upheld by the Supreme Court. Based on those assumptions, in Fiscal 1975 this Department proposes to spend \$79 million on federal-aid highway construction, right of way acquisition and necessary engineering. Our target for Fiscal 1976 is \$140 million in Interstate work and \$90 in non-Interstate work, for a total in Fiscal 1976 of \$230 million. This rate of expenditure will approach the prior peak year of the Department of Transportation of Fiscal 1972 when a total of \$236.6 million of work was done.

It should be emphasized that in 1972 that total was attained through the combined expenditure of Federal-aid funds available and balances from the 1968 Bond Issue. This projected expenditure for Fiscal 1976 is exclusively Federal-aid alone since the voters both in 1972 and 1974 defeated State Bond Issues for 100% financed state highway construction. In other words, we will be drawing down federal assistance faster than at any time in the State's history, moving quickly to utilize the impounded balances recently released, and, through our commitments in Fiscal 1975 to right of way acquisition and engineering, laying the groundwork for similar achievements in Fiscal 1977. Not only will we be bringing massive amounts of work out of the pipeline, but we will be putting future work into the pipeline so that the current hiatus in construction does not simply recur two years from now.

The magnitude of this achievement in the face of all of the new constraints faced by the Department's professionals is a tribute to their ability and dedication.

### IV. Stimulating Employment

The exact timing of this construction is critical in terms of relieving unemployment during this summer. Every effort will be made to push forward projects to advertising and award during the current construction season. No false hopes should be raised, however, that highway construction alone will provide employment in the amounts needed this summer.

But we do not do highway construction alone, and we should not lose sight of the New Jersey Department of Transportation's other responsibilities. So far, we have been discussing only highway construction.

All the preceding fails to recognize the enormous strides taken during the past year in the area of public transportation. Our interest in public transportation is not a simple matter of preference or philosophy but a recognition of a serious energy problem that faces this country. The cost of oil that is being consumed at present prices and quantity in the United States will cost this nation as much in foreign exchange as the Vietnam War. These dollars, all of which are going overseas, must be seen as a tax that prevents us from accomplishing vital programs for the future of this country. Only by shifting some of the trips to public transportation can a reduction in this deficit be achieved. New Jersey has received in one year, Fiscal 1975, more Urban Mass Transportation Administration (UMTA) funds than it had received in all the 10 years from the inception of the UMTA program in 1964. Much of this money will be poured into the economy during this calendar year.

The \$76 million grant awarded to the Department for the acquisition of new railroad cars for the Erie-Lackawanna Railroad will result in a contract award for over 160 new suburban commuter cars this summer. The \$60 million awarded to the Department of Transportation for the acquisition of new buses and the rehabilitation of about 500 older buses will result in a contract for the manufacturing of over 800 new buses by this summer. Engineering design of right of way improvements on the Erie-Lackawanna Morris and Essex Branch will result in over \$120 million in construction awards during Fiscal 1976. In addition, some early stages of construction should begin on the New York and Long Branch right of way improvement. Total New Jersey Department of Transportation transit contract awards in the remainder of Fiscal 1975 and Fiscal 1976 will exceed \$300 million, 80% of which will be Federal. In other words, our total capital program for Fiscal 1976 will be \$245 million for transit and \$230 million for highways, or \$475 million. That is over two times our previous record year.

Moreover, in this area we are also refilling the pipeline. We have submitted to the Capital Needs Commission our estimate of our transit capital needs for the coming decade. If this Committee recommends and the voters approve a major transportation bond issue during 1975, much additional work can be begun.

All of this will help increase employment. None of this will be sufficient. Only the Congress can approve the amount of funds necessary to turn around the economy of the nation and the State. This Department, however, stands ready to continue to do its share.

Respectfully yours,

Alan Sagner  
Commissioner of Transportation

✓  
Honorable John J. Horn  
N.J. Senator, Dist. 5  
514 Cooper Street  
Camden, New Jersey 08102

bc: Governor Byrne; Messrs. Kaden, Leone, Carballo, Goodkind, Stangl, Rosser, Freidenrich, Bridegum, Colanduoni, Snowwhite

Appendix A

February 21, 1975

✓  
Mr. John Kessler  
Division Engineer  
Federal Highway Administration ✓  
25 Scotch Road  
Trenton, New Jersey

Dear Mr. Kessler:

As we discussed in our meeting of February 18, 1975, the State requires some additional clarification as to the ground rules for making use of the newly released \$2 billion of impounded funds. Statements in the press appear to reflect considerable misunderstanding of this action by the President at many levels. In order to get things to rest, therefore, it may be useful to specifically pose some questions with concrete examples.

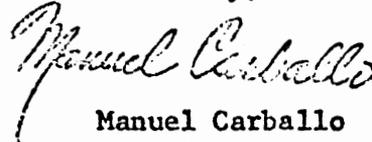
First, let me thank you for your excellent cooperation during this period. In particular, your clarification of the requirement that work be advertised and bids received within 45 days of approval is very helpful.

1. Does the President's action indicate any relaxation or intent to revise regulations issued pursuant to the National Environmental Protection Act in a manner which will allow projects in New Jersey to proceed at a faster pace?
2. If the only criteria for approval by the Federal Highway Administration of projects is the project's ability to generate employment in the area of unemployment and our ability to get it to contract quickly, we have \$248 million in projects designed which are essentially complete, and right of way, where necessary, has been acquired. Are other criteria suspended or waived?
3. Does the impoundment release mean that funds can be used across systems other than as is presently provided by statute?
4. In the case of a transfer of highway funds to public transportation projects, does the 45-day constraint still apply and does the acquisition of buses or rolling stock constitute "construction?"
5. Notwithstanding the effect of the release of obligational authority and its recall by Federal Highway Administration into a central national "pool," is New Jersey correct in assuming that the State could only actually lose Federal funds appropriated to it by the "lapse" provisions of Title 23?

I would also like to confirm our understanding that you are prepared to review certain projects for inclusion for Federal-aid funding which previously would have been considered "maintenance." Such projects are in the process of being sent to you.

Thank you beforehand for your kind cooperation.

Cordially,



Manuel Carballo  
Deputy Commissioner

cc:  Commissioner Sagner

bcc: J. Freidenrich  
K. Rosser

*Appendix B*

U. S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
REGION ONE

25 Scotch Road - 2nd Floor  
Trenton, New Jersey 08628  
February 26, 1975

IN REPLY REFER TO:

01-34

Mr. Manuel Carballo  
Deputy Commissioner of Transportation  
New Jersey Department of Transportation  
Trenton, New Jersey

Dear Deputy Commissioner Carballo:

This is in response to your February 21 letter in which you pose some questions regarding the recent release of an additional \$2 billion of obligational authority.

1. Question - Does the President's action indicate any relaxation or intent to revise regulations issued pursuant to the National Environmental Protection Act in a manner which will allow projects in New Jersey to proceed at a faster pace?

Answer - The regulations issued to implement the National Environmental Policy Act have not been relaxed nor am I aware of any intent to do so. Moreover, unless NEPA itself is revised by the Congress I cannot conceive of any administrative relief within the confines of NEPA that would allow major projects in New Jersey to proceed at a faster pace.

2. Question - If the only criteria for approval by the Federal Highway Administration of projects is the project's ability to generate employment in the area of unemployment and our ability to get it to contract quickly, we have \$248 million in projects designed which are essentially complete, and right of way, where necessary, has been acquired. Are other criteria suspended or waived?

Answer - The ability of a project to generate employment is not the only criterion upon which approval by the Federal Highway Administration is based. In addition, all normal project requirements must be met. No criteria have been suspended or waived.

RECEIVED

-more-

FEB 26 1975

DEPUTY COMMISSIONER

- 3. Question - Does the impoundment release mean that funds can be used across systems other than as is presently provided by statute?

Answer - The impoundment release does not provide any more flexibility in the use of Federal-aid funds other than is presently provided by statute. For example funds authorized by the Congress for expenditure on the Federal-aid secondary system may not be used on the primary system except to the extent that a limited amount of funds may be transferred between classes of funds, subject to approval by the Federal Highway Administrator, as is provided for in existing law (re: Section 104 of Title 23).

- 4. Question - In the case of a transfer of highway funds to public transportation projects, does the 45-day constraint still apply and does the acquisition of buses or rolling stock constitute "construction"?

Answer - The acquisition of buses or rolling stock does constitute construction. However, the manner in which the 45-day constraint applies to public transportation projects has not been clearly established. In part this is due to the complexity of integrating both FHWA and UMTA procedures, the timing of purchase orders in relation to obligation of funds, and the timing of the "construction" of buses or rolling stock in relation to initiation of the purchase order. For your planning purposes I would not rule out the possibility of public transportation projects being eligible for funding, notwithstanding the 45-day constraint. Then if the Department wishes to propose a specific project for which the above time parameters can be identified or reasonably estimated we will provide a more definitive answer to your question.

- 5. Question - Notwithstanding the effect of the release of obligational authority and its recall by Federal Highway Administration into a central national "pool," is New Jersey correct in assuming that the State could only actually lose Federal funds appropriated to it by the "lapsation" provisions of Title 23?

Answer - Within the context of your question, you are correct in assuming that the only way New Jersey could actually lose Federal funds apportioned to it is by the "lapsation" provisions of Title 23.

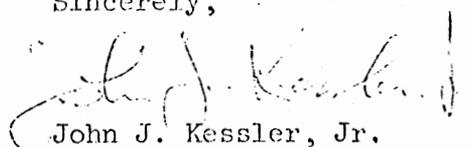
In addition to the five numbered questions above, you have asked for confirmation of your understanding that we are "prepared to review certain projects for inclusion for Federal-aid funding which previously would have been considered maintenance" projects. As you know, the Congress has

authorized Federal-aid funds for construction but none for maintenance. However, it is not always clear whether a proposed project should be classified as reconstruction or classified as maintenance. In the past the distinction has not been of much significance because New Jersey, as other states, has always had a highway program large enough to utilize all available Federal funding for projects clearly classified as reconstruction or new construction. But now the combination of President Ford's release of additional obligational authority, which has the effect of changing the timing of the availability of funds authorized by Congress, plus the difficulty of advancing new projects to the construction stage at an early date, has made the distinction between maintenance and construction more significant.

As a general rule, resurfacing projects which involve 1 1/2 inches or more of surface thickness are eligible for Federal participation provided the present traffic and that forecast to use the highway project during the probable life of the resurfacing course can be adequately accommodated by the basic highway in place. However, if the basic highway in place cannot adequately handle the present and forecast traffic, then the proposed project must also include work to correct deficiencies in geometrics, structural adequacy, drainage and other features if the project is to be approved as a Federal-aid project.

Using the above criteria I believe your staff will be able to properly classify the vast majority of projects as to whether they are maintenance or reconstruction but we are nevertheless prepared to review any proposed project to determine if it is eligible for Federal funding.

Sincerely,



John J. Kessler, Jr.  
Division Engineer



U. S. DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

**SUBJECT:** Federal-Aid Highway Program. However, Obligations - FY 1975 are classified as reconstruction or classified as other past the distinction has not been of such projects as

**FHWA NOTICE**  
N4520.26  
March 10, 1975

Jersey, as other states, has always had a high priority in order to utilize all available Federal funding for projects clearly classified

**1 PURPOSE.** To provide revised instructions relative to the obligation of Federal-aid highway funds during FY 1975 of changing the timing of the obligation of funds authorized by Congress, plus the difficulty of carrying out projects

**2 BACKGROUND.** FHWA Notice N4520.16 dated July 24, 1974, released \$4.6 billion of Federal-aid highway funds on a State-by-State basis for obligation in FY 1975 effective As July 1, 1974. Through January 31, 1975, approximately more \$2.6 billion had been obligated and \$2.0 billion remained unobligated. On February 11, 1975, President Ford released an additional \$2.0 billion of Federal-aid highway funds for obligation in FY 1975. This release raised the total program level for FY 1975 from the initially established \$4.6 billion level to \$6.6 billion. deficiencies in geometrics, structural adequacy, drainage and other

**3 OBJECTIVE.** A primary goal of the accelerated FY 1975 Federal-aid highway program is to carry out the President's objective of generating employment. will be able to properly classify the vast majority of projects as to whether they are maintenance

**4 GUIDELINES.** but we are nevertheless prepared to review any proposed project to determine if it is eligible for Federal funding.

a. Not less than 80 percent of the obligations for new projects and additional work on existing projects (identified on Forms PR-37 by a February 1975 or subsequent month date in cols. 21-24 of card 6) shall be for construction (identified on Forms PR-37 by work class 3 or 6 for all funds plus work class 8 for Forest Highway funds in col. 42 of card 5) for which bids shall be opened or work started within 45 days after obligation of the funds for construction. Where possible, priority should be given to projects in areas of particularly high unemployment, projects to close gaps in the Interstate System, safety improvement projects, and potential transit substitution projects in urbanized areas.

b. Railroad-highway grade crossing safety improvements undertaken by railroad force account may be approved provided the railroad can establish to the satisfaction of the State and Division Engineer that (1) the

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major items of warning device material, if not available from stock, will be ordered from material suppliers within the foregoing mentioned 45-day period and (2) upon availability of the materials, the actual installation work will proceed expeditiously.

- c. Mass transit projects--23 U.S.C. 103(e)(4), 142(a)(2) and (c)--should be submitted provided there is reasonable assurance that employment-generating action (firm orders for buses, etc.) will be taken within 45 days after UMTA approval of the project.
- d. Division Engineers should approve the conversion of ACI or bond projects or advance of stage 1 authorizations for preliminary engineering or right-of-way to obligated status where such actions contribute to the overall Presidential objective of generating employment. In this connection, reimbursement for work done on such projects should provide the State with matching funds required to permit them to proceed with other employment-generating projects. Requests for waiver of the 3-year payout control on converted EACI or E bond projects will be considered on an individual basis by the Washington office. Such requests should be submitted through the regional office to the Program Analysis Division and should specify the project number and estimated payment in FY 1975 if the waiver is granted. Justification for approval of the waiver should also be provided.
- e. Variation from the 45-day requirement or the 80 percent standard may be requested through the regional office where such variation will further the Presidential objective of generating employment.

## 5. OBLIGATION AUTHORITY AVAILABLE TO STATES

- a. To assure maximum utilization of the approximately \$4.0 billion remaining available for obligation in FY 1975 (includes remaining balances of authority previously distributed to States, plus the additional amount released by the President) fiscal control will be exercised by the Washington office. Division Engineers are authorized to approve projects financed from funds in any of the categories shown in Exhibit A in any State, unrestrained except by the State's unobligated balance of apportioned or allocated funds in the categories and by the requirement that projects so approved be within the guidelines established to achieve the national objectives. This includes unobligated balances of funds authorized for FY 1976.



7. REPORTING OF EMPLOYMENT

Special employment reports will be required from contractors having Federal-aid highway construction contracts awarded before June 30, 1975. Contractors normal book-keeping operations should enable them to supply the data that will be requested and no special preparations should be necessary. Reporting procedures and instructions will be furnished soon under a supplemental FHWA Notice.



Norbert T. Tiemann  
Federal Highway Administrator

Attachment

*[Faint, mostly illegible text, likely bleed-through from the reverse side of the page]*

EXHIBIT A

CATEGORIES OF FUNDS COVERED BY  
FY 1975 OBLIGATION AUTHORITY

(Includes all Unobligated Balances of Funds Apportioned  
or Allocated for FY 1976 and Prior Fiscal Years)

Interstate

Primary

Secondary

Rural Primary

Rural Secondary

Priority Primary

Urban Extension

Urban System - attributable

Urban System - not attributable

TOPICS

Metropolitan Planning

HPR

Economic Growth Center Development Highways

Rail-Highway Crossings - Protective Devices

Rail-Highway Crossings - Other Hazards

High Hazard Locations

Elimination of Roadside Obstacles

Safer Roads Demonstration Program

Alaskan Assistance

Bridge Replacement

Pavement Marking

Urban High Density

Forest Highways

Off-System Roads (not available pending issuance of instructions)

Note 1--Form PR-370, Advice of Funds Available for Obligation, provides public lands, bridges on dams and emergency relief funds. Obligations of public lands and bridges on dams funds will be included in obligation report prescribed by paragraph 6 of this Notice. Obligations of emergency relief funds will not be included in the report.

Note 2--The Washington office will report obligations for non-highway mass transit projects approved by UMTA. Field offices will be advised of the appropriate recording.

<u>Fund</u>	<u>Factors</u>	<u>Weight</u>	<u>Statute*</u>	<u>Minimum Apportionment</u>
Priority Primary Routes	Area	1/6	147(b)	-
	Rural Area Population	1/6		
	Intercity Mail and Rural Delivery Route Mileage	1/6		
	Urban**Population	1/2		
National Scenic Recreational Highway	Relative Needs	1	148(d)	-
High Hazard Locations	Total Population	3/4	152(d)	1/2 percent
	Public Road Mileage	1/4		
Roadside Obstacles	Total Population	3/4	153(d)	1/2 percent
	Public Road Mileage	1/4		
Forest Highways	Area of Forests	1/2	202(a)	-
	Value of Forests	1/2		
Landscaping and Scenic Enhancement	Federal-aid Apportionments	1	319(b)	-
Highway Safety Programs	Total Population	3/4	402(c)	1/2 percent
	Public Road Mileage	1/4		
Safer Roads Demonstration Program	Total Population	3/4	405(c)	1/2 percent
	Public Road Mileage	1/4		

\* Denotes appropriate section in Title 23, U.S.C.

\*\* Places of 5,000 or more persons

\*\*\* Apportionment factors are contained in the report, "A Revised Estimate of the Cost of Completing the National System of Interstate and Defense Highways", submitted to Congress as stated in 23 U.S.C. 104(b)(5).

\*\*\*\* Usually places of 50,000 or more persons--See 23 U.S.C. 101 for definition of "Urbanized area."

Appendix D

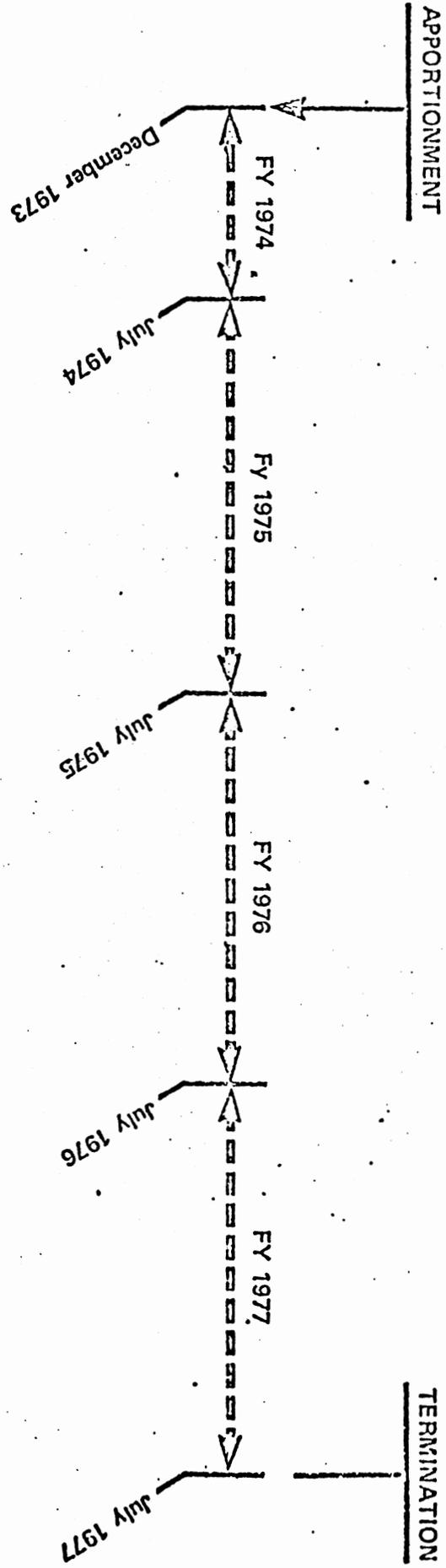
APPENDIX A-1

Apportionment Formulas

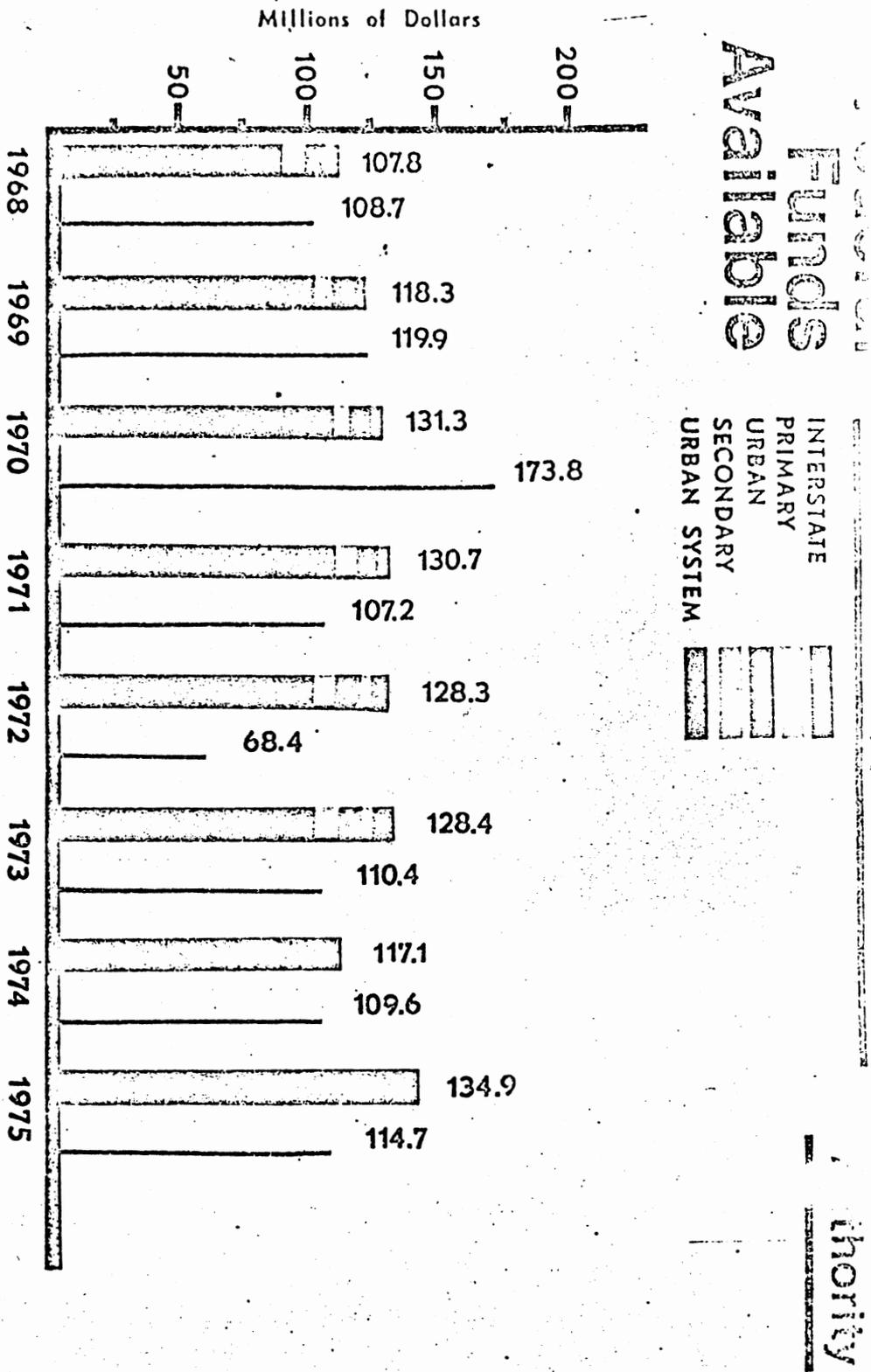
Formulas for apportioning authorized sums for certain classes of Federal-aid highways are specified by statute. These are shown below.

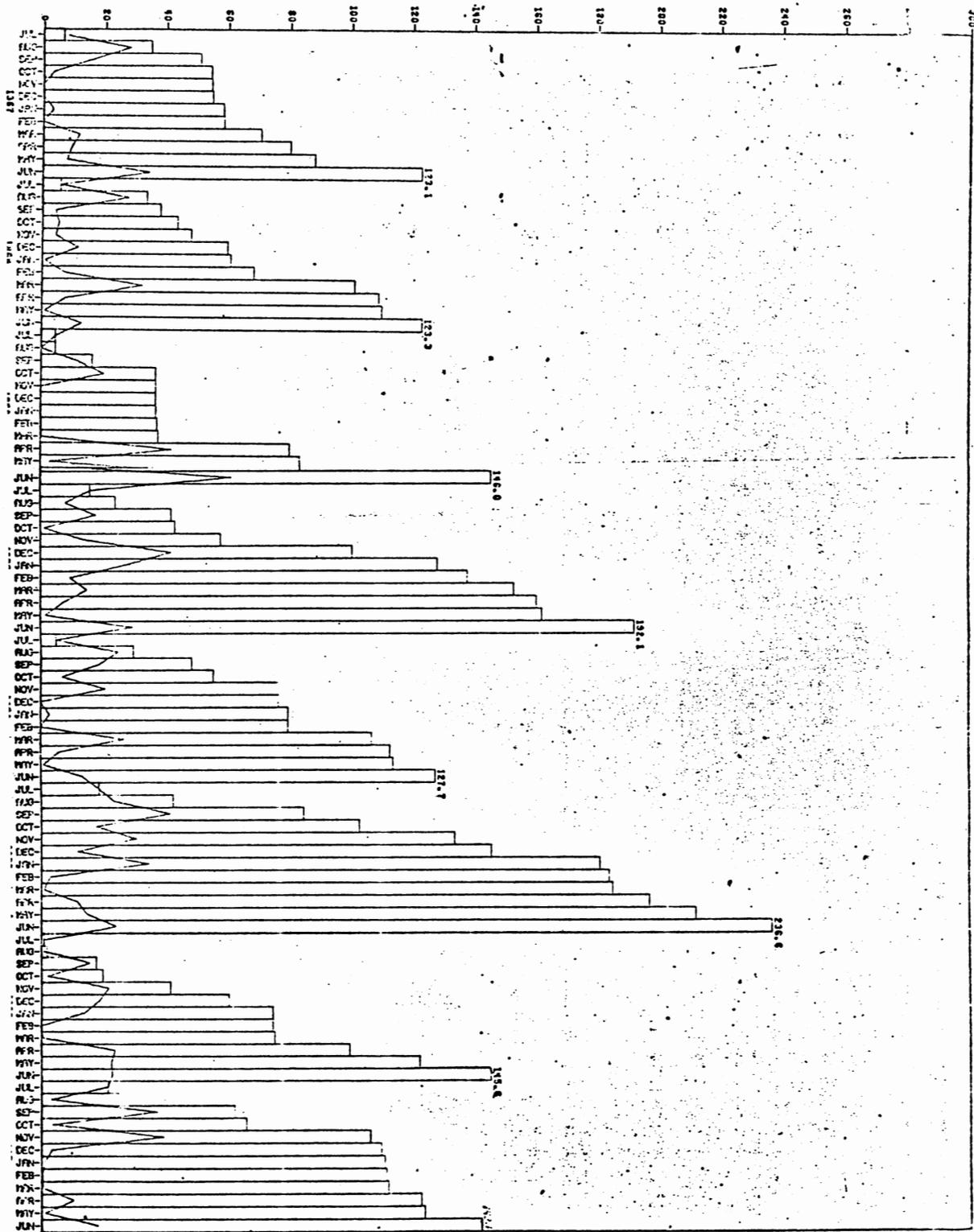
<u>Fund</u>	<u>Factors</u>	<u>Weight</u>	<u>Statute*</u>	<u>Minimum Apportionment</u>
Primary System	Area	1/3	104 (b) (1)	1/2 percent (except for D.C.) but not less than the amount received in FY 1973 (as speci- fied in section 111(b) of the 1973 Highway Act)
	Rural Area	1/3		
	Population			
	Intercity Mail and Rural Delivery Route Mileage	1/3		
Secondary System	Area	1/3	104 (b) (2)	1/2 percent (except for D.C.)
	Rural Area	1/3		
	Population			
	Intercity Mail and Rural Delivery Route Mileage	1/3		
Urban Extensions of the Primary and Secondary Systems	Urban**Population	1	104 (b) (3)	-
Interstate System	Relative Federal Share of Cost to Complete the System***	1	104 (b) (5)	1/2 percent (as specified in section 104 (b) and the 1973 Highway Act)
Urban System	Urban**Population	1	104 (b) (6)	1/2 percent
Urban Planning Funds	Urbanized**** Population	1	104 (f) (2)	1/2 percent
Railway-highway Crossings	Area	1/6	Sec. 203 (d) of the 1973 Highway Act	-
	Rural Area	1/6		
	Population			
	Intercity Mail and Rural Delivery Route Mileage	1/6		
	Urban**Population	1/2		

# Availability of Obligational Authority : (FY 1975 Authorizations)



appendix F





MAY 7 1975

# Piscataway rejects Stelton Road plans

151 & 36-9

PISCATAWAY — Middlesex County's \$500,000 plans for Stelton Road were scrapped last night when the township council vetoed a proposal to divide and widen the road through the township.

In a compromise between Democrats and Republicans, the council unanimously agreed to a resolution demanding that the county improve only its existing right of way without changing the "existing character" of land along the road.

The resolution also calls for council veto power over any plan submitted by the county.

The county's engineering department spent \$500,000 develop-

ing plans which included several jughandles and acquisition of property to widen and divide the road.

Because federal money would have been used in the project, the council had veto power over the plans. The 1973 council approved them.

County officials maintain the federal government will not fund the project unless it is divided with a median.

In February, almost 2,000 signatures of persons opposed to the project were presented to the council. Led by freshman councilman Ira Landau, the Republican minority opposed the county's plans through several stormy meetings.

Landau at first rejected the compromise resolution offered last night by Democratic councilman Stephen Ritz. The Ritz resolution seemed unclear, and Landau claimed it did not do away with the four-lane road plan.

"I want it plainly known to the people that this does not do away with the four-lane road," Landau said.

Ritz said his amendment did away with the jughandles in the plan and disallowed any land acquisition by the county. As far as making the road four lanes wide, he said the resolution "allows the county to use sound engineering judgement at the appropriate place in the roadbed."

The council went into private session and emerged with two amendments to Ritz' resolution that satisfied both parties. The amendments demanded "exclusion of plans which would change or modify the existing character of the area adjacent to Stelton Road" and gave the council the right to veto any future council plans for the road.

The Ritz amendment already called for curbs and sidewalks on both sides of the road, several traffic lights and electronic control of the traffic signals by local fire departments.

Though Landau claimed Ritz was trying to upstage him, he said he was satisfied with the compromise resolution. "It means the four-lane divided road is dead," he said. "We didn't sell out to anybody."

Ritz said his major concern was with improving the road. "I'm not in favor of killing that road," he said. "My God, it's a death trap. I'm in favor of improving the road with county, state or federal funds."

Robert Costello, a homeowner who had led the petition drive, said he was satisfied with the resolution as passed. "Now it's time to bring it to the freenolders and tell them to get out there and improve it."



