Busting the Trust: Unraveling the Highway Trust Fund 1968-1978

by
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President Richard M. Nixon signed the Federal-Aid Highway Act of 1973 in the Oval Office on August 13. Behind him, l to r, are Senator Jennings Randolph (D-WV), Senator Howard H. Baker, Jr. (R-Tn.), Representative Robert P. Hanrahan (R-Il.), Secretary of Transportation Claude S. Brinegar, Administrator Frank C. Herringer of the Urban Mass Transportation Administration, and Federal Highway Administrator Norbert T. Tiemann.

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FOREWARD

"Busting the Trust" began as a history of the Federal-Aid Highway Act of 1973, the landmark legislation that introduced Interstate withdrawal/substitution, strengthened metropolitan transportation planning, and gave local officials the option of using some Highway Trust Fund revenue for rail transit. As I researched the history of the legislation, I found that the story had to be put in the context of the social, economic, and environmental changes of the 1960s and 1970s. I also found that the story did not end on August 13, 1973, when President Richard M. Nixon signed the legislation.

As "Busting the Trust" evolved, it became the story of Federal-Aid Highway Acts from 1968 to 1978, evolving mass transit legislation during that time, changing attitudes about highways, and efforts to divert Highway Trust Fund revenue to transit. The story involved political changes, the fights in New York City and elsewhere for transit operating subsidies, a battle between highway supporters and transit advocates, a break-in at the Watergate and a war in Israel, the impact of broad legislation such as the National Environmental Policy Act and the Clean Air Act, and the people who contributed to the legislative process. Many of the themes were new at the time, but they continue to affect transportation policy to this day.

As a result, the article I intended to write about the 1973 Act changed into a monograph on the history of a pivotal time in the evolution of the Federal-aid highway program that began in 1916 and continues to this day. Readers can continue the story in other articles on the Highway History Web site such as: "Palace Coup: President Ronald Reagan and the Surface Transportation Assistance Act of 1982," "Creation of a Landmark: The Intermodal Surface Transportation Efficiency Act of 1991," and "Backbone: Creation of the National Highway System."

This monograph would not have been possible without the personnel and collection of the U.S. Department of Transportation Library. I have relied on the library for almost all my articles on the Highway History Web site, but as I looked through my stacks of research material for "Busting the Trust," I saw that a high percentage of it came from that single source. Much of the material was available on the library shelves, but I needed the special assistance of the DOT Library staff, especially Loretta Hoffman and Rosalind Romain, to locate additional material that was critical to the story I wanted to tell. Since beginning my highway history research in the 1970s, I have worked with several generations of DOT librarians, and Loretta, Rosalind, and their colleagues have continued the tradition of outstanding service to library patrons. I can't thank them enough for their

cooperation, unfailing courtesy, success in finding what I requested, and patience when I didn't return it by the due date.

I hope this monograph will be a helpful addition to the study of transportation legislation.

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Introduction:
The Highway Trust Fund

President Herbert Hoover was convinced that in the midst of the worst Depression the Nation had experienced, the Federal Government must balance its budget. Doing so would require cuts in Federal programs and increases in Federal revenues.

The Revenue Act of 1932, approved June 6, 1932, enacted dozens of taxes, including taxes on estates, corporations, income, capital gains and such consumer products as admissions to any place by ticket or subscription; auto bodies, tires and inner tubes; cameras, candy, chewing gum, furs, soft drinks, and sporting goods; firearms, shells, and cartridges; coal, coke, and copper ore; telegraph, telephone, cable, and radio dispatches; and checks, jewelry, matches, refrigerators, stamps, and toiletries. In addition, a tax of 1 cent a gallon was enacted for gasoline, to be collected from refineries. It was expected to raise $150 million a year for deficit reduction. The tax was not linked to funding for the Federal-aid highway program.

Highway interests were opposed and would remain opposed to the tax for decades. A tax penalizing a specific group should not be imposed, they argued, for the support of general government purposes. By the 1950s, with the tax at 2 cents a gallon, many Governors opposed the gas tax, which they considered a State prerogative, and the Federal-aid highway program, which they thought should be devolved to the States.

At the same time, many State highway officials favored continuing the tax and the program. For political or policy reasons, many States would not be able to increase their own gas tax by 2 cents if the Federal Government stopped collecting the tax. If a State's tax income declined, toll authority officials would benefit because they would be the only source of revenue to build the expressways the Nation needed. The authority of State highway officials would diminish. The alternative they came to favor through the American Association of State Highway Officials (AASHO) was linking the Federal gas tax to expenditures for the Federal-aid highway program. After all, Federal-aid highway funds were made available to the State highway agencies. Linkage, as Professor Mark Rose pointed out, "offered financial security and vastly expanded opportunities to build roads." [Rose, Mark H., *Interstate Express Highway Politics: 1939-1989* (Revised edition), The University of Tennessee Press, 1979, p. 46]

Some Members of Congress agreed that linkage between Federal highway user tax revenue and Federal highway expenditures was a good idea. Bills were introduced to create a highway trust fund, similar to those established at the State level, to ensure a direct linkage between gas tax revenue and highway construction. For example, Senator Warren Magnuson (D-Wa), a former Representative (1937 to 1944) who had been in the Senate since December 14, 1945, introduced S. 216 on January 7, 1953, on behalf of himself and Senator Harley M. Kilgore (D-WV). The bill would set aside revenue from excise taxes on automobiles, tires and tubes, gasoline, and lubricating oil for the Federal-aid highway program. All revenue collected from these sources would be "appropriated" to the "Federal-Aid Highway Trust Fund" and all trust fund receipts would be used for highway projects. Senator Magnuson explained:

> The American Association of State Highway Officials at its thirty-eighth annual meeting in Kansas City, Mo., December 12, adopted a resolution urging that Federal-aid for highway authorizations be increased to the full amount of the Federal revenues from gasoline taxes. I am today introducing a bill embodying this plan and design to carry out that objective. ["Reservation of Certain Excise Taxes to Aid Federal-Aid Program," *Congressional Record-Senate*, January 7, 1953, p. 159-160]

On March 3, 1953, Representative John C. Kluczynski (D-Il.), a member of the Committee on Public Works in his second term in office, introduced a companion bill, H.R. 3637. As he did so, he commented on the condition of the Nation's roads:

> In 1941 we began running out of roads when we had 32 million motor vehicles registered. Our main highways were bursting at the seams. To the present time roadbuilding and maintenance have been interrupted [by World War II and the Korean War] and so today with 52 million vehicles using the highways our whole economy has and is being built around motorized transportation of both people and property.

The result of the growth of vehicles, while highways remained static, was that the main highways and secondary roads were "badly congested, being too narrow, too winding, and antiquated." The solution is "a uniform and unified system of four- and six-lane highways."

He explained the logic of the trust fund idea:

> Why should not the public that pays the tax from motorized traffic then have the full benefit and assistance that that tax can provide? No one can deny that the proper source to look to to solve our muddled traffic problems should be the manufacturers' excise taxes on automobile accessories and the kindred products.

He added:

> Our whole economy and federal defense must have this aid. It is the only way we can keep America on the move.

He, too, noted that AASHO had "recently decried the urgent need of such a bill as I today present." ["Automobile Excise Tax to Aid Federal-Aid Road Program," *Congressional Record-House*, March 3, 1953, p. 1569]

Commissioner of Public Roads Thomas H. MacDonald, who had headed the U.S. Bureau of Public Roads (BPR) since 1919, was not so sure. He had reached the mandatory retirement age of 70 in 1950, but President Harry S. Truman had extended his service in the emergency of the Korean War. Under new President Dwight D. Eisenhower, MacDonald was fired in late March 1953, a few months before his planned retirement that summer. In speaking to the press before leaving office, he stressed the importance of the Federal-State partnership:

> [It] is a workable plan to accomplish a continuing program that involves both local and national services; second, it sets a pattern in harmony with the concepts of federal government.

To meet growing needs, he told reporters:

> It is logical to borrow for important needs and to retire the borrowings from user income. By setting aside the income from a fraction—say a cent of the gasoline tax, there is an assured fund that can be used to retire bonds.

As always, though, his attitude toward toll roads was cautious:

> Financing toll roads with bonds paid for entirely out of revenue [tolls collected on the road] can lead us into a dangerous situation. Only certain stretches of heavy traffic roads, like the New Jersey Turnpike, can be self supporting on that basis.

Issuing bonds backed by earmarked gasoline tax receipts was one way of paying the difference between bond charges and toll collections.

Observing that the Federal Government collected $800 million a year in fuel tax revenue but provided funds to the States at a rate of only $575 million, he thought it "desirable to equate federal aid to federal gas tax revenues." He was not, however, convinced that all Federal highway user tax revenues should be dedicated to highways, citing excise taxes on such products as perfume and alcoholic beverages as examples of taxes levied simply to meet government expenses. "Take the cigarette tax," he explained. "I don't know how you would apply its proceeds for the benefit of cigarette users." [“MacDonald retires as Commissioner of Public Roads; F. V. du Pont takes over," *Engineering News-Record*, April 2, 1953, p. 52, and Odlin, William S., Jr., "MacDonald Stresses Antiquity of 76 Pc. of U.S. Main Roads," *Transport Topics*, April 6, 1953, p. 1]

During the 1952 presidential campaign, General Eisenhower had spoken of the value of good roads in a statement to the Hearst Newspapers. He had said:

> Next to the manufacture of the most modern implements of war as a guarantee of peace through strength, a network of modern roads is as necessary to defense as it is to our national economy and personal safety.
>
> We have fallen far behind in this task—until today there is hardly a city of any size without almost hopeless congestion within its boundaries and stalled traffic blocking roads leading beyond these boundaries.
>
> A solution can and will be found through the joint planning of the Federal, state, and local governments . . . .

The election campaign, of course, turned on other issues.

With the Korean War and other matters vying for his attention in 1953, the new President did not take any noteworthy steps on highways until 1954. He signaled his intentions in his State of the Union Address on January 7, 1954. His goal, he said, was "the building of a stronger America." He described what he had in mind:

> A nation whose every citizen has good reason for bold hope; where effort is rewarded and prosperity is shared; where freedom expands and peace is secure—that is what I mean by a stronger America . . . . We mean to build a better future for this nation.

He outlined the Administration's plans to sustain a strong economy, which included "public-works plans laid well in advance." On the subject of national highways, the President said:

> To protect the vital interest of every citizen in a safe and adequate highway system, the Federal Government is continuing its central role in the Federal Aid Highway Program. So that maximum progress can be made to overcome present inadequacies in the Interstate Highway System, we must continue the Federal gasoline tax at two cents per gallon. This will require cancellation of the ½ cent decrease which otherwise will become effective April 1st, and will maintain revenues so that an expanded highway program can be undertaken.

At a White House ceremony on May 6, the President signed the Federal-Aid Highway Act of 1954, a traditional 2-year authorization, as Members of Congress who had crafted the bill looked on. He said he was pleased that it worked within the framework of the Federal-State partnership under the Federal-aid highway program, that its total of $2 billion was the highest ever for Federal-aid highways, and that it represented a rough linkage of gas tax revenue and highway authorizations. He explained:

> In recent years the nation has accumulated tremendous highway needs which are becoming increasingly acute. Our highways badly need modernization and expansion to accommodate today's vastly increased motor traffic . . . . This legislation is one effective forward step in meeting these accumulated needs.

He added that, "the needs are so great that continued efforts to modernize and improve our obsolescent highway system are mandatory."

The Federal-Aid Highway Act of 1944 had authorized a 40,000-mile "National System of Interstate Highways," but had not provided additional funds for its construction. The assumption was that the State highway agencies would recognize the importance of this new network and use their regular Federal-aid fund apportionments to build their segments. Most States preferred to address their own priorities rather than build new roads for travelers from other States.

By the 1950s, Congress was ready to turn back to consideration of the Interstate System, but the amounts authorized initially were inadequate. The Federal-Aid Highway Act of 1952 had authorized only a token amount, $25 million a year for fiscal years (FY) 1954 and 1955, for Interstate construction at the traditional Federal-State matching share of 50-50. The 1954 Act increased funding only to $175 million a year, with the Federal share 60 percent, for FYs 1956 and 1957.

(The Excise Tax Reduction Act of 1954 (March 31, 1954) extended the excise tax on gasoline to April 1, 1955, and the Tax Rate Extension Act of 1955 (March 30, 1955) extended it to April 1, 1956.)

President Eisenhower was one of the people who understood the limitations of the legislation. Even as he hailed the 1954 Act in public, he was running out of patience with the pace of highway planning within his Administration. The Interstate System, he thought, would provide stimulus during economic downturns. He told his staff that he did not want to "get tagged like [former President Herbert] Hoover did, unjustly, of not doing anything to help in economic bad times." [Ambrose, Stephen E., *Eisenhower: The President*, Simon and Schuster, 1984, p. 158]

He had good reason to understand the value of roads, good and bad. In 1919, he had participated in the U.S. Army's first transcontinental convoy of military motor vehicles. The convoy began with a ceremony at the Ellipse in Washington south of the White House and drove north to Gettysburg, Pennsylvania, where it turned west to arrive in San Francisco 2 months later. From Gettysburg, the convoy followed the Lincoln Highway, the Nation's most famous road, although the drivers needed scouts in some locations to determine where it was. The convoy encountered mud, ruts, inadequate bridges, blowing sand, steep grades, vehicle breakdowns and crashes, and interminable speeches in every town that welcomed the soldiers.

During World War II, General Eisenhower observed the autobahn network of expressways that Germany had built in the 1930s. Prior to the war, they had been the envy of highway engineers and politicians in the United States. Now, the express highway network demonstrated its value during the war to Germany and in its aftermath to the victorious allies.

Years later, former President Eisenhower recalled the impact on these experiences on him:

> I think that every officer on the convoy had recommended in his report that efforts should be made to get our people interested in producing better roads. A third of a century later, after seeing the autobahns of modern Germany and knowing the asset those highways were to the Germans, I decided, as President, to put an emphasis on this kind of road building . . . . This was one of the things that I felt deeply about, and I made a personal and absolute decision to see that the nation would benefit by it. The old convoy had started me thinking about good, two-lane highways, but Germany had made me see the wisdom of broader ribbons across the land. [Eisenhower, Dwight D., "Through Darkest America with Truck and Tank," *At Ease: Stories I Tell to Friends*, Doubleday and Company, Inc., 1967, p. 166-167]

In an address scheduled for July 12, 1954, to the Governors' Conference, President Eisenhower intended to talk about these experiences as background for his ideas on improving the Nation's roads. Due to a death in the family, he was unable to attend, but Vice President Richard M. Nixon delivered the address from the President's notes. The Vice President, on the President's behalf, challenged the Governors to join in a $50 billion "grand plan for a properly articulated system that solves the problems of speedy, safe, transcontinental travel -- intercity communication – access highways – and farm-to-market movement – metropolitan area congestion – bottlenecks – and parking."

The Grand Plan involved each level of government, Federal, State, county, and municipal, improving the roads under its jurisdiction. The centerpiece would be "a program initiated by the Federal government, with State cooperation, for the planning and construction of a modern State highway system, with the Federal government functions, for example, being to advance funds or guarantee the obligations of localities or States which undertake to construct new, or modernize existing highways." This would be the Interstate System.

President Eisenhower asked retired General Lucius D. Clay to head the President's Advisory Committee on a National Highway Program. The Clay Committee, as it was commonly called, would work with the Governors to develop a plan for submission to Congress. The President asked General Clay to devise a plan that would be "self-liquidating" in that it would generate the revenue to pay for itself – by which the President appears to have meant toll roads – and would not add to the national debt.

The President submitted the Clay Committee's plan to Congress in February 1955. To finance the Interstate System, the President proposed a bond program similar to the concept MacDonald had mentioned. A new Federal corporation would issue $30 billion in bonds, with the Federal gas tax dedicated to retiring the bonds over a 30-year period. The bond revenue would be collected in advance of a 10-year Interstate construction program and would be doled out as needed.

This plan proved too controversial for Congress in 1955, primarily because of the debt feature. It promised funds upfront to build the Interstate System in about 10 years, but included large amounts of debt that would tie up gas tax revenue to repay wealthy investors with interest over 3 decades.

The Senate approved a plan developed by Senator Al Gore, Sr. (D-Tn.), chairman of the Subcommittee on Roads, Committee on Public Works, that authorized funds for the Interstate System but did not include a means of financing it. Under the Constitution, such plans had to originate in the House of Representatives. Later that year, the House rejected the President's plan. Then, to the shock of most observers, the House also rejected a plan developed by Representative George H. Fallon (D-Md.), chairman of the Subcommittee on Roads, Committee on Public Works, based on highway user taxes. Highway interests, especially truckers, objected that highway users should not have to pay exclusively for a plan that provided general benefits to all Americans, including those who did not own a motor vehicle.

In 1956, Congress returned to highway user tax revenue as a direct means of paying for the Federal-aid highway program on a pay-as-you-go basis. The question was how to do so.

On January 26, 1956, Chairman Fallon released H.R. 8836, the Federal Highway Act of 1956. The new Fallon Bill called for $24.8 billion to complete the 40,000-mile National System of Interstate and Defense Highways in 13 years as well as increased Federal-aid for the primary, secondary, and urban programs. It proposed a pay-as-you-go program, with the details on tax changes to be worked out by the Ways and Means Committee under the leadership of Representative Hale Boggs (D-La.).

During a January 31 meeting with Republican legislative leaders, the President abandoned the Clay Committee's plan and endorsed the pay-as-you-go financing method. Representative Joseph W. Martin, Jr. (R-Pa.,), who had been Speaker of the House from January 3, 1953 to January 3, 1955, and was now House Minority Leader, announced the President's decision, summing it up by saying, "We want the roads as fast as we can get them." Rose pointed out that following the meeting, Eisenhower told his aides to "yield to Democratic insistence on financing" and "cooperate in the development of an appropriate tax proposal."

Already, Speaker of the House Sam Rayburn (D-Tx.) told reporters, bipartisan agreement had been reached on a plan to increase the gasoline tax from 2 to 3 cents and to increase taxes on tires and tubes. Some details remained to be worked out, he said, but "I just know we aren't going to get any roads unless we put in some decent taxes." [Odlin, William S., Jr., "President Approves Program Urged by Congress Democrats," *Transport Topics*, February 6, 1956]

On February 6, Representative Boggs introduced H.R. 9075, the Highway Revenue Act of 1956, containing the financing mechanism. It was based on an estimate that the Interstate System and the existing Federal-aid highway program (other than for Federal domain roads, such as roads in National Parks, which were funded out of the general Treasury) would cost approximately $35 billion over 15 years. All the revenue from highway user taxes would be set aside for highway purposes. The committee report explained:

> The legislation will set aside for highway purposes all of the revenues now derived from gasoline, diesel guel, special motor fuels, and tires and inner tubes. This represents a vast increase in the present approximately $700 million per annum from these sources now being used for highway purposes.
>
> Over the 15-year period of the program it is estaimted that almost $22 billion of the approximate $35 billion required will be derived from existing revenues.
>
> We have after much study written in exemptions from the proposed increase in taxes. These exemptions would include bus transportation systems operated within metropolitan areas, fuels and tires which are used on vehicles which are not highway vehicles, and the farmers' exemption provided for in legislation recently pass by the House of Representatives.
>
> Every study indicates the tremendous [need] for the proposed highway program, both from the point of view of the economic development and security of the Nation.

The bill was, according to Representative Boggs, the result of "intensive studies" by his staff, the Joint Committee on Internal Revenue Taxation, the Treasury Department, and BPR. [Highway Revenue Act of 1956, Hearings Before the Committee on Ways and Means, U.S. House of Representatives, 84th Congress, 2d Session, 1956, p. 6]

The reaction to the Fallon and Boggs Bills was generally favorable, although the Administration and some of the interest groups had reservations

The House Ways and Means Committee held hearings on the Boggs Bill in mid-February. Secretary Humphrey, the first witness on February 14, confirmed that President Eisenhower had endorsed the pay-as-you-go concept, which he said would be far preferable to the Clay Committee's bond proposal. However, he was convinced that the taxes Boggs had proposed would be about $12 billion short of the amount needed for a 12-year program covering the Interstate System and the other Federal-aid systems. [Highway Revenue Act of 1956, p. 11]

He agreed additional tax revenue would be needed and suggested taxes to be considered, but resisted repeated requests by committee members to endorse specific taxes to close the gap. He explained some of the difficulties associated with linking all highway user taxes for highway purposes:

> Mr. Boggs, if what you want to do is to dedicate, to try to be logical and to dedicate, as you say, all of the taxes that have to do with automobiles or road use of any kind and you want those to go into this pot, you will deplete our general revenues, which you gentlemen have voted for us to spend by that amount of money . . . . You cannot switch money out of our general revenues that you have already authorized us to spend and that is being spent, and put that money out of that pot, and not put it back . . . . Under any guise or theory or anything else, it won't work. [Highway Revenue Act of 1956, p. 23]

With Representative Boggs becoming increasingly exasperated by Secretary Humphrey's refusal to endorse specific highway user tax changes, the Secretary replied:

> I have given you a list of all of the things [taxes] that have been suggested to me, or that I have heard suggested, and given you the ratios at which you can tax them. Now, it is not my function . . . to pick out who shall pay these taxes. I think this is the job of the Ways and Means Committee . . . . Now it is up to you to figure it out. Who is the proper fellow to put the burden on? [Highway Revenue Act of 1956, p. 24]

The next questioner, Representative John W. Byrnes (R-Wi.), immediately began asking the Secretary about the linkage:

> Mr. Byrnes. Now, do you have any procedure to accomplish this dedication, so that as far as these new taxes go and the present tax on gasoline and diesel, so that they do not in the future get mingled up with general fund operations, and we know where we are going as far as actual revenues for road purposes?
> Secretary Humphrey. I would suggest this, Mr. Byrnes, that we follow a practice similar to the practice that is followed for the social security and the other funds, and that we do not get to the physical earmarking of funds, but that we do as we do with those funds; that we estimate the amounts to be collected in these categories, and that those amounts be deposited in a special fund to the credit of a special fund; that the withdrawals then be made from that fund; that credits in that fund shall not be credits to the budget; but that deficits in

> that fund shall be deficits in the budget . . . . If I have made myself clear, I think that is the proper way to handle the accounting for these funds.
> Mr. Byrnes. Can that be done administratively? Or should that mechanism be worked into the legislation itself?
> Secretary Humphrey. I suppose it should be indicated in the legislation how it would be handled. There is no new plan at all. It is exactly the way we handle the funds today, the other funds . . . .
> Mr. Byrnes. We do not handle it that way insofar as any road funds at the present time are concerned.
> Secretary Humphrey. No. I suppose that is an item that should be covered properly in the legislation. [Highway Revenue Act of 1956, p. 25-26]

Questioning shifted to other subjects, but Representative Aime J. Forand (D-RI) returned to the trust fund idea:

> Mr. Forand. I wonder if I interpret correctly what you have been telling us to mean that you would set up a separate fund, to be known as the highway building fund, to which all these taxes we talked about would be dedicated, and only used for highway purposes.
> Secretary Humphrey. They would be credited. That is correct. [Highway Revenue Act of 1956, p. 33]

Representative Herman P. Eberharter (D-Pa.) brought the subject up again during his questioning of Secretary Humphrey:

> Mr. Eberharter. Mr. Secretary, is not the proposal here to earmark revenue receipts for special purposes?
> Secretary Humphrey: This is not earmarking, Mr. Eberharter. I would not recommend earmarking. I am talking about handling this about the same way as we handle the trust funds.
> Mr. Eberharter. Isn't that earmarking?
> Secretary Humphrey. No, trust funds are not exactly earmarked. There is a provision for the estimating of amounts and the crediting of accounts. And I would handle these the same way we do trust funds.
> Mr. Eberharter. If all of the revenue receipts from gasoline and fuel and lubricating oil, for instance, would go into a special trust fund, is that not exactly the same as earmarking it? That is the only thing you could spend it for.
> Secretary Humphrey. The only reason I shy away from the word "earmarking" is that there are all kinds of technical definitions of earmarking. Let us just stick to saying, "We will handle them the same way we handle the other funds."
> Mr. Everharter. The way we handle general funds?
> Secretary Humphrey. No, no. The trust funds.
> Mr. Eberharter. I want to shy away from that earmarking, myself, if I possibly can.
> Secretary Humphrey. That is right. What is technically earmarking I do not think is required, or desirable. [Highway Revenue Act of 1956, p. 36-37]

The committee acted on Secretary Humphrey's advice. In revising the bill following the hearings, the committee included a provision establishing a Highway Trust Fund. Based on the committee's data, the trust fund was expected to be self-financing over a 16-year period (an extra year was added in response to the Secretary's concern that 15 years would not be sufficient). Provision was made to obtain advances from the general funds of the Treasury to meet temporary deficits in the trust fund. The advances would be repaid when sufficient trust fund revenues became available. In addition, the bill committed Congress to bringing about a balance of receipts and expenditures of the trust fund for the entire period; if a balance would not be obtained, Congress was to enact legislation to bring about such a balance.

The Fallon bill became Title I of the Federal-Aid Highway Act of 1956, while the Highway Revenue Act developed by the Ways and Means Committee became Title II. The House approved the bill on April 26, 1956, by a vote of 388 to 19.

The House bill went to the Senate where Title I was modified by the Committee on Public Works to incorporate features of the Gore bill. The Committee on Finance considered Title II. Chairman Harry Flood Byrd (D-Va.) introduced a unique feature to the Highway Revenue Act. A lifelong highway booster, Senator Byrd was also a lifelong pay-as-you-go man with a nearly pathological hatred of debt, whether private or public. He had been one of the strongest opponents of the President's debt-based plan and now he feared that highway expenditures might exceed Highway Trust Fund revenue, creating debt that general taxpayers would have to satisfy. To address this problem, he added what came to be called the Byrd Amendment. It provided that if the Secretary of the Treasury determined that the balance in the Highway Trust Fund would not be enough to meet required highway expenditures, the Secretary of Commerce was to reduce the apportionments to each of the States on a pro rata basis to eliminate the estimated deficiency.

The Senate approved the revised Federal-Aid Highway Act of 1956 on May 29 by voice vote after a 14-hour session.

After a Conference Committee reconciled the House and Senate bills, Congress approved the Federal-Aid Highway Act of 1956 on June 25. President Eisenhower signed the legislation on June 29. In addition to launching the program to construct the Interstate System, the 1956 Act authorized the Highway Trust Fund as a way of assuring motorists that their highway user tax revenue would be dedicated to highway and bridge construction, not any other purpose. As Representative Boggs had said during the Ways and Means Committee hearing:

> I think the only way you can justify this proposal [to increase excise taxes on highway users] to the people is that you are using revenues for the first time substantially the same as you are collecting to build highways. In other words, we are now going into the concept of a user tax. [*Highway Revenue Act of 1956*, p. 31]

In 1957, the Department of the Treasury credited nearly $1.5 billion in highway user tax revenue to the Highway Trust Fund, and over $2 billion in 1958.

The word “ trust” allowed highway officials to assure motorists paying this tax that their payments would be used exclusively to improve the Nation’s roads. Maintaining that trust, even in the early years, would not be easy.

Part 1:
The Sacrosanct Trust

Such a large pot of money was a tempting target from the start.

Roscoe Turner, chairman of the American Legion's aeronautics committee, was one of the first to stake a claim for a share of the revenue. In *Planes*, the magazine of the Aircraft Industries Association, Turner proposed that part of the Highway Trust Fund revenue be used to construct small airfields. Only about a third of the country's 15,000 urban areas were accessible by air. Extending aviation's reach would benefit the general economy. As for tapping the Highway Trust Fund, Turner saw several advantages:

- The same kind of machinery is used for both kinds of construction;
- It would be possible to acquire the small amount of land needed for the airstrips at minimum cost if it were purchased at the same time highway rights-of-way were acquired;
- The airstrips would be invaluable not only for general aviation purposes but also as emergency fields for airline use; and
- In a civil-defense emergency every part of the country would be accessible by air even if highways and railroads were destroyed or congested because of enemy action. ["Road Money for Airfields?" *Better Roads*, February 1957, p. 4]

Turner's proposal was not adopted. (In 1969, President Richard M. Nixon proposed a "designated account" for airport and airway programs. With the Highway Trust Fund in mind, Congress instead approved the Airport and Airway Trust Fund to reserve air user tax revenue for to improve air service, approved by President Nixon on may 21, 1970 (Public Law 91-258).)

The Department of Labor was more successful in tapping into the Highway Trust Fund.

Under Section 115 of the Federal-Aid Highway Act of 1956, the Department of Labor had been charged with determining prevailing wage rates for Interstate construction projects in accordance with the Davis-Bacon Act. Before 1956, the Davis-Bacon Act had applied to federally funded highway projects only if a Federal Agency was the contracting agency, as was the case with BPR's work for other Federal Agencies, such as the National Park Service and U.S. Forest Service. However, the Public Works Committee had voted to apply the provision to the Interstate System at the request of Senator Richard L. Neuberger (D-Or.), who argued, "We don't want coolie labor building our interstate highways." Congress had agreed, after much debate, that laborers and mechanics working on the Interstate System, but not other Federal-aid highway projects, would be subject to the Davis-Bacon Act's prevailing wage requirements.

In November 1956, the Labor Department's Solicitor, Stuart Rothman, explained that the use of prevailing wages "had been a stabilizing influence in the construction industry and at the same time a bulwark of protection for the working man against substandard wages." The Labor Department issued 23,000 wage determinations in the year before enactment of the 1956 Act. In addition, over 1 million craft minimums were established for federally financed or assisted construction projects. Despite the new work necessitated by the 1956 Act, Rothman assured the highway community that the Labor Department "is determined to carry out its responsibilities . . . in full accordance with the spirit of the law and the intent of Congress, making every effort to avoid unnecessary delays in letting of highway contracts because of the wage determination process." [Rothman, Stuart, "The Role of the Department of Labor in the Interstate Highway Program," *Road Builders' News*, November 1956, p, 4]

To support this work for the Interstate System, the Labor Department requested an appropriation of $365,000 from the Highway Trust Fund for FY 1958 for salaries and expenses in the Office of the Solicitor. The 1956 Act had opened itself to this diversion by providing interim funds to the Labor Department to administer the Davis-Bacon Act because the Labor Department's appropriations act for the year (FY 1957) had passed before Congress decided to apply the prevailing wage law to the Interstate System.

When the Labor Department's FY 1958 Appropriations Act came before the House, Representative Boggs rose in opposition:

> I submit that this completely and totally violates every concept of the highway trust fund. The highway trust fund was created by this body in order to assure the motoring public of our country that the billions of dollars collected from highway users would be devoted to the purpose of constructing highways.
>
> As a matter of fact, we had heard for many years . . . complaint after complaint about the diversion of funds collected from highway users, to other purposes. So in order to assure the taxpaying motoring public that we would build highways out of the funds derived from the taxes that they paid to use those highways, we created a trust fund.

The legislation specifically allowed for payment of BPR's general administrative expenses – spelled out by name to avoid "any conceivable mistake."

The Davis-Bacon Act, Boggs pointed out, had been enacted in the 1930s:

> Since that time we in this Congress have provided that its provisions were to apply to many projects, yet never have we provided that the funds necessary for administering this Davis-Bacon Act with respect to specific projects were to be provided out of any other fund than the appropriation of the Department of Labor itself. Why now can it be thought that the Congress intended to make taxes levied for the purpose of building roads available to the Department of Labor for the administration of the Davis-Bacon Act?

In a colloquy with Representative Boggs, Representative Fallon asked:

> Mr. Fallon. Did we not in all of our hearings before your committee and our committee promise the people who are the users of these highways and who are going to pay these taxes that every dollar would be used for construction?

> Mr. Boggs. Yes, we did. That was one of the principal arguments for the enactment of this legislation.

Further, including the proposal in an appropriations act would improperly modify a provision of an authorizing act, which Boggs pointed out "is in direct violation of the rules of the House." He had to admit, in response to a question, that "it is against the rule to legislate in the Committee on Appropriations, but you did it all the time. I agree with that." ["Diversion of Highway Trust Funds Debated," *American Road Builder*, April 1957, p. 15, 25-27]

Despite this discussion, the House included the $365,000 in the appropriations act for the Department of Labor.

In the Senate, the Appropriations Committee made clear that "not one penny" should be diverted from highway construction. The committee asked the Senate's Legislative Counsel for an informal opinion. The opinion stated:

> While it may be argued that the language (of the Highway Act) is broad enough to imply an authorization to use the Trust Fund to defray the expenses of the Secretary of Labor, we do not believe that such a construction should be placed upon (its language) in the absence of a more specific indication of legislative intent.

A broader interpretation would open the Highway Trust Fund to other expenses, such as the expense of the Secretary of the Treasury in managing and operating the fund:

> We believe that the objects for which the Trust Fund moneys are to be expended should be narrowly, rather than liberally, construed.

The Senate Appropriations Committee excluded the requested appropriation and the Senate went along.

In the conference committee to resolve differences between the two appropriations bills, the House stood firm for the $365,000. Senate conferees refused at first, but compromised on $200,000. The conference report became law.

Representative Fallon introduced a bill (H.R. 8648) to close the loophole. In explaining the bill, he referred to the temporary nature of the Federal-aid provided to the Labor Department for the first year:

> I assumed that this year the Labor Department would obtain funds to administer the Davis-Bacon section of the act in the regular way, through the regular departmental appropriation act. I was, therefore, astonished when the Labor Department came back this year seeking another diversion from the trust fund . . . . What the Labor Department has done, as a matter of fact, is to seize the opportunity to crawl through a legal loophole. I think that this loophole ought to be closed tightly. ["Fallon Bill Designed to Prevent Highway Trust Fund Raids," *American Road Builder*, July-August 1957, p. 33]

He was even clearer when he addressed the First General Session of the American Road Builders Association (ARBA) convention on January 20, 1958. He and his colleagues in the House Ways and Means Committee had thought, he said, "that this Fund was highly protected." The Labor Department's successful raid had "greatly disturbed" highway advocates in the Congress. "I denounced it then and I denounce it now." As bad as that was, he said, after seeing the Administration's Federal Budget proposal for FY 1959, "it appears we were talking about peanuts." He explained:

> What is now proposed is that $32 million collected from a Federal tax of aviation gasoline be diverted from the Trust Fund to the General Treasury; that another $32 million for Forest and Public Lands Highways now financed from the General Treasury be financed in the future by the Trust Fund; that the Treasury Department be paid $3.75 million for administering the Trust Fund; and that the Department of Labor receive $250,000 for administering the Davis-Bacon provision . . . .
>
> There is practically no end to the clever devices which may be employed to milk money intended for the Interstate Program.

He summarized his view: "Don't tamper with the Trust Fund." [Fallon, George H., "After 18 Months – What's Next," *American Road Builder*, February 1958, p. 12]

Senator Gore told ARBA that he also objected to the raids:

> The Highway Trust Fund was established to remove from the financing of this program the uncertainties of annual appropriations procedures. The Congress proposed to say to the states and to the industry: "You can count on using these specified revenues for highway purposes."
>
> We in the Congress thought at the time that the Administration had also agreed to the concept.

He cited the "misapplication" of funds for the Labor Department and the Administration's budget proposal to "grab about $68 million from the Highway Trust Fund":

> I object to these raids on the Highway Trust Fund in order to make pretense of a balanced budget. Should the Congress approve these proposed withdrawals and deletions from the Trust Fund, there will be other suggested diversions. Instead of a Trust Fund in the true sense of that word, we will have a grab bag which might be a useful gadget for the Director of the Budget but of diminishing value for the building of highways.
>
> I will oppose vigorously these efforts to divert from the Highway Trust Fund any part of the revenues previously designated for that purpose. I hope a majority of the congress will concur.

At the urging of Representatives Boggs and Fallon, the House rejected the attempt to divert $3.5 million to the Treasury Department. They tried, successfully on this occasion, to enforce the longstanding principle against legislating in an appropriations act. In addition, Congress rejected the proposal to shift the responsibility for funding park, forest, and Indian Reservation roads to the Highway Trust Fund.

Representative Boggs made his views clear in an address to the 7th Highway Transportation Congress in 1958:

> As chairman of the subcommittee which drafted the tax provisions [of the 1956 Act], I was convinced that this Trust Fund would be regarded as its name implies, as a sacred trust and that the billions of dollars which would move into the Fund could only be used for highway purposes . . . .
>
> In my judgment, we made a solemn promise that every nickel of that tremendous sum would be utilized exclusively for the purpose of constructing roads, acquiring right-of-way and paying administrative expenses of the Bureau of Public Roads . . . .

He pointed out that Section 209(f) of the 1956 Act made these restrictions explicit by providing that expenditures from the Highway Trust Fund "shall be available . . . to meet those obligations of the United States heretofore or hereafter incurred under the Federal-Aid Road Act approved July 11, 1916, as amended and supplemented, which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Bureau of Public Roads payment from such appropriations)."

He summarized attempts, particularly by the Department of Labor, to secure revenue from the Highway Trust Fund even though such a payment "violated the intent and the letter" of the 1956 Act.

Representative Boggs described how on March 4, 1958, the House was considering the Treasury-Post Office appropriations bill, which incorporated a presidential recommendation to provide $3.5 million from the Highway Trust Fund to pay the Department of the Treasury for expenses incurred administering the Fund. He had raised a point of order that the bill was an improper attempt by an appropriations act to change an authorizing act. When his point of order was upheld after spirited debate, he said, "I have never enjoyed an experience more in my whole tenure in the House of Representatives." He was certain he had established a precedent that would prevent similar raids. [Boggs, Hale, "A Sacred Trust," *Highway Highlights*, May-June 1958, p. 34-36]

Attempts to "raid" the Highway Trust Fund would continue, with perennial issues including the public lands expansion and restoration of aviation gas tax receipts to the General Fund. By 1961, another idea was to use Highway Trust Fund revenue to pay homeowners forced to move because of highway construction. The highway community fought these efforts to divert funds from construction even as the projected cost of the Interstate System increased from an estimated $27 billion in 1956 to $41 billion in 1961 (Federal share: $37 billion).

The Transit Crisis

While the highway community and Members of Congress fought diversion of Highway Trust Fund revenue, mass transportation was reaching a crisis. Through the 1950s, private companies provided most transit service, including commuter rail, but the companies faced growing financial pressure as their passengers relied increasingly on their cars. As transit historian Professor George M. Smerk explained about the 1950s:

> Virtually no thought was given to investment by government in transit; after all, except in a very few places, it was a private enterprise responsibility . . . . Even if a sharp and notable crisis was lacking, transit was not a happy place to be in the 1950s because of the constant erosion of ridership. Management's natural reaction was to enter a cycle of service cutbacks and fare increases which further discouraged riders and ridership. Eventually, the process came to feed on itself. Many smaller cities lost service entirely, and transit service was becoming lackluster in medium-sized cities . . . .
>
> Railroad commuter services were often provided by cars that had been built in the World War I era, or even earlier. The railroads could not be blamed because there was no profit to be found for the privately owned railroads that operated all the commuter roads. [Smerk, George M., *The Federal Role in Urban Mass Transportation*, Indiana University Press, 1991, p. 47-48]

Often, the companies were despised by their customers and local officials as service, especially to low income areas, declined and occasional corruption scandals erupted. Further, from a Federal perspective, transit was a local problem, not a national concern. Congress was not ready to use Federal funds to pay for capital expenditures or subsidize operating deficits.

In Philadelphia, a new Democratic leadership under Mayor Joseph S. Clark, Jr., identified transportation as one of the tools for the city's revitalization. The city's network of electrified commuter rail, rapid transit, streetcars, and light rail was in decline. As Smerk explained:

> Sadly, over the years there had been little modernization of either the facilities or the equipment; the visible elements of plant and equipment had grown shabby and patronage had been slipping. By the 1950s, the lack of investment had become acutely obvious and was particularly severe for the commuter railroads . . . . Understandably, there was no incentive for them to invest in their services or to make any changes other than taking cost-cutting steps or raising fares . . . . [Smerk, p. 55-56]

Mayor Clark established the Urban Traffic and Transportation Board in 1953 to investigate the city's problems. In 1955, the board recommended a coordinated road and rail program that included upgrading and extending rail service. "The program," Smerk said, "appeared to be a hopelessly expensive undertaking indeed, especially because the city of Philadelphia had neither the money nor the jurisdiction to do the job." The surrounding jurisdictions were unwilling to contribute, while the State legislature was dominated by rural interests with highway ties. [Smerk, p. 56]

Mayor Clark left office after one term on January 2, 1956, and campaigned successfully for election to the U.S. Senate, which he joined on January 3, 1957. His successor, Mayor Richardson Dilworth, continued the search for answers to the city's transit problem. In 1956, he talked with Federal officials about diverting some of the city's highway funds to mass transportation:

> The mayor ran into strong opposition from highway groups. Dilworth then proposed an alternate plan in which highway funds would be used only for the planning and engineering work in designing mass transit systems. Dilworth suggested a federal lending agency modeled on the Federal National Mortgage Association to provide the capital funds needed for construction.

Representative William J. Green, Jr. (D-Pa.) introduced the bill in 1957 but as Smerk explained, it was "well ahead of its time and the unprecedented bill . . . expired quietly in committee without attracting much notice." [Smerk, p. 56-57]

These early attempts to use revenue from the Highway Trust Fund for mass transportation alarmed the highway community. Major General Louis W. Prentiss, ARBA's executive vice president, sounded the alarm in the June 1957 issue of ARBA's magazine, *American Road Builder*. He described a recent meeting in Chicago of civic planners, municipal engineers, and transit operators to explore mass transit options as the solution to the survival of cities. Whether they were talking about buses, trolleys, monorail, subway, or surface rapid transit, the primary issue was how to make transit attractive enough to convince motorists to abandon their cars.

Prentiss did not dispute the value of mass transit or of building express facilities on Interstate right-of-way. The cost was another matter:

> These were the multimillion dollar questions raised but not answered at the Chicago meeting. However, *it seemed to me that time and again covetous eyes were directed toward the Highway Trust Fund* . . . . [Regardless of the merits of mass transit] we must resist all attempts to divert money from the Highway Trust Fund for any transit uses . . . . If those who seek to solve the mass transportation problems of the metropolitan areas would recognize that Congress does not intend to permit the Highway Trust Fund to be diverted to purposes or objectives other than those specifically stated . . . and would look to other sources of funds for financing, I am sure that the entire highway industry would gladly cooperate with them in seeking a satisfactory and early solution to these problems. [Prentiss, Louis W., "Mass Transportation a Problem—But . . ." *American Road Builder*, June 1957, p. 6-7, emphasis in original]

Although cities around the country continued to have problems with their mass transportation network, the focus in the late 1950s was on highways:

> In local government, most American cities had no position on what should be done about mass transportation, and their actions often did more to hinder effective mass transportation service than to help it. Planners, downtown business interests, labor, civic interest groups, and academics who were interested in urban affairs were either ignorant, uninterested, or

> unable to take a position on transit. Virtually all transportation-related interest continued to focus on highways, a form of transportation for which there was great political, financial, and popular support . . . .
>
> In 1958, there arose the kind of crisis that always appears necessary to force various groups together in order to gain action. Oddly enough, the whole process that eventually led to the development of a federal role in urban mass transportation got underway inadvertently, as Congress strove to provide some legislative relief for the nation's railroads. The law of unexpected consequences was at work almost before anyone noticed. [Smerk, p. 58]

The freight railroads had long subsidized unprofitable passenger service with profits from freight. In the 1950s, as more cargo shifted to trucks, rail profits declined, creating pressure for relief from the unprofitable passenger service. Congress addressed the problem by passing the Transportation Act of 1958 (Public Law 85-625, approved August 12, 1958), which provided a mechanism for the railroad companies to discontinue passenger service. Almost immediately ("almost before the ink was dry," according to Smerk), the railroad companies began targeting commuter rail services for discontinuation. "Unexpectedly, legislation aimed at helping the railroads had become the vehicle for a major threat to the commuter rail portion of urban mass transportation." [Smerk, p. 61]

Although a Federal law had touched off the crisis, the Eisenhower Administration was convinced that transit was a local problem, not one the Federal Government should invest in. Pressure for Federal help would have to come from the cities. Mayor Robert Wagner of New York, Mayor Richard J. Daley of Chicago, Mayor Dilworth, and representatives of other cities met in Chicago in January 1959 with officials of commuter rail companies. Participants from the east favored a Federal role while those from the west, where the commuter rail lines were in better shape, were reluctant to seek Federal help, fearful that it might lead to a Federal takeover of the railroads.

In March 1959, Mayor Dilworth and others initiated a study that the American Municipal Association (AMA) issued late in the year. *The Collapse of Commuter Service* summarized the declining prospects for commuter railroads and broader mass transportation service. In December 1959, during AMA's annual congress in Denver, the group adopted a resolution calling for Federal support for alternatives to highways, including long-term, low-interest loans to help cities buy equipment and refurbish facilities.

Mayor Dilworth worked with James Symes, president of the Pennsylvania Railroad, to develop a legislative proposal that called for tax relief for commuter rail lines, low-interest loans by the Department of Commerce for capital improvements, and a study of grants for rail rapid transit. The proposal received as little consideration as the earlier bill that Representative Green had introduced.

Seeing that working through the highway-oriented Commerce Department and the Public Works Committees had been a tactical error, Mayor Dilworth and his colleagues decided to shift their focus to finding a way for Federal urban renewal and redevelopment programs to cover mass transportation. They found a champion in Senator Harrison A. "Pete" Williams, Jr. (D-NJ), who had served in the U.S. House of Representatives (1953-1957) before winning election to the Senate in 1958. Smerk said of Williams:

> Williams was an ambitious man, a freshman in the Senate in 1960, and he was seeking an issue or role he could play that would be important to his New Jersey constituents and still possess relatively broad national interest. Williams found his issue in mass transportation . . . .
>
> Williams and his staff went to work on a new strategy for the transit legislation, and they made alterations to the Dilworth and Symes legislative proposal. The first strategic move was to shift the bill from the venue of the Department of Commerce by offering the legislation as a measure for urban areas rather than as a transportation program. That was, the legislation would fall under the jurisdiction of the Housing and Home Finance Agency, which in 1960 was the nearest thing to a Department of Urban Affairs within the federal government. The legislation would then be under the jurisdiction of the Senate [Committee] on Banking and Currency, of which Williams was a member.

The Williams bill, S. 3278, proposed to offer $100 million in loans (down from $500 million in the Dilworth-Symes bill) and emphasized a focus on urban mass transportation programs, not just commuter rail. The Senate approved the bill on June 27, 1960, and forwarded it to the House of Representatives, but it never emerged from House committee consideration. [Smerk, p. 70-71]

Nevertheless, Mayor Dilworth, the AMA, and officials from other cities were encouraged by the prospects for their new approach and the prospects under President John F. Kennedy, who took office on January 20, 1961.

While cities sought Federal assistance, transit continued its gradual decline:

> But the transit industry as a whole stayed at least marginally profitable until the mid-1960s; it was a last hurrah, and probably specious at that. It is not an unfair statement to say that the "profits" of the transit industry, however marginal they may have been in some places, were due in part to a failure to maintain fixed plant and equipment adequately. [Smerk, p. 47-48]

Cities became convinced that public agencies could do a better job than the private sector of providing needed transit service. Through the 1960s, cities converted private transit to public operation and then searched for funds when costs almost inevitably exceeded farebox revenue. Smerk described the transition:

> Counteracting the image of mass transit as primarily a big-city concern was the slow but steady failures of private mass transit firms in all parts of the U.S. and in cities of all sizes. The industry in the aggregate ceased to be profitable in the mid-1960s for a variety of reasons. The growing inflation of the late 1960s was a serious blow to an industry that was fairly labor intensive. The cost of living was rising, and transit labor costs rose sharply as new contracts with transit workers' unions were hammered out. The cost of equipment and supplies also began to go up substantially, likewise due to inflation. If service was to be maintained, there was a limit to how much fares could be boosted and service cut. The aging fleet of transit vehicles grew inevitably older and more expensive to maintain, and

> there was little or no money in the transit property coffers for new equipment that was less costly to maintain. Marginal private operators all over the nation began to go out of business. An increasing number of cities—large, medium, and small—found that they would have to get into the transit business themselves if service was to continue. Slowly, pressure began to mount on Congress to augment the mass transit programs. The lobbying groups for cities began to take note of the transit problems expressed by their members. [Smerk, p. 110-111]

As President Kennedy took office, ARBA's Prentiss again warned his colleagues that, "Any diversion destroys the pattern of fairness and equity which we are at such pains to achieve" in fair taxation of highway users:

> Some have argued that the highway user is a proper source of tax revenue to be used to subsidize commuter rail transit, on the theory that public support for all modes of transportation should come from some common pool of funds. The Highway Trust Fund is apparently the handiest pool. The fallacy in the argument lies in the fact that the Highway Trust Fund itself cannot be justified except as a means to the fair and equitable distribution of the highway tax burden.
>
> Wherever tax support for another mode of transportation is proposed, it is not unreasonable to look to the beneficiaries of that mode of transportation to supply the necessary revenue. Commuter rail transit, for example, benefits not only the individual riders, who pay fares, but also the downtown business establishments and the suburban communities which are served by the facility. These indirect beneficiaries contribute to the support of general government through various general taxes. The Highway Trust Fund, consisting of special taxes, should not be tapped for non-highway purposes. [Prentiss, L. W., "Highway Funds for Highways," *American Road Builder*, January 1961, p. 17]

In view of the increased estimate of the cost of the Interstate System, ARBA told readers of its magazine:

> If new requirements are made of the fund, it will prove to be inadequate to carry the increased load. In the interest of a continuing long-range program, it is essential for ARBA to guard against encroachments on the Highway Trust Fund.

After listing the usual potential encroachments, the article added, "Some argue that highway user taxes collected for the Trust Fund should be used to help provide rail transit facilities for commuters. If unchecked, raids on the Trust Fund can wreck the highway program." ["ARBA Looks to the Future," *American Road Builder*, July 1961, p. 7]

Federal Highway Administrator Rex M. Whitton, a highway engineer who had risen through the ranks to become Missouri's Chief Engineer before President Kennedy appointed him to the Federal post, discussed transit eligibility for Federal-aid highway funds in a reply dated June 20, 1962, to an inquiry from Senator Williams:

> With respect to the specific questions in your letter, I should like to answer first the one with respect to provision of right-of-way for rail transit in the median of freeways, for here we have a firm precedent. We cannot legally participate with Federal-aid highway funds in the cost of any right-of-way required for rail transit, nor in any additional cost that may be involved in the increase in length of structures crossing the freeway necessitated by the space occupied by the rail line. Other costs, such as increased cost of utility relocation that results from the rail line, would likewise be ineligible.
>
> This decision on participation with highway funds resulted from discussions in connection with the present or potential use by rail transit of medians in freeways in the Chicago area. The position was mutually acceptable to the State and local government agencies, and to the transit interests. There is also recent substantiation of this position by the Congress, through its action in authorizing the National Capital Transportation Agency to acquire land in or in connection with freeways in the Washington area for use for rail transit lines where its studies show them to be desirable.
>
> We believe that this position with respect to rail transit is sound, mutually acceptable and practicable of administration. However, we feel that as a general rule, rail facilities in a major highway median strip are not efficient, safe or desirable.

The use of freeways by buses was "quite a different matter." Bus operators contributed to the Highway Trust Fund and they operated highway vehicles. "They do and should use the highways, and where the public interest warrants, we feel that appropriate special provision for their operation can be made with highway funds." Whitton explained:

> While we cannot state rigid rules covering all eligible or ineligible items, in general we regard any special roadways, widening, acceleration or deceleration lanes, or stopping areas over which buses operate as eligible. Special features such as stairs or shelters provided for the benefit of the bus passengers alighting from or boarding the buses would be ineligible. We should expect that the bus operator would be able to give assurance of reasonable use of such facilities if they are to be provided. We would have to consider each case on its merits, rather than to set inflexible standards or conditions.

As for exclusive bus lanes on freeways, Whitton wanted to consider each case on its merits, but be wrote that in general, "I believe that in the public interest we should expect that the bus operator be able to give assurance that more passengers not only <u>can but will</u> be moved in a reserved lane by buses than would be served by passenger cars alone during the time it is so reserved." Such assurances would have to emerge from "the findings of comprehensive urban transportation studies of the type now being widely conducted in the major metropolitan areas." [Underlining in original.]

Whitton added that BPR had long been "strongly impressed by the potential of the motor bus in urban transportation." Proper coordination between bus operators and highway officials "offers real opportunity to reduce the demand for private vehicle use." Buses could "nearly match" the private vehicle for "flexibility as to termini, route, and schedule" better than rail or other fixed forms of transit:

> [Buses] can adjust readily to changing urban transportation demands. And since it is a highway vehicle, provision for its use can properly be made from highway user revenues, and thus avoid entirely, or substantially reduce, the enormous fixed capital investment required for other forms of public transport.

Representative Fallon remained vigilant. In 1962, for example, he appeared before the House Subcommittee on Interior and Insular Affairs to object to the diversion of as much as $8 million to establish a Land Conservation Fund to acquire land for public outdoor recreation and other conservation uses. The diversion involved refundable but unclaimed taxes on fuel used in motorboats. He said he supported the proposed Land Conservation Fund, but opposed the use of highway user tax revenue:

> [While] the proposed diversion is relatively small, the principal at stake is extremely important. Once the precedent is established that the Highway Trust Fund can be tapped for nonhighway purposes, we will no longer be assured of long-term continuity of revenue, or of continued equity in the distribution of the tax load. Without these assurances, the Trust Fund concept is of little value.

He justified the motorboat fuel revenue going into the Highway Trust Fund because the owners of the boats haul their boats on the roads or travel on roads to where their boats are docked:

> Thus, I see no inequity in the present arrangement. But even if I did, I would be reluctant to adopt a piecemeal approach to amending the revenue legislation supporting the Highway Trust Fund. ["Congressman Fallon <u>Once More</u> Defends the Trust Fund," *American Road Builder*, August 1962, p. 2, emphasis in original]

Another diversion had been taking place all along, as Prentiss explained in a report to ARBA members:

> As a matter of fact, the Trust Fund is being tapped now, by means of state and local taxes applied to construction contracts and gross receipts of contractors, and sales taxes on highway materials. These taxes are, of course, reflected in contractors bid prices, so that in the case of an Interstate system contract the Federal Government actually pays 90 per cent of the taxes from the Highway Trust Fund. The cost to the Highway Trust Fund is at least $40 million per year, and it may be more. [Prentiss, L. W., "The Annual Report," *American Road Builder*, March 1963, p. 14]

Prentiss acknowledged that this problem would be hard to solve.

Still, diversion for transit was the biggest concern, as Representative Fallon made clear in a February 1963 speech to ARBA's 61st annual convention. He did not object to rail transit; he noted that he commuted from Baltimore to Washington every day by rail:

> The problem is that the rail transit operators are seeking relief in two directions—increased subsidies from federal, state and local governments, and decreased competition from motor vehicles.

> Their plan, in some cases, includes curtailment of urban freeway construction and the substitution of rail lines. To this, I object.
>
> I am strongly opposed to any mass transit proposal which would have the effect of limiting, curtailing or slowing down established federal aid highway programs . . . .
>
> In seeking sources of money for rail transit expansion, the transit enthusiasts are casting covetous eyes on the Highway Trust Fund. They reason that if less highways are needed, there will be a surplus of money in the Trust Fund which will be available for nonhighway purposes. Of course, one way to avoid such a surplus would be to reduce highway-user taxes, but that isn't mentioned. As a matter of fact, the transit boosters are in favor of making automobile travel expensive enough to make people want to ride the trains to work.
>
> It is highly important that the Highway Trust Fund not be tapped for nonhighway purposes. [Fallon, George H., "Rapid Progress Is Important," *American Road Builder*, May 1963, p. 9-10, emphasis in original]

Representative Boggs, sponsor of the Highway Trust Fund provision in the 1956 Act, was equally opposed:

> Some have sought to amend the Highway Trust Fund to channel funds into improving transit systems in the great urban centers. I am unalterably opposed to this concept. The Trust Fund must be utilized for highway purposes. Once the Fund is violated, every department of government will make some claim on it. I have striven to prevent this from happening in the past, and I intend to fight such moves in the future. [Boggs, Hale, "The Trust Fund: Its Present, Its Future," *American Road Builder*, April 1964, p. 17]

Even as the highway community fought to keep transit out of the Highway Trust Fund, the Federal Government took its first steps toward a role in mass transit.

The breakthrough occurred on June 30, 1961, when President Kennedy signed into law the Housing Act of 1961 containing three provisions related to mass transit. It authorized $25 million for mass transportation demonstration projects, with local governments responsible for one-third of the cost; added mass transportation as part of comprehensive urban planning; and authorized $50 million in loans for capital improvements at low interest rates. The loans could not go directly to a private company at a time when private companies still provided most transit service; the loans had to be channeled through a government agency. Smerk said of the legislation:

> The mass transit portion of the Housing Act of 1961 was a modest start for the federal transit program, especially when compared with the high hopes of the coalition that had worked so hard to get the program enacted. The dollars were small: despite the $75 million authorization, only $42.5 million was appropriated to pay for the demonstrations and the loans. Even so, it was a start, a foundation to build upon. Even if the new law did not provide grants of capital and money to help pay operating expenses for financially troubled

> transit properties, the 1961 Act offered eventual hope for more favorable action in the future.

Smerk added, “The Act of 1961 in and of itself did not do much to help the sagging fortunes of urban commuter railways or mass transit systems.” [Smerk, p. 80-81]

President Kennedy’s Messages on Transportation

In August 1957, the country had slipped into a recession that increased unemployment to over 7 percent and reduced corporate profits by 25 percent by April 1958. To stimulate the economy, Congress passed the Federal-Aid Highway Act of 1958, which increased Federal-aid highway authorizations but without a change in taxation to boost revenue. It also suspended the Byrd Amendment for 2 years and temporarily increased the matching share from 50 percent to two-thirds.

President Eisenhower approved the 1958 Act on April 16, citing “the desirability of speeding up construction of our badly needed system of Interstate Highways” and “the hope that in the acceleration of work on this system and on the other federal-aid highway programs some impetus may promptly be given to public and private efforts to increase employment.” These benefits overcame his reservations about “grave defects” in the bill, such as the increased Federal share and advances to the States to help finance their share of Federal-aid primary, secondary, and urban system projects. He also pointed out:

> It will be necessary for the Congress in its next session to return to the subject of highway legislation in order to provide funds for the enlarged federal assistance under this Act. Its action at that time should accord with the sound principles that established the Trust fund as a means for keeping federal-aid highway expenditures on a self-sustaining basis.

The bill became law just as the short recession was ending.

With expenditures now exceeding income to the Highway Trust Fund, President Eisenhower recommended a temporary 1½-cent increase in the gas tax to maintain the Interstate construction schedule. The Federal-Aid Highway Act of 1959 (approved September 21, 1959) added only a penny, making the gas tax 4 cents a gallon. The temporary increase was to expire at the end of FY 1961 on June 30, 1961.

On February 28, 1961, just 5 weeks after taking office, President Kennedy sent a Message to Congress on the Federal Highway Program. It began, "Our Federal pay-as-you-go highway program is in peril" and focused on funding options for putting the program back on a sound financial footing. He cited the revised estimate issued in January showing that the total cost of the Interstate System would be $41 billion, with a Federal share of $37 billion. To keep the Interstate System on schedule and continue other Federal-aid highway programs, the Nation needed $11.56 billion in additional authorizations or about $900 million more a year through FY 1972 to keep the program on a pay-as-you-go-basis.

Completing the Interstate System "at least as fast as originally scheduled is essential to our economy." He opposed "stretching out or cutting back" the program, two options that critics had suggested. Instead, he recommended making the temporary 4-cent gas tax permanent.

The President's message also addressed urban development issues. "A Federal Highway program of this scope cannot be isolated from other programs for social and civic improvement, particularly our progress in urban renewal and planning. More effective use of both highway and urban renewal funds can result from increased coordination . . . ." He had, therefore, directed Secretary of Commerce Luther H. Hodges and Housing and Home Finance Administrator Robert C. Weaver "to increase their joint planning at every level, to improve coordination of urban renewal and freeway construction plans in the same area, and to invite the cooperative efforts of State and local highway and housing officials and private experts."

Federal urban renewal law, enacted in 1949, required that every contract for Federal assistance include provisions assuring the availability of decent, safe, and sanitary housing at reasonable prices in suitable locations for all families displaced by urban renewal projects. This law did not apply to the Federal-aid highway program. President Kennedy recommended legislation to help families displaced by highway construction find "reasonable housing at reasonable costs, a problem that he said "has been largely overlooked."

After he submitted legislation on March 14 to achieve these and other purposes, Congress acted quickly. On June 29, exactly 5 years after President Eisenhower had approved the landmark 1956 Act, President Kennedy approved the Federal-Aid Highway Act of 1961 "with the greatest pleasure." The new law made the 4-cent gas tax permanent and adjusted other excise taxes to provide the revenue needed to complete the Interstate System. It also adjusted remaining authorizations for the Interstate System to a total of $25.2 billion over 9 years. With State matching funds, the legislation accounted for $27 billion in funding for the remainder of the program through FY 1971, the same amount Congress had thought in 1956 would be the total cost of the program.

Secretary Hodges and Administrator Weaver submitted their recommendations to the President on March 28, 1962. "Transportation," they said in the transmittal letter, "is one of the key factors in shaping our cities." They continued:

> The major objectives of urban transportation policy are the achievement of sound land-use patterns, the assurance of transportation facilities for all segments of the population, the improvement in overall traffic flow, and the meeting of total urban transportation needs at minimum cost. Only a balanced transportation system can attain these goals—and in many urban areas this means an extensive mass transportation network fully integrated with the highway and street system.

They agreed that highways are vital but believed that an increased emphasis on mass transit was needed in urban areas, especially in view of declining transit service in recent years. Comprehensive planning was the key to achieving good urban transportation:

> One of our main recommendations is that Federal aid for urban transportation facilities should be made available only when urban communities have prepared or are actively

> preparing up-to-date general plans for the entire urban area which relate transportation plans to land-use and development plans.

Their recommendations reflected these views. Planning should be a continuing process involving all agencies and jurisdictions within the urban community; coordinated with policy making and administration; and part of a systematic consideration of land use and development. It should focus on planning the system as a whole, not just its individual elements.

The Institute of Public Administration had advised them that capital requirements for mass transportation in the next decade totaled $9.8 billion. In considering how to find this amount of funds, they said:

> Mass transportation must be viewed as a public service and often cannot be a profit-making enterprise. While mass transportation is provided on a more of less limited scale in hundreds of localities, it is generally not possible to support a large-scale investment program from the fare box. But the price to the community and the Nation of inadequate mass transportation can be uneconomic uses of land and higher than necessary costs of public facilities, excessive travel, and increasingly aggravated congestion at peak hours.

Local governments often have limited resources and ability to raise taxes, making substantial Federal aid a necessity.

Among their recommendations were proposals for a $500 million, 3-year program for mass transit grants, with $100 million authorized in FY 1963. The Federal share of project costs should be two-thirds. An emergency program should be available to pay one-half the cost of projects to meet urgent needs where an existing facility or service would otherwise no longer be available. The Federal loan program should continue.

They recommended that the Federal-aid highway program "continue undiminished" because it was "contributing substantially to the solution of the urban transportation problem." Freeways, as well as new and improved streets and highways, were "an essential part of the urban transportation program." The report did not recommend increased funding, but did say that "greater flexibility in the use of Federal-aid highway funds to meet urban transportation needs can be provided" by allowing Federal-aid secondary funds to be used on urban extension of secondary routes and by providing room in Federal-aid highway right-of-way for exclusive use of specific types of motor vehicles, such as rail lines and buses. Combined right-of-way could be effective, but "the additional cost occasioned by the rail facilities could not be borne by highway funds."

The joint report indicated that BPR had agreed to permit the exclusive use of highway lanes by buses, encourage sharing of highway right-of-way with rail transit, and emphasize that highway planning should promote adequate traffic control systems, parking facilities, and circulation systems for city streets commensurate with traffic volumes expected on freeways and major arterials.

The report included several recommendations for urban highway programs, the most important of which involved planning:

> Beginning not later than July 1, 1965, approval of Federal-aid highway programs for projects in any metropolitan area should be made contingent upon a finding by the Secretary of Commerce that such projects are consistent with adequate, comprehensive development plans for the metropolitan area or are based on results of a continuing process carried on cooperatively by the States and local communities and that the Federal-aid system so developed will be an integral part of a soundly based, balanced transportation system for the area involved.

Secretary Hodges and Administrator Weaver also recommended relocation assistance for those displaced by highway or mass transit projects and additional funds for research and demonstration projects in urban transportation and especially mass transportation. "It is essential to stimulate and support experimentation with new equipment and systems to test their practicality and demonstrate their effectiveness in improving and reducing the total cost of urban transportation."

They concluded their transmittal letter to the President by saying:

> We are convinced that the program proposed herewith will contribute significantly to the welfare of our people and the sound growth of our economy.

["Urban Mass Transportation Act of 1962," *Congressional Record-Senate*, September 13, 1962, p. 19339-19343]

On April 5, 1962, President Kennedy submitted a message to Congress on "The Transportation System of our Nation." The message began:

> An efficient and dynamic transportation system is vital to our domestic economic growth, productivity, and progress. Affecting the cost of every commodity we consume or export, it is equally vital to our ability to compete abroad. It influences both the cost and the flexibility of our defense preparedness, and both the business and recreational opportunities of our citizens. This Nation has long enjoyed one of the most highly developed and diversified transportation systems in the world, and this system has helped us to achieve a highly efficient utilization of our manpower and resources . . . . Transportation is thus an industry which serves, and is affected with, the national interest.

The message was a broad statement that covered a wide range of topics, including freight shipments by land, air and water; international aviation and maritime issues; and labor relations for transportation workers.

President Kennedy summarized a national transportation policy:

> The basic objective of our nation's transportation must be to assure the availability of the fast, safe and economic transportation services needed in a growing and changing economy to move people and goods, without waste or discrimination, in response to private and public demands at the lowest cost consistent with health, convenience, national security and other broad public objectives.

The users of transport facilities, he said, “should be provided with incentives to use whatever form of transportation . . . provides them with the service they desire at the lowest total cost, both public and private.” He favored “continued reliance on unsubsidized privately-owned facilities, operating under the incentives of private profit and the checks of competition to the maximum extent practicable.”

The section on urban transportation explained that changes in where people lived and worked had changed the patterns of urban travel:

> Higher incomes coupled with the increasing availability of the automobile have enabled more and more American families, particularly younger ones with children, to seek their own homes in suburban areas. Simultaneously, changes and improvements in freight transportation, made possible by the development of modern highways and the trucking industry, have reduced the dependence of manufacturers on central locations near port facilities or railroad terminals. The development of improved production techniques that require spacious, one-story plant layouts have impelled many industries to move to the periphery of urban areas. At the same time the importance of the central city is increasing for trade, financial, governmental and cultural activities.

In the past, transportation networks were organized to permit travel to and from downtown. Now, travel within urban areas was "increasingly diverse" and less geared to fixed mass transportation systems:

> This drastic revision of travel patterns in many urban areas has seriously impaired the effectiveness and economic viability of public mass transportation, which is geared to the older patterns. A steady decline in patronage and a concomitant rise of unprofitability and financial problems have occurred. This has been particularly true of rail commuter and streetcar services limited to particular routes by fixed roadbeds.

President Kennedy based his recommendations on the Hodges/Weaver report. He recommended that Congress establish a long-range program of Federal-aid to urban mass transportation ($500 million over 3 years) in the form of direct grants to public agencies for rights-of-way, fixed facilities, including maintenance and terminal facilities, and rolling stock, as well as extension and rehabilitation of existing systems and creation of new systems. Only substantial, continuing Federal support "can induce our urban regions to organize appropriate administrative arrangements and to meet their share of the costs of fully balanced transportation systems." The President also proposed authorizing the Housing and Home Finance Agency to make emergency grants over the next 3 years to meet urgent needs for any existing mass transportation facility or service that otherwise might end.

Because highways would remain an "instrumental part" of urban transportation, the President asked Secretary Hodges "to make his approval of the use of highway planning funds in metropolitan planning studies contingent upon the establishment of a continuing and comprehensive planning process." He also recommended a change in Federal law to make Federal approval of a program for highway projects in any metropolitan area contingent on the Secretary's finding that the projects are "consistent with comprehensive development plans for the metropolitan area and that the Federal-aid system so developed will be an integral part of a soundly based, balanced transportation system for the area involved."

In addition, the President reiterated his concern about "the problems of families displaced by new highway construction." He cited Secretary Hodges' estimate that 15,000 families and 1,500 businesses were being displaced by Interstate construction each year. In the interest of equity, President Kennedy recommended that "assistance and requirements similar to those now applicable to the urban renewal program be authorized for the Federal-aid highway program and the urban mass transportation program." Legislation was being submitted "to authorize payments not to exceed $200 in the case of individuals and families and $3,000 . . . in the case of business concerns or nonprofit organizations displaced as a result of land acquisitions under these programs." (The payment for businesses could be higher based on moving costs.)

In conclusion, the President recognized that transportation problems were deep and could not be quickly or easily solved. "But few areas of public concern are more basic to our progress as a nation." The time had come for Congress and the Executive Branch to seek solutions:

> The difficulty and the complexity of these basic troubles will not correct themselves with the mere passage of time. On the contrary, we cannot afford to delay further. Facing up to the realities of the situation, we must begin to make the painful decisions necessary to providing the transportation system required by the United States of today and tomorrow.

Senator Williams and transit interests saw the Housing Act of 1961 as launching a temporary program; they hoped to mobilize support for legislation in 1962 that would provide more funds on a permanent basis as a result of President Kennedy's recommendations.

Smerk summarized hearings in the House and Senate on legislation embodying the President's ideas:

> These hearings were generally successful in pointing out the need for federal aid and gave evidence of support for the measure from various urban interest groups.
>
> The support was not as broad or deep from urban political leaders as might have been expected, save for the coalition of big-city mayors . . . . At the time of these early hearings the great majority of transit was still provided by unsubsidized private firms. To political leaders in most American cities transit embodied at best a troublesome fight on fare increases; in some places it was a continual succession of owners as properties changed hands in an effort on the part of some owners to get out of the transit business in the best financial shape possible. In contemplating more federal action in transit, Congress was actually ahead of most city leaders who were, if possible, in the main less than indifferent to the plight of transit and the thought of providing financial aid . . . .
>
> In addition, there was no strong, well-organized antagonism; the strongest opposition came from the Chamber of Commerce of the United States and the American Farm Bureau Federation. Both of these groups possessed deep philosophical reservations about federal

> programs on the local level . . . . The opponents recited the litany of free enterprise and no enlargement of government spending. Labor gave cautious support to the proposed transit legislation but expressed a short-sighted concern over the possible loss of jobs that might result from improved and more efficient transport systems. The loss of the right to strike was a concern if the program encouraged an increase in municipal ownership of transit companies. Automotive interests also gave cautious approval, taking care to point out that mass transportation and the private automobile were complementary to one another and that there was a laudable and necessary—though limited—role for mass transportation. They were, however, firm in resisting any diversion of highway user fees for the support of mass transportation programs. [Smerk, p. 87-88]

The House Committee on Banking and Currency approved a mass transit aid bill on July 3 by a vote of 16 to 7. In doing so, the committee reported that traffic congestion cost $5 billion a year and would only get worse unless more commuters switched back onto buses and trains. The committee estimated that about $9.8 billion would be needed to upgrade mass transit in the Nation's 26 biggest cities. Cities could raise "a large part" of this amount by raising fares, but taxpayers would have to pay the rest. ["Traffic-Jam Costs Placed at $5 billion," *The New York Times*, July 4, 1962]

The Senate Committee on Banking and Currency approved Senator Williams' similar bill on August 3. Senator Williams was encouraged by the fact that Senator Homer E. Capehart of Indiana, the ranking Republican on the committee, voted for the bill. Three other Republicans, including Senator Prescott Bush of Connecticut, voted "no," as did one Democrat, Senator Willis Robertson of Virginia. (Senator Bush was the father of President George H. W. Bush and the grandfather of President George W. Bush.)

Senator Williams was hopeful the House and Senate would approve the measure "within the next few crowded weeks" before Congress adjourned for the November mid-term elections. ["Mass-Transit Aid Gains in Senate," *The New York Times*, August 4, 1962]

The chief obstacle to passage was Representative Howard W. Smith (D-Va.), chairman of the House Rules Committee, which decides which bills go to the House floor for debate as well as the rules of the debate. Chairman Smith, a conservative who used his position to block civil rights legislation and other bills he opposed, objected to the bill because he thought the $500 million price tag was too high coming just before an election.

The Senate, of course, could vote on its bill regardless of whether Chairman Smith allowed a vote in the House. However, congressional leaders were usually reluctant to allow a vote on a bill in only one House; doing so would put members of that House on record, pro or con, on a measure that could not become law but could affect their reelection potential. In this case, Senate Majority Leader Mike Mansfield (D-Mt.) was even more reluctant to bring the Williams bill to the floor for a vote. The schedule was jammed with other bills requiring action before the election, including measures on taxes, trade, and foreign aid that had a chance of passing in both Houses. [Weaver, Warren, Jr., "Transit-Aid Bill Considered Dead," *The New York Times*, September 5, 1962]

Any hope for a Senate vote came to an end on September 13 when Senator Frank. J. Lausche (D-Oh.) introduced an amendment that would require the bill to go through the Committee on Commerce prior to a floor vote. Senator Lausche had been the Mayor of Cleveland (1941-1944) and Governor of Ohio (1945-1946, 1949-1956) before entering the Senate. Although a Democrat, he was a staunch conservative and an opponent of labor unions who never felt bound by party leadership or direction. (By the time he lost his bid for reelection in the 1968 Ohio Democractic primary, he supported the Republican nominee for President, former Vice President Richard M. Nixon, and did so again in 1972.) [Saxon, Wolfgang, "Frank Lausche, Ex-Ohio Senator and Governor for Five Terms, 94," *The New York Times*, April 22, 1990)

Senator Lausche said his primary concern was jurisdiction. The Committee on Banking and Currency had developed and approved the Williams bill, S. 3615, but it dealt primarily with issues assigned to the Committee on Commerce:

> As to Commerce Committee jurisdiction, the 1946 Reorganization Act granted, among other things, jurisdiction over, first interstate and foreign commerce generally; and, second, regulation of interstate railroads, buses, trucks, and pipelines. I respectfully submit that inasmuch as the so-called mass transportation bill would deal with buses and mass transportation systems crossing State lines from New York into New Jersey particularly, it is inescapable that the proper situs for the consideration of the bill is in the Committee on Commerce.

He also objected to the contents of the bill. He and Senator Williams agreed that about 1,300 companies and 60 governments operated transit systems in the United States. By making the aid available only to government bodies, S. 3615 was "the beginning of the transition of the transportation systems into governmental ownership." The inescapable end result would be "a socialization not only of the local systems, but also of the railroad systems of the country."

Senator Williams explained that the bill provided funds only to public bodies because it "requires the greatest degree of cooperation in planning." He explained:

> It cannot be expected that a bus company will undertake coordination of transportation and the comprehensive planning of urban development. So the money would be made available to a governmental authority, a public body. However, under the bill the public body not only can, but must, consider how it can bring private carriers into the coordinated transportation plan.

Senator Lausche was unconvinced:

> I will not stand for it, and will not support it, regardless of the impact my stand may have on my political future. I think it is wrong. It is not in accord with the fight we are making throughout the world against communism. We are trying to preserve the free enterprise system. But this bill does not do that. If this bill is enacted, it will destroy the free enterprise system, first in local transportation, and eventually in the railroad systems . . . . I am not going to be one of the parade which supposedly is going down the easy path and the

> good path, but which is completely in conflict with what our system of government means." ["Urban Mass Transportation Act of 1962," *Congressional Record-Senate*, September 13, 1962, p. 19329-19332]

Unable to resolve the dispute during the debate, the two Senators privately negotiated an agreement that the Senate approved without debate by unanimous consent the following day. The Senate agreed to refer S. 3615 to the Commerce Committee with instructions to report it back to the Senate by noon on Monday, September 24. ["Urban Mass Transportation Act of 1962," *Congressional Record-Senate*, September 14, 1962, p. 19530-19531]

Senator Williams still did not believe the Commerce Committee had jurisdiction, but as *The New York Times* put it, "The sponsors agreed, they explained privately, because they lacked the votes to block the move." ["Senate Shelves Transit Aid Bill," *The New York Times*, September 14, 1962]

According to Smerk:

> In September, Senator Lausche held a one-day hearing that was generally hostile in tone; it was not a matter of wonder that the Commerce Committee reported the bill [on September 24] without recommendation. [Smerk, p. 88]

The bill was, by then, dead. Chairman Smith would not release the bill from the House Rules Committee for a House vote.

On October 4, the Senate approved a 6-month extension of the mass-transit loan program to June 30, 1963. Senator Williams said that about $32 million in loan funds remained available. Following House passage, President Kennedy signed the extension on October 16.

With the 87th Congress due to end early so members could return home to campaign for the mid-term elections in November, prospects for further action on other aspects of the President's message were not good. However, Congress did complete action on the highway portion of the message by passing the Federal-Aid Highway Act of 1962, which President Kennedy signed on October 23, 10 days after Congress adjourned for the year.

The 5-page legislation contained routine provisions, such as increased funds for the basic Federal-aid highway program (the Interstate System had been funded in previous Acts), as well as two provisions President Kennedy's message had requested. Section 5 addressed the growing concern, cited by the President and many critical articles, about relocated individuals and businesses. Before approving a project, the Secretary would have to receive assurances that the State highway agency would provide advisory assistance for displaced families. He also was required to approve Federal-aid participation in relocation payments by the State to displaced individuals, families, business concerns, farms, and nonprofit organizations. The $200 limit for individuals and families and $3,000 for business or nonprofits proposed by the President was adopted.

The most important provision was Section 9, "Transportation Planning in Certain Urban Areas." It addressed the President's call for a means of ensuring that Federal-aid highway and mass transportation projects were part of a comprehensive and balanced urban transportation plan. The provision added Section 134 to Title 23, United States Code:

> It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section.

This section launched modern transportation planning by calling for what became known as the "3C" process (for continuing, comprehensive, and cooperative). The 3C process remains the core of Section 134, which now contains nearly 20 subsections.

Edward Weiner, in his history of urban transportation planning, explained:

> Two features of the act are particularly significant with respect to the organizational arrangements for carrying out the planning process. First, it called for a planning process in urban areas rather than cities, which set the scale at the metropolitan or regional level. Second, it called for the process to be carried on cooperatively by the states and local communities. Because qualified planning agencies to mount such a transportation planning process were lacking in many urban areas, the BPR required the creation of planning agencies or organizational arrangements that would be capable of carrying out the required planning process.
>
> These planning organizations quickly came into being because of the growing momentum of the highway program and the cooperative financing of the planning process by the HHFA and the BPR.
>
> In addition, the act restricted the use of the 1-1/2 percent planning and research funds to only those purposes. If not used for planning and research, the state would lose the funds. Previously, a state could request that these funds be used instead for construction. This provision created a permanent, assured funding source for planning and research activities. In addition, the act provided that a state could spend another 1/2 percent at their option for planning and research activities. [Weiner, Edward, *Urban Transportation Planning in the US—A Historical Overview*, U.S. Department of Transportation, November 1992, p. 42-43]

BPR worked with AASHO and the American Municipal Association to implement Section 9:

> The BPR moved quickly to implement the planning requirements of the 1962 Federal-Aid Highway Act. Instructional Memorandum 50-263, published in March [27,] 1963 and superseded by Policy and Procedure Memorandum 50-9, interpreted the act's provisions related to a "continuing, comprehensive, and cooperative" (3C) planning process. "Cooperative" was defined to include not only cooperation between the federal, state, and local levels of government but also among the various agencies within the same level of government. "Continuing" referred to the need to periodically reevaluate and update a transportation plan. "Comprehensive" was defined to include the basic ten elements of a 3C planning process for which inventories and analyses were required. [Weiner, p. 44]

Neither Section 9 nor the BPR issuances required urbanized areas to form a permanent planning organization; the Intructional Memorandum called for "a formal procedure." To address the new planning requirements, State and urban area officials formed ad hoc planning committees to reflect the "cooperative" element of the 3C process and hired consultants to gather and process the data. By July 1, 1965, each of the Nation's 224 urbanized area had an urban transportation planning process in compliance with Section 9 of the 1962 Act. [Weiner, p. 47]

(In an oral history, E. H. "Ted" Holmes, BPR's Director of Planning in the early 1960s, recalled a 1962 visit from Paul L. Sitton, who was examiner of transportation programs for the Bureau of the Budget from 1956 to 1964. Sitton handed Holmes a piece of paper:

> It was virtually the '62 Act [3C language]. I looked it over and said, "I like it, that's what we're trying to do. We are doing it in quite a number of cities right now . . . ." I said that there was only one thing I would change. He had used the word "plan" by July 1, 1965, there had to be a plan in place, developed cooperatively by the state and local communities. I said, "Paul, I'm really afraid that we can't do that. I think that with the number of cities there are, I don't think we have the capacity nor do the states to get that done in that length of time." So I put in the words that are there now, "a planning process," that's the only difference in the language that Paul brought over, where he said plan I said planning process. [Oral History interview by Darwin Stolzenbach, 1988 Interstate Highway Research Project, American Association of State Highway and Transportation Officials, Transcript, p. 18-19]

(Sitton served as Deputy Under Secretary of Commerce for Transportation and was the first Administrator of the Urban Mass Transportation Administrator (1966-1969).)

A Profoundly Significant Urban Measure

On January 14, 1963, the first day of the 88th Congress, Senator Williams introduced the Urban Mass Transportation Act of 1963. It was basically the same bill that had failed in 1962. He said:

> It will give municipal officials, agencies, and planners the encouragement and financial assistance needed to make mass transit feasible in our urban-suburban areas. As the history of the declining transit industry indicates, we will produce only talk until we put up the

> money at the Federal level for a comparatively small part of the job that must be done in so many areas of our Nation.
>
> The bill I introduce today is sensible; it is modest; it can do the job.
>
> And it is one of the most important pieces of unfinished business left behind by the 87th Congress.

He summarized the history of the bill, beginning with President Kennedy's statement emphasizing the importance of balancing transportation resources. The Housing Subcommittee of the Senate Banking and Currency Committee had conducted hearings from April 24 to 27, 1962, with only 3 of 50 witnesses opposing the bill. A subcommittee of the House Committee on Banking and Currency conducted "even more extensive hearings." Of 66 witnesses, only 2 opposed the bill. This widespread support, Senator Williams said, was because the 1961 breakthrough housing legislation "gave us reason to hope that a more adequate bill would be passed." This hope was justified by passage of the 1962 legislation in the Senate and House banking committees:

> In the closing days of the session, however, the bill was referred to another committee. Additional testimony was taken; no changes were recommended; but the bill could not be called up to the floor again because of our heavy work schedule at that time.
>
> To make certain that we will have adequate time this year, I am introducing the bill on the opening day of this session.

The need for the bill "has grown more obvious during the past year," as he explained:

> [The] bill would combat a problem of increasingly critical proportions in the United States today. That problem can be summed up in a very direct way: at just the time when we anticipate our greatest period of urban growth, our ability to move large numbers of commuters in rapid transit vehicles is dwindling. Instead, we are relying—even for rush-hour transportation—on automobiles and highways, the most costly and least efficient method of moving people.

The decline of transit was clear. Between 1956 and 1960, bus and street car passengers had declined by about 25 percent, and from 1956 to the present, 363 transit companies had been sold or abandoned. About 60 cities of 25,000 population or more had no public transportation service:

> Over 85 percent of total daily travel in most urban areas today is by automobile. Traffic jams already cost the Nation about $5 billion a year in time and wages lost, extra fuel consumption, faster vehicle depreciation, lower tax yields, and so forth.
>
> There are forgotten people in our cities who cannot rely on automobiles because of disability, age, or other reasons. And yet, they are faced with a decline in public transportation facilities.

Highways and transit were both needed because "our commuter problem today is simply too big to transform it into a feud between the highway people and the transit people." The need for Federal concern and action can no longer be doubted:

> The basic justification for Federal financial assistance for local urban mass transportation systems is that the general welfare and the productivity of our Nation's urban areas are vitally important to the welfare and productivity of our Nation as a whole; the welfare of the citizens in our towns and cities is essential to the welfare of all of our citizens regardless of where they themselves live . . . .
>
> The Federal Government is already deeply committed to providing financial support for our urban areas. For example, the Housing Act of 1961 committed $2 billion for the urban renewal program alone. The job which this program is trying to do will become increasingly difficult unless a greatly accelerated attack can be made upon our urban transportation problems. ["Mass Transportation," *Congressional Record-Senate*, January 14, 1963, p. 214-217]

That evening, President Kennedy appeared before a joint session of Congress to deliver the State of the Union Address. In one section of the speech, he said that, "The quality of American life must keep pace with the quantity of American goods." He listed fundamental premises to accomplish this goal, one of which was that "we need to strengthen our Nation by making the best and the most economical use of its resources and facilities." The first example under this premise was:

> Our economic health depends on healthy transportation arteries; and I believe the way to a more modern, economical choice of national transportation service is through increased competition and decreased regulation. Local mass transit, faring even worse, is as essential a community service as hospitals and highways. Nearly three-fourths of our citizens live in urban areas, which occupy only 2 percent of our land—and if local transit is to survive and relieve the congestion of these cities, it needs Federal stimulation and assistance.

On April 4, the Senate approved the Urban Mass Transportation Act of 1963 by a vote of 52 to 41.

Despite this promising start, the bill ran into problems in the House, as Professor Smerk summarized:

> In the House there was trouble; southern representatives, in an effort to retaliate against the Kennedy administration's civil rights program, took on an anti-urban stance. It was felt that there was a good chance the House version of the bill would never get out of committee.
>
> The impatient had much to be fidgety about. The House version of the bill remained in committee for more than a year, but in real fact the House Rules Committee [which held hearings in June 1963] was not responsible for the delay. The bill was held in the Rules Committee because House Speaker John McCormack [D-Ma.] felt that if the bill did come up for a vote on the floor of the House, it stood a good chance of being defeated. There were two good strategic reasons for the speaker's reluctance; one was the need, for the

> transit bill's sake, to wait for a propitious moment. The second was political wisdom on the part of McCormack regarding more important legislation . . . .

Following the assassination of President Kennedy, President Johnson called for passage of the late President's stalled legislation, beginning with the civil rights legislation:

> Speaker McCormack was fearful he would jeopardize the Johnson administration's reputation for legislative success by bringing the urban mass transportation bill to the floor prematurely.

The fact that the mass transit bill was still not on the White House's "must pass" list by April 1964 "set into motion an unusual train of events" that went back to 1963 when the House of Representatives voted down a bill to construct a rapid transit system in the District of Columbia. "Labor lobbyists in Washington, in a virtual explosion of short-sightedness, were persuaded to bring pressure against Congress to defeat the bill as an anti-labor measure."

This defeat convinced transit supporters that in 1964, they would need a coordinated lobbying effort, particularly in the House, to get the Williams bill approved. They formed the Urban Passenger Transportation Association (UPTA) to lobby on behalf of "central city interests, the transit industry, the railroads, and organized labor (which was now firmly in the camp of transit as long as there was a *quid pro quo* in the legislation that protected jobs)."

When President Johnson learned that labor was supporting this effort, he added the mass transit bill to the White House's priority list:

> With the UPTA group successful in impressing the White House, the problem then became one of persuading enough congressmen to vote in favor of it to assure passage. As in all things political, success means having enough votes. The speaker had to be shown that there were sufficient Republican votes from northern urban centers to offset the predicted loss of Southern Democrats opposed to the transit bill because of their fear of more (after civil rights legislation) federal incursions into local matters.

With assurances from UPTA in early May that as many as 40 Republicans would vote for the bill, Speaker McCormack allowed the bill out of the Rules Committee, but still hesitated to schedule a floor vote:

> The speaker, yearning to keep the momentum of legislative success rolling on, could hardly be blamed for his foot-dragging, because late in May the House Republican Policy Committee took a firm party stand of direct and unalterable opposition to the mass transit bill. The Republican Policy Committee rarely digs in its heels when it fears defections from G.O.P. ranks, but UPTA had been busy lining up Republican support and the transit lobbyists felt they had enough votes to get the transit bill passed.

Representative William B. Widnall, a Republican who represented a district based in Hackensack, New Jersey, finally forced Speaker McCormack to bring the bill up for a vote:

> Widnall threatened to embarrass both Speaker McCormack and the White House; he promised to call a press conference to indicate that there was Republican support sufficient to pass the bill and at the same time denounce the speaker and the White House for obstruction of legislative procedures. [Smerk, p. 88-90]

On June 23, President Johnson held a press conference, during which he pressured Republicans to reduce obstacles to about 30 bills "that we think are desirable" and that "we would like to see acted upon." He listed many of the bills, including the mass transit bill and the pending Federal-aid highway bill.

The following day, the House began debating the measure. Despite strong opposition (Representative Oliver P. Bolton (R-Oh.) called the bill "the keystone in the arch of Federal domination and control of every town in this country"), the House passed the bill 212-189 on June 25, with 39 Republicans joining 173 Democrats in support of the bill. *The New York Times* speculated on the bipartisan support:

> Some observers professed to see President Johnson's influence in the fact that 34 Southern Democrats, including seven from Texas, voted for the measure. All eight of the 10 Georgia representatives present for the vote supported the bill.
>
> Another major factor in the measure's support among Southern and rural members was its sponsorship in the Congressional session by Representative Albert Rains, Democrat of Alabama. His advocacy made it seem less of a "big city" proposal . . . .
>
> Credit for assembling the bill's majority also goes to a coalition of national organizations in the fields of transportation, housing, planning and urban affairs, which conducted a thorough campaign among House members.

President Johnson congratulated House members of both parties and hailed House approval as "a major step forward in cooperation between Federal and state governments on urban problems." [Weaver, Warren, Jr., "$375 Million Transit Bill Passed by House, 212-189," *The New York Times*, June 26, 1964]

On June 30, the Senate approved the House version of the Williams bill, 47 to 36. The major new feature involved $375 million over 3 years for capital grants on a short- and long-term basis. The amount in the original Williams bill had been reduced from $500 million because the White House claimed that no more than $375 million could be spent during the 3-year period. No State could receive more than $47 million over the 3-year period. The long-term funds could be used for any capital project except highway construction. Short-term aid was available to keep troubled transit properties in operation while local officials planned a replacement service. The legislation continued the demonstration program initiated by the Housing Act of 1961, but expanded it to include research, development, and demonstrations initiated by the Housing and Home Finance

Agency. It also continued the little-used loan program launched in 1961, but it would remain little used. [Smerk, p. 92-93]

On July 9, 1964, President Johnson approved the Urban Mass Transportation Act of 1964 during a signing ceremony in the Cabinet Room of the White House. Guests included Senator Williams, Representative Rains, Administrator Weaver of the Housing and Home Finance Agency, and other Senators, Representatives, Governors, and Mayors.

President Johnson called the legislation "one of the most profoundly significant domestic measures to be enacted by the Congress during the 1960's." He put the measure in historical context:

> Our Constitution empowered Congress to provide for post roads. Since that time, congressional support of transportation has been a major constructive influence on the progress and development of our American society and our American economy.
>
> In the last century, such support of transcontinental railroads and canals and river navigation gave immeasurable impetus to our expansion. Now, in this century, sound congressional policies in support of both highways and airways for automobile and airplane travel has [sic] given incalculable momentum to American progress.
>
> This new act that all of you have contributed to passing remains faithful to this tradition of vision.

Not so long ago, he pointed out, 6 out of 10 Americans lived in rural areas, but now 7 out of 10 lived in urban areas:

> The change has come rapidly and has come dramatically, and today urban congestion is an unpleasant fact of everyday life for too many millions of Americans.
>
> All of us recognize that the curses of congestion in commuting cannot be wiped away with the single stroke of a pen, or 50 pens that we have here. But we do know that this legislation that we are coming to grips with faces the realities of American life and attempts to put in motion a movement to do something about it.

He hoped that this "milestone measure will serve as a beneficial forerunner of many other steps forward in meeting the present challenges of metropolitan life in America." He was, he said, "determined that we will provide the vision and the leadership necessary and that they will no longer be a stepchild and be neglected by their Government in Washington."

New York City Mayor Wagner was in the Cabinet Room for the ceremony. He anticipated using the Federal funds to help with "further extension of our subway system in Queens and possibly other boroughs" as well as another East River tunnel. He also predicted that the aid would provide "much needed assistance" for the New Haven, Long Island, and other rail lines serving New York City. At the same time, he recognized that "there won't be too much for us" in the new legislation. The limit of $47 million per State reduced the value to New York City, which would get that full amount only if no other city in New York State received any grant funds. He hoped that "in the years ahead, the amounts available will be more." [Weaver, Warren, Jr., "President Signs Transit-Aid Bill," *The New York Times*, July 10, 1964]

Professor Smerk said of the Urban Mass Transportation Act of 1964:

> The 1964 Act, in any event, is the cornerstone of the federal transit program. Its aim is to provide aid for the improvement and development of mass transportation and to encourage the planning and establishment of areawide coordinated transport. Along with the planning provision of the Highway Act of 1962, the intention was to offer incentives to plan and develop a rational and integrated urban transportation system combining both the private automobile and mass transportation. [Smerk, p. 91]

Although the Federal role in transit grew under the 1964 Act, needs far exceeded financial resources. Smerk explained:

> One serious problem for cities was that the federal funding of the mass transportation program was uncertain, making intelligent planning difficult. Long-term capital projects, in particular, had a difficult time on the local level because there was no certainty that Congress would appropriate funds for capital grants in the future—or that the funds would be sufficient in magnitude even if granted. The latter factor was noteworthy, given the small sums appropriated for transit up to that time. Consequently, it was very difficult for a city to consider a major transit capital project or issue bonds without some certainty that the federal portion of the money would be there when it was needed for construction purposes. The transit situation was much different from that of the federal highway program: the federal Highway Trust Fund provided a steady and relatively predictable source of money. Moreover, a number of states also had trust-funded highway programs. Even if the federal highway money did not always move with the alacrity that state and local officials might wish, it had the beauty of certainty and it was possible to plan for highways in an effective and efficient fashion that was impossible for transit. [Smerk, p. 111]

Diversion to Transit

For Representative Jonathan B. Bingham (D-NY), who entered the House on January 3, 1965, to represent the Bronx in New York City, the authorized amount for mass transit was "totally inadequate." In March 1965, he announced his intention to introduce legislation that would divert Highway Trust Fund revenue to transit. He pointed out that the highway program would "pump nearly $4 billion annually into highway construction and maintenance," continuing:

> I am unable to see why the Federal Government should contribute such enormous sums of money for the development of an interstate highway system without giving a proportionate share of the money to those city dwellers who have to depend on bus and subway transportation and for whom such transportation is far more essential and plays a much greater part in their lives than the occasional joys of motoring on a super highway.

> I intend shortly to introduce a bill which would give to a city such as New York a choice as to whether the enormous funds contemplated for the highway program should be used for more superhighways or for the improvement of mass rapid transit, or for some combination of the two, as the needs of the community require. ["Diversion of Funds Sought From Roads to Mass Transit," *Transport Topics*, March 15, 1965]

Representative Bingham joined with Senator Joseph D. Tydings (D-Md.), a former State legislator who was in the first year of his only term in the Senate, on July 18, 1965, to introduce the Mass Transportation Financing Act. Their joint statement emphasized that, "We do not oppose the construction of highways." However, they did not believe "that automobiles alone can adequately handle the job of moving large numbers of people back and forth from their homes to jobs, schools, and marketing." Their legislation "would give State governments the authority to use Federal highway subsidies for either road construction or mass transit in whatever proportions they find appropriate to meet their problems." In this way, the legislation would result in a "balanced urban transportation system" that was clearly "the best way to meet our burgeoning transportation needs."

They explained that the purpose of their bill was "no less than the survival of our cities as we now know them." For the central core city to survive, "we must develop more flexible means of access and egress than we possess today." They hoped their bill would make downtowns not only more accessible, but "more pleasant places to work and live." In their view:

> The ideal urban transportation plan, we are convinced, would combine a rapid transit system of high quality with a freeway system adequate to carry the balance of the traffic. Paradoxically, however, the nature of present Federal aid has been such as to predetermine that every community will best be served by a basic reliance on highways. It is our goal to correct this clear imbalance.

They cited several "inescapable" facts:

1. "Our cities are losing commerce and industry because adequate transportation is not available."
2. "Americans traveled an estimated 687 billion miles by car last year, at a total cost of $70 billion. Over 85 percent of the daily travel in most urban areas today is by car."
3. "The social costs of unchecked freeway development are enormous."
4. "Air pollution is another disturbing repercussion of the onslaught of automobiles into our cities."

The Highway Trust Fund had tilted the scales away from transit. The heavy emphasis on highways had shifted people away from transit as service declined. "Let there be no doubt that people will patronize improved transportation systems," if they are available:

> What must be done in order to provide for an integrated transportation service is to correct the gross inequities which exist between the funds available for highways and those available for rapid transit.

The joint statement addressed the frequent argument that highway user taxes are the source of revenue to the Highway Trust Fund, and that motorists contribute it with the understanding that the money will be used for highway construction. They argued that Interstate motorists pay only about a third of the costs of Interstate construction, according to a study of the John F. Kennedy Expressway (I-94 at the time) in Chicago by Parsons, Brinckerhoff, Quade and Douglass. The balance of funding comes from highway users who do not ride on the subsidized highways. The study said:

> The balance of the capital, maintenance and operation costs must be met by taxes on fuel consumed by vehicles operating over roads and streets already completed, some for decades.

Representative Bingham and Senator Tydings concluded from this analysis and other studies that:

> Against this background, the need for a transit subsidy becomes more understandable. A transit system, no matter how popular, how badly needed, or how well planned and operated, can hardly be expected to woo commuters off the expressways without a subsidy so long as the urban freeways themselves, and the parking at their downtown end, continue to be lavishly subsidized.

Their proposal was "in the interest of every automobile owner in every city and metropolitan suburb in the land." Even if a motorist remains on the roads, the switch to improved mass transit will reduce the number of vehicles competing for space, making the remaining motorists' trips "safer, faster, more comfortable, and in every way a more pleasant experience." ["Highways for Mass Transit," *Congressional Record-House*, July 28, 1965, p. 18685-18687]

During a news conference, Representative Bingham and Senator Tydings said they knew their bill faced an uphill battle. The Senator acknowledged that "a great deal of education" would be necessary before their bill would pass. "Hope of passage would depend on the enlightened support of people who have been generally associated with the highway lobbies." Asked if the Administration supported the proposal, Senator Tydings grinned and asked Representative Bingham, "Did Lyndon call you this morning?" Representative Bingham shook his head no. "Potomac Watch" columnist George Lardner, Jr., of *The Washington Post* said:

> They might have to wait a few years to get a White House smile on their idea, too. By then it should be just about ripe. [Flor, Lee, "Road Funds Diversion for Transit Proposed," *The Evening Star*, July 28, 1965; Lardner, George, Jr., "Before Roads and Transit Share Cash There's a Rub That's Causing Friction," Potomac Watch, *The Washington Post*, July 29, 1965]

The U.S. Department of Transportation

The idea of a Federal Department of Transportation has a long history. As early as January 1874, Representative Laurin D. Woodworth (R-Oh.) had called, unsuccessfully, for a Federal bureau of transportation. In April 1919, dozens of technical societies met in Chicago to discuss organization of a public works department that would include the BPR, but their efforts failed as well. Since then, proposals for a Department of Transportation or a consolidation of transportation agencies within the Commerce Department had been made by government study groups, but without a push from the President, the proposals failed.

Each mode of transportation developed in its own time, subject to its own set of laws, regulations, technology, and financing growing out of its unique history. Through the first half of the 20th century, the modes were seen as operating independently. Efforts to coordinate the modes to enhance economic efficiency had begun in the 1920's, but could not overcome the challenge of unifying such disparate enterprises.

By the 1960's, with railroads in decline, air travel still expanding, transit deteriorating, and waterway travel increasingly uneconomical, the highway component of the transportation network seemed dominant – in the Department of Commerce, BPR's highway program consumed half the departmental budget. Moreover, Federal and State highway officials had longstanding relationships with the highway authorizing committees in the House and Senate that sometimes overcame Departmental goals.

On May 22, 1964, during a commencement address at the University of Michigan, President Johnson unveiled his vision of a Great Society:

> The purpose of protecting the life of our Nation and preserving the liberty of our citizens is to pursue the happiness of our people. Our success in that pursuit is the test of our success as a Nation.
>
> For a century we labored to settle and to subdue a continent. For half a century we called upon unbounded invention and untiring industry to create an order of plenty for all of our people.
>
> The challenge of the next half century is whether we have the wisdom to use that wealth to enrich and elevate our national life, and to advance the quality of our American civilization.
>
> Your imagination, your initiative, and your indignation will determine whether we build a society where progress is the servant of our needs, or a society where old values and new visions are buried under unbridled growth. For in your time we have the opportunity to move not only toward the rich society and the powerful society, but upward to the Great Society.
>
> The Great Society rests on abundance and liberty for all. It demands an end to poverty and racial injustice, to which we are totally committed in our time. But that is just the beginning.
>
> The Great Society is a place where every child can find knowledge to enrich his mind and to enlarge his talents. It is a place where leisure is a welcome chance to build and reflect, not a feared cause of boredom and restlessness. It is a place where the city of man served not only

> the needs of the body and the demands of commerce but the desire for beauty and the hunger for community.
>
> It is a place where man can renew contact with nature. It is a place which honors creation for its own sake and for what it adds to the understanding of the race. It is a place where men are more concerned with the quality of their goals than the quantity of their goods.
>
> But most of all, the Great Society is not a safe harbor, a resting place, a final objective, a finished work. It is a challenge constantly renewed, beckoning us toward a destiny where the meaning of our lives matches the marvelous products of our labor.

He would, he said, begin the Great Society in three places—"in our cities, in our countryside, and in our classrooms." Recognizing the population shift to urban areas, he said that "in the next 40 years we must rebuild the entire urban United States," which faced a "catalog of ills," including "the decay of the centers and the despoiling of the suburbs. There is not enough housing for our people or transportation for our traffic." As for the countryside, he said:

> We have always prided ourselves on being not only America the strong and America the free, but America the beautiful. Today that beauty is in danger. The water we drink, the food we eat, the very air we breathe, are threatened with pollution . . . . A few years ago we were greatly concerned about the "Ugly American." Today we must act to prevent an ugly America.

He established 14 task forces of academics, government officials, and prominent citizens to develop policy recommendations. The task forces, which operated in secret, covered such areas as urban problems, pollution of the environment, preservation of natural beauty, and transportation. Their reports, which were submitted to the White House in November 1965, spanned a wide range of ideas, from the practical to the visionary. One aide said, "If we had adopted all their ideas, we would have had to come up with a budget of over $300 billion." For example, one idea was to spend $3 billion on a tube-encased, rocket propelled railroad, capable of traveling 200 miles per hour, between Washington and Boston. [Woods, Randall B., *LBJ: Architect of American Ambition*, Free Press, 2006, p. 557]

President Johnson distilled ideas from his Great Society task forces in his State of the Union Address on January 4, 1965:

> The Great Society asks not how much, but how good; not only how to create wealth but how to use it; not only how fast we are going, but where we are headed. It proposes as the first test for a nation: the quality of its people.

His comments on transportation were limited:

> In a country that spans a continent modern transportation is vital to continued growth.

> I will recommend heavier reliance on competition in transportation and a new policy for our merchant marine.
>
> I will ask for funds to study high-speed rail transportation between urban centers. We will begin with test projects between Washington and Boston. On high-speed trains, passengers could travel this distance in less than 4 hours.

He also addressed urban revitalization:

> An educated and healthy people require surroundings in harmony with their hopes. In our urban areas the central problem today is to protect and restore man's satisfaction in belonging to a community where he can find security and significance.
>
> The first step is to break old patterns--to begin to think and work and plan for the development of the entire metropolitan areas. We will take this step with new programs of help for the basic community facilities and for neighborhood centers of health and recreation.

He called on Congress to create a Department of Housing and Urban Development that would "be needed to spearhead this effort in our cities."

President Johnson's first phase of the Great Society resulted in such legislative successes as the Voting Rights Act of 1965, the Appalachian Regional Development Act of 1965, the Elementary and Secondary Education Act of 1965 (establishing Head Start among other measures), the Social Security Act of 1965 (authorizing Medicare), legislation establishing the National Endowment for the Arts and the National Endowment for the Humanities, and the Highway Beautification Act of 1965.

As the year went on, he decided to explore financing a supersonic air transport (SST). He asked the independent Federal Aviation Agency, as it was called then, for advice, but also called on the Defense Department and private banks for their thoughts. This double check prompted Aviation Administrator Najeeb Halaby to revive the idea of a U.S. Department of Transportation on July 1, 1965, his last day in office. Departmental Historian R. Dale Grinder wrote:

> Frustrated because he thought the Defense Department had locked the Federal Aviation Agency out of the administration's supersonic transportation decision-making, Halaby decided that a Department of Transportation was essential to secure decisive transportation policy development. After four and a half years as administrator, he concluded that the agency could do a better job as part of an executive department that incorporated other government transportation programs. "One looks in vain," he wrote Johnson, "for a point of responsibility below the President capable of taking an evenhanded, comprehensive, authoritarian approach to the development of transportation policies or even able to assure reasonable coordination and balance among the various transportation programs of the government." [Grinder, R. Dale, "The United States Department of Transportation: A Brief History," http://dotlibrary.dot.gov/Historian/history.htm]

Halaby recommended that the new Department incorporate the responsibilities then assigned to the Under Secretary of Commerce for Transportation, and include his own agency as well.

During the summer and fall of 1965, the President established new task forces to recommend ideas for the second phase of the Great Society. The task forces covered pollution control, transportation, urban renewal, population control, education, housing, foreign aid, and civil rights. [Woods, p. 685] On the transportation task force, Charles Schultze, director of the Bureau of the Budget, and Joseph A. Califano, Jr., special assistant to the President, agreed with Halaby. President Johnson also had made clear as early as July 1965 that he supported the idea. [Woods, p. 684] According to presidential historian Robert Dallek:

> The role of the federal government in managing the country's transportation systems was a microcosm of Johnson's views of federal authority . . . In a country as vast as the United States, with a mid-sixties population of nearly 190 million people, Johnson, ever the New Dealer faithful to the conviction that consolidation of control in the executive assured greater economy and efficiency, intended to create a Department of Transportation responsible for all phases of national mobility and safety.
>
> Beginning in 1965, Johnson had made clear to his task force on transportation that he wanted a program that would improve conditions "radically, looking not only to next year, but to 1980, the year 2000 and beyond." Johnson saw a transportation department as not only a chance to "invigorate" and "modernize" the country's transit system but also to do "major things" without costing much money. [Dallek, Robert, *Lyndon B. Johnson: Portrait of a President*, Oxford University Press, 2004, p. 235]

With this support, Schultze and Califano encouraged Under Secretary of Commerce for Transportation Alan S. Boyd, head of the task force, to explore the idea as a possible legislative initiative for 1966. The Boyd Task Force reported on October 22, 1965, in support of the proposal. A new task force, headed by Charles Zwick of the Bureau of the Budget and including representatives of the agencies to be in the new department, was established to draft legislation.

In his State of the Union Address on January 12, 1966, President Johnson proposed steps "to modernize and streamline the executive branch, to modernize the relations between city and State and Nation." The first step was creation of a Department of Transportation "to bring together our transportation activities." With 35 government agencies spending $5 billion a year on transportation, he said, the "present structure makes it almost impossible to serve either the growing demands of this great nation or the needs of the industry, or the right of the taxpayer to full efficiency and frugality." (He also endorsed "a program to construct and to flight-test a new supersonic transport airplane that will fly three times the speed of sound—in excess of 2,000 miles per hour.")

Recognizing that the proposal involved many groups that were comfortable with current arrangements, President Johnson and Califano, Woods said, "spent endless hours with the constituencies involved—railroad executives and unions, truckers, auto manufacturers, shipbuilders, airline industry executives—getting them on board." Woods added, "It was a gargantuan task that perhaps only a person of Johnson's energy and drive could have accomplished." Dallek quoted an anecdote by Califano:

> When Califano reported that the head of the American Trucking Association [sic] was an enthusiastic supporter, the President brightened and said: "'Joe, we're going to get our Department of Transportation! You know why?" I had no idea. He gave me a patronizing look, and almost whispered, "Because of the truckers. When the truckers deal on the Hill, they deal one on one"—Johnson paused for effect and leaned toward me—"and only in cash." He slapped his leg approvingly. [Dallek, p. 235-236]

On March 2, 1966, President Johnson submitted a special message to Congress on transportation. "In a nation that spans a continent," he said, "transportation is the web of union." The "tenuous skein of rough trails and primitive roads" of the Nation's early years had become "a powerful network on which the prosperity and convenience of our society depend." He listed the current system's deficiencies, which in the area of highways included "consuming, frustrating, and wasteful congestion"; "super-highways for super-charged automobiles – and yet [we] cannot find a way to prevent 50,000 highway deaths this year"; a network of "new freeways to serve new cities and suburbs" that "carelessly scars the irreplaceable countryside."

He urged creation of a Department of Transportation "to serve the growing demands of this great Nation, to satisfy the needs of our expanding industry and to fulfill the right of our taxpayers to maximum efficiency and frugality in Government operations."

BPR would be part of the new Department, but the Housing and Home Finance Agency, which administered the Urban Mass Transportation Act of 1964, would remain in the Department of Housing and Urban Development, its home since September 1965. The President said that after creation of the Department of Transportation, he would ask the new Secretary of Transportation to work with the Secretary of Housing and Urban Development to submit proposals on "a unified Federal approach to urban problems."

The bill received bipartisan support in Congress, with the most difficult issue being whether the Maritime Administration (MARAD), then in the Department of Commerce, would be included. Dallek explained that, "Shipowners and maritime labor unions supported by a bipartisan majority in the House wanted to create an independent Maritime Administration that would give special attention to the problems of an ailing industry." Johnson was concerned that this development would undermine the concept of a Department of Transportation:

> If maritime interests could preserve their autonomy, it would boost the case of an independent FAA. "Altogether," Budget Director Charlie Schultze told him, this could "begin a wholesale gutting of the Department bill." To counter such a result, the President promised to give a maritime administrator in a transportation department authority to build "a modern, efficient merchant marine fleet." If the maritime industry went its separate way, it "would be the only major transportation mode not represented in the new Department" and would "not have a voice at the Cabinet table or as a powerful voice in the policy-making councils of Government."

Califano tried to work out a compromise, such as inclusion of a maritime subsidy board and "a special statutory delegation of authority." However, labor and industry objections prevailed. MARAD was excluded from the bill at the insistence of House members. If the White House had not conceded the point, the bill would have failed. [Dallek, p. 235-237]

Senator John L. McClellan (D-Ar.), who was Chairman of the Commerce Subcommittee that would hold hearings on the proposed Department, was another obstacle. He had several objections to the proposal, including concerns about shifting the U.S. Coast Guard and the FAA into the Department. His primary objection, as Johnson understood, was that criteria proposed for new navigation projects built by the U.S. Army Corps of Engineers would hinder the Kerr-McClellan Navigation project transforming the Arkansas River into an inland waterway.

At first, Johnson proposed to deal with McClellan the old-fashioned way, by leaking a story that he was holding up the bill because he wanted to ensure construction of a dam on property he owned. When Califano asked the President if the story were true, Johnson explained that wasn't the point. "You just let John McClellan deny it." [Dallek, p. 236, Woods, p. 689] Instead, Johnson talked directly to the Senator to open a dialogue that resulted in a compromise that allowed the bill to proceed.

President Johnson signed the Department of Transportation Act on October 15, 1966, before about 200 guests at the White House. As Woods noted, "LBJ was so mad at the leaders of the maritime corporations and unions that he did not invite them to the signing ceremony." [Woods, p. 690] He began with a sweeping overview of America's transportation history:

> In large measure, America's history is a history of her transportation. Our early cities were located by deep water harbors and inland waterways; they were nurtured by ocean vessels and by flatboats. The railroad allowed us to move east and west. A thousand towns and more grew up along the railroad's gleaming rails. The automobile stretched out over cities and created suburbia in America. Trucks and modern highways brought bounty to remote regions. Airplanes helped knit our Nation together, and knitted it together with other nations throughout the world. And today, all Americans are really neighbors.

The transportation system was "the greatest of any country in the world," he said, but "we must face facts." The system was "no longer adequate." He explained:

> Today we are confronted by traffic jams. Today we are confronted by commuter crises, by crowded airports, by crowded air lanes, by screeching airplanes, by archaic equipment, by safety abuses, and roads that scar our Nation's beauty.

With the population expected to double over the next two decades, the Nation's future lifeline "is tangled."

The new Department "will have a mammoth task—to untangle, to coordinate, and to build the national transportation system for America that America is deserving of." With its help, "A day will come in America when people and freight will move through this land of ours speedily, efficiently, safely, dependably, and cheaply. That will be a good day and a great day in America."

The new law brought together 31 agencies and bureaus, including BPR, which had by far the largest budget ($4.4 billion) in a Department with a total budget of $6.6 billion. The main elements of the new Department (and where they come from) were:

> U.S. Coast Guard (from Treasury Department)
> Saint Lawrence Seaway Development Corporation (Commerce)
> Federal Railroad Administration (Interstate Commerce Commission's Office of High Speed Ground Transportation)
> Federal Highway Administration (Commerce)
> Federal Aviation Administration (independent)

The legislation began with a Declaration of Purpose:

> The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

The Declaration identified the new Department's purpose:

> The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service, to be provided by private enterprise to the maximum extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor, and other interested parties toward the achievement of national transportation objectives; to provide general leadership in the identification and solution of transportation problems; and to develop and recommend to the President and the Congress for approval national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense.

Finally, the Declaration stated that the national policy was to make special efforts "to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites." This policy resulted in one of the Act's most influential provisions, Section 4(f), which read:

> After the effective date of this Act, the Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to

> such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

(For a brief history of Section 4(f), see http://www.fhwa.dot.gov/infrastructure/50section4f.cfm and http://environment.fhwa.dot.gov/4f/index.asp.)

To be the first Secretary of Transportation, President Johnson selected Boyd, who had headed the task force on creation of the Department. A 44-year old lawyer, Boyd had been general counsel of the Florida Turnpike Authority and chairman of the Florida Railroad and Public Utilities Commission before President Eisenhower appointed him to the Civil Aeronautics Board. Boyd became chairman in 1961 and was appointed Under Secretary of Commerce in 1965.

President and Mrs. Johnson watched on January 16, 1967, as Boyd took the oath of office in the East Room of the White House. The President explained that Boyd would "coordinate a national transportation policy for this great land of ours . . . and give the kind of results that the American people would like to point to with pride."

The U.S. Department of Transportation opened for business on April 1, 1967. On the National Mall, Secretary Boyd participated in opening ceremonies that were combined with the Smithsonian Institution's third annual Rite of Spring, titled a "Pageant of Transportation" for the occasion. According to an account in *The Washington Post*, "Everything seemed to be happening at once" on a sun-drenched day. As bands played, large crowds enjoyed viewing past, present, and future vehicles, including a llama, a 15-passenger horse-drawn omnibus (pulled by mules on this occasion) from 1880, antique automobiles dating to 1910, an air-cushion "Hydroskimmer," and a rocket-propelled man.

After a news conference during which Secretary Boyd introduced Department leaders, he pledged that the new Department would work to make transportation more efficient and more socially responsible. In a remark that seemed directed at the impacts of the Interstate System, he added, "We want an end to the noise, pollution, and general disfigurement transportation has unintentionally brought to our cities."

The opening of the new Department meant changes for BPR. One involved the name "Bureau of Public Roads." It had been the name of the agency during two periods spanning 39 years (July 1, 1918, to June 30, 1939, and July 1, 1949, to March 31, 1967) with the agency named the Public Roads Administration between them. On April 1, 1967, when the Federal Highway Administration (FHWA) began operations, it was organized into bureaus headed by Directors. The BPR was retained for one of them, along with the Bureau of Motor Carrier Safety (now the Federal Motor Carrier Safety Administration) and the National Highway Safety Bureau (now the National Highway Traffic Safety Administration). With the additions, the agency increased from about 4,800 employees at the end of 1966 to 5,360 employees a year later. (In a reorganization that took effect on August 10, 1970, the FHWA eliminated its bureau structure, replacing the Directors with Associate Administrators, and finally retiring the "Bureau of Public Roads.")
Perhaps the most surprising change was that the new Federal Highway Administrator would not be an engineer. After Whitton, whose entire career had involved road building, retired at the end of

1966, President Johnson nominated Lowell K. Bridwell to the post. He was the first head of the agency, dating to 1893, who was not, in some way, a road builder. Bridwell had been a journalist, most recently as the top writer on highways for the Washington Bureau of Scripps-Howard Newspapers, a post he had assumed in 1958. He had joined the Commerce Department in April 1962 as assistant to Under Secretary for Transportation Clarence Martin, Jr., before being appointed Acting Deputy Federal Highway Administrator on January 20, 1964, a post he held until becoming Deputy Under Secretary of Commerce for Transportation (Operations) on July 2, 1964. He would take office as Federal Highway Administrator on March 23, 1967, and hold the position until the end of the Johnson Administration on January 20, 1969.

(Under Reorganization Plan 2, adopted July 1, 1968, President Johnson transferred administration of the mass transit programs from the Department of Housing and Urban Development to the new Department, establishing the Urban Mass Transportation Administration (UMTA) to carry out those functions. The Maritime Administration remained in the Commerce Department until 1981, when it moved to the Department of Transportation.)

The Fiscal Bomb

Pressure on the Highway Trust Fund was increasing. By 1965, BPR was reporting that the estimated cost of the Interstate System had increased to $46.8 billion (Federal share: $42 billion). The price tag would increase to $56.5 billion by 1968 (Federal share: $50.6 billion), increasing the highway industry's concern about any proposed diversion of Highway Trust Fund revenue from the main task.

President Lyndon B. Johnson would pose several threats. One was the threat that Highway Trust Fund revenues might be used for the President's highway beautification program and the Appalachian Regional Development Program. Highway interests supported both programs after ensuring that the programs would be funded out of the General Treasury.

The biggest threat came from an unexpected source: the Vietnam War. President Johnson was committed to continuing his Great Society initiatives, but the increasingly costly war was straining the Nation's resources, a fiscal conflict usually referred to as "Guns and Butter." With the economy growing and employment steady, inflation was a concern throughout 1966. In August, pollster Lou Harris called it "a crisis of major proportions," while the President's poll numbers included a 90-percent unfavorable rating on handling of the economy. [Woods, Randall B., *LBJ: Architect of American Ambition*, Free Press, 2006, p. 687-688]

Nevertheless, the President continued his Guns and Butter approach, while trying to trim government spending to limit its inflationary impact. He called on the Departments of Agriculture, Defense, and the Interior, as well as NASA, to trim their budgets. He threatened to veto pork barrel spending if Congress tried to trim the Great Society programs. As he explained in a letter to the House Committee on Ways and Means on January 19, 1966, he was faced with three choices: running a deficit for FY 1967 of $6.5 billion, increasing corporate, personal income, or other taxes, or restoring certain excise taxes and adopting graduated withholding of individual income taxes "to put the American people on a pay-as-you-go-basis without increasing the total tax bill due." He added:

> I made two decisions.
>
> First, we could raise revenue or borrow it. I chose to raise the money.
>
> Second, I chose to raise that money without any increases in personal and corporate income tax liabilities, but through changes that affect only the timing of tax payments and the temporary restoration of certain excise taxes on telephones and automobiles.

He was hoping that "our efforts for a peaceful resolution of the Vietnam situation" would be successful, but if not, he would not hesitate to ask for additional revenue. Those efforts, which he pledged to "continue night and day," were not successful. The squeeze on revenues continued through the year.

On November 23, 1966, the day before Thanksgiving, President Johnson dropped a bombshell on the highway community. With the cost of the war growing and inflation high, the President announced that to reduce Federal spending, he would cut back on the Federal-aid highway program by limiting State obligations to $3.3 billion instead of $4 billion. (An obligation is a legal commitment (or promise) to pay the States for the Federal share of a project's eligible costs. Because the program operates on a reimbursement basis–paying the State the Federal share of State expenditures – the obligation is important to the State as it begins incurring costs on a project.)

Engineering News-Record referred to the announcement as a "fiscal bomb" dropped on the highway community–which happened to be meeting in Wichita, Kansas, the following week for AASHO's annual meeting:

> At Wichita, some shellshocked state officials admitted they would have to go home and do a detailed analysis before they would know how hard they had been hit. Others knew immediately, particularly those that apparently were hurt the most.

The meeting went on as scheduled, with Secretary of Transportation-designate Alan S. Boyd telling AASHO that the action had been taken only after "a tremendous amount of soul searching." He added:

> There is no blinking at the fact [that the cutback] will create some hardships here and there, cause some dislocations and require planning revisions. But this is a response to a national need that responsible citizenship demands.

Officials scrambled to perceive how the cutback would affect their State, but the magazine indicated that calm descended:

> Behind the scenes, the word was "cool it." Responsible federal and state leaders seemed to agree there was no way to fight the action effectively, at least immediately. Said one, "We

> are looking farther ahead. We must ride this out. We got to accept it and not jeopardize the future of the program." ["Fund Cut Irks Highway Officials," *Engineering News-Record*, December 8, 1966.]

After the initial shock, highway interests had no intention of cooling it. Governors, State highway officials, highway contractors, and trade organizations flooded the White House and Members of Congress with protests. Representative Fallon, now Chairman of the House Committee on Public Works, said:

> [T]he cutback and freeze makes it impossible to maintain an orderly highway construction program. The failure to do so is not only economically shortsighted but puts us in the highly questionable position of acceding to an action that must spell death and injury to the thousands of people who will be involved in accidents.

Congress took up the cutback in a joint hearing on February 27, 1967, of the House and Senate Public Works Committees. Secretary Boyd, in an apparent attempt to mitigate the likely abuse he would receive during his testimony, announced the release of $175 million in obligation authority, with the balance to be released as economic conditions allowed. The President announced the decision at the same time, saying at a press conference:

> I suggested to the Secretary of Transportation over the weekend—and we have consulted the Governors—that we would release $175 million of the $1.1 billion in highway allocations, in authorizations, that had been temporarily withheld. This will permit them to do some planning, particularly in connection with safety, right of way, bids and things of that nature. It will equalize some of the hardships that have taken place.

During the hearing, Governor John Volpe of Massachusetts, who had built a successful construction company and served as the first Federal Highway Administrator (1956-1957), represented the National Governors Association. He said the Johnson Administration was "tampering with highway monies in a tangled, uncoordinated attempt at fiscal sanity." He could not, he said, accept the "logic that led to this action," which was "a direct violation of the intent of the Congressional action that established the highway trust program." He called for an immediate reversal, saying:

> For the administration to use gasoline monies for non-highway purposes is as illogical and improper as it would be to use social security funds for purposes other than caring for the aged. [Gallagher, Thomas C., "Gas Tax Stand Haunts Volpe," *Boston Herald*, March 15. 1967]

Two weeks later, on March 18, the President assured the Nation's Governors at an all-day White House Conference on Federalism that they would receive the full $4.4 billion in Fiscal Year 1968. During a briefing by Secretary Boyd, Governor Volpe spoke up, as recounted by the *Chicago Tribune*:

> During the briefing by Alan S. Boyd, the secretary of the new department of transportation, Gov. John Volpe of Massachusetts criticized the President's deferral of highway funds. He

> said the withholding of the funds ruined one of the main benefits of the highway program—long range planning.
>
> The President told Volpe that the states would get all their money "and you'll get more for your dollar than you would if you had it."
>
> He was referring to the inflationary effect on highway prices. The President in releasing 791 million dollars in frozen funds yesterday said the inflationary pressures on the economy have subsided.
>
> Johnson turned to Boyd and said, "You answer him now."
>
> The transportation secretary said that in addition to the 350 million dollars in frozen highway funds released yesterday, the regularly [sic] quarterly release of 750 million dollars would be made in April. On July 1, he said, federal highway-aid funds for the next year, totaling 4.4 billion, would be released. [Dombrowski, Louis, "Lyndon Promises Governors 4.4 Billions in Highway Aid," *Chicago Tribune*, March 18, 1967]

As author and critic A.Q. Mowbray put it:

> For several months, during the summer and early fall of 1967, all was serene on the highway front. The battle had been won, and, seemingly, the principle of the untouchableness of the Highway Trust Fund established. [Mowbray, A. Q., *Road to Ruin*, J. B. Lippincott Company, 1969, p. 25, footnote]

However, with the war continuing to absorb Federal revenue and inflation still not under control, the budget situation had not improved, as Professor Randall B. Woods explained in his biography of President Johnson:

> By 1967 LBJ had become convinced, very reluctantly, that he could not continue to have guns and butter without a tax increase. He knew how Americans hated taxes; he knew that "higher taxes and federal spending" were the issues that conservatives could always make political hay with, but the budget had soared to $126.7 billion for FY 1967 and was projected to reach $135 billion for FY 1968. The administration had estimated that around $12 billion would be needed for Vietnam; the figure turned out instead to be $21.9 billion. The Johnson budget called for only $1.9 billion more for Great Society programs—just $280 million over FY 1967 for the War on Poverty—but the president refused to abandon other programs he regarded as essential.

During his State of the Union Address on January 10, 1967, he had outlined the budget problem, then said:

> I recommend to the Congress a surcharge of 6 percent on both corporate and individual income taxes—to last for 2 years or for so long as the unusual expenditures associated with our efforts in Vietnam continue. I will promptly recommend an earlier termination date if a

> reduction in these expenditures permits it. This surcharge will raise revenues by some $4.5 billion in the first year.

Congress did not embrace the proposal. In fact, as Woods explained, the idea of a surtax "lay dead in the water" for 6 months:

> Members of the conservative coalition did not want to give the administration additional funds because they opposed most aspects of the Great Society program; liberals did not want to give the administration more money because they opposed the war in Vietnam and wanted to make LBJ choose between domestic programs and the conflict in Southeast Asia.

In June, President Johnson received "devastating news," namely that the cost of the war was increasing along with the cost of Medicare, Social Security, and other domestic programs. The budget deficit for FY 1968 was projected as high as $28 billion:

> Several days later, he presided over a cabinet meeting. "The country could not tolerate a deficit of from $25 to $30 billion," Johnson said. Either there would be new taxes or programs would be cut. Each cabinet officer, each agency head must cultivate every representative and senator they could gain access to. While they were applying a thick coat of butter to the solons, he would be "tailing em up."

The key was Representative Wilbur Mills (D-Ar.), Chairman of the Ways and Means Committee, where tax measures originated. In a White House meeting on July 26, Mills agreed to help draft a tax request message to Congress, but said he would not support it unless it was accompanied by dramatic cuts in domestic programs:

> On August 3, the president sent his message to congress, asking this time not for a 6 percent but for a 10 percent surcharge on personal and corporate income taxes. Congress's response was to threaten virtually every component of the Great Society program, from education to Medicare to Social Security to rent supplements to public broadcasting. All right, if they want cuts, LBJ responded, we'll give them cuts. He contemplated telling Congress that if it did not enact a tax increase, he would request the House and Senate to cut all appropriations by 10 percent. "Including defense," [Secretary of Defense Robert] McNamara interjected. "I'd stick it to Mills," he said, implying that he was leading a congressional charge that would not only undermine existing domestic programs but threaten the war in Vietnam. All the while, Johnson continued to lash his cabinet officers, telling them that if they did not lobby the hell out of Congress, he would sacrifice their budgets first. [Woods, p. 795-796]

The issue would reach the highway community on October 8, as Mowbray explained:

> Frustrated in his attempts to get a tax increase, furious at what he felt to be irresponsible yammering from Congress about spending cuts, Johnson countered with a right cross to the body, a blow that the men on Capitol Hill felt below the belt. They wanted spending cuts? All right, he would give them spending cuts. He proceeded to freeze funds for certain low-priority military construction projects and for the time-honored "pork barrel" construction

> involving rivers and harbors and flood control. Further, he instructed Transportation Secretary Boyd to send a telegram to each of the fifty governors warning that massive cuts might be necessary in federal-aid for highway construction. The telegram asked the governors to give their estimate of the economic effects on their states of a freeze in highway funds amounting to as much as $2.2 billion, or half the program for the year.

The money would not be diverted, but would simply be withheld in the Highway Trust Fund.

Secretary Boyd informed the Nation's Governors by telegram that:

> In view of recent congressional discussions on substantial reductions in federal expenditures, it may become necessary to impose ceilings on the federal-aid highway program in the immediate future.

He proposed quarterly ceilings, effective November 1, 1967, if the highway cuts were necessary.

Although "observers agreed that the move was an attempt to put pressure on Congress rather than a serious effort to cut spending," the Governors and highway interests were up in arms immediately. Governor Ronald Reagan of California (1967-1975) called the plan a "dishonest and a grave mistake on the part of the Administration, since under federal law, highways are built with gasoline tax funds placed in trust for highway purposes. They cannot legally be diverted or used as a tool for fiscal gimmicks." [Mowbray, p. 26]

Governor Spiro Agnew of Maryland told Boyd that the proposed highway program cuts would be "absolutely devastating" to his State and he "will use all of the influence in my office to prevent any cutback whatsoever" in the funds. [Associated Press, "Plan to Cut Highway Aid Irks States," *The Baltimore Sun*, October 10, 1967]

AASHO members, holding their 53rd annual meeting the following week, were incensed that their program was again being used to make a point in an unrelated dispute between the President and Congress. The organization adopted a resolution warning that any cutback would have a "great adverse effect upon the program and would not be in the public interest." The resolution called for an end to "the atmosphere of uncertainty that has engulfed the federal-aid highway program" and urged that it be allowed to proceed "at the maximum level possible." [Mowbray, p. 27-28]

Representative Fallon addressed AASHO on "the puzzle of the cutback":

> It is very hard for me to understand how we can consider a proposal to reduce the highway program by one-half, or even by 25 percent . . . . Last November, you will recall, the announcement of the cutback made prominent reference to the war in Vietnam and the importance of deferring domestic programs which might detract from our effectiveness there. There was also a reference to inflationary pressures in the economy which might be reduced by deferring some Federal spending programs . . . .

> Then, at last the Administration's position emerged. It became evident that the cutback was made (and here I quote the statement of the Federal Highway Administrator) "for the purpose of reducing inflationary pressures at a time when there was virtually full employment, when construction equipment purchase prices were at an all time high and rising, when the average number of contractors was decreasing, and finally, at a time when the construction price index for highway construction work had increased at an abnormal rate for three successive quarters."
>
> It was related, in other words, to an Administration finding that there has been abnormal inflation in the highway construction industry over a nine-month period. The relationship to the total economic picture and the military situation in Vietnam was quite indirect.

Regarding the October 8 telegram, he advised the State highway leaders that if they had not consulted with their Governor on the impact of a cutback, "you should do so at once."

Representative Kluczynski, who had succeeded Representative Fallon as Chairman of the Subcommittee on Roads, shared Fallon's puzzlement:

> We've been told this year's proposed ceiling is to meet the Congressional demands for economy, so that the federal deficit will be less. It makes great newspaper copy, but the plain fact is that cutting highway construction funds won't improve the federal deficit situation by a single dime.
>
> We are also told, as we were told last year, that this proposed ceiling is to combat inflation. I have some doubts about how effective it is likely to be on a short term basis, and I am sure that over the long haul, it would be pretty poor business . . . . It is also my personal opinion, for whatever it's worth, that these freezes, ceilings or whatever, are illegal. The law says quite clearly that the funds shall be made available to the States. It does not seem ambiguous or discretionary to me, and it never has. [*American Highways*, January 1968]

President Johnson was reportedly furious with Secretary Boyd for releasing the telegram to the press, resulting in an onslaught of criticism. [Mowbray, p. 26]

Moreover, the President's efforts to move Mills failed. By the time the 90th Congress adjourned in late November, Mills was still insisting on deeper cuts as the price for the tax increases.

As 1968 began, the States and highway interests appeared to have won the fight. The Department of Transportation released the usual quarter of Federal-aid highway funding for the first quarter of the year–$1.1 billion of the annual $4.4 billion. However, on January 22, Secretary Boyd cut the release by $600 million. It was, he explained, a "modest but essential move to combat inflationary trends in the economy." He said the Administration was concerned about inflation in construction activity and the "significant impact of Federal and state highway construction activities on these price levels." He expected the cut to be an "important" aid in "checking inflation." [United Press International, "U.S. Takes Ax to Roads Again," *Indianapolis Star*, January 23, 1968]

On April 24, Secretary Boyd reaffirmed the reduction, but modified the formula for distributing the cutback among the States. To address inequities in the original plan, he said that State highway agencies would be able to obligate funds at their previous level or the reduced level up to the point where nationally the cutback had been achieved. About half the States would be able to continue their programs at the higher level. [Associated Press, "Road Fund Formula Devised for States," *The New York Times*, April 25, 1968]

Highway backers feared that these moves were a harbinger of anti-highway moves during the year in which the regular 2-year Federal-aid highway bill would be developed. Pennsylvania's top highway official, Robert G. Bartlett, spoke for many highway officials when he called it "a black day for highway construction in Pennsylvania." He feared it was a step in a plan to divert Highway Trust Fund revenues to other purposes, a move he considered illegal. "Congress set up inviolate—and I underscore inviolate—rights where monies that go into the highway trust fund must be used only for highways." [Mowbray, p. 29]

The Administration and Congress were still wrestling over the President's desired income surtax. On May 15, Secretary Boyd warned that congressional demands for cutbacks could have a "drastic impact" on the highway program. If Congress insisted on $6 billion in cuts in return for the new tax, "We're not going to have the money to build roads, condemn property or for anything else." The highway program would continue at a lower level and highway user tax revenue would accumulate in the Highway Trust Fund, but appropriations approved by Congress each year would be cut. [Eisen, Jack, "Boyd Warns of Drastic Road Cuts," *The Washington Post*, May 16, 1968]

While the cutback was being debated, Congress was ready to take up the next 2-year reauthorization legislation. Secretary Boyd released the Administration's proposal. Which called for extension of the Interstate program for 2 years to 1974, along with an additional $8.340 billion for Interstate Construction. The proposal also called for the Federal Government to pay 75 percent of the cost of fringe parking areas associated with mass transit stations serving cities with populations over 50,000, as well as a change in the formula for compensating homeowners, farmers, and businesses for property purchased for highway construction.

Under the proposal, States would be able to engage in advance protective acquisition of property to prevent commercial development before construction could begin on a planned highway. In addition to fair market value, compensation would take into account the cost of moving or establishing a new business or farm. The proposal also called for a program to increase the capacity of existing roads (TOPICS – Traffic Operations Program to Increase Capacity and Safety). All would be funded through the Highway Trust Fund. [Woll, Harry D., "New Highway Programs Proposed," *Transport Topics*, May 27, 1968]

The President finally reached agreement with Congress, resulting in the long-sought legislation in late June. President Johnson signed the Revenue and Expenditure Control Act of 1968 on June 28. In remarks, he acknowledged that just 4 and a half years earlier, he had signed the biggest tax cut in the Nation's history during a time when the economy was dragging; now, after 88 months of sustained prosperity, he was signing legislation that would "return to the Treasury about half the tax cuts I signed into law in 1964 and 1965." He said:

> This marks the largest shift of the budget toward restraint in the past two decades. Now we can attack decisively—at the roots—the threats to our prosperity: accelerating inflation, soaring interest rates, deteriorating world trade performance. Now we can mobilize the defense of our dollar at home and abroad and fulfill our obligations to world monetary stability. Now we are assured that we can continue to rely on free markets, unfettered by damaging Government controls.

The tax bill was the "best insurance policy" to protect prosperity, far better "than the cruel and haphazard tax of rising prices and spiraling interest rates."

The price for this desired tax increase was the congressional demand that the President reduce Federal expenditures by $6 billion in FY 1969. His proposed budget "was lean and tight," but "I have accepted this decision of the Congress because the tax bill is so imperative to the economic health of the nation." He expected Congress to reduce the budget through the appropriations process by considerably less than $6 billion, he said, shifting the responsibility to him to make the cuts. He considered this "departure from the traditional appropriations process [to be] most unwise." He also objected to the provision rolling back Federal employment to the level of 2 years earlier. He would, he said, do his best to carry out these congressional mandates.

Despite this assurance, the President was going to rely on the nature of Congress, as described by Woods:

> . . . LBJ had to agree in principle to a $6 billion spending reduction for the coming fiscal year, but he intended not to take the initiative, suspecting that when it came down to it, Congress would not have the will to make specific program cuts. He was proved right. Congress was unable to cut even $4 billion in pending expenditures. Fiscal year 1969 ended with a $3.2 billion surplus and with most of the Great Society program intact. [Woods, p. 844]

The Federal-Aid Highway Act of 1968

At the same time, Congress was developing the new 2-year authorization for the Federal-aid highway program. The Senate approved its version of the bill in July. It continued the Interstate program at the usual $3.6 billion a year, and authorized $1.2 billion a year for the Federal-aid primary and secondary systems and $549.5 million for roads on Federal lands. It provided additional benefits for relocatees, affirmed protections in the Department of Transportation Act for parkland, public lands, and historic resources to be taken for highways, and gave the Secretary the authority to disapprove projects that do not conform to the "particular economic, social, environmental and other needs of the locality in which the project will be built."

While the Senate was completing work on its version, the House was debating its bill. On July 3, Representative William F. Ryan (D-NY), who had represented Manhattan's Upper West Side since winning election in 1960, offered an amendment on "Use of Certain Funds for Urban Mass Transportation Purposes." It would allow any Governor to use Federal-aid highway funds for urban mass transportation purposes. He explained:

> What it does is to allow the Governor of each State to decide how he wants to improve the transportation system within his own State. In those parts of a State where a Governor finds that additional highways are desirable, he will be free to build more highways. But under my amendment, in those areas where the Governor sees that the most efficient way to strengthen the highway system is to clear the existing arteries of most of the deluge of daily commuters, he would then be permitted to use funds under this act for mass transit.

Representative Fallon insisted on a point of order, noting that Representative Ryan had introduced the same amendment in 1966, but it had been ruled out of order because the bill then, as now, was about the authorization of highway user tax revenues that could not, by law, be used for mass transportation. Ryan acknowledged that he had introduced the amendment on August 11, 1966:

> At that time, it was ruled out of order on the ground that it related to mass transportation and not highways, and it was suggested by the chairman of the committee [the Chairman of the Committee of the Whole] that this issue should be raised when the mass transportation bill was before the House. So on August 16, 1966, I offered it as an amendment to the mass transit bill; and it was ruled out of order, on the ground that it related to highways and not to mass transportation.
>
> We cannot have it both ways. It must be in order in one place or another.

The Chairman, Representative Daniel D. Rostenkowski (D-IL), explained that he had ruled the amendment out of order in 1966 because an amendment on urban mass transportation was not germane. He followed his own precedent in this case and would not allow a vote on the measure. ["Amendment Offered by Mr. Ryan," *Congressional Digest-House*, July 3, 1968, p. 19926-19927]

The approved House bill continued authorizations for the primary and secondary systems at prior levels while adding funds for TOPICS. It authorized Interstate funds for the 4 years requested by the Secretary instead of the 2 years in the Senate bill. Both bills included the fringe parking and relocation provisions requested by the Secretary, although in different form, but the House bill virtually killed funding for the highway beautification program approved in 1965. Nan Robertson of *The New York Times* explained this cut:

> A high Government official called the mood of a substantial part of those 211 Representatives who voted against highway beautification funds one of "absolute revenge" against both President Johnson and his wife.

The desire for revenge stemmed from final passage of the Highway Beautification Act of 1965:

> The ire of certain House members, particularly Republicans, dates back to Oct. 7, 1965. It was the night of Mr. Johnson's "Salute to the 88th Congress" party at the White House—a party that the legislators, in tuxedo, on the hill, and their wives, in party finery in the galleries, were not able to get to until after midnight.

> What most House members believe and constantly hark back to—particularly Republicans—is that the President insisted they remain in session until the beauty bill was passed, instead of letting them take it up [the] next day.

The bitterness of that long night was a more important factor, Robertson reported, "than the powerful billboard lobby." [Robertson, Nan, "Conferees Agree on Highway Bill," *The New York Times*, July 25, 1968]

One of the House's more controversial provisions would add 3,000 miles to the 41,000-mile Interstate System to make adjustments to fill gaps in the System. The Committee on Public Works report explained:

> The Interstate System now stands at an authorized 41,000 miles. All of it has been designated and less than 15 miles remains for making sorely needed adjustments. There are obvious, and serious, gaps in the system which prevents its being the continuous, interconnected network the Congress and the Nation envisioned in 1956.

The report listed examples submitted by the States, such as 16 miles to complete the missing quadrant of the Ft. Worth circumferential; approximately 300 miles between Shreveport and New Orleans; 9 miles for the Crosstown Freeway in Lexington, Kentucky; and 300 miles to link Tampa and Miami. It continued:

> The committee believes it would be unwise to authorize extensive construction mileage additions to the Interstate System at this time, but it is convinced that the best interest of the Nation will be served if enough additional construction mileage is authorized to give the States and the Federal Highway Administration some reasonable leeway in programing these deficiencies. [*Federal-Aid Highway Act of 1968*, House Report No. 1584 on H.R. 17134, 90th Congress, 2d Session, June 25, 1968, p. 4]

The bill did not propose additional funding for the mileage. The States were to decide on the priority of their mileage.

The Senate did not include a comparable provision. While House and Senate conferees worked to reconcile the two bills, Secretary Boyd joined an unlikely coalition of Federal, State, city, and county agencies, including AASHO, in opposing the extension. Their statement explained:

> Any addition of mileage to the 41,000-mile interstate system at this time, without the opportunity for adequate planning or funding, could cause serious and extended harm to the nation's highway network.

They noted that the completion date for the Interstate System, originally the early 1970s, had already slipped 2 or 3 years. The extension would push it back further, "perhaps as much as eight to ten years" at a time when another provision of the bill called for a comprehensive study of the highway network as the basis for allocating future funds. ["Increased Road Plan Under Fire," *The Baltimore Sun*, July 21, 1968]

In conference, the House and Senate compromised by agreeing on a 1,500-mile addition. The Conference Report explained that when the System was laid out, "no provision was made for flexibility . . . to meet the tremendous changes that have taken place in population and development in many sections of the Nation." It continued:

> As a result, there are several cities of more 100,000 population that are not now on the Interstate System . . . . By the same token, virtually everyone recognizes that these serious missing segments must, in many instances, be built in the very near future if the system's ability to handle its traffic is to be maintained.

As in the House bill, the 1968 Act did not provide additional funding for the new mileage. The Conference Committee made clear that the Secretary was to designate "critical missing link" situations, but was not to substitute his judgment for that of the States as to which of all remaining designated mileage in a State would be built. "This flexibility is desperately needed now, on an interim basis, pending the time when the Congress determines what the long-range future highway program will be." [*Federal-Aid Highway Act of 1968*, Conference Report, House Report No. 1799, July 25, 1968, pages 29-31]

The 1968 Act also authorized the Secretary of Transportation to approve Interstate status for routes that meet Interstate standards and would be a logical addition or connection to the System, but were built without Interstate Construction funds. The new authority was codified as Section 139 of Title 23, United States Code (in 1998, the Transportation Equity Act for the 21^{st} Century shifted the provision as amended to Section 103(c)(4)(A)).

The legislation included the first mandatory payment program for those who must relocate because of a Federal-aid highway project. The goal was to provide every citizen with decent, safe, and sanitary housing and to reduce the inequities of a strict application of the fair market value concept to right-of-way acquisitions. These changes, plus additional changes in 1970 were influential as Congress developed the landmark Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), the government-wide law. According to former Deputy Chief Counsel Edward V. A. Kussy of FHWA:

> The immediate precursor of the Uniform Act was the Federal-Aid Highway Act of 1968. The relevant relocation provisions of the 1968 Highway Act were so similar to those in the Uniform Act that any interpretation of the 1968 Highway Act would be equally applicable to the 1970 Uniform Act. [Kussy, Edward V. A., *Surface Transportation and Administrative Law: Growing Up Together in the 20^{th} Century*, Transportation Research Record 1527, Transportation Research Board, 1996, p. 10]

Congress also included a measure responding to the impoundment of authorized funds. Section 15 declared the sense of Congress that sums authorized to be appropriated for expenditure which have been apportioned among the States may not be impounded or withheld from obligation by the Executive Branch except when necessary to assure the integrity of the Highway Trust Fund. Further, revenue from the Highway Trust Fund could be used for the administrative expenses of FHWA, but no other agency may use the funds for administrative expenses unless specifically identified in a line-item appropriated or contracted for in accordance with the Economy Act (31 U.S.C. 686).

In addition, the legislation reduced highway beautification funding; established a right-of-way revolving fund for advance acquisition of property needed for future highway construction; approved TOPICS funding; authorized Federal-aid funds for a fringe parking demonstration project outside central business districts in cities of more than 50,000 population, with the facility to serve public transportation; and extended prevailing wage coverage under the Davis-Bacon Act to all Federal-aid projects, not just the Interstate System as the 1956 Act had required.

Congress completed work on the bill with Senate passage on July 29 and sent it to the White House for presidential approval.

At the "Texas White House" in Austin, President Johnson approved the measure on August 23. He considered vetoing the bill but on balance decided to sign it just before midnight on the final day for approval. (The bill would have become law if he had neither approved nor vetoed it.) [Dales, Jr., Edwin L., "President Signs Bill on Highways," *The New York Times*, August 25, 1968]

In a statement the next morning, he explained that he considered some provisions "unfortunate, ill-considered and a setback to the cause of conservation." He particularly objected to provisions that reduced highway beautification funds and attempted to force the District of Columbia to build its portion of the Interstate System. He concluded, however, that, "In many respects this is the most important highway authorization bill since the start of the Interstate program over a decade ago." The funds authorized by the bill would help complete the national network, but he was concerned that the 1,500-mile extension was adopted "without any serious study of the type of major highway program we will need after we complete the present system in 1974.

(The complex D.C. freeway issue played out legislatively through the Federal-Aid Highway Acts of 1968 and subsequent highway legislation and appropriations acts. These battles are covered in the separate article titled "The D.C. Freeway Revolt and the Coming of Metro," to be posted on this Web site.)

He also commented on the sense of Congress statement about impoundments:

> Earlier this year the Congress directed me to reduce expenditures by $6 billion and new obligations by $18 billion. This was not a responsibility I sought. While I appreciate the sense of Congress – as expressed in this bill – that Federal moneys not be withheld from the highway program, I must still exercise the responsibility to carry out these stringent economy measures. All government programs are being scrutinized with care. Highway projects will not be immune from this study, and funds will be provided or withheld in accordance with the need to comply with the Congressional mandate to cut $6 billion from the federal budget.

As a legal matter, a Sense of Congress statement in legislation is considered guidance, not enforceable law. The Administration was not bound to comply.

The long fight over the surtax and the congressional demand for budget cuts had not reduced the size of the bill. However, the Federal-Aid Highway Act of 1968 was another step in undermining the highway community's efforts to limit Highway Trust Fund revenues to construction of highways and bridges.

In response to FHWA's request for nominations for inclusion in the Interstate System, the States submitted applications totaling more than 10,000 miles. On December 13, 1968, Secretary Boyd announced designation of 1,472.5 miles to routes in 28 States at an estimated cost of $2.43 billion. The additions included I-27 in Texas (Amarillo to Lubbock), extension of I-75 from St. Petersburg, Florida, to Miami; I-43 from Milwaukee to Green Bay, Wisconsin; and I-88 from Binghamton to Schenectady, New York.

John O. Morton, Commissioner of the New Hampshire Department of Public Works and the president of AASHO, commented on the bill during the group's annual meeting in December:

> [R]ecognition of our past accomplishments and the favor in which the highway program is held by the American people, are reflected in the Federal-Aid Highway Act of 1968. Highway officials applauded the passage of this 1968 act and considered it a progressive and outstanding piece of highway legislation. The act preserved the integrity of the highway trust fund. It recognized the fallacy and waste created by ill-conceived cutbacks and took a positive position in opposition to future cutbacks.

During the same AASHO annual meeting, FHWA's Francis C. "Frank" Turner, Director of Public Roads, commented on attempts to divert Highway Trust Fund revenues. He addressed AASHO's Subcommittee on Highway Finance on December 4. His topic: "The Highway Trust Fund." Turner had been BPR's representative to Congress in 1955-1956 as it wrestled with how to fund construction of the Interstate System. He discussed its origins and operations. "In summary," he said, "there are many advantages to a Trust Fund operation, and there are some obvious concerns." The advantages were:

> On the plus side, programs may be authorized for a period of years in the future, as in the case of the Interstate program, with assurance that revenues will be available to liquidate the obligations incurred. With contract authority such as we have for the highway program, it is possible to incur obligations in advance of revenue collections needed to liquidate the obligations, and we continually operate with unliquidated obligations totaling about $6 billion, with assurance that funds will be available in the Highway Trust Fund to reimburse the States when the work is done.

The trust fund concept raised some concerns:

> On the other hand, it is necessary that the program be carefully controlled to assure that obligations do not exceed amounts that can be liquidated from the Trust Fund on a year by year basis. And it must be recognized that the program is still subject to such controls as may be necessary by reason of inflationary pressures, expenditure reductions, appropriation limitations and other factors, notwithstanding the availability of revenues in the Trust Fund.

These were practical concerns about operation of the program. Turner was concerned about another issue as well:

> In some quarters there is serious intention to raid the Highway Trust Fund for the benefit of other modes of transportation, on the theory that it should be converted into a Transportation Trust Fund and its proceeds made available to city mayors and officials for mass transit purposes. This is advanced as being necessary in order to give voice to local desires about how the transportation problem shall be resolved in each local community. Supposedly, this would permit a city governing board to decide to use their highway funds either for street improvements or for a subway. This is generally accompanied by the claim that a subway will not disrupt the community with dislocations of people or businesses, and that it will automatically take all of the traffic load off the city streets. Such statements are close to misrepresentations, even if based on nothing more than misunderstanding of what rail mass transit can do in solving the traffic load question over the entire metropolitan area.

He disputed the claim that "is bandied about that one track of rail mass transit can—note the word can—carry as much as 20 lanes of freeway." One lane of freeway, he said, "can do the same and more." He added that "at no point in the world has the theoretical capacity which they claim for rails been actually reached; about the highest capacity on record being in the order of 25,000 to 30,000 persons actually carried and this is a rate reached over only a short period time—5 to 10 minutes, rather than a full hour—and over a very short section of trackage." In short, he said:

> So the proposal for diversion of the Highway Trust Fund to "transportation" purposes, meaning rail in most cases, would not materially benefit the overall transportation process, but would in so doing rob the Highway Trust Fund of monies badly needed for more beneficial types of improvements.

Something more basic was on his mind:

> Aside from the less benefits of such a diversion, it is in my opinion just plain immoral, because the Highway Trust Fund was set up, as the word implies, to provide funds in trust for a stated and agreed-upon purpose. I do not believe in breaking faith with the American people who through their elected representatives in the Congress pledged that taxes levied in a certain way would be used only in the manner agreed upon. If funding is to be given to these other transportation purposes, then, they should go to the Congress and the people and make the needed agreement, just as did the highway people.
>
> There are likewise proposals regularly made to divert some of the proceeds of the Fund to a variety of other purposes, some not even related to highways or transportation. There is strong feeling in some government quarters against any earmarking of tax revenues, because it prevents "fluidity" of management of income; in other words, diversion to another purpose chosen by fiscal managers.
>
> We cannot operate a program of this magnitude, with its long planning and lead times, with its numerous commitments which must be built up over a long time in advance of actual

> construction without the certainty of the Trust Fund and the contractural [sic] authority provision of the highway program legislation. We must be alert to prevent actions to do away with these vital features.

In these remarks, he was speaking not only for himself and his agency, but for many in the highway community.

Despite the sense of Congress provision in the 1968 Act, Secretary Boyd announced another freeze on September 9, this time of $200 million in FY 1969, in line with the cuts required by the Revenue and Expenditure Control Act of 1968. He sent telegrams or made telephone calls advising the State highway departments not to advertise Federal-aid projects until December 1. After that date, he said, projects would be approved at an accelerated rate that would allow most of the postponed projects to be approved by July 1969. The postponement "is the most reasonable course available to the government to achieve the required reduction of $200 million in federal aid highway spending." [Flor, Lee, "U.S. Fund Freeze Hits Area Highway projects," *The Washington Star*, September 10, 1968]

Changing of the Guard

On November 5, 1968, former Vice President Nixon defeated Vice President Hubert H. Humphrey to become the Nation's 37th President. (Senator Muskie had been Vice President Humphrey's running mate.) During his first months in office, the new President visited government agencies to encourage employees. He addressed employees of the Department of Transportation on February 11, 1969, in the auditorium of the Federal Aviation Administration's (FAA) headquarters on Independence Avenue. He assured employees of the importance of their work:

> I think speaking from my vantage point, the vantage point of one who sees the problems of the people as a whole, I can very properly bring home to you the immense interest that the people of this country generally have in what you are doing . . . . I can assure you from my own experience, if there is one subject that people across this country—regardless of what station in life they come from—one subject they are interested in, it is transportation and all of its aspects.

For the most part, his remarks were generic in praising "what are called career civil servants of the Federal Government" and indicating that without their support, the Department's leadership cannot succeed "no matter how imaginative they are, how creative they are, how bold they are in their thinking, however many ideas they get." What was needed was "a new sense of not only dedication to our jobs," but an understanding that every single person in the Department was contributing to the "better running of this Department, but also to a better Nation for all of us." He said:

> I think if there is some way we could get across to all of the people in Government that however boring their job may seem to be, the writing of letters, for example, and getting out forms or running the mimeograph machine or I guess now you do it through a duplicating machine, or whatever the case might be, that all of this matters.

In truth, as Professor Tom Lewis explained, President Nixon was not concerned about the U.S. . "No matter who was in charge, so the new president believed, departments like Housing and Urban Development, Commerce, and Transportation would just rumble on as they had in the past."

Having passed over Governor Volpe for Vice President, President-elect Nixon had one of his aides, future Attorney General John N. Mitchell call and offer Volpe the job of Postmaster General. He politely refused. Mitchell called back a few days later and asked Volpe to be the new Secretary of Transportation. "You're a manager," Mitchell said. "That's what the president thinks we need." After talking with his wife Jennie and several friends, Volpe accepted.

Volpe met with the President-elect in California in late November. Volpe said, "I hope you realize that I'm not a 'yes' man, that I like to think things out, and if I feel that you or other people on your staff come up with an idea I disagree with, that for your interests and the best interests of the nation, I will tell you so." Nixon replied, "That's one of the reasons that I want you. Because I know you're *not* a 'yes' man, and I'll always get your best advice." [Kilgore, Kathleen, *John Volpe: The Life of an Immigrant's Son*, Yankee Books, 1987, p. 172-173]

Lewis pointed out that the offer came because Nixon "owed John Volpe a sop":

> When he had thought it useful during the primary campaign, he dropped the governor's name as a possible running mate. It had been a fiction, of course. Nixon wanted a vice presidential candidate who would be better able to appeal to the South, a tough and unpleasant scrapper, who would act as Nixon himself had when he served as vice president, so he passed over Volpe in favor of Spiro Agnew, governor of Maryland. Making Volpe Secretary of Transportation would assuage his feelings as well as add an Italian-American to the cabinet. [Lewis, Tom, *Divided Highways: Building the Interstate Highways, Transforming American Life*, Viking, 1997, p. 206-207

Volpe's life has often been compared to a Horatio Alger rags-to-riches story. He was born in Wakefield, Massachusetts, in 1908, the son of Italian immigrants. Beginning in 1933 with an initial capital of $500 ($300 from cashing in an insurance policy and $200 borrowed), he built the multi-million dollar John A. Volpe Construction Company, with offices in Massachusetts, Washington, and Rome. It was involved in heavy construction in New England, Florida, and Washington (including the privately owned Nassif Building at 400 7th Street, SW., in Washington, D.C., that housed the U.S. Department of Transportation from the late 1960's until June 2007).

He was widely known and respected within the highway community. In 1953, Massachusetts Governor Christian A. Herter appointed Volpe to serve as Commissioner of Public Works. In October 1956, Volpe resigned to return to private life but delayed doing so to serve as interim Federal Highway Administrator at the request of President Eisenhower while his permanent choice, Bertram D. Tallamy, disengaged from his lead role on the New York State Thruway and secured Senate confirmation. The President did not want any delay in getting his pet program, the Interstate System, underway.

On October 22, 1956, Volpe became the first Federal Highway Administrator. President Eisenhower, who attended the White House ceremony, said he wanted to make certain that the highway program got off to a "flying start." He held the Bible while Frank K. Sanderson, White House Administrative Officer, administered the oath of office to Volpe, the only Administrator who took the oath of office in the presence of a President. Immediately after the oath, the President shook Volpe's hand and said, "You're now part of the family here." Volpe would serve until Tallamy took office in February 1957.

Volpe returned to his construction company and served as president of The Associated General Contractors of America (AGC) in 1960. He also won an unprecedented four elections for Governor of Massachusetts (1961-1963, 1965-1969).

Officials of AASHO had recommended Volpe for the post as Secretary based on his experience with road building as Public Works Commissioner, Federal Highway Administrator, and Governor. What the highway community did not realize is that Volpe "understood that the country could not depend on a single form of transportation, that there would have to be highways, rail lines, trolleys, and subways in cities, and airplanes for long distances." [Lewis, p. 217] As a result, Volpe would surprise the highway community.

Secretary Volpe would have to address issues across the full spectrum of transportation, but for the highway community, the big issue was his stand on the Federal-aid highway program, and especially diversion of funds for transit. On December 26, 1968, he held his first press conference as Secretary-designate, but as usual with nominees before confirmation, was vague on many subjects. Regarding transit, his opening statement indicated "We have got to do a great deal more about . . . bringing about a balanced, coordinated transportation system." He wanted to bring together State, county, and city officials to resolve their own local problem. Then he smiled and added, "I am not saying there might not be a need for more money." [Eisen, Jack, "Volpe's Transit Pledge is Vague as to Money," *The Washington Post*, December 27, 1969]

On January 15, 1969, the Senate Committee on Commerce held a confirmation hearing for Secretary-designate Volpe. He was asked, of course, about his life and experience. Senator Norris Cotton (R-NH) asked about reports that Volpe's company had helped build the Massachusetts Turnpike. Volpe replied, "My firm has not built one single mile of highway. We have not even engaged in highway construction." [*Nominations-1969*, Hearing before the Committee on Commerce, United States Senate, Serial 91-2, January 15, 1969, p. 29]

Senator Philip A. Hart (D-Mi.) asked if "based on the bitter experience of recent years," whether Volpe would "attempt to balance and include all the factors affecting the area of any proposed construction that merely the traditional bookkeeping judgment alone is not in the best long term interest of any of us?" As an example he cited minority groups who regard the Interstate System "as an enemy, because they do not generally run the highway through my house or yours . . . ." Volpe discussed how as Commissioner of Public Works he had reached out to communities in planning highways. He added that, "I can certainly assure you, Senator, that I will do everything within my power to be certain that we do take all aspects into consideration—esthetic, environmental, and human factors as well." [*Nominations-1969,* p. 33]

Senator John O. Pastore (D-RI) also questioned the Secretary-designate about highway controversies. Governor Volpe agreed to reply in writing, which he did on February 19 after taking office as Secretary. In response, the Secretary supported locating highways in accord with Federal statutes that "call for safe, efficient roadways so located and designed as to be of positive benefit to the other goals of the affected communities." Other factors considered included "preservation of historic values and natural beauty." He strongly supported the statutory changes affecting those displaced by highway construction.

As for the highway controversies in Boston, Secretary Volpe assured the committee that he would not be influenced by his earlier statements. He said that his successor, former Lt. Governor Governor Francis W. "Frank" Sargent had "asked me to withhold any action on the Inner Belt about Boston, I-695, until he has examined the situation. I have assured him that I would do so because of the delicacy of the relationships between the state and the affected communities in this matter."

Especially in the case of urban transportation, Secretary Volpe explained, his experience had convinced him that "each of the methods of transportation has a proper role to play in meeting the requirements for transportation in a metropolitan area." He had used the term "balanced," by which he meant "that the transportation planning should seek to utilize the particular capabilities of each mode. 'Balanced' means the modes work together as a system in proper relationship to the area it serves." He expected to see greater use of bus and rail transit systems as part of that balance. [*Nominations-1969*, p. 36-37]

In response to a question from Senator William B. Spong, Jr. (D-Va.), Governor Volpe added:

> I am one of those who believes that if we are going to resolve our problems and woes in urban areas, we can neither depend entirely on highways nor depend on rapid transit . . . . It has been shown that you can build 12-lane highways and still have congestion. So I am a firm believer in a balanced transportation system."

Senator Russell B. Long (D-La.) asked how far behind schedule the Interstate System had slipped. (He had been the only Senator who voted "no" on final passage of the Federal-Aid Highway Act of 1956, primarily because oil interests in Louisiana opposed the gas tax increase.) Volpe thought the System was only 2 or 3 years behind and would be completed in 1974, possibly 1975. [*Nominations-1969*, p. 41]

Senator Long pointed out the need to modernize the Federal-aid primary system as well as the Interstate System. Volpe agreed:

> I think there is no question that we have to think in terms of both the primary system as well as our problems in the rural areas . . . . My thinking would be that we ought to be starting to develop the program that we will follow after the completion of the Interstate System without waiting for that to happen and really do some long-range planning now for the future in both the primary highways as well as the rural highways. [*Nominations-1969*, p. 43]

The committee had invited Senator Jennings Randolph (D-WV), chairman of the Committee on Public Works, to participate in the hearing. He asked about the impoundments and pointed out the sense of Congress provision in the Federal-Aid Highway Act of 1968. He wanted to know if Governor Volpe approved of the action of Congress or would recommend to the President that he continue to impound funds from the Highway Trust Fund. Volpe stated that “I would never try to trespass the will of the Congress and I certainly would recommend very highly to the President that these funds be utilized as the Congress has specified and as the trust fund specifies. [*Nominations-1969*, p. 55]

On January 17, 1969, Governor Volpe left the State House for the last time and flew to Washington. According to his biographer, Volpe went straight to Walter Reed Army Medical Center to see former President Eisenhower:

> Volpe had planned a visit in November or December, but the former president had had a setback and was unable to see him. This time the nurse allowed Volpe only twenty minutes, but as he began to tell Eisenhower about his plans for DOT, the president sent the nurse away. Volpe found his host thin and wasted, but his mind was unimpaired. Eisenhower told him that when he was president, he had wanted to do something about transportation from cities to airports so that planes could land farther from urban centers, perhaps including a helicopter service or a rapid transit line with baggage capacity. At last, Mamie Eisenhower came in and advised her husband to get some rest. They parted, and Volpe never saw him again. [Kilgore, p. 175-176]

(President Eisenhower passed away on March 28, 1969. In August 1970, Secretary Volpe proposed to honor his former leader by submitting a bill to Congress to designate the “Dwight D. Eisenhower Highway.” It would be signed along I-70 from Washington to Denver; I-25 from Denver to Cheyenne, Wyoming; and I-80 from Cheyenne to San Francisco. (At the time, I-70S was designated into Washington; the portion that was finally built between Frederick, Maryland, and the Capital Beltway is now I-270.) The highway would loosely follow the path of the 1919 U.S. Army’s first transcontinental motor convoy, which had proved influential on the future President.

(Secretary Volpe submitted a bill to Congress on May 10, 1971, embodying the proposal. He said:

> Fifteen years ago President Eisenhower signed the Federal-Aid Highway Act of 1956 creating the National System of Interstate and Defense Highways. In recognition of his outstanding service to his country and the world, and of his having launched the program for the Interstate Highway System, we felt that it is particularly fitting and appropriate to honor the late President by designating certain routes of the Interstate System as a memorial to him.)

Volpe was confirmed by the Senate and was sworn in, along with other Cabinet officers, on January 22, 1969, just 2 days after President Nixon’s Inauguration. Chief Justice Earl Warren administered the oath of office.

In moving to Washington, Secretary and Mrs. Volpe considered a three-bedroom apartment in Rosslyn, Virginia, and had consulted an interior decorator. Then, as *The Washington Post* explained, "After crossing the traffic choked Virginia bridges several days at rush hour, however, Volpe changed his mind. He and his wife decided to settle closer to the official, in the unofficial Nixon enclave of Watergate east." [Oberdorfer, Don, and Eisen, Jack, "D.C. Gets Volpe Pledge on Chronic Road Ills," *The Washington Post*, March 9, 1969] His new apartment was a short drive from his office in the southwest quadrant of the city. Like all Cabinet Secretaries in that era, he had a limousine and driver.

In an interview with *Highway User* magazine, the new Secretary supported the Interstate System:

> As to the chief good and bad points of the highway program, I don't believe there are really any "bad" points, but there are areas which cause continuing concern. One is rising costs; the other, and more important, is the tragic annual toll of traffic deaths and injuries. On the positive side, we can point to these undisputed "good" points of the highway program: improved transport, safer roads, greater travel comfort, decreased travel time and cost, unlimited mobility on a reasonably good road, and so on.

As for cutbacks by the previous Administration, he said that promising no further cutbacks would be unrealistic. "The state of the economy sometimes dictates the necessity, or desirability, of curtailing Federal expenditures, regardless of the sources from which revenues are derived or the specific purposes for which revenues are collected."

The magazine also asked the new Secretary about the integrity of the Highway Trust Fund, namely whether funds collected from highway users should be spent exclusively for highways and related purposes. He replied:

> I believe that the integrity of the Highway Trust Fund must be preserved without question. This was the intent of the Congress and the Chief Executive in framing the Federal-aid highway legislation in 1956 and subsequent acts. In my opinion, to divert highway user tax revenues to purposes other than the provision of highways would abrogate a long-standing moral commitment, as well as a statutory provision. The Trust Fund financing arrangement has been one of the essential ingredients in the present successes of the highway program and under no presently foreseeable circumstances should it be eliminated or diluted. ["Secretary Volpe Tells Where He Stands," *Highway User*, February 1969, p. 4-5]

One of Volpe's and the Administration's concerns was urban unrest. President-elect Nixon had appointed a transition team to prepare a report on transportation. The report praised the mobility offered by highways, but contended that "improvements in personal transportation for a majority of individuals have intensified the problems of the large numbers of Americans without personal transportation." The conclusion was that "public mass transportation must be guaranteed." The report also decried the "powerful consequences" of the Interstate System in air, noise, and water pollution and recommended White House action that as, Mark Rose observed, "amounted to supplanting the leadership of engineers with the leadership of politicians."

In recognition of these concerns, Secretary Volpe created the post of Assistant Secretary for Urban Systems and the Environment, occupied by former Seattle Mayor James D. Braman. White House advisor John Ehrlichman, a real estate attorney who had represented anti-highway groups in Seattle, had recommended Braman after observing his political acumen. Volpe explained that the idea behind the new position was "to anticipate some of the troublesome areas before they reach that point of polarization within a community at which any rational solution is precluded." [Rose, p. 108-109, Kilgore, p. 177]]

Based on Braman's experience in Seattle, one of his highest priorities was to increase Federal funding for mass transit programs throughout the country. As he recalled after leaving office on October 1, 1970, "When we first arrived, they said we were just pursuing a will of the wisp—that it was totally impossible and that the highway lobby would knock us down." He added:

> We've got to realize that there are values now that we can't measure in yards of earth excavated, or any other measures that are used on the old cost-benefit analysis. When they're planning things today, they've got to throw out the old yardstick. They've got to put in new values, social values. [Loken, Marty, "Braman Tells of Battling Roadbuilders," *The Seattle Times*, November 20, 1970]

One of Secretary Volpe's early presentations was to the National Governors' Conference at the Washington Hilton Hotel on February 27, 1969. As chairman of the conference in 1968, he said he was "delighted to be with you" as Secretary of Transportation and "tremendously enthusiastic" about his new post. At the Department of Transportation, he said, "Our basic objectives include economic efficiency in transportation–the best use of environmental resources–a wide-ranging, all-inclusive safety program–ancillary support of other national interests."

As for highways, he said:

> I have been asked in several recent interviews whether I'm a "Highway Man" or a "Rapid Transit Man." The answer, of course, is that as of last month, I am a "Transportation man." I have said before, and I say again, that highways will not do the whole job. I'm a former Commissioner of Public Works, I'm a former Federal Highway Administrator, and I've cut plenty of ribbons to open new stretches of pavement . . . but I'll say it again, "Highways will not do the whole job." While we cannot neglect our great highway system – either from an expansion or a maintenance point of view – we must combine that system with rail, air and rapid transit modes. And we must bring to these other modes the same creative foresight we gave the Federal Highway Program back in 1957 [sic]. We need the funding to develop these other modes of transportation – and that is in the works. I have told the President that the Department of Transportation <u>will</u> come up with ideas and proposals to bring about the funding and the creation of a true national system.
>
> We need the knowledge, the expertise, and – in a sense – the <u>audacity</u> to put our crew of research and development experts to work to come up with fresh ideas backed with solid enthusiasm.

> We are going to stop assuming that what was good for the nation forty years ago in transportation is good enough today.
>
> We are pledged to move this nation with efficiency and safety. We will do this job with great spirit and dedication . . . .

His "greatest concern," he said, was to "avoid the on-again, off-again policies of past years . . . and that we experience no roadblocks in our efforts to construct a coordinated <u>highway</u> network within our proposed coordinated transportation <u>system</u>." [Emphasis in original text]

Volpe's choice for Federal Highway Administrator was universally applauded within the highway community. Francis C. "Frank" Turner, a native of Dallas, Texas, had joined the BPR as a Junior Highway Engineer in 1929 immediately after graduating from Texas Agricultural and Mechanical College (now Texas A&M). His first assignment was to collect time and motion studies to find ways of reducing highway construction costs, a typical assignment for trainees. From 1933 to 1940, he was an area engineer in BPR's office in Little Rock, Arkansas, responsible for Federal-aid projects in a portion of the State. While in Little Rock, he wrote his graduate thesis on how the maintenance of highways was affected by the type and physical characteristics of base and subgrade soil.

His experience proved invaluable when he was assigned in 1943 to expedite completion of the Alaska Highway, then being built through northwest Canada as a World War II effort to provide a land link from the States to Alaska. In 1942, the Public Roads Administration and the U.S. Army Corps of Engineers had opened a pioneer military trail through the wilderness. Now, in 1943, the Corps was gone and the PRA's job was to build a permanent highway on sound location to replace the pioneer trail. After helping complete the permanent highway that same year, Turner worked with Canadian and province officials to organize their forces for the maintenance activities they would be responsible for after the war. In 1946, Turner was the last American to leave the completed Alaska Highway project.

If the Alaska Highway had been a physical challenge, Turner's next assignment was a personnel nightmare. He was placed in charge of a program to restore the war-damaged roads and bridges of the Philippines at a time when the engineers he needed were just being discharged from the military and had little interest in service outside the United States. Nevertheless, he pulled together sufficient staff to launch the program, all the while training Philippines citizens to take over the work.

In 1950, Turner returned to Washington, where he became an assistant to Commissioner of Public Roads MacDonald. After the Eisenhower Administration fired MacDonald in March 1953, Turner served in a similar capacity with Commissioner Francis V. du Pont. From this post, Turner was a logical choice to work with the Clay Committee to develop a financing plan for President Eisenhower's proposed highway program. General Clay, an engineer who had served in the U.S. Army Corps of Engineers and was presently chairman of the board of the Continental Can Company, had no experience building roads, and neither did the commissioners he selected; Turner filled this gap.

During congressional consideration of the failed Federal-Aid Highway Act in 1955 and the successful 1956 Act, Turner was the liaison between BPR and the House and Senate public works committees. He provided the highway data the committees needed to develop the legislation and secure its approval in June 1956. From 1957 to 1969, Turner remained with BPR, serving as Deputy Commissioner, Chief Engineer, and then Director of Public Roads. In these positions, he played a major role in helping to resolve many project disputes and in keeping the Interstate System moving forward. He also worked closely with Volpe during his short tenure as Administrator.

Secretary Volpe announced Turner's nomination as Federal Highway Administrator on February 24, 1969. During Turner's confirmation hearing before the Senate Committee on Public Works on March 11, Senator Randolph asked about proposals to establish a trust fund for mass transit. Turner replied that those in the highway field had thought about ways of financing mass transportation for two reasons:

> A defensive one, first, because there are many proposals by mass transportation interests to transfer some of the needed highway moneys over to this other purpose, and, of course, because of our great need for those same funds, we must resist that kind of a transfer action.
>
> But we are also interested in it from the overall transportation standpoint, recognizing that a highway transportation mode by itself cannot supply the total needs for transportation in many of our urban areas. We must supplement it with other modes.

In most cases, mass transit was best accomplished by buses, although "in a few of our larger cities, we must go beyond that and possibly get into the fixed-rail type of facility."

Highway proponents had been fortunate "in finding a very satisfactory funding device by the highway trust fund," and such a mechanism for mass transit might be appropriate, but excise taxes on transit users would not, at present, produce "sufficient funds to finance the size of the program that is being thought of." He added:

> It may turn out, however, as a result of careful review of these transportation studies, we find out that we don't need as much investment in some of our fixed-rail type facilities as we have been thinking of up to this point, and if not, then the highway system that we would be building with the present trust fund, in and by itself, supplemented by a bus operation, might take care of a great share of this mass transportation need.

Asked to comment on news reports that Secretary Volpe was considering a Mass Transit Trust Fund, Turner replied:

> I participated in some of the discussions that led up to that proposal. It is just that, a proposal, and nothing else, at this point.
>
> Details have not been worked out, and I don't know that they can be completely worked out in a comparable way to the highway trust fund, but the advantages of the highway trust fund financing the highway program are so great that certainly it could be a good example for any

> other similar type of financing, or some other equally acceptable method of financing the mass transportation programs in our urban areas.

Aside from the continuing need for road building, Turner said diversion would violate a "compact" between Congress and the people of the United States that should not be broken. He admitted that critics had sometimes called him a "tool, as a member of the highway lobby, usually in a rather derogatory frame of reference." He continued:

> If there is a highway lobby in this country, and I think there is, it is not the highway lobby that is usually being referred to in those remarks.
>
> I think the highway lobby in this country is 205 million people. I believe it is a fairly powerful lobby, and I believe it a lobby that you and I should be responsive to.
>
> I believe that lobby is telling us they want an improved highway program. They want us to build not only more roads but to build better roads and make better utilization of the roads we do build.

[*Nomination of Francis C. Turner to be Federal Highway Administrator*, Committee on Public Works, United States Senate, Serial No. 91-3, March 11, 1969, p. 9-12, 23]

Turner took the oath of office on March 19, becoming the only agency employee to rise from trainee to Federal Highway Administrator. In addition to Secretary Volpe, the ceremony was observed by congressional leaders, including Chairman Fallon and Chairman Kluczynski of the House Committee on Public Works and Chairman Randolph of the Senate Committee on Public Works.

According to Kilgore, Secretary Boyd had offered his successor two pieces of advice: "Get out of Washington and see what is going on in the rest of the country, and don't get involved in the Washington, D.C. highway controversy." She continued:

> Volpe followed his first piece of advice. During the first few months of his administration, there was no early warning system in place to give notice that a highway project would encounter local opposition from neighborhood activists or environmentalists . . . . Several of the projects [Turner and his pro-highway staff] gave Volpe looked good on the map but proved disastrous in the field. During his first two months in office, Volpe approved projects based on the reports he was given. From his first day in office, he continued his practice of reading everything he signed and insisting on forty-eight hours' notice, no matter how tight the deadline. Soon he discovered, however, that the paperwork sometimes ignored or glossed over serious political problems . . . .

When Secretary Volpe and the Department moved to its new headquarters on 7th Street, SW., he soon fell into a routine:

> At 7 a.m., he would arrive at the DOT gym and go through his regular exercises, finishing off with a whirlpool bath. Then, as he had for sixteen years, he attended Mass, usually the 8 a.m. service at St. Dominic's just behind the DOT offices. After hearing about Volpe's physical fitness routine, Nixon joked at a press conference that Volpe was exercising with the space team and "might be one of our next astronauts." The new DOT building featured a gym with a weight room and a tiny wooden track on the roof. From the windows on the opposite side of the building, DOT employees could watch their boss patiently jogging his laps in the humid heat of a Washington summer or bundled in a sweatsuit in January. Employees began to use the new facility, too, while a few high-ranking officials even copied his hot tea and graham cracker snacks, hoping to get some of the same benefits he seemed to derive from his regimen. At home, the Volpes lived quietly, avoiding the Washington party circuit and accepting few invitations except those from old friends. [Kilgore, p. 179-180]

Urban Transit Challenges

As for former Secretary Boyd's second piece of advice, that proved impossible. The urban freeway issue in the District of Columbia and similar issues around the country became a theme that ran through Volpe's entire term of office.

During his first year in office, Secretary Volpe focused on transit. He recognized that improved transit was necessary for the car to operate more smoothly on congested city streets. However, as transit historian Smerk has pointed out, "An observer in early 1969 would have been accurate in stating that mass transit was a really 'safe' issue only for a senator from a state with one or more major urban centers or for a representative from a congressional district in a large urban area." Since its inception only a few years earlier, the transit program benefitted from traditional congressional practices:

> Log-rolling had been effective in permitting senators and representatives from transit constituencies to gain support from colleagues from electorates where transit seemed unimportant, but in the best back-scratching practice of Congress, a senator from a rural, agricultural state would back the transit program in return for support from a senator from an urban state for an agriculture measure. What was apparently lacking to boost transit was grass roots support; the federal mass transit program was seen by many as a program beneficial almost exclusively to large cities. Non-urban legislators would simply not give overwhelming support to transit legislation and the money it required unless the matter was one that promised broad, national benefits.

The urban transit challenge was worsened by the transformation of transit from a private to a public enterprise:

> Counteracting the image of mass transit as primarily a big-city concern was the slow but steady failures of private mass transit firms in all parts of the U.S. and in cities of all sizes. The industry in the aggregate ceased to be profitable in the mid-1960s for a variety of reasons. The growing inflation of the late 1960s was a serious blow to an industry that was fairly labor intensive. The cost of living was rising, and transit labor costs rose sharply as

> new contracts with transit workers' unions were hammered out. The cost of equipment and supplies also began to go up substantially, likewise due to inflation. If service was to be maintained, there was a limit to how much fares could be boosted and service cut. The aging fleet of transit vehicles grew inevitably older and more expensive to maintain, and there was little or no money in the transit property coffers for new equipment that was less costly to maintain. Marginal private operators all over the nation began to go out of business. An increasing number of cities—large, medium, and small—found that they would have to get into the transit business themselves if service was to continue. [Smerk, p. 110-111]

The evolution in transit was paralleled by a change in its trade groups. The American Transit Association, which began in 1882 as the American Street Railway Association, mainly represented privately owned bus companies. It did not effectively represent rail commuter or rapid transit operators who formed the Institute for Rapid Transit in the late 1950s. The association had not lobbied for government aid (in 1956, its primary goal was for buses to be exempted from the increased gas tax, a goal it achieved), but the institute would do so:

> From the start, the IRT membership understood the need for large sums of public money to revitalize and expand their properties. Many rail systems had suffered from decades of deferred maintenance; their leaders knew that local and state dollars were limited and that expanding the federal program in scope and in dollars appropriated was key to the success and survival of a reasonable quality of rail transit service. [Smerk, p. 109]

The fledgling Federal-aid transit program was subject to congressional funding decisions and subsequent appropriations acts, often based on political, economic, or other factors unrelated to transit needs. Without guarantees of future funding at levels to support the ambitious plans the Nation's cities were developing, transit interests sought to emulate the success of their highway counterparts who could rely on the Highway Trust Fund generating guaranteed revenue and contract authority to ensure its availability.

In early February 1969, Senator Williams and Representative Edward Koch (D-NY) introduced bills to establish a Mass Transit Trust Fund to collect revenue from the automobile excise tax. The 7 percent tax was set to drop to 3 percent in January 1971 and end by 1974, but Senator Williams proposed to leave the tax at 3 percent. Over 4 years, the new Mass Transit Trust Fund would accumulate $1.8 billion. Representative Koch, in his first term representing New York City in Congress, left the 7-percent rate in place to collect $1 billion in FY 1971 and $4 billion in FY 1974. His bill also removed the current cap of 12.5 percent on the amount any urban area could receive from total annual transit aid. The change, he said, would "enable the money to go where it is most needed—to the metropolitan areas."

(A June 1969 *Washington Post* feature about where new Members of Congress lived said that Representative Koch lived in Capital Park Apartments at 800 4th Street, SW, adding that he was "a 44-year-old bachelor, and the first Democrat elected in 31 years from Manhattan's Silk Stocking district. He walks to work and likes the accessibility of his present apartment, though he's looking for another one." [Wiegers, Mary, "Home From the Hill," *The Washington Post*, June 8, 1969])

Smerk explained why the bills and other interests pursuing a Mass Transit Trust Fund targeted the automobile excise tax:

> The money did not go into the Highway Trust Fund, and utilizing it did not seem likely to generate opposition from the highway interests who fiercely guarded the Highway Trust Fund against diversion to other than highway purposes. The automobile excise tax was attractive to legislators because it would not entail imposing a new tax. Proceeds were merely earmarked for a specific purpose rather than letting it go into the general fund of the U.S. Treasury. [“Transit Trust Fund Bills Are Introduced,” *Engineering News-Record*, February 27, 1969, p. 12-13; Smerk, p. 111-112]

Transit interests, as well as highway supporters, looked for signals from the new Secretary of Transportation about the direction of the Nixon Administration.

In the early months, Secretary Volpe reached out to the Department of Transportation’s constituents. He gave an interview for *Highway User* magazine’s February 1969 issue that touched on highway and transit issues. The interviewer began by noting the coincidence that as the first Federal Highway Administrator, Volpe had launched the Interstate System and as Secretary of Transportation he might bring it to a successful conclusion. Volpe replied:

> The coincidence is even more striking than your question indicates since it was Mr. Nixon, on behalf of former President Eisenhower, who presented the basic plan for completing the Interstate System to the Governors’ Conference in 1954. It certainly will be a source of satisfaction to me to work again with the States in pushing the Interstate program to the earliest possible completion as required by the law.

The Interstate program would end soon, but he emphasized that, “the traditional Federal-State highway program will never be brought ‘to a successful conclusion.’ It must continue to keep pace with the ever-increasing demand for personal mobility.”

Regarding the Highway Trust Fund, Secretary Volpe said “the integrity . . . must be preserved without question,” as was the intent of Congress and President Eisenhower in approving the Federal-Aid Highway Act of 1956:

> In my opinion, to divert highway use tax revenues to purposes other than the provision of highways would abrogate a long-standing moral commitment, as well as a statutory provision. The Trust Fund financing arrangement has been one of the essential ingredients in the present successes of the highway program and under no presently foreseeable circumstances should it be eliminated or diluted.

He also responded to a question about the future of rail rapid transit in large urban areas. Rail transit, he said, “certainly has a place” in larger urban areas:

> To be realistic, though, it is generally considered that rail rapid transit cannot be justified and successfully operated except in areas having at least 1,000,000 inhabitants. That

> severely limits its feasibility. There is a great future, I believe, in bus rapid transit, which is more flexible and can take advantage of such modern innovations as exclusive bus lanes on city freeways and other arterials. The surface of this possibility has barely been scratched, but we intend to promote the idea vigously. ["Secretary Volpe Tells Where He Stands," *Highway User*, February 1969, p. 4-5]

In an interview with the Associated Press a month later, he acknowledged that "bold new ideas" were needed for the Nation's cities. "If you get down to a point where automobiles have to travel five miles an hour, well, you know how long people are going to use them. They are going to walk to work instead of ride." He added:

> Some type of mass transportation has got . . . to get into operation pretty rapidly or we do face the real possibility that either we have to shut off to rubber tires certain limited areas within a city or charge a fee to come in there.

Highways simply could not get the job done on their own:

> But, by the same token, you just can't depend on a highway program to do the job completely, because it can't do the job. This has been proven in New York City . . . where over half a century ago—1917, I guess—the pushcart era—the average speed was 11 miles an hour. Today it's 7 miles an hour in New York. So we haven't made much progress in over half a century. So something needs to be done. And it needs to be done in a bold and imaginative way . . . .

The reporter asked about imposing user charges to discourage automobile use in central cities during business hours. Secretary Volpe replied that unless a lot more progress was made than in the last 5 years or so, "you're going to have to come to some type of restriction on certain areas within . . . the core city on the utilization of the automobile." He added that, "I would prefer to see the alternative of taking some people off the automobile tires if you provide good, swift, safe, economical mass transportation." Highways were going to be needed "as long as there's a United States of America," but "you are going to need mass transportation a great deal more and it's got to catch up." Moreover, if the Nation had promoted mass transit beginning in the mid-1950s the way it did the Interstate System, "we wouldn't be in the mess we're in today."

The reporter asked the Secretary's view of Senator Harrison Williams' proposal to create an urban transit trust fund to be financed out of automobile excise taxes:

> As far as I'm concerned, I believe the trust fund concept is one way to finance it . . . . It is one good way in which to make sure you will be able to finance over a specified period of time a specified number of miles of mass transportation that has been spelled out—similar to the highway program as it was spelled out in 1956 with a cost factor and a time factor to get it simultaneously completed in each state in the union.

He had heard that the highway lobby would oppose the use of automobile excise taxes for such a trust fund, but pointed out that "the excise tax funds . . . do not go into the highway trust fund." He did not think it made much difference which tax financed the proposed trust fund:

> As long as you have a specific tax, it's all going to the same pot right now, the general fund. So whether you take it out of the the automobile tax or you say 10 per cent of the cigarette tax, as long as you take a known tax provision now in the law and you say 10 percent of that, depending on how much that brings in, or 5 per cent or 15 per cent or 20 per cent of it. In other words, the only way you are going to be guaranteed that you'll have the money to do the job and get it completed over a specific period of time . . . is through that kind of an approach.

He also was asked if central city residents should have veto power over freeway construction in their neighborhoods. Secretary Volpe said that public agencies should listen to any responsible group. "But in the final analysis it is the elected or appointed officials who have to make some final judgments." He continued:

> Expressways are only one form. I'm convinced that you just don't stop a highway program because, perhaps, a few additional homes will have to be taken. [Hartnett, Ken, "Volpe Sees Immediate Need for Mass Transit Systems," Associated Press, *Fargo [ND] Forum*, March 27, 1969]

By April 1969, Secretary Volpe was publicly talking about a Mass Transit Trust Fund. On April 2, he said that the Subcommittee on Transportation of President Nixon's Urban Affairs Council had achieved a consensus in support of the idea. The source of revenue was undecided, but the automobile excise tax and the tax on cigarettes were under consideration. The subcommittee had rejected a direct user charge on transit passengers because, he said, "it would defeat the very thing we're trying to accomplish—getting more people to ride transit facilities."

Secretary Volpe said he was committed to the trust fund concept. "It's the only sure way suggested so far that over a course of time will really get the job done." He estimated that Federal expenditures between $10 billion and $100 billion would be needed in coming years to overhaul the Nation's transit systems. Only with an assured Federal funding source would local authorities be willing to launch the major construction projects that often require up to 10 years for completion. However, he opposed using Federal funds to subsidize operating expenses, which he felt would involve Washington in the business of running buses or subways.

Secretary Volpe expected the subcommittee to present a formal proposal to the council in two or three weeks and then to the President. He indicated that Secretary of Commerce Maurice Stans and Housing and Urban Affairs Secretary George Romney favored the idea, but the Bureau of the Budget and the Treasury Department opposed the plan based on their general opposition to trust funds. ["Transit Trust Fund," *Engineering News-Record*, April 17, 1969, p. 30]

Volpe told the Institute of Rapid Transit in a speech on April 17, 1969, that private transit companies "usually" could not make money. No city had a modern public transit system that could compete with the advantages of the automobile or adequately serve suburban areas, as well as a "ghetto dweller" who wanted to get to a job in the suburbs:

> We ought to rid rid of the idea once and for all that public transportation must make a profit at the fare box. I wish it could . . . . My position is that public transit is so important that we must look at its financing like most any other public service. We don't expect the Army to make a profit. We don't exact user charges for police protection. These services are considered so important that the entire community must agree to share the burden of supporting them. [Eisen, Jack, "Volpe: Transit Must Put Service Before Profit," *The Washington Post*, April 18, 1969]

With Volpe supportive, transit interests began to coalesce for action on addressing the growing transit problem:

> In early 1969, a coalition of interest groups began to form. A truly professional, consistent, and strong lobbying for transit had its genesis. The linchpin was the combination of the U.S. Conference of Mayors (or USCM, the new name of the American Municipal Association) and the National League of Cities (NLC). The Mayors' Conference and the League of Cities began to assemble a new mass transportation coalition, with Fred Burke, a highly skilled and effective lobbyist, employed to guide the work on the transit legislative program. The initial coalition included the NLC/USCM, the Institute for Rapid Transit, the American Transit Association, and the railroads working with IRT and the Association of American Railroads.

This coalition allowed the debate to expand beyond transportation to include urban revitalization and help for the urban poor. The coalition also made clear that it would oppose extension of the Highway Trust Fund unless highway interests backed the mass transportation program. Highway interests, aware of the growing opposition to highways and the Bureau of the Budget's desire to broaden use of the funds, agreed to support transit. "In short, seeing a fight ahead on the extension of their trust fund, the highway people felt it wise to support the transit constituency of the NLC/USCM." [Smerk, p. 112-113]

By mid-year, the American Transit Association had adopted creation of a Mass Transit Trust Fund as a major goal. The association's president for the year, S. A. Caria of the Minneapolis-St. Paul-based Twin City Lines, announced the decision in a speech to the New England Transit Club in Boston. He said that transit operators were "being asked not only to move people from 'A' to 'B,' but also to participate in the rescue of the American city." Operators could make "a major contribution but we do not have the resources nor should we be expected to have them."

The Urban Mass Transportation Act of 1964, he said, had resulted in a trickle of money, with the funds limited until 1968 to publicly-owned systems. Thus far, the legislation had provided "uncertain, hit-or-miss kind of assistance at best, not designed to attack the total problem on a broad front." Looking at the Interstate System, Caria said the secret of its success "lies both in the *total amount* of funds available through the trust fund, and in the *continuing nature* of that fund." He said the association's goal was supported by industry, the cities, the Executive Branch of government, and Congress, but acknowledged that some Members of Congress remained to be won over. ["A 'Trust Fund' for Transit?" *The American City*, July 1969, p. 130, emphasis in original]

(On December 26, 1968, Vice President-elect Agnew announced that Jerome B. Wolff, chairman-director of the Maryland State Roads Commission, would become his assistant. To ensure an orderly transition for the commission, the appointment would be delayed while Maryland held a special election to select a new Governor. "Mr. Wolff and I," Governor Agnew said from the State capital of Annapolis, "have agreed that he will make his services available to the new Governor for such time as may be required to effect an orderly transfer in the best interests of the State." Wolff's duties on the Vice President's staff would be flexible, according to the Governor, but would include only top-level assignments. ["Md. Official Named Aide to Agnew," *The Washington Post*, September 26, 1968] Wolff's title would be Advisor for Science and Technology.)

A Program for Urban Mass Transportation

The Administration seemed in tune with transit supporters about the need for a dedicated funding source. On May 9, 1969, Secretary Volpe was in New York talking about the coming Mass Transit Trust Fund. He did not specify where the funds would come from, although *The New York Times* observed that "in the past, he has indicated he favored the use of part of the current excise tax on new automobiles, possibly a new tax on cigarettes, or both." The report continued:

> The former Massachusetts Governor said proposed legislation calling for establishment of the mass-transit trust fund was being reviewed in the Treasury Department and the Budget Bureau. He said he expected to have the bill cleared for presentation to President Nixon within a week to 10 days. If all goes well, Congress would get the bill within a month . . . .
>
> Mr. Volpe told a reporter that he expected some resistance to his idea for a "trust fund" to help local governments build rapid-transit systems. But, he said with a faint grin: "I'm a fighter, and I expect to see this through."
>
> Much of the opposition to creation of a new earmarked trust fund, according to Adminstration sources, is that there is reluctance to remove what could be a sizable amount of Federal spending from the annual budget-drafting process. Since the money—as in the case of the $5.5-billion-a-year Highway Construction Trust Fund—is earmarked for a specific use, spending options are reduced.
>
> Mr. Volpe said the proposed legislation would call for a program running 10 to 12 years. The Secretary made clear that the bill would call for local sharing of the cost of the subways, rail lines and other types of mass transit that he envisioned for the cities. The formula had not been worked out yet, he said, but he suggested that the local portion might run in the neighborhood of 20 per cent to 40 per cent.

He expected the program to grow to "about $1-billion in two or three years." Asked how much New York State would receive, Secretary Volpe laughed and replied, "I'm afraid that's impossible to say. I'm sure New York City could itself absorb the $1-billion a year." He promised, however, to help the city get $200-million from the new program to help in financing "the $1.6-billion first phase of its massive new subway-construction program." [Lindsey, Robert, "U.S. Seeks Vast Aid for Mass Transit," *The New York Times*, May 10, 1969]

Rose found that, "Early on, Nixon's senior officials determined that securing additional finances for mass transit was their highest legislative priority." Volpe considered a trust fund for transit funded at about $300-$500 million a year by taxes on automobiles, cigarettes, and peak-hour fees for motorists on toll roads, but the idea made little headway within the Administration. The President was initially enthusiastic until his urban advisor, Daniel Patrick Moynihan, pointed out that the Bureau of the Budget and the Department of the Treasury were "fiercely opposed" to the trust fund concept. Volpe had tentative clearance for his concept by mid-July although an internal memo noted that "literally everyone at the White House preferred to finance the program out of general revenues." White House officials believed the trust fund concept worked only when the people being taxed would be the beneficiaries. [Rose, p. 110]

The mass transit trust tund idea "came to grief," as Smerk put it. The President took the advice of conservative economist and presidential senior advisor Arthur F. Burns, who led the fight against Secretary Volpe's proposal. Budget Director Robert P. Mayo and Chairman Paul W. McCracken of the Council of Economic Advisors sided with Burns. A bitter, unnamed aide to Secretary Volpe told a reporter, "The real stumbling block was that great 19th century economist with the pipe who has offices in the White House." ["Nixon Asks for $10 Billion for Transit," *The Washington Post*, August 7, 1969]

(Burns, as chairman of the Council of Economic Advisors (1953-1956), had played a key role in helping President Eisenhower develop his highway policy leading up to creation of the Highway Trust Fund and the Federal-Aid Highway Act of 1956.)

On August 7, 1969, President Nixon proposed an ambitious public transportation program. His special message to Congress on Public Transportation began:

> Public transportation has suffered from years of neglect in America. In the last 30 years urban transportation systems have experienced a cycle of increasing costs, decreasing funds for replacement, cutbacks in service and decrease in passengers.

Since most transit was provided by private companies seeking profit, the President added that:

> Transit industry profits before taxes have declined from $313 million in 1945 to $25 million in 1967. In recent years 235 bus and subway companies have gone out of business. The remaining transit companies have progressively deteriorated. Today they give their riders fewer runs, older cars, and less service.

Local governments, from the biggest cities to small and medium-sized communities, were ill-equipped to address the problem. For inspiration, the President turned to the Interstate System:

> When the Nation realized the importance and need for improved highways in the last decade, the Congress responded with the Highway Act of 1956. The result has been a magnificent federally-aided highway system. But highways are only one element in a national transportation policy. About a quarter of our population lack access to a car.

Unless public transportation became an attractive alternative to the private car, "we will never be able to build highways fast enough to avoid congestion." Already, the Nation faced "increasing congestion of our roads and strangulation of our central cities," he said, adding that, "we can imagine what our plight will be when our urban population adds one hundred million people by the year 2000."

He outlined his proposal to establish a public transportation program:

> I propose that we provide $10 billion out of the general fund over a 12-year period to help in developing and improving public transportation in local communities. To establish this program, I am requesting contract authorization totaling $3.1 billion for the first five years starting with a first year authorization of $300 million and rising to $1 billion by 1975. Furthermore, I am asking for a renewal of this contract authorization every two years so that the outstanding contract authorization will never be for a shorter period than three years. Over the 12-year period, $9.5 billion is programmed for capital investments and $500 million for research.
>
> The program which I am recommending would help to replace, improve and expand local bus, rail and subway systems. It would help to develop and modernize subway tracks, stations, and terminals; it would help to build and improve rail train tracks and stations, new bus terminals, and garages.
>
> The program would authorize assistance to private as well as public transit systems so that private enterprise can continue to provide public services in urban transportation. It would give State governments an opportunity to comment on project applications in order to improve intergovernmental coordination. It would require local public hearings before any major capital construction is undertaken. And it would permit localities to acquire rights-of-way in advance of system construction in order to reduce future dislocation and costs.

Under this program, the bus, train, and subway user would have better service. Cars would travel on less congested roads. The poor could get to new opportunities for training, rehabilitation, and employment, while city centers "would avoid strangulation and the suburbs would have better access to urban jobs and shops." He concluded:

> Most important, we as a Nation would benefit. The Nation which has sent men to the moon would demonstrate that it can meet the transportation needs of the city as well.

(Apollo 11 had landed the first men on the moon just a few weeks earlier, on July 20, 1969. The landing fulfilled President Kennedy's pledge on May 25, 1961: "I believe that this nation should commit itself to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to the Earth.")

What the proposal did not do was establish a Mass Transit Trust Fund to "Secretary Volpe's apparent surprise, and to the consternation of the transit support coalition," according to Smerk. This decision was urged by the Bureau of the Budget "which resisted trust funds because it felt they limited the flexibility of government to react to changing situations, needs, and problems." [Smerk, p. 112]

In October, the Department of Transportation sent 40 people on a government plane to Montreal for the American Transit Association's annual meeting. On October 6, Under Secretary of Transportation James M. Beggs urged the association to support the President's proposal, adding that if they could not support it, he hoped they would at least not oppose it. "Very frankly, if you lose this bill, I do not think there will be another one for several years." He explained that the Administration's financial officials refused to endorse a trust fund financed from the general Treasury, while taxing transit passengers would be self-defeating.

The next speaker was S. A. Caria, the association's president. He stated flatly that the association could not support the proposal. Because it would require annual appropriations, actual funding levels were unpredictable and subject to fiscal restraints on government expenditures. The association, he said, preferred a trust fund.

That same afternoon, the association announced that its man-of-the-year award would go to Senator Williams because of his support for the trust fund concept. In a press conference, Under Secretary Beggs praised Senator Williams as the father of the transit aid program.

On October 8, Senator Williams told the association that a 5-year program was desirable for long-term planning, especially in cities developing rapid transit networks. However, he criticized the President's proposal as "merely a rehash of the same old program" requiring annual appropriations and accused the Administration of misleading rhetoric. What was needed, he said, were unquestioned guarantees of long-term Federal funding. He intended to continue promoting the trust fund concept with revenue from the automobile excise tax.

Mayor Thomas D'Alesandro III of Baltimore, representing the National League of Cities and the U.S. Conference of Mayors, said the two groups supported the Williams proposal. "There appears to be a puzzling lack of clarity and frankness in statements by the national administration about what its legislation is intended to do," he said, "and there appears to be unanimity among local government officials that it will not do what it is advertised as doing." [Eisen, Jack, "Transit Aide Pleads for Industry Support," *The Washington Post*, October 7, 1969; Eisen, Jack, "Trust Fund on Transit Supported," *The Washington Post*, October 9, 1969]

Secretary Volpe missed the annual meeting because he was representing President Nixon on a mission in Europe. Later that month, he addressed the Oklahoma Good Roads and Streets Association on highway safety and the Administration's views on mass transit. He described the growing demand on roads and airlines brought about by population increases as well as economic growth:

> To meet this kind of demand means, in sum, that we must within the next 20 years double our transportation capacity. We are not going to achieve this expansion by simply building more of everything. We are going to have to develop new techniques–a new systems approach to the movement of people and goods. There is nothing on the horizon to indicate the American people are ready to curtail their mobility by relinquishing the door-to-door convenience of the private automobile. At the same time, it requires only elementary mathematics to realize that the staggering increase of about 3½ million vehicles a year cannot continue indefinitely. If it does, we shall shortly reach a point in our cities where there is no more room to drive.

According to a report of the speech, Volpe was explaining the Administration's transit proposal when he adlibbed, "Not one dime will come from the highway trust fund." [Young, Jim, "Volpe Quiets Fears of Interstate Road Fund Raid," *Oklahoma City Oklahoman*, October 31, 1969]

The transit coalition worked hard to convince Members of Congress to support Senator Williams's bill. The Senator, with help from Burke, found one key to success by proposing a compromise between general funding and a Mass Transit Trust Fund. He proposed to apply "contract authority," a concept central to the Federal-aid highway program since 1922, to transit funding. Under contract authority, the Secretary of Transportation could incur obligations on behalf of the United States up to the limit of authorized funds. Congress pledged to appropriate the funds required to liquidate the obligations. Congress had approved contract authority for the Federal-aid highway program to allow State highway agencies to engage in multi-year planning. If the Williams amendment were adopted, transit officials would have the authority to make similar long-term commitments of funds.

In December 1969, the Senate Committee on Banking and Currency introduced its bill. Contract authority was included, but not the trust fund concept. One committee member, Senator William Proxmire (D-Wi.), objected to the inclusion of contract authority in the bill because it "shields the program from the annual appropriations process and reduces the ability of Congress to alter program priorities from year to year." He said the trust fund concept, while absent from the bill, was less objectionable because "revenues are specifically related to the program which it finances."

He also objected to the bill because it did not allocate a portion of the gasoline tax for mass transit:

> I believe a particularly good case can be made for financing the mass transit program out of gasoline tax revenues which heretofore have been used exclusively for highways. The beneficiaries of mass transit expenditures are not only the riders who pay a fare, but also auto motorists who benefit from reduced congestion and who pay nothing . . . . Gasoline tax revenues are thus a fair and equitable way of financing Federal mass transportation investments. [*Urban Mass Transportation Assistance Act of 1969*, Report of the Committee on Banking and Currency, United States Senate, to accompany S. 3154 (Report No. 91-633, 91st Congress, 1st Session, December 22, 1969, p. 34-35]

The Senate approved the bill 83 to 4 on February 3, 1970. The House Banking and Currency Committee, with jurisdiction over urban transportation, approved the House bill in June. The Rules Committee held up consideration until the Senate passed its bill again in September with a House-backed amendment on secret foreign bank accounts. The Rules Committee released the bill within 10 days of Senate Action, but members claimed they really did so only after a luncheon meeting with President Nixon who said the proposed program had a top priority. ["Mass Transit Act a Shoo-In Following House Passage," *Engineering News-Record*, October 8, 1970, p. 12]

The House passed the bill on September 29, 1970, by a vote of 327 to 16. The finished bill contained the first long-term commitment of Federal funds for mass transportation, with a commitment of at least $10 billion over 12 years, beginning with $3.1 billion in FY 1971. This funding commitment, including contract authority, would allow officials greater flexibility in planning transit development. In addition, the bill included a strong policy on transportation for elderly and handicapped persons and required public hearings on the economic, social, and environmental impacts of proposed projects as well as analysis of their environmental impacts. Funding was from the general Treasury, with no dedication of user taxes such as the excise tax on automobiles.

President Nixon signed the Urban Mass Transportation Assistance Act of 1970 on October 15. In doing so, he noted the bipartisan nature of support for the legislation, Secretary Volpe's hard work, and the leaders of business, transportation, and labor unions who worked to secure passage. He said:

> This bill . . . provides a very significant financial commitment on the part of the Government to mass urban transportation systems. And it will mean that we will find the methods whereby in the future we can move into the cities and through the cities of our country in a way that will enable life in those cities to be much more attractive than would be the case, when the cities are jammed with traffic, when the air is polluted because of what comes from the automobiles that is directly related to this, and where people, therefore, find cities becoming basically unattractive due in great part to the very fact that going from home to work is just too much of a chore.

In praising Secretary Volpe, the President noted that in assessing the record of his Cabinet, "my guess is that the highest batting average will be that of Secretary Volpe. I don't want him to get puffed up about it, because . . . it happens that transportation is one area where there is no partisanship." He added that, "I understand there are several other pieces of legislation in the transportation field that are on the way to the White House." One of them was the regular 2-year reauthorization of the Federal-aid highway program, due in 1970.

Public Attitudes Toward Highways

By the time President Nixon took office on January 20, 1969, public attitudes toward highways had changed since the day in July 1954 when he announced President Eisenhower's Grand Plan for highway development.

Following enactment of the Federal-Aid Highway Act of 1956, highway builders began construction of the Interstate System. The public, which relied on motor vehicles in ever increasing numbers, looked forward to the new superhighways. Once construction began in cities, however, the mood changed as projects removed homes, businesses, and neighborhoods. When homeowners and business owners protested, local officials had to confront a controversy no one had seen coming. Urban critics cited the Interstate System as one of the most destabilizing influences on the city, while local elected officials struggled to respond to their citizens' unexpected complaints.

The highway community, stunned by the response, thought that it could address the issue through public relations (PR). Perhaps, highway builders reasoned, they hadn't expressed clearly enough the benefits the public would receive from the new highways. Surely relief of congestion, revitalization of central cities, replacement of dilapidated housing, and improved safety were compensation enough for the disruption and displacement. They launched what today would be called a media blitz, including annual presidential declarations of National Highway Week. During the week, State highway agencies would hold open houses, issue press releases, stage highway opening ceremonies, and publish ads and articles in newspapers and magazines emphasizing the benefits of the new highways. (President John F. Kennedy declared the first National Highway Week for May 21-27, 1961, "in recognition of the vital role of highway transportation in our way of life.")

The environmental movement that coalesced during the 1960's raised new doubts about the impacts of the program on cities and our natural, historic, and other resources. Urban planners and critics, who had been skeptical of the Interstate program from the start, pointed out that the urban destruction they had predicted was coming true. During the same period, the Civil Rights Movement empowered African-Americans to question the routing of the new highways through their neighborhoods (sometimes stated in protests as "white men's roads through black men's homes"). The growing controversy over the Vietnam War increased public doubts about the wisdom and honesty of their elected leaders—and all authority.

Despite the highway community's public relations efforts, the public could see that the promised urban benefits of the new highways were increasingly in doubt. Congestion was not relieved. Suburbanization was not reversed; suburbs expanded as the new highways opened farms to development, leaving behind lower income residents who needed high levels of city services from a declining tax base. Far from being revitalized by the new highways, cities lost their tax base while incurring increased costs from riots that marred the urban landscape and psyche in the 1960s.

By the end of the decade, highway builders seemed increasingly like highway dinosaurs determined to build their roads no matter what the public wanted, no matter how many neighborhoods they destroyed, and regardless of opposition from Mayors and City Councils. A frequent image was that they were "paving over America." In 1970, Joni Mitchell sang:

> Don't it always seem to go,
> That you don't know what you've got 'til it's gone.
> They paved paradise and put up a parking lot.

The sentiment was shared not just by rock fans and hippies. A broad spectrum of academics, commentators, officials, planners, citizens, and especially protestors included highway builders among the "they" who were paving over paradise. [Mitchell, Joni, "Big Yellow Taxi," *Ladies of the Canyon*, Reprise Records, April 1970]

Gradually, builders realized the PR would not be enough. They became more responsive to the environment and sensitive to those displaced by highway construction, especially as the highway business was transformed by laws such as the Highway Beautification Act of 1965, the National Historic Preservation Act of 1966, Section 4(f) the Department of Transportation Act of 1966, the National Environmental Policy Act of 1969, the Clean Air Amendments of 1970, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

By 1970, the estimated cost of the Interstate System had increased to $69.87 billion for the expanded 42,500-mile Interstate System (Federal share: $62.5 billion). As of December 31, 1969, almost 29,640 miles had been opened to traffic (70 percent of the mileage), with 3,144 miles of this total able to handle current traffic but needing additional improvement to meet the ultimate standards. Construction was underway on 4,782 Interstate miles.

As the cost increased and the public protested, urban officials facing angry protestors clamored to eliminate Interstates but somehow keep the money their construction would bring to their city. No method existed to accomplish their purpose.

Critics pilloried the program in books, magazines, newspapers, and television programs. Members of Congress became increasingly impatient. With the 2-year program authorizations from the Federal-Aid Highway Act of 1968 for FYs 1970 and 1971 coming to an end, an article in the March 2, 1970, issue of *U.S. News and World Report* summarized the crossroad facing the highway community:

> Big decisions—and a hot battle—involving the nation's multibillion dollar highway program are shaping up in Washington.

The State highway agencies, working through AASHO, were asking for more – a spending boost from $11 billion a year to $21 billion through 1985 for a grant total of $320 billion:

> With that money, the States say they would build 53,000 miles of new freeways through the country, improve tens of thousands of miles of roads of less-than-freeway dimensions, correct 180,000 unprotected railroad crossings, replace 89,000 bridges that are deemed to be unsafe or inadequate, and develop a vast new system of expressways in the metropolitan areas. About 29 billions of the total would go to complete the 42,500-mile interstate highway system that was begun in 1956.

Securing the funds would not be easy:

> The States' dreams of a vast new building boom run headlong into mounting opposition, both private and official.

> Some federal experts say the U.S. already spends too much money on highways, and that some of these funds should be diverted to improve public transportation, especially rapid transit.

The article listed some of the problems facing the highway community:

- In the cities . . . there is stiff resistance to building more freeways through settled neighborhoods, where houses have to be torn down, and where residents worry about noise, fumes, and the traffic that tends to spill into adjoining areas.
- Outside the cities, conservationists criticize the impact of new highways on woodlands, wildlife and drainage.
- Increasingly, there is concern that the process of building superhighways may have no end. More roads seem to generate more traffic, which in turn requires more roads.

The article concluded:

> All this needs to be done, the State engineers say, in the interest of safety and better movement of people and products. The huge road-building boom they urge would also provide tens of thousands of jobs and absorb vast amounts of cement, steel, and construction equipment.
>
> Thus, the stakes are high as the battle over the future highway program begins. ["320 Billion Dollars More for Future Highways?" *U.S. News and World Report*, March 2, 1970, p. 8]

During the early years of the program, television, newspapers, and magazines had featured reports of waste, fraud, and abuse. These reports of what was sometimes called "The Great Highway Robbery" prompted calls to halt the program so it could be corrected. Urban critics joined in the calls for a moratorium. Ultimately, congressional investigators determined that the problems were isolated and could be corrected through the enhanced oversight being provided by BPR. The battle, by then, had shifted to the cities.

As the 1970s began, the media was again taking on the entrenched highway lobby. Mowbray's 1969 *Road to Ruin* was an example, as was the October 10, 1969, issue of the popular photo-essay magazine *Life*. Under the heading "Threatened America," *Life* published Paul O'Neil's article "Kill the Hill! Pave that Grass!" Adopting a reverse-psychology approach, O'Neil began:

> Fulminating segments of our citizenry lately made it fashionable to protest the construction of new, multilane superhighways, even when they are not being asked—and this may startle you a bit—to surrender their own houses to concrete and the common good . . . . Most of the malcontents are just as involved with cars as the rest of us, *need* new superhighways (known only a few years ago as "good roads") to run them on, and wouldn't go near a tree or a beach if they couldn't drive to it. There are a few hikers and deep breathers among them, true, and a few nuts who don't own automobiles, but these fine folks need new paving as much as we do; they, too, are subject to the car-truck-tire highway economy in which we all exist today.

As for parks, clean air, trout streams, grass, and secluded neighborhoods, "We'll all be better off . . . when we face up to the fact that they are rapidly being outmoded, and when we get it through our heads that the rights, needs and importance of automobiles have superseded the rights, needs and importance of humans in many areas of our culture." We would be a lot better off, O'Neil assured readers, if we would all just accept that "our children will adjust nicely to the noise, glare, exhaust-laden air and increasingly sterile landscapes of the future."

He added that the highway network is a marvel:

> American highway engineers have long since accomplished the world's greatest feat of construction: there are 3,600,000 square miles of land in the U.S. and they have built 3,600,000 miles of road across it—an accomplishment which makes the men who raised the pyramids of Egypt and the Great Wall of China seem like dilettantes . . . . The engineers have been thoughtful in the use of this power, too—they have tried their best to put their roads not only through unused wilderness areas (thus "opening them up" to motels and motorists) but through city parks—thereby saving the taxpayer's money and displacing hardly more than 100,000 people a year from their homes.

Sure, he said, we would be "subject to deafening waves of dissent as we press on with the task of making our great highway system even greater." And sure, superhighways "*do* cut towns in half, ruin the countryside, and make night hideous for those who live near them," so some might be a little sore about them:

> But a lot of us have already gotten sore—our new 41,000-mile Interstate highway system is presently gobbling up more right-of-way than is contained in the state of Rhode Island—and all the frayed tempers, cries of despair, letters to legislators and public meetings have not inhibited the advance of the road crews by a hundred yards.

Nor will those fruitless protests become more effective:

> There's a reason: the Highway Trust Fund—a pork barrel of such magnitude that no congressman, senator, governor or state highway official can possibly ignore it. The Fund sucks tax money out of the sale of spare parts and tires, and takes four cents from the price of every gallon of gasoline solid in the U.S. It puts all this treasure back into superhighways. Since every mile of road increases tire and gas consumption the Fund gets bigger—and spawns yet more roads—every year. It will go on doing so: a congressman risks political suicide if he does not bring home ready-for-the-asking federal funds, and a governor would be considered mad if he rejected such gravy.

President Johnson offered a cautionary tale for those who tried to interrupt the flow of money. When he tried to hold up the funds for fiscal reasons, he gave in after 6 months of being "filleted and fried by all the good old boys who didn't want their country deprived of a mile of paving it deserved." When he thought about it the next year, "the governors raised such hell ('Complete farce,' cried Pennsylvania's Raymond P. Shafer; 'Dishonest,' said California's Ronald Reagan) that he hastily lopped foreign aid, poverty funds and other such unimportant areas of fiscal endeavor instead." O'Neil added:

> "Any cutback in the highway program," as Maryland's Congressman George H. Fallon intoned, "would [have amounted] to breaking faith with . . . motorists." [O'Neil, Paul, "Kill the Hill! Pave that Grass!" *Life*, October 10, 1969, p. 126-134]

This article was in addition to a cover article in the May 30, 1969, issue of *Life* about "Our Deadliest Highways." For example, "Of the old deathraps, none is worse than two-lane U.S. 20, a coast-to-coast route that was built 49 years ago. In the western Illinois hills, the road is a winding ribbon—only 18 feet wide with no shoulders . . . ." A road signed warned motorists:

DANGER
ENTERING 55 MILES OF TREACHEROUS
HIWAY 20

["The Highways as a Killer," Crane, Ralph, photographer, *Life*, May 30, 1969, p. 24D]

Helen Leavitt's 1970 book, *Superhighway-Superhoax* (Doubleday and Company, 1970) was a denunciation of every aspect of the highway program. She was a free-lance writer in Washington, D.C., who had become interested in highways when the city was planning a freeway that would take her townhouse. The book jacket assured readers that "we are strangling in a concrete straitjacket that pollutes the environment and makes driving a nightmare." Leavitt attacked the urban Interstates, the highway lobby, and the Highway Trust Fund. The "never ending flow of Highway Trust Fund money," she said, had created "the vast imbalance in our transportation situation." As a result, "the highway program is simply not subject to the same competitive pressures as other programs." The Highway Trust Fund and its State counterparts "must be eliminated as an exclusive conduit of money for highways." [Leavitt, p. 277-278]

One of her central ideas was that transportation "planning" was "guided by funding, not the other way around," since "there was no money available for alternatives." She considered the "strong sentiment" for a separate mass transportation trust fund unfortunate:

> As tempting a prospect as this seems, it would only create a new boondoggle. Trust funds are bad policy. However purely motivated their sponsors, such aggregations of money take on a life of their own. Should such a mass transportation trust fund be established, by whatever means, it is quite likely that every one of our urban areas would soon be covered with a complex of subway stations, whether they made any transportation sense or not . . . .
>
> Not surprisingly, Secretary of Transportation Volpe, a highway enthusiast and champion of the Highway Trust Fund, has endorsed the creation of a special trust fund for mass transit. He believes this will fend off enemies of the Highway Trust Fund. [Leavitt, p. 279]

She added that President Nixon's proposal of a 10-year mass transit program had sidetracked Secretary Volpe's trust fund concept, but it had also been "rejected by the fifty governors." They preferred the proposal to dedicate revenue from the automobile excise tax to a Mass Transit Trust

Fund that would guarantee funding outside the competitive congressional appropriations process. [Leavitt, p. 280]

Leavitt supported continued taxation of highway user products. The use of that revenue was her concern:

> [At] both state and federal levels, the money should go into *general funds* so that highway boosters will, for the first time since 1956, have to *compete* for priorities, instead of being automatically funded. [Leavitt, p. 277]

An editorial in *Better R*oads magazine called the book a "slam-bang attack," but acknowledged that "Helen Leavitt is not some Johnny-come-lately reporter who stumbled on a controversial subject and wrote a book about it." Her "rather single-minded point of view" was nurtured "in the fight to stop freeway construction in the District of Columbia." The editorial continued:

> The author has been diligent in her research. Her book is a considerable catalog of highway-department bad guesses, poor judgments and assorted idiocies. The unfortunate fact, of couse, is that such things did happen. In retrospect they look terrible. The fact also remains that in too many instances too many highway departments were insensitive to what later became hard-core public opinion. Where they have sowed the wind, they have been reaping the whirlwind. And once such an uproar has begun it seldom goes completely away. Mrs. Leavitt's book is a case in point.

Being single-minded, she saw mass transit as "the be-all and end-all for cities." Some of her suggestions "have merit," but "we doubt that highways—even urban highways—will ever get as low on the priority scale as she seems to think they should." ["Another Critic Views Urban Freeways," An Editorial Viewpoint, *Better Roads*, June 1970, p. 4, 7]

The Road Gang, which began in 1942 as an informal luncheon forum for the exchange of ideas by public and private executives whose interests were broadly related to highway transportation, invited Leavitt in 1970 to defend her book. It was a contentious event, as described in *Road Gang Goes for the Gold*, published in 1992 to celebrate the group's 50th anniversary:

> Another "first" was a woman guest speaker, Helen Leavitt, who not only drew a large attendance but sparked some of the liveliest, if not the loudest, discussion in Road Gang experience. In the words of Chairman [Charles W. "Bill"] Day, who even used his horn to help sustain order, the debate was "brisk."
>
> Others remember the meeting as loud, maybe even a bit raucous.
>
> Leavitt came to the Road Gang to defend her controversial new book, "Superhighway, Superhoax," a strongly-worded, put-down of the nation's highway program, which she said amounted to a "concrete straightjacket that pollutes the environment and makes driving a nightmare, the most destructive and inefficient transportation system available."

The recollection concluded by pointing out that the Road Gang "has grown and prospered" since then. Meanwhile, Leavitt's book "has since gone out of print." [Knight, Don, editor, *Road Gang Goes for the Gold*, A Special Commemorative Newsletter Tribute to the Road Gang, June 25, 1992, p. 5]

(In 1996, the New York Public Library included Leavitt's book among the Books of the Century. "The book's argument and central paradox, that most superhighways bring increased traffic congestion rather than less, has never been effectively countered." The citation noted some of her criticisms, "most notably, she demonstrates environmental degradation, strangled cities, and ruined public transportation systems." [Diefendorf, Elizabeth, Editor, *The New York Public Library's Books of the Century*, Oxford University Press, 1996, p. 147])

Around the same time, David Hapgood, senior editor of *Washington Monthly* magazine, criticized the Highway Trust Fund in an expose of "The Highwaymen." His indictment was similar to that of other critics, including Mowbray and Leavitt. He told readers that, "Nothing generates more financial return, legal or otherwise, to those in office than highway construction." The 1956 plan for financing the Interstate program "was a classic raid on the Treasury." He continued:

> In the annals of lobbying, the highwaymen who executed this coup deserve to be listed alongside those Chinese contractors who convinced the Ch'in emperors to build the Great Wall of China. There are certain similarities between the two operations.
>
> The Great Wall was supposed to keep out Mongol invaders. The highway lobby's trump card was the claim that what it got Congress to call the "National System of Interstate and Defense Highways" would serve to move military units in case of war—making opposition to it seem somehow unpatriotic . . . . The Great Wall did not keep the Mongols out, but the Chinese kept building it over the centuries. Similarly, the interstate highways would be of no use in a 24-hour nuclear war, but, in 1968, Congress added on another 1,500 miles to the system. Doubtless the Great Wall lobby in its time, like its American counterpart now, argued that the economy would go into a tailspin if the local contractors were deprived of work.
>
> The arrangement by which money would be made available to finance the highwaymen's mandate was the lobby's greatest accomplishment. This arrangement, which cynics call the Ever-Normal Trough, requires that all revenues from the federal gasoline tax—now 4 cents a gallon—and other highway-related taxes (tires, spare parts) be set aside for highway construction alone. Instead of having to engage every year in the kind of undignified scramble for federal money that takes place over the Rivers and Harbors Appropriations bill, the highway lobby draws its sustenance from a trough that is refilled automatically every year without legislative appropriation . . . .
>
> In a moment of inspiration, Congress named this device the "Highway Trust Fund." The idea is that the taxes are paid by people who use the highways and must be held in sacred trust for more highways. To use the money for any other purpose, the argument goes, would be to violate that sacred trust. Representative Jonathan Bingham (D-N.Y.), one of the small

> band of guerrillas who resist the highwaymen, asked not long ago what would happen if the principle of the Highway Trust Fund were to be applied to the federal tax on alcoholic beverages. Would the alcohol tax be spent only on building bars?

Referring to efforts by Representative Ryan and others to divert some of the funds to mass transit (the measure the highway lobby "hates most"), Hapgood said that such efforts are supported only "by about a dozen other members of House." He quoted one of those supporters, Representative Richard (Max) McCarty (D-NY), as saying his colleagues treated the idea as being the equivalent of "burning the flag!"

Hapgood summarized the Administration's urban mass transportation proposal, which at the time Congress was still considering. "Of course, Congress would have to appropriate the money, and the Nixon-Volpe team opposes a mass-transit trust fund as much as they favor the highways' Ever-Normal Trough."

Still, "the odds against those who oppose urban highways today are somewhat less than they were" just a few years earlier. And the highway lobby was facing a reckoning:

> A large battle over the future of the entire Interstate Highway Program is shaping up for the early 1970s, and the lobby has already begun preparing for that fight. The precipitating factor is the expiration date of the "trust fund." Created in 1956, the trust fund was originally due to expire in 1972; it has already been extended to 1974. No one can expect the highwaymen to give up $5 billion a year without a fight.

That lobby, Hapgood explained, was "paid and professional," in contrast to highway opponents who tended to focus only on the project affecting their homes or livelihoods. "City antihighway groups usually disappear as organizations after their own battles are lost or won." The individual dissidents—such as residents, business owners, conservationists, planners, and environmental scientists—had not coalesced into a national pressure group. However, he saw them as part of a larger adjustments as the country reacted to the economic, social, and political changes of the 1960s:

> The highway revolt is against the tyranny of the machine—the highway bulldozer and the political machine that drives it. Being helpless before the highway lobby is just one form of the powerlessness that Americans increasingly resent. Seen from this perspective, the battle between city people and the highway establishment is one front in the developing struggle between those who want to redefine America and those who want to keep it the way it was.

[Hapgood, David, "The Highwaymen," *Inside the System: A Washington Monthly Reader*, Peters, Charles, and Adams, Timothy J, editors, Praeger Publishers, 1970, p. 141-142, 154-155]

These images—the unstoppable "highway bulldozer," the ever-flowing Highway Trust Fund, and the unrelenting "highway lobby" battling desperate homeowners and far-sighted critics—had come to dominate public perception as Congress began work on the next Federal-aid authorization legislation.

The Highway Lobby Fights Back

Federal Highway Administrator Frank Turner did not appreciate such criticism. As he told AASHO during its annual meeting in October 1969, a "current day mythology" had arisen of "myths that have no relationship to reality, but nevertheless are being talked and written about to attract the attention of some of the public who would rather believe in fancy than facts." He cited some examples:

- **Highway lobby?** It consists of "our 101 million motor vehicles" and "includes most of the rest of our 200 million people."
- **Paving over America?** The mileage of roads had increased "less than ¼ to a total of 3.7 million miles," compared with 3 million when the Federal-aid highway program began in 1916 – "while population has doubled but vehicles have increased thirty-fold."
- **Traffic moving slower today than in the horse-and buggy days?** "This is always good for a chuckle or a 'horse laugh' but it too is without factual substance."
- **Rail transit can substitute for highway transportation?** In larger cities, rail transit might supplement highways, but elsewhere, mass transit meant buses. "To talk about rail transit as the single, simple panacea for all the nation's transportation problems in every urban area simply does not jibe with reality." That is one of the reasons he supported the Administration's urban mass transportation bill. "Please note that the bill would permit both-or-either rail and bus types of mass public transit."

He added:

> In dealing with the real world of today we must base our actions on sound basic information and constantly apply the trained professional expertise and experience which we have learned. We cannot be motivated by simple hunches and emotions.

The danger facing the highway community from the widespread criticism, myths and otherwise, was not lost on the members of AASHO. Its president, Ross G. Stapp of the Wyoming Highway Department, told members:

> Because of the attacks from every quarter on the highway program and because of the jeopardy the Highway Trust Fund has been placed in, it is evident there is a deepening crisis in the highway program. Our mission in AASHO and in the highway community is not just to live with the crisis, but to exert every effort toward reversing the trends considered not to be in the best public interest.

Some progress had been made through such initiatives as National Highway Week. Stapp was certain that highways were supported "by a silent majority of the people in the country," but unless they spoke up, "certain interests could so slow down the highway improvement program to a degree which could result in an inadequate highway system for an ever increasing demand within a few years."

The challenges were obvious:

> Diversion of Highway Trust Fund monies is one of the most pressing current and long-range problems that AASHO and the highway industry faces. AASHO must devote its resources to maintain the integrity of the Highway Trust Fund . . . . It is distressingly simple but alarmingly catastrophic that if these raids on the Trust Fund, this highway robbery, is allowed to succeed we simply cannot have any long-range programs.

He acknowledged that other needs existed, such as urban mass transportation, but "the Highway Trust Fund must be utilized exclusively for solving highway problems."

Protecting the Highway Trust Fund "will be no mean task," but one step would be to "do everything within our power to dispel the image we have, unfortunately and inadvertently, assumed in the eyes of some of the public." They would have to convince the public of the falseness of the "image of the autocratic highway builder who builds with little or no concern for the urban dweller, for the suburban dweller or the rancher or the farmer or whomever is affected by our highways . . . ."

A feature of the 1969 annual meeting was a roundtable discussion among Stapp, AASHO's incoming president Douglas Fugate of the Virginia Department of Highways, and several Members of Congress, including Representative's Fallon, Kluczynski, and William R. Harsha of Ohio, the ranking Republican on the Committee on Public Works. Harsha warned AASHO that in view of the widespread criticism, "1970 is going to be a highly critical year for the future of the highway program." He continued:

> In fact, it may be one of the most important years for that program since the inception of federal aid highway construction . . . . [You] can no longer afford to sit idly by and say that things will take care of themselves. The opposition is not sitting idly by and it is articulate and persuasive, and your role as highway officials and department heads in the states should reflect the needs and the public attitudes in all of the states. You will be called upon to play a major role in the formation of any legislation next year. Your role in meeting this responsibility will be a most important one, and let me caution you that you must meet this challenge aggressively, effectively, and thoroughly. If you fail or shirk in exercising this responsibility, others will accept it and you may not be happy with those results.
>
> I sincerely believe the future of the highway program as you conceive it hangs in the balance, so again let me urge you to play the role that is yours in meeting these challenges which confront the Congress next year.

On March 2, 1970, Secretary Volpe reassured participants in ARBA's annual meeting that "highways are here to stay" and that "despite what some people say we must keep our highway program." Highways "will never solve all of our future transportation challenges," which meant the country needed a strong mass transportation program. He told a press conference, however, that he did not favor the use of highway funds for mass transportation. He preferred separate accounts for rail, highway, air, and public transit. [Goldsand, Alan, "Volpe Assures Builders on Federal Road Funds," *Journal of Commerce*, March 3, 1970]

Despite these assurances, cracks were evident in the foundation of the Highway Trust Fund. In May, *Engineering News-Record* ran an article headlined "Highway Trust Fund Isn't Sacred Anymore." It began:

> As Congress warms up to consider future federal-aid highway program, the sanctity of the Highway Trust Fund is coming under increasingly strong attack.

The article said that Senator Proxmire, during a subcommittee hearing of the Senate-House Joint Economic Committee, had suggested that the Department of Transportation propose extension of the Highway Trust Fund only long enough to complete existing authorized systems. That would carry it only to 1974:

> Proxmire favors a broader approach to financing federal transportation programs, as does Transportation Secretary John Volpe, who says he will recommend a national transportation trust fund before the end of the year. The political climate is not right just now, he feels. "We have a great deal of education ahead of us if we are to convince industry and Congress."

As part of that education process, Volpe had participated the previous weekend in the spring meeting of the Business Council, telling the "blue-chip company chiefs" that, "I doubt very seriously whether you can get a change in thinking that will allow a diversion of the Highway Trust Fund to nonhighway uses." In the near term, he saw the possibility of using Highway Trust Fund revenue for highway safety, national forest roads, and other matters directly related to highways. However, he said that he would be working for a flexible general fund. He advocated four designated accounts (highways, aviation, urban transportation, and one not specified), but with the States being able to transfer funds among the accounts

Appearing before the Proxmire subcommittee, Peter S. Craig, former Assistant General Counsel for Litigation under Secretary Alan Boyd and a leading opponent of freeway plans in the District of Columbia, had said that assigning highway user tax revenue to highways "makes about as much sense as earmarking all federal estate taxes for use of the deceased only." He thought that "the time is overdue . . . to turn to other options providing democratic, local responsibility for public transportation expenditures."
Urban needs were of particular concern, in part because of the transformation of transit from a private to public enterprise. Harvard Professor of Economics John F. Kain had told the Proxmire panel that linking highways and mass transit construction would result in "revolutionary improvement in the quality and quantity of urban transportation services . . . in every U.S. metropolitan area in a relatively short period."

Highway advocates disagreed. Yule Fisher of the Highway Users Federation for Safety and Mobility (HUFSAM) had defended the Highway Trust Fund during testimony before the House Subcommittee on Roads. For at least 15 years, highway needs "will require all the funds in sight." He added, "It is imperative that the Highway Trust Fund be extended and dedicated exclusively to highway purposes." Speaking on behalf of AASHO, Douglas Fugate "joined a long line of witnesses who proposed extending the trust fund, some through 1985."

Clearly, the article summarized, “the highway program is not the darling of Congress that it once was.” [“Highway Trust Fund Isn’t Sacred Anymore,” *Engineering News-Record*, May 14, 1970]

National Transportation Trust Fund

On February 13, 1970, the Proxmire subcommittee issued a report on “Economic Analysis and the Efficiency of Government.” It recommended abolishing the Highway Trust Fund and other trust funds (excluding the Social Security Trust Fund) because “the trust fund mode throws the budget out of control and effectively insulates programs from the effective congressional scrutiny which efficiency demands.” Trust funds also channeled benefits to higher income classes and regions, with the benefits “free of charge.” They “foster serious overspending on some programs and [have] created undue pressure for increased public support by those subsidized.”

Senator Proxmire, the chairman, said the subcommittee opposed trust funds because they left Congress “operating in the dark” in analyzing the value of potential Federal expenditures. Congress should scrutinize needs annually and approve appropriations to meet proven needs in the normal way. (In his comments on the Urban Mass Transportation Assistance Act, he had raised similar objections to contract authority and suggested that a Mass Transit Trust Fund would obviate the objections, but his comments here were outside the context of the contrast with contract authority.)

The report also recommended that authorizing committees scrutinize the objectives, effectiveness, cost, and benefits of each program under its jurisdiction. This periodic review “would eliminate the possibility that inefficiencies and inequities would become buried in the past and remain undetected for years.” Further, Congress should automatically review each Federal program every 5 years “from the ground up” to determine if they remained useful.

One member of the committee, Senator Charles H. Percy (R-Il.), disagreed with the conclusion on trust funds. He said that, “in a theoretical and fiscal sense, such a recommendation has considerable merit.” However, it “lacks practicality in the real world in which we live.” Trust funds were not an “economic panacea,” but “facing political and social realities, the concept when properly used may provide the most effective means to allocate governmental financial resources.” As for the Highway Trust Fund, he did not support its termination, but rather “its conversion into a transportation fund” to support a balanced transportation system. [Cohn, Lee M., “Congress Unit Asks End of Highway Trust Fund,” *The Evening Star*, February 14, 1970, “Abolition of Trust Fund Sought in Joint Congressional Report, *Transport Topics*, February 23, 1970]]

In August 1970, the Joint Economic Committee issued a report on *Federal Transportation Expenditure* that repeated many of the concerns about the Highway Trust Fund. It recommended:

- A unified approach to decisionmaking on transportation funding, including full review of alternative ways of meeting a need and the priority relative to other possible uses;
- Congress should incorporate comprehensive analysis of social costs and benefits into its funding decisions, particularly regarding the remaining segments of the Interstate System;
- Transportation expenditures should be subject to budgetary review, with the Highway Trust Fund phased out;

- Highway programs should contain incentives for developing efficient road pricing, including tolls, to reduce urban road congestion and obtain efficient allocation of resources; and
- States and localities should be able to use Federal aid in the most efficient way possible instead of being restricted by funding source, as was the case with Highway Trust Fund revenue. [*Federal Transportation Expenditure*, Report of the Subcommittee on Economy in Government of the Joint Economic Committee, Congress of the United States, Joint Committee Print No. 9, 91st Congress, 2nd Session, August 17, 1970]

(Senator Proxmire would raise his concerns again in his 1972 book *Uncle Sam—the Last of the Bigtime Spenders* (Simon and Schuster). He said of the Highway Trust Fund:

> The highway trust fund effectively insulates the highway program from policy planning, economic analysis, and Congressional scrutiny. It does this not only because funds are allocated by formula instead of on the basis of demand, benefits, and cost; it does it also because the formula is based on the past use of highways rather than on the prospective demand which should be efficiently met.

(In a section with the subhead "The Highway Trust Fund Frustrates Intelligent Action," he said, "One could hardly devise a system better designed to frustrate and thwart intelligent attempts to make choices or properly order priorities." [Proxmire, p. 270] He added that in the Department of Transportation Act of 1966, Congress had prohibited the new Department from considering cost versus benefits:

> The act reads: "The Secretary . . . shall develop and . . . revise standards and criteria . . . for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with . . . (6) grant-in-aid program authorized by law."
>
> The key "grant-in-aid programs authorized by law" is the highway program. No economic evaluation of the investment of funds in highways can be made. This was the price the highway lobby extracted for its support to establish the new department, out of fear that such studies would lead to more funds for mass transit and less for highways. [Proxmire, p. 33-34])

On February 26, 1970, the Senate Committee on Commerce had opened hearings on the Rail Passenger Service Act (S. 924) and the National Transportation Act (S. 2425). Chairman Warren G. Magnuson explained that, "The economic and social conditions of every nation are shaped, to a large extent, by its transportation system," but given the "economic, social and environmental costs of our present transportation network," the need for a "fresh look at transportation in America becomes more imperative." The National Transportation Act required the establishment of regional transportation commissions charged with the planning and construction of integrated transportation systems taking into consideration such factors as environmental quality, land-use planning, and the location of pipelines and power transmission facilities. The hearings, Chairman Magnuson said, were intended to examine the accuracy of common assumptions:

> The first assumption is that our present transportation system is not really a system at all, but rather a combination of various sub-systems that bear little or no relation to one another. Second, we assume that this "non-system" is costly to America, for social and environmental reasons as well as for the more obvious reason that traffic congestion in all modes of transportation has reached the crisis point. Third, we assume that technological solutions to our urban and interurban transportation problems have been or can be developed. Fourth, and perhaps most importantly, we assume that rational implementation of such solutions requires an appropriate political framework within which transportation policy can be made, and that such a framework does not now exist. [*National Transportation Act*, Hearings before the Committee on Commerce, U.S. Senate, 91st Congress, 2nd Session, Serial 01-69, p. 1-2, 50]

On April 14, Senator Edward M. Kennedy (D-Ma.) testified before the committee in support of regional commissions. The National Transportation Act, he said, "gives us the opportunity to do what we should have done 30 years ago—an opportunity to plan, develop, and execute rational regional transportation systems that are linked coherently to a comprehensive national transportation policy." To achieve "a more balanced and coordinated system," regional commissions would be able to "determine the most effective use of the new technologies already available . . . in light of the overall transportation needs of the corridor—not independently by individual Federal agencies, States or cities."

Senator Kennedy took the opportunity to ask the committee to consider creation of a national transportation trust fund "to replace existing funds and to provide the financing needed for the development of a balanced, intermodal transportation system for the seventies." At present, supporters of each mode "tend to compete with each other for funding under our present laws." He said:

> Without congressional action to establish such a fund, I fear that the programs authorized under this legislation and the goal it sets for the achievement of a transportation policy are doomed to failure, We must recognize the fact that separate trust funds, almost necessarily, are self-perpetuating. They continue long after they have fulfilled the purpose for which they were established. [*National Transportation Act*, p. 225-226]

Secretary Volpe testified the following day. He was supportive of comprehensive planning, but identified several problems with the regional concept, such as establishing boundaries. During questioning, Senator Vance Hartke (D-In.), chairman of the committee's Surface Transportation Subcommittee, asked if Secretary Volpe thought the bill should be amended to include a national transportation trust fund. The Secretary said he supported the overall concept, but added:

> Mr. Chairman, I would be very frank to state I do not think the climate at the present moment is such that you would be able to get the kind of support and have as well thought out an arrangement for a total transportation trust fund which I believe is absolutely essential to its success.

Such a fund would have "many ramifications" and "hopefully [we] can identify the many problems and come up with some suggestions for solutions . . . . But they are not easy of fulfillment." He hoped to have a proposal on the concept by the end of the year. What he had in mind, he said, was something similar to how the Federal-Aid Highway Act of 1956 established the Highway Trust Fund to complete the Interstate System simultaneously in all the States within a specified time frame. "What we have to achieve is something along the same line that would provide for this total transportation concept and do the total job on an intermodal basis." [*National Transportation Act*, p. 256-257]

Representative Koch introduced H.R. 18319 on July 7, 1970, to create a unified transportation trust fund. In extended remarks printed in the *Congressional Record*, he said:

> My bill is designed to cut across the rigid modal patterns that today restrict the development of a balanced transportation system and which result in inefficient and distorted uses of our transportation resources.

Title I of the bill required the Secretary of Transportation to develop a comprehensive plan for the use of the Nation's transportation resources to implement national transportation policy. Title II created a single transportation trust fund from the existing trust funds for expenditures in accordance with the comprehensive plan. "It will unify and coordinate the way we spend our money on transportation and lead to more effective utilization of our resources." Title III was essentially the mass transit bill he and Senator Williams had introduced in February 1969 to establish a Mass Transportation Trust Fund, with revenue from the 7-percent Federal excise tax on new automobiles, to provide "increased revenues for, and expand the effectiveness of our programs for dealing with our most urgent national transportation problem—the movement of people in our crowded cities."

Representative Koch understood that "the reorientation of our Nation's transportation system that my bill calls for cannot be accomplished overnight." Therefore, his bill outlined steps:

> Effective July 1, 1971, the bill would create a single transportation trust fund consisting of first, the present highway trust fund; second, the airport and airway fund adopted by the Congress this year; and third, a new mass transportation fund based on the automobile excise tax. In 1972 all highway trust fund moneys would be included in the single transportation trust fund. This new unified trust fund would be the source of all transportation expenditures for the decade of the 1970's.

He held off proposing major changes in the transportation programs until the Secretary of Transportation submitted his comprehensive plan:

> In that plan, the Secretary would outline the expenditures required during the next decade in order to achieve a balanced transportation system in accordance with the national transportation policy. He would also recommend to the Congress how the transportation functions within the Government should be reorganized in order to assure effective coordinated policy management cutting across rigid modal lines.

He concluded:

> New approaches to America's transportation problems are already long overdue. If we are to prevent strangulation of this Nation's transportation life line, we must act now. [Koch, Edward I., "A Bill to Create a Single Transportation Trust Fund," *Congressional Record-House*, July 7, 1970, p. 23088-23089]

The bill, which is thought to be the first introduced calling for a Transportation Trust Fund, was referred to the House Ways and Means Committee, which took no action on the measure. [Davis, Jeff, "The 'Transportation Trust Fund Idea, 40 Years On …," *Transportation Weekly*, April 29, 2011, p. 1, 6]

In July, Senator Randolph, who would play a key role in developing the highway legislation, felt compelled to respond to an editorial in *The Washington Post* criticizing the Highway Trust Fund. His committee's 15 days of hearings on the needed 2-year reauthorization had revealed "some sentiment" for broadening the purposes of the Fund. He did not advocate an indefinite continuation of the Highway Trust Fund as now constituted, but it had not yet completed its primary purpose of financing construction of the Interstate System:

> What will happen several years in the future I cannot predict, but I feel it is necessary to retain the trust fund in essentially its present form until current Interstate and Defense Highway system commitments are met.

He acknowledged that some urban segments were controversial and might never be built:

> Because of this, I have asked Transportation Secretary Volpe to explore with the appropriate state and local officials the feasibility of considering these controversial segments for removal from the Interstate system at a possible saving of $4 billion.

Further, he supported some expansion in the use of highway user tax revenues. In December 1969, he had introduced a bill that would allow cities to use the funds for public transportation systems, mainly buses on highways, and expanded the uses to include highways on public lands and a bridge replacement program.

He thought the Interstate System could be completed in 7 years, after which "I have been repeatedly advocating establishment of a single formula for allocating federal funds, perhaps on the order of 70-30, with the states having wide latitude in determining where this money should be spent." [Randolph, Jennings, "Senator Randolph and the Highway Fund," *The Washington Post*, July 29, 1970]

Randolph, a longtime highway supporter, had served in the House of Representatives from March 4, 1933, to January 3, 1947. As a ranking member of the House Subcommittee on Roads, he played a role in passage of the Federal-Aid Highway Act of 1944, which authorized designation of a National System of Interstate Highways. He also played a role in early airport legislation.

In the Republican mid-term election sweep of 1946, Randolph lost his bid for reelection. He took a position as an assistant to the president of Capital Airlines and, in January 1948, was elected vice president of ARBA's Airport Division (later the Municipal and Airport Division). He would serve ARBA as treasurer for 10 years before resigning to run in a special election to replace the late Senator Matthew M. Neely (D-WV). On November 5, 1958, he won the election and was reelected every 6 years until he chose not to seek reelection in 1984. He became Chairman of the Public Works Committee in January 1965. ["Jennings Randolph Elected to Senate," *American Road Builder*, December 1958, p. 21]

Even as Congress, the Administration, and transportation interests debated the shape of 1970 legislation, the use of the Highway Trust Fund as an anti-inflation tool remained alive, as *National Journal* discussed in July. After taking office on July 1, Office of Management and Budget (OMB) Director George P. Shultz had proposed cutting funds for highways by $1.3 billion to $3.6 billion in FY 1971. (The Bureau of the Budget was reorganized by Executive Order 11541, July 1, 1970, to become OMB.) The intent was to curb inflation by reducing Federal spending and make nonpublic funds available to the Treasury to reduce its borrowing in the private market.

On July 9, when OMB had not reversed its position, Volpe cut short his vacation in the Virgin Islands and flew back to Washington to intervene personally. Between July 9 and July 13, Volpe attended numerous meetings in the Executive Office Building, sometimes accompanied by Administrator Turner. The *National Journal* summarized Volpe's argument:

> One department official said Volpe argued for restoration because he believed the Administration had "made a commitment—a *moral commitment*—and it must be responsive to that commitment so the states could proceed with their programs."
>
> The "moral commitment," the official said, was made in September 1969 when President Nixon asked governors to cut federally aided highway construction by 75 per cent to help curb inflation. Twenty-four states deferred highway programs totaling $945.6 million with the understanding that the funds would be made available in fiscal 1971 on a priority basis.

Volpe also feared the cutback would jeopardize his proposal to expand the Highway Trust Fund to cover highway beautification and safety programs. In the end, Volpe engineered a compromise:

> Presidential budget specialists, after five days of hard bargaining early this month with Transportation Secretary John A. Volpe, have reluctantly agreed to release about half of $1.3 billion highway funds they had planned to freeze during fiscal 1971.

The highway interests had aided Volpe once word of the proposed cutback leaked. As Alfred E. Johnson, AASHO's executive director, told the magazine:

> The state highway departments are generally getting fed up on this indecision and delay every year by congress. They wonder why, when the funds are there, and the authorizations are there, why they can't get their jobs finished.

A spokesman for the National Governors' Conference said that, "Though the governors have not yet indicated that they are hopping mad about the current cutback, they certainly don't like it." ARBA director of public relations Randolph Russell said, "This particular one seems very unrealistic because only 15 states will have to bear the brunt of the cutback." He was referring to those States that had used their FY 1970 apportionment and had no carryover balance. Russell added, "If they feel it necessary to cut the program, at least let them do it so we can see what the hell is happening."

Senator Randolph sent a telegram to the President on July 8, reading in part:

> We continue to hear rumors of an impending cutback in the obligation of funds from the Highway Trust Fund in the magnitude of 20 to 25 per cent. This is personally and officially alarming to me for three reasons beyond those that have been advanced in former instances of executive impoundment of highway funds.
>
> 1. It is a breach of faith with the American tax-paying public.
> 2. With the present sag in the economy and increasing unemployment this is a most imprudent time to aggravate the problem by cutting back on highway construction, and
> 3. It is a clear violation of the intent of Section 15 of Public Law 90-495, Federal Highway Act of 1968 . . . ."

The latter point was a reference to the sense-of-Congress provision included in the 1968 Act. President Johnson and now President Nixon recognized that it was not a mandatory prohibition. As the article explained, the 1968 Act originally contained an amendment rather than a sense-of-Congress provision. "But it was watered down to a resolution because the Administration was so opposed," according to a House Public Works Committee staffer. Now, with the 1970 Act pending, committee leaders in the House and Senate were thinking about including a prohibition. ["Congress and White House Moving Toward Showdown on Highway Funds," *National Journal*, July 25, 1970]

The Federal-Aid Highway Act of 1970

In August, Senator Randolph released his version of the Federal-Aid Highway Act of 1970. The trucking industry newspaper *Transport Topics* began its coverage of the bill by going to the heart of the measure:

> The gathering drive to substitute "Transit" for "Trust" in the Highway Trust Fund gained new momentum last week with the introduction of the Federal-Aid Highway Act of 1970, which authorizes use of the Trust Fund for several projects not directly connected with highway construction.
>
> The bill . . . would allow Trust Fund money to be used for such things as replacement housing for people displaced by highway projects, highway beautification projects and support of bus—but not rail—public transportation systems . . . .

> His bill was introduced one week after the nation's governors voted to ask Congress for authorization to spend part of the Trust Fund money on other transportation systems.

Senator Tydings and Representative Bingham had introduced legislation that would have permitted the States to spend a portion of their funds on other transportation systems, as the Governors had proposed, but Representative Fallon was not supportive. He said, "I think it would be a rough road to transfer money from a fund created by highway users who are paying for highways they haven't even gotten yet." [Merrell, Jesse H., "New Federal Highway Bill Would Divert Trust Funds," *Transport Topics*, August 24, 1970]

The Randolph bill provided additional funds for the Interstate System through FY 1977, but also demonstrated a growing impatience for its completion. To get the States moving, the bill provided that segments not ready for construction by 1975 would remain on the System but would lose their eligibility for 90-10 Federal-State funding. The 90-percent Federal share would come to an end after the end of the program in 1977. Meeting that target would be easier because of expected savings from "some highly controversial and expensive sections of Interstate highways in urban areas" that would not be built.

The bill authorized $450 million a year to assist bus transit because "highways are not the exclusive domain for cars." Buses could help reduce congestion and the need for additional highway construction. Funding also could be used for construction of exclusive or preferential bus lanes and bus passenger loading areas and facilities.

Funding for replacement housing where it would not otherwise be available was necessary "to facilitate the start of work on highway segments so important that they can't wait for housing shortages to be corrected through normal channels." The Highway Trust Fund revenue also would support public lands and forest highway projects that previously were financed out of the general Treasury, highway traffic control devices, equal opportunity training and skill improvement programs, and reimbursement of additional costs resulting from implementation of environmental legislation.

In addition, the Randolph bill proposed to formalize urban highway spending by creating a Federal-aid urban system in urban areas of more than 50,000 population to supplement existing funding categories for extensions of the Federal-aid primary and secondary systems in urban areas. Further, Governors, on the recommendation of officials of urban areas with 50,000 population, could ask the Secretary to approve the use of highway funds for the operation of public transportation facilities, including purchase of equipment, reducing losses to facilitate service expansion, and continuation of service that would otherwise by reduced or abandoned. The funds could be used for private transit operations only if the funds would be administered by a political entity.

Highway beautification (control of outdoor advertising and junkyards) and safety programs were "closely related to safe, efficient highway operations," but had been underfunded by past bills. Under the new bill, Senator Randolph said, "both of these programs will have a reasonable assurance of continued financing that can produce results."

Randolph also proposed a revitalized planning process to consider not only all public works, but their social and environmental impacts.

The bill did not include a measure prohibiting Presidents from imposing cutbacks.

In introducing the bill on the Senate floor on August 18, Senator Randolph acknowledged that some of its provisions would be controversial. The resulting legislation, he said, would be "of more than routine importance." Over the course of 14 years of focusing on the Interstate System, "there have been many changes in public attitudes and in transportation requirements that must be given considerable weight in formulating national policy and writing highway legislation." He cited growing urban problems, a renewed emphasis on public transit, and concern about environmental quality.

While Congress was "morally committed" to completing the Interstate System, he said that "it is imperative that we begin now to lay the groundwork for highway programs for the post interstate period."

As for the Highway Trust Fund, he acknowledged testimony, as well as public commentary, on its future:

> I also detect a growing and unfortunate polarization between holders of differing viewpoints that could complicate the process of arriving at an equitable solution. There are those who accuse the so-called highway lobby of wanting to pave the country over with concrete. The other side maintains that their opponents are aiming for a complete halt in all highway construction.
>
> I have listened carefully and I have read carefully, and I am convinced that neither of these assessments is correct. Those individuals and organizations involved in roadbuilding recognize the need for support of other forms of transportation, and even the most ardent supporter of mass transit sees the necessity to continue improving highway facilities.

Some modes of transportation had been neglected, an issue Congress was addressing in several ways, including enactment of the Airport and Airways Trust Fund and development of urban mass transportation assistance legislation, then still pending in Congress. Development of a national passenger railroad system, also pending congressional action, was another possible need. "The highway trust fund is undoubtedly an attractive and appealing potential source of revenue to meet those needs." In response, his bill addressed highway-related transit activities that fit the purposes of the Highway Trust Fund. ["Introduction of the Federal-Aid Highway Act of 1970," *Congressional Record*, August 18, 1970, p. 29392-29393]

On September 2, Secretary Volpe announced a major new emphasis on moving people, rather than vehicles, on streets and freeways in urban areas. The FHWA, he said, was instructing its engineers in the 50 States to "encourage the greatest use of buses in preference to individual automobiles." The goal was to improve the productivity of urban highway systems as an example of expanded flexibility in the use of Highway Trust Fund revenues.

Administrator Turner's memorandum to field staff explained:

> It will not be financially possible—and even if it were, certainly not socially desirable—to provide all the highway facilities that would be needed in order to satisfy the peak period demands, especially in our larger urban areas, for all of the people who want to drive automobiles.

He cited an example of how counting people rather than vehicles would work:

> A vivid illustration of this occurred not too long ago. In evaluating the possibility of reserving a freeway lane for buses during the peak periods, the evaluator found that during the peak hour 67 percent of the vehicles were automobiles and less than 15 percent were buses. But when existing vehicle occupancy figures were introduced to enable the evaluation to be made on a <u>people</u> rather than <u>vehicle</u> moving basis, it was shown that during the peak hour only 15 percent of the people were in automobiles and over 82 percent of the people were in buses.

These figures reflected the fact that during peak periods, automobile occupancy was about 1.5 people per vehicles and that 70 percent of vehicles carried only the driver. "We can see that there certainly is a great deal of inefficiency from the automobile use side of the picture."

FHWA field staff were asked to encourage the State highway agencies to explore several methods of providing special treatment for buses as described in the announcement:

> <u>Exclusive Bus Highway</u> – an entire highway facility reserved at all times solely for the use of buses. (This category could be expanded to also include other vehicles such as car pools, FHWA noted.)
> <u>Exclusive Bus Lanes</u> – one or more lanes of a highway facility reserved solely for the use of buses, usually during peak periods. (This might also be expanded to include car pools.)
> <u>Preferential Bus Treatment</u> – making special allowance for bus movement within the general stream of mixed highway traffic, usually during peak periods (e.g., metering vehicle access to freeways with bypasses for buses, bus-actuated traffic signals, etc.).

FHWA also told its field staff that:

> . . . additional attention should be given to the movement of people as well as the movement of vehicles in future studies for the general determination of the number of lanes on high-volume radial highways, including freeways. Whenever there is reasonable expectation that there could be state-city-local coordination to establish special bus utilization of urban highways, detailed analyses should be made of exclusive bus lanes or preferential bus treatment alternates in the preliminary plans.

At the same time, bus companies must be willing to cooperate by providing additional buses:

> The decision by a State to implement any major urban highway improvements which include special bus usage will invariably involve decisions by others to upgrade the transit service elements to handle the additional ridership. The state should take the initiative in contacting local transit authority or operator [sic] and in jointly developing project plans for reserved bus forms of highway improvements on the basis that the transit authority or operator will undertake the associated service improvements.

Testifying before Senator Randolph's committee on September 9, Secretary Volpe praised numerous provisions of the Senator's bill, but indicated that the department was working on studies that would help it develop proposals in 1972 to address the changing urban transportation landscape. He expected to recommend what to do with controversial urban Interstate segments, the possibility of a single Transportation Trust Fund, and how to reshape the urban transportation planning process. He preferred that Congress, instead of adopting Randolph's innovations, simply extend the current program to allow the Administration to develop its proposals. He specifically opposed the use of revenue to subsidize transit operations. It was, he said, "the most costly and probably least effective way of curing the patient."

An editorial in the September 1970 issue of *Better Roads* said of Randolph's bill:

> It seems evident from the actions taken so far and from the mood of congress itself that things will not remain as they have been. If you want to bet on a sure thing, bet on that.

After summarizing the proposed new use of highway revenues, the editorial said:

> This broadened concept is not destined to be immediately and universally popular among all the dwellers in the halls of AASHO, but it would seem that in such areas as these that are so directly tied to highways and highway construction, there is small cause for outrage and outcry.

The use of highway funds for mass transportation was another matter:

> It stands out like a boil on a beauty queen's chin. If the concept of Highway Trust Fund financing is that it be used for highway purposes, it is difficult to see how some of the senator's proposals can be made to fit that definition . . . . If the federal-aid highway program were oversupplied with funds these proposals might be more readily acceptable. But the highway program is not over-funded and administration cutbacks in recent years have succeeded in stretching the program out and making it, in the end, considerably more costly . . . . Public transportation should have a healthy, viable program of its own. It should not have to lean, all orphaned and crippled, on the federal-aid highway program.

The editorial urged readers "not to get too hung up trying to keep things as they are." Change was inevitable, and extension of the program for a few more years would give "the deep thinkers on highway matters" time to develop "new and viable means of highway financing." One thing was clear:

> For in truth the Highway Trust Fund has become a symbol of all that is bad in the highway program as far as highway critics are concerned. It will continue to be the target of their barbs; its demise will continue to be the goal of their concerted and growing effort . . . . The urgent need is for new thinking, for innovation. ["Highway Financing May Need Some New Ideas," *Better Roads*, September 1970, p. 8-9]

On Friday, October 2, the Senate approved the Federal-Aid Highway Act of 1970 after rejecting the provision for subsidizing public transit operations. As an alternative, the Senate approved an amendment calling on the Secretary of Transportation to study how to fund other forms of transportation. The final vote on the bill was 51 to 0, with other Senators not present or voting.

The Senate bill authorized $12 billion for Interstate Construction through FY 1976. In addition to $1.050 billion a year for the Federal-aid primary and secondary systems and their urban extensions, the bill created and funded the Federal-aid urban system ($375 million for FY 1972, $450 million for FY 1973). It authorized $450 million for the bridge replacement program as well as funding for safety, highway beautification, and roads on public lands out of the Highway Trust Fund. The Senate did not include tax measures, which under the Constitution had to originate in the House.

The bill changed the statutory definition of "construction" to cover "economic, social, environmental and other impacts," thus making impact mitigation eligible for Federal-aid funds. It also strengthened public hearing requirements and required the Secretary to issue guidelines for avoiding, minimizing, or overcoming possible adverse impacts. The definition of "construction" also was expanded to include exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities, such as shelters, bus terminals, bus storage, and parking areas and facilities. The Senate also required an analysis of the relationship of highway construction and funding to transportation services using the highway.

On October 8, 1970, Senator Kennedy introduced S. 4451, a bill to establish a National Transportation Trust Fund that would terminate the Highway Trust Fund and the Airports and Airways Trust Fund and absorb the revenue, along with revenue from the excise tax on the sale of new automobiles, in a "more comprehensive fund." The state of transportation today, he said in prepared remarks, "is an absolute mess." The "essential problem" was that "programs have developed separately for the different modes of transportation." This "outmoded Federal policy of categorical programs has denied the badly needed flexibility in transportation policy." As a result, "a disproportionate amount of resources" went to highways and "not enough" to mass transit:

> States and cities often face the possibility of either obtaining money for highway construction or getting no money at all. So they are building highways when their needs may really be for other transportation facilities.

Senator Kennedy said he had been working with Representative Koch who had introduced a similar bill in July. The National Transportation Trust Fund would go into effect on July 1, 1972, the same day the existing funds would be terminated.

Senator Kennedy recognized that the Office of the Budget and Department of Transportation objected to the trust fund concept because it took funding decisions away from the Administration and the Congress. His bill addressed this objection by "preserving to the President and Congress in the annual budget process the determination of the total amounts to be budgeted for expenditure from the trust fund." It also required a Presidential review of expenditures every 3 to 5 years and directed that a surplus over a certain amount would be returned to the general Treasury.

He said that the bill's most important provision was one that encouraged regions, States, and metropolitan areas with populations of 50,000 or more "to prepare and maintain comprehensive transportation plans." No State would receive funds "unless it has in existence a comprehensive State transportation plan which has been approved by the Governor and by the State legislature and which includes comprehensive plans for transportation in each metropolitan area of 50,000 or more."

He knew that at this late date in the congressional session, "there will not be time for hearings or action this year." He hoped, however, that introducing the bill now would "set the stage for prompt action next session." For now, the bill was referred to the Committee on Banking and Currency, which took no action on it. [*S. 4451—Introduction of a Bill to Establish a National Transportation Trust Fund*, Congressional Record-Senate, October 8, 1970, p. 35744-35745]

Action in the House

Action shifted to the House, which did not yet have a bill ready for floor consideration. Chairmen Fallon and Kluczynski had introduced an initial bill on April 7, 1970. H.R. 16788 was a stripped down bill covering mainly the basics for extending the Federal-aid highway program.

On April 21, the first day of hearings by the Subcommittee on Roads, Representative Ryan was one of the witnesses. His focus was on urban transportation:

> In an age when man can travel to the moon, he has difficulty getting from one place to another here on earth—especially within a metropolitan area. Traffic creeps at a snail's pace, or the transportation is so severely inadequate that it just cannot move commuters.

He favored "a balanced transportation policy." As the number of vehicles increased, they were "making our Interstate Highway System virtually interstate parking lots." At the same time, "Highways are useless to those who cannot or do not own a car." The poor, the elderly, and the handicapped who could not afford a taxi "have no access to transportation systems." In "our urban ghetto, where transportation is usually worse," those without a car could not get to jobs.

In response, he said, he had introduced H.R. 628 to require at least 30 days notice "before any public hearing is held involving plans for a Federal-aid or State section of an interstate highway project." The hearing would have to be held within 1 year of the date when the plans would be submitted to the Secretary for approval. The State highway agency would have to certify that it had considered the economic and social effects of the proposal and submit a report on its economic and social effects, including the effects on tenants and owners of all property to be acquired.

He added:

> Since Congress has in no way illustrated its commitment to mass transit programs by appropriating adequate levels of funds, I have been introducing legislation for many years which would allow a State to elect to use its highway construction allocation for mass transit.
>
> Since the highway trust funds are allocated to the States, H.R. 48 gives the Governors the power to decide whether or not highway trust fund money should be used for mass transit . . . .
>
> Congress has refused, in the past, to debate my proposal to use highway funds for mass transit. Each year, since 1966, I have offered this proposal in amendment form to pertinent legislation on the floor.

He recited the paradox of the amendment not being germane to highway or transit bills, then continued:

> Certainly, Members of Congress cannot continue to ignore our national transportation crisis through parliamentary maneuvering. I think, if nothing else, we owe our constituents a debate on the issue. Even more than debate, we owe them action.

Chairman Kluczynski responded that while he supported Federal assistance for mass transit, "I do not believe it should be funded from the highway trust fund," but a trust fund of its own. He had been disappointed that the Administration did not support a Mass Transit Trust Fund, but "I hope you will be able to urge full debate, a separate trust fund, when the mass transit [bill] comes up before the House."

He added, "There is an old saying in this committee called where is the money coming from?" Under Chairman Fallon, "who is the father of the Interstate Highway System," the Federal-Aid Highway Act of 1956 provided the funds for a 41,000-mile network at a cost of $27 billion. Now, the Federal-Aid Highway Act of 1968 added 1,500 miles making "it 42,500 at a cost of over $65 billion." He continued:

> We have to complete this system. We thought the target date was 1972, and we are up as far as 1974 or 1975 now. We all agree with you, and I would like to help you in your fight on mass transit, because we need it in big cities like Chicago and other big cities, but the thing is can you get your own trust fund? Where is the money going to come from?
>
> Can we tax the people any more? They are taxed up to their ears now, and we do not even want to increase the gasoline tax, if possible.

He called on Chairman Fallon to address the jurisdiction issue. He said:

> As the gentleman knows, the legislation for mass transit comes under a different committee than this committee. We have nothing to do with mass transit. The only mass transit that we might have anything to do with would be related to the highways, and that would probably be highways for buses. But the point I want to bring out is when you are talking about using the trust fund money for other purposes, it is stated in the law it cannot be used for any other purpose except for the construction and building of highways.

He summarized how the Clay Committee's proposal for issuing bonds to pay for the Interstate System had failed in 1955. Chairman Fallon explained that his pay-as-you-go plan also failed in 1955, but with the addition of the Highway Trust Fund, it succeeded in 1956:

> We have committed the users of the highways that they are paying for it, we are going to build the highways for them with this money. Other people, ever since the trust fund got a little bit healthy one time, people started looking at it to finance other projects. And this committee cannot, I can say in good conscience, devote any money other than for highway purposes because the people using them are being charged for them. If they had been built by a bond issue where everybody paid by contribution [as the Eisenhower Administration had proposed], then you would be open for most any other suggestion for this money to be used for other purposes. But not under the conditions which were accepted by the Congress and people of this country can we change the law at this time.

Representative Ryan suggested that since the Highway Trust Fund would expire after 1972, the terms of the commitment with contributors could change. Representative Fallon responded:

> You have to get the users who pay the taxes to agree that they will be used for other purposes than what he is paying for now. I doubt very much if you would be able to get that, because we had a pretty tough time getting it through when we were going to spend every dime on the roads to build highways for users. We have had a tough time getting it through because it was defeated at one time, and we came back the second time because they realized this job was a necessary job, had to be done, and the articles that appeared when the bill was killed on the floor—the articles that appeared in the obituary column, if we had had those before the bill went to the floor, we would have passed it the first time.

He was referring to the defeat of his initial pay-as-you-go bill in August 1955, killed by highway interests, particularly truckers, who did not want to pay additional taxes for the Interstate System. With the addition of the Highway Trust Fund concept and agreement with the interests on tax increases that would benefit them many times over, Representatives Fallon and Boggs, along with Senator Gore, secured passage in 1956.

Representative Ryan said, "I am sure the distinguished chairman is so persuasive that if he went on the floor and argued for this bill, it would pass." Chairman Fallon replied, "I am not so sure about that." Chairman Kluczynski thanked Representative Ryan for appearing before the committee and assured him that, "there is no member on this committee who would not be for mass transit if we can have a separate trust fund."

Ryan concluded that, "we must recognize that the problem is not simply rapid transit; the problem is not simply airways; what we need is a balanced transportation policy in this country, and what we need is to have the ability to finance all stages of it." Instead of compartmentalizing modes, "we should have one overall way to finance transportation." In addition to H.R. 48, he was a cosponsor, although with Chairman Kluczynski, of a bill to establish a Mass Transit Trust Fund. He was not sure that was the solution, but in view of the jurisdiction issue, he also had sponsored a bill to create an Urban Affairs Committee in the House. [*Federal-Aid Highway Act-1970*, Hearings Before the Subcommittee on Roads of the Committee on Public Works, House of Representatives, 91st Congress, 2nd Session, U.S. Government Printing Office (91-35), p. 17-26]

On May 7, Helen Leavitt, author of *Superhighway-Superhoax*, testified. Although suffering from the flu and a slightly high temperature, she said "I would like to address myself to the philosophy of your most sacred cow, the highway trust fund." As for what the subcommittee called "the world's largest public works project," she pointed out what the country had received in return for its $46.1 billion investment:

> First of all, we now have a totally auto-dominant transportation system.
> Second, we have acres and acres of urban blight where super-highways have been constructed in metropolitan areas.
> Third, we have the foulest air, the major cause of which is the automobile.
> Fourth, we have prosperous oil, rubber, automobile, insurance, and construction industries.
> And why not? They receive a huge subsidy from the very existence of the trust fund.
> But most of all, what we have received from the trust fund is a clear demonstration of the need for a transportation system that works when we need it.
> That we do not have now and the transportation system created and perpetuated by the highway trust fund will never provide it.

The Highway Trust Fund "provides the relief to the auto highway construction industry much as heroin relieves the addict, whose insatiable need reappears when the effects of his 'fix' are expended, to demand ever more of the same in a never ending quest for–what? In this case, more tax dollars for more highways." It was "an eternal light" bringing us "auto congestion, smog, deaths, blight, General Motors, Ford Motor Co., U.S. Rubber and others, in perpetuity."

Instead of extending the Highway Trust Fund, the subcommittee should "abolish it in its present form." She opposed a Mass Transit Trust Fund because with the exception of the Social Security Trust Fund, trust funds were "bad government." She added, "We no more need a proliferation of mole-like holes leading to subways in our cities than we need superhighways in the urban skyline."

When Leavitt finished her brief statement, Chairman Kluczynski's thanked her and added, "I assure you a closed mouth catches no flies." Only Representative Harsha had questions for her. He noted that in her book, she had mentioned his law firm, but got the name wrong. Also, he objected to her characterization of the firm as representing Greyhound Bus Lines, since it represented the company only in one case. She promised to check and makes corrections in subsequent editions if needed.

He asked if she drove an automobile. "Yes, occasionally," she answered. He replied, "Then you contribute to all this pollution you are complaining about." She said she drove it as "little as possible."

Representative Harsha also questioned her objection to trust funds, including one for mass transit. She said she favored mass transportation, but "I have found that planning follows funding and my fear is with mass transportation funds, we are going to have a proliferation of mass transit systems which might not be justified at all . . . ."

He also wanted to know who supported her study of highways. At first, she was confused by the question, responding only that her husband supported it. When he clarified that he meant foundations or other organized groups, she replied that the only financial support she had received was an advance of $2,000 from her publisher. She had worked on the book for 2 and a half years:

> Mr. Harsha. No other funds went into this study?
> Mrs. Leavitt. Absolutely not.

After a brief exchange about highway deaths, Harsha asked, "Well, taking your suggestion to maybe the ridiculous point, if we did away with all highways, we would not have any accidents?" After Leavitt agreed that "we would not have any automobile accidents," Harsha told the chairman, "Okay, that is all I have."

Chairman Kluczynski admitted he didn't have a copy of her book, but planned to get a copy and "read part of it anyway." In the transcript, his concluding comments, like his earlier brief comments, had a patronizing tone. He said he admired her "courage, fighting spirit," and thanked her for appearing. [*Federal-Aid Highway Act-1970*, p. 411-416]

On June 9, Secretary Volpe appeared before the subcommittee. He began by pointing out that calling the Interstate System the "greatest public works project in the history of mankind" did not indicate whether it was good or bad. He had no doubt that the program "has been highly beneficial and a very good thing for the American people." He listed the benefits to economic development, accommodating growth in the number of automobiles, and safety.

He also acknowledged that automobiles worsened air pollution and that highways raised other environmental concerns while the urban segments were disruptive. At the same time, he noted that the urban segments were "a very small percentage" of the Interstate System and as for the environmental objections, "much of the scientific knowledge on which it is based is relatively new."

With that background, the problem of balanced transportation could be summed up as "not how much we have spent on highways in the past, but how very little we have spent on public transportation." Only recently had the public realized how much transit was needed, a problem the Administration's $10 billion program was intended to address. He hoped the House would approve the measure soon.

"The administration," he said, "is firmly committed to finishing the Interstate System," but he added the qualification "virtually." Some small segments might not be completed but the rest of the System would be finished in 7 to 8 years. The proposal by the Administration, which he was releasing, recommended some scaling down in authorizations, but a slight increase for the Interstate System. The decreases were intended to "maintain a steady progress in meeting our transportation needs within the framework of a sound national budget."

Under the Administration's proposal, all highway and highway-related programs would be funded from the Highway Trust Fund. These included highway beautification, public lands highways, and safety programs and research. "Each of these programs is for the direct benefit of the highway user and, therefore, we believe properly fundable from the Trust Fund."

Secretary Volpe added that the Administration bill "represents a careful attempt to improve the administration of certain existing programs consistent with orderly planning and construction, total transportation needs, and national budgetary priorities." The Department was working on the 1972 Highway Needs Study, which would be a "transportation" needs study, not just a highway needs study. It would provide the basis for a statement of national transportation policy that he would present to Congress in 1972 "for the development of a truly intermodal transportation program." [*Federal-Aid Highway Act-1970*, p. 946-954]

Writer John Burby, who had been an assistant to Secretary Boyd, wrote that Volpe had "delivered an endorsement of the Trust Fund so weak as to be virtually no endorsement at all." Much of his presentation had been devoted to safety and beautification, as well as support for mass transit funding. He had even questioned whether the entire Interstate System would be built, indicated the Department wanted to scale down the funding for Interstate Construction, and asked Congress to extend the Highway Trust Fund only for 5 years:

> What Secretary Volpe did not tell the committee was that he had been forced to spend weeks arguing with Presidential budget specialists to get approval of as much as a five-year extension. The White House staff originally wanted to go for no more than a two-year extension and even that extension was meant chiefly to buy them time for deciding whether to make a run for abolition of the Trust Fund. [Burby, John, *The Great American Motion Sickness or Why You Can't Get There from Here*, Little, Brown and Company, 1971, p. 312-313]

The final witness, testifying on June 11, was Terrence Wendell on behalf of Citizens for Sensible Transportation, an ad hoc Maryland group formed in 1970 to fight the "threat posed to their neighborhoods and parks by urban freeways." The group opposed the District's North Central Freeway (I-70S) and its extensions into Maryland and favored alternatives such as exclusive bus lanes, fringe parking, and rail commuter lines pending construction of the Metro subway.

FHWA's recommendations for increased urban road construction were based "on nebulous grounds" and showed "singular short-sightedness and lack of imagination." Perhaps, he suggested, FHWA could be forgiven for these assumptions since they are based on continuation of the Highway Trust Fund as the exclusive preserve of highway interests. He endorsed Representative

Ryan's proposal and asked the subcommittee to "give careful consideration to extending the limitations on highway trust fund expenditures to allow application to any transportation purpose, at least in metropolitan areas . . . where transportation problems are especially difficult and freeways are not necessarily the best solution."

During Wendell's testimony, Representative William Jennings Bryan Dorn (D-SC) was chairing the hearing. He asked the only other subcommittee member on the panel, "Any questions?" Representative Robert E. McEwen (R-NY) had none. Dorn said, "I want to thank you, Mr. Wendell." Wendell thanked the acting chairman for allowing him to speak. Dorn replied, "I just regret it had to be so late, but thank you very much." The subcommittee adjourned at 5:15 p.m. after compiling 1,126 pages of testimony and another 60 pages of papers and documents. [*Federal-Aid Highway Act-1970*, p. 1123-1126]

The Subcommittee completed work on its bill in mid-September. By the end of the month, the Committee on Public Works had approved its bill and added language provided by Chairman Mills of the Ways and Means Committee extending the Highway Trust Fund through FY 1978. The final committee bill authorized $4 billion a year for Interstate Construction through FY 1977, plus $3.5 billion for the final year. It authorized $1.1 billion a year for FYs 1972 and 1973 for the Federal-aid primary and secondary systems and their urban extensions, as well as $200 million a year for the new urban system. Funding for public lands highways would continue to come from the general Treasury, not the Highway Trust Fund. The Federal-State matching share for non-Interstate projects would be 50-50 until FY 1974, when the Federal share for non-Interstate projects would increase to 70 percent.

Looking to the post-Interstate era, the bill directed the Secretary of Transportation to submit recommendations by January 1972 for the functional realignment of the Federal-aid systems, including the new Federal-aid urban system. (Functional realignment is an assessment to determine the function of each public road. Those whose function met the criteria for the Federal-aid primary, secondary, and urban systems would be included. Periodic realignment allowed for changes in the systems as road functions evolved.)

The House bill permitted Federal-aid for exclusive or preferential bus lanes, highway traffic control devices, and bus passenger loading areas and facilities, including shelters and fringe and transportation corridor parking facilities. Eligibility would be dependent on a finding by the Secretary that the project would avoid construction of a highway project that would increase automobile traffic capacity, provide equal capacity to what would have been provided by the highway project, will not exceed the Federal share, and that no feasible or prudent highway project would provide the needed capacity.

The bill included the sense of Congress provision opposing impoundment of Federal-aid funds. It also prohibited the expenditure of Highway Trust Fund revenues for any Federal Department, agency, or instrumentality other than FHWA. In its report, the committee explained:

> Cutbacks and freezes on the availability of highway trust fund money have been invoked by the executive branch on various occasions during the past few years, allegedly as an anti-

> inflationary measure, even though funds were and are available in the trust fund to meet expenditures resulting from the obligation of such funds. This curb-against-inflation argument is without merit. The resulting delays in construction inevitably mean that the costs will be greater. This stop-start manipulation of the highway program, with the uncertain position into which contractors, laborers, and State highway programmers are put, cannot but help to boost the ultimate cost of the program . . . .
>
> The withholding of highway trust funds as an anti-inflationary measure is a clear violation of the intent of the Congress as expressed in section 15 of the Federal-Aid Highway Act of 1968. We again wish to emphasize the clear legislative intent that funds apportioned shall not be impounded or withheld from obligation . . . .

Other provisions included:

- Allowed the use of Highway Trust Fund revenues to replace homes demolished for roads if no replacement housing was available.
- Authorized the Secretary, on December 31, 1973, to remove from designation any segment of the Interstate System that did not have a construction schedule within the period of fund availability and with respect to which the State had not provided assurances to the Secretary that such a schedule will be met.
- Authorized funding for control of outdoor advertising and junkyards, but established a 13-member bipartisan commission to make recommendations to Congress on billboards and junkyards.
- Required the States to use no less than 5 percent, nor more than 10 percent, of their apportionments to rebuild or replace obsolete bridges that cross waterways on the Federal-aid primary and secondary systems if the existing bridge is unsafe because of structural deficiency, physical deterioration, or functional obsolescence.
- Authorized funds for high-hazard locations, elimination of railroad-highway grade hazards, and for highways to aid development of "economic growth centers" in rural areas.
- Recognized the administrative reorganization of FHWA, which occurred on March 22, 1970, and provided the statutory authority to convert FHWA's National Highway Safety Bureau into the National Highway Traffic Safety Administration (NHTSA).

On November 25, the House considered the bill under a decision by the House Rules Committee that allowed unlimited amendments to the highway portion of the bill, but no amendments to the tax portion of the bill drafted by the Ways and Means Committee. Nevertheless, when Chairman Mills presented his committee's portion of the bill, he had to address several amendments involving the use of Highway Trust Fund revenues.

After Mills explained the need to extend the Highway Trust Fund to September 30, 1977, Representative Bingham rose to question the need for such a lengthy extension. He pointed out that the fund had grown from $1.4 billion in 1956 to $5.2 billion now, with continued growth likely. Was it wise, he asked, "to lock up, so to speak, this source of very substantial revenue for many years ahead without regard to the consideration of other needs that might in these years be more urgent than the need for additional highway construction?" He had in mind the needs of the Nation's mass transit systems.

Representative Mills explained that the Highway Trust Fund was not taking in enough money to complete the Interstate System and address other road needs. The revenue will be needed for this one purpose, he said, adding that he understood the mass transit problem and had spoken with Secretary Volpe many times about how to develop a funding program for it:

> I know the legislation presently on the books calls for it to be financed from the general funds of the Treasury. However, I am not an advocate, and I want my friend to understand that completely, of using highway user tax funds for some other purpose than the construction of highways. I do not mean to say to my friend that there may not be some other way to set up a trust fund that could be used for the purpose of answering the problems of mass transportation, but I cannot see the relationship between taxing a person for highway use and the construction with his dollars of something other than a road.

He asked Bingham "if there is any relationship whatsoever between taxing a person who owns an automobile and who will gladly pay the tax for Federal roads, also of the development of mass transportation which he may never see? [sic]" Bingham replied that "improved mass transit can make life much better for the motorist on the highways, rather than having constantly increased congestion on the highways."

Representative Koch, who was blocked by the Rules Committee decision from introducing an amendment containing his bill to create a transportation trust fund, took up Representative Mills' challenge by pointing out that "transportation is an integrated matter, that the user of an automobile is at some time during the day a pedestrian" and may be "delighted when public transportation is available." Mills responded, "Then, assess a tax on them for mass transportation."

Koch responded, "I believe that the user of a motor vehicle would be willing to pay for the integrated system if you would give him a chance to do so." Mills told him, "I am sure you can almost sell me without any difficulty, but do not continue to ask us to tax for one purpose all of our people and then say, 'No, no. We are going to use it for some entirely different purpose.' Let us tax them on the basis of that which we want to improve." The dialogue continued:

> Mr. Koch. What we need is a single transportation trust fund, from which localities can choose that kind of transportation most needed and suitable in their area. It is wrong to impose highways on the city of New York where they need mass transit.
> Mr. Mills. I am perfectly willing to consider the entire problem, but I am not willing to finance the entire problem out of the users of one segment of the problem. That is all I'm saying.
> Mr. Koch. We say put all of these special taxes into one fund.
> Mr. Mills. That is what I am telling you. I will be glad to hear you at any time you want to be heard after the 1st of January. You develop a program of user taxes that is related to the use of mass transportation and I will be glad to hear you.

> Mr. Koch. I will be down to talk to you. [*Congressional Digest—House*, November 25, 1970, p. 38955-38957]

During a later discussion, Representative Bingham said that based on the House bill, the inescapable conclusion was that "this Nation is—and for the indefinite future will be—fiddling with freeways while our cities burn." He asked, "is there to be no pause, no review, no reevaluation" of the 1956 commitment?" The Nation could "no longer tolerate this squandering" of the funds, and for those who spoke of the commitment made in 1956, he said surely that promise had been fulfilled.

He said he would offer amendments at the appropriate time to limit the extension of the Highway Trust Fund to 1976 and to establish a Transportation Trust Fund. "If my amendments are defeated, as I fear they will be, I shall vote against this bill and urge others to do likewise." [*Congressional Digest—House*, November 25, 1970, p. 38961]

Near the end of a parliamentary dispute about a provision concerning freeway construction in the District of Columbia, Representative Bingham introduced his amendment to open the Highway Trust Fund to mass transit projects. When the dispute ended, the clerk read his amendment into the record. Representative Fallon tried to raise a point of order, but he was informed that he was too late. Allowed to proceed, Representative Bingham explained that his amendment would simply expand the provision in the bill that extended Federal-aid to highway-related mass transit:

> It has been suggested that using highway fund moneys for mass transit is not proper use of the excise taxes involved but if it is proper for bus mass transit, why not for rail mass transit?

He pointed out that the purpose of the excise taxes was to improve highway transportation. "The needs of our highways in New York would be vastly better met by improving our mass transit facilities in New York." He continued:

> This would not be in any sense a departure from a commitment we have made to any taxpayers, because this is a new bill creating the extension of a tax. It is not dependent on any commitment made in 1956. It is a new bill. It is a new era. It is an era when we should have a balanced transportation system, and this amendment would make it possible for us to have a balanced transportation system.

Representative Kluczynski briefly stated that he opposed the amendment. Representative Fallon pointed out that the same amendment had been introduced in 1968 and ruled out of order. However, Representative Harsha provided a longer rebuttal. The clear purpose of the amendment, he said, was "to open up the trust fund to the construction of mass transportation, rail transportation, and even water and air transportation." This would be "contrary to the 1956 Highway Revenue Act and will delete [sic] the trust fund so that we will not be able to complete any of the highway systems that are needed in this country." Opening the Highway Trust Fund to any form of mass transportation would mean "we certainly will never be able to conclude a viable and effective highway program."

Representative Koch admitted that those offering such amendments did not "expect to win on any of the proposals." All they were trying to do "in a rational way" was to alert the Members to "the real need for a comprehensive approach to our transportation requirements, as well as the need for more money for mass transit." He continued:

> We recognize there is a need for highways. We are not the enemies of highways, although there are particular highways to which we object.
>
> What we are saying is: You have an interest in the total transportation picture . . . . Members of this House are not acting against the interests of their automobile-driving constituents when they attempt to appropriate sums for mass transit. They are helping these constituents.
>
> Is there anything wrong with saying that where a highway is appropriate we would build a highway and where a mass transit facility—a subway, a bus, or an elevated structure—is appropriate, that is what we would build?

If a Governor decides that mass transit would be more efficient than a proposed highway, "why should the Federal Government refuse to fund anything other than a highway?" He continued:

> This is why I have proposed that we establish a single transportation trust fund combining the mass transit, highway, railroad, and airport programs. If all transportation funds were dispensed from a single source, we would then be in a position to effect the rational, integrated approach desired and weigh the priorities and efficiency of one form of transportation against another. [*Congressional Digest—House*, November 25, 1970, p. 38990-38992]

After a few other Representatives spoke briefly in support of the Bingham amendment, Representative Kluczynski moved to cut off debate. Moments later, the amendment was rejected by voice vote.

Later that day, the House approved the $22 billion bill by voice vote after 3 hours of debate. The House and Senate bills had many similarities, but differences would have to be reconciled by a Conference Committee.

The committee completed its work on December 17. The House took up the measure on Friday, December 18. It was basically routine business by this point, but Representative Bingham took the opportunity to note that the final version of the bill extended authorizations for the Interstate System only through FY 1976, as he had proposed. The House approved the bill, 319 to 11, the same day. The Senate approved the bill on December 19.

President Nixon signed the bill on December 31, 1970, without formal comment. Secretary Volpe agreed with many observers who considered it the most significant highway legislation since the Federal-Aid Highway Act of 1956. He praised its extension of the Highway Trust Fund, the assurance it provided that the 42,500-mile Interstate System would be completed within the decade, and extension of the Highway Trust Fund revenue to "the very important areas of highway safety and access roads to national forests and public lands." He added, "It gives the Department of Transportation and the Federal Highway Administration many of the tools we need to tackle the growing social challenges of our nation, especially in our urban centers."

Some provisions of the Federal-Aid Highway Act of 1970 were:

- Adopted the Senate extension of the time for Interstate completion through FY 1976, with authorization levels for the purpose.
- Accepted the House authorization levels, including for the new urban system, with some exceptions, including specifying that the source of authorizations for Forest Highways and Public Lands Highways would be the Highway Trust Fund, but restricted the funds to segments on a Federal-aid system.
- Retained the sense of Congress provision on expenditures by agencies other than FHWA if such expenditures are specified by statute, but expanded it to add that the expenditures also had to be authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.
- Increased the Federal share to 70 percent beginning in FY 1974 for non-Interstate projects.
- Accepted the House provision on urban highway mass transportation with minor changes related to fringe and corridor parking facilities.
- Included the House provision on construction of replacement housing as a project expense when no replacement housing is available and cannot otherwise be made available.
- Called for a highway needs study to be submitted in January 1972, including functional realignment.
- Authorized the Secretary to remove from designation any segment of the Interstate System for which the State had not established a construction schedule by July 1, 1973, or assurances that construction will be completed within the period of availability of funds for the purpose. If the State has not submitted plans, specifications, and estimates (the bidding documents) for approval by July 1, 1975, the Secretary was to remove Interstate designation. Alternative segments could be designated in the same urban areas.
- To a large extent, the bill reflected the Senate provisions on public hearings and economic, social, environmental, and other impacts.
- The States could ask the Secretary to designate as future parts of the Interstate System any Federal-aid primary highway if it meets the definition of an Interstate highway or the State agrees to upgrade it to full standards in 12 years. These routes would not be eligible for Interstate Construction funding.
- Established a Commission on Highway Beautification to study existing requirements on outdoor advertising and junkyards, review Federal and State administrative policies and practices, compile data necessary to understand requirements that may or are likely to exist for control, study problems involved in outdoor advertising, review methods of financing to carry out the beautification program, and recommend changes in laws, regulations, policies, practices, and demonstration programs to "achieve a workable and effective highway beautification program and best serve the public interest."

- Adopted the Senate provision on funding for replacement of bridges over waterways, limiting the funds to bridges that are unsafe because of structural deficiencies, physical deterioration, or functional obsolescence. It also required FHWA to develop a national priority inventory to be based on serviceability, safety, and essentiality for public use.
- Provided statutory authority for the March 1970 creation of NHTSA.

That same day, President Nixon approved another bill that would have a major impact on future debates about the Federal-aid highway program, the use of motor vehicles, and diversion of Highway Trust Fund revenues to alternative transportation modes.

Cleaning the Air

Concern about the quality of air over America's cities had been developing throughout the 20th century. The concern focused on the smoke-belching factories that were the economic backbone of the country's large cities. Initially, the smoke clouding the sky was viewed as an aesthetic problem to be dealt with city-by-city, not as a health issue of statewide or national concern. However, attitudes began to change when smog over Los Angeles in the 1940's limited visibility and caused medical problems such as nausea and respiratory difficulties. California became the first State to enact an air pollution law in 1947.

A series of incidents focused attention on the health implications of air pollution, especially during a temperature inversion (an increase in temperature at higher levels trapping smog at the lower levels). In October 1948, a temperature inversion occurred over Donora, Pennsylvania, trapping high concentrations of sulfur dioxide released by the American Steel and Wire plant and Donora Zinc Works, leading to 20 deaths and respiratory and other complaints from many residents. A 1950 incident in Poza Rica, Mexico, in which 22 people died and over 300 were hospitalized was followed by the "London Fog" in December 1952, when a 5-day temperature inversion beginning December 5 trapped acid aerosols in the atmosphere, killing 4,000 and disrupting life throughout the area.

The Federal Government became involved with enactment of the Air Pollution Control Act of 1955 (P.L. 84-159) on July 14, 1955. The Act, and extensions in 1960 and 1962, authorized funds for the Public Health Service to research and provide technical assistance on the health and welfare effects of air pollution. The 1962 extension called on the U.S. Surgeon General to determine the health implications of motor vehicle emissions.

The Clean Air Act of 1963 (P.L. 88-206) authorized a 3-year funding program under the Department of Health, Education, and Welfare to help State and local governments research and combat air pollution. The Act also encouraged development of emissions standards for motor vehicles and stationary sources, such as factories. The Motor Vehicle Air Pollution Control Act of 1965 (P.L. 89-272) called on the Secretary of Health, Education, and Welfare to establish emission standards on light-duty motor vehicles (reduction of hydrocarbons (72 percent), carbon monoxide (56 percent), and crankcase hydrocarbons (100 percent)). It also established the National Air Pollution Control Administration (NAPCA) in the Department to take responsibility for future pollution control efforts.

The national standards, modeled after California's 1966 standards, went into effect for all 1968 models. California had been using economic power based on the number of vehicles its residents purchased to force the auto industry to include emissions control devices on new cars sold in the State, but the results were of limited value.

In February 1970, President Nixon had called for action by Congress to strengthen clean air legislation. The result was the Clean Air Amendments (CAA) of 1970, which the President signed on December 31, 1970. He held a signing ceremony in the White House's Roosevelt Room, which he considered appropriate because, although the room was named for Presidents Theodore Roosevelt and Franklin D. Roosevelt, the first President Roosevelt had been "the man most remembered in American history for his interest in conservation, his interest in the environment."

He recalled his statement a year earlier when he signed NEPA on January 1, 1970:

> I said that this would be the year of the environment, that it was now or never if we were to clean up the air and clean up the water in major parts of the United States and to provide the open spaces that are so important for the future generations in the country.

A year later, he said, he was about to sign "the most important piece of legislation, in my opinion, dealing with the problem of clean air that we have this year and the most important in our history." He credited a bipartisan effort in Congress for completing the legislation.

President Nixon considered 1970 the year "in which we really began to move on the problems of clean air and clean water and open spaces for the future generations of America. If completely enforced, he said, the legislation would result in a 90-percent reduction of polluting emissions from automobiles in 4 years:

> And the problem of automobile pollution, as we know, is one that not only now plagues my native area of southern California but all the great cities of this Nation, particularly those which have heavy automobile traffic, and most of the great cities of the world have similar problems.

He concluded:

> And if, as we sign this bill in this room, we can look back and say, in the Roosevelt Room on the last day of 1970, we signed a historic piece of legislation that put us far down the road toward a goal that Theodore Roosevelt, 70 years ago, spoke eloquently about: a goal of clean air, clean water, and open spaces for the future generations of America.

More a rewrite than an amendment of previous legislation, the 1970 CAA was intended "to protect and enhance the quality of the Nation's air resources so as to promote public health and welfare and the productive capacity of its population."

(The White House had not initially planned to invite lawmakers to the ceremony, which was to take place before only reporters and cameras. When Senator Randolph heard about the plan, he suggested the White House share the credit. As a result several Members of Congress participated in the ceremony with only 2 hours notice. Senator Edmund S. Muskie (D-Me.) was not invited even though he was the chief sponsor of the legislation and had significantly strengthened the Administration's proposal. Despite speculation that he had not been invited because he was a leading contender for the Democratic Party's presidential nomination in 1972 (his staff called the incident "small town politics"), the White House maintained his exclusion was simply normal business since he was not the chairman of a committee, but only of a subcommittee. [Oberdorfer, Don, "Muskie Not Invited to Air Law Signing," *The Washington Post*, January 1, 1971]

Just a few weeks before President Nixon approved the 1970 CAA, the Environmental Protection Agency (EPA) had opened for business on December 2, 1970. It combined agencies, including NAPCA, and responsibilities from other Departments into an independent agency. Creation of EPA reflected the growing understanding of the relationship between human activities and the environment that had been spurred by publication of Rachel Carson's *Silent Spring* in September 1962. The book, which explained how chemicals were altering nature, helped build public awareness of the effects of human activities on the environment. Prior to *Silent Spring*, conservationists sought to preserve as much of nature as they could. After *Silent Spring*, the "conservation" movement quickly became the "environmental" movement to minimize harm by human actions.

In a press release on December 16, the first EPA Administrator, William D. Ruckelshaus, said:

> EPA is an independent agency. It has no obligation to promote agriculture or commerce; only the critical obligation to protect and enhance the environment. It does not have a narrow charter to deal with only one aspect of a deteriorating environment; rather it has a broad responsibility for research, standard-setting, monitoring and enforcement with regard to five environmental hazards; air and water pollution, solid waste disposal, radiation, and pesticides. EPA represents a coordinated approach to each of these problems, guaranteeing that as we deal with one difficulty we do not aggravate others.

According to a summary on EPA's Web site:

> The enactment of the Clean Air Act of 1970 (1970 CAA) resulted in a major shift in the federal government's role in air pollution control. This legislation authorized the development of comprehensive federal and state regulations to limit emissions from both stationary (industrial) sources and mobile sources. Four major regulatory programs affecting stationary sources were initiated: the National Ambient Air Quality Standards (NAAQS, pronounced "knacks"), State Implementation Plans (SIPs), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs). Furthermore, the enforcement authority was substantially expanded. [http://www.epa.gov/air/caa/caa_history.html#caa70]

For the auto industry, the 1970 CAA appeared to be a disaster. It called for a 90-percent reduction in hydrocarbon and carbon monoxide levels by 1975 and a 90-percent reduction in nitrogen oxides by 1976. The industry claimed it would be unable to meet the new standards and would have to shut down after the 1974 model year, which ended with introduction of the 1975 models in September 1974. As writer Tim Palucka put it:

> With the passage of the Clean Air Act of 1970, Congress threw down a gauntlet similar in spirit to President John F. Kennedy's 1961 challenge to put a man on the moon before the end of the decade. Both were bold strokes that placed a burden squarely on the shoulders of the nation's scientists and engineers. And both looked impossible . . . .
>
> In the race to clean up the air, no one knew if the goal, a 90 percent reduction in automobile emissions from pre-1968 levels by the 1975 model year, was even remotely possible. Moreover, Americans loved their thirsty automobiles; the petroleum industry depended on toxic lead in gasoline to increase octane; and automakers didn't want to add another costly device, especially one that would interfere with the cars' performance. [Palucka, Tim, "Doing the Impossible," *Invention and Technology*, Winter 2004, p. 23]

Although the manufacturers responded to the 1970 CAA "with a chorus of complaints," the government held firm, as Palucka pointed out. "It was 1975 or bust."

Impoundment Goes to Court

Despite continuing economic struggles, the government experienced a surplus in 1969, Nixon's first year in office but largely the result of President Johnson's budget proposals. It would be the last budget surplus until the 1990s. Economic historian John Steele Gordon summarized the situation facing the new President:

> Nixon was, as he said, a Keynesian. But as a Keynesian he knew that in times of high inflation and low unemployment, such as he faced when he entered office, it was time to tighten, not increase federal spending . . . . Thereafter, congressional appropriations, despite the good times, continued to rise, and Nixon impounded more and more money. [Gordon, John Steele, "The Federal Debt," *American Heritage*, November 1995, p. 90]

On August 14, 1970, the State of Missouri filed a class action suit on behalf of all State highway agencies against Secretary Volpe and OMB Director Shultz alleging that the Secretary had impounded funds apportioned to the State under the Federal-aid highway program for FY 1971. As reflected in an editorial in the October 1970 issue of AASHO's *American Highways* magazine, Missouri's suit was of interest to all States. The editorial noted that the Governors' Conference had recently adopted a resolution reading:

> Funds from the Highway Trust Fund should not be suspended or withheld; and we hereby request the Executive Committee to take the necessary steps to provide that court action be undertaken to challenge the authority of the Executive Branch of the Federal Government to withhold distribution of Highway Trust Funds.

Missouri argued that Secretary Volpe's decision to withhold the right of the State to obligate $26.2 million was wholly without authority. It also was wholly absent the one circumstance where he had the right to withhold obligation authority, namely advice from the Secretary of the Treasury that funds were not and would not be available to make reimbursements at the full amount of the apportionments. The stated basis for the withholding, according to the suit, was a desire for a "cooling of the economy" at a time when Missouri's economy was experiencing unemployment at a record high, bankruptcies occurring at a highly accelerated rate, and all other indications that the State's economy was definitely well "cooled."

Initially, the Justice Department maintained that the District Court did not have jurisdiction because the government cannot be sued without its permission. In December, Judge William H. Becker overruled the government's motion to dismiss the suit. He ordered Secretary Volpe and Director Shultz to justify the withholding.

Before Judge Becker could rule on the merits of the case, the Department of Transportation announced that the States would be allowed to obligate all funds originally apportioned to them. Judge Becker dismissed the suit as moot, but ruled that the State could submit an amended complaint if it wished to do so for FY 1972.

On June 30, 1971, the State filed suit against Secretary Volpe and new OMB Director Casper W. Weinberger. The suit stated that the Secretary had apportioned $115.7 million in Federal-aid highway funds to Missouri for FY 1972, but imposed contract controls on $21.9 million.

A group of Democratic Senators filed a brief supporting Missouri's right to receive its full funding on the schedule established by Congress rather than by an Executive Branch decision. The group included 14 of the Democratic chairmen of the Senate's 17 committees, with Chairman Samuel J. Ervin, Jr., of the Committee on Government Operations leading the way.

President Nixon planned to hold the budget to $250 billion as an inflationary measure even though doing so would require him to impound $7 to $10 billion. The President's practice, the brief argued, was "contemptuous of the role of Congress in our tripartite system . . . . The power of the purse belongs exclusively to Congress under the Constitution."

In discussing the friend-of-the-court plea, Senator Ervin said Congress should adopt a general anti-impoundment law. As Chairman of a subcommittee of the Judiciary Committee, he had introduced legislation in the 92nd Congress that would have given Congress the authority to override presidential impoundments. [Milius, Peter, and Braestrup, Peter, "17 Senators Join Suit to Free U.S. Funds," *The Washington Post*, January 3, 1973] Senator Ervin convened hearings and developed legislation on the subject, as did the House, but the legislation was not approved.

On August 7, 1972, the District Court ruled in Missouri's favor. The impoundment "caused great and incalculable injury to Missouri because of continuing inflation of highway costs and interruption of efficient obligations" of Federal-aid highway funds. The court found that the Secretary did not have the discretionary authority to defer obligation of highway funds previously apportioned to the State. The ruling enjoined further withholdings in FY 1973.

The Justice Department appealed the ruling, arguing that (1) there is no subject matter jurisdiction, (2) there is no justiciable issue since the case involves only a political question, and (3) that the Secretary possesses discretion under the statute to withhold funds for the stated reasons.

Part 2:
On Shaky Ground

A Highway Advocate Leaves the Scene

With the Federal-Aid Highway Act off 1970 enacted, Congress would not have to consider reauthorization of the Federal-aid highway program until 1972. The battle over the Highway Trust Fund would continue during the interim, but a familiar figure, Representative George H. Fallon, would not be around to enforce the trust built into the concept.

Following the first Earth Day in April 1970, environmentalists compiled a list of "The Dirty Dozen" Members of Congress. They were chosen because of what Environmental Action and the League of Conservation Voters said were their abysmal environmental records. Another criteria was that the Members of Congress had to be in tight races in districts with major environmental issues that voters cared about.

Representative Fallon's was the most prominent name on the list. He had been Chairman since January 1965 of the Public Works Committee, which the environmentalists referred to as the Pork Committee. His hometown of Baltimore had long-running controversies over its Interstate routes, including I-70 through Leakin Park and a stable minority community and a planned I-95 bridge across the Patapsco River overlooking historic Fort McHenry. The environmentalists cited his opposition to the use of Highway Trust Fund revenue for mass transit as one example of why he was a "tool of the highway lobby."

In the Democratic primary, State Delegate Paul S. Sarbanes attacked Fallon for his age and health, remoteness from his constituents, close ties with the highway and transportation lobbies, and his support for the Vietnam War. Despite Fallon's support from highway interests, Sarbanes won the primary election on September 15, 1970, and went on to win the general election in November. "I used to be complimented," Fallon said, "on the great job I was doing for the highway program. Now that is the thing that is used against me."

Six others of the Dirty Dozen also lost their reelection bids, but Fallon's defeat in 1970 was the environmental community's greatest triumph. As *Fortune* magazine pointed out:

> Flushed with their success at knocking off the powerful Fallon, environmentalists have gone on to organize the Highway Action Coalition at the national level to eliminate the federal highway trust fund or stretch the uses to which it can be put. [Cameron, Juan, "How the Interstate Changed the Face of the Nation," *Fortune*, July 1971, p. 31]

As a result, one of the strongest protectors of the Highway Trust Fund would no longer be in Congress when the biggest challenge to what critics thought of as a pork barrel came about.

Another author of the Federal-Aid Highway Act of 1956, Senator Gore, also was defeated for reelection in 1970. The Nixon Administration had targeted Senator Gore, who was vulnerable in his southern State for his opposition to the Vietnam War, support for civil rights legislation, and opposition to President Nixon's unsuccessful Supreme Court nominees, Clement F. Haynesworth, Jr., and Harrold Carswell. Vice President Agnew, campaigning for Representative Bill Brock, referred to Senator Gore as the "Southern Regional chairman of the eastern establishment" and a "radic-lib." Journalist and author David Halberstam, who had been a reporter with the Nashville *Tennessean* for 4 years in the late 1950s and had covered the Civil Rights Movement for *The New York Times* in the 1960s, described the Brock campaign in the January 1971 issue of *Harper's Magazine*:

> . . . this is in fact the most disreputable and scurrilous race I have ever covered in Tennessee . . . . And while I have covered shabby racist campaigns in the past, there is something about this one which is distinctive. This is the first time that a campaign like this has been tied to the President, the Vice-President, and the Attorney General of the United States.

The loss of Senator Gore was less critical to highway supporters than Fallon's defeat. Gore left the highway-oriented activities of the Committee on Public Works in 1959 and joined the Committee on Foreign Affairs, where his interests took him away from the highway battles. [Gore, Albert, *Let the Glory Out: My South and Its Politics*, The Viking Press, 1972, p. 262, 275]

A New Direction

Completion of work on the Federal-Aid Highway Act of 1970 marked only a temporary high point for the highway community. They thought they would have at least a year free of legislative battles and could focus on reversing the continuing deterioration of their image and the growing threat to the Highway Trust Fund.

Instead, the highway community was under attack from all sides, including the Nixon Administration.

After two Democratic Presidents, Kennedy and Johnson, who believed in an expansive Federal Government, President Nixon revived the debate that had begun under President Eisenhower over the balance between the Federal and State governments. Like President Eisenhower, Nixon thought that many Federal programs infringed on State rights, and adopted policies to reverse the flow of power.

General Revenue Sharing was the most direct result of this view. In President Nixon's message to Congress on August 13, 1969, he began:

> If there is a single phenomenon that has marked the recent history of nations, large and small, democratic and dictatorial, it has been the rise of the central government.

He traced the acceleration to the Depression "when economic life in America stagnated, and an energetic national government seemed the sole instrument of national revival." For more than 30 years, "whenever a great social change was needed, a new national program was the automatic and inevitable response." Now, he said, "a majority of Americans no longer supports the continued extension of federal services." He outlined his proposal:

> This week, I am sending to Congress for its approval for Fiscal Year 1971, legislation asking that a set amount of Federal revenues be returned annually to the States to be used as the States and their local governments see fit—without Federal strings.
>
> Because of budget stringencies, the initial fund set aside to start the program will not be great—$500 million. The role of the Federal government will be redefined and re-directed . . . . Ultimately, it is our hope to use this mechanism to so strengthen State and local government that by the end of the coming decade, the political landscape of America will be visibly altered, and States and cities will have a far greater share of power and responsibility for solving their own problems. The role of the Federal Government will be re-defined and re-directed toward those functions where it proves itself the only or the most suitable instrument.

The proposal was not an easy sell in Congress. As journalist Elizabeth Drew explained:

> What proponents were up against were the bureaucracies that administered the programs, the interest groups that benefits from them, and the congressional committees that had jurisdiction over them . . . .The idea was to reduce paperwork and the size of the federal bureaucracy and get the decision making "closer to the people." But many liberals, suspicious that the states wouldn't observe the standards and rules set by the federal government, and concerned that they would spend the money on programs other than for the poor, opposed the block-grant program vigorously. [Drew, Elizabeth, *Richard M. Nixon*, Times Books, Henry Holt and Company, 2007, p. 57]

President Nixon followed his General Revenue Sharing proposal with related proposals calling for consolidation of specific Federal activities, namely law enforcement, urban development, education, training, and rural development. On March 18, 1971, Nixon proposed a similar concept for the Department of Transportation. During the early days, he said, "a man's mobility was dependent upon his strong legs and the sharp axe with which he cleared his path." Even then, "Americans quickly came to realize that good roads and docks and bridges were community concerns." He continued:

> Over the years, government has become increasingly involved in improving the Nation's transportation systems, from the building of post roads and canals in the early periods of our history, to the construction of airports and superhighways in recent years. The question we face today, therefore, is not whether government should participate in transportation matters, but how government should participate—and which levels of government should undertake which responsibilities. These are the central questions I am addressing in this message as I outline a new Special Revenue Sharing Program for Transportation.

He called the airplane and automobile "mechanized masterpieces," but also "dramatic evidence of both the successes and the failures of American transportation." He said of highways:

> Highways that speed motorists between cities can become long and narrow parking lots where cars are stalled for hours within urban areas. It often takes longer to move by "horseless carriage" across our major cities today than it did by horse-drawn carriage a century ago. Efforts to improve this situation by building new highways often have the effect of destroying neighborhoods and disrupting lives. It is estimated, moreover, that automobiles are responsible for almost half of our air pollution—a growing problem that is slowly choking our central cities.
>
> And there is another serious problem, as well. For with our heavy investment in automobiles and air transportation has come a sharp decline in rail passenger service and in public mass transit systems . . . . Public transportation has been caught up in a vicious cycle of increasing costs, rising fares, shrinking profits, decreasing quality, and declining ridership. Ironically, this decline in mass transit has come at the same time that the need for fast, convenient, economical public transportation has become greater than ever before.

The "established relationships among Federal, State and local governments are unsuitable for achieving the goals we pursue," which he called "balanced transportation":

> A balanced transportation system is essentially one that provides adequate transportation not just for some of the people in a community but for all the people in a community. A balanced system also recognizes that an individual can have different transportation needs at different times. Such a system treats speed as only one of the factors in the transportation equation and does not ignore the importance of other qualities such as comfort, safety, and reliability.
>
> Despite our technological capacity, we do not enjoy a fully balanced transportation system in modern America, particularly in our larger cities. We have relied too much on cars and on highways; we have given too little attention to other modes of travel. Approximately 94 percent of all travel in urbanized areas is by automobile, yet about 25 percent of our people—especially the old, the very young, the poor and the handicapped—do not drive a car. They have been poorly served by our transportation strategy.

Federal decisions on funding levels and matching shares had distorted the efforts by State and local officials to address the problems they saw:

> The Federal Government now pays 90 percent of the costs for a new interstate expressway, for example, but only 67 percent of the costs for a new mass transit system and only 50 percent of the costs of building an airport. It is little wonder that State and local planners encouraged to cover the landscape with ribbons of concrete. Such distortions of local priorities are among the major problems that this administration is seeking to correct . . . .
>
> The hard fact is that the best mixture of transportation modes is not something that remote officials in Washington can determine in advance for all cities, of all sizes and descriptions, in all parts of the country. Nor do the Federal officials who grant money for specific

> projects understand local needs well enough to justify their strong influence over how local projects should be planned and run.

His proposal, initially funded at $2.566 billion beginning January 1, 1972, was designed "to focus Federal resources on major public problems and at the same time maximize flexibility of choice at the State and local level.

Elizabeth Parker, a former Department of Transportation policy official writing in *Transportation Quarterly*, said the 1971 Transportation Revenue Sharing proposal would abolish almost every funding category within the Department of Transportation except the Interstate program. It proposed a "general transportation element" that the States could use to fund any transportation project they chose, highway, transit, or aviation. A second category would be available only for bus or rail mass transit projects in cities, including private companies providing transit service, while a third category was available for the Secretary of Transportation's discretionary use to encourage planning, research and demonstration projects, and other activities related to national transportation objectives. [Parker, Elizabeth, "Major Proposals to Restructure the Highway Program," *Transportation* Quarterly, January 1991, p. 56 http://www.fhwa.dot.gov/infrastructure/restructure.cfm]

As Parker noted, the Interstate System would be excluded from revenue sharing. The President explained that with 74 percent of the 42,500-mile System open and completion expected in 1978, "it would not be in the national interest to alter the basic funding mechanism for the construction of this system at this time."

Revenue would come from the Highway Trust Fund, the Airport and Airway Trust Fund, and general tax revenues on a changing schedule that the President described:

> In the first year of operation, Special Revenue Sharing money would be drawn from the two trust funds and from general revenues in the same proportion as under the existing categorical grant system, though it could be spent as the localities see fit. After that, however, the portion of the Special Revenue Sharing Program for Transportation derived from the trust funds in any year would equal the portion of the program that was used for highways and for aviation-related purposes in the preceding year. Thus the money in the trust funds would still go to achieve the general purposes for which the funds were established. General funds would pay for all other transportation activities.

The President acknowledged the need for improved highway safety and the growing sensitivity to environmental concerns:

> There is no reason why growing sensitivity on matters such as safety and environmental quality should not continue to grow under this new Special Revenue Sharing program. State and local governments, after all, have often been particularly responsive to citizen pressure in these areas and they have frequently acted as bold pioneers in meeting these concerns. I am confident that as more responsibility is given to governments closer to the people, the

> true and abiding interests of the people will be even better reflected in public policy decisions.

In a press conference on the day of the President's message to Congress, Secretary Volpe acknowledged that freeing the Highway Trust Fund revenue for use at each State's discretion "isn't going to be easy." As *The Wall Street Journal* discussed in its article about the proposal, Volpe had advocated a transportation trust fund that would allow communities to use highway funds for transit or aviation needs. Just 2 months earlier he had said of the idea "it is going to require a tremendously energetic education campaign" to convince Congress and the highway interests to support the idea. ["Three Transportation Funds Recommended in Nixon's Fifth Revenue-Sharing Message," *The Wall Street Journal*, March 19, 1971]

The New York Times reported that State and local officials quickly embraced the proposal:

> The very element of the program that has attracted mayors and governors, however, may ultimately doom it in Congress, where the highway lobby is expected to strongly oppose the idea that local communities should be given freedom to spend $1.5 billion in highway funds on other projects. Accordingly, most observers give the transportation proposal no greater chance of passage than Mr. Nixon's other "special" revenue-sharing programs . . . .
>
> Each program submitted so far has evoked strong opposition from congressmen reluctant to abandon programs they helped devise, and from those who do not believe that states and cities are any better equipped than the federal government to spend the money. [Semple, Jr., Robert B., "President Urges Mass Transit Aid," *The New York Times*, March 19, 1971]

Highway boosters were not persuaded. Representative Boggs, having assumed the position of Majority Leader on January 3, 1971, called the proposal "a fraud . . . the biggest demagoguery I have ever heard of." Representative John. A. Blatnik (D-Mn.) told ARBA that the proposal was a little "late." He explained:

> For 55 years we have considered Federal-aid for Highways to be revenue sharing. Any drastic change in program concept or funding, such as that being proposed, must be given thoughtful consideration and adopted only after there is unquestionable proof that it is both necessary and desirable.

He did not believe that roads and bridges should suffer so that the quality of other modes of transportation can be improved. ["Boggs Attacks Sharing Plans," *New Orleans Times-Picayune*, March 24, 1971; "Blatnik: Beware Revenue Sharing," *Better Roads*, April 1971, p. 10]

Traffic World summarized reaction to the proposal:

> The President's proposals involving these trust funds left some doubt in the minds of many motor carrier and airline officials. Several told *Traffic World* that they were unclear as to just what would happen to trust fund money under the Presidential plan. Some felt their industries would be adversely affected . . . . The phrase that most upset motor carrier and

> airline officials . . . is that giving local governments power to spend trust fund money "as they see fit." Several industry officials interpret this as permitting local governments to spend airport/airway trust fund money on projects unrelated to air or truck transport. ["Revenue Sharing Plan for Transportation Would Give Local Governments $2.5 billion," *Traffic World*, March 22, 1971]

Aviation Week & Space Technology reported that Chairman Mills of the House Ways and Means Committee was "strongly opposed" and his view was "widely shared in both House and Senate." The magazine continued:

> [The] concept of a unified transportation fund, even without the revenue-sharing feature, has consistently met powerful opposition from committee chairman [sic] unwilling to surrender jurisdiction over their particular areas of transportation funding.

The jurisdictional issue was reflected in the fact that Senate leaders distributed the Nixon proposal to five committees for study (Commerce, Public Works, Banking, Housing and Urban Affairs, and Finance).

Even as these committees began their review, another proposal was introduced:

> Sen. Charles H. Percy (R-Ill.) submitted a series of bills last week which would establish a unified transportation trust fund comprising all current trust funds and grants-in-aid programs. The Percy legislation would involve up to $7 billion the first year, compared with the Nixon Administration's proposal which would involve $2.6 billion.
>
> Sen. Percy left unclear the means of distribution of the trust fund monies, in an effort to sidestep the volatile revenue-sharing controversy. One of Sen. Percy's measures would permit diversion of highway trust fund money "for any legitimate transportation purpose," including mass transit. [Winston, Donald C., "Nixon Transportation Trust Fund Idea Hit," *Aviation Week & Space Technology*, March 29, 1971]

An editorial in *Engineering News-Record*, which had advocated such a plan, said the "greatest single advantage" was that it "would give states and municipalities flexibility in using funds to meet their highest priority needs." It continued:

> But giving state and local officials more freedom of action would test highway proponents' constant assertions that the public desires their product above all, without diverting any portion of their trust fund . . . . The plan would also test our assertion that highway spending will not drop in the long run because highway needs continue to increase at least as fast as needs for other forms of transportation. Though commitments for public transportation might jump in the initial years of the program, they would probably ease thereafter.

> If highway proponents really believe their own promotion material, let them put it to the test while preserving their trust fund. ["Revenue Sharing—Transportation Style," *Engineering News-Record*, March 25, 1971]

For transit interests, the Nixon proposal provided new hope even beyond the authorizations supporting the Urban Mass Transportation Act. Boston's transit authority, for example, had "mixed emotions" about it. The idea of not having to match Federal funds was appealing, but under the complicated apportionment formula, the city might receive less than at present. [Plotkin A. S., "Reaction 'Mixed' For Transit Plan," *The Boston Globe*, March 19, 1971]

An editorial in the *New Orleans Times-Picayune* endorsed the concept of balanced transportation that the proposal reflected:

> If Congress goes along, hard-pressed national policymakers and local urban managers may, at long last, be placed in a position to put it all together right. ["Strike the 'Balance' in Transportation," *New Orleans Times-Picayune*, March 23, 1971]

The President had placed his proposal in the context of a balanced transportation system. On May 20, 1971, Administrator Turner addressed the topic in a National Transportation Week speech titled "Balanced Transportation – What Is It?" before the National Capital Section of the American Society of Civil Engineers:

> So, at the outset, let us get into focus what balanced transportation really means.
>
> First of all, it does not mean the expenditure of equal amounts of dollars on each of several particular transportation modes. In fact, to do so would insure the very imbalance in our transportation system which everyone is deploring.
>
> What balanced transportation does mean is that each mode is utilized and supported in such amount as to achieve an over-all integrated system in which all modes are complementary–not duplicative, nor competitive.
>
> A balanced transportation system must be designed to meet the total transportation needs of the urban area. It should do so in a way that will provide the most effective, acceptable, and economic service attainable that meets the total needs of the community, both as individuals and collectively.
>
> If it is to serve the total transportation needs, a balanced system must permit infinite flexibility of travel from any place to any other place. A balanced system must be designed not just for morning and evening rush hour travel demand, but for 24-hour usage every day. It must be designed not just for those trips when citizens are commuters, but for all the other times as well as when the same citizens and their neighbors are making their non-work trips, which trips far outnumber the work trips. It must also provide for the movement of the goods and service vehicles that are vital to all residents of any urban area whether they

> be commuters or stay-at-homes, or are totally dependent shut-ins, who don't even own or operate their own automobile.

He cautioned against the common misconception about rail rapid transit systems such as the Metro system then under construction in the Washington area:

> Unfortunately, though, there are some people who believe that with the advent of a rail rapid transit system there will then be no need for highways. Nothing could be further from the truth, and if this concept should prevail, the consequences for this metropolitan area will be nothing less than catastrophic . . . .
>
> I know that there are some people who for one reason or another say that they hate both highways and automobiles, and wish that they would just go away, to be replaced by some undefined form of Utopia where there would be no traffic problems. But there will be no disappearance of the traffic problem unless people also disappear – our urgent task is to develop the best way to live with the auto, and quit wasting our time simplistically wishing it would go away, just by putting all of our chips on another mode. We need more – not less transportation capability – and to achieve it we need both more highway and more mass transit capability – not less of either . . . .
>
> Let us not be deluded – nor deceived – into thinking that [mass transit facilities] will eliminate the urgent need for new and improved highways, or that they can provide the services, and movement of goods that highways must do.
>
> And let us not make the mistake of taking vitally needed funds from the highway mode to help finance any other mode unless a real total improvement in transportation results therefrom. Such fiscal legerdemain would merely be like all magic tricks: only an illusion accomplished by an instantaneous distracting movement of the hands and mouth, followed by immediate disappearance of the illusion.
>
> If more funds are needed for mass transportation purposes, and certainly they are, by all means let us try to find them – but not by robbing the highway program with its equal or even more compelling needs . . . .
>
> Because we know what happens when something loses its balance.
>
> It falls.

Secretary Volpe promoted transportation revenue sharing, as well as balance, in his appearances. In Watertown, New York, he said, "A greater realization is needed on the part of the American people of the need for more balance with the transportation system." Convincing people of the need for balance was one of his greatest problems. Too much emphasis had been placed on highways and airways; he stressed "the need to work in harmony with the environment." He cited bus and rail service as needed alternatives to relieve congestion and pollution, and identified the new passenger rail service Amtrak as having "a good future over the car." [Jackson, Wendy B., "Balanced Transportation Setup Stressed as Vital by Volpe," *Watertown Daily Times*, July 22, 1971]

Congress approved the President's General Revenue Sharing proposal in the fall of 1972. The State and Local Fiscal Assistance Act of 1972 authorized $30.2 billion for State and local governments over 5 years. States, which received one-third of the funds, could use their share in any way they chose. Local governments were required to use their funds to attack broadly defined "priority" areas: public safety, environmental protection, public transportation, health, recreation, libraries, and social services for the poor and aged. The legislation specified that public transportation included transit systems, streets, and roads. The funds could be used for capital expenditures or "ordinary and necessary maintenance and operating expenses," including for transit systems. In addition, the funds could be used for such activities as rail-highway grade crossing projects, parking and storage facilities serving public transportation, and even snow and ice control.

On October 20, 1972, President Nixon signed the State and Local Fiscal Assistance Act of 1972 in Independence Square in Philadelphia, site of the Constitutional Convention of 1787. The legislation was, he said, the start of a new American revolution. He explained that, "the most important point is this: In each case it will be local officials responding to local conditions and local constituencies who will decide what should happen, and not some distant bureaucrat in Washington, D.C." (General Revenue Sharing continued until the Omnibus Budget Reconciliation Act of 1985 brought it to an end.)

The transportation revenue sharing proposal met a different fate. As Elizabeth Parker summarized, the concept was in line with Nixon's philosophy and States' longstanding interest in taking over the bulk of the Federal-aid highway program, but was contrary to "virtually all of the interests involved" in transportation. Highway interests feared that highway user tax revenues would be diverted to other modal projects, while transit interests feared the mighty highway lobby would divert the limited Federal funding for transit. [Parker, p. 56]

Without support from the modal interests, the proposal went nowhere in Congress. In September 1971, President Nixon postponed the effective date of Special Revenue Sharing for Transportation from January 1, 1972, to January 1, 1973. As *Railway Age* put it:

> The postponement confirms what everyone always knew: a transportation revenue sharing plan, in a Presidential election-year with Congress besieged by demands for transportation funding of one kind or another, had about as much chance as the proverbial snowball. ["Revenue Sharing: The Plan That Was Isn't," *Railway Age*, September 26, 1971]

Terms of Battle

On December 16, 1970, the *Buffalo Evening News* published a portion of an interview with Secretary Volpe. Asked if he bought the argument that Highway Trust Fund revenues should be used for other forms of transportation, the Secretary replied:

> I don’t buy the argument that funds can be used only for the design and construction of highways. I sincerely believe that any item which is highway related can and should come out of the highway trust fund. For instance, we have an alcohol counter-measures program and our safety programs. We wouldn’t need these programs if we didn’t have highways and automobiles.
>
> So far as I am concerned, it is highway related and should come out of the highway trust fund.

He felt the same way about the highway beautification program and forest roads, but did not believe the funds should be used for general purposes such as welfare or education “because it was raised for a particular purpose.” [Warren, Lucian, “Volpe Sees Many Uses for U.S. Highway Funds,” *Buffalo Evening News*, December 16, 1970]

Congress, in developing the Federal-Aid Highway Act of 1970, had expanded the use of highway user tax revenue beyond the original intent of design and construction of highways, even to the point of paying for some transit activities. The legislation was consistent with Secretary Volpe’s view that in going beyond design and construction, additional costs should be highway-related, as in the case of buses. However, pressures to expand the idea of “highway-related” would continue through 1971, with supporters of transit pushing for access to revenue from the Highway Trust Fund in a year when Congress would not consider Federal-aid highway legislation.

In early January, Tom Wicker wrote in his syndicated *New York Times* column of the “magnificent American interstate system” now “nearing completion”:

> On any rational timetable, this is about 10 years behind time, since these great highways essentially were the transportation system most required for the Forties and Fifties. Consequently, the nation also is running 10 or more years behind in developing the modern urban transit and rapid intercity transit systems that are the next necessary stage in American transportation.

Standing against this evolution was “a political juggernaut” that had formed during the Interstate years. [Wicker, Tom, “The Highway Juggernaut is Not Easily Halted,” *The New York Times*, January 10, 1971]

Frustration with traffic congestion was prompting cities to adopt traffic bans, as discussed in a canvass of such plans published in *The New York Times* on April 25:

> America’s love affair with the automobile, a torrid romance for decades, appears to be cooling off in a number of cities. While divorce isn’t imminent, some trial separations are already under way.
>
> Encouraged in part [by] experiments like the one here this week along Madison Avenue, the cities are shutting down some of their prime downtown streets to traffic, banning on-street parking and turning the areas over to pedestrians.

Typically, people on the streets appreciated the relief from the traffic while merchants opposed the bans even when the predicted slump in commerce did not occur. Even a year earlier, a check of major cities revealed "little but apathy toward the idea," but now the movement "is clearly growing around the country." In Philadelphia, for example, officials planned to close a seven-block area to traffic in the mid-city shopping district as part of a "Take a Walk" initiative. San Francisco had gradually prohibited parking along 30 city blocks and converted others to one-way traffic, with the effect of sharply reducing traffic. Chicago was studying a traffic ban despite strong opposition from merchants. Boston planned to ban traffic on a one-day basis in May along four blocks of a downtown street to give the feel of a suburban shopping center. Washington had experimented the previous fall with a traffic ban every Thursday evening over a seven-block area, again in an attempt to revitalize shopping.

Some cities were resisting the movement. For example, Burt Lieper of the Los Angeles Traffic Department said the city had no plans for traffic bans. "We want the traffic to flow if it can, and the pedestrians to walk if they can." Detroit also had no plans for bans, although other Michigan cities, including Lansing and Kalamazoo, had limited downtown traffic or created pedestrian malls. [King, Wayne, "Cities Showing Interest in Traffic Bans," *The New York Times*, April 25]

A few weeks later, the *Times* reported on "the swelling army of [adult] Americans on two wheels who have discovered nature, freedom, forgotten muscles, deep breathing, new friends, new enemies—even romance—on bicycles." The bicycle was emerging from the era when it was primarily a means of conveyance for children until they were old enough to get a driver's license. Bike sales, especially to adults, had risen in the past 10 years from 3.7 million to almost 7 million:

> Today, to start National Transportation Week, Secretary of Transportation John Volpe led a fleet of 300 bicycle enthusiasts on a six-mile ride from the Watergate apartments where he lives past the Washington Monument and the Lincoln Memorial on the banks of the Potomac River. The Secretary told his fellow travelers that his department would make "every effort" to establish exclusive bicycle lanes in the nation's cities and along the freeways and turnpikes between cities.

Since this event was D.C. Bicycle Day, Mayor Walter E. Washington and City Council Chairman Gilbert Hahn, Jr., were among those accompanying the Secretary. Ideas for the District of Columbia included color-code streets for cyclists, cycle-only lanes, installation of bike racks at Federal installations, and creation of concessions to rent bicycles to tourists interested in seeing the city.

Signs along the route proclaimed "All Persons Have Equal Rights When Driving Cars or Riding Bikes." It was, the article explained, "a civil right with which most city motorists would violently disagree." (Secretary Volpe, a bicycling and fitness enthusiast, owned a fold-up bike and a lightweight, multi-speed racer.)

A few days earlier, on May 6, Members of Congress participated in the first "bikecology" tour of Capitol Hill on a rainy day, with Capitol Hill police clearing a path through traffic for the 13-block ride. Representative Seymour Halpern (R-NY), who had met his wife while bicycling in Central

Park, sponsored the tour partly to demonstrate how to reduce air pollution and partly for fun. Thirty-five Members had signed up for the tour and another 11 said they might participate, but only 26 participated. They could choose from 60 bicycles borrowed for the occasion. Senator Claiborne Pell (D-RI), the only Senator on the tour, indicated he had not ridden a bicycle since 1965 but on that occasion had won a race around the Ellipse.

Bicyclists were finding they could get to work on their vehicle, and many even sold their cars. Dr. Ralph Galan, an orthodontist and president of the League of American Wheelmen, cycled from his home in Lexington, Massachusetts, to his office in Cambridge:

> "That's nothing," he said, boasting that he can cover more than 100 miles a day.

Even in Los Angeles, "a center of smog and freeways," bicycle licenses were rising sharply. Charles Johnson of the Los Angeles Police Department's bike detail said:

> One of these days, you are going to see an awful lot of bikes on the streets—bikes by the hundreds. With traffic getting so heavy, they will have to change to something. Because of the traffic, because of the smog, because of the price of gas, you are going to have hundreds and hundreds of bikes on the streets. It will look just like a town in Europe. [Robertson, Nan, "Adults Swing to Bicycles," *The New York Times*, May 19, 1971; Dobbin, Muriel, "'Bikecology' Gets Ride at the Capitol," *The Baltimore Sun*, May 7, 1971; Kneece, Jack, "Transportation Week to Star Cycling Volpe," *The Washington Star*, May 16, 1971]]

The *Times* returned to the subject in August with "Bicycle Business is Booming." The subhead was:

Big Adult Market is Bringing Euphoria to Industry

The article said that "for the first time in a century," the American bicycle industry "is pinning its rosy expectations on an unlimited adult market instead of a static youth one." The article listed several factors behind the boom:

- Physical fitness consciousness. Fifteen years ago, Dr. Paul Dudley White, President Eisenhower's physician, endorsed the bicycle as a weapon against heart attacks . . . .
- The newer ecology interest. The bicycle, as the president of the Columbia Manufacturing Company has pointed out, is the only form of transportation – including the horse – that doesn't pollute.
- Encouragement for bicycle riding from municipal, state, and Federal Government programs. The Bicycle Institute of America says that 6,300 miles of bicycle paths have been laid out in 200 cities. The institute has pushed for legislation such as a law recently enacted in Oregon that permits revenues to be set aside from gasoline and road use revenues for bicycle paths. Representative Edward Koch, Democrat of New York, has introduced a bill that would permit states to use Federal highway money for paths.

- Trend-setters like Jacqueline Onassis and Mayor John V. Lindsay of New York help the fashion-status of cycling while bicycle championships and races such as the eight-day Tour of California also kindle consumer interest.

These factors were overshadowed by a more significant reason:

> The introduction of the lightweight, 10-speed bicycle by Schwinn in 1958 was as significant for the bicycle industry as the development of stereo components was for recordings.

Schwinn's Ray Caparros said, "If we were still pedaling on those 15-pound tires and foot brakes, no adults would be on bikes today."

Another factor was suggested by Eugene Sloane, whose *The Complete Book of Bicycling* had become a bestseller since its publication in October 1970:

> He attributes the bike boom to the fact that "people got sick and tired of jogging—that's got to be the most boring thing." [Bender, Marylin, "Bicycle Business is Booming," *The New York Times*, August 15, 1971; Sloane's bestselling book was published by Trident Press]

In June, former Secretary Boyd (then president of the Illinois Central Railroad) participated in a 2-day conference in Washington to explore the idea of developing a free public transit system in the United States. Over 40 national organizations sponsored the conference, including the Conservation Foundation, National Urban Coalition, and many environmental and labor groups. An article about the conference summarized Boyd's keynote address:

> It is time, Boyd said, that Americans consider the over-all cost of transportation, get rid of the myth that busses [sic] can be paid for out of the fare box and consider that free transportation might involve the least cost. Boyd said in a keynote address that the public was subsidizing a private transit system in which the public used automobiles to reach downtown areas. Urban areas, he said, cannot tolerate an unlimited influx of motor vehicles.

Under Secretary of Transportation Beggs told the conference that 94 percent of all urban travel was in an automobile. Mass transit use was only a fourth of what it was after World War II, and was still declining:

> This overdependence on the automobile as the solution to people's transportation needs has reached the point in our country where we now have almost as many vehicles as we do people. We have one car for every 50 yards of highway.

He called attention to the Urban Mass Transportation Assistance Act and the highway transit provisions of the Federal-Aid Highway Act, although he also warned about overemphasis on rail rapid transit. Rail might be feasible in the 10 largest cities, but elsewhere, the answer was bus transit.

Theodore W. Kheel co-chaired the meeting. A lawyer, and labor mediator from New York City, Kheel had helped settle many strikes in New York City and elsewhere. In 1964, President Johnson had asked Kheel to help mediate the negotiations to prevent a nationwide rail walkout. Transportation, however, was one of his many interests.

Kheel pointed out the trend since World War II to abandon mass transit in favor of the automobile. The resulting war between mass and private transportation had resulted in incalculable injury. "Those who have switched to personal from mass transportation now suffer from traffic congestion and air pollution just as riders of mass transportation suffer from poor service and dilapidated facilities." He urged the Department of Justice to force General Motors out of the business of manufacturing buses. "General Motors, the largest maker of private cars, is likewise the largest maker of buses. These two methods of transportation are in deadly competition with each other. [Wyant, Jr., William K., "Free Public Transit Called Urban Solution," *St. Louis Post-Dispatch*, June 2, 1971]

In 1971, Kheel became advisory committee chairman of the Highway Action Coalition, which environmentalists had formed in the wake of the defeat of Representative Fallon and other "Dirty Dozen" Members of Congress. The coalition held its first press conference in Washington on September 23. Professor Tom Lewis described the group:

> Claiming to represent 750,000 people across America, Highway Action Coalition was actually a loose alliance of those who supported environmental causes like the Sierra Club, Environmental Action, Friends of the Earth, and Zero Population Growth. A year earlier they had joined together with the common goal of persuading Congress to ground the supersonic transport plane, a project that Volpe and the Department of Transportation had long championed. Fresh from that victory [Congress ended funding for the project in March 1971], they reconstituted themselves as an anti-highway coalition with the single goal of "busting the trust." [Lewis, p. 225]

(The House voted 215-204 to end funding for development of the SST on March 18, 1971, but the Nixon Administration hoped to revive the project in the Senate. On March 24, the Senate voted 51-46 to bring SST development funding to a halt. The President called the vote a "severe blow" to the aerospace industry, leaving the SST to Europe. The following day, a spokesperson for the Office of SST Development in the Department of Transportation said, "We're out of business." A consortium of Air France and British Airways continued development of the Concorde SST, which began commercial service in 1976 and continued until a decline in business ended the flights in 2003.

(Volpe had backed the SST, even meeting with the President during March to bolster his flagging support. "How would you like," Volpe told the President, "to go out to Dulles Airport and see an SST with the words 'Made in the USSR' on it?" Despite the defeat in the Congress, Volpe kept a model of the SST on his desk for the remainder of his term in office. [Kilgore, p. 189])

Kheel said of the coalition:

> We are determined to take on the most powerful lobby this country has created—the automobile industry; insurance and real estate companies; the road builders and construction industry; the oil companies and all their cohorts at the Federal Highway Administration—and start demanding that this Administration and the ones that follow it put a stop to this carnage on our roads and in our cities.
>
> The Highway Trust Fund is going to be "busted open." We must begin to use this fantastic resource in cities and states for the kind of transportation that serves people, not machines.

The Interstate System, he said, "has wreaked havoc in our countryside and in urban areas; it must be declared completed and halted now." He wanted to open the Highway Trust Fund to public suggestions on the best use of its revenue. He advocated a moratorium on urban highway construction "until we can begin to re-dress the past imbalance and provide public transportation that is cheap, pollution-free, efficient and available to all who need it."

In a press conference in Washington on September 23, he expressed special concern for the disadvantaged:

> The poor are walled in by concrete monsters we call superhighways; he cannot afford the luxury of an automobile to travel to outlying suburbs where the jobs are. The handicapped [are] forced to live a restricted life because adequate public transportation is either not available or so expensive as to make it unacceptable. The young are denied mobility except through media demands that they fulfill their sex life through the roaring, gadget-filled automobile. ["Kheel: Block Road $," *The New York Post*, September 23, 1971]

The coalition was focused on the legislation that would be needed in 1972 to reauthorize the Federal-aid highway program. For the highway community, *The Christian Science Monitor* noted, "its road may be rougher than ever before." It said:

> Strong forces are gathering for another bid to divert some of the more than $5.6 billion a year that pours into the trust fund to support other transportation projects, especially building new mass-transit systems. In the past, highway interests have been able to turn back decisively efforts to spend the money generated by highway-user taxes for anything but roads. But this time they may have to make some tactical concessions.

The coalition saw positive signs, including the presidential election in 1972. "Voter enchantment with highway building has been fading ever since interstate-system construction stopped concentrating on long-haul expressways and began pushing through urban neighborhood." The newspaper predicted that, "Democratic presidential hopefuls will rival each other with plans for tapping trust fund revenues to build balanced transportation systems." [McKinsey, Philip W., "Environmentalists Challenge Highway Lobby Over Funds," *The Christian Science Monitor*, December 23, 1971]

The contrast between the Highway Action Coalition and the highway lobbyists who frequented Capitol Hill was stark, as Lewis pointed out:

> To some, the coalition's staff looked like sixties flower children who had gone to seed. Tie-dyed shirts, jeans, and sandals seemed to be the uniform for the staff of four. Mangy furniture, guitars, and grime were the most prominent features of their shabby seventh-floor offices on Dupont Circle [in Washington]. The contrast with their more established and wealthy adversaries could not have been more striking. Officials of the American Association of State Highway Officials and the American Road Builders Association generally dressed in dark suits and conservative ties. The road builders had built their quarters close to the new Department of Transportation building, while the highway officials preferred a gleaming building on North Capitol Street, close to the offices of the senators and representatives whom they so ardently courted.

John D. Kramer, the executive director of the coalition, took home a weekly salary of $75, which was lower than the lobbyists' daily expensive accounts:

> Yet Kramer had been brash enough to suggest in December 1971 that "in maybe just two years, we can open up the Highway Trust Fund to broader purposes, like mass transit." The executive director made up for the coalition's lack of funds by tapping the growing reservoir of resentment about urban Interstates. [Lewis, p. 225-226]

As of late October 1971, the coalition had raised only about $500 to run its Washington office. Barbara J. Reid, a codirector of the coalition and legislative director of Environmental Action, told *National Journal* that her group was "no match in terms of resources for the all-powerful highway lobby." They could not duplicate the lobby's tactics:

> We don't buy votes. We don't buy politicians. We are trying to educate people to turn their politics around so that their thinking will have an impact in Washington.

The coalition would not endorse pending bills, all of which were considered inadequate. Instead, *National Journal* listed what Miss Reid called the main elements of the sound, balanced transportation plan the coalition advocated:

- a transportation trust fund in place of the Highway Trust Fund.
- a system in which highway-user taxes from urban areas are devoted to transportation expenditures in urban areas.
- a government declaration that the interstate system is complete "so that the 80 per cent of federal ground transportation funds which annually go to construct the system" can be used for other kinds of transportation.
- more citizen participation at all levels and federal grants to assist citizens' groups in collecting technical data and formulating planning concepts.
- increased taxes on trucks to pay for their wear and tear of highways.
- no more new rights of way for urban freeways.
- payments from the new transportation trust fund for all social, environmental and economic costs of transportation, including traffic control systems, safety programs, maintenance of present transportation systems, capital expenditures and operating costs of public

> transportation, beautification, air and noise pollution programs, relocation costs and the upgrading of commuter railroads.

As mentioned earlier, legislative proposals had been introduced during the year that would shake up the status quo. Senators Kennedy and Representative Koch had introduced a bill in January that would combine revenue credited to the Highway Trust Fund and the Airport and Airways Trust Fund into one trust fund for all transportation. The automobile excise tax would be transferred from the general Treasury to the new Transportation Trust Fund. Senator Percy also had introduced a transportation trust fund bill. In addition, Senator Gaylord Nelson (D-Wi.) had introduced a bill that would allow States to use Highway Trust Fund revenues for urban mass transportation proposals, while Representative Ryan had introduced a comparable bill.

The Governor's Conference also had adopted a new policy on the Highway Trust Fund. In 1969, the Governors had proposed that the Department of Transportation study transportation policy, but rejected inclusion of consideration of a Transportation Trust Fund. In 1970, the Governors had strongly endorsed the Highway Trust Fund, but also a Mass Transit Trust Fund and limited flexibility for Governors to transfer funds among the Trust Funds. The new position, adopted in September 1971, said:

> We call for the creation of a unified transportation trust fund incorporating existing transportation revenues earmarked for use within a specific mode of transportation or by beginning a phased program of percentage transfers from the highway and aviation trust funds and other funds made available for transportation into the proposed unified national transportation trust fund.

Conference special assistant H. Michael Dye told the *National Journal* that the Governors wanted to reassert their decisionmaking authority in the face of efforts by State highway officials in the State legislatures.

The magazine interviewed Under Secretary Beggs about the issue:

> Beggs said the transportation trust fund, long favored by Transportation Secretary Volpe, has been shelved temporarily in favor of the President's special transportation revenue-sharing plan sent to Congress on March 17.
>
> Volpe on several occasions has outlined a plan to convert the Highway Trust Fund to a transportation trust fund with designated accounts for air, rail and ground systems. Under the plan, each mode would have its own source of revenue from user taxes, with some spillover allowed from one account to another.
>
> "I am sure that Secretary Volpe would push the transportation trust fund idea again if transportation revenue sharing were not enacted."

Even ARBA, which only the year before had wanted to extend the Highway Trust Fund through FY 1985, was at least considering the idea of a Transportation Trust Fund. An advisory group had recommended that ARBA's board of directors support creation of a Transportation Trust Fund. Director of Public Relations T. Randolph Russell explained that the advisors knew that OMB opposed the Highway Trust Fund. "We feel it is in the cards that some modifications of the trust fund are coming up. Consequently we felt that we ought to take the lead in supporting a transportation trust fund." The board, however, rejected the idea because it "scared some people right away."

Another factor was the change in congressional leadership. In the House, Representative Blatnik was the new Chairman of the Committee on Public Works. Senator Birch Bayh (D-In.) would be chairman of the Senate Subcommittee on Roads, a position that Senator Randolph had held in addition to his role as Chairman of the Public Works Committee. Observers considered Representative Blatnik and Senator Bayh to be "open-minded" on expanding the Highway Trust Fund, although Blatnik thought such proposals were premature. [Hirschberg, Vera, "Transportation Report/Mass-Transit Proponents Gather Support for Attack on Highway Trust Fund," *National Journal*, October 30, 1971, p. 21-28]

In an interview with the Highway User Federation's magazine, Blatnik said he thought the public, overall, supported the highway program, especially the Interstate System:

> It has taken a long time to build this new system, 15 years so far, and during the course of its construction some people have lost sight of the overall benefits and others, unfortunately, have had their lives adversely affected by it. We cannot ignore or blame either group for not being more enthusiastic. We can and should do more to keep the public better informed as to the need for improvement of highways and the benefits to be derived from their use.

Asked if he expected pressure for new uses of the Highway Trust Fund, including highway beautification and other modes of transportation, the new chairman said:

> There have always been pressures for expanded uses for the Trust Fund, from its inception in the 1956 Act, and you are quite correct that the 91st Congress widened the application of the fund somewhat in enacting the Federal-Aid Highway Act of 1970. I can't envision these pressures diminishing in the immediate future, and, in fact, the trend seems to be the other way. There is even a movement underway to replace the Highway Trust Fund entirely and set up in its place a national Transportation Trust Fund . . . . While I try to keep my own mind open to change, I do feel that any drastic change in that direction ought to be brought about only after there has been developed a case strong enough to justify it.

He thought that "some valid and thought-provoking arguments" could be made in support of allowing States to transfer a certain percentage of Highway Trust Fund revenue among modes as the National Governors' Conference had proposed in 1970 or a transportation trust fund as suggested by Secretary Volpe. He did not think Congress should "be blind" to the arguments for such an approach, but said that, "Our overriding concern must be what is best for the nation." Although he thought the facts would support the "continuing need for funding highway programs pretty much as we have and possibly more . . . we must keep an open mind to all features, including the methods of financing."

The public, Blatnik thought, supported the use of Highway Trust Fund revenue for highway-related activities, such as replacement housing, but might initially object to the use of the revenue for nonhighway modes. He reserved judgment in the absence of a specific proposal. [O'Toole, Stephen E., ". . . a forward look . . ." *Highway User*, February 1971, p. 8-10]

During 1971, several anti-highway books were published, including:

- Burby, John, *The Great American Motion Sickness: or Why You Can't Get There From Here*, Little, Brown.
- Kelley, Ben, *The Pavers and the Paved: The Real Cost of America's Highway Program*, Donald W. Brown, Inc.
- Robinson, John, *Highways and Our Environment*, McGraw-Hill Book Company.
- Schneider, Kenneth R., *Autokind vs. Mankind: An Analysis of Tyranny, a Proposal for Rebellion, a Plan for Reconstruction*, W. W. Norton.
- Stone, Tabor R., *Beyond the Automobile: Reshaping the Transportation Environment*, Prentice-Hall.
- Williams, Jr., Ernest W., Editor, *The Future of American Transportation*, Prentice-Hall.

Burby, whose book was cited earlier, covered the range of transportation modes, but Thomas R. Reid III summarized the book's viewpoint in a review in *The Washington Post*:

> In fact, as John Burby's book makes clear, the Department of Transportation's greatest failing has been its propensity to spend too much money promoting the wrong modes of transportation. In doing so, the department is carrying out the wishes of its political masters in Congress, who generally seem to be more concerned about the business interests of the transportation industry than about the needs of the public. [Reid III, Thomas R., "The Unregulated Transportation Mess," *The Washington Post*, August 3, 1971]

Mainstream magazines entered the debate. *Fortune* covered the debate in its July 1971 issue, quoted earlier. Juan Cameron acknowledged the scope and significance of the Interstate System, quoting Daniel Patrick Moynihan, then known as a former White House advisor, as saying future generations would "almost certainly judge [the Interstate System] to have had more influence on the shape and development of American cities and employment than any initiative of the middle third of the twentieth century." He added, "If anyone had realized the sheer magnitude of the interests affected by this road system, it is impossible to imagine that it would ever have been built."

Fierce opposition was now threatening the remaining mileage, as Cameron explained:

> The great irony of the Interstate is that opposition evoked by the changes it had brought now threatens to prevent completion of the System . . . . [The] mid-1960's saw the emergence of what has become a virtual highway rebellion. Today it is almost impossible to get a major Interstate project approved in most U.S. cities.

Cameron quoted Administrator Turner as downplaying the opposition as the "carping of a few dedicated critics" who "are blinded by their desire to discredit" the Interstate program.

Noting that the Highway Trust Fund had been called "a guaranteed annual wage for the highway industry," Cameron discussed the States' $320 billion worth of post-Interstate needs. James Dingwall, chief engineer of the Texas Highway Department, explained why these needs should be met. "In Texas the automobile is a way of life . . . . Until someone overcomes gravity our people are going to be on rubber tires." Cameron also quoted Alfred E. "Alf" Johnson, AASHO's executive director, as sniping at "policy makers" in Washington and other urban centers who "haven't any idea of what transportation is in the rest of the country":

> Among the policy makers he has in mind are the transportation planners on Secretary Volpe's staff and the influential John Ehrlichman, a White House assistant who formulated President Nixon's recent proposal to tap the highway trust fund for other kinds of transportation projects that governors might decide were needed. Johnson fumes, too, at the diversion of federal trust-funded monies away from construction as a result of legislative changes in recent years. Environmental and social aids, he notes, now absorb a substantial portion of federal highway money. "The relocation assistance, your double hearings, your environment, your conservation, your urban designs, your equal opportunity—those are all things that cost money. And a lot of these costs are for cosmetics, whose value is dubious."

What seemed clear was that a reordering of transportation priorities was on the horizon, possibly sooner than later. "The challenge is to cope with increased flows of people and goods without building more of the same—to make more efficient use of existing highways and to strengthen public transportation." [Cameron, p. 28-33]

Business Week profiled the Highway Action Coalition in the issue of December 11, 1971. "The militancy of the critics and the broadening base of public involvement in mass-transit issues will force the government to make a substantially better effort." Although some observers" thought the coalition could make better use of its energies boosting UMTA, the group's spokesman, John Kramer, thought the time was right for a frontal assault. "We know such funds can be abused, as uses are thought up to keep them going. But we like the guarantee of massive funds in the initial stages of a capital-intensive program like mass transit." ["Ecologists Attack the Highway Trust Fund," *Business Week*, December 11, 1971, p. 8-10]

Jack Anderson, the widely read muckraking columnist, wrote in January of a "blistering" study by the Urban Law Institute about the clash between the Federal-aid highway program and the Federal model cities program. The column began:

> The federal government has let two of its most promising projects strangle each other like "a brainless octopus ignorant of the activity of its own arms." This "foolish and wasteful" conflict between the multi-billion dollar federal highway system and the model cities program is costing the taxpayers hundreds of millions of dollars.

Charles Sevilla, author of the report, declared:

> The poor . . . pay with their homes and community so that the suburban commuter can make his daily sojourn in and out of the city. Highways are choking inner-city streets with traffic,

> enticing transit riders into their automobiles . . . and thus killing transit companies, and consuming billions of dollars each year that might be more efficiently used for mass transportation.

Anderson said that the loser in these conflicts was usually the Model City program, "despite federal laws that the state must guarantee adequate housing to displaced inner-city residents." The report described the problem:

> There appears to be a nationwide trend by state highway departments to falsify certifications to the federal highways officials of the existence of adequate housing. The collusion of federal officials in this process is a sorry commentary on the vigor of our national commitment to right the wrongs the highway program has inflicted on the poor.

At the heart of the problem was the requirement that Highway Trust Fund dollars must be spent on highways. Sevilla suggested the solution would be to let inner-city residents decide when they need urban highways. Anderson wrote:

> Some federal officials have refused even to sit down with inner-city leaders and discuss the highway plans.
>
> The study concludes that the city's highways, "its circulatory system," is "proving cancerous" through traffic jams, auto pollution and deafening noise. [Anderson, Jack, "Poor are Paying for U.S. Highways," The Washington Merry-Go-Round, *The Washington Post*, date unknown, early January 1971]

Anderson returned in September with a leaked document revealing a plot inside the Transportation Department "to block the construction of new rail systems to relieve the traffic in our congested, car-clogged cities." The highway lobby had instigated the opposition because it "wants the government instead to build more freeways."

The subject of the leak was Administrator Turner, "who always jumps when the highway lobby honks." He was "eager to entangle America in freeways and to pave over anything that gets in the way." Turner had frequently spoken about the value of mass transit in the form of buses, and had often criticized rail transit plans. Now, during a flight from Atlanta on "the Secretary's sleek Coast Guard jet," Turner had taken advantage of the opportunity "to fill Volpe's ear with arguments against subways." Arriving in Washington, Turner thought he had the Secretary's approval to draft a policy statement ending new subway starts – "all he needed was the routine acquiescence of Urban Mass Transportation czar C. C. Villarreal."

Turner, Anderson wrote, drafted a five-page memorandum for Volpe's signature agreeing to "discourage construction of entirely new rail-transit systems in cities that presently do not have any existing or under construction." Villarreal returned the draft to Turner "with a sharp note saying Turner's views were inconsistent with his own." Reached by Anderson or a member of his staff, Turner acknowledged the draft was one of his internal documents. His staff wrote numerous memoranda, he said, but that one "bears my name, and I have to take the responsibility for it." He was trying to resolve the differences with Villarreal. [Anderson, Jack, "Anti-Subway Plot," *The Washington Post*, September 11, 1971]

To counter criticism from across the broad spectrum of the media, the highway interests had merged three of their lobbying organizations. Beginning in January 1970, the Automobile Safety Foundation, the National Highway Users Conference, and the Auto Industry Safety Committee became the Highway Users Federation for Safety and Mobility (HUFSAM). The stated purpose of the consolidation was to create a strong organization to lead in the "development of adequate highways and the advancement of highway safety." The new group was headed by D. Grant Mickle, who had been with the Automotive Safety foundation since 1943. He also had been the first Deputy Federal Highway Administrator, taking the oath of office for the new position on October 17, 1961, and serving into 1963.

Burby wrote:

> With a name like Highway Users Federation for Safety and Mobility, from the outset the new group had to waste a great deal of its energy denying it was a new umbrella group put together to lead the highway lobby's fight to save the Trust Fund. The denials sounded rather feeble after the federation's first piece of literature appeared on June 1, urging civic groups, politicians, writers and others on a mailing list of thousands to ". . . Act Now! The Highway Trust Fund should be continued on a permanent basis for highways – with none of its money diverted. Now is the time to say, loud and clear, I want the money I pay for highways used for highways." [Burby, p. 311-312; ""'Consolidation," *Better Roads*, December 1969, p. 10]

Two weeks later, Anderson reported on another leak, this time regarding a plan by the highway lobby to dispatch "truth squads" to conduct a "name-calling" campaign against the environmentalists:

> The lobby will use a false front, ironically, to spread its version of the "truth." A phony "Speakers' Bureau" will send out highway spokesmen, disguised as legitimate lecturers, to attack the ecology movement. Their speeches will be carefully written for them by the lobby. Its chief propagandist, John Gibbons, estimated in a confidential memo that "at least half a dozen 'different' speeches" would have to be written. These canned speeches are supposed to provide a "hard-hitting, name calling refutation of the current highway myths." The reason for naming adversaries, Gibbons explained, is to attract attention. "Only this invitation to controversy," he wrote, "can be expected to get the attention of the media which is desired."

The HUFSAM campaign would focus on cities "where conservationists have been most effective at stopping the encroachment of highways and freeways," according to Anderson. He quoted Gibbons as saying:

> Forces are building up both inside the federation and outside, which demand we do something big and now to counteract the constant bombardment of highway critics.

The lobbyists would focus on name-calling environmentalists who talked about "air pollution; land use; destroying urban life; the evil highway lobby . . . housing dislocation; and assorted ecological (subjects) involving parks, wildlife, natural resources, etc." [Anderson, Jack, "Road Lobby to Assail Ecologists," *The Washington Post*, September 25, 1971]

One of the surprising new factors working against highways, both in project development and as a subject for media debate, was the National Environmental Policy Act of 1969 (NEPA), signed by President Nixon on January 1, 1970. At the time of passage, Congress, the President, and most observers thought its main provision was creation of the Council on Environmental Quality (CEQ). Instead of waiting for environmental disasters and then reacting to them, CEQ was intended to plan how to avoid problems before they occurred or turned into catastrophes. Little notice, even during debate in the House and Senate, was paid to the "action-forcing mechanism" that would soon be known as the environmental impact statement. By requiring a review for each major Federal action, NEPA provided an opening for opponents to take State highway agencies and FHWA to court to block projects under the Administrative Practices Act.

Opponents had been using environmental laws in the courts to block highway projects, but NEPA transformed the opposition. Environmental groups with attorneys took over project opposition from property owners who had led the battles of the 1960s. FHWA's Kussy recalled the transition:

> The evolution of NEPA from a short, seemingly innocuous charge to generally consider the environmental consequences of federal actions, to the procedurally precise, overarching requirement that it has become is one of the major events in environmental law.
>
> To underscore how unexpected the development of NEPA really has been, it does well to consider that at the time of its enactment, congress estimated that the cost of NEPA, including the amount of staff time needed to implement the act governmentwide, would be $1 million/year. When I began my legal career with the Pennsylvania Department of Transportation in 1971, major environmental litigation under NEPA was just starting, and the department's initial way of improving its NEPA documents was to hire a science writer. The environmental staffs that soon became the norm were only beginning to be set up. NEPA became effective on January 1, 1970. However, by administrative action, FHWA sought to delay its effective date for 1 year. This resulted in a lawsuit that was settled by requiring literally hundreds of documents to be prepared to make up for the delay.

At the time of Kussy's presentation, approximately 6,000 cases had been filed under NEPA, with roughly 10 percent of them involving the Federal-aid highway program. [Kussy, p. 12]

(For the origins of NEPA and how FHWA and the State highway agencies implemented it, see "Addressing the Quiet Crisis: Origins of the National Environmental Policy Act of 1969" at http://www.fhwa.dot.gov/highwayhistory/nepa/index.cfm.)

To bolster its case, HUFSAM published a 40-page brochure by Peter G. Koltnow called *Successful Cities* citing Grand Rapids, Milwaukee, Phoenix, San Diego, Tulsa, and Winston-Salem for the way they addressed their transportation problems. A brief review of the pamphlet in the November 1971 issue of *The American City* said of the cities:

> All apparently have a vigorous state freeway program, a traffic engineering [sic] that is considered good, control over operation of the arterial street systems and a stable and competent staff. Mass transit is not a prime consideration in these success stories—unfortunately. [Book Reviews and Report, *The American City*, November 1971, p. 58-59]

Two AASHO panels, held a year apart at annual meetings, illustrate how highway supporters viewed the shifting ground. During AASHO's November 1970 annual meeting, one of the featured events was a panel discussion with Members of Congress, including Representatives Fallon and Kluczynski. Virginia's Douglas Fugate, AASHO's outgoing president, moderated the discussion. He asked several questions about the Federal-Aid Highway Act of 1970, then pending in Congress. More broadly, he asked:

> In your opinion, is there any probability that Congress will yield to the anti-highway pressure and start cutting back on the program with highway revenues being diverted to finance other modes of transportation, and if there is to be a total transportation fund, will revenue sources from other transportation modes, in pro rata amounts of the respective needs, go into such a trust fund?

Representative Kluczynski reassured AASHO:

> I do not believe that Congress will yield to anti-highway pressures . . . . Down the road we may have a so-called total transportation fund. If such develops, however, I would believe that the programs placed in it . . . will retain their separate identities and that the Highway Trust Fund would continue to exist as a separate entity in a total transportation fund. [*American Highways*, January 1971]

A year later, on the eve of consideration of the next 2-year reauthorization legislation for the Federal-aid highway program, the highway community knew its foes had become stronger. On December 6, 1971, AASHO held a similar panel during its annual meeting. In an opening statement, Representative Harsha pointed out that "highway critics seem to be growing not only in intensity and volume and activity but they are also developing rather ingenious methods with which to invade the Highway Trust Fund." In part because of the media's focus, 1972 would be "a very crucial year for the Federal-aid highway program." The anti-highway attacks were having their effect, he said, and Members of Congress "who have not been aligned heretofore with the anti-highway coalition, now seem to be aligned with it."

In his view, 1972 would be "a year of reckoning insofar as a so-called 'after '75 highway program' is concerned." He added:

> As I say, if we do not do it next year it may be two or more years before the legislation can be considered, and this gives the opponents of the highway program an opportunity to enhance their ranks and to increase their arguments. [*American Highways*, January 1972]

The Highway Action Coalition agreed, as Kheel explained:

> At long last, Americans are becoming aware of a new version of crime in the streets: The pollution of our cities and carnage on our highways. I mean the distorted governmental preference for the auto and the dominance of highways in federal transportation policy. ["Ecologists Attack the Highway Trust Fund," *Business Week*, December 11, 1971, p. 8]

Thwarting the Will of Congress

Even as President Nixon sent the transportation revenue sharing proposal to Congress, he revived the hard feelings about impoundment. Appearing before the House Appropriations Committee in late February, OMB Director Shultz released a preliminary estimate that the Administration would impound $8 billion, mostly in domestic funds. While Members of Congress and interests affected by the likely freeze criticized the action, Senator Ervin's Subcommittee on Separation of Governmental Powers held hearings on the issue.

On March 23, 1971, former Secretary of the Interior Steward L. Udall appeared before the subcommittee to urge Congress to force "a confrontation with the President" on the practice. Chairman Ervin agreed the practice was objectionable, whether the President was Republican or Democratic. He said that $12.2 billion in appropriated funds were being held up. ["Nixon Asks $8 billion Added Funds," *The Washington Post*, March 24, 1971]

The Senator's total included $5.5 billion in highway funds. When Federal Highway Administrator Turner appeared before the subcommittee that same day, he described previous actions, including the most recent:

> On September 4, 1969, President Nixon directed a 75 percent reduction in new construction by the Federal Government. Also, the President urged the States and local governments to follow the example of the Federal Government by cutting back temporarily on their own construction plans.

After pointing out that the States initiated Federal-aid projects, Turner continued:

> No further steps were taken to prescribe a specific curtailment of the Federal-aid highway program, pending developments in connection with the voluntary action of the States in complying with the President's request.

He explained how FHWA implemented impoundments:

> The control step that we take within FHWA is to defer the letter authorizing the State highway department to advertise for bids. We set maximum limits on the total amount of new obligations which the State would be permitted to enter into within a given period of time–usually on a quarterly basis . . . . I would like to emphasize that no limitation has lasted long enough to affect any lapsing of funds . . . .

Turner mentioned the Missouri lawsuit and pointed out that the authority for impoundment of Federal-aid highway funds had been addressed in two major legal opinions in recent years:

> The first was by the Comptroller General. Senator Randolph and Representative Fallon, former Chairman of the House Public Works Committee, asked the Comptroller General [Elmer B. Staats] for his opinion of the legality of the 1967 limitation. The Comptroller General replied on February 24, 1967, in opinion B-160891. He emphasized that the opinion was advisory only and was binding on no one. The Comptroller General advised that he found the limitation to be legal as a proper exercise of executive authority [and] so long as the executive did not reduce already outstanding Federal obligations (which no limitation has done), it had no duty to spend all that Congress appropriates or authorizes to be obligated.
>
> The other opinion on this matter was issued by the Attorney General [Ramsey Clark] on February 25, 1967, in answer to the Secretary of Transportation's request for a clarification of the legal issues involved. The Attorney General upheld the legality of the limitation as applied to the Federal-aid highway program, at least insofar as the limitation did not affect Federal obligations already outstanding.

On March 24, OMB Deputy Director Weinberger appeared before the subcommittee to defend the President's right to impound funds. He described congressional appropriations as "a direction to be followed whenever it's possible to do so" and said that impoundments were "not a means by which the President attempts to thwart the will of Congress." The President could not be expected to automatically spend every appropriation; he "has to be more than a rubber stamp or a messenger boy running over to the Treasury." The goal was not to thwart Congress but to keep spending and borrowing within limits to economize or fight inflation. In some cases, the constitutional requirement that the President "take care that the laws be faithfully executed" might require him to impound funds, but it was not a responsibility, Weinberger said, "to be taken lightly, nor do we take it lightly." ["Fund Impounding by Nixon Backed," *The New York Times*, March 25, 1971]

The impoundment that Director Shultz had discussed in February turned out to involve $12 billion, including funds for urban construction, dams, water projects, and highways. Citing the President's war powers, his general authority under the Constitution, and specific language of the 1951 Anti-Deficiency Act as justification, the Administration said it was taking action to combat inflation, particularly in the construction industry, and stay within congressional limits on the size of the public debt and on Federal outlays for the current year. In addition, according to an OMB source, about $10 billion was being withheld as a matter of policy because the Administration opposed the spending at this time.

A *Washington Post* article about reaction to the impoundment reported:

> But the withholding has brought angry criticism from men like House Speaker Carl Albert (D-Okla.), Senate Appropriations Chairman Allen J. Ellender (D-La.), Chairman Joe L. Evins (D-Tenn.) of the House Public Works Appropriations subcommittee, and Sens. Sam

> J. Ervin Jr. (D-N.C.) and John J. Sparkman (D-Ala.). In comparison with [previous] freezes, they complain, the amounts being withheld by Mr. Nixon are unprecedented.

Senator Ervin considered the action "an unconstitutional assertion of the right of an item veto." Critics suspected the freeze was bait for enactment of revenue sharing or a slush fund to be released in 1972 to pump up the economy and the President's reelection hopes. Senator Ervin was planning legislation to require the president to report any proposed impoundment to Congress and giving Congress 60 days to veto any such presidential proposal. (As noted earlier, a version of the legislation would be enacted in 1974.)

On August 31, 1971, Secretary Volpe announced three steps, including release of $400 million in impounded highway funds, "to increase highway safety and stimulate jobs in areas of high unemployment." He also released the regular FY 1972 second quarter Federal-aid highway funds, totaling $1.145 billion, and authorized the FY 1973 apportionments to the States early to allow States that had used their FY 1972 funds to get an early start on FY 1973 aid.

Troubled Transit

As 1971 began, AASHO President and Wisconsin State Highway Engineer W. J. Burmeister had a message for the highway community:

> One can't help wondering "what should be the position of AASHO toward solving our future transportation problems, particularly in these urban areas."
>
> Obviously, AASHO can't solve the problem alone, but can help show the way through cooperation with organizations involved in complementary transportation systems, through an informed Congress and State Legislatures, and through an earnest effort on the part of the member departments to fully inform the public of the need for a completely integrated transportation system. Highways certainly will play a vital role in whatever form our future transportation needs dictate . . . .
>
> Speaking for AASHO, I would urge everyone involved in highway development, and especially the member departments, to be cognizant of our responsibility to recognize the social and economic impact of highway development, to continue to give due recognition to ecological and environmental features, and to keep the public fully informed of the need for continuing highway development in both the urban and rural areas to complement total transportation. By so doing, we can gain the public acceptance so vitally necessary to permit completion of the 42,500-mile Interstate System, to improve the most vital sections of the Primary and Secondary Systems, and to develop an Urban System to provide the traffic circulation so essentially necessary to the urban areas. [Burmeister, W. J., "Looking to 1971," *Better Roads*, January 1971, p. 37-38]

Even as the highway community tried to regain public support, State and local officials around the country were desperately seeking ways to pay for urban mass transportation systems that could not pay their way through farebox collections. New York City, the Nation's leader in mass transit, illustrated the problem, as *The New York Times* reported in March:

> The 2.5 million people who ride the subways, buses and commuter railroads to and through New York City each weekday will pay $150-million less this year than it costs to run the transit systems.
>
> Next year, transit officials estimate the deficit, attributed to rising costs and declining patronage, will increase by at least 40 per cent. For now, the officials say they do not know where they will get the money except by increasing fares sharply.
>
> Virtually all of metropolitan New York's major mass transportation lines are in financial straits. The Transit Authority faced a 1971 operating deficit of at least $100-million. Before Jan. 1 it will enter tough negotiations with transit workers that could drastically increase this deficit in 1972.
>
> The city transit fare—which rose from 20 cents to 30 cents just 14 months ago—seems certain to climb to 40 cents or more Jan. 1 unless the Transit Authority can find approximately $150-million in new subsidies beyond the more than $125-million that it now receives in indirect subsidies from the city and the Triborough Bridge and Tunnel Authority. [Lindsey, Robert, "Transit: Ink Gets Redder," *The New York Times*, March 8, 1971]

Metropolitan areas around the country faced variations of the problem, with all seeking ways to pay operating expenses, preferably without raising fares or taxes. One option the States considered was bond issues, but they came with a price, as a *Times* editorial pointed out:

> New Yorkers will be given a Hobson's choice later in the year in the form of a transportation referendum without alternatives. If they want to approve a bond issue, they will have to sanction a split that apportions $1.35 billion for mass transit but $1.15 billion for highways. A voter may feel that the former is a dire necessity and the latter a largely wasteful blight on the land, but he will have to take both or neither.

The price of highway funding was extracted by legislators representing upstate districts outside the metropolitan area. The editorial lamented the choice:

> A procedure that can give the people of this state the mass transit they need only if they resign themselves to more of what they don't need—destruction of the countryside, air pollution and waste of natural resources—is a procedure in need of drastic re-examination. ["What Price Transit?" *The New York Times*, July 16, 1971]

As the November 2 vote approached, Governor Nelson Rockefeller and Mayor John Lindsay, both liberal Republicans but often at odds with each other, launched a last-minute all-out drive to save the referendum, which polls indicated was doomed. Thomas Kheel led the opposition. He contended that the State was already $7 billion in debt and could not afford the additional burden. In response, Governor Rockefeller called Kheel a "political exhibitionist."

The voters defeated the bond issue by a wide margin, with upstate opposition combined with surprising defeats in the New York City boroughs of Brooklyn, Staten Island, and Queens. The Governor said, "There's going to be a lot of suffering in the state because of this," with transit upgrading and highway projects threatened. The defeat also left Governor Rockefeller's plan to build a bridge across Long Island Sound from Oyster Bay to Rye without a source of funds. [All from *The New York Times*: Lynn, Frank, "Fate of Bonds Shaky in Tomorrow's Vote," November 1, 1971; "State Bond Plan the Major Issue for Voters Today," November 2, 1971; "State Transit Bond Issue is Voted Down Despite Rockefeller-Lindsay Campaign"; and Prial, Frank J., "Rockefeller and Lindsay Differ on Ways of Saving Transit Fare; Bond Loss Deepens Fiscal Crisis," November 4, 1971]

On January 5, 1972, the city increased the subway fare from 30 cents to 35 cents.

Transit systems in other big cities were facing similar problems. Chicago Mayor Daley discussed the issue in a speech before the 3-day Fifth International Conference on Urban Transportation in Pittsburgh in September 1971:

> I know [I speak for] all mayors in not questioning the need for building highways, but we do question the priorities they have received and more important, what they continue to receive. The preferential treatment for highways should be ended, especially since it appears that the future of the expressway system is rather dim without the use of an efficient mass transit system . . . .
>
> I believe that before considering expansion of the interstate highway system we should give realistic federal aid to mass transit systems, including the development of correlatory [sic] facilities, such as parking lots, park-and-ride facilities, new rolling stock for busses [sic], improved terminal facilities, and the improvement of our arterial streets.

He criticized Federal funding levels for transit as well as the view that the "users of mass transit should assume the whole burden of paying for it, and if mass transit could not compete with the automobile, that was just too bad." He regretted that the President and OMB had not approved Secretary Volpe's full recommendation for transit ($900 million instead of OMB's $600 million) and said that "federal financing is not only too little but it fails to provide one of the basic elements we need, the contract authority essential for realistic planning and construction."

James M. McConnon, chairman of the Southeastern Pennsylvania Transportation Authority (SEPTA), criticized President Nixon's decision to eliminate the automobile excise tax, arguing it would put more cars on the road. As reported in *The Journal of Commerce*, he recommended equal matching shares for Federal transportation dollars:

> "There can be no defensible basis," he said, "for federal insistence upon one-third local matching funds for public transportation at the same time only 10 per cent local financing is required for interstate highway construction . . . ."

> Mr. McConnon said that states and cities should utilize their regulatory powers to control and limit urban traffic and promote public transportation. He suggested restricting selected streets and areas for public transport, improving and enforcing parking ordinances, provision of selected bus lanes in multiple lane roads in suburban regions, assessment of special fees for private traffic in some urban areas, and rigid control of through traffic on city center streets. He also asked for an end to federal prohibition against local community collection of tolls on federal roads.

UMTA Administrator Carlos C. Villareal told the conference he expected the Federal Government to obligate $1 billion for mass transit between January 1, 1971 and June 1972. This was possible, because OMB had increased the obligation level to $900 million as Secretary Volpe had recommended. [Creedy, Judith, "Mass Transit Financing Draws Sharp Criticism," *The Journal of Commerce*, September 13, 1971]

Vice President Agnew addressed the conference on September 8 to discuss balanced transportation policy with emphasis on "attractive alternatives" to what he called "do-it-youself commuting":

> I believe we have now learned in this country that transportation is not a matter of either good highways or a good urban transit system. We need both, one tying in with the other, if it is to be an effective system and really move people. And moving people is what it is all about . . . . We should concentrate on the individual and how to best get him from his home to school or to work or to the store or to the sports stadium or theater—at a price he can afford and without taking all day—whether he drives his own car or rides a bus or train.
>
> For too long we thought in terms of having either rapid transit or automobiles and trucks as the backbone of a city's transportation. We now know, as our friends overseas have accepted all along, that it is a combination of both. We cannot eliminate the motor vehicle. But we can reduce the dependence on it by enhancing the attractiveness of other forms of transportation.

The Vice President suggested the cities seeking relief consider Sweden's progress in building new towns in connection with improved mass transit systems:

> What a wonderful opportunity this exciting concept offers for solving the problems of overcrowding people as well as automobiles in our own American cities. The creation of new towns and satellite cities is our best hope for planned urban expansion and relief of many of the problems we now face in the impacted areas of our cities.

He explained that Stockholm had 18 satellite cities, each with a population between 10,000 and 50,000. These were planned cities with a transit line providing easy access to downtown. Sweden, he said, had the highest per capita ownership of automobiles outside the United States, but 90 percent of its inhabitants reached downtown Stockholm by the transit system.

He reported that the Nixon Administration had doubled mass transit expenditures to $435 million in 1970, and that figure would reach $900 million in 1971. He pledged the Administration's continued support of urban mass transit systems, which he said could play an important role in developing "new towns and satellite cities."

This emphasis on mass transit did not mean the Administration was going to ignore highways. Mass transit systems were needed in urban areas, but highways remained vital. "The automobile is still man's best method of personalized transportation and it can continue to serve that purpose for many years to come if we lick the pollution problem and if we keep our highways and streets open."

Earlier that day in Pittsburgh, Secretary Volpe had announced a $60 million UMTA grant to the Allegheny County Port Authority for Skybus. It was an innovative transit concept developed by Westinghouse Electric Corporation of Pittsburgh. The plan involved a fleet of driverless, rubber-tired electric transit cars operating under remote control on a 10½ mile roadway, most of it elevated, between Pittsburgh and South Hill Village. The project included two exclusive roadways totaling 12½ miles for commuter buses and improvements to two streetcar lines. The grant, Secretary Volpe, was the largest ever made to a local mass transit system, and he pledged up to $155 million in total grants for the $228-million project. [United Press International, "Agnew Says Transit Can Save Cities," *Youngstown Vindicator*, September 9, 1971; "The Vice President on Transportation," *The Washington Post*, September 12, 1971; Lindsey, Robert, "Pittsburgh Given Federal Grant for Automated Transit Project," *The New York Times*, September 9, 1971]

(As news coverage of the Volpe announcement made clear, Skybus was controversial. The Port Authority board supported Skybus but was divided on the plan, as was the County Commission. Mayor Peter F. Flaherty opposed the project. Opponents argued that available funds should be used to improve existing railroad lines, not on an untested concept. In 1975, with the estimated cost of the initial project up to $400 million, Governor Milton J. Shapp withdrew his support and the Skybus plan came to an end. Although local officials hoped to use the Federal funds for other transit projects, UMTA withdrew the $60 million awarded in September 1971.

(The Stockholm model cited by Vice President Agnew was a well-known urban planning concept that contrasted with the model adopted by BPR in its reports to Congress on *Toll Roads and Free Roads* (1939, which included the first attempt to describe what became the Interstate System) and especially in *Interregional Highways* (1944, which refined the masterplan described in 1939). The BPR model involved a series of circumferentials, including one around the central business district, and radials linking the circumferentials as part of a plan to relieve congestion and revive city fortunes. Sven Markelius's General Plan of 1945-52 for Stockholm proposed a balanced transportation system that included a high-capacity circumferential supplemented by a new subway system built in radials outward from downtown. The city had been buying unoccupied land as early as 1904 and, by the time of the Markelius plan, owned virtually all such land within the city limits. That land was the ideal location to solve the city's severe housing shortage. Professor Peter Hall described the result:

> During 1945-57 the first Tunnelbana [subway] line was built and, based on it, the first satellite grouping at Vällingby was completed. It took the form that was to be repeated in every subsequent case: a central high-level shopping and service centre . . . serving 80,000-100,000 people, was supplemented by local district centres; all were connected by the

> subway; residential densities were highest around the major centre, high around the local centres, progressively lower away from the centres, so as to bring the maximum number of people within walking distance of shops and services, implying that nearly everyone would be housed in apartment blocks. This standard prescription varied only slightly through the 1950s and 1960s, reflecting changes in fashion and the fruits of experience: very high high-rises around an open pedestrian mall at Farsta, with three times the car-parking that had been provided at Vällingby; a tighter, more enclosed pedestrian mall and low-rise high-density apartments at Skärholmen, with a further expansion of parking into a vast multi-storey [sic] garage for 3,000 cars, the biggest in Scandinavia; an enclosed mall, with direct access into the subway station, at Mörby.

(Urban planners who came from the United States and other countries to see this concept in practice were impressed:

> And, a visiting sociologist found, in the classic early satellite of Vällingby most people seemed well content: as compared with American suburbanites in Levittown the men had more time with their children, the women and teenagers found it easier to get around without a car, the children had better-planned open space and special services. Even then, polled, most said that they would prefer a house to an apartment: a conclusion that the sociologist, clearly moonstruck by the quality of Stockholm life, felt must reflect a fault in the poll. [Hall, Peter, *Cities of Tomorrow: An Intellectual History of Urban Planning and Design in the Twentieth Century*, Basil Blackwell, 1988, p. 310-311; the visiting sociologist was David Popenoe (*Suburban Environment: Sweden and the United States*, University of Chicago Press, 1977, p. 177-201, 236)]

(These concepts were influential in the United States, but that poll was not flawed. As car ownership increased, it affected the willingness to continue expanding based on the Markelius plan:

> In Sweden, single-family homes zoomed from 32 per cent of new housing construction in 1970 to 55 per cent in 1974 and to over 70 per cent by the late 1970s, responding to individual preferences that showed as many as 90 per cent of Swedes preferring houses to flats [apartments] . . . . So the car in Europe, as in its first homeland, was an agency of suburbanization. [Hall, p. 315])

The issue of a transportation trust fund reached the President during a question-and-answer session before the Economic Club of Detroit on September 23, 1971. Robert F. Hasting, the head of architect/engineering firm Smith, Hinchman, and Grylls Associates (now SmithGroup), asked:

> Mr. President, the American Institute of Architects is preparing recommendations for [a] national urbanization policy which we believe is compatible with your national growth policy. Central to our recommendations is the use of a national transportation [trust fund] to implement such a policy. Would you, Mr. President, feel disposed to support a proposal that the Highway Trust Fund expand into a general transportation fund in order to build such a national transportation system?

The President replied:

> Mr. Hastings, as you are probably quite aware, you have hit upon about [sic] one of the most sensitive political issues we have in this country. I just met with a group of Governors, incidentally, enlisting their support, and we have their support in support of the wage price freeze.
>
> If there is one sensitive issue, Governor [William G.] Milliken [of Michigan] will tell you in his State it is: "What are you going to do about that Highway Trust Fund?" The same is true with regard to the Congress.
>
> On the other hand, looking toward the future, looking toward a comprehensive transportation policy for the country, I believe that we cannot be rigid with regard to the Highway Trust Fund. I believe that if the only effective way of solving our mass transit problems, our problems of congestion and the rest, is through some approach which would use some of these funds in other directions, I think we have to consider it.
>
> I don't have a specific proposal before me and until I have one, I, of course, will not approve it. But I don't think we should enter this problem with a closed mind.

Although the President was noncommittal, his references to not being rigid about the Highway Trust Fund or approaching the issue with a closed mind were encouraging for diversion supporters.

Efforts to crack open the Highway Trust Fund were intensifying. On behalf of the Highway Action Coalition, Kheel observed during National Highway Week in September that his organization was determined to “bust the highway trust fund”:

> We are determined to take on the most powerful lobby the country has created—the automobile industry, insurance and real estate companies, the road builders and construction industry, the oil companies and all of their cohorts at the Federal Highway Administration.

The group had only about $500 to work with, but said in a statement:

> The greater our distorted commitment to the private auto, the greater the inconvenience and discrimination experienced by the vast numbers of Americans who either cannot or will not drive. There are more than 110 million wage earning heads of households who have incomes under $4,000 a year. A fifth of all American families do not own a car and over 100 million Americans do not have drivers’ licenses.

The coalition wanted a moratorium on urban freeway construction as well as “the interstate system be declared completed and stopped now.” Speaking of the Highway Trust Fund, Kheel said, “We must begin to use this fantastic resource in cities and states for the kind of transportation that serves people, not machines.” [“Kheel: Block Road $,” *The New York Post*, September 23, 1971; Kole, John W., *Milwaukee Journal*, September 26, 1971]

On September 23, the Senate Committee on Commerce held a hearing on three transportation bills. Chairman Magnuson introduced the first bill, which authorized the Secretary of Transportation to provide for comprehensive regional planning and development of transportation (S. 2279). Second was Senator Kennedy's bill from the previous Congress to establish a national transportation trust fund, now numbered S. 295. The third, S. 1344, would establish a national transportation trust fund, but also call on the Secretary of Transportation to formulate a national transportation development plan that considered the views of representative public organizations and included a formula for allocating funds among the modes.

Senator Kennedy, the first witness, urged the committee to combine the best features of the three bills: a national transportation trust fund; comprehensive multimodal regional planning; and "a system that insures an allocation of Federal funds in proportion to the critical transportation requirements of this Nation in this decade, with the first priority being adequate funding to the transportation needs of the urban areas." Under the present "hydraheaded system," the "signs of major illness within our transportation system are not hard to discover." The signs included the fact that the Federal Government "spent $3.3 billion on interstate highways last year, yet nearly every major public transit system lost millions of dollars and their pleas for Federal assistance to cover right-of-way maintenance went unheeded." No State or region could develop a comprehensive plan for allocating resources:

> The Federal Government, through law and practice, has prompted a rigid misallocation of resources as a side effect of its attempt to stimulate the construction of an Interstate Highway System and long-distance air travel.
>
> It is to end this distortion and to permit a flexible response to changing conditions that I strongly urge creation of a national transportation trust fund.

He acknowledged that the benefits of the Nation's highways were "enormous," but cities could "no longer afford to give up two-thirds of the land to the accessories of the automobile, to the highways, to the roads, to the parking facilities."

He summarized the sources of revenue for his proposal, namely the existing trust funds and the 7-percent excise tax on the purchase of new automobiles, for an annual total of about $8 billion. To receive funds from the new trust fund, each State must have a single transportation agency that designs comprehensive, multimodal, statewide transportation plans that cover urban areas over 50,000 population. He suggested that the final bill "spell out in detail the requirement that the pass-through mechanism assure adequate funding within the State to urban areas, permitting them block grants to carry out their comprehensive transportation plan." Through this same pass-through mechanism, urban areas should receive funds for comprehensive transportation planning.

The goal was to rectify the fundamental problem of the past 15 years:

> [The] States and cities have a simple choice foisted upon them by . . . Federal legislation: build highways or build nothing. They are lured by the availability of 10-cent Federal dollars, if they build highways. And so they build highways and the Nation's changing transportation needs go unmet.

He concluded his statement to the committee by saying:

> Mr. Chairman, we have seen the failures of separate transportation planning and single mode financing in the past, and the time is long overdue for a coherent national transportation policy which will remedy these failures. I believe the enactment of legislation incorporating comprehensive, multimodal planning at regional, State, and local levels and the creation of a national transportation trust fund would place this Nation on the path to resolving its transportation needs in the coming decade.

Senator Howard W. Cannon (D-Co.), who chaired the hearing in Chairman Magnuson's absence, said that he had helped create the Airport and Airways Trust Fund and recalled "the battles that we had [in order] to get as far as we did." As an example, he said:

> One of the concessions we had to make was the elimination of airport access roads as being eligible under the Airport-Airways Act. We had to concede on that to try to get something, and we have even yet not enough funds to keep up with the development of the airports and airways themselves.

He recalled this struggle as a preface to this comment to Senator Kennedy:

> So I think we would have a very difficult time in trying to combine everything into one trust fund, the so-called users' trust fund, to make this type of a broad pool, let's say, to solve all the needs out of one budget. I think we would have a very difficult time legislative wise.

He asked if Senator Kennedy "as a practical matter" thought he "could actually sell to people" the idea that they should pay for one mode of transportation but the revenue should be used for other modes.

Senator Kennedy suggested that consumers paying into the Airport and Airways Trust Fund might be convinced that "the most difficult part of flying from Boston to Washington is in getting from his home to Logan Airport." If the consumer could be convinced of the value of using mass transit to get to and from the airport, "then I think they would be willing to have airport taxes go to mass transit." Another argument might be to point out that "those that live in the urban areas wonder why only $1 out of every $2 in highway user taxes collected from them comes back to the cities." By pointing out such inequities, he thought public support might grow for a single transportation trust fund. [*National Transportation Act of 1971*, Hearing before the Committee on Commerce, United States Senate, 92nd Congress, 1st Session, September 23, 1971, Serial No. 92-87, p. 67-73]

Senator Kennedy based some of his comments on transportation in Boston. Governor Sargent, who appeared before the committee later that day, reinforced Senator Kennedy's observations. He explained that the National Governors' Conference had adopted policy positions during a meeting in Puerto Rico a week earlier. He emphasized two of the positions. "States should continue to establish departments of transportation to provide for consolidated and coordinated transportation policy." In addition, Congress should create a single unified transportation trust fund "to give the

Governors the authority to transfer funds among various programs to meet their States [sic] transportation needs in addition to special revenue sharing for transportation."

The National Governors' Conference had supported a unified trust fund for several years because it would allow give each Governor the "option of spending their transportation allocations in areas of vital need, be it mass transit, airports, or highways."

The National Governors' Conference opposed S. 2279 "as it permits the creation of regional authorities that could in effect supersede the Governor in defining each State's transportation priorities." Governor Sargent explained:

> The State role in transportation planning and implementation is of major importance, both technically and financially, as States attempt to develop comprehensive programs to meet the current needs of society . . . . The States' awareness of the complex issues in the transportation field is evidenced by the growing number of State Departments of Transportation . . . . Because of the comprehensive approach needed, the Governor and the State must play a very active role in meeting these responsibilities. To shackle him with a veto by the local units of government will not provide him with the capability to respond to the needs of a more than small geographic area.

Everyone understood "the difficult problem and the challenge that we face" in trying to "keep our Nation's transportation system not only the envy of other nations, but also totally responsive to our needs." Those needs varied from State to State. "I ask you today to give us the ability and the assistance that is vital in solving our transportation problems." [*National Transportation Act of 1971*, p. 86-88]

Theodore Kheel appeared before the committee on behalf of the Highway Action Coalition. He introduced a lengthy prepared statement for the record, but spent much of his initial comments on the Port Authority of New York and New Jersey. The discussion illustrated how the proposed regional authorities could not be confined within State boundaries or even a grouping of States. Distinctions had to be made, Kheel said, between the transportation of people and goods as well as between short-haul and long-haul transportation:

> The airplane is not in competition with the subway. But the automobile is in competition with the subway and the bus and commuter railroad. Our major crisis is the crisis of cities created by the inability of people to get from their homes to their jobs and back to their homes again.
>
> And when we talk about a balance in coordinated systems of transportation, it is that balance that we have to have because in the last 21 years, since the end of World War II, which really marks the beginning of the automobile age in a big way, and 1949 is really the key year, because it took 3 years for the automobile companies to tool up and get the cars out after the war had ended . . . we have gone on an automobile binge since that time.

His prepared statement indicated that "the crisis in mass transportation must rank at the top of the most serious problems this nation faces." He recognized "the understandable affection for the automobile," but this affection had been "played upon by the promotional skills of the highway lobby." Meanwhile, the Nation neglected "the form of transportation still indispensable to enable most people to get to and from work." The result was that "we face the twin and related problems of congested and polluted streets and deteriorated and deficient mass transportation."

He said the "most dangerous consequence of imbalance in transportation policy is the decline of public transportation systems." While transit companies went out of business and public lines operated at a loss, the Nation was "subsidizing the automobile commuter by an amount at least ten times as great as the subsidies occasionally provided the users of mass transportation." The situation was not only unfair but "self-destructive." He continued:

> At long last, however, Americans are becoming more aware of a new version of "crime in the streets": the carnage on our highways, the pollution of our cities, the destruction of our parks and open spaces, the disruption of neighborhoods and another item on the list of discriminations against the poor, the young, the old and the minorities. I refer to the distorted government preference for the automobile in American life and the dominance of highway building within federal transportation policy.

In the Interstate era, the Nation forgot about social costs. "We have covered our land with concrete ribbons designed to transport vehicles from one point to another." The rural segments of the Interstate System were "important to facilitate movement from one part of the country to another." However, the result in the cities was "a strangling congestion that threatens the well being of all urban residents." Further, he said:

> In all of this road building and planning we have forgotten that the objective of a transportation policy is to move people and goods, to provide a healthy environment in our cities, to enable the development of communities and their economic base with the least disruption, to assure people the means of getting to work.

Now, nearly 20 years later, "we have paid a high price." Kheel outlined the costs. We had created a society dependent on the automobile. The superhighway and the automobile had helped create "sprawl city." We have overlooked those without a car, including the young, the disabled, and the elderly. And far from "paying for themselves" as the highway lobby always claimed, roads imposed great costs on the States and especially the cities for such services as maintenance, traffic police, courts, and ambulance services.

The Urban Mass Transportation Act of 1970 was intended to rectify the imbalance, but "the response by the Administration has been to talk it up in public and cut the budget in private." Last year, he said, OMB had allocated only $400 million of the $600 million the legislation authorized. And while the Administration and Congress ignored the promise of a 5-year, $3.1-billion program, the Highway Trust Fund had grown from $1.482 billion in 1957 to a "whopping total of $5.469 billion in 1970."

Instead of commenting on the three bills under consideration, Kheel's statement summarized the Highway Action Coalition's plan for balanced transportation. Item #1 was that Highway Trust Fund revenues "must be made available for any valid ground transportation use" and "should be expanded into a Transportation Trust Fund." Since 50 percent of the revenue comes from cities, a comparable amount must be made available to cities. In addition, the Interstate System "must be declared completed and stopped now."

Transportation must be democratized by encouraging citizen participation. The resulting metropolitan and statewide plans muct be approved by the appropriate political officials at the local or State level. In addition, transportation planning should consider not only transportation options but their environmental, social, and economic costs; the new Transportation Trust Fund must pay these costs, including operating costs. Parks and wilderness areas must be protected, with the "burden of proof in this land use debate . . . shifted from the citizen to the would-be highway builder." Further, "Citizens must have the right to go to court and enforce the new law."

Cities should be able to levy tolls and taxes on highway use as well as parking facilities. Taxation of trucks must be increased to pay their fair share and no changes in truck size and weight limits should be approved. [*National Transportation Act of 1971*, p. 96-106]

(The committee would hold additional hearings in 1972 on March 16, April 10, and May 5.)

The Boston Revolt

The 1939 and 1944 reports to Congress on the Interstate System described the needed interregional express highway network, but also the urban expressways that would address urban problems such as congestion, suburbanization, and deterioration of housing stock around the city core. A series of circumferential highways, beginning with an inner belt around the central business district, and arterial links among them were the key. Urban planners in the 1940s and 1950s developed plans for such a network for cities around the country.

The officials who conceived the Interstate System recognized that the urban segments could not, by themselves, relieve congestion. In October 1947, AASHO held its annual meeting in New York City where Commissioner of Public Roads MacDonald discussed progress on the Interstate System. Just 2 months earlier, on August 2, the Federal Works Agency and the Public Roads Administration had designated the rural mileage:

> This network, comprising 37,681 miles of the 40,000-mile eventual extent of the entire system, includes 2,892 miles in cities, forming the principal extensions into and through the connected cities. The remainder of 2,319 miles has been reserved to permit addition in the larger cities of distribution and circumferential routes, essential as terminal connections of the system; designation of this further mileage in cities, now under way, requires the close cooperation of city, State, and Federal authorities.

Although highway transportation would remain "the common denominator in the over-all transportation field," MacDonald encouraged the State highway officials to "invite the active participation of the other transportation industries in the formulation of plans for future development" to establish "an efficient transportation system adequate for its commerce and the national defense."

Except during World War II, MacDonald said, transit volumes had been declining since the 1920s:

> In a large and unfortunately increasing measure, the great tidal movements are inefficiently accomplished in private motor cars. In large but undesirably decreasing part, they are served by mass transit facilities . . . . As we approach the problem of arterial improvement in the cities, we cannot fail to recognize the vastly larger element of mass transit [compared with rural roads] in the urban passenger movement. We shall have to learn to think of mass transit as highway traffic, and as a form of highway traffic especially in need of improvement. Whatever we can do to promote the patronage of mass transit and reverse the past trend toward the preferential use of private automobiles will be a contribution of great benefit in the solution of urban traffic problems. Unless this reversal can be accomplished, indeed, the traffic problems of the larger cities may become well nigh insoluble. We will make this highly desirable contribution only if, in the planning of our urban arterial improvements, we incorporate the special provisions that are needed for the service of express mass transit in its several appropriate forms.

This discussion reflected the data MacDonald's agency, in cooperation with State and local officials had accumulated. Beginning in 1945, the Public Roads Administration worked with State and local officials to develop urban expressway networks in accordance with the concepts described in the 1944 report, *Interregional Highways*. They used origin-and-destination surveys and sampling polls to determine need, then developed networks to meet it.

According to a 1963 report by the Mass Transportation Commission of Massachusetts, "the most extensive field study made to date" began for the Boston area in 1945. Using techniques created by the Public Roads Administration and the Census Bureau for sampling in major cities, the traffic survey use "home interviews within the study area bounded by Route 128 as it exists today, and driver interviews for vehicles at the cordon lines." These techniques were "standard for the period."

Because the field study began in the autumn of 1945, just after wartime gasoline rationing had come to an end, the results overestimated future mass transit use:

> There were 979,000 mass transportation trips in the study area as compared to only 812,000 vehicle trips. The shortage of gasoline and tires as well as the cessation of private automobile production during the war accounted for this transitory pattern.

The Master Highway Plan approved in 1948 formed the "basis for the Boston area expressway system." The 1963 report added:

> In the tradition of highway studies the Master Highway Plan contained a section on public transportation entitled "Coordination With Transit Improvements." Among the items touched upon was the possible use of express buses on the expressways system, particularly

> over the Mystic River Bridge and the Southeast Expressway. All intercity buses were expected to use the Central Artery. Several bus terminals were planned for the downtown area. The report suggested use of consolidated right-of-way for both highway and rail facilities although it made no specific recommendation. Although none of these recommendations were adopted, there has been recent interest in permitting bus service on expressways and in providing joint rights-of-way for highway and rail facilities . . . .
>
> Unfortunately, this report . . . failed to foresee the approaching decline in mass transportation patronage. Traffic volumes were underestimated and mass transit overestimated because no consideration was given to shifts in mode of transportation.

With post-war estimates in hand, the planners believed "that the recommended expressway system would be inadequate to handle future traffic volumes unless these transit improvements were made." [*The Boston Region*, The Boston Regional Survey for the Mass Transportation Commission, April 1963, p. 90-92]

(Federal highway officials worked with State and local officials around the country on similar studies before announcing urban segments of the then-40,000-mile Interstate System in September 1955. For information on these surveys, see "Designating the Urban Interstates" at http://www.fhwa.dot.gov/infrastructure/fairbank.cfm.)

With additional study over the years, key elements of Boston's Interstate and non-Interstate expressway system were refined:

> **Outer Circumferential Highway** – The outer ring, designated I-495, was built in segments from 1959 to 1982.
> **Circumferential Highway** – This second ring, designated State Route 128, was completed in 1959. (It was originally called the Circumferential Highway, then renamed the Yankee Division Highway after World War II to honor the 26^{th} Infantry Division of the Massachusetts Army National Guard.)
> **Southeast Expressway** – Included in the 1948 master plan as a link between downtown Boston and the South Shore/Cape Cod, the 11.8-mile expressway traversed heavily populated sections of the metropolitan area. Construction of the six-lane expressway designated State Route 3 between State Route 128 and Massachusetts Avenue began in 1954 and was completed in June 1959. In November 1975, the expressway was designated as an extension of I-93 in the November 1975.
> **Southwest Expressway** -- Designated I-95, the expressway linked State Route 128 south of Boston with the Inner Belt. Turning east, I-95 formed the last section of the Inner Belt before crossing Boston Harbor via the planned Third Harbor Tunnel into East Boston. Across the harbor, I-95 continued north out of the Boston area, eventually crossing the Circumferential and Outer Circumferential Highways.
> **Inner Belt** – This route, designated I-695, connected the Southeast Expressway, Southwest Expressway, I-90 (Massachusetts Turnpike) from the west, and I-93, which entered downtown from the northwest on the 1950's era elevated Central Artery. The Central

> Artery provided the northern end of the Inner Belt while the southern end was to be a short segment of I-95.

A 1962 study of the network within State Route 128 reviewed the physical effects and project costs of the routes still to be built:

> The report has aroused wide interest in the Boston area for at least three reasons. (1) Construction of the recommended expressways would involve traversing the most densely populated portions of the region and would create substantial dislocation. (2) Construction of the projects recommended will require an expenditure of $325 million over a proposed 10-year construction period. (3) Tremendous benefits to the Boston area would result from the completion of the expressway system. [*The Boston Region*, p. 94]

The two most controversial segments would prove to be the I-695 Inner Belt and I-95 in the city. By the early 1960s, problems had begun to surface, as the 1963 regional report acknowledged. It said of I-95:

> Between Route 128 and the Inner Belt, I-95 will probably be completed toward the end of the Interstate program. Several alternate locations have been studied but a number of problems remain unsolved. The large scale land taking involved in construction of the recommended route has already resulted in strong opposition from residents and neighborhood groups. In addition, the precise linkages with Boston urban renewal areas and the possible combination of rights of way for rapid transit and railroad and highway facilities have not been resolved. [*The Boston Region*, p. 113]

As for the Inner Belt, it had "been the subject of a great deal of controversy" and "progress has been slow." Only a half-mile section was under design and another 1.3-mile section was in the surveying and mapping stage:

> In 1960 the State legislature passed a bill giving certain communities a veto power over the location of the route within their jurisdictions. These communities include Cambridge, Somerville, Brookline, and Boston, the four to be traversed by the Inner Belt. While Boston initially agreed to a tentative location in Charlestown and Roxbury, Brookline, Cambridge and Somerville have objected to the proposed route because of the anticipated disruptive effects on established neighborhoods and have effectively used the veto power to block construction. Cambridge and Somerville officials have protested that in its recommended location the route would require extensive land takings which would remove substantial amounts of taxable property and dislocate about 4,000 families.
>
> It can be assumed that eventually a workable solution will be found to the Inner Belt location problem. However, as a result of delays it will probably not be completed until the 1970-1975 period, although some segments, particularly those in Boston, may be completed sooner. [*The Boston Region*, p. 114]

By the time of the 1971 book *Rites of Way: The Politics of Transportation in Boston and the U.S. City*, the authors described the routes in starker terms. The Inner Belt "had been academic" for 8 years since its inclusion in the 1948 Master Highway Plan because the State and city did not have the funds to build it. However, when it was included along with the I-95 Southwest Expressway as part of the Interstate System to be built with 90-percent Federal "cost to complete" funds under the Federal-Aid Highway Act of 1956, planning began on the Inner Belt:

> Once the federal money was assured, the Belt was subjected to years of squabbling, at first between road-building agencies and later among planners, residents, politicians, and agency heads. But most people were really fighting over how and where the road should be built. Very few at first were questioning the need for the road.

As for I-95:

> It would run through the predominantly white working- and middle-class communities of Hyde Park, Roslindale, and Jamaica Plain and would join with the Inner Belt in the black district of Lower Roxbury in a five-story interchange . . . .

The authors continued:

> About 43 percent of the families directly affected by those two roads were financially eligible for public housing, but no public housing was being built for families . . . .
>
> I-95 would connect with the Inner Belt in an eight-lane interchange, taking up thirty-five acres in the shadow of two public housing projects, three planned low-income developments, and a campus high school in Roxbury. Ultimately, an estimated 160,000 cars a day would use that interchange, and no studies existed to indicate what the effect would be on the health and well-being of the residents and school children. [Lupo, Alan; Colcord, Frank; and Fowler, Edmund P., *Rites of Way: The Politics of Transportation in Boston and the U.S. City*, Little, Brown and Company, 1971, p. 13-14, 26]

Author Dan McNichol, writing many years later, explained the plan:

> [A] stretch of new highway, I-95, was again slated to run straight through the heart of the city. Its beltway, I-695, would create an iron ring around the city's downtown. The new highway would be a partially elevated structure about 10 miles long, nearly four stories high, with 13 interchanges plowing through 18 heavily populated neighborhoods. In concept it was a miniature beltway encircling the business district, a noose around the neck of Boston . . . . Along the path of I-95, hundreds of homes had already been taken and demolished in a working-class Irish neighborhood called Jamaica Plain and in a predominantly black neighborhood known as Roxbury. [McNichol, Dan, *The Roads That Built America: The Incredible Story of the U.S. Interstate System*, Barnes and Noble, 2003, p. 147, 150]

As Commissioner of Public Works and Governor, Volpe had supported the plan. After Governor Volpe became Secretary of Transportation in 1969, Lt. Governor Francis W. "Frank" Sargent became Governor to complete Volpe's term. Governor Endicott Peabody (1963-1965) had appointed Sargent one of five Commissioners of Public Works, in charge of the Division of Waterways, in 1964. Governor Volpe elevated Sargent in 1965 to be chairman. When Governor Volpe proposed a major reorganization of the department, Sargent opposed it. As Kilgore explained, the reorganization "would be too risky at a time when he [Sargent] needed all the support of his department to get the Inner Belt and Southwest Expressway completed on schedule." The Governor was strongly committed to the reorganization but he had to balance priorities:

> Unlike the modern highway departments of California and Texas, the Massachusetts DPW still lacked enough highly skilled personnel to do its own design work and relied heavily on expensive consultants. Faced with a choice between concentrating on the visionary goal of revamping the department and the very real possibility of completing the Inner Belt, however, Volpe chose to push on with highway construction.

The way seemed to brighten in July 1965 when Sargent secured passage of a law abolishing the local veto of Federal-aid highway projects. At the time, he said:

> I don't see how, realistically, the New Boston and several communities can afford not to have these two roads. Without the Southwest Expressway, in four, five, or even ten years time it will be unbelievable—jammed with traffic that will take hours to straighten out. The city will be strangled. [Kilgore, p. 141-142]

As Chairman, Lt. Governor, and now Governor, Sargent had supported the planned highway network. Mayor Kevin White had supported it as well.

Initially, residents in the path of the I-95 and I-695 segments of the Inner Belt were fatalistic as homes were taken and demolished in white Jamaica Plain and black Roxbury. However, beginning around 1967, a coalition began to seek changes—a coalition of home owners, community activists, professors from Harvard and M.I.T., lawyers from the predominantly Jewish suburb of Brookline, and others. First they tried to change the path of the highway. When the DPW refused to move the highway, the coalition began to protest the highway itself, with Mayor White eventually joining the protestors.

By the time Governor Sargent took office on January 23, 1969, Mayor White had reached a decision. He asked the new Governor to withdraw the Inner Belt and Southwest Expressway plans.

On January 25, 1969, just 2 days after taking office, Governor Sargent saw the face of the protestors. The newly formed Greater Boston Committee on the Transportation Crisis (GBC), with the support of the Cambridge and Boston City Councils, organized "People Before Highways Day" on the Boston Common. Lupo described the event:

> There was a ballgame atmosphere to the parade and the rally. The Peace and Freedom Party, ever trying to cement an alliance with the workingman, passed out pamphlets attacking city officials, among others, thereby immediately causing arguments with the working-class protestors. Cambridge Model Cities residents carried a coffin to symbolize

> the death of that program if the Inner Belt were to slice through East Cambridge. One man walked his dog, which wore a banner proclaiming, "I need a belt, but Cambridge doesn't."
>
> Fire Chief William Cremmins, leading a contingent of fifty off-duty Cambridge firemen, said, "Some of the men live in the area. Some of us grew up in those neighborhoods. It's one of the few integrated neighborhoods in America."
>
> Mayor Walter Sullivan flew in a helicopter from Cambridge onto the Boston Common to symbolize the poor traffic situation, which, he argued, would worsen with an Inner Belt. A Democratic state representative from Somerville joined the parade and said her mayor was wrong to support the Belt. A sixty-year-old workingman who forty years before had left County Limerick for America rationalized, "This is a reasonable thing to do. I live too close for comfort to the route. It's all for the outside of Cambridge. Let them wait for a few minutes longer in the traffic."
>
> A young girl carried a sign reading, "Pave Volpe's Bedroom, Not Mine."

Governor Sargent emerged from the State House to address the protestors. He was greeted with boos, but the protestors quieted when he began to speak, as Lupo described:

> At the Common, the rally went on for about an hour before Sargent, tall and tanned, surrounded by aides, emerged to address the throng . . . . He said he too was concerned about "the problems that bring you here today." He said he had called Secretary Volpe—a name greeted by a few boos—and asked that no federal action be taken until he could meet with the protestors . . . . The speech received light applause until Sargent declared, "Never, never will this administration make decisions that place people below concrete." Then they cheered.

He met with community representatives in the State House:

> Through it all, the Governor sat, sometimes fiddling with his fingers, but always concentrating on each speaker. Occasionally, he would ask a question or make a small joke.

At one point, he said:

> "I don't want you to feel when you leave here that all highway construction is ending now, because that isn't the case." Translated into specifics, this meant that the Governor was not about to declare a moratorium on highway projects. Demolition in Roxbury and Jamaica Plain would continue as would work on the Charlestown segment of the Inner Belt.
>
> Sargent closed the meeting at 2 P.M., an hour after it had begun. "Thank you very much," he said, "I've learned a lot. I assure you I'll look into every one of these matters."

Much work remained to be done by the protestors and the Governor:

> But the "People Before Highways Day" had accomplished a number of things. It had brought together diverse groups of people to create a more permanent alliance. It had dramatically demonstrated that the transportation issue was regional and political as well as emotional and technical. It attracted publicity for the cause. It forged links between the protestors and the Governor's office.

(Lupo indicated that, "Unknown to the press and most protestors," Governor Sargent and his staff had been aware of plans for the protest. The GBC had talked with aides to the Governor, who agreed to receive the petitions and listen to the protestors' arguments. [Lupo, p. 42-49]

On February 11, 1970, Governor Sargent appeared on local television for a 10-minute address. Just 4 years ago when he was DPW Commissioner, he said, "Nearly everyone was sure highways were the only answer to transportation problems for years to come." He added, "But we were wrong." He was going to "reverse the transportation policy of the Commonwealth of Massachusetts." He ordered a freeze on property taking along the Southwest Expressway, and called for a study, not just of "where and how to build expressways," but whether to build them. The Southwest Expressway and Inner Belt were among the proposed expressways covered by the new study. [Lupo, p. 106-107]

Kilgore said of Secretary Volpe's reaction:

> Volpe was furious. The land had already been taken, people relocated, and homes destroyed, and Volpe felt the highway and rapid transit line that would have used the same right of way were badly needed to ease Boston's traffic problems. But Volpe could do nothing except remember [State Commissioner of Public Works William] Callahan's prediction that the Inner Belt would never be completed in their lifetimes. Volpe did not speak to Sargent for six months after the moratorium. At last, with Sargent's election campaign imminent, the Massachusetts governor sought Volpe's support. The two men met in Boston and made their peace, but Sargent's reversal on one of Volpe's dearest projects bothered Volpe long after the highway was forgotten. [Kilgore, p. 183]

Sargent was, he would later say, surprised by Secretary Volpe's eventual reaction to the decision:

> I expected more of a screech and a holler than I got. He's certainly changed his thinking about building highways through cities. ["We Need Balanced Funding for a Balanced Transportation System," *Railway Age*, April 13, 1970]

Governor Sargent proposed a change in Federal law that would allow Highway Trust Fund revenues to pay 90 percent of the cost of any kind of transportation facility a State decided it needed. He called the new proposal "balanced funding for balanced transportation," adding that, "if 90-10 money had been available for other modes, I think we'd have a very different transportation system." Among the Nation's Governors, he had found considerable support for the idea, particularly among Governors from States with large cities.

He supported the Nixon Administration's proposed urban mass transportation bill, but preferred a much expanded bill. It was a turning point, he thought, but the Nation must start investing in short-haul and long-haul rail passenger service.

The Governor had met with the State's congressional delegation and found them supportive. Senator Kennedy was notably enthusiastic. Still, Sargent recognized the challenge he faced. "Some steps could be taken this very year," he said, "but to change the whole system would take several years." ["'We Need Balanced Funding for a Balanced Transportation System,'" *Railway Age*, April 13, 1970]

In August 1970, the Governor's Conference considered adopting a resolution embodying Governor Sargent's idea, but decided against it. *Engineering News-Record* explained why:

> Reportedly, governors from rural states overpowered their colleagues from urban states by a tally of 23 to 12 (more showed up later). Also, there was strong pressure from representatives of automotive industries and associations. When the proposal was recommitted to the transportation committees, it's [sic] chairman, Washington's Gov. Dan Evans (R), remarked that the governors "don't need the help of special interest groups" to reach decisions."

Instead, the Governors adopted a resolution saying each State should be able "to transfer, on a limited basis, funds among the various federal transportation trust funds and grant programs to meet his own state's priority transportation needs." They also endorsed "a national public transportation trust fund as part of a flexible transportation fund." This support provided limited backing for Secretary Volpe whose address to the conference had mentioned his concept of a unified trust fund:

> If I don't have the governors with me, I might not be able to tackle it. I might not go to Congress. It will take a lot of persuasion.

He expected to formally propose a unified trust fund later that year. ["Governors Seek Some Discretion in Transportation," *Engineering News-Record*, August 27, 1970]

Two years later, *The New York Times* referred to the efforts in Boston "as a textbook case for similar efforts around the country." It had been a 14-year struggle:

> What began as a handful of concerned citizens in Cambridge grew into an organization that drew ghetto blacks, blue collar ethnics and upper class suburbanites into a coalition and persuaded a Governor who, in 1965 had lobbied against a community veto of highway projects, to privately tell his highway commissioner in 1969: "The old highway building game is over."

The process had been gradual, with politics at the heart. With Governor Volpe moving to Washington, Governor Sargent needed to establish his own political image for the gubernatorial election in 1970, while Mayor White campaigned for the job. The area's academics were influential in gathering information to support the anti-highway forces. While a "community of interest" was forming within the city, the State's decision to route a highway through a wildlife sanctuary in the suburbs brought in conservationists and environmentalists—"the middle and upper class suburbanites who had in existence a powerful lobby at the State Capitol," according to the Reverend Thomas Corrigan, an anti-highway leader. Inside Mayor White's office, his top assistant, Barney Frank, was working with other officials to coordinate relations between the anti-highway lobby and the Mayor.

Professor Alan Altshuler of M.I.T., who participated in the Governor's task force to study area transportation and became the State's Secretary of Transportation (1971-1975), saw the Governor's February speech as "part of a developing commitment on the part of the Governor . . . and, he has slowly come to see the commitment to a balance between the demands of transportation, the demands of the community and the environment as a theme and image for his administration."

The *Times* found that:

> Governor Sargent has now committed himself and his administration to work at all levels—with community groups and local governments, petitions and proposals to the Federal Government, and lobbying with other Governors and state organizations—for the development of a system of transportation that uses highway, rail and air systems in a more efficient balance and to examine alternatives to all these.
>
> "The big question now is: can we meet the real needs of a community for transportation and a decent environment?" asks an aide to the Governor. "We're committed to finding the answer and focusing national attention on the problem." [Kovach, Bill, "Drive in Boston May Bring a New Urban Transit Mix," *The New York Times*, July 25, 1971]

Based on the Boston Transportation Planning Review, Governor Sargent announced on November 30, 1972, that his moratorium on construction of the Inner Belt (I-95 and I-695) would be permanent. He would route I-95 around the city on the existing circumferential, Route 128, while I-695 would be scrapped. Describing the Boston expressways as chains imprisoning the city, he said in a statewide television address that 40 years of reliance on highways had "defeated our own purpose, and we have been caught in a vicious cycle—drasticmore cars meant more highways, which meant more traffic jams, more traffic jams meant the need for more highways . . . ." Worst of all, he said, it hadn't solved the problem that started it all, namely "how best to get from one place to another." [Kovach, Bill, "Mass Transit Plan for Massachusetts," *The New York Times*, December 1, 1972]

To replace the Interstates while addressing area congestion, he preferred a series of measures, as summarized in *The Washington Post*:

> He would upgrade some existing arterials (notably U.S. Rte. 1 to the north), build a circumferential transit line that bypasses downtown, expand and modernize the rapid transit network and rejuvenate the commuter railroad network, perhaps linking the city's two rail terminals.

> He would have the Port Authority build a two-lane tunnel beneath Boston harbor to let taxicabs, buses, limousines and trucks reach Logan Airport, the region's only civilian jet facility. And he would develop a network of satellite airport limousine terminals around the region.
>
> To reduce the incentive for auto travel, he would bar new parking facilities downtown and at the airport . . . .
>
> Massachusetts . . . is proposing to undertake as a deliberate long-range policy the subsidizing of transit deficits. Sargent has proposed to pay half the system's losses, $70 million this year . . . . [Eisen, Jack, "The Boston Freeway Halt," *The Washington Post*, December 24, 1972]

An editorial in *Engineering News-Record* called Governor Sargent's decision "a triumph not only for those who resisted the roads but for the transportation planning process that took into account their views." The decision reinforced "the need for flexible funding for transportation." The editorial concluded:

> As we've said before, a single transportation trust fund will allow each state to determine its own transportation priorities and move ahead with the job of providing better transportation. ["A Victory for People," *Engineering News-Record*, December 7, 1972]

Public Enemy No. 1

Governor Sargent was not alone in abandoning expressways—and the money that came with them. Interstates in urban areas had generated so much controversy that mayors, city councils, and other local officials wanted to reject the highways, but did not want to lose the millions in Federal and State dollars that went along with highway construction.

In Hawaii, for example, opponents of Interstate H-3 through Moanalua Valley as well as local officials were seeking a way to transfer the Interstate funds (then an estimated $250 million) to other transportation purposes. Senator Daniel Inouye (D-Hi.), who first won election to the Senate in 1962, favored a more balanced transportation system. He was, he said, "prepared to introduce legislation" that would exempt Hawaii from the restrictions on the use of Highway Trust Fund revenues. He recalled that the Nixon Administration had given "serious consideration" to the idea of a unified transportation trust fund, but "The idea was shunted aside . . . in favor of a revenue sharing agreement." He continued:

> It is apparent that revenue sharing has very tough sledding ahead of it, and it may be that general legislation to permit the use of highway trust funds for other transportation purposes, which now has considerably [sic] support, may gain even more in the future.
>
> Certainly, state flexibility in the use of these funds would appear to be prudent and desirable, and I shall support that principle.

He was thinking of introducing legislation, but recognized the realities:

> I am informed that similar legislation has been introduced by a large number of members of Congress relative to the trust fund use in their state. To date none of this legislation has received favorable consideration. I am convinced, however, that Hawaii has unique justification for an exception from the present limits of the highway trust fund uses. ["Inouye Backs Protests on Road Fund Limitation," *Honolulu Star Bulletin*, July 28, 1971]

As reflected in the battle over the New York bond issue, officials around the country were searching for ways to pay for the transit facilities they had taken over from the private sector. The universal reality was that transit could not pay its way at the farebox. Raising fares to equal costs would discourage use, especially by the lower income riders most in need of the service. Doing so also would create reelection issues for State and local officials who wanted to go before voters without having to explain fare increases.

A survey by *The New York Times* in late 1971 and early 1972 found that cities around the country were wrestling with the same problem as New York City, although on a different scale:

> Cities around the nation are turning increasingly to special property, sales and gasoline taxes to subsidize soaring deficits on their mass transit systems. With local variations, the same kind of fiscal squeeze facing New York this week, as state and city leaders haggle over ways to keep down transit fares in the face of a mounting deficit, is occurring in communities from Boston to San Diego . . . . The growing losses are prompting lawmakers around the country to turn more and more to the general taxpayer to make up the difference—even though, on the average, less than 10 per cent of the public uses the transit service in most cities.

In Minnesota, the legislature gave the Minneapolis-St. Paul Metropolitan Transit Commission the authority to levy a transit property tax that was expected to raise $5 million to pay operating costs. The Florida legislature allowed Miami's bus system to subsidize operations with State gasoline taxes that had been restricted to highway construction. California approved a 5-percent sales tax on gasoline, which was previously exempt from the tax, to go into effect on July 1, 1972, to pay for transit construction and operation. A new Missouri law permitted Kansas City to levy a half-cent sales tax for mass transit. In Atlanta, voters had approved a 1-cent increase in the sales tax (from 3 cents to 4 cents) in two counties to pay for transit, while in Dayton, Ohio, voters approved a 1-mill property tax increase to pay for acquisition of a private bus company and subsidize its operation as a public system.

(The 1971 vote to increase the Atlanta sales tax would be cited many times in coming years. Voters in DeKalb and Fulton Counties approved the increase by a margin of 400 votes, with around 700,000 voters--only about 50 percent of those eligible—casting votes. Voters had turned down the increase in 1968.)

As the *Times* survey found, some efforts had failed. Michigan had shelved a proposed gasoline tax to subsidize transit. In Massachusetts, Boston Mayor White was working with other communities to divert State gasoline tax revenue to meet transit deficits, but highway interests were blocking the effort.

Part of the problem was that it was such a new issue that had grown before officials realized the scope of the deficits:

> Cities and states have subsidized transit for a decade or more, but in that period the number of cities doing so and the amount of money they have been asked to furnish has soared. In 1961, transit systems in only 21 cities received direct public aid; currently, more than 80 do so.
>
> Until recently, subsidies were relatively modest. But within the last three years or so, the dual pressures of soaring labor costs and a falling number of passengers have vastly increased the demand for public aid . . . .
>
> There is some question as to whether massive doses of public assistance in most cities can make economically viable an industry that typically reduces service, raises fares and loses riders when costs go up, that each year loses more and more riders to the automobile, and that must operate increasingly in sprawling, horizontal cities with long, thinly populated routes.

The growing deficits were putting pressure on Congress to provide subsidies:

> However, this move has raised questions from its opponents as to why the Government should subsidize local transit deficits any more than it subsidizes other municipal services such as police, fire and sanitation. The Nixon Administration believes the Government should help cities buy buses, build subways and meet other capital costs, and it sponsored a $3.1 billion mass transit aid program that was enacted last year. But it opposes Federal subsidies for operating losses other than as part of its proposed omnibus revenue sharing program. [Lindsey, Robert, "Cities Levy Extra Taxes For Subsidizing Transit," *The New York Times*, January 5, 1972]

While searching for funds, cities were expanding their transit networks. Atlanta was developing a subway and express busway system. In December 1971, the Southern California Rapid Transit District (RTD) unveiled plans for a 14-mile elevated subway line to connect downtown Los Angeles with the African-American "ghetto" of Watts, the first leg of a planned system. (It was hoping to use the revenue from the new sales tax for the line after voters had rejected a bond issue in 1968 that would have supported a $2.5-billion rapid transit system.) The Bay Area Rapid Transit would open its first leg on September 11, 1972, while Metrorail was under construction in Washington, D.C. (the first 4.6-mile segment of the Red Line would open on March 27, 1976). Transit systems were under development in Baltimore, Dallas, Denver, Detroit, Honolulu, St. Louis, and other cities.

Many of the urban areas developing rail rapid transit lines were counting on UMTA to pay two-thirds of construction costs. However, as the *Times* found, the Urban Mass Transportation Act of

1970, with its $3.1 billion in Federal matching funds, could not keep up with the explosion of transit expansion:

> In some cases, Administration officials have suggested the use of buses on reserved express lanes on highways instead, because they would cost less. This is an argument that rail transit interests say has been fostered by highway lobbyists.
> The Administration had drafted and circulated a proposed list of criteria—including certain minimum passenger volumes that would have to be served by a proposed system—that it said it planned to use in deciding whether a city qualified for grants for building subways or above-ground rail lines. The proposal has drawn blistering protests from the transit industry and big-city lobbyists. As a result, the draft was withdrawn and is now being revised. It has not yet been published in its final form.
>
> "We are against attempts to impose any criteria," said Dr. William J. Ronan, chairman of New York's Metropolitan Transportation Authority, who is president of the Institute for Rapid Transit, the principal lobbying group for pro-rail transit interests. "Why should there be criteria for rapid transit systems where that are none for [Federal funding of] highways, none for airways or waterways?" Dr. Ronan asked. He asserted that rail transit systems were by far the most efficient way to move large numbers of people.

Under Secretary Beggs argued that, "There has to be an analysis of the economics of what has been proposed, some indication of what percentage of the public will ride a system." An unnamed Transportation Department official put the dispute this way:

> The problem is that rapid transit has become too much like motherhood. You can't discuss it rationally, at least in public. If you say, "Well, maybe some cities don't need rapid transit and are better off simply to rely on the automobile," you're called a tool of the highway lobby.

One critic of rail expansion was Economics Professor George W. Hilton, a transportation specialist at the University of California at Los Angeles who had been a chairman of President Johnson's Task Force on Transportation Policy, a consultant to the World Bank on Transportation, and Acting Curator of Rail Transportation for the Smithsonian Institution. He called plans for a rail system in the low density Los Angeles area "a fiasco." He said, "There is just no market for it. It's just wishful thinking that you can go back into the past when the central business district served the whole area and people didn't have cars. All the forces in cities today are for diffusion."

He also was critical of plans in other areas, such as Atlanta and Baltimore, that were planning rail systems:

> What they're doing is making a huge investment in a declining market. Every place you look, the number of trips into the central business district is the most rapidly declining segment of urban transportation. [Lindsey, Robert, "Dozen Cities Planning or Building Transit Lines," *The New York Times*, January 30, 1972]

One option that was at least discussed was providing free mass transit, an option that advocates justified by transit's many benefits. Urban consultant Robert A. Aleshire made the case for free service in *Nation's Cities*, the magazine of the League of Cities:

> The automobile is choking the city and destroying its air. Cars cannot be stored, disposed of, parked, or given a place to drive. There must be a radical conversion in transportation modes from cars to mass transit. Sanctions such as barring cars from downtown areas are incomplete solutions and somewhat politically infeasible. An incentive approach which recognizes the true social costs of the car by making mass transit free is the most direct way to encourage rapid conversion.

Displacement of cars by buses would double highway capacity. Other benefits of a major modal conversion included reduction of the amount of land and money, as well as facilities and businesses dislocated, needed to build roads; air pollution, traffic noise, and the waste of time in traffic congestion would decline; land would be freed for open space or housing; barriers to inner city poor workers seeking jobs in the suburbs should be lowered. In short:

> Free mass transit would provide unlimited access by all citizens, rich and poor, young and old, minority and majority, to the full range of public services, recreation, jobs, and housing.

Aleshire acknowledged that cost "would seem the main argument against free transit." That was a narrow way of looking at the idea:

> [All] the factors must be put in the public cost equation. The costs of air pollution; auto deaths; land and resources for highways; leisure and productive time; people's houses, lives, and communities; unemployment; and racial polarization must all be charged against the present system. When all the factors are in the equation, the benefits of free mass transit far exceed the cost. [Aleshire, Robert A., "Why Not Free Mass Transit?" Excerpted in *The Washington Post*, November 7, 1971]

A new book, James C. Nelson's *The Future of American Transportation* (Prentice-Hall), took up the issue of social costs. Nelson, a Washington State University economist, found that present pricing policies were irrational and defeated competition among the modes. Like Aleshire, Nelson thought that highway user fees should cover the true cost of highway use, including air and noise pollution, displacement of homes and businesses, and disruption of other modes of travel without adequate subsidies. If transportation were priced honestly, he said, "the shippers and travelers could rationally choose between or among the modes, with the result that socially efficient divisions of traffic would result, more efficient investments among the modes would come about, and transport costs and rates could be lowered for the shippers and the general public." ["Pricing Transportation," *The Wall Street Journal*, November 8, 1971]

Bicycle Revival

The automobile had become the enemy, with transit and bicycles the favored alternative. U.*S. News & World Report* confirmed the trend in December 1971 when it reported that bicycle sales were "skyrocketing" with "no signs of slacking off" despite "a host of problems." Americans bought about 8.5 million bicycles in 1971 compared with 3.7 million in 1960, with nearly 80 million bicycle riders, twice as many as a decade earlier. Months-long delays in delivering bicycles after purchase were common. This growing phenomenon left the manufacturers, bicyclists, and government officials "in the same boat." They aren't quite sure how to cope with the nation's 'pedal power' craze." Planning of facilities to accommodate the surge was being combined with the search for ways to increase bicycling safety. Many cities—Boston, Chicago, Miami, New York, Omaha, and San Francisco among them—were designating bike routes. ["Bike Boom: A Way Out for Commuters?" *U.S. News & World Report*, December 6, 1971]

The boom would continue in 1972 and 1973. The downside of the boom was a boom in deaths and injuries, as *The Wall Street Journal* reported in August 1972:

> According to the National Safety Council, about 880 bicycle riders are likely to be killed this year in bike-auto accidents. Such fatalities have risen steadily in recent years, from 490 in 1961 to 850 last year. The National Transportation Safety Board estimates that about 130 additional bike-related deaths will occur.
>
> Nonfatal injuries also are soaring. Local police departments and hospitals say the problem has become acute.

The article mentioned introduction of the Bicycle Transportation Act of 1971 in both Houses of Congress that "would permit states and communities to use federal highway funds to develop bicycle commuter systems." [Brecher, John S., "The Boom in Bicycling Brings With It a Surge In Accidents and Deaths," *The Wall Street Journal*, August 15, 1972]

Covering the boom, *The Washington Post* recalled the original bicycle boom from about 1880 to 1910:

> Huge cyclist clubs were the first to lobby successfully for decent roads. Soaring bicycle sales brought mechanical improvements which helped spark new tools and machines for the development of the newborn auto. And when Henry Ford began mass producing his little Model-T, the bicycle went into a 60-year decline. Now it has come back and cyclists again want their share of the road . . . .
>
> Much of the back-to-the-bicycle movement is generated by environmentalists who claim those gas-eating monsters jamming the highways are doing everything from poisoning the atmosphere to rapidly diminishing the earth's natural resources.

In addition to reporting on safety concerns, the article discussed an increase in bicycle thefts:

> The bike boom also has generated a rise in thiefs. Although there are no national figures available, bicycle thievery amounts to millions of dollars. In California alone, police estimate the 1971 value of bikes stolen at $22.3 million.

> With the resale value of a good multispeed bicycle figured at $70 and up, theft rings are growing, police say . . . . Bicycle thefts are so prevalent in New York City that some youths have resorted to assembling "trash bikes"—old, beat up machines with water pipe handlebars and rusty frames. "Who'd want to steal one of these?" said the owner of one. [Mullen, Donald E., "The Bicycle Boom: From Executives to Junior Hell's Angels," *The Washington Post*, September 3, 1972]

A Statement on National Transportation Policy

Section 3(a) of the Airport and Airway Development Act of 1970, signed by President Nixon on May 21, 1970, called for formulation of policy:

> Within one year after the date of enactment of this title, the Secretary of Transportation shall formulate and recommend to the Congress for approval a national transportation policy. In the formulation of such policy, the Secretary shall take into consideration, among other things—
>
> (1) the coordinated development and improvement of all modes of transportation, together with the priority which shall be assigned to the development and improvement of each mode of transportation; and
> (2) the coordination of recommendations made under this title relating to airport and airway development with all other recommendations to the Congress for the development and improvement of our national transportation system.

Section 3(b) called for an annual report to Congress on implementation of the national transportation policy called for in 3(a). The annual report was to include the Secretary's specific actions "with respect to (1) the coordination of the development and improvement of all modes of transportation, (2) the establishment of priorities with respect to the development and improvement of each mode of transportation, and (3) the coordination of recommendations under this title relating to airport and airway development with all other recommendations to the Congress for the development and improvement of our transportation system."

On September 8, 1971, Secretary Volpe submitted *A Statement on National Transportation Policy* to Congress as required by Section 3(a). His transmittal letter stated that some elements of prevailing government policy "are not appropriate to transportation as it presently exists." He continued:

> On the whole, the transportation policy which has evolved, both consciously and unconsciously, represents an uneven fabric ill-suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

He saw three 1970 laws as each representing a "unique landmark in transportation policy": the Airport Act, the Urban Mass Transportation Act, and the Rail Passenger Service Act (creating Amtrak):

> For the future, the revenue sharing program for transportation will endow State and local governments with a great capability to cope directly with important transportation problems in ways most consistent with their own philosophies and requirements . . . .

The report identified the transportation system's symptomatic problems, which included "urban highway congestion, the severe deterioration of local public passenger services, airport and air traffic congestion, hazards to safety, environmental degradation, and the financial distress of important segments of the transportation industry." [p. 9] Underlying these symptoms were four fundamental systemic problems: the unevenness and inconsistency of transportation plans, programs and developments; the poor distribution of transportation services and facilities; the state of transportation labor relations; and the transportation regulatory structure. [p. 17]

Multi-modal transportation planning had been lacking. "Each mode's overriding preoccupation with the promotion of its own improvement and growth has dominated the growth of the transportation system." The result was maldistribution of services and facilities based on the funds each mode could command rather than planning of modal choices to serve needs. For highways, cost-benefit analysis revealed that rural areas received more in roads than rural residents paid for in user charges – a net loss to urban areas:

> [The] real question is not whether the apparent "overinvestment" in rural roads should be reallocated to roads in urban areas, but whether such overinvestment in fact exists and, if it does, whether it should be spent on urban transport facilities other than roads. Transportation revenue sharing is designed to let State and local governments come to grips with this fundamental issue.

For intercity freight, diversion of certain kinds of traffic from truck to rail could result in significant economic and social cost savings. The competition between truck and rail was distorted by Federal investment in roads:

> The overall policy and program implications of the poor distribution of transportation services and facilities are substantial for the economy and for society at large. Highway investment levels may well be too high, implying that some of that investment might better be used elsewhere in the transportation system . . . . Rationalization of the freight system would change the relationships of the rail, waterway and trucking modes, the chief question being how best to allocate, spread and finance the transitional costs equitably and in such a way as to minimize the dislocations to those involved. [p. 22]

The result of these and the other fundamental problems was that "the old ways of doing things are inadequate and unresponsive to society." The need to rethink the system was dictated by reality:

> This would not be so if there were fewer people, if they were less affluent, if they had not increasingly clustered in large urban complexes, and if they were willing to put up with the noise and smoke of an earlier era. [p. 27]

In this world that does not exist, the present system would be sufficient, but for the next three decades in the real world, "all indicators point to more people, more affluence, more urbanization and a rapidly escalating intolerance for poor system performance and for the generation of undesirable environmental side effects." Solutions of transportation's problems can be categorized as major capital investments in plant, equipment, or technology and noncapital-intensive policy changes. Technological advances offered solutions to many problems, but are often "prohibitively expensive, and have frequently generated problems more severe than those they were designed to solve."

Further, the price of transportation's unpleasant side effects, such as noise, air pollution, congestion, and crashes, is not included in its market price. The private sector had little or no incentive to invest in remedial technologies, leaving government to pick up the cost. "The failure of the market to recognize and reflect these costs is the major justification for government intervention and public investment in the development of new transportation technologies." Much of the increased funding for research and development (R&D) had gone to the air mode in recent years, but air transport and highways had traditionally "been accorded primacy." Transit R&D was 6.4 percent of Federal R&D outlays in 1970, up from virtually nothing in 1965, while rail R&D outlays totaled 3.5 percent. Policy changes were needed "to reorder the transportation system's performance by changing or rearranging the rules under which it operates, including those governing investment." [p. 27-29, emphasis in original]

To address these problems, the Federal Government must embrace two major themes: governmental reform and balanced, equitable economic growth. In the State of the Union Address on January 22, 1971, President Nixon had proposed reorganizing the Executive Branch. Four Departments would remain as is: State, Defense, Justice, and the Treasury. The other Departments would be merged into four "Super-Cabinet" positions: Economic Affairs, Human Resources, Natural Resources, and Community Development. The Department of Community Development would absorb FHWA and UMTA programs. Department Secretaries would be Counselors to the President working out of the White House, thus giving the President greater control of the Executive power structure:

> By organizing departments along mission-oriented lines, such as national economic development or local community development, their previous narrow preoccupation with function or constituency can be broadened to deal with the increasingly complex and interrelated issues confronting modern society. The close interrelationship between urban transportation and urban development is obvious, but today the responsibility is lodged in separate departments.

The transportation revenue sharing proposal, the report said, was "a long overdue admission that the Federal government is not able to provide answers to all the problems and that much decision making should be shifted to governmental levels closer to the people and the problems." The plan would result in transportation policy shifts as local governments determine policy, such as whether to use Federal funds for transit operating subsidies, formerly set at the Federal level. Together, government reorganization and transportation revenue sharing would stimulate greater productivity, formulation of national growth policy, major health and welfare reforms, consumer protection, coherent land use, environmental protection, integration of technology, and reclamation of cities. [p. 33-34]

Despite the emphasis on local determination, national objectives remained. In the past, they had been defined as: economic efficiency, environmental quality, safety, and support of other national interests, including national defense, economic growth, social development, and scientific research Now, a fifth objective must be added: facilitating local determination by decentralizing decisionmaking and fostering citizen participation. [p. 35-36]

To address present problems, "the need for a major policy reformation is readily apparent." [p. 37] The executive reorganization proposal and transportation revenue sharing were among the initiatives leading to "more effective approaches to the problems confronting us as a Nation . . . ." Restructuring or economic regulation of the transportation industry was another initiative that would bring "market forces to bear on competitive transportation industries . . . ." [p. 39-40]

The historic function of transportation, the report concluded, had been "to tie this vast country together." That function was essentially complete. "Society's new task, as a mature industrial economy, is of a somewhat different nature—providing service to the millions who want to use the transportation system."

The traditional "infrastructure-oriented approach of government" was not to be forgotten, but "the era of indiscriminate, massive, open-ended construction programs is largely coming to a close as the realization grows that there are wide variations in local, state and regional needs." Today's approach would have to be "redirected to accord with the times" as explained in the statement's final words:

> The Administration's approach to these challenges is rooted firmly in a deep awareness that the needs of our people in the final third of this century will require vastly different solutions than those appropriate in past decades, and its proposals are designed to guide and nurture a fruitful and productive Federal transportation policy in the future. [p. 40-41, emphasis in original]

The plan was not well received. It was, as *The New York Times* put it, "long delayed" because of differences within the Nixon Administration and "the opposition of the trucking industry." (Under the Airport Act, the report had been due in May 1971.) *Business Week* agreed about the delay:

> On taking office, the Nixon Administration had put such a policy statement at the top of its priority list. Yet Volpe's department missed one deadline after another, apparently because of the difficulty of getting diverse transportation interests to agree to policy proposals.
>
> Transportation watchers, whether or not they were sympathetic to the Administration, had been anticipating a bold and sweeping approach to transportation philosophy. What they finally got was a major disappointment—an overly generalized and relatively vapid "nonstatement," as one industry lobbyist characterized it.

Policy planners had found that "industry lobbyists who wanted to preserve the status quo carried more weight at the White House, as well as on Capitol Hill." The result was that the policy was released with little fanfare. Secretary Volpe was in Pittsburgh for the 5th International Conference on Urban Transportation. He was announcing the $60 million grant to the Allegheny County Port Authority for a controversial transit system while Assistant Secretary Charles D. Baker conducted a hastily convened press conference about the new statement of transportation policy.

Chairman Hartke of the Senate Commerce Committee's Surface Transportation Subcommittee, was among those underwhelmed by the report:

> Ever since this administration took office, it has held out an illusion that soon it would present the Congress and the nation with a transportation policy . . . . I hope this does not represent the final effort of this Administration because, if it does, we are in worse shape than I had thought.

He added that transportation revenue sharing was a "joke" while the reorganization plan was viewed on Capitol Hill as an "illusion" designed to make the Administration "look like it is doing something when it is not." [Lydon, Christopher, "Transportation Agency Backs Easing of Regulation," *The New York Times*, September 9, 1971; "A Weak National Plan Chugs in Behind Schedule," *Business Week*, September 18, 1971]

Engineering News-Record described the statement as, "Long on generalizations and short on specifics." The article added:

> As revealed in the statement, the Administration is chiefly concerned with regulatory reform that would restore greater market competition, and efficiency, among different modes. It is also concerned with creating or reestablishing balance between different types of transportation and the role the federal government can play.

It quoted Baker as saying that, "the considerable absence of cost-based pricing makes it impossible for the various modes of transportation to operate at their most efficient levels."

The magazine reported finding little support within the transportation community. An ARBA spokesman said the statement had not "adequately responded to the mandate of Congress for some direction on policy as spelled out in the airport act requirement." AASHO Executive Director Alfred Johnson challenged the contention that the highway system is overbuilt. The one sympathetic comment was anonymous, noting that the Administration's policies had preempted Secretary Volpe's goal of a general transportation trust fund. ["Transportation Policy Makes a Sketchy Debut," *Engineering News-Record*, September 16, 1971, p. 71]

(As noted earlier, the transportation revenue sharing plan would be cast aside by Congress. Reorganization of the Executive Branch received some consideration, but also would fail to secure enough votes in Congress. Neither plan had a constituency willing to fight for it; the interests preferred the status quo. That was also true initially for deregulation, but Presidents Nixon, Gerald R. Ford, and Jimmy Carter would make considerable progress in deregulating the rail, airline, and trucking industries. Mark Rose, Bruce Seely, and Paul Barrett tell this story in *The Best Transportation System in the World* (Ohio State University Press, 2006). The title of their book comes from the constant refrain through the 20th century of those with a vested interest who opposed deregulation. With the current regulatory structure, they pointed out, the country had the best transportation system in the world—why risk deregulation?)

A Question of Proper Mix

Throughout 1971, the mighty roadbuilders, the feared "road lobby," was running scared. Their public relations outreach was being overwhelmed by the forces arrayed against them. Opponents blocked much-needed Interstate highways. Organizations such as the Sierra Club were joining the battle. The courts were proving receptive to the anti-highway forces. Local officials were bending to citizen complaints about highways. Governors and Mayors were desperate for Federal money to pay for transit. Academics were siding with transit advocates. Newspaper reports seemed to favor the opponents. The forces chipping away at the Highway Trust Fund in support of transit, especially rail transit, were getting the upper hand.

Through the 1960s, highway officials had been convinced that all their problems could be solved if only they could find the right combination of PR moves that would get the public to understand how beneficial the highways network, when completed in its entirety, would be.

AASHO's Johnson never abandoned that idea. He was a career highway man who had been Chief Engineer of the Arkansas State Highway Department where he became friends with Frank Turner. He had been president of AASHO before becoming its executive director and had worked in the mid-1950s with the Governors' Conference to gain support for President Eisenhower's highway program. He had represented AASHO before countless Capitol Hill hearings and in meetings with Members of Congress. Now, in 1971, he saw peril for his beloved program from forces that were weakening it, blocking the projects that would prove its worth, and undermining public support for highways. He tried to put the situation in context during a speech to AASHO's regional Mississippi Valley Association on March 12, 1971:

> In order for the [highway] administrator to properly carry out his official responsibility as a public servant, he must keep the public completely informed as to highway needs, the condition of the system, financial requirements, etc., so that the public can make the necessary decisions regarding the program. Therein lies a void at this time!

He urged his colleagues to put their present problems in historical context:

> It is the history of all public works programs, that when a basic need is so overwhelmingly evident in the beginning, you have strong public support and activity. However, long before the program completely satisfied its primary and basic function, a number of years pass and during that time a level of tolerable service is usually achieved and another generation or two have come upon the scene, and they begin to take the great accomplishments of the program as a matter of fact and the public support lags and becomes apathetic.

> In addition . . . others want to get into the act, sophistication and appendages are added to the program ostensibly to improve it or better it for various reasons most of which are rather expensive and time-consuming, but sometimes of questionable value.
>
> After the public becomes apathetic and turns into a tacit force, the critics, motivated by various reasons, then are able to establish their identity because they are articulate, aggressive forces and, in time, they gather supporters and it can become a fad to oppose the program and disenchant the public with it.
> This is the spot we are in right at this moment.
>
> Usually, the cycle is completed by the level of service of the program becoming so inadequate that public interest is rejuvenated, and the pendulum swings again. This could take a long time with effort on your part.
>
> Much of the situation that we face today is a direct product of highway officials not adequately educating and informing the public that they serve.

He dismissed the criticism of city officials, saying "it is because the highway program has been so successful and cities underfinanced." He was "shocked at the headway that the anti-highway movement is making." The new environmental requirements could "well be the straw that breaks the camel's back in stalling the highway program." He continued:

> We have college professors all over the country analyzing the itemized checklist in the environmental requirements of the highway program and developing instructions for bringing litigation and stalling highway projects with injunctions.

From April to June 1971, *Better Roads* ran a reader forum on "How Do the States Fight Anti-Highway Propaganda." Highway officials from around the country responded to the following situation:

> Recent anti-highway comments by groups and individuals have been leading the public to believe that all highway funds come from general tax revenues.
>
> The Questions:
>
>> As a highway official and engineer, have you found it necessary to rebut this misinformation?
>> What means have been available to you for presenting the real facts concerning the highway financing?
>> Which method have you found to be the most effective?

Each issue featured responses. In the April 1971 issue, for example, New Hampshire's Reuel W. Webb said he used "real facts" in appearances before the State legislature and during speaking engagements to argue against a constitutional amendment that would allow the State to use some of its highway user tax revenue "for purposes other than highway reconstruction, construction and maintenance," as had been the case since the State adopted a 1938 constitutional Good Roads Amendment.

D. M. Faircloth of the North Carolina State Highway Commission had spent more time justifying the 2-cent State gas tax increase in 1969 than the Federal Highway Trust Fund, but had spent considerable time defending non-diversion at the Federal level. The State had a speaker's pool to refute false claims. "The most effective method so far defending our true position regarding funding, both federal and state, has been a combination of facts taken from the fact sheet by the media and used in feature form, and our speaker's pool.

George H. Andrews, Washington State's director of highways, said anti-highway forces in his State were well aware of the sources of highway funding, and were not spreading misinformation but arguing that highways should be funded out of general tax revenue so they were subject to continuing legislative priority decisions. Most people "have no idea at all how the funds are raised" for highways or anything else. Editorially, most of the State's newspapers favored diversion. As for countering negative press, Andrews said:

> We have found no method really effective in getting information to the public. The minute you start dealing in figures, the public mind turns off and switches to the sports pages.

Other respondents discussed public hearings and publications containing "true facts," employee speeches, tours of legislative districts, effective use of publicity units, reports to legislators, meeting people, pro-highway film production, cultivating cooperative press, and outreach to good roads organizations.

In Frank Turner, the highway community had a leader who understood the need to reach out to the public. In June 1970, he released a report on *Benefits of Interstate Highways*, which he converted into numerous press releases. "Interstate and other highways influence the growth of the economy by improving mobility for economic and social activities." User benefits from the Interstate System, estimated to be $107 billion, would more than pay for its estimated cost of $70 billion. These benefits included reductions in travel time, operating costs, and accidents. General economic and community benefits included enhanced land use and increased land value; industrial and commercial advances; opportunities for community change ("displacement for highway right of way is being used as an opportunity to upgrade housing and community services"); diversion of traffic from residential areas; reduction of air and noise pollution, and encouragement of growth centers and new towns.

Turner also released a series of news releases about the environmental measures incorporated into Interstate and other highways. For example, work on a four-lane I-65 bridge across the Tennessee River near Decatur, Alabama, had been halted for several months because 65,000 ducks and geese from the northland had settled at Wheeler National Wildlife Refuge (press release, December 16, 1969). Another press release reported that Beverley's Mill in Thoroughfare Gap, Virginia, dating to George Washington's time, had been in the path of I-66 until the right-of-way was shifted to preserve the historic building (May 24, 1970).

Turner compiled all the information into an internal 500-page looseleaf *Resource Book on the Federal-Aid Highway Program* (September 1971) that FHWA officials could adapt for speeches, letters, interviews, and other occasions to rebut criticism.

He also addressed highway groups throughout his tenure, often in "preaching to the choir" vein. On September 23, 1971, for example, he was in Arlington, Virginia, to address the northern Virginia Chapter of the Virginia Motor Vehicle Conference. He shared the stage with Senator Harry F. Byrd, Jr., who had been appointed to take his influential father's seat in November 1965 and won reelection to serve through January 3, 1983. Byrd told the group that "public transportation has an important role to play," but "despite the need for better mass transit, improved highways are still essential." He said that "we cannot afford to ignore highway construction requirements," and if we did so, the "only results of that kind of policy would be bigger traffic jams . . . and bigger potholes."

Turner's speech, called "The Road Ahead," began with the observation that 1956 "would have to be regarded as 'a very good year'" because it was when "the most gigantic public works program the world has ever known" was launched. Although only 75 percent of the network was open, it was already "paying untold benefits to this Nation . . . ." Improvement of other roads had received less attention but he explained, "No apology is needed for this past emphasis on Interstate System construction, for I am convinced that it was a wise and correct decision."

Even as the final mileage was completed in the next few years, "we must be readying ourselves to move into two known areas of great need – the cities and the primary routes between them . . . . There must be no lag, no delay, no indecision, for the time to move is now." To address these needs, "there must be no appreciable drop in the overall level of highway funding . . . ." The funding being spent on the Interstates—about $4 billion a year—will be needed for road improvements to address these two great needs. "The record is clear" that the Federal-aid primary highways had to be brought up to "acceptable standards of safety and efficiency." In cities, "highways and streets are their very lifelines." This was "obvious to anyone whose eyes and mind are open to the facts."

For cities, highway upgrades and better use of existing facilities were essential as were adapting the network for buses, including busways such as the restricted lanes on the Henry G. Shirley Memorial Highway near the Marriott Twin Bridges Motel where the conference was being held (the Shirley Highway was designated I-95 at the time, but the portion inside the Capital Beltway is now part of I-395). FHWA, Turner said, had been working with the States and UMTA on several bus transit programs around the country. "More are on the way."

For the primary highways, he thought a "Junior Interstates" program was needed to "upgrade or replace them with something more than a two lane road." Although they would not meet Interstate control-of-access standards, the Junior Interstates "<u>will be</u> divided highways, and as such they will be immensely safer than the existing two-lane roads they will replace." (Emphasis in original.) [Curry, William Nye, "Rapid Transit Use of U.S. Funds Scored," *The Washington Post*, September 24, 1971]

Highway groups provided information to their advocates to rebut what the November 1971 issue of HUFSAM's *Highway Users* magazine called a "Web of Myths." The article rebutted the following myths with "a Dash of Truth Serum," in summary:

- Highways are Paving Over the Country—Streets and roads in the U.S. occupy less than 1 percent of the land area. In urban areas the average is 25 to 30 percent, about the same as before the automobile.
- Highways are Ruining the Cities—Urban freeways presently planned will require less than 3 percent of land in the cities.
- Highways are Destroying the Environment—In 1969, over a half-billion dollars was spent on Federal-aid highway projects for elements of direct benefit to the environment.
- Highways Erode the Tax Rolls—Highways such as I-80 in Pennsylvania, Route 128 circling Boston, and U.S. 81 in Yankton, South Dakota, were economic boons.
- Highways are Unsafe—FHWA estimates that the original 41,000 miles of Interstate highways would save 7,500 lives, and prevent 347,000 injuries, 823,000 accidents, and $250 million in property damage.
- Highway Interests are Against Mass Transit—Highway engineers recognize the value of buses and encourage their use; FHWA urged its engineers in the 50 States to "encourage the greatest use of buses in preference to individual automobiles."
- Americans are Being Taxed Unfairly for Highways—Highways are paid for by the people who use them in proportion to the miles they travel over them.
- Highways Destroy Houses and Businesses—Changes in Federal law had expanded relocation assistance benefits.

The industry had been rebutting these myths for years, but now had a "script" based to a large extent on information compiled by FHWA.

When officials saw an article or editorial they did not like, they responded. For example, an editorial in the November 13, 1971, issue of *The New York Times* ("One for the Road") objected to the Senate Finance Committee's decision, without public hearing or discussion, to amend the Administration's tax bill by diverting the 7 percent of the Federal excise tax on whiskey to the "already swollen" Highway Trust Fund. The shift was compensation for the bill's repeal of the 10-percent excise tax on light trucks:

> This transfer makes no budgetary or transportation or legislative sense. It is yet another greedy power play by the voracious highway lobby, engineered by Senator Randolph of West Virginia and Long of Louisiana.

The Highway Trust Fund had "an accumulated surplus of $3.6 billion" and would add $786 million in 1971:

> With the Conference of Mayors clamoring for $350 million in emergency funds for mass transit, does it make any transportation sense to transfer exactly that amount to the already swollen highway fund?

> The pending tax bill is a revenue measure, not a transportation bill. Does it make any legislative sense to make what is in effect a critical transportation policy decision in this covert and circuitous fashion?

Members of both parties, including Republican Senator Percy, planned to oppose the amendment on the Senate floor, but if it survived, the House members of the conference committee might not object to it:

> Are these shenanigans democratic?
>
> The highway lobby and their political allies have become drunk with power. Only they could have dreamed of characterizing a tax on alcohol as a "highway-user tax." It is time for the Senate to sober them up.

In a letter printed on December 8 with the heading "Transportation: A Question of Proper Mix," Senator Randolph said the editorial "reveals the same kind of shortsighted refusal to face facts that you attribute to me as a so-called political ally of the 'voracious highway lobby.'" The alleged surplus was "artificial," the result of "administrative withholding of funds obligated to the states" the past 4 years. Their release was essential "to redeem the pledge made by Congress in 1956 to build a modern highway system." The diversion of whiskey tax revenue was simply "compensatory revenue" needed because the House of Representatives had proposed to repeal of the excise tax on light trucks. In fact, he said, the Highway Trust Fund "could easily be faced with a deficit in the very near future" without compensation for lost revenue.

As for the proper mix, he wrote:

> In many minds, the issue became one of highways versus mass transit, as if taking money from the Highway Trust Fund would make it available to help meet the many critical mass-transit needs of the cities. Resolving all of our country's transportation problems is not a matter of choosing between highways, subways, buses, trains or airplanes. It is instead a matter of determining and providing the proper mix of all these through what is called a balanced transportation program. I am an ardent supporter of such an approach and continue to work for elimination of the financial inequities that exist among the various transportation programs . . . .
>
> Dissipating the Highway Trust Fund does not solve the problems of mass transit, and in fact impairs effective mass-transit operations in the many cities where they are carried out by buses . . . . America depends heavily on motor vehicles. There continue to be widespread demands for better roads over which to move the people and products of this nation. It is unfortunate that The Times cannot see the country for the skyscrapers.

Even as highway officials searched for hopeful signs amid the gloom, transit interests were finding their expectations unrealized. The funds authorized by the Urban Mass Transportation Assistance Act of 1970, subject to appropriation, were not flowing according to authorization levels. Secretary Volpe and UMTA Administrator Villareal were supportive but the White House and OMB were seeking only partial appropriations for FYs 1971 and 1972. The Administration claimed that transit systems were not ready for the money, in part because they did not have the matching funds. An unnamed Administration policy official described the transit proposals coming in for funding as lacking "any merit at all" in terms of planning. The few plans ready for big sums, such as those for New York City, would take so much funding that nothing would be left for other cities and towns.

To these rationales, one transit authority official griped, "If you don't want to spend the kind of money Congress has approved you can come up with all kinds of reasons why nobody's ready for it."

Most funding, thus far, had gone to saving or improving bus systems, many in smaller towns. When a big city transit system requested funding for rail improvements, UMTA suggested that the system request bus money instead. It wanted to fund activities that would become a reality quickly, not long-term rail improvements that wouldn't be completed for years.

Then there was the political calculation as summarized by *The Wall Street Journal*:

> Some key administration officials have been saying in their own councils and in talks with transit leaders that they see little political value for Republicans in pouring money into transit systems of traditionally Democratic big cities. "The cities aren't going to vote for Richard Nixon in 1972 no matter what we do," says one transportation official. [Karr, Albert R., "Transit Boosters Complain That Administration is Holding Back Funds Already Okayed by Congress," *The Wall Street Journal*, December 27, 1971]

Although funding for capital improvements was important, local officials were just as concerned about the growing burden of operation costs. As the House Committee on Banking and Currency put it in its report on the Urban Mass Transportation Assistance Act of 1970:

> The committee received a great deal of testimony concerning the need for a new program of Federal grants to assist States and local public bodies to defray operating deficits incurred by public or private mass transportation companies in providing commuter service . . . . Many communities . . . are faced with the need to provide public subsidies to cover operating deficits in order to preserve adequate transit service at reasonable fares.

The report discussed the "considerable" dangers of Federal subsidies:

> First, there is a danger that such subsidies would reduce the incentive of cities to make capital improvements in their systems, and, second, there is little doubt that such subsidies would require close Federal scrutiny of operating details and practices of transportation companies. [*Urban Mass Transportation Assistance Act of 1970*, House of Representatives 91st Congress, 2d Session, Report No. 91-1264, p. 9]

To address the issue, Section 9 of the 1970 transit legislation called on the Secretary of Transportation to study the feasibility of Federal assistance to help defray the operating costs of mass transportation companies in urban areas. The study also was to cover any changes in the

Urban Mass Transportation Assistance Act of 1964, as amended, that would be necessary to provide such assistance.

Secretary Volpe submitted *Feasibility of Federal Assistance for Urban Mass Transportation Operating Costs* to Congress on November 22, 1971. "No one can dispute," the report stated, "that there has been a serious decline in urban mass transit over the past decade or that the industry is currently in a critical financial state, a state approaching crisis in many localities." The decline was reflected in ridership, which had dropped from 23 billion revenue passengers in 1945 (the last year of World War II rationing that reduced automobile usage) to 11 billion riders in 1955 and 7.3 billion in 1970. Other problems included curtailment of services, increased costs, growing deficits, and the failure of transit companies. Public acquisition to prevent the abandonment of transit service shifted the burden from private owners who had been unable to turn a profit to public agencies. [*Feasibility*, p. 10]

More broadly, the report found that "the present condition of transit has also been significantly affected over the longer run by trends in urban development and related public policies." The post-war boom spurred the acquisition of increasing numbers of automobiles and a shift to suburban living:

> The explosion of American population into suburbia was accelerated and reinforced by Federal housing policies that made mortgage money relatively more available, by Federal income tax deductability of mortgage interest, by increasing auto ownership, and by the development of extensive systems of express highways. This system of highways accelerated the dispersal of residences, business and industry. [*Feasibility*, p. 26]

The decline in public transportation mirrored the rise of the automobile:

> The increased ownership and utilization of the automobile have reshaped communities so as to greatly reduce the usefulness of <u>conventional</u> mass transit (fixed routes on fixed schedules, typically oriented to the CBD). While public transit once had a major influence on the distribution of population, jobs, and commercial activity, this is no longer so. Cities and their suburbs have sprawled in such a way as to preclude the relatively high densities required for the economic operation of <u>conventional</u> transit, and new forms of public transit compatible with these changed circumstances have not yet emerged.

The "under-pricing of the auto mode relative to transit" was another factor in the decline of transit. Counting direct and indirect costs of urban expressway construction, economists agree that "user charges (primarily gas taxes) incurred by peak period users of such facilities do not, in fact, cover the increase in costs associated with providing the extra lanes needed for peak loads. Land acquisition and construction costs may be covered, but "the intangible costs of disrupting established communities and living patterns can be enormous, not to mention the impact of noise on residents and activities that are not relocated." The cost of air pollution ("largely from automobiles") is another incalculable cost generated by the automobile. [*Feasibility*, p. 27, emphasis in original]

The report discussed the shift from private to public ownership:

> Generally, the motive for public acquisition has been the same as the motive for local subsidization – i.e., transit is a needed public service and should be maintained and publicly supported . . . . But public ownership does not in itself change the basic economics of rising costs and declining ridership; it may provide some financial relief due to reduced tax liabilities, but these reliefs could also be offered to private carriers.

The report acknowledged that the privately owned transit companies often were perceived as seeking profits over service:

> Public transportation in urban areas was caught up in the reform movement that brought public service and public utility industries under direct governmental regulation. These industries were considered to be natural monopolies from which the public needed protection against watered securities and the extraction of monopoly profits.

The regulatory mindset was "basically passive," dealing "only with market entry, routes, fares and service levels," rather than the adequacy of services for all users or the possibility of differential pricing techniques.

Now, as transit shifted to public ownership, traditional regulation had been "overshadowed by other governmental entities whose policies have substantially affected transit." Government intervention in the form of such activities as safety and pollution standards, insurance requirements, labor practices and wages had affected operating costs, often as a result of agencies and authorities without responsibility for mass transportation. These agencies and authorities included parking authorities, traffic engineers, zoning appeals boards, and of course highway planners. [*Feasibility*, p. 30-31]

Only 17 States had programs to subsidize transit operating costs. Most had been enacted as emergency measures after private transit systems went out of business. Only New Jersey and Pennsylvania had significant subsidy programs. [*Feasibility*, p. 36] From 1961 to 1971, "the number of municipalities that provide operating assistance to transit systems has increased nearly 300 percent (from 21 to 81)." Like the State subsidy programs, the local programs "are relief measures designed to preserve existing transit service, with little or no attempt to achieve any additional substantive policy objectives through financial assistance." [*Feasibility*, p. 44]

Whether the Federal Government should help with operating subsidies depended on the answer to several major issues as well as a choice among mechanisms for aid. First, what are the objectives? How do they correlate "with the primary goals of the community and . . . the process of comprehensive development planning directed toward implementation of those goals"? Beyond this, was a long list of possible objectives, such as mobility for urban populations, including non-drivers, the poor, the old, and the disabled; stabilization or reduction of fares; stimulation of ridership; reduction of the deficit; offsetting subsidies for the automobile; and relieving the financial burden on cities and States.

Government intervention carried risks. The private operator provides only the service that users are willing to pay for. Public owners discard the market mechanism in determining service and fare, leaving government to decide what is needed and what is reasonable. Following government acquisition, a major issue is "preserving or creating incentives for management and labor to provide efficient and responsive service." With government paying the bills, "it may be difficult to ensure that transit managers would operate henceforth in a prudent and reasonable manner." At the same time, the subsidizer must decide the extent of control to be exercised to comply with existing or new standards. In short, if Federal subsidies are to be provided, what requirements should be applied in return for the funds? [*Feasibility*, p. 52-55]

Further, if Federal operating subsidies were to be approved, officials would have to decide on the appropriate mechanism for doing so. Based on field work by the National League of Cities/U.S. Conference of Mayors, the report identified several methods of subsidy:

- Deficit Subsidies – Addressing the gap between a system's total costs and total revenues leaves open questions about what costs and revenue are to be counted (for example, return on capital, depreciation, overhead, specific services?)
- Input Subsidies – Funds would cover an absolute amount or percentage of total costs or some particular element of cost. Explicit standards would be needed to ensure the additional funds result in improved service rather than "a mere windfall." The effect on service would be hard to predict and could distort service based on which elements of cost are subsidized.
- Output Subsidies – These payments would be based on system outputs such as ridership or transit service offered. Identifying the outputs to be rewarded would be difficult, and output subsidies "are not really an effective means of eliminating deficits." [*Feasibility*, p. 56-62]

Further decisions would have to be made about the recipient of the subsidy. Should it go to the transit operator and if so what factors could be considered in deciding the amount of the subsidy? Should it go to consumers in hopes of increasing ridership? As an alternative to either option, should the current capital assistance program for mass transportation be modified, for example by increasing the Federal share, to reduce financial burdens on operators. Shifting aid from existing categorical programs to the Administration's revenue sharing proposals also should be considered as an alternative to subsidies since State and local officials could then decide whether to use Federal revenue for subsidies or other purposes. [*Feasibility*, p. 62-66]

In a three-page section, the report considered service and policy innovations to improve mass transit and overcome the obstacles in its path. What was needed were "changes which may be so fundamental and so comprehensive as to involve the operations of an entire system rather than modifying service in only part of a system." Time would be needed to pull together resources from all levels of government to allow sufficient scope "to ensure inclusion of potential variables, to obtain reliable information, and to induce transit managers and local officials to experiment with innovative changes."

Tests were needed on the "regulatory, pricing, tax and other measures and incentives that would be employed" to identify the best ways to improve service and ridership. Innovations might include:

- Preferential treatment for buses, demand responsive services, improved off-peak use of labor and equipment, differential pricing by zone or time of day, provision of fringe parking;
- Increased parking rates for automobiles in the central business district (CBD), increasing or introducing tolls for autos entering the CBD, banning autos altogether in the CBD at all or selected times, metering autos onto freeways and streets, preferential treatment for carpools;
- Staggered work hours, special services for the "transportation disadvantaged," and greater integration of transportation and land use planning;
- Subsidies could be tested in different forms, such as a subsidy based on ridership or based on miles traveled and/or services provided, a stamp program so the "transportation disadvantaged" can travel at a discount, or a per capita grant.

The Department would continue evaluating such programs before deciding whether to make necessary recommendations to the Congress. [*Feasibility*, p. 67-69, innovations summarized]

The report concluded that, "Little has been done to determine whether transit can compete with the automobile under present conditions":

> Fundamentally, the revenue/expense squeeze in which transit is caught results from its lack of success in adapting to new patterns of urban development, responding to changes in public preference and expectations, and competing effectively with the private automobile. Faced with increasing dispersal of residential, employment and shopping centers in metropolitan areas and the personalized conveniences of the automobile, transit has held to its concept of fixed, line haul service into dense central core areas – even though the financial viability of that type of service seems to be rapidly diminishing. [*Feasibility*, p. 2]

State and local subsidies "have not reversed the decline in ridership or prevented increased operating deficits, although the decline in riders is substantially less than the national average." The subsidies kept some service from being eliminated, but " it is a debatable question" whether they improved service for those dependent on public transportation, prevented fare increases, stimulated innovation or experimentation, or increased awareness of commitment among those involved in solving transit's problems. [*Feasibility*, p. 2-3]

The Federal Government had taken steps to strengthen urban mass transportation, including "assistance for capital investment in right-of-way, structures and vehicles, provided through both the UMTA capital grant program and, with respect to rights-of-way, through the Federal-Aid Highway Program." Transit operators also had been exempted from certain fuel and vehicle excise taxes imposed on other highway users:

> Available experience and analysis suggests that further extension of Federal support in the form of operating subsidies in and of itself would not contribute to the significant alleviation of the underlying difficulties of which the transit deficit is symptomatic. [*Feasibility*, p. 3]

In the end, "there is not enough reliable or behaviorally validated information available at present for anyone to advocate with confidence a definitive solution to the problem of urban transit or to gauge accurately the long-range effect of a Federal subsidy program." Further exploration was needed to support urban transportation policy decisions.

Therefore, the report contained two recommendations. First, Congress should enact the President's Transportation Special Revenue Sharing proposal along with his General Revenue Sharing plan. The President's proposal to eliminate separate categorical aid programs would allow States and metropolitan areas to use Federal funds "in accordance with local concepts of need and priority." The funds could be used for transit operating subsidies if State and local officials concluded that doing so would address "a pressing need."

Second, the report indicated the Department of Transportation would "continue to evaluate the desirability and practicality of service and policy innovations . . . and to study the important questions relative to operating subsidies . . . ." The results of this continuing study would determine if the Department submits legislative recommendations to Congress. [*Feasibility*, p. 4-5]

The report did not address the source of revenue for operating subsidies. Under revenue sharing, it would come from existing programs. Beyond that, the report did not discuss the longstanding issues of funding from the general Treasury or diversion from the Highway Trust Fund. It also did not discuss creation of a Transportation Trust Fund or a separate Mass Transit Trust Fund.

AASHO's annual meeting in December 1971 in Miami Beach featured another congressional panel. Representative Harsha summarized what everyone on the panel and in the audience knew:

> I think that the year 1972 is going to be a very crucial year for the Federal-aid highway program. I say this not only because of [media attacks] but because of the various attacks on the highway program that are coming from other segments of our society; because members of congress who have not been aligned heretofore with the anti-highway coalition, now seem to be aligned with it for various and sundry reasons; and because of some of the recommendations of my own administration in Washington.
>
> This has led me to believe that the year 1972 is to be the year of reckoning insofar as a so-called "after" '75 highway program is concerned.

He was worried that the Department of Transportation, OMB, and the White House would ignore FHWA's recommendations. He did not see a need for the President's Executive Branch reorganization plan, under which FHWA would end up in a new Department of Community Development.

Highway critics, he said, "seem to be growing not only in intensity and volume and activity but they are also developing rather ingenious methods with which to invade the Highway Trust Fund. He mentioned the Bicycle Transportation Act of 1971 as an example of the ingenious plans. [*American Highways*, January 1972]

Secretary Volpe also addressed AASHO on December 6. He struck a warning tone in saying that the Interstate System must be completed as rapidly as possible "except in those instances where local or State officials decide they just do not want them." He added, "I do not think we are going to force it down their throats." He endorsed the President's special revenue sharing plan for transportation ("the greatest good for the greatest number") and the Executive Branch reorganization ("wholeheartedly").

Like highway officials the past few years, he had been thinking about how to counter the criticism they faced. If they wanted to improve their image and create a better transportation system, they must:

- Present facts to the public to disprove the stereotype that highways are built without regard for environment or displaced families.
- Develop an efficient mass transit system that people will want to use. This system would increase the use of existing facilities.
- Develop an integrated system of roads and interstate highways that will effectively link section of the country without hurting the environment.

Highway officials "must always stress that protection of the environment is a goal, not a constraint."

He summarized, "We must do a better job of proving that highway construction can be compatible with environmental values. The facts are our strongest defense." [Payton, Sheila, "Volpe: 3 Challenges Face Road Builders," *Miami Herald*, December 7, 1971]

Part 3
The Year of Reckoning

Planning for Reelection

From the start of the Nixon presidency, the economy had been deteriorating from the effects of Kennedy and Johnson Administration policies and congressional inaction or ineffective action. Professor James MacGregor Burns described the situation facing President Nixon as he began planning his reelection campaign for 1972:

> Inflation was running at about 5 percent a year when Nixon took office. In accord with sound Republican doctrine, the new Administration must throttle down the social spending and the budget deficits for which they had castigated Humphrey and his fellow Democrats in the 1968 election campaign. But Nixon was wary. He still felt the scars of his defeat by Kennedy in 1960, when he had been beaten in part by the Eisenhower recession, or so he believed . . . .
>
> For over two years Nixon teetered between his two fears, tried to fine-tune the economy with a mix of monetary and budgetary policies, along with exhortation from the White House. It was hard going every inch of the way. Fine-tuning would have been difficult even for a united government. The President had to share economic policy-making with the very independent Federal Reserve Board under its imperious chairman [William McChesney Martin, Jr., who had served as chairman since the Truman Administration, and would leave office on February 1, 1970, replaced by Arthur F. Burns] and with the Democratic-controlled Congress. By spring 1970 both prices and unemployment were rising sharply—a remarkable combination. The federal deficit was soaring, interest rates climbed, and then the stock market took its steepest plunge since depression days. In June 1970 came the collapse of the Penn Central Railroad, called by [business columnist and *Times* editorial writer] Leonard Silk the greatest business failure in history.

As the situation continued to decline on the international front as well, the President held a series of secret meetings at Camp David. He faced "a painful dilemma," especially since the best options went against the President's conservative views:

> He would have to move on both the domestic and the global front, in particular because the convertibility of paper into gold and allowing the dollar to depreciate would stimulate price rises at home as the dollar price of imports mounted. Hence it would be necessary to establish mandatory price and wage controls. But if there was any man who had, year in and year out, vociferously denounced controls, it was Richard Nixon. His aversion was based in part on conventional Republican doctrine but even more on his brief working experience with price controls in the Office of Price Administration during World War II.

On August 15, 1971, he emerged from Camp David to announce his New Economic Policy:

> [The] President bit both bullets—indeed, several bullets. He imposed a ninety-day freeze on prices, wages, and rents, suspended the convertibility of dollars into gold, and placed a 10-percent surcharge on imports. He asked Congress to repeal the 7 percent excise tax on cars, to speed up personal income-tax exemptions, to put off welfare reform for a year, to postpone revenue-sharing programs with the states for three months, to pass a 10 percent "job development credit"—a tax credit to business for investment in new plants and equipment—that would drop to 5 percent after one year. [Burns, James MacGregor, *The Crosswinds of Freedom*, Vintage Books, 1990, p. 555-556]

The President's speech on August 15, 1971, announcing his New Economic Policy was called "The Challenge of Peace." In view of the "progress" made toward ending the Vietnam War, he said, it was "an appropriate time for us to turn our attention to the challenges of peace." He explained:

> Prosperity without war requires action on three fronts: We must create more and better jobs; we must stop the rise in the cost of living; we must protect the dollar from attacks of international money speculators.

The 90-day freeze on all wages, rents, and prices was phase 1 of the plan. Phase 2, beginning in December, was a less stringent but mandatory system of price and wage controls, but with latitude for increases upon Administration approval.

President Nixon pointed out that Congress "has already delayed action on two of the great initiatives of this Administration." He now asked Congress to delay his proposals for 3 months in the case of General Revenue Sharing and 1 year for welfare reform.

As Burns mentioned, the President proposed to repeal the 7-percent excise tax on automobiles, effective August 15:

> This will mean a reduction in price of about $200 per car. I shall insist that the American auto industry pass this tax reduction on to the nearly 8 million customers who are buying automobiles this year. Lower prices will mean that more people will be able to afford new cars, and every additional 100,000 cars sold means 25,000 new jobs.

Congress did not complete work on the legislation until late in the year. President Nixon signed the Revenue Act of 1971 on December 10. It repealed the 7-percent automobile excise tax retroactive to August 15, the 10-percent excise tax on light-duty trucks (those weighing 10,000 pounds or less gross vehicle weight used primarily for personal transportation), and the manufacturers' tax on urban transit buses. In signing the bill, he said:

> [Just] to give an example, over 3 million automobiles have been sold since the announcement on August 15 was made. That means that an average of $200 per 3 million people will be rebated as a result of the action of Congress. We can see that approximately $600 going to those who purchased automobiles around this Christmas season will be a good shot in the arm for the economy.

The new law required auto manufacturers to refund the automobile excise tax to customers and then claim reimbursement from the Department of the Treasury. Revenue from the excise tax, which previously went to the general Treasury, had been coveted by highway and mass transit advocates but was no longer available for these or any other purpose.

Revenue from the excise tax on light-duty trucks and buses had been credited to the Highway Trust Fund. Elimination of the tax on light-duty trucks was expected to cost $280 million in FY 1972 and $360 million in FY 1973. In addition, repeal of the excise tax on trailers with a gross weight of 10,000 pounds or less used with light-duty trucks would cost the Highway Trust Fund about $3 million. The only offset, about $25 million a year, would come from extension of the tire tax to imported vehicles (bicycles excepted). [*General Explanation of the Revenue Act of 1971*, Public Law 92-178, Prepared by the Staff of the Joint Committee on Internal Revenue Taxation, 92d Congress, 2nd Session, December 15, 1972, p. 84-85]

The Senate amendment transferring a portion of the alcohol tax to the Highway Trust Fund to compensate for the loss of light-truck tax revenue was not in the final bill.

(As for the implication that peace was just around the corner, the Paris Peace Accords on ending the war were signed on January 27, 1973, officially ending U.S. military involvement in the war later that year. The Vietnam War would end in April 1975 with the collapse of South Vietnam.)

Cracks in the Lobby

Throughout 1971, the unified highway lobby was showing cracks in an unlikely place. In Detroit, Michigan, the Ford Motor Company was gradually breaking away from the unified opposition to diversion of Highway Trust Fund revenues. On April 6, Ford vice president Allen W. Merrell had written to Michigan Governor Milliken in response to his proposal to increase the gasoline tax by 2 cents, with a half cent of the increase for mass transit in Michigan's cities:

> While we agree that a portion of the highway funds for urban areas should be available to improve public transportation service we believe that the proposed creation of a special urban transportation discretionary fund separately financed by a one-half cent increase in gasoline taxes would further complicate an already complex financing system.
>
> We believe that the definition should now be broadened to permit limited use of these funds as a supplement to other local, state and federal funds to encourage more intensive use of streets and highways for public transportation including building of shelters, loading platforms, special ramps and lanes for buses, and parking facilities.
>
> We also support use of such funds to aid in purchase of buses.

The company opposed the use of State highway user tax revenue for rail rapid transit, but where it is needed in densely populated urban areas, "we believe that rail transit would be more logically supported by general state or local revenues than by taxes on highway users."

In September, after President Nixon's comment about the Highway Trust Fund during his appearance before the Economic Club of Detroit, Henry Ford II, company chairman, had said that, "slowly and surely you are going to see some of this money used for other purposes." He did not "know whether we're yet ready to suggest that mass transit get money out of the highway trust fund . . . ." However, James M. Roche, chairman of General Motors, said he could see the possibility of highway user tax revenue for transit where "some overlap" of interests existed between motorists and riders of mass transit. Lynn A. Townsend, chairman of Chrysler, also said he thought some special cases might justify diversion, but said after the President's remarks that "a general release of the money for mass transit would be a misuse of these funds."

Now, in the first week of January 1972, Ford brought the subject up again. On January 6, he said during a news conference in a new Ford plant in Flat Rock, Michigan, that he thought some Highway Trust Fund revenue should be diverted toward mass transit. Appearing with company president Lee A. Iacocca, Ford said he did not have a specific amount in mind:

> I don't know whether we're going to be able to sell our ideas . . . . We're in favor of mass transit but it's got be a viable system and can't cost the general public a fortune. We've got to start slowly and take some of the highway trust fund money and use it for research and experimentation . . . maybe build one system if it is a new type to see whether it works before you say you want to earmark X-dollars from the highway fund. [Irvin, Robert W., "Ford Nudges Industry on Tax Use for Buses," *Washington Evening Star*, January 16, 1972]

In a surprise move on January 25, the Big Four auto companies (General Motors, Ford, Chrysler, and American Motors) came out in support of Governor Milliken's gas tax proposal. The companies changed their position for three reasons, as summarized in *The New York Times*:

> [R]ealization that better mass transportation system [sic] was needed if downtown Detroit was to be revitalized; plans by the auto concerns to develop mass transit systems that they eventually hope to manufacture and sell to urban areas, and the rising opposition to cars in downtown areas expressed through street closings and redevelopment plans that exclude automobile traffic. [Salpukas, Agis, "Auto Makers Back Gas Tax for Transit," *The New York Times*, January 26, 1972]

These changes of attitude on the part of traditional highway allies were seen as significant for the pending battle in Congress over the future of the Highway Trust Fund. In a *Times* op-ed ("In Goes Money, Out Comes Concrete"), free lance writer Wade Greene put it this way before the auto companies changed their position on the Michigan gas tax increase:

> Besieged from without by a growing body of urbanists and environmentalists who are bent on stemming what they regard as the reckless graying of America through excessive highway building, the trust fund's supporters now find their own ranks eroding . . . . If Ford's defection is the most dramatic in the highway lobby's defenses, it has not been the only one. Mobil Oil, in an ad in this newspaper, considered the possibility that "special earmarked funds are no longer the best approach" to the country's transportation problems. At its gathering last year, the National Governors' Conference, once a pillar of support for

> the trust fund, voted for incorporating it into an over-all transportation fund, to be used as the states saw fit. And in a direct parallel to the national situation, at least two States, California and Maryland, recently saw fit to permit highway-oriented state taxes to go to nonhighway uses; similar moves are now being debated in other states.

The defeat of Representative Fallon in 1970 and his replacement by Representative Blatnik as chairman of the Committee on Public Works was seen as a hopeful sign for anti-highway forces because Blatnik was viewed as having "a good deal more flexibility about the fund" than his predecessor. Similarly, the defeat of Senator Randolph's proposal to shift alcohol tax revenue to the Highway Trust Fund to make up for loss of revenue from taxes on light trucks was seen as another sign that the sacrosanct Highway Trust Fund no longer had as solid support as in the past.

These signs did not, however, guarantee a change in the use of Highway Trust Fund revenues:

> While opponents of the trust no longer face a monolithic antagonist, they are far from dismissing the persuasiveness of those who are still intent on keeping the fund as it is. "One thing that's fairly obvious," says H.A.C. director John Kramer, "is that these people have an awful lot of money available and this is a campaign year and candidates do need an awful lot of money." [Greene, Wade, "In Goes Money, Out Comes Concrete," *The New York Times*, January 16, 1972]

In February 1972, *The Wall Street Journal* wrote about the highway industry's counter-offensive. In "The Highway Lobby Aims to Prove There is No Highway Lobby," the newspaper described "an intensifying counterattack" aimed at "environmentalists and other critics who contend that highways gobble up land, besmirch the landscape, stimulate traffic congestion and pollution, rip up neighborhoods and soak up taxes." The "new drive and urgency" was inspired by the importance of 1972 as a highway reauthorization year with the question of opening up the Highway Trust Fund to mass transit to be decided. HUFSAM, the article stated, had decided to "take off the kid gloves" to ensure the American people "hear the truth about highway transportation":

> So federal officials are on the attack, seeking to sway the public with prepared speeches, news releases, "fact sheets," brochures and bumper stickers, and singling out certain critics by name. Among them are Helen Leavitt, author of the book "Superhighway-Superhoax" and journalists and columnists whose work has appeared in such publications as the Reader's Digest, Saturday Review, Field & Stream, The New York Times, and The Wall Street Journal.

HUFSAM staff and 17 regional representatives had delivered 140 speeches since the campaign began in the fall of 1971:

> They have debunked, among other things, the superhighway "myth" of the "bulldozer invasion," the "urban-strangulation" myth, the "paving-over-America" myth and even the "myth of the highway lobby." ("If you call those who benefit from highways 'the highway lobby,' then it is the entire American public.")

The industry also had formed TRIP (The Road Information Program) to release radio and newspaper advertisements. TRIP had raised $250,000 in late 1971, but was hoping to raise $1 million in 1972. The *Journal* described one TRIP radio ad:

> In one TRIP radio spot, a woman's voice says: "I almost went off the road today—at that blind curve where the old highway meets Ridge Road." She tells her husband she read about 200,000 miles of primary highways with "blind curves, narrow lanes, things like that!" She says she plans to write the TRIP people and highway officials about fixing the curve, whereupon the announcer chimes in: ". . . Your highways. You've got a lot riding on them."

The article described the origins of FHWA's Resource Book:

> The Federal Highway Administration, meanwhile, has launched a lower-key campaign of its own. About a dozen FHWA officials recently had some meetings to discuss their critics and the criticism itself, then compiled a manual of handy rebuttals . . . . "We didn't want a negative document—we wanted to put together a group of factors to support a highway program," says Steiner M. Silence, an FHWA officials who helped develop the book.

HUFSAM cited a public opinion poll that found that about 80 percent of Americans had a "very or fairly favorable" attitude toward highways. D. Grant Mickle, HUFSAM's president, said the survey "proves so-called public animosity towards highway transportation to be a fiction."

The Highway Action Coalition took exception to that survey, as the article noted. Ben Kelley, the former FHWA public affairs officials, spoke on behalf of the coalition (he was "regarded as a turncoat in highway circles ever since he wrote an antihighway book, 'The Pavers and the Paved'"):

> [Using] other figures from the federation's survey, he says results show only 23% of those interviewed were "very favorable" to highways, while 57% "took the noncommittal middle course of choosing 'fairly favorable.'"

Kelley, the article said, was "a particular bugaboo" for HUFSAM. After he appeared on NBC's *Today* show to criticize highways, a HUFSAM regional official sent a memo to headquarters:

> He complained that the show would get "a hell of a lot of people—especially nincompoop housewives . . . all hot and bothered about the pollution, misuse of *their* taxes – blah, blah, blah." [Karr, Albert R., "The Highway Lobby Aims to Prove There is No Highway Lobby," *The Wall Street Journal*, February 17, 1972]

Just as the pro-highway forces were preparing for what they knew would be a major battle for Federal-aid highway reauthorization in the presidential election year of 1972, the pro-diversion forces were planning their lines of attack. The Highway Action Coalition was ready. An article in Washington's *Evening Star* described the state of readiness:

> Ecological groups, flexing their muscles after helping to down the supersonic transport plane this year, are getting set for a new battle in 1972, this time over highways. Highways, they contend, are slowly strangling the nation. Their theme runs like this:
>
>> Highways grab off more than their share of the federal transportation dollar, seal off urban slums, pollute the air we breathe, contribute to the growing shortage of fuel for heat and light – and breed more highways.

Environmental Action and the Sierra Club, the article stated, were the principal forces behind the Highway Action Coalition, but they were joined by: Americans for Indian Opportunity, Committee for Humane Legislation, Friends of the Earth, Mexican-American Youth Organization, Natural Resources Defense Council, Washington Planning and Housing Association, Wilderness Society, and Zero Population Growth.

> Their goal: To chop off what they call "the monster's head" – the highway trust fund.
>
> Their immediate target: To break loose for other forms of transportation the unused billions of dollars in the trust fund as Congress considers new highway legislation this year.

An article in the coalition's newsletter, *The Concrete Opposition*, stated, "It's a self-perpetuating thing. The more you drive, the more gas you use and the more money flows into the Trust Fund, and more roads are built which encourages you to drive more."

The coalition wanted to open the Highway Trust Fund to all forms of ground transportation in ways, such as the same Federal share, that made the alternatives as attractive as highways:

> The coalition notes that since 1963 more than 100 transit systems have folded. Last year, they say, mass transit nationwide suffered a deficit of $332 million, and the trend is continuing.

As 1972 began, the coalition was "optimistic that public pressure [and] growing official awareness of the problem will come together in 1972 to shift priorities." Members were encouraged by signs of progress. For example, the Senate plan to divert 7 percent of Federal alcohol tax dollars to the Highway Trust Fund in the 1971 tax bill had been killed in conference with the House. "Coalition co-director John Cramer [sic] hailed this as a first defeat for the highway lobby and claimed it showed a growing disenchantment on Capitol Hill with the direction of the highway program." As further evidence, Kramer cited the Proxmire Joint Economic Committee's support in 1970 for abolishing the Highway Trust Fund and the bills introduced in recent years to make Highway Trust Fund revenues available for transit.

One thing was clear. The coalition promised a major legislative initiative in January to keep the momentum going. Kramer said, "Once a sufficiently large, informed and determined constituency is formed and effectively directed toward changing national transportation priorities, our task will be close to completion." The coalition would "bolster local efforts by pooling strength" because the job would not be easy:

> Fighting freeways is not unlike battling with an octopus. One by one you can struggle with and cut off all eight of its arms. But as long as the head is left, the arms are capable of quickly regenerating themselves. [Elder, Shirley, "Ecologists Load Guns for Fight Against Highways," *Washington Evening Star*, December 26, 1971]

The media continued to take aim at the automobile and highway, with early 1972 seeing publication of more critical books:

> Jerome, John, *The Death of the Automobile: The Fatal Effect of the Golden Era, 1955-1970*, W. W. Norton & Company, 1972.
>
> Buel, Ronald A., *Dead End: The Automobile in Mass Transportation*, Prentice-Hall, 1972.

Jerome, whose book was published in January, had been editor of *Sports Car Digest* and *Car and Driver* magazines "in what we self-importantly called automotive journalism." He said he quit "not out of pique or any cold-eyed rational rejection, but because my ardor had simply cooled." After leaving the magazines, he had initially abandoned ownership of a car but purchased one after moving to New Hampshire. Now that he was in the country, he had no choice. He added, however, that "Car ownership nowadays is too difficult, too expensive. Too hard on the conscience." In short, "The premise of this book is that the automobile must go." [Jerome, p. 18-19]

He offered no hope for those who thought the automobile could be improved to eliminate its negative side effects:

> Technology isn't evil, but the uses of technology often are. The car is a bad machine—and the solution is not to build a better bad machine, but rather not to build bad machines. Yet this huge, wealthy nation is trapped with what is virtually a single transportation system, and to suggest simply abandoning that system is to suggest paralyzing the nation. We have become addicted to automobiles; they have become literally a necessity for sustaining life. [p. 21-22]

In his chapter on "The Road," Jerome discussed the role of roads in history, symbolism, and literature. "America is a road epic; we have even developed a body of road art, Huck Finn to *The Grapes of Wrath* to *Easy Rider*, cutting loose to pursue the dream." Now, however, road building had "accelerated to the point of self-parody." He continued:

> With no place else worth opening up, we began building roads to get to roads, roads on top of roads. We ceased to build in service to the noble motivations of interchange and communication. We stopped building roads *to* places. We began building roads *for* automobiles.
>
> It is no coincidence that the initiation of what the Bureau of Public Roads is fond of calling "the largest single public-works project in the history of the world" occurred just as the golden era of the automobile industry was getting under way.

In the mid-1950s, "we seemed capable of coping by conventional methods," but "nobody could misread the production figures emanating from Detroit." The Interstate legislation failed in 1955 "by a whisker" in Congress:

> In 1956—aided, no doubt, by the pressure from 10 million more vehicles—imaginations were a little more fertile. The Interstate Highway System was launched, backed to the hilt by a generous and clever device called the Highway Trust Fund, which decreed that all federal taxes collected on motor vehicles, gasoline, and ancillary equipment would go to build a varicose network of "superhighways," for now and forever, amen, or until completion of the System. [p. 104-105, emphasis in original]

As the "press releases rolled," State highway officials began building the Interstates. By 1971, he said, 32,000 miles were open, but lawsuits had blocked construction in cities around the country. "It had become virtually impossible to gain acceptance for a new Interstate in any major urban area, and many rural segments of the plan—particularly those aimed like concrete daggers at the heart of any scenic or historic spot—were in trouble." [p. 105-106] The Interstate System was not the only road building concept "that has gone awry" in America:

> But it is the most visible, and generates the most criticism. As the biggest, most expensive, most disruptive, and undoubtedly the most graft-ridden roadway project in history, this fifteen-year exercise in conspicuous tax consumption is as eloquently symbolic of what went wrong with road-building as the 1970 Impala is symbolic of what went wrong with car-building. [p. 109]

The highway lobby was behind the whole scheme. AASHO, for example, was "one of the visible tips of the highway-lobby iceberg," but it was joined by car manufacturers, oil companies, steel makers, tire makers, truckers, and ARBA and AGC, plus lobbying groups such as HUFSAM. "One might expect such a congruence of economic, political, military, and public support to provide a sufficient momentum to pave the entire nation, and for a decade and a half there seemed little likelihood of any other fate. We *had* to pave, of course, for the *cars*." [Jerome, p. 113-115] In bullet-points, he summarized the result:

- Highway projects systematically devastate ghettos, historical regions, and park [sic].
- Highways kill inner-city retail activity.
- The automobile commuter is the specific disaster that is killing the cities. Freeways make him possible.
- Highways remove property from the tax rolls at the very time when the cities are starving for revenue.
- Multilane, limited-access roads concentrate high-speed traffic at dangerous levels.
- Highway programs tend to turn into a Big Casino for land speculators . . . . Watch the freeway go in, see the Big Rich get richer.
- Growing public demand for local control has no place in the road-making mechanism.
- Highways are planned on the basis of highway use, rather than as adjuncts to a community.
- Roads make community designers out of land speculators.

- Roads, tend, at worst, to increase our population imbalance at current marginally operable levels; at best, they freeze the imbalance at current marginally operable levels.
- Road construction in the developed portion of the nation destroys housing (usually the low-cost variety, of course) at a time when there is a critical shortage of that commodity, a vitally more important basic requirement than mobility.
- The Interstate System and similar long-haul roadways subsidize commercial users at the expense of private users.
- Road-building programs militate against development of workable public transit systems.
- While at the urban end roads cause congestion, tax depletion, urban flight, and a host of environmental disasters, at the rural end they simply cost too much.
- Highways increase congestion.
- Highways are aimed at providing convenient routes between more and more distant points, at reduced traffic levels.
- Besides, nobody knows how to make highways work. For automobiles, yes; for the nation, for the public that pays for them, that is dislocated by them, not yet. Very likely never. [p. 116-121, bullet points abbreviated]

In concluding his chapter on "The Road," Jerome asked, "If we could not solve the problem with 100 million vehicles, how can we hope to with 200 or 300 million?" He continued:

> It isn't going to get any better as long as we have automobiles as the sole basis of our transportation system, and twenty-five years of experience has pushed us to no cleverer solution than to build more roads to hold the more cars that we've built and bought. But twenty-five years have kept the pressure on; maybe with another twenty-five under our belts, we will begin to think of new ways to go. Or maybe we won't go at all. On examination, the latter course seems much more probable. The question seems to be whether we will choose that course or be forced into it. [p. 124]

Buel, a former reporter with *The Wall Street Journal*, said that his book, released in March, "aims to take a small but important part of America—its transportation system, and even more specifically, its urban transportation network—and to put this small piece in the political and social context of what ails us as a people." [Buel, p. 1] The automobile had "become the very symbol, the epitome of our leisure culture, our consumerism, our unnecessary affluence." [p. 7] It left behind "a large minority of poverty-stricken people" who were not served by our "automobile-highway system." [p. 9]

As for freeways, they are "in a very important way, inherently destructive of the landscape through which they pass, be it urban or rural." Moreover, "no unusual artistic perception" was required "to see that our freeways are ugly things," especially compared to the "fine highways built in the past," such as the Columbia Gorge Highway in Oregon and the Wilson River Highway connecting Portland with Tillamook, Oregon. [p. 78]

Despite the problems caused by highways, "you must be careful not to identify the highway engineer as too much the evil villain." He explained:

> He may often be a pedestrian bureaucrat who does his job and no more, but we must not fault him too much for his failure to have a larger vision. For he is not encouraged or trained to have a larger vision. And the rewards of taking pains with highways, of doing more than is asked for, are totally negative. [p. 85]
>
> For freeway design, as closely as one can tell, is in the control of people with uniformly narrow vision and aesthetic sensitivity, from the top man in the Bureau of Public Roads to the lowest of the lowly highway bureaucrats . . . . Our freeway system is the world's most gigantic construction project, yet we have executed it totally without regard to the simplest of design principles—principles that can be understood and observed by any layman, principles that the American public would pay for if their highway experts and politicians would only ask, principles that, if followed, could have lightened the burden of living in this difficult time. [p. 93]

Buel had several suggestions:

- First, planning goals ought not to be uniform throughout the nation.
- Second, it is not practically possible to completely divorce decisions about major public expenditures, such as freeways, from the political process.
- Third, another important principle is that freeway planning must start from its gross effects on land use and traffic patterns.
- Fourth, a flexible and just method of financing freeways must be found. [p. 97-100]

Buel conceded that "deciding with any degree of finality whether or not more freeways are needed is not possible, in the abstract." The question, after all, was not whether freeway A or freeway B was needed:

> My *opinion* is that if we start making that decision in a large enough context, and we consider alternative ways the funds might be spent to fill transportation needs, we would build far fewer urban freeways in the next decade than we are likely to under present circumstances. For this reason, a politician who called for a total moratorium on freeway building would probably be more right than wrong. For once the freeway is built it is not likely to be torn down, and once it is built it is likely to stimulate demand for more of the same. I say let's have a moratorium on urban freeways. [p. 112, emphasis in original]

In a chapter on "Alternatives to the Automobile," Buel said that just because someone uses highways does not mean "he wants to be taxed to make that highway system grow." Buel, for example, would rather see his highway user taxes go to mass transit projects such as BART and other new rapid rail systems. On a smaller scale he praised the 14.5-mile Lindenwold rail line linking Camden, New Jersey, and Philadelphia, the high-speed Metroliner service linking New York City and Washington, urban cable car service, bicycles and walking, moving sidewalks, buses, jitneys, carpools, and experimental subscription bus services in Peoria, Illinois, and Flint, Michigan (although he conceded the Flint service was a failure). Because each city was unique, the blend of alternatives would vary around the country. "What is important is that we force the political system to narrow the options, and not allow the technicians to continue to do the narrowing for the politicians." [p. 163, 174-210]

In response to such pressure, the highway lobbyists would try to maintain the status quo. "Their representatives are full-time at the legislature. They can 'stay with' the things that they care about, get to know the legislators, follow the bills closely, ingratiate themselves with dinners, drinks, favors, and one suspects, a smidgeon of cold cash from time to time." [p. 224] In 1968, for example, ARBA organized a $50-a-plate dinner for Representative Fallon, raising $13,000. "This included $1,000 each from two Pennsylvania contractors, $500 from a California cement lobbyist, and $850 from thirteen South Dakota road builders." Former Administrator Bridwell had said in an interview in the February 1968 issue of *Architectural Forum* that, "Every time I say no to a highway, you can bet there will be a governor, a senator, and some representative on the phone in 45 minutes." What was needed, Buel thought, was a new breed of politicians who were "not looking for fast results, but willing to build the sort of political involvement and participation by all groups and types of people that insures that, at least at the local level, government will have to respond to people's needs and be financed at a level commensurate with the task." [p. 228, 230-231]

A review in *The New York Times* said that, "Like a modern Don Quixote, Mr. Buel flails out in many directions," but added that "if books like this speed the nation's trip toward more reliance on mass transportation, then Mr. Buel has performed a service." [Fowler, Elizabeth M., "Love Affair Ended?" *The New York Times*, March 5, 1972]

Despite the continued negative publicity, HUFSAM, as evidenced by its campaign motto of "Let's Keep the Trust," and other highway boosters intended to fight hard in Congress in 1972.

Bottomless Pits

On January 20, 1972, President Nixon delivered his State of the Union Address. After discussing his foreign policy goals, including peace in Vietnam, he turned to domestic affairs. His General Revenue Sharing plan, still pending in Congress, was a priority as was his proposed reorganization of the Executive Branch. He mentioned the transportation successes of recent years, including the Urban Mass Transportation Assistance Act of 1970 and creation of the Airport and Airway Trust fund. Building on these successes, he hoped the 92nd Congress would approve Special Revenue Sharing for Transportation "so that cities and States can make better long-range plans with greater freedom to achieve their own proper balance among the many modes of transportation." He added:

> Highway building has been our first priority—and our greatest success story—in the past two decades. Now we must write a similar success story for mass transportation in the 1970's.

He said his budget would propose a 65-percent increase, to $1 billion (up from $600 million in FY 1972), for mass transportation. The funding would help cities buy buses, build subways, and meet other capital costs in FY 1973.

Senator Harrison Williams, chairman of the Housing and Urban Affairs Subcommittee, decided to take on the issue of operating subsidies without waiting for Administration support. He held a hearing on January 31, 1972, on his bill to provide $150 million in subsidies as a stopgap for transit systems around the country. Carmack Cochran, president of the American Transit Association, said his privately owned transit company in Nashville, Tennessee, "could not exist out of the fare box if we were given the unlimited power to raise fares." The transit industry, he said, cannot provide an efficient and cheap alternative to the private care. "To the contrary, the peculiar economics of transit mean that if the present trends continue, it will provide less service to few [sic] people at higher cost." He and Dr. Ronan of the New York Metropolitan Transportation Authority (MTA) estimated a national need of $400 million a year in subsidies.

As Cochran's comments indicated, many cities were still in transition from privately owned transit services, such as his company, to public ownership. On February 1, Mayor Thomas A. Luken of Cincinnati, Ohio, told the subcommittee that Cincinnati Transit, Inc., "is dying a slow death, and there seems to be precious little time left." The city did not have the money to rescue the company or take over its service. Saying he rode the bus to work, he blamed highway investment:

> We cannot continue to build countless miles of highway and expressway and to crowd them with innumerable vehicles, as we have been doing. From an environmental standpoint, if nothing else, we must have a mass transportation system . . . and we cannot . . . unless there is comprehensive federal assistance forthcoming.

Secretary Volpe declined an invitation to testify, saying his testimony would "serve no useful purpose." The Department of Transportation had recommended further study of subsidies in its November 1971 report to Congress and indicated that they were not necessarily as appealing as other measures, such as expanded use of reserved bus lanes, to aid the industry by making the service more attractive. As for Secretary Volpe's decision not to testify, Senator Williams said, "Only one conclusion can be drawn. Despite presidential pronouncements, the administration is really indifferent to the commuter's plight." [Eisen, Jack, "Transit Leaders Plead for Subsidy at Senate Hearing," February 1, 1972, and "City Transit Dying, Hill Told," *The Washington Post*, February 2, 1972]

While Senator Williams was holding a second day of hearings on February 1, Administrator Villarreal revealed in an interview that the Department was considering subsidies. He and other Department officials had met in January with the U.S. Conference of Mayors, the National Governors' Conference, the National League of Cities, representatives of the transit industry, and others to "identify alternatives for implementing a program of transit assistance based on incentives." With a smile, he emphasized that, "We don't call them 'operating subsidies.'" *The New York Times* reported his comments:

> "The big question," he said, "is will operating subsidies really improve public transportation?"
>
> He noted that Mr. Volpe's past opposition to the subsidies had been influenced by his experience as Governor of Massachusetts, where a local subsidy to the Massachusetts Bay

> Transportation Authority "started at $4-million a year two decades ago and is now more than $60-million.
>
> "For a government subsidy to really improve transit, it has to be implemented in such a way that it improved service," Mr. Villarreal said, and that is why the Administration is seeking to devise a plan that would tie the Federal aid to improvements of service and emphasis on efficient operations.

An anonymous source in the Department told the *Times*:

> One thing we're very concerned with is the transit unions. We don't want to set up Federal subsidies that they can use as a blank check, coming back year after year for more because they think subsidies are unlimited. It's one of the biggest problems, and tat's [sic] why we want to have incentives for efficiency. [Lindsey, Robert, "U.S. is Considering Mass-Transit Aid," *The New York Times*, February 2, 1972]

The Nixon Administration, like Republicans generally, was suspicious of unions, which tended to support Democratic candidates. Across the transportation spectrum, the Administration and especially Secretary Volpe had been confronted with union demands, strikes, and threats of strikes to stop rail, air, and shipping service. (In early 1972, 13,000 dock workers were on strike on the West Coast.) The Administration had proposed legislation that would, as the Secretary told the National Transportation Institute on February 2, "amend our hopelessly antiquated transportation labor relations legislation." He was referring to the proposed Transportation Regulatory Modernization Act of 1971 and the Transportation Assistance Act of 1971. Such changes were needed because the transportation modes could not solve the problems alone. He cited transit as an example:

> This is a challenge the transit industry cannot solve by itself. This alone is a persuasive argument for President Nixon's proposed department of community development to be created under his executive reorganization program.

Urban mass transit systems would collapse in chaos, he said, unless "we take prompt and decisive action." Federal mass transit had helped stabilize bus transit systems in 60 U.S. cities and helped purchase 7,900 buses and 1,100 rapid transit rail cars, but the real answer was for urban transit planners and city planners to produce systems that "combine transportation, housing, shopping, schools, jobs, and all the rest into total communities." [Rokeach, Morey, "Volpe Urges Transport Labor Laws," *The Journal of Commerce*, February 3, 1972; and Associated Press, "Volpe Urges Action Now on Urban Transit," *The Washington Post*, February 3, 1972]

On February 17, the Senate Banking and Urban Affairs Subcommittee approved operating subsidies for urban transit systems as part of the Housing bill. Senator Williams had prepared the final version, which would let the Department of Transportation dip into $3.1 billion in authorized capital-outlay funds to provide the subsidies. Private companies could receive subsidies if the application were submitted by a public agency willing to pay one-third of the company's losses.

The approved bill also increased the Federal share to 90 percent, from two-thirds, for transit construction and equipment purchases.

When the bill reached the Senate floor, Senator Jacob K. Javits (R-NY) introduced an amendment that changed the subsidy measure by taking $400 million a year from the general Treasury for FYs 1973 and 1974. He argued that the Department of Transportation capital grant fund was already running short of needs. Senator Gordon Allott (R-Co.), a transit supporter, tried to strip the bill of the subsidy provision; he introduced a letter from Secretary Volpe saying the Administration did not support operating subsidies. Allott's effort failed, 53 to 26. The Senate approved the Housing bill, 80 to 1, on March 2. With Senate passage, the Housing and Urban Development Act of 1972 would await House action. [Herbers, John, "Senate Approves Housing Program Aiding Big Cities," *The New York Times*, March 3, 1972; "Senate Okays Transit Funds," *The Journal of Commerce*, March 7, 1972]

Transit interests and local officials were optimistic. *The Wall Street Journal* headlined a May 9 article:

City Transit Systems At Long Last Likely to Get Federal Aid

The subheads read:

Advocates Sat It Can Revive Deteriorating Local Lines;
Critics See Bottomless Pit

Hemorrhaging in New Jersey

The $800 million provision in the Senate housing bill offered the relief cities were seeking "to stave off bankruptcy or shutdown." Burke, the transit lobbyist, "figures that with 250 Representatives hailing from districts with locally subsidized transit systems, there's a solid base of support in the 435-member House." It was clear, the article said, that "the chamber's attitude toward operating subsidies, glacial only two years ago, has warmed up greatly." Representative Joel Broyhill, described as a conservative Republican from northern Virginia, was cited as an example. "Subsidy has always been obnoxious to me," he said, "but in local transit there ain't no other way."

The article reported some movement within the Administration:

> Transportation Secretary John A. Volpe, who had viewed such assistance as pouring money into "bottomless pits," is said to have swung around to the view that the administration should offer a subsidy plan. "You just can't let service blow away because the problem is so complex," a Transportation Department official says. Besides, he adds, "they're getting impatient on Capitol Hill, and the Secretary is quite sensitive to it."

As the Secretary's comment about "bottomless pits" suggested, the article said, critics feared that operating subsidies "would become a massive, ever-expanding boondoggle, enmeshing the government in the maddening day-to-day affairs of transit operations." That fear had prompted

Senator Allot to try to block the subsidy provision despite his support for public transportation. He saw it as subsidizing "the worst systems, the worst management, the worst operation, the worst overloading of personnel—everything that is bad about the operation of any system." He added, "I can only liken it to welfare in its potential for spending money with little benefit." [Karr, Albert R., "City Transit System At Long Last Likely to Get Federal Aid," *The Wall Street Journal*, May 9, 1972]

While mass transit advocates were following the subsidy measure in the House and Senate housing bills, advocates also were pursuing their biggest challenge: diverting revenue from the Highway Trust Fund to transit.

An Efficient and Balanced System

On December 30, 1971, Secretary Volpe issued a statement in advance of a press conference to say "the Department of Transportation has reached a turning point in its drive to establish a foundation for an efficient and balanced transportation system." Through intermodal planning and enactment of legislation since the Department's creation 3 years earlier, the Department was on its way to curing the country's current transportation problems even as a system was being shaped for addressing future needs:

> We have made very important progress in putting together the transportation plans and programs which will unclog our streets, facilitate air traffic, reduce fatal accidents, revive and revitalize railroad and public transportation and, in general, create a balanced system which will adequately serve the public and enhance the quality of American life. We can now look forward to completing our mission, fully mindful of the Presidential admonition to increase transportation capacity without damaging our land, our environment or our social fabric.

Recent legislation had established programs to meet the most pressing needs. For example, the Urban Mass Transportation Assistance Act of 1970, which committed $10 billion over 12 years, made possible "a significant start toward checking the decline in urban mass transit systems and rebuilding them to a point where they can provide the necessary service." By July 1972, the Department will have allocated about a billion dollars to improve public transportation. In a joint intermodal effort, financing was being provided for express lanes for buses in five cities thus far, with FHWA funding the lanes while UMTA funded new, modern buses.

After discussing rail and air needs, the St. Lawrence Seaway, and the United States Coast Guard (all within the Department's jurisdiction), he turned to highway safety. Great strides had been made, he said, thanks to the efforts of FHWA and NHTSA. The rate of highway traffic fatalities had continued to decline during 1971. (The fatality rate declined from 4.85 deaths per 100 million miles traveled in 1970 to 4.57 deaths in 1971.) Unfortunately, "a similar decline in total deaths on the highways may not be achieved this year because of the greatly increased number of miles traveled by American motorists." (The number of fatalities rose slightly, from 53,816 deaths in 1970 to 53,907 deaths in 1971.) Still, he expected a "sharp reduction" when "the full impact" of the safety measures put into effect by the Department is felt.

He also discussed the positive effects of the Federal-Aid Highway Act of 1970. In addition to continuing construction of the Interstate System, the 1970 Act provided for "more liberal use of highway trust funds" for safety, highway beautification, replacement housing, roadside parks, bicycle trails, and other environmental improvements. The Act also allowed the use of the funds "for augmenting the urban mass transportation program." In these ways, the legislation "contributed to the overall goals of the Department."

In addition, by authorizing the use of Highway Trust funds for roadside parks, bicycle trails, and other environmental improvements, the 1970 Act was "contributing substantially to the ecological program to which all agencies of the Department are committed." Further, the Department had "been able to mount an effective program for removal of non-conforming outdoor advertising signs along the Interstate and primary road system" thanks to the new provisions and funding of the 1970 Act. He said that 40 States and other jurisdictions were in compliance with billboard removal requirements of the Highway Beautification Act of 1965.

The Secretary's statement also mentioned the use of Highway Trust Fund revenue to provide replacement housing that he said "helped to minimize hardship suffered by those whose homes lie in the path of transportation projects." The Department "adheres rigidly to its policy that safe, sanitary and suitable housing much be available before any family is displaced."

For anti-highway forces, the surplus in the Highway Trust Fund had become an increasingly appealing target in the search for revenue—seeming to be a large amount of unneeded highway money that could be shifted to transit. When an editorial in *The New York Times* ("Priorities in Transit") on January 10, 1972, stated that the Highway Trust Fund "will . . . have an accumulated surplus of over $4 billion at the end of the fiscal year 1972," HUFSAM's J. C. Martin wrote to inform the editors that, "This is simply not true." Published on January 22 under the heading "A Surplus That Isn't," Martin's letter explained:

> The "surplus" you refer to is nothing more than a cash balance in the trust fund, similar to the balance any one of us might have in a checking account. Although the money appears to be available, it is already obligated to certain expenses—in the case of the Highway Trust Fund, to highway projects now being constructed by the State.
>
> In fact, although the cash balance in the trust fund is now about $3.6-billion, the fund's liability is more than twice as much, about $7.5 billion.

His explanation and use of the checking account analogy were correct, but repeated explanations of the balance had little impact on the debates. The problem arises because the Federal-aid highway program operates on a reimbursement basis. It obligates funds for a project, but those funds remain in the Highway Trust Fund account until the State incurs expenditures and submits vouchers for progress payments during completion of the project. Larger projects take more than 1 year to complete, so funds obligated for them will remain in the account for months, even years despite being committed to that project.

(FHWA still addresses the issue, for example in its publication *Financing Federal-Aid Highways*:

> The balance of the HTF has long been a point of controversy. Because of the nature of a reimbursable program like the FAHP, there may be cash in the fund that is not needed for immediate use. It is important to understand that this is not necessarily excess cash but will be needed to reimburse the States as vouchers are submitted.
>
> Perhaps a comparison of the HTF operation to a personal financial situation can help clarify this point. If a person has a checking account balance of $500, that amount cannot be considered in excess if he or she has at the same time outstanding monthly bills of $1,000, but neither is the account in a deficit situation if he or she will receive $1,200 in a paycheck at the end of the month.
>
> The HTF operates in the same manner. [*Financing Federal-Aid Highways*, FHWA, 2007, p. 35, http://www.fhwa.dot.gov/reports/financingfederalaid/])

As work began in 1972 on Federal-aid legislation, congressional leaders were convinced that as Chairman Kluczynski put it at the start of the Subcommittee on Roads hearing, the pending legislation "could be the most far-reaching and important piece of legislation to be produced in the highway field since the passage of the 1956 act creating and funding the Interstate Highway System." Because of the elections in November 1972, the schedule for approving the legislation would be tight. He would delay hearings on the Federal-aid highway program until he received the Highway Needs Report, which was then being held in OMB, or if not the report, the Department of Transportation's recommendations. [*1972 Highway Legislation*, Hearings before the Subcommittee on Roads of the Committee on Public Works, House of Representatives, 92nd Session 2nd Session, Committee Print 92-32, p. 1]

Instead, the initial stage of the Subcommittee's hearings, which began on February 17, was devoted to highway safety. While hearings continued on that important topic through February 24, the Subcommittee on Housing of the Committee on Banking and Currency held a 1-day hearing on February 23 on Urban Mass Transportation. In introductory comments, Chairman William A. Barrett (D-Pa) said:

> The subcommittee has before it at this time over 100 bills to authorize the Federal Government to provide financial assistance for the operating expenses of urban mass transportation systems. I have serious questions regarding this proposal since I believe it commits the Federal government to subsidize the operations of transit companies without the establishment of any criteria for good management techniques. But, I approach this hearing with an open mind and I am willing to consider all of the arguments.

During the course of the day, every witness rejected the recommendation in the Department of Transportation's November 1971 report that further study of the issue is needed. Mayor Daley of Chicago, representing the U.S. Conference of Mayors/National League of Cities, said the organizations agreed with the report's findings "but we can't understand how the Department's report reached its conclusions." Instead of recommending action, the report recommended further study that "would cause at least a 3-year delay in facing a problem which the Department of Transportation admits is 'severe.'" He said, "We are satisfied that enough study has been done and enough information exists on which to make the basic policy decision." [*Urban Mass Transportation*, Hearing before the Subcommittee on Housing, Committee on banking and Currency, U.S. House of Representatives, 92nd Congress, 2nd Session, February 23, 1972, p. 6, 15]

Representative Rostenkowski, accompanying Mayor Daley, said:

> We have been promised action by the administration, but we were cautioned to wait until all the findings were reported. Mr. Chairman, we in the Congress waited until the administration submitted its report of the problem. Unfortunately, many of us cannot agree with the observations in this report. Many of our larger cities can not wait for "more study" . . . they need help, and need it now. [*Urban*, p. 31]

Representative Koch referred to the opening line in the report about the "severe problems" facing transit operators and communities. "Unfortunately, the Department still seems to be bound by a policy of 'go slow on mass transit' that has reduced by 1/3 the mass transit capital program authorized by Congress for 1972—just as it was reduced by 1/3 in FY 1971." As for the Department's call for more study, Koch said:

> My own position is—and I make this plea to the Committee—that while we admittedly don't have all the answers, we do have the answer to the fundamental question of whether we can afford to ignore the problems of our transit systems. The answer is an unequivocal, NO. Furthermore we know that the states and localities alone cannot meet the need; federal assistance must be provided in meeting operating costs. [*Urban*, p. 42-43]

Several witnesses discussed the fear that subsidies would turn into a "bottomless pit." Dr. Ronan stated that the $400 million requested for subsidizing operation and maintenance costs "would not be a 'bottomless pit' into which public moneys would be poured." He said that a "very specific auditable element would be involved," such as the "maintenance-of-way type of expenditure." A formula "designed to equate to the productivity of the system in carrying passengers" would avoid the "bottomless pit" argument "by equating the Federal payment to the service performed in carrying passengers; it avoids any measure of the extent of deficit incurred or relative efficiencies of operations" [*Urban*, p. 52, 55]

All the witnesses favored Federal operating subsidies; parity in the Federal-State matching ratio for the capital grants program and the highway program; adoption of contract authority for the funding under the 1970 Urban Mass Transportation Act; and separate funding for the metropolitan planning process. They opposed the reduction of authorized funds through the appropriations process.

The Subcommittee on Roads turned to the highway phase of hearings on March 1. With the Interstate System nearing completion, Kluczynski mentioned that its construction had taken priority over the regular rural and urban highway networks. "We must now turn to these neglected needs and move ahead with a program of highway improvements which will gradually transit from the Interstate emphasis to one which will reach into the undeveloped areas of the country, increase the safety and efficiency of our primary and secondary systems, and upgrade the long neglected street system in the urban areas." He did not mention mass transit. [*1972 Highway Legislation*, p. 289]

Ranking Republican Harsha agreed that the concentration on the Interstates had "created a tremendous backlog" of unmet highway needs:

> Our transportation needs are great. Our resources are limited. But I firmly believe that we will be able to provide the legislative blueprint for building a balanced, integrated, transportation network suited to the Nation's highway needs through the 1990's. [*1972 Highway Legislation*, p. 289-290]

On March 2, Kheel and Kramer of the Highway Action Coalition, appeared as witnesses. In a prepared statement, Kheel explained that in the absence of the Highway Needs Report or an Administration proposal, he would focus on AASHO's recommendations, because over the years, they often have been influential in establishing Federal-aid legislation. Under AASHO's proposal, Interstate authorizations would drop while the Federal share of projects on the "ABCD" systems would increase from 50 to 70 percent. ("ABCD" was highway jargon for the Federal-aid primary, secondary, urban extensions, and urban systems.) AASHO wanted to increase the authority of the States to shift funds among the ABCD systems from 20 percent to 50 percent. It also asked Congress to authorize funds on a 4-year instead of a 2-year basis.

Kheel said that in the coalition's view, "there are simply far more pressing priorities and needs than constructing still more highways." Since establishment of the Interstate program in 1956, "the transportation needs and priorities of the country have changed considerably." Despite the investment in Interstates, he said:

> [T]hey don't even serve the real needs of the highway user: year after year billions of man hours are needlessly lost as people and goods are stalled in endless traffic jams—thus defeating the original purpose of the highway program, namely the efficient, safe movement of people and goods.

While highways were failing to meet the needs they were intended to address, "we have allowed many of our other surface transportation systems to wither and die." More than 100 private transit systems had disappeared while mass transit "suffered a collective deficit of $332 million dollars" in 1971. Projections indicated an additional $28 million would be added in 1972 to the "sea of red ink." The coalition supported a single Federal Surface Transportation Trust Fund that would incorporate the Highway Trust Fund and be available for "any valid ground transportation use without prejudice to mode." This change would allow local officials to "look at the total transportation needs of a given area" on a needs basis. "It is within such a framework that the nation could achieve what it lacks now and so desperately requires: namely, a balanced, fully coordinated transportation system." Such a network was essential, especially for the poor who could not afford to buy automobiles.

He cited recent developments among the Big 4 automakers, including Henry Ford II's support for diversion of Highway Trust Fund revenues for mass transit. He also referred to Mobil Oil Corporation's full-page advertisement in *The New York Times* on January 21, 1972, headlined:

It said:

> Indefinite continuation of the Highway Trust Fund could deter construction of more urgently needed non-highway transportation facilities . . . . Highways are important to us obviously. Highway travel builds sales for Mobil. But traffic jams, and a glut of cars using too much gasoline to haul too few passengers, waste many resources, including oil.

After quoting the Mobil add, Kheel concluded his prepared statement:

> Gentlemen, the need for change is apparent and pressing. Momentum is beginning to build for a thorough reordering of transportation priorities. I hope this Subcommittee will play a leading role in bringing about the necessary changes. [*1972 Highway Legislation*, p. 317-322, the complete Mobil ad is reprinted on p. 323-324; a January 20 Mobil ad titled "Let's Get Moving With a National Master Transportation Program," is on p.324-325]

In a brief oral statement, Kheel said:

> In a country that emphasizes its fairness, that relies upon freedom of choice, we have gone out of our way to subsidize one form of transportation. The moneys that we spend for the people that use their automobile are totally disproportionate to the moneys we spend for mass transportation.
>
> There was a time when the general belief in this country was that there should be no subsidies of any sort for any purpose. We have come a long way from there. We now subsidize highways up to a 90-10 matching ratio that encourages the States to divert funds from other pressing needs to get those 10-cent dollars from the Federal Government.
>
> It is a form of addiction similar to the pusher in the schools of our Nation who tries to get the kids on dope so that they will have to go out and get more money.

This statement aggravated the subcommittee members. Representative Schwengel referred to the 74 days of testimony leading up to the 1956 Act. "We were launching a pay as you go plan . . . . But to compare this to a pusher is a pretty extreme statement. I just have to tell you that I resent that as a Member of Congress, that kind of an analogy."

Kheel said "I apologize if I have offended you . . . but I do believe first of all that this is a subsidy program because the tax moneys would otherwise go into the general treasury." He was going to continue, but Representative Cleveland interrupted. "I just don't understand what you are saying." The highway user taxes were user fees, he said, not subsidies.

Kheel responded that "if we applied this user principle to all forms of taxation . . . there would not be any moneys available to pay your salaries." He began to elaborate on this theme but Cleveland interrupted him again. "I don't think we have a meeting of the minds at all," adding "I think you weaken your case when you speak of this as being a subsidy. [*1972 Highway Legislation*, p. 327]

Trying to divert attention from the subsidy issue, Kramer said that while user taxes paid for the Federal-aid highway program, "we simply cannot accept the proposition that these taxes pay the entire cost of the roads program." Trying to clean air pollution, largely caused by motor vehicles especially in urban areas, is just one of the external costs that are not funded by highway users. He started to talk about the effects of motor vehicles on agriculture but was interrupted by Representatives Schwengel and Cleveland, who said that when Kramer said the Federal Government was subsidizing highways, "I just don't think you are using the English language the way I do." [*1972 Highway Legislation*, p. 328]

Representative Schwengel pointed out that if the finite amount of Highway Trust Fund revenues could be used for mass transit, when they were divided among the 50 States, "you would not have a drop in the bucket compared to the total need." That, Kheel replied, "would be no reason we should not start." The implication, Kneel said, was that if enough money is not available for all needs, "none of it should be made available." Schwengel said, "we should look at the total problem and have a total plan to finance it." Kheel replied, "precisely." [*1972 Highway Legislation*, p. 330]

Representative James J. Howard (D-NJ) turned to the issue of congressional committee jurisdiction, acknowledging that a single transportation committee might be desirable. "I introduced a resolution in this Congress, it was so popular that it got no cosponsors, that would create a new committee in the Congress . . . that would have the jurisdiction over land, sea, and air, people and goods, for the entire country." Since that bill went nowhere, when the Department of Transportation wanted to discuss a balanced transportation system, "they have to come down here and talk to the Public Works Committee about this highway need."

Kheel agreed "emphatically" that a single transportation committee would be preferable. But Kramer said:

> I submit that the Congress must begin now—notwithstanding the present confusion over committee jurisdictions—to address the problem of transportation as a whole and authorize appropriations on the basis of need rather than of mode. And this in turn brings me back to our original problem of enormous pools of money being available for one mode and not for others . . . .
>
> We know that not all of the transportation needs of the country can be met overnight, but we do think if there is a single fund, the most pressing needs, whether they are highway needs—and I am thinking particularly in the safety areas such as bridge replacements and so on—or whether they be public transportation needs—such as operating subsidies for existing systems—the relative urgency of each of these needs can be meaningfully evaluated and money can be authorized and appropriated accordingly. [*1972 Highway Legislation*, p. 330-332]

Representative Schwengel asked how to pay for the total solution. Since, as Kheel said, enough money would never be available for all highway and mass transportation needs, he thought the best idea was to focus money on which option is needed rather than directing the bulk of the available funds to highways. The Representative suggested he might support a separate trust fund for mass transit, but did not like the idea of saying, "We are going to open up the trust fund and give you a little money there."

Kheel favored opening the Highway Trust Fund to pay for a balanced transportation program:

> You have given them [highways] 16 years of the exclusive dedication of the taxes that I pay . . . . You have also disregarded, as Mr. Kramer pointed out, the incidental costs to the community of air pollution and of traffic congestion.

As for those costs, Schwengel pointed out that they had to be balanced against the savings resulting from the Interstate System. Truckers, for example, can get their product to its destination faster. Kheel replied, "They come to the urban communities, and they go 50 percent slower today."

The Representative blamed that problem on urban communities that did not take "full advantage of the laws to build their highways." Kheel did not agree:

> One thing has become patently clear. That is that the more highways you build in urban areas, the more traffic congestion you get. It is self-defeating. [*1972 Highway Legislation*, p. 334-335]

Representative Harsha asked Kheel and Kramer how to get people to use mass transit, which was failing financially because of the lack of sufficient riders. Kheel said that, "People are influenced by the cost, and if they are given a good ride at a good price, they will use mass transportation." Transit could not be self-supporting, "but it will save us moneys." He added:

> This has to be done, but it has to be done by bringing down the price, or not letting it go higher, and improving the quality, and that is why we need a balanced approach.

Representative Howard saw a contradiction in Kheel's reply:

> I understand all that, but your argument seems to me to be self-defeating. If you are going to make these highways so attractive, and so enjoyable to ride on by reducing the number of people on it, you are going again to encourage the use of the highways by the car operators. This is an age of convenience, and the automobile is a much more convenient mode of transportation than mass transportation.

When Kheel replied that automobile travel was more costly, Representative Harsha said, "That depends on which end of the carrot you are looking at as to what the costs are." Despite all the environmental harms Kheel and Kramer cited, "you still can't get people to use mass transit systems." He pointed out that localities have to subsidize fares Kheel said, "Competition is a great thing in our society, and I am all for it, but we can't have the competition in transportation." [*1972 Highway Legislation*, p. 337-339]

In closing, Kheel said:

> I believe your committee can make a major contribution toward a balanced system, toward an overall approach, toward opening up the Highway Trust Fund, not abolishing it, toward opening it up and using the moneys not just to hand out willy nilly, but with planning and intelligence to achieve an objective.
>
> I would like to see, of course, a restructuring of the Congress for this purpose, but in the meantime, there is this committee, a most important committee, that gave birth to the Highway Trust Fund, and think you have a great opportunity. The time has come, as reflected by the statements of Mr. Ford, the Auto Makers, and the Mobil Oil Corp. all of which have been the primary beneficiaries of the Highway Trust Fund.
>
> They are sometimes referred to as the highway lobby. I do not use that term. I do say that these are people who realize that their own interests depend on the public interest, and that the time has come when such an approach is indicated and that that is the appropriate committee to take that action.

Representative Howard thanked Kheel "for your courage this morning." [*1972 Highway Legislation*, p. 342]

On March 9, the subcommittee heard from ARBA. President Edward H. Holt, vice president of construction equipment manufacturer Barber-Greene Company, said that the "highway mode of transport has the adaptability and flexibility to supply the major portion of the total transportation requirements for our great country." To take full advantage of "the highways we have and provide the additional highway facilities," the new legislation must:

> No. 1, insure the continuity of adequate funding on a sustained, forward planning basis.
> No. 2, we must harmonize transportation and environmental goals with a full consideration of the cost and aesthetic factors involved.
> No. 3, we must take care to protect the Federal interest in the administration of the Federal-aid highway program; but, at the same time, to eliminate those Federal controls and procedures which produce more delay and confusion than they do beneficial results.

Regarding the second point, Holt stated that ARBA believed in "giving full consideration to environmental factors" in highway development:

> But we are concerned, however, with the increment of unnecessary delay and unreasonable cost imposed upon the taxpayer resulting from the obstructionist tactics of some groups. These people have overreacted to environment problems [sic] and have encouraged illogical restraints upon progress. [*1972 Highway Legislation*, p. 349]

Gene Johnson, president of The Asphalt Institute and chairman of ARBA's highway advisory council, presented the organization's eight statements of position. The group recommended continuing the Interstate program to completion as soon as practicable at an annual rate of $4 billion, with an additional $2 billion for the other Federal-aid systems. The 1970 Act provision requiring the States to submit a construction schedule for all remaining Interstates by July 1, 1973, and commitments to PS&E for those segments by July 1, 1975, should be amended to substitute "1978" for "1975." Although ARBA supported eliminating routes that could not meet a specified deadline, the original date was "unrealistic in view of the many procedural requirements which must be satisfied" prior to PS&E.

(At this point, the hearing transcript notes that former Representative Fallon entered the room and received a standing ovation. Chairman Kluczynski welcomed him and said, "We miss you tremendously, but wish you well in your leisure and retirement years." Representative Harsha also wished him well and added, "George, we miss you." The transcript notes that Fallon replied, "Thank you, Mr. Chairman. [Applause.]")

Continuing, Johnson said that ARBA believed that "Federal aid for highways has been overregulated to a point where the hands of State highway officials are tied unnecessarily." Instead of having to adjust State priorities to "fit the compartments" of Federal-aid, ARBA believed "that the State highway departments should have complete freedom to transfer Federal-aid funds from one category to another." This would be "a positive step in the direction of revenue sharing," while maintaining the "structure and integrity" of the Federal-aid highway program.

ARBA favored a 70-30 Federal-State matching share "to compensate for the costs of inflation, the additional cost of community impact features and higher construction standards."

Johnson explained why ARBA opposed impoundment of Federal-aid funds. "In our judgment, this represents a serious breach of trust with the highway users who are paying 'special' taxes with the understanding that these taxes will be used for specific purposes." Impoundment was "completely incompatible with a sound programming procedure at the State and local levels." He elaborated on this point:

> During the first three-quarters of the current fiscal year, three different sums of money have been allotted under three different sets of rules. The procedures for the fourth quarter, which begins April 1, have not yet been revealed. It would be difficult to devise a more confusing system.

ARBA endorsed the highway-oriented public transportation funding authorized by the 1970 Act, while advocating a separate trust fund for urban mass transportation:

> As members of this committee know, the Highway Trust Fund was established to meet certain well-defined highway needs. It was determined many years ago that these needs could not be adequately met by the financing available from the general funds of the Treasury.

> We supported the principle, at that time, that special taxes should be levied on the direct beneficiaries of the program being proposed.
>
> We still believe that this is the soundest method of financing transportation development projects. [*1972 Highway Legislation*, p. 356-360]

In response to a question from Representative Harsha, Johnson clarified that while ARBA supported the use of Highway Trust Fund revenues for highway-oriented transit facilities, it did not support the use of the revenues for rail rolling stock. When Harsha asked how to finance a trust fund for mass transit, Johnson suggested that the metropolitan areas in need of rail transit could tax their citizens as a fair way to accomplish it. He did not offer a suggestion regarding financing of a Federal trust fund for transit. [*1972 Highway Legislation*, p. 367-368]

Johnson gave way to Robert Hajzyk, president of ARBA's County Division, as well as director of public works for Cecil County, Maryland. He explained that the Federal-aid highway program was "overburdened with 'red tape.'" Red tape, he said, is an "established fact" that he did not need to discuss in detail. "Nobody wants it and nobody likes it." Some is necessary as a matter of accountability, but carried to an extreme, it is burdensome.

As a result, ARBA called for extension of the simplified Federal-aid procedures under the Secondary Road Plan for all Federal-aid systems except the Interstate System. The Federal-Aid Highway Act of 1954 had authorized the Secretary of Commerce (whose Department included BPR) to enter into agreements with any State for Federal-aid secondary projects to "discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of such secondary road projects by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for such projects are in accord with the standards and procedures of such State applicable to projects in this category approved by him." The Secondary Road Plan had subsequently been codified as Section 117 of Title 23, United States Code.

Hajzyk said that the Secondary Road Plan had been justified because many Federal-aid secondary road projects were relatively small. Now, with the State highway agencies suitably equipped and organized, extension of the concept to all non-Interstate projects, while not a complete solution to the problem of red tape, was a "step in the right direction" because it would eliminate Federal supervision on a project-by-project basis, which he called "costly, unnecessary and wasteful."

ARBA recommended that up to 20 percent of non-Interstate Federal-aid funds should be available for critical safety needs off the Federal-aid systems. For example, two-thirds of the 88,900 critically deficient bridges and 165,000 rail-highway grade crossings were on non-Federal-aid roads, as were many high hazard locations:

> Without financial assistance on the non-Federal system, much needed improvements will be needlessly delayed and in all probability never completed. As a result, the reoccurring slaughter on the highways will continue at a never ending pace.

He concluded his prepared statement by pointing out that the county roads engineers are "at the end of the Federal-aid chain." He knew where work needs to be done, how to do it, and how to prevent accidents. "It is a sad commentary, indeed, when urgently needed projects are not accomplished because of the difficulties in getting paperwork and other approvals done from the Federal Government." [*1972 Highway Legislation*, p. 360-363]

The final ARBA witness was J. L. Cone, Jr., vice president of the Contractors Division and president of the Florida-based Cone Brothers Contracting Company. His topic was "the ever-increasing federalization of the Federal-aid highway program which is resulting in inflationary pressures on construction costs, discrimination against smaller contracting firms, and a general slowdown or actual stoppage of construction." The adversities facing contractors, he said, "largely result from inordinate delays and stop and go procedures associated with excessive bureaucratic controls and sporadic funding." He favored less red tape and more delegation of authority to the State highway agencies.

The increase in safety and environmental requirements was creating "tremendous inflation in the cost of highway construction and discrimination which could result in the elimination of some small, but good, contracting firms." He cited a requirement of the Occupational Safety and Health Administration calling for expensive rollover protective devices for retrofitting construction machinery as an example of excessive safety regulations. Appeals to the Department of Labor "have gone unheeded" and so ARBA turned to the committee "with the hope that through the legislative process some relief might be obtained."

The industry can "point with pride" to its environmental initiatives, but was "now confronted with a situation which not only involves harassment of contractors, but places substantial increased costs upon the taxpayer." He was referring "to the increasing number of frivolous suits brought by irresponsible environmental advocates." Some suits were justified, but "far too many suits are being entertained without justification." They were causing delays, sometimes substantial delays of "such duration as to cause severe economic loss." He urged the subcommittee to adopt procedures that would shorten the decisionmaking process for environmental requirements. He added that those seeking injunctive relief should be required to post a bond that would be forfeited when their claims were dismissed as being without cause. [*1972 Highway Legislation*, p. 364-366]

Members of the subcommittee had a few questions on details, but ARBA's testimony ended after about a 2-hour session.

Secretary Volpe was scheduled to testify on March 16. In anticipation of his testimony, the *Washington Evening Star* published an article by Helen Leavitt, author of *Superhighway-Superhoax* and co-publisher of the *Rational Transportation* newsletter. It began with a reference to President Nixon's groundbreaking trip to the People's Republic of China, February 21-28, 1972, where he met with Premier Chou En-lai (now spelled Zhou Enlai):

> If Chou En-lai ever visits the United States, surely the President, now that he has seen the Great Wall, will want to show the Chinese leader the greatest public works project in the world, our national highway system—from a helicopter, of course, to avoid the congestion.

> He will want to explain that a mere 17 years ago and $217 billion dollars ago we were told a massive highway program would solve [sic] our traffic problem by 1972. We now have another 18 years and $600 billion more to go. At least that's what the experts are estimating now, the same experts who predicted in 1956 that the cost of the Interstate Highway System alone would be $27 billion.

These same experts, she said, "will be swarming to Capitol Hill all this month and next" to protect the Highway Trust Fund.

Since 1956, the Federal program had spent $53 billion in Highway Trust Fund revenue, while spending $29 billion in general revenue on all other forms of transportation. "As the billions flow into the Trust Fund, Secretary of Transportation John Volpe parcels out millions from separate funds for want [sic] his Urban Mass Transportation Administration calls 'mass transit.'" Much of the transit funding is used "to prop up sagging bus companies in cities where heavy emphasis on superhighways . . . has deprived local bus companies of passengers in sufficient number to make it hard for them to meet the payroll, let alone make a profit."

The dedication of highway user tax revenue to highway construction meant that the Highway Trust Fund would provide $5.7 billion for that purpose in 1972 – at a time when total Federal expenditures for education totaled $4.46 billion and former Vice President and presidential hopeful Hubert H. Humphrey was stating that massive financial aid was needed to provide quality education to all children.

She summarized the long-running decline of urban mass transportation and the failure of highways to deliver on the promises made by their supporters. "As you might have guessed by now, more than a few people have become disenchanted with highway building." She mentioned Mayor Daley's recent testimony, the support of Representatives Koch and Bingham for the use of Highway Trust Fund revenues for public transit, and Senator Kennedy's legislation to create a Transportation Trust Fund. "Naturally, it is officials from our most densely populated areas who seem most interested in ending the preferential treatment that has been accorded highways for the past 16 years."

On the other side were the many interests that preferred the status quo, including highway engineers, automobile manufacturers, and the petroleum industry. "Rubber tire manufacturers, auto insurers, car dealers, gasoline station operators, parking lot operators, and the trucking industry, which has doubled since 1956, all depend on highway programs to further their interests." She did not expect Secretary Volpe, testifying on behalf of the Nixon Administration just 8 months before the presidential election, or Chairman Mills of the House Ways and Means Committee to antagonize these groups.

She referred to a statement by Administrator Turner that he would submit proposals that she described as: "reduce the number of passenger cars coming into our downtown areas and replace them with either better bus or subway systems." He had made the statement on February 14, 1972, during a hearing on "Wider Buses and the Interstate Highway System" before the Senate Subcommittee on Roads. The House had passed legislation on July 21, 1971, to allow buses 102 inches wide to operate on the Interstate System (compared with 96 inches at the time). While Turner was before the panel on wider buses, Chairman Birch Bayh (D-In.) asked about proposals to substitute buses for automobile in cities. Turner replied that "there is no subject in the highway field at least that is getting any more attention than the one you are talking about." The following exchange took place:

> Senator Bayh. It involves pressures relative to other, more-comprehensive legislation upon which I am sure you will be here to testify later.
> Mr. Turner. I am aware of the circumstances that you describe and I assure you that there are not a few experiments but many, many, and a great deal of effort being effected in the direction you just described. Now, we will bring to you in hearings later this year, this session, some proposals to further the objective that you describe, which is ours too, to reduce the number of passenger cars crowding into our congested downtown urban areas, and replace those with mass transit type vehicles. In the Washington, D.C. case and hopefully in other metropolitan areas we would like to accomplish the same thing. Also, we are considering proposals that will make better utilization of vehicles by increasing the number of occupants of those vehicles, which is aimed in the direction you described. You will be hearing more of this from not only Department witnesses but others in the next few months.
> Senator Bayh. I am anxious to get those ideas and those statistics. It seems to me that reasonable development and use of a workable mass transit system is indispensible to our well-being . . . . One reason there has not been sufficient private investment and Federal resources is that so much of our mass transit program, at least from a public standpoint, has been directed at only a few localities. There has been little publicity or activity about what could be done to help people get back and forth to work and other pursuits in the average hometown throughout the country. Any system that doesn't do that, we are not going to be able to sell.
> Mr. Turner. I have been preaching that gospel rather loudly at every opportunity.
> Senator Bayh. Permit me to say amen.

At that point, Turner had to leave the hearing because he was due at a ceremony in 13 minutes to dedicate 20 new buses for the Shirley Highway exclusive bus lane.

(As the lead Department witness during Turner's testimony, Assistant Secretary Benjamin O. Davis, Jr., advised the subcommittee that the Administration opposed the measure and recommended that the subcommittee postpone action until current studies on the safety of wider buses were completed. According to an article about the hearing, "Subcommittee sources said wider buses could be seen 'as a foot in the door' for truckers to seek increases in the size limits on their vehicles. Therefore, these sources said action was unlikely this year." Congress did not adopt the wider bus legislation under consideration. [Steif, William, "Fat-Bus Bill Skids," Scripps-Howard, *Washington News*, February 18, 1972])

Leavitt was skeptical about what Turner would present. She was sure that he did not mean freeing Highway Trust Fund revenues, but allowing transit funds for what she described as "exclusive bus lanes, car pools, and anything else that will get people to double up in their autos—while simultaneously building more highways."

She concluded by summarizing her views:

> The great lesson we have learned from the Highway Trust Fund is that planning follows funding rather than vice-versa. All those federal dollars, soon to total $6 billion annually, should be returned to the general treasury, where they would now be if the Congress had used its collective head in 1956. By removing this federal incentive to channel billions of state and local matching dollars into highway building, we can free our tax dollars for other programs like getting our kids educated. We already have all the highways we need to bus them to school. [Leavitt, Helen, "The Move to Shake Loose Some of that Road Money," *Washington Evening Star*, March 5, 1972; Bayh/Turner colloquy: *Wider Buses and the Interstate Highway System*, Hearings Before the Subcommittee on Roads, Committee on Public Works, United States Senate, 92nd Congress, 1st and 2nd Sessions, Serial No. 92-H29, p. 286-287]

Turner would explain his ideas for congestion relief in an article appearing in the May 1972 issue of *Traffic Safety*. Of course, bus mass transit was at the top of his list. "We have learned that bus mass transit can be both truly rapid and successful." He cited the express bus lanes on Shirley Highway as an example that "can be duplicated in practically any large urban area in the country."

A few other things could help relieve congestion. One was staggered work hours, a practice employed by the Agencies housed in the Department of Transportation headquarters. He cited his own commute as an illustration. When he moved to Washington in the 1950s, he lived in Virginia, a little over 3 miles away from his office, then in northwest Washington, and his commute by bus took an hour. Now, he lived 7 miles away in Virginia, but his commute by bus to southwest Washington had been cut to about 35 minutes. "So three decades later, I can commute twice as far in half the time, as can four times as many new commuters as 30 years ago." He attributed this progress partly to staggered work hours.

Another technique involved staggered work days instead of the traditional Monday-through-Friday work week. Shifting some workers to Saturday might be necessary, while a 4-day week for workers, also staggered, "can reduce peak central business district travel by 17 percent, with a still further reduction if spread over six days instead of five.

He also endorsed car pools. He cited the example of a Federal building in downtown Washington where cars using the garage space had an occupancy rate of 3.6. "If this condition were universal, there would be no problem of congestion because of the 50 percent reduction in the number of autos in use." Allowing carpools in exclusive bus lanes could add to the attractiveness of carpooling.

In speaking of transit, he was referring to radial lines linking the suburbs and central business districts, as used by workers on their daily commutes. These lines were beneficial for commuters, but severely limited in helping "the aged, the poor, the infirm, and the young" who are often cited by pro-transit organizations:

> Transit systems are often suggested as the means of providing for their needs—but studies of the actual transportation requirements of such persons indicate that transit as we presently think of it generally is poorly suited to their needs.

The problems for these individuals included getting to and from the transit service without an automobile. "Even when they get there, their difficulties are not over." They had to wait at the transit stop, often have to stand while on the bus, and may have to repeat the process for transfers, all of which "are real problems for the elderly and the handicapped." Their needs–"to shop where prices are competitive, to get to health, welfare, and educational services, to visit friends and relations, and to go to work places that frequently are outside the central business district"—are not well served by radial transit lines on a fixed schedule. Public policies that would serve these individuals "would seem to be in the public interest as a part of the public transportation network of a city."

Highway travel in private automobiles "can provide the flexibility to accommodate the almost infinite number of travel patterns that are required in our metropolitan areas today." No transit system, bus or rail, "could possibly begin to supply the multitude of complex routings that are required to meet these needs." He concluded:

> Our transportation needs are very real and very urgent—and nothing short of coordinated action will do the job. We must have adequate mass transit systems for our cities, but let no one delude himself that we can afford to neglect or abandon our highway system. [Turner, Francis C., "What We Can Do NOW to Cut Urban Rush-House Congestion," *Traffic Safety*, May 1972, p. 4-5]

The Single Urban Fund

In late January 1972, the Department of Transportation submitted the new Interstate Cost Estimate to Congress. It estimated that the total cost of the 42,500-mile Interstate System would be $76.3 billion (Federal share: $68.2 billion). This estimate included expenditures incurred in opening 76 percent of the Interstate System (32,988 miles) and completing stages of work on the remaining mileage, as well as remaining costs to complete the Interstate System to full standards.

The new estimate was $6.4 billion over the 1970 estimate, as explained in a news release dated January 29, 1972:

> The report attributes the increase to several factors. Inflation accounts for $3,825 million of the increase. New legislation and policies which give increased emphasis to social, economic and environmental impact considerations, increased relocation assistance payments and additional assistance to mass transit account for $730 million of the additional cost.

> Additional construction items to improve traffic safety and service such as upgraded roadway design and safety features, added interchanges, grade separations and lanes, add $1,300 million to the total, while higher preliminary engineering and right-of-way costs add $285 million.
>
> At the same time, adjustments in the system resulted in a net reduction of $235 million, so that the overall increase due to the foregoing factors is $5,905 million.

According to a quarterly status report issued on March 6, 1972, the States opened 1,445 miles of Interstate freeways in 1971. Only 4 percent of the designated mileage had not progressed beyond preliminary engineering:

> Of the Interstate mileage now in use, 27,903 miles are completely adequate for future traffic demands, and 2,780 miles, while fully capable of handling present needs, will have to be improved to meet ultimate standards. The additional 2,305 miles that are in operation are toll roads, bridges and tunnels which were incorporated into the System as provided by law . . . .
>
> In addition to the sections open to traffic, 3,862 miles were under construction as of December 31, and engineering or right-of-way acquisition was in progress on another 4,098 miles. Thus, some form of work was underway or completed on 40,948 miles of the 42,500-mile System – about 96 percent of the total . . . .
>
> Work completed since July 1, 1956, has cost $34.18 billion, of which $28.32 billion was for construction and $5.86 billion for engineering and right-of-way acquisition. As of December 31, 1971, work estimated to cost $13.01 billion was underway or authorized, including $9.02 billion of construction, and $3.99 billion of engineering and right-of-way acquisition.

That same month, Federal Highway Administrator Turner and Urban Mass Transportation Administrator Villareal were the keynote speakers at the 51st annual meeting of the Highway Research Board, held in Washington in the Sheraton-Park Hotel on January 17-21. They spoke during the annual chairman's luncheon. The theme of the luncheon was "Urban Transportation in the '70s."

Turner said that each urban area must find its own carefully balanced prescription for relieving congestion. Spending equally on highways and transit was not necessarily the answer:

> Ready made prepackaged, home-cure, self treatments for complex urban transportation ills are no more likely to cure the urban transportation problem for us than such methods can be accepted as good medical practice.

Each urban area must decide on the combination of transportation operations that could best provide needed service for the elderly, handicapped, poor, and younger members of society; weigh the views of environmental organizations; apply the always insufficient funding to buy the largest amount of needed service; and provide the best mix of transportation options for service all day in all regions, not just for rush hour.

Villareal, like Turner a Texas native and graduate of Texas A&M University, had been appointed to the U.S. Naval Academy in 1948. After 4 years in the Navy, he worked for General Electric in Cincinnati and for Marquardt, a California aerospace research firm, before his appointment as Administrator. In announcing the selection of Villareal for UMTA Administrator, Secretary Volpe had explained, "He's not a transit man, and that was deliberate. I wanted someone who wasn't wedded to old concepts but who could think fresh and was familiar with technological research." [Kilgore, p. 186]

The UMTA Administrator told the luncheon guests:

> I am not here to suggest that national and local highway programs must be overturned in favor of public transit construction programs, although there are those who infer that highway and public transit programs cannot co-exist. Not only can they exist together, but a partnership of modes is absolutely essential if we are to provide the transportation capacity we need and attain the environmental objectives we all consider important. ["Highway-Mass Transit Programs Must Co-Exist for Effective Urban Transport," *Traffic World*, January 23, 1972]

The sacrosanct Highway Trust Fund would face challenges from friend and foe, starting with the New Technology Task Force, a presidential advisory team headed by William M. Magruder, special technology counsel to President Nixon. The task force had conducted a 4-month review of technologies for relieving urban congestion and pollution caused primarily by automobiles. In interviews in early February, Magruder revealed that Department of Transportation lawyers had informed him that using Highway Trust Fund revenue for non-highway purposes such as subway construction was "legitimate." Magruder told reporters, "We were told it would be legal to do it. The next thing is for us to screw up the courage and do it." Although the task force had run out of time before making a recommendation on the Highway Trust Fund, Magruder said that the members would continue seeking new uses for the revenue. "We're dedicated to a change of priorities." [Bernstein, Peter J., "Trust Fund Finding Bolsters Highway Foes," *Washington Evening Star*, February 9, 1972]

(Magruder, an engineer and test pilot, had headed the Administration's efforts to secure funding for the SST, first at the Department of Transportation before moving to the White House.)

That same month, an editorial in *Better Road*s warned that the "highway profession sometimes seems to be its own worst enemy in the running battle to keep the Highway Trust Fund from being raided for 'worthy' causes such as education, welfare, and mass transportation programs." The specific concern was the proposal to add revenue from excise taxes on liquor sales to the Highway Trust Fund. With "mass transit lobbyists battering at the trust fund gates," the addition of revenue from nonhighway taxes would leave the Highway Trust Fund "open to the charge that it is not a unique tax haven and in reality is general fund money susceptible to diversion as any other tax income." The editorial warned supporters:

> Certainly with the Interstate system well behind original and even revised schedules, this is no time to weaken the presently hard-pressed defenses of the trust fund. Let's keep a tight rein on the highway-user/highway-use concept for the Highway Trust Fund. Otherwise we may end up without the fund and still be faced with the need for more, better, and safer highways.
>
> The future of the Highway Trust Fund is precarious enough without giving its opponents free ammunition! ["Let's Not Weaken the Highway Trust Fund," *Better Roads*, February 1972, p. 6]

As noted earlier, the proposal by Senator Randolph to add tax revenue from liquor sales to the Highway Trust Fund ultimately failed.

The Administration launched the next assault on the Highway Trust Fund in the form of part 1 of *The 1972 National Highway Needs Report*, sent to Congress on March 15, 1972, in response to Section 121 of the Federal-Aid Highway Act of 1970. The section, titled "Future Federal-Aid Highway Program," directed the Secretary to include his recommendations for a continuing Federal-aid highway program for the period 1976 to 1990.

The report recommended "fundamental changes" to the Federal programs for highways and urban mass transportation by establishment of a Single Urban Fund for these purposes:

> This fund would consolidate all existing urban highway and mass transit programs with the exception of the Interstate highway program and the Urban Mass Transportation Research and Development, and Demonstration Program. Similarly, all rural highway programs would be consolidated into a Rural Federal-Aid System and a Rural General Transportation Fund. The existing Interstate highway program would be continued as a separate category to insure completion of that system.

The purpose of these changes was to:

1. Provide increased resources to deal with the problems of transportation in our major metropolitan areas;
2. Provide increased flexibility to State and local governments to decide their transportation priorities by abolishing narrow categorical grant programs; and,
3. Provide an assured pattern of program growth by funding both highway and mass transit projects from the highway trust fund.

[Summary of Recommendations, *The 1972 National Highway Needs Report*, Part 1, Communication from the Secretary of Transportation, 92nd Congress, 2d Session, House Document No. 92-266, p. vii]

The report also discussed accumulated highway needs at present and through 1990:

> The construction needs were estimated for all roads and streets over the 1970-90 period, including the cost of completing the Interstate System. Nearly $302 billion is for arterials, including completion of the Interstate System, $107 billion is for collectors, and the remaining $183 billion is for local systems. About 43 percent of the total needs are on the Federal-aid systems as they existed in 1970.
>
> The backlog needs are a significant proportion of the total needs for all systems. For arterials, the backlog represents about 68 percent of the total in rural areas and 50 percent in urbanized areas. For collectors, 85 percent of the needs are backlog in rural areas and 62 percent in urbanized areas. Backlog is a greater proportion of the total for lower functional classes. [*Needs Report*, p. 11]

The Single Urban Fund grew out of the "widely acknowledged" fact "that among the most urgent of our transportation problems are those confronted by our urban citizens as they travel about the metropolitan areas where they live; for work, for business, for services, for shopping and for pleasure." Adding to the unpleasantness were "congestion, air pollution, and sub-optimal land use patterns." The report continued:

> As great as the magnitude of its severity, however, is its complexity and the great variance in its nature and in the desirability of various solutions among different metropolitan areas. Not only do conditions vary, but so do local values and priorities. From the national viewpoint, using gross aggregate estimates, it is virtually impossible to plan a program that will meet the needs of each metropolitan area. The only viable solution lies in expanding the flexibility of State and local officials to determine how these funds are to be used in metropolitan areas. However, it is also important that the States retain an active role in dealing with urban transportation problems.
>
> Accordingly, the Single Urban Fund has been developed to encompass all of the Department's urban transportation grant authority, both highway and transit, in a single program financed out of the Highway Trust Fund and focused on intra-urban transportation in metropolitan areas. Grants from the Single Urban Fund could be used by State or local officials for investments in facilities (including land acquisition) or rolling stock, regardless of mode, for surface transportation in metropolitan areas. Thus, officials close to the real problems could find the best ways to move people in our urban areas.

The fund would become effective with a $1 billion authorization as part of the FY 1974 highway program. In FY 1975, when the mass transit authorization will have expired, the Single Urban Fund would be increased to $1.850 billion. FHWA and UMTA would continue to administer their usual activities. [*Highway Needs*, p. 22-23]

(According to Elizabeth Parker:

> Secretary Volpe's initial proposal for a Single Urban Fund provided flexibility in the use of highway funds for highway and transit investments, but did not incorporate the UMTA program. The Office of Management and Budget (OMB), however, required that DOT

propose merging the UMTA capital grant program with the Urban System fund. [Parker, p. 56-57])

With the Interstate System perceived as nearing completion in 1979, annual authorization levels for Interstate construction ($4 billion for FY 1976) could be reduced due to "the normal tapering down of the program." A moderate reduction in funding "would enable an orderly completion of the Interstate System and a smooth transition in a post-Interstate program." The report cited the mandate in the 1970 Act requiring removal from designation of an Interstate segment if the State had not submitted a schedule for completion by July 1, 1973 or plans, specifications, and estimates by July 1, 1975:

> [D]elays in remaining uncompleted segments have resulted in some cases, particularly in urban areas, of substantial local controversy over the proposed segments. The time constraints imposed by the 1970 Act are sufficiently strict so that it will become increasingly difficult to thoroughly restudy the remaining uncompleted segments, accomplish major design modifications to the segments to ameliorate their social and environmental impacts, or look at alternatives to the segment. Pressure is building for a locality to accept a presently planned segment which may not be totally acceptable to its needs, or lose all Federal funds which would otherwise come into the area. This is a difficult situation for such areas.

With calls to modify the deadlines imposed by the 1970 Act, the report offered several recommendations:

> Reduce Interstate authorizations to $3.25 billion for fiscal years 1974 and 1975, and to $3.0 billion for fiscal years 1976 – 1979.
>
> Retain the general provision of the 1970 Act mandating removal of Interstate segments from the system for which a schedule for completion has not been submitted by July 1, 1973, but modify it as follows:
>
>> Remove the July 1, 1975, date limitation for plans, specifications and estimates (PS&E).
>>
>> Require States to notify the Secretary of Transportation if the State intends to build the particular segments.
>>
>> Authorize the Secretary of Transportation to allow the State one full year to submit a schedule and completion date on an alternative segment of Interstate Highway within existing limits. [*Highway Needs*, 40-42]

The report gave less attention to rural needs, but did acknowledge "critical surface transportation requirements in our rural areas, in modes other than highways or on highways off the Federal-aid system." [*Highway Needs*, p. 42]

It recommended two rural programs:

The Rural Federal-Aid System

Funds would be available for capital investments on a newly designated Rural Federal-Aid System. The new rural system will primarily consist of arterials and major collectors in rural areas and will equal approximately 20% of total rural road mileage.

The system would be further divided into a "select" portion consisting of arterials and a "supplemental" portion consisting of major collectors. At least 60% but not more than 90% of the funds must be spent on the "select" portion of the system in each State.

The Rural Federal-Aid System would have to be established effective July 1, 1973, and the funds would be apportioned to States with mileage on the new system in accordance with the following formula:

1/3 based upon State population.
1/3 based upon the square root of State land area.
1/3 based upon system mileage.

Rural General Transportation Fund

This new program would go into effect July 1, 1973, and funds would be apportioned to the States in proportion to their population outside of metropolitan areas (SMSA's [Standard Metropolitan Statistical Areas]). These funds could be used for any capital investments relating to surface transportation and would be available for highway investments not on the Rural Federal-Aid System. [*Highway Needs*, p. x-xi]

(Secretary Volpe transmitted part 2 of the 1972 National Highway Needs Report to Congress on May 30, 1972. It concerned the designation and cost of the new Federal-aid urban system.)

The Single Urban Fund was the boldest proposal for restructuring surface transportation programs since President Dwight D. Eisenhower had proposed his Grand Plan in July 1954. Just as President Eisenhower's proposal was met with mixed reaction, so would Secretary Volpe's proposal. (See "Ike's Grand Plan" at http://www.fhwa.dot.gov/infrastructure/50grandplan.cfm and "Address of Vice President Richard Nixon to the Governors Conference" at http://www.fhwa.dot.gov/infrastructure/rw96m.cfm.)

At a press conference on March 14, Secretary Volpe said that President Nixon was actively backing the proposal, which replaced earlier proposals for a single trust fund and Special Revenue Sharing for Transportation. He acknowledged, however, that the Single Urban Fund would probably encounter stiff resistance from the trade groups representing the modes. "It is a bold move, but I am ready to stand up and argue the case with anyone, whether he is a trucker or a highway contractor." He considered the likely opposition "scattered" rather than "concentrated":

> There are considerable differences between us and some of the industry, but we all recognize that we aren't solving the problems now. We aren't eliminating the trust fund, only giving it the flexibility that it needs. We can't solve the problems alone without coordination.

An article about the press conference summarized Secretary Volpe's comments on coordination:

> Sec. Volpe said state and local areas would be encouraged to develop regional bodies to plan for transportation projects, and these groups would be depended upon to make the decisions of need for an area. However, he said their role would be somewhat advisory, and would not amount to another layer of government.
>
> The regional bodies would have the right to use all the funds for highway projects if they so choose, Sec. Volpe said, or to select another mode which needed funding.

All depended on congressional reaction:

> Sec. Volpe said the proposal would have to go before at least six congressional committees. If funding for airline equipment for commuter operations was included, it would mean four more committees would have to be consulted, the DOT official said. "We don't want to go before any more committees than necessary," he said. "Congress wouldn't consider it this year," he explained. [Martin, William A., "Volpe Calls for Bustup of Highway Trust Fund," *The Journal of Commerce*, March 15, 1972]

Reporters canvassed the transportation interests for immediate reaction. Kramer of the Highway Action Coalition called the proposal a "bold and progressive move which we support wholeheartedly." His only reservations were completion of the Interstate System and the need to extend the operating subsidies for bus and commuter rail lines. Senator Kennedy also praised the plan as "a bold step in this effort to produce a balanced transportation system," but urged its expansion to offset operation losses.

Senator Williams was concerned that local officials might subordinate transit needs in favor of the much larger highway program (a concern Secretary Volpe denied during his press conference). The National League of Cities and the U.S. Conference of Mayors praised the Volpe plan, but questioned whether the Highway Trust Fund was large enough for highways and transit. [Eisen, Jack, "Volpe Urges Use of Road Fund for Improving Mass Transport," *The Washington Post*, March 15, 1972; Barnes, Fred, "Bid to Divert Highway Fund Faces Fight," *The Baltimore Sun*, March 15, 1972; and "Kennedy Asks Modification of Volpe Transit-Aid Plan," *Washington Evening Star*, March 17, 1972]

An editorial in *The Journal of Commerce* recalled the story of the Sorcerer's Apprentice in calling Volpe "the Senior Sorcerer." Calling the proposal "very modest in scope" but "eminently sound," the editorial said, "Mr. Volpe has been secretary of transportation long enough to know the hornets in the nest he now wants to perforate. We wish him well, but fear he is in for a painful stinging." Regarding the Senior Sorcerer's description of the plan as "bold," the editorial agreed, "It is bold in the sense that it is bound to detonate a monumental clash with interests dedicated exclusively to more and better highways . . . ." ["Return of the Sorcerer," *The Journal of Commerce*, March 17, 1972]

An editorial in *The New York Times* declared that Secretary Volpe's recommendation "that politically sacrosanct highway trust funds be spent for mass transit projects is refreshing." The editorial identified some objections:

> In light of the country's vast overindulgence of its highway builders, the Secretary's proposal falls short of the drastic shift that is required.

Highways would continue to receive "a disproportionate share of the funds" through the end of the decade. "And, finally, the full sum for mass transit would go to capital outlay; none for operating costs, which in city after city have sent fares skyrocketing."

The editorial board's objections "are modest compared with the opposition to be expected from those who have up to now fought the slightest effort to use highway trust funds for anything but building more highways—even for safety research." It quoted Chairman Kluczynski as calling the recommendation "a complete departure from the existing Federal aid-to-highways program" and said that most of his colleagues felt the same way. The editorial continued:

> Of course it is a departure and that is precisely what is good about it. Mr. Volpe deserves credit and support for rejecting the sacred canon that concrete is the answer to all of America's transportation problems. ["Highway Trust-Buster," *The New York Times*, March 18, 1972]

A *Baltimore Sun* editorial said, "It is about time." For years, everyone agreed that metropolitan areas needed a "balanced" transportation system, but little agreement on how to pay for it. "Mass transit advocates have looked longingly at the Highway Trust Fund . . . [but] highway builders have defended the fund, arguing it should be for the exclusive use of highway users." The logic of that argument "is no longer valid." Those who contribute to the Highway Trust Fund would benefit by having buses available to reduce costs of congestion, while those who stay in their cars would find "less highway and street auto congestion." After all, "The Highway Trust Fund is not all that traditional." It dated only to the 1950s, before which gas tax revenue went into the general Treasury:

> Mr. Volpe is no enemy of cars or highways . . . . But he recognizes the pressing need for accelerated mass transit activity, and he recognizes that if there is to be a trust fund in this area it should not be a narrow one but one aiding all transportation, which is the approach this state already is taking. ["A Trust Fund for Transit," *The Baltimore Sun*, March 20, 1972]

As some of these comments suggest, transit interests questioned the Single Urban Fund as a solution to their concerns, which grew in coming days. One troubling issue was the fact that the proposal would replace separate funding for urban transit by placing $1 billion of Highway Trust

Fund revenues in the Single Urban Fund. *Forbes* magazine explained the transit interests' concerns:

> The Single Urban Fund money would go to the cities and states for all forms of transportation—highways and subways. The subway people would be indeed fortunate to get their hands on half of it. Even then the Volpe plan would disburse the money broadly to communities on the basis of population. While this sounds reasonable in theory, in practice it would prevent the kind of concentrated funding allowed presently under UMTA. [The] Volpe plan would give less money to almost every major metropolitan area that is engaged either in building, modernizing or planning a rapid rail transit system. In short, the Volpe plan would give too little money to make the choice between rapid rail and highway transit any but a make-believe choice.

Mayor Sam Massell of Atlanta, Georgia, said, "This limited amount of funds would not allow the urgent and pressing needs of Atlanta and similar cities to be fulfilled."

Putting the dispute in perspective, *Forbes* said:

> Before 1970, funds for urban transit ran at a token level while the highways spun out across the landscape. New Jersey's Senator Harrison Williams was a voice crying in the wilderness for mass transit. He remembers when urban transit got $60 million from the Congress in 1965, a year when highways received $4 billion.

The $10-billion, 10-year commitment to urban mass transportation approved in 1970 was faltering, and the new proposal would not help:

> Williams feels that Volpe's plan would make urban transit, specifically rail transit, a permanently poor second cousin. It would also, in the niceties of Washington maneuvering, remove Williams' Senate Banking, Housing & Urban Affairs Committee from consideration of funds for transit.

Under Secretary Beggs responded to such concerns by saying, "Our program provides a continuous source of financing for transit. Opening up the trust fund relates to long-term financing. We're addressing a continuous source of financing." His frustration was clear when he added, "Look, we've been told for years this is the thing to do, open up that trust fund. Now we're doing it and they say it's not enough." Although some cities, such as Atlanta, San Francisco, and Washington, were committed to new rail systems, Beggs said, "The only places subways are needed are in the big cities on the coasts. Between the Appalachians and the Rockies there are cities that are well served by their highway transport." ["Gift Horse," *Forbes*, April 15, 1972]

Taking the Case to the Hill

On March 16, Secretary Volpe appeared before the House Subcommittee on Roads accompanied by UMTA Administrator Villarreal, Deputy Federal Highway Administrator Ralph Bartlesmeyer, and other Department officials. (Turner could not appear; he was testifying before the Appropriations

Committee.) "We are happy," Secretary Volpe said, "to testify concerning the 1972 National Highway Needs Report."

He was proud of the Interstate System. "I might just add that though we have had detractors, those who have cast aspersions upon this program, I for one am satisfied that it was an investment that was extremely worthwhile." With the Interstate System well on its way to completion, "the need for strong Federal control has decreased." He continued:

> Now is the time for those nearest the problem to take the initiative in meeting their transportation needs. Now is the time to break away from the established pattern of separate highway and mass transit programs. [*1972 Highway Legislation*, p. 486]

The Single Urban Fund was designed to "achieve our goal of flexibility for the future" because State and local governments "must have the responsibility of setting the priorities for the use of Federal funds for transportation projects." [*1972 Highway Legislation*, p. 486]

He also described the proposal for a Rural General Transportation Fund:

> In order to insure that the States will have sufficient flexibility to satisfy transportation requirements in rural areas, we propose a new program that would make moneys available for any surface transportation investment outside of our urban centers. Such a program would provide funds for capital investments in intercity rail services, rural bus systems, and highway projects not on the new rural Federal-aid systems.

The Single Urban Fund and the Rural General Transportation Fund would, he said, have several features in common. The Federal share for projects under both programs would not exceed 70 percent. No State would receive less than one-third of 1 percent of the total funds apportioned to the States. All procedural requirements would continue to be applicable, including those relating to civil rights, public hearings, environmental considerations, and engineering standards. [*1972 Highway Legislation*, p. 490]

American industry and auto interests were coming around to recognizing that this step must be taken. Truckers, for example, realized that they could travel at posted speeds on Interstates in his home State of Massachusetts, but when "they get within approximately 10 miles of Boston . . . it takes them an hour or more to go that additional small distance because of the congestion." He said, "This is why industry is starting to realize that action is necessary now":

> Our proposals will do no violence to the Highway Trust fund. As a matter of fact, it will enable us to see that true benefits accrue to the traveler, be he a trucker, a pleasure driver, a commuter, or a bus or rail commuter. [*1972 Highway Legislation*, p. 491]

He indicated that the Administration would send transit legislation to Congress soon to implement the proposals he had outlined, adding:

> Mr. Chairman, members of the committee, I realize that what we are presenting to you today is a major departure from past programs. It is, however, a departure from the past which is essential if we are to meet the demands of the present and the challenges of the future. The American people realize that this step must be taken . . . . The enactment this year of legislation implementing the 1972 Highway Needs Report will, I believe, be as visionary and as important to the American people as that 1956 legislation. [*1972 Highway Legislation*, p. 490-491]

During the question period, Representative Harsha said that in view of the discussion of the balance in the Highway Trust Fund, he wanted to know the Secretary's view on whether the Administration would continue to impound funds. Volpe replied that to the best of his knowledge, "the amount of the money which I have underlined as authorizations will be fully obligated."

Harsha asked, "What about the revenue sharing proposals that the administration sends up every so often?" Volpe replied:

> I am not saying that revenue sharing is dead, but I think we would be less than frank if you and I did not agree that, at least as far as we can see at the present time, there certainly does not appear to be any indication that the Congress will pass special revenue sharing, at this session of Congress.

In trying to understand how the new program would combine with existing programs, Harsha asked the Secretary to confirm that the mass transportation program would be financed entirely out of the Highway Trust Fund. Volpe confirmed his understanding. [*1972 Highway Legislation*, p. 497-503]

Representative Harsha submitted questions for the Secretary to answer for the record. In response, Volpe agreed that highway use would increase in future years. As for meeting those needs if the road building program is curtailed, Secretary Volpe said that resources will be limited in comparison to need in any case. "Given that such resource limitations are constraints that will be with us for some time, we have tried to look at the complete range of alternatives at our disposal, and not just more highway construction. In this way we hope to get the most from our transportation dollar."

Asked if the proposal "is a substitute for transportation revenue sharing," the Secretary replied that it was not. While he hoped Congress would approve Special Revenue Sharing for Transportation, his proposals were designed "to meet some of the pressing needs" of the present, especially in urban areas. If Congress also enacted Special Revenue Sharing, it "could quite easily be built upon the program we are advancing now."

Representative Harsha told the Secretary that the "anti-highway lobby" argued "that whenever we build highways, we attract cars to them like a magnet," thus creating instead of curing congestion. If the Single Urban Fund concentrates funds in urban areas, would that not by analogy also attract traffic and produce more congestion? The Secretary agreed that new highway capacity "frequently has the effect of generating additional automobile travel." He explained:

> However, the essence of our proposed new urban transportation program is that State and local officials are able to judge for themselves whether a highway investment in a particular area would have such consequences and can, instead, use the funds that would have gone for a highway project for investment in some other facility more likely to meet their needs effectively.

Representative Harsha stated that "the principal reason the Highway Trust Fund is being looked to as a means for financing mass transit facilities for cities is because the cities themselves cannot afford to construct them." Will they be able to pay for operation? Volpe pointed out that, "The financial status of any transit operation—i.e., whether it experiences a deficit or not—represents to a large degree the results of policy choices made by an operator or community concerning the level of service provided and the fares that are charged." Deciding against raising fares despite the current inflationary spiral of wages and operating costs, State and local governments have to subsidize services. He did not say whether he thought costs could ever be paid through the farebox.

In that case, Representative Harsha asked, did the proposal contemplate using Highway Trust Funds to maintain such systems? "Our proposal does not contemplate the use of Highway Trust Funds, or any other Federal monies, for maintenance or operation of transit systems." [*1972 Highway Legislation*, p. 504-506]

When Representative Schwengel's time for questions came, he noted that, "You will have to admit, Mr. Secretary, that the committee has been quite wise from time to time in not taking recommendations from the White House as they come down." He cited the example of the committee's rejection of President Eisenhower's proposal for funding the Interstate System by issuing bonds and dedicating gas tax revenue to retiring the debt. "One of the things we did that I am proud of—it was hard to do—was to create a trust fund and to provide a plan that paid as we go." The key element of the "trust" was "a commitment to the users." In view of that, "I want to put it real squarely and state to you, why does the user now, the automobile user, have the obligation to pay for the mass transit system?"

Secretary Volpe replied:

> Well, I will answer that in two parts, if I may, Congressman.
>
> First of all, long before the creation of the 1956 Federal Highway Act, there were user taxes that were not going into a trust fund. They were going into general revenues, and the Congress in its judgment appropriated on an annual basis such sums as they saw fit to appropriate to fund the highway program.
>
> The Congress very wisely, in my judgment, with the administration, worked out a plan that would provide for a trust fund into which those taxes that were already being collected would pour, plus some additional taxes that would be required to pay for the system that was envisioned.

> I personally do not believe we are in any way breaching our faith with the public insofar as the proposals we have made. As a matter of fact, those users have paid for a pretty expensive system, a doggone good system, the envy of the world.
>
> But the fact is that they are not able to utilize that system in and around the cities to the degree they ought to because of the congestion that is there. So if we are able to reduce that congestion, the reduction in the amount of gasoline that he uses will, I think, equal the amount of money that might be expended for mass transit.

Representative Schwengel said, "That sounds very good, Mr. Secretary," but offered as an alternative that every bus rider should pay an extra penny to finance mass transit. Volpe responded:

> I will give you my answer to that.
>
> Purely because 20 to 22 percent of the American people do not own an automobile. Most of those are the poor, the disadvantaged, the elderly, and the handicapped; and I as one American citizen feel we ought to try to do something to give them an opportunity to get to a health clinic, to get to a hospital, to get to a university, to get to all these other facilities that today they are unable to because they cannot afford it.

Schwengel agreed but asked, "when 90 percent of the people do not fit in that category, why should they [the transit-disadvantaged] not pay their share?" Volpe said:

> Congressman, if you keep increasing the fares, which has generally been the case, all you do is drive them away from the bus, and generally the bus routes do not go, in some cases, within five or six blocks of the homes in these ghetto areas.

Schwengel concluded his question time by saying:

> But what I am saying to you, is what I believe from the depth of my heart, that when you get those figures [on the impact of mass transit on Highway Trust Fund revenues] you are going to see how woefully inadequate this trust fund money is if you give it all to developing the mass transit system. That is the point I want to make . . . . As I said, if I can use any influence, I will on this, and I think this committee is determined also to support me on this. I may be wrong. I do not know. [*1972 Highway Legislation*, p. 522-526]

When the question period concluded, Secretary Volpe asked if he could make a concluding statement. Chairman Kluczynski agreed. Volpe said:

> I say to you very, very sincerely that it would have been very easy for me not to bite the bullet. It would have been much simpler for me to come before this committee, knowing generally what the feeling is, and just say well, let us repeat more or less the 1970 act, maybe add a little here, or subtract there, and so forth.

> But, frankly, I have seen with my own eyes as I have traveled across this country and overseas, that no matter how many highways we build, and doggone good highways that have been really the lifestream of our economy, we nevertheless have continued congestion in many, many parts of our country.
>
> So the only reason that I bit the bullet as I did is that I want to create the opportunity, as I think somebody well put it . . . for this exchange of ideas. If this bold move, if you want to call it that, on my part creates the opportunity and a climate where all of us can really look at this thing in a manner that will provide an answer which will solve the problem, that is all I am looking for.
>
> None of us are looking for glory here. There is plenty of glory to go around. It is purely a case of solving the problem, whether it be in the urban areas or the rural areas, and we cannot place one ahead of the other.
>
> We naturally have to think in terms of the fact, whether or not we like it, and some of us do not, that 80 percent of our people live on 2 percent of the land.
>
> So naturally that is where a good deal of our investment goes.
>
> On the other hand, we just cannot neglect the rural areas. So I hope this exchange we have had will help us. It has certainly helped me and my colleagues. I hope it will help you as you continue these hearings and hear many other witnesses, and then go into executive session [to draft a bill]. I hope you will realize that whatever we have put forward was not something we just dreamed up last week.
>
> Rather, it is something we have been thinking about for many, many months. I trust that this committee, with which I have had such a fine relationship going back a quarter of a century or more, can continue the most favorable climate that we have enjoyed between each other and the Department, and that you will proceed to develop answers that will solve the problems because this is what we are all trying to do. [*1972 Highway Legislation*, p. 528-529]

After viewing the testimony, reporter David E. Rosenbaum of *The New York Times* said that Secretary Volpe's plan to use some Federal-aid funds for mass transit "received a cool reception today from the first Congressional committee to get a crack at it." They "were not hostile," but "indicated in their questions that they were not persuaded that money from the Highway Trust Fund should be spent for anything but highways." [Rosenbaum, David E., "Volpe is Opposed on Transit Plan," *The New York Times*, March 17, 1972]

When testimony resumed on March 21, the subcommittee heard from a Massachusetts delegation, beginning with Representative Silvio O. Conte, a Republican from a district in the western part of the State who served on the Transportation Subcommittee of the House Appropriations Committee. He said:

> I am here today to support the Massachusetts proposal for a dollar-for-dollar transfer of Interstate highway funds within the Commonwealth of Massachusetts . . . . We are not asking for any extra funding for Massachusetts, but rather a reallocation of funds . . . . This simple language change could be a paragraph in the 1972 Federal-Aid Highway Act permitting dollar-for-dollar transfer of funds based on the latest cost estimates of Interstate moneys intended for a given State. Or, it could be done by changing one word in Public Law 90-238 (the so-called Cramer-Howard amendment of January 1968—90th Congress, which was H.R. 13933). [*1972 Highway Legislation*, p. 531-533]

Under Public Law 90-238, enacted January 2, 1968, if a State and the Secretary agreed that a portion of an Interstate route was not essential to a unified and connected system and would not be constructed, the Secretary could redesignate the withdrawn mileage to other Interstate routes or route portions. The law provided 200 miles so sufficient additional mileage would be available where needed for the adjustment.

Representative Conte was asking to shift the Interstate funding from Boston, which did not want it, to western Massachusetts, which was in need of it. He was referring to realignment of State Routes 2, 7, and 8.

The Reverend Robert F. Drinan, a Democrat Representative from a central Massachusetts district, endorsed the dollar-for-dollar exchange to fund upgrading of State Route 52 to Interstate standards. As he put it:

> Tragically, Federal money is available for our inner belt, which the people opposed and which is intended to serve Greater Boston traffic primarily, and very little Federal money is available for Route 52, which everyone supports and which would be a major transportation link between Massachusetts, New Hampshire, Connecticut, and New York City.

The solution was, he said, obvious, namely "changing one statutory provision," to permit the dollar-for-dollar exchange. [*1972 Highway Legislation*, p. 535]

During the question period, The Reverend Drinan commented, "I hope that this distinguished committee will report out the amendment to the bill that we recommend before anything happens with respect to the breaking open of the Highway Trust Fund." This comment prompted Representative James C. Cleveland (R-NH) to lament "the movement to raid the trust fund" and that thanks to that movement, even if such an amendment were adopted, "there might not be any money left in the trust fund to accomplish it. He referred to the "illusory surplus" of $3.7 billion created by "delays imposed on the States by either the highway people in Washington or the OMB." He continued in one long sentence:

> $3.7 billion is sitting there, and that is a target that all these people say is unused, unneeded by the highways, let us go and dip in there for mass transit—let us be frank about it—so they want to go and dip in there, but they ignore the fact—and this is the type of thing that everybody complains about—the credibility gap, no matter what side you argue on, but

> already obligated for approved projects under construction are more than $7 billion. This gives you an idea of the magnitude of the problem that this committee faces.

Just in case anyone was in doubt, he continued:

> And what is happening is the $3.7 billion is piling up because OMB is holding back. Johnson's administration did it, and President Nixon's administration is doing it. They have both been doing it. It is really a mirage. The $3.7 billion unexpended in the trust fund has obligations against it, actual highways have been approved and are under construction of more than $7 billion. And in this mass transit discussion, I just want to be sure that . . . you are aware of the pressures for mass transit, and so is this committee. We have written into our law bus lanes, and we intend to expand on our interest in mass transit, but we just want to be sure that the public and all the members of Congress have the facts. And the facts are that there is no surplus in the trust fund, and, in fact, the unfilled highway needs in this country far exceed what the trust fund can produce. [*1972 Highway Legislation*, p. 538-540]

When the question period ended, The Reverend Drinan introduced the next member of the panel, Secretary of Transportation and Construction Alan A. Altshuler of Massachusetts. Altshuler stated that his primary purpose in testifying was to urge "a very specific provision" be included in the Federal-Aid Highway Act of 1972. It was included in AASHO's recommendations that he said would be presented by AASHO the following day:

> The language of the AASHO recommendation in which we are so urgently interested provided that, where it is determined that previously approved Interstate links cannot be constructed, the responsible officials at all levels of government should be authorized:
>
> > To negotiate a compromise solution, satisfactory to the Secretary, that will satisfy the intent of Congress of completing a connected system and, furthermore, that in arriving at a compromise and negotiated solution, the amount of funds included in the present cost estimate for the section of interstate highway involved, and not the mileage, should be the controlling factor.

This change, endorsed by State highway administrators by a vote of 42-4, would "require no more than the alteration of two numbers in the so-called Cramer-Howard amendment of 1968." The change would be to increase the additional 200 miles under the law, now almost all designated, to 400 miles. He explained that the State had decided not to build the Inner Belt (I-695) that would have cost $307 million and displaced more than 2,000 families, and that whatever they build in its place would be ineligible for Interstate funding. "We may, in other words, end up with projects that absorb large portions of our Federal non-Interstate aid in future years." Given needs statewide, "such a program would be extremely difficult to implement unless the interstate money that had been assigned to the Inner Belt was reassigned to other needed expressway projects." He indicated that the State also wanted to eliminate its 19-mile segment of I-895, the circumferential around Providence that Rhode Island had decided not to build. They wanted to substitute the routes discussed by Representatives Conte and Drinan:

> These two [cancelled] facilities involved a total of 23.6 miles and $358.9 million. Our proposed substitute segments would reduce this estimated cost by about $6 million, but would add 75 miles to the system, for a total of 98.6 miles and $353 million.

He justified the shift by saying:

> We would emphasize that the authorization we seek would not add to the currently estimated completion cost of the Interstate System. Nor would it compromise any of the system's statutory or administrative guidelines. It would only take account of the fact that the major stalled segments at the present time are in densely settled urban areas, where the cost per mile is extremely high, and that the most likely substitute segments are in open country between cities, where both cost and traffic volumes per mile tend to be much lower, but where the traffic service that can be purchased per dollar of investment is often greater.

He added that Governor Sargent "asked me personally" to convey his appreciation for the rapid progress Congress made "in recent years toward an appropriate balance in the structure of funding for transportation improvements." The Governor and Secretary Altshuler applauded the way the Committee on Public Works had "moved Federal highway policy in recent years along a path of evolution that has gone far toward keeping it in turn with changing national priorities, and with developing insights into the methods by which transportation needs may be satisfied in ways optimally compatible with other environmental and urban needs."

Since change was inevitable, he said he supported all the AASHO recommendations except one:

> Our only dissent from the AASHO program is with regard to the frequency with which Congress should review the Federal Aid Highway program. Though AASHO recommends a review only once every 4 years, we believe that the current pattern of more frequent review and authorization has proven invaluable as a means of keeping the program in tune with the times as new priorities and understandings have emerged over the years. [*1972 Highway Legislation*, p. 541-546]

Committee counsel, Lloyd A. Rivard, informed Altshuler that I-895, having been designated in response to the 1,500-mile addition authorized by the 1968 Act, was not eligible for the Howard-Cramer substitution. Altshuler said:

> I think the critical thing so far as Congress is concerned may not be the evaluation of whether each of our proposals is eligible. It may be that you enact general language and then leave it to the Federal Highway Administration to determine which of our specific proposals to approve.

He said that he had met with Administrator Turner on two occasions and that he was receptive to mile-for-mile trades. [*1972 Highway Legislation*, p. 546-548]

Following the Massachusetts delegation, the subcommittee heard from D. Grant Mickle, president of HUFSAM, Peter Koltnow, vice president for professional affairs, and James Granum, manager for transportation development. Mickle said that over the past year and a half, the organization had analyzed data put together by State and local agencies for the highway functional classification and needs study required by the 1970 Act. Based on that information, HUFSAM Chairman Roy D. Chapin, Jr. (chairman of the board, American Motors Corporation) had put together a draft for a continuing highway program.

HUFSAM's seven recommendations included authorization of the Federal-aid highway program for at least 2 more years and designation of the realigned Federal-aid systems based on the functional classification exercise. The group also recommended extending the deadline for Interstate completion through FY 1979, with funding tapering off after FY 1976. It also wanted the Department of Transportation to work with State and local agencies "to undertake development of performance standards for each new Federal-aid systems [sic]." The Department also should launch a research and development program "looking toward new solutions to urban transportation problems" and "develop new guidelines for assuring citizen participation in decisionmaking, and for encouraging minority groups economic benefits [sic] from highway development, and providing manpower training for them."

Perhaps HUFSAM's most surprising recommendation was a proposal to use $300 million annually from the Highway Trust Fund to improve public transportation. The group's analysis showed that in all urbanized areas, only 7 percent of trips were on public mass transportation, with two-thirds of those trips by bus and the rest by rail. Estimated capital needs for all urban public transportation totaled $65 billion, with buses and related facilities accounting for $10 billion of that total. Whatever the mix, cities were faced with congestion. HUFSAM supported increased funding for urban arterials to increase safety as well as capacity, but Mickle continued:

> Still, other opportunities to improve traffic flow and meet our total transportation needs must be utilized. Potential lies in upgrading the quality of our public transportation services as extensively as possible around the country.
>
> At the same time, we do not believe that the answer, in any appreciable terms, lies in returning to transportation methods which fit the land use patterns at the turn of the century. Even a mix of such methods with automotive transportation offers limited hope.

New solutions were needed, he said. "We believe that highway users do have a direct stake in finding modern transportation solutions to problems posed by today's and tomorrow's metropolitan trends."

Improvement of bus mass transportation service would contribute to the overall relief of congestion and benefit truck and private car operators. "On this basis, we proposed that an annual average sum of $300 million be made available from the trust fund for 10 years, matching at a 70 Federal-30 local ratio to meet over 40 percent of the long term capital needs of urban bus transportation, including purchase of buses, terminals, and storage yards." Projects would be contingent on finding that the capital improvements would measurably upgrade transit service and that local authorities "are capable of continuing such services." This program would "supplement and not replace the current funding," while Federal-aid highway funds would remain available for special bus lanes and fringe and corridor parking as at present.

HUFSAM opposed the use of Highway Trust Fund revenues for transit operating expenses:

> To subsidize operating expenses could underwrite bad operation. Furthermore, operating buses is a private and public business for which there are no Federal controls, no Federal standards nor criteria. We would consider it a breach of trust to use trust fund moneys under these circumstances and for this purpose.

Asked by Congressman Mike McCormack (D-Wa.) about the Interstate segments "where there are hang-ups of one sort or another," Mickle and Koltnow responded:

> Mr. Mickle. We would not necessarily expect that those sections that are hopelessly deadlocked and no chance whatsoever of getting an agreement will be completed. Perhaps some alternative would be provided, if it is a city section, a bypass, or something of that kind.
>
> Mr. Koltnow. The extension of the deadline for completion is required because it is certainly going to take time to build even those roads that are agreed upon and not points of contention. We do call for an extension of perhaps 2 years in the filing of schedules for completion, and I think after that point in time if there are segments on which there is simply no agreement, they would disappear from the Federal-aid system as currently set forth in the law. [*1972 Highway Legislation*, p. 574, 576]

On March 22, the subcommittee heard from AASHO. J. C. Dingwall, president of AASHO and State Highway Engineer of the Texas State Highway Department, took the lead. He had little good to say about the Administration's proposals:

> In some ways, this is an unusual hearing since we are not testifying on a bill, and since the administration's revenue sharing proposal, reflecting certain political implications, has been resubmitted masqueraded as the 1972 Highway Needs Report.

He explained that AASHO had adopted 22 recommendations during a meeting of the "After 75 Committee" in Chicago on March 14, 1972. They did so under difficult circumstances:

> Also, just before the meeting discussions were concluded, and after we had reviewed the outline of the administration's so-called Needs report, obtained through a DOT briefing in Washington and given to us by phone by AASHO staff, Federal Highway Administrator F. C. Turner, arrived and read a prepared statement, and handed out copies of the 1972 Highway Needs Report, after which we proceeded with our balloting on the 22 recommendations to you.

With little time to review the report, AASHO had to adopt its recommendations despite not having time to contact its constituent groups about the new Administration proposals.

One of AASHO's recommendations was to authorize $1 billion a year for the relief of urban congestion by utilizing highway-type measures emerging from an objective transportation planning process consistent with the continuing, comprehensive, and cooperative (3C) process required by the Federal-Aid Highway Act of 1962 . This recommendation emerged from discussion with the National League of Cities:

> We still believe this is a sound recommendation, one that is very much in the public interest, and does not violate the intent or purpose of the Federal Highway Trust Fund . . . . We definitely do not view it as immoral, illegal, nor contributing to an unfair advantage of motor vehicle transport over other modes, but we do believe it should be used for its intended purpose, and it is inadequate to even satisfy those needs, and it is the case of the user paying for his own facilities.

AASHO did not object to any other mode of transportation, or establishing a trust fund for its development, "but we do object to the Highway Trust Fund being raided for the purpose."

As his initial comments made clear, he did not trust the 1972 Highway Needs Report. It was, he said, "really the transportation revenue sharing program taking certain liberties with the Highway Trust Fund." He had asked to see FHWA data and the original draft "because in our opinion [the final report] is truly not a highway needs report in its released form." Dingwall, speaking for AASHO, objected to the data in the report, how it was interpreted, and the conclusions drawn. He wanted to know "to what extent recognized competent highway expertise" was involved in preparing the final report.

By proposing to "fragment the Highway Trust Fund into five separate accounts," the proposal would delay completion of the Interstate System to the mid-1980's, "which is too far in the future." He said AASHO had "grave reservations" about Single Urban Fund revenues "bypassing State government and going directly to creatures of State government—the SMSA's, and some concern about funding and programming decisions being made by elected officials at those levels, unless based on objective and factual 3C total transportation planning." He explained:

> The State highway departments having the responsibility to build, maintain, and operate a statewide highway system, do not want to lose highway extensions in urban areas through Federal legislation.
>
> To fragment jurisdiction over the various segments of the official State highway system between State and urban officials could only deteriorate the State highway system.

Based on the latest Interstate Cost Estimate, completion at the rate of $3 billion a year would take at least another 13 years. At $4 billion a year, completion could be achieved in 10 years. "This is in itself a long time to wait for the completion of an essential transport system that was begun in 1956, and thought could be completed by 1969, then 1972, then 1976, then 1977, and now, according to the Administration's proposal, 1979." The Nation must "strive for a connected system that will allow through travel in all sections without undue delay, due to local traffic congestion."

He commented on the remaining segments:

> We firmly believe that within the time frame that will necessarily be involved in completing the Interstate, that practically all controversial gaps can be resolved through a compromise of location and adequate design, and if there are any gaps that will not be built, they will undoubtedly be a few city projects where it might be necessary to construct bypass routes, or expand the capacity on existing ones in order to serve the traveling public and provide a connected system.

In closing his remarks, he said:

> In summary, we wish to state that the highway program is not overfinanced, nor are we anything close to the final "inning" of the Interstate program. The percentage of completion of the Interstate is based on mileage, and not on money, and it means that we have built, generally, the simplest and cheapest sections to date. [*1972 Highway Legislation*, p. 588-600]

David Stevens presented AASHO's 22 recommendations. He was chairman of the Maine State Highway Commission and was slated to become the first commissioner of the Maine Department of Transportation when it began operations on July 1, 1972.

(After creation of the U.S. Department of Transportation, the States began organizing similar departments. In 1967, New Jersey became the first to establish a State department of Transportation, with New York's department opening later that year. With the U.S. Department aggressively promoting conversion by the States, 20 States and Puerto Rico had followed the example by 1973. On November 13, 1973, AASHO's Policy Committee approved a new name for the organization, the American Association of State Highway and Transportation Officials, and a broadened mission and membership to include all forms of transportation. [*AASHTO 1914-1989: Moving America Into The Future*, American Association of State Highway and Transportation Officials, 1990, p. 14])

AASHO recommended retaining the 70-30 match included in the 1970 Act "because, quite frankly, we have heard some disturbing rumors to the effect that there might be some desire on the part of the Administration not to match Federal funds on a 70-percent basis." Stevens explained AASHO's recommendation, cited earlier by ARBA, that the reauthorization cycle be changed from 2 years to 4 years. This would be helpful because "we are having more and more difficulty within the present time frame of about 6 years or more, bringing our projects to the contract stage." The 4-year reauthorization pace would ensure continuity and stability over the longer project development time frame.

The recommendation of $4 billion a year for Interstate completion was essential to avoid stretching the time line out any more than necessary. This total would require preserving the Highway Trust Fund and being sure "that we have no diversion from our trust fund to other modes of transportation."

The proposal that $1 billion be provided for highway or highway-related improvements to relieve congestion was "one of our most important recommendations." Projects such as fringe parking or extra bus lanes, would be selected by State highway officials "with the advice of appropriate local officials."

Asked about the source of the additional funds, Stevens said he thought they could come from revenue in the Highway Trust Fund for the next few years and that after that, "excess revenues would take care of these particular authorizations we are suggesting." These comments prompted Congressman Cleveland to emphasize the nature of the Highway Trust Fund balance, currently at $3.8 billion with projects under construction for $7.8 billion. He told Stevens:

> In other words, the money that has been actually earmarked is actually twice that surplus, if my figures are correct. But I do not think you are getting that point across to the public. I do not think you are getting it across even to the Congress. We know what has happened, thanks to these cut-backs and hold-backs. There is this apparent cash balance in the trust fund. It is getting bigger every year. The bigger it gets, the more inviting it gets. Correct? But I do not think you are getting that point across to the public and that is why we are in trouble . . . . There is a big question whether there is enough money in the trust fund to do the things we have to do to build safe highways, save lives and just do what we must do. We are fighting a losing battle here in Congress.
>
> Do I make myself clear?

When Dingwall said he understood, Representative Cleveland told him, "I just think you have got to be much more tough and hard-hitting on these facts." He added, "Let us face it, it is my [Republican] administration, but my administration is deliberately misleading the American people on this connection."

Stevens went on to discuss the recommendation that the current law allowing exchange of funding among categories should be increased from 20 percent to 50 percent. This would allow the States the flexibility to determine their individual needs. He also explained that 20 percent of funds for the Federal-aid systems should be available for expenditure on non-system roads. The funds could be used to correct hazardous locations and construct other safety projects, with local governments sometimes providing the matching funds.

AASHO endorsed equitable reimbursement to the States for the toll and toll-free Interstate roads built with State funding prior to adoption of the 1956 Act and incorporated into the System. This subject had been a point of contention during development of the 1956 legislation, with States that had built Interstate segments, whether toll or free, arguing that if they were not reimbursed under the new program, they would be treated unfairly in comparison with other States that had not taken the initiative. The 1956 Act called for a study of the routes involved, but Congress had not acted on reimbursement. (Congress would not do so until the Intermodal Surface Transportation Efficiency Act of 1991 authorized partial compensation to the States.)

AASHO also wanted Congress to enact legislation to address the problem of Interstates that were not being constructed. The legislation would allow "these State highway departments to make an attempt to negotiate for some kind of compromise in these areas in order to provide for a continuous Interstate System, but not necessarily on the same location, as was originally intended."

In response to a question from committee counsel Rivard, Stevens elaborated on the recommendation:

> Our intent here, Mr. Rivard, is to require or provide them with tools, I should say, for negotiation within the vicinity of the original location, still with the objective of providing a continuous network of Interstate routes. Our suggestion does not provide for abandoning entirely the continuous and connecting routes at that location, and moving the money dollar-for-dollar into a distant part of the State on highways which perhaps were not even part of the State highway system at one point.

As for these stalled routes, Stevens said AASHO wanted to extend the deadline, contained in Section 124 of the 1970 Act, for the start of construction of each segment, while retaining the deadline of 1973 for finalizing PS&E. Congress should allow the Secretary "to establish a more realistic date than 1975, where there is difficulty getting the project underway."

Rivard asked about the 1973 deadline that Secretary Volpe had proposed to extend by 1 year. AASHO's executive director, A. E. Johnson, responded that AASHO might want to consider an extension of the 1973 deadline. The 1975 date had been selected for construction because it was 2 years before "the so-called completion date of 1977" for the Interstate program as provided for in the 1970 Act:

> We all knew that 1977 was not going to be the completion date. But if we can make a negotiated compromise solution of a project in 1973, and it takes 6 years to get PS&E, the 1975 date is no good, it has to be extended, and the program time frame by necessity will extend to 1980 or later, so the 1975 date is not reasonable nor essential.

The delays were in some cases caused by legal actions throughout the country. Congress could address this problem by "requiring appropriate bond be established for those bringing action which would result in delaying the project." Stevens realized that objections had been raised to this suggestion because "there would not be an opportunity for poor persons to have an adequate day in court." He said:

> We have deep confidence in our judicial system to look after the welfare of the poor, but we are thinking about the frivolous suits which are being brought which, in turn do hold up projects with a very minimum amount of bond, which could result in considerable cost to the taxpayers and the State Highway Commission and the Federal Government.

When Stevens completed his presentation, Chairman Kluczynski took the opportunity to acknowledge the presence of "one of the great men in the country, and man who has built America [sic]—the father of the Interstate Highway Act of 1956, our former chairman, George Fallon. The transcript notes: [Applause.] Referring to the 1955-1956 period, he said, "You did a marvelous job, George. You are one of the fellows who has built America. We are going to continue building America." [*1972 Highway Legislation*, p. 611-624]

Other pro-highway groups testified during the hearings. AGC, testifying on March 23, reported that it had adopted resolutions concerning reauthorization. L. P. Gilvin, a contractor serving as chairman of AGC's legislative committee, presented the recommendations, which included support for a Mass Transit Trust Fund with "sources of revenue other than those presently supporting the Airport and Highway Trust Funds." The organization opposed impoundment, but favored receipt of "adequate financial security to indemnify and protect" States when filing suit to block projects, a 4-year reauthorization cycle, a 70-30 Federal-State matching ratio, and extension of the deadline for PS&E on Interstate projects, among other proposals. [*1972 Highway Legislation*, p. 663-667]

The American Automobile Association (AAA) also testified on March 23. J. B. Creal, executive vice president, began by referring to the Secretary's proposals:

> Mr. Chairman, events of the past week make it apparent that perhaps the most important issue facing this subcommittee at this time is the matter of a possible breach of faith with the highway user, the man who pays the money which makes the trust fund a reality . . . . The AAA was extremely disappointed by the administration's recommendations last week that the Highway Trust Fund be raided for nonhighway purposes.

The 1972 Highway Needs Report documented "that vast sums will be required to meet highway needs through 1990" but "the administration has decided to discount these needs." Moreover, the report did not attempt to "truly justify why the users of the highways should shoulder the burden of financing mass transit facilities." General funding for mass transit was "the most equitable means of financing the program," which AAA had supported in 1970. If highway user taxes were not going to be used for their intended purpose, they should be repealed, Creal said.

AAA had opposed the Federal gas tax for many years before 1956, and as Creal acknowledged, had opposed earmarking of highway user revenues to build the Interstate System. Since the Interstate System would benefit the entire country, not just motorists, AAA had favored the use of general Treasury revenue for its construction:

> AAA had severe reservations about the fairness of user charges underwriting the entire cost of this program. AAA still has such reservations and retains its position that an equitable tax base for both highway users and nonhighway user beneficiaries be enacted.

Now, the program's success was "causing its detractors to cast covetous eyes on the financing arrangement—the very rudiment of the system."

Creal also disputed that transit had suffered because of the focus on highway development. New York City, which had been leading the charge for diversion of highway revenue, was unique and hardly typical of the urban problems in other large cities. In most cities, "provision of appropriate transportation facilities is inseparable from land use decisions." Decentralization of population, retail facilities, and industry favored the automobile and buses, not the type of rail transportation possible in New York City.

In summary, he said AAA's position was that the 1972 Highway Needs Report revealed needs so great that the Highway Trust Fund must be kept intact; highway user taxes should be used exclusively for highway programs; and public transportation where needed should be financed with general revenues. In closing, Creal quoted Secretary Volpe's March 1970 testimony before the House Banking and Currency Subcommittee on Housing:

> The establishment of a trust fund was very thoroughly considered by the administration. The essence of the trust fund concept as it exists for highways and as it is proposed for airports and airways . . . is the contribution of revenues into the fund from those who will use the facilities created by expenditures from the fund. As the term indicates, these are revenues held in "trust" by the Government in [sic] behalf of the special taxpayers . . . .
>
> The administration's final decision to fund the public transportation program from general revenues flows from the inevitable conclusion that public transportation is really a public responsibility. This responsibility should be met by all of the taxpayers and not by a select group of them. [*1972 Highway Legislation*, p. 689-698]

The American Trucking Associations (ATA) testified on March 29. William A. Bresnahan, ATA's president, began by expressing the organization's strong support for the Interstate System. "We still have left the bold, and highly justifiable, program laid out in the Federal-Aid Highway Act of 1956." Its members were willing to pay their fair share for the program's completion, but "we feel just as strongly that if the highway program is stopped, our special highway taxes should be stopped." ATA considered its members' contributions to the Highway Trust Fund to be "special taxes levied for a special purpose and related to a specific Government program." If the program were curtailed rather than stopped, the special taxes should be curtailed in the same amount.
The calls to "siphon away trust fund revenues" come mainly from mass transit advocates who do not acknowledge that for much of the country "the only feasible form of mass transit now and in the foreseeable future, is the motor bus operation on highways provided by highway taxes." Secretary Volpe's suggestion that the trucking industry should welcome diversion of highway taxes, possibly for some form of rail transit, "is completely off the mark." The trucking industry needed completion of the Interstate System and improved roads and streets in urban areas to relieve the burden of congestion. [*1972 Highway Legislation*, p. 879-881]

The recommendations by these highway-oriented groups were to some extent predictable. As reflected in the testimony of the Highway Action Committee, the subcommittee also heard from groups and individuals with a different perspective.

On March 15, Representative Koch testified in support of his bill to establish a transportation trust fund and his bill authorizing construction of exclusive or preferential bike lanes. He endorsed Secretary Volpe's proposal:

> On the whole, I believe that the 1972 Highway Needs Report's recommendations represent a recognition that there are critical transportation problems in our urban areas that can be met only if states and localities are given flexibility to direct our transportation resources into those facilities that can provide the fastest and most convenient means of transportation possible.

He was concerned that under the proposal, too much funding would go to Interstate construction and not enough to the Single Urban Fund. "I believe that our urban transportation needs greatly exceed the Secretary's funding recommendations." He understood the subcommittee's position in this debate:

> I realize that there is considerable pressure on the Committee to continue the single purpose of the Highway Trust Fund: highway construction and safety. But I would submit that to continue to provide an isolated funding program just for highways inhibits our ability to provide a balanced transportation system and optimum mobility for our people. Furthermore, setting aside for highways such an enormous share of our transportation resources will only contribute to the further deterioration of our public transportation system and the escalation of the mobility crisis that now stagnates many of our urban areas.

The bicycle was part of the solution to the urban crisis:

> Last year the country was swept by a tidal wave of bicycling enthusiasm and I predict that with the arrival of spring, we will find millions of adults riding their bikes daily to and from work.

In addition to being "mechanically very simple," the bicycle "emits no pollution, makes little if any noise, takes up little room and even has physical and mental benefits for the rider." However, danger occurred when cyclists "are forced to compete with cars and buses in heavily congested streets." Congress must, he said, do its share in providing localities with financial assistance to develop the needed lanes, build bicycle shelters and provide bicycle traffic control devices." [*1972 Highway Legislation*, p. 439-441]

Representative Schwengel commented that if Congress directed all Highway Trust Fund revenues to New York City for 10 years, that "still will not solve your mass transit problem." He advised Koch to "come to us with an estimate of the cost and the way to pay for it." Koch said that what distressed him was that Congress only in 1970 began authorizing significant funding for mass transit, but only a portion of that funding had been made available, most recently $600 million for mass transit while another $4.5 billion was made available for highways. "I do not think that was fair." He estimated that applications from the cities on file at UMTA as of 1971 totaled $17 billion, with New York City seeking $2 billion for the Second Avenue subway project, a 14-mile line from Whitehall Street at the southern end of Manhattan to East 180th Street in the Bronx.

Why, Representative Schwengel asked, should not the people who use mass transit pay for it? Koch replied, "Let me point out why they cannot. One is there is a limit as to what someone can afford to pay for an essential service." Most observers had come to the conclusion that "the fare box cannot bear the entire cost." Moreover, he asked, why should transit passengers pay full cost when one considers the subsidy provided to the automobile, including street maintenance, pothole repairs, special offices, traffic signals, and the cost of pollution.

Representative Schwengel was receptive to the bicycle idea because he had observed in his home State that at the University of Iowa, "the university said no more automobiles, bicycles only, and they got bicycles by the thousands." Chairman Kluczynski also was interested, saying of his hometown of Chicago, "Mayor Daley also rode a bicycle a month ago and now you cannot buy a bike in Chicago." Koch assured them that, "I intend to keep lobbying with you over the dinner table." [*1972 Highway Legislation*, p. 458-466]

Later that day, John Auerbach, executive director of the Bicycle Institute of America, Inc., testified. The group, a trade association representing the domestic bicycle industry, had seen "bicycle popularity grow enormously in both dimension and character." Saying that history repeats itself, he reminded the subcommittee about the role of bicycles in the 1880s and 1890s in promoting good roads. "And bicycle enthusiasts know today, as did their forebears almost 100 years ago, that riding space is the basic essential for bicycle expansion." He continued:

> This basic essential has never been more obvious and more pressing than it is today. The bicycle has come of age, and millions of American cyclists from all walks of life and from all age groups, are once again pressing State, Federal, and local legislators—not for more roads for cars, but for more bikeways, paths, and trails for bikes.
>
> This has become one of the most powerful grass roots movements that has ever been associated with any industry. It is truly an amazing phenomenon.

Already the movement had prompted some States to open their highway trust funds to bicycle facilities. Now, Federal funds must be made available:

> The argument has been presented that bicyclists don't pay any highway use taxes, so why should they share in Highway Trust Fund revenues. I respectfully submit that this argument is fallacious. Bicyclists and their families already own at least one and in many cases two automobiles that more than pay their own way. The bicycle is not supplanting the automobile . . . . Rather, motorists are also buying bikes to be used along with, not instead of their cars.
>
> But even if this were not true, the argument would still be invalid. If it were not, the childless family should not be taxed to support a school system it does not use, the man who has neither committed a crime nor been the victim of one should not have to support the police department . . . . Obviously, the betterment of society as a whole is the issue; the promotion of the general welfare, if you will, and no group of citizens is exempt from either the benefits or responsibilities of that time honored doctrine.

In short, the institute supported Representative Koch's Bicycle Transportation Act. [*1972 Highway Legislation*, p. 475-481]

Representative Bella Abzug (D-NY) appeared before the subcommittee on March 23. Following her election to the House in 1970, she had been assigned to the Committee on Public Works but not to the Subcommittee on Roads. She told her colleagues that the "transportation situation in our urban areas is at a crisis level," with transit facilities unable to keep up with demand while continuing to deteriorate from lack of maintenance, and fares were increasing to levels that riders could not afford. Meanwhile, in crowded urban areas, "autos are extremely inefficient." She said, "Purely and simply, the reason for this is money." She contrasted funding for the Interstate System and mass transit:

> The message of this comparison cannot be lost on anyone, and is certainly clear to State and local officials: Build more highways, especially superhighways, and we in Washington will pay almost the entire bill; build mass transit facilities and you are on your own.

She summarized her point. "What I am trying to say is that we must stop looking upon the Highway Trust Fund as a sacred cow and start being realistic as to our transportation needs." She added:

> I think that what we are talking about is the dire need for a Federal transit operating and maintenance subsidy; to get a 90-10 contribution from the Federal to the local, in the same way we have it in the highway system. The question of travel involves both highways and urban mass transit, and we have to find the ways in which we can fund them from common resources. I believe that those resources exist in the Highway Trust Fund.

Representative Schwengel told the Congresswoman that he questioned why the committee should use "some of the cash we collect from the users of the highways to pay for those who do not use the highways." Why, he wanted to know, should not the users of mass transit facilities "pay a little bit extra for improved services and reduced costs?"

Representative Abzug replied that, "I think there is a fallacy in all of these arguments and I really think it is about time we really came to grips with it." She said that, "It is not a local problem that I am discussing, but a national problem."

> It is unfair to take the position that only one aspect of travel in this country should be taken care of and all other aspects suffer as a result. We pay a price. Every city pays a price for having a trust fund being built up which is used only for highways. Highways prevent cities from getting other revenues. I am not going to go through the arguments—the property tax losses from land taken for highways and so forth.
>
> What I want to bring to the attention of this committee is that we are talking of a broad range of transportation services and there has to be some way to coordinate and correlate them and the way in which we raise the funds to maintain them. They are not isolated any longer. Cities have sprawled out. Urban transit relates to the highway fund, and there should be some correlation in terms of financing.

New York City, like other cities, faced "crisis after crisis" in raising funds for needed services, including its transit system. She pointed out that more tax revenue came from New York City to the Federal Government than was returned. "We are in constant crisis, and I think it is time for this committee to utilize its great creativity and its enormous intelligence and to create the concept of a trust fund that can be spread to more people than the automobile users."

Representative John H. Terry (R-NY), whose district was in the Syracuse area, mentioned the 1971 transportation bond issue that the people of New York, including the people of New York City, had rejected. He thought they rejected it because of "the tremendous acceleration in operation costs," such as salaries for transit workers. Abzug disagreed, arguing that the people of New York City "opposed it because they felt that too large a part of that bond issue was to be allocated to building more highways."

They then discussed a possible source of revenue for a Mass Transit Trust Fund. She suggested the balance in the Highway Trust Fund as a possible source (Terry explained that the surplus was not really a surplus), but an additional tax on gasoline to fund a separate mass transit account was worth considering. She said that her purpose was to make clear "that we are responding very favorably to the proposal that has come forward from Mr. Volpe that there be some commitment of highway trust funds to mass transit." [*1972 Highway Legislation*, p. 649-661]

(Representative Abzug, who would be a strong advocate for transit over the next few years, was said to have been "born yelling." She was a lawyer, feminist, and social and antiwar activist who became a celebrity and frequent television guest known for her big hats, sarcastic humor, and what the author Norman Mailer described as a voice that "could boil the fat off a taxicab driver's neck." Author Vincent J. Cannato described her as "perpetually dissatisfied" and quoted an aide, Sid Davidoff, who said, "Bella was truly a bull in the China shop. When Bella calls you, as you're picking up the phone she's already yelling at you. She hasn't identified herself. You don't know what the issue is, but you're hearing her voice on the other end yelling at you." In 1976, she gave up her House seat to run for the Senate, but lost in the primary to Daniel Patrick Moynihan. [Cannato, Vincent J., *The Ungovernable City: John Lindsay and His Struggle to Save New York*, Basic Books, 2001, p. 422, 502])

Representative Ryan testified on March 29 that the reason for "our desperate predicament is that, while we have spent dollar after dollar on producing larger and more extensive highway systems, we have kept mass transportation on a starvation diet." The notion that the automobile was the only feasible mode of urban transportation could not be "further from the truth." He explained, "Inner city bumper-to-bumper traffic, accidents, smog—all call for applying the brakes to the automobile commuter age." The Nation needed "effective and efficient mass transportation systems."

He had again introduced the bill he had first unveiled in 1966 to allow the States to decide whether to use Highway Trust Fund revenue for highways or mass transit. He recalled the arguments in previous years over whether his bill was germane as an amendment to Federal-aid highway or transit bills. "We can no longer allow such parliamentary maneuvering to impede the development of urban mass transit." Secretary Volpe's proposal to open the Highway Trust Fund to urban transportation needs "was most welcome." He urged the subcommittee "to seize this opportunity to take affirmative action on my proposal." The importance of his proposal was not in doubt:

> The fate of our mass transit system is the fate of our cities. It is a must . . . . It is essential to build a balanced transit system. We must not misinterpret a spiderweb of highways as a modern mode of urban transportation. [*1972 Highway Legislation*, p. 851-853]

Chairman Kluczynski anticipated that he and other members of the subcommittee had many questions for Representative Ryan, but because of their tight schedule on the day before the Easter recess, they would send them to him to reply in writing. He agreed, but the hearing transcript included neither the questions nor his replies.

The hearings concluded on April 12, 1972.

The Administration Bill

On April 21, Secretary Volpe submitted the Department's legislative proposal, the Federal-Aid Highway and Mass Transportation Act of 1972, to Congress implementing the plan outlined in the 1972 Highway Needs Report as well as a stepped up safety program. Senator John Sherman Cooper of Kentucky, ranking Republican on the Committee on Public Works and the Subcommittee on Roads, introduced the bill as S. 3590 as a courtesy to the Administration while Congressmen Blatnik and Harsha introduced the bill in the House, also as a courtesy, as H.R. 14759. Senator Cooper had represented Kentucky in the Senate since 1946 (interrupted by a stint as Ambassador to India in 1955-1956).-

The legislative proposal incorporated the innovative Single Urban Fund and the Rural General Transportation Program, while continuing to fund the highway beautification and junkyard control programs established in 1965.

Under the Single Urban Fund, 40 percent of the funds would be distributed to the Nation's SMSAs according to each SMSA's share of the total SMSA population. Another 40 percent would be allocated to the States based on urban population while 20 percent would be reserved for discretionary use by the Secretary on urban mass transportation projects. The Federal-State matching ratio for all projects would be 70-30.

The news release announcing the proposal explained the metropolitan project selection process:

> It is proposed that each SMSA form a consortium of the local governments within its area to carry out the local urban transportation programs. It would be required that each consortium provide for representation by the highest elected official in each local government in the area; that it have a planning authority for all transportation modes and that no program could be initiated which was not in conformance with that planning; that it require proportional voting within the consortium, be authorized to prepare long-range planning and possess the authority to designate agencies to administer programs.

> Also, the consortium would be required to develop a multi-year comprehensive transportation plan for each program to be financed through the Single Urban Fund. All SUF programs would be subject to the same Federal review and approval procedures as those now in force for such projects.
>
> In the event that an SMSA did not choose to form a consortium, the funds allotted to it would be retained for management by the State. Local officials within the area would then develop plans in cooperation with the State for programs to be financed through the Fund, subject to Federal approval.

The idea of a metropolitan planning consortium was a step forward for the transportation planning process. In the Federal-Aid Highway Act of 1962, Section 9 ("Transportation Planning in Certain Urban Areas") had prohibited the Secretary of Commerce from approving any program of projects after July 1, 1965, in urban areas of more than 50,000 "unless he finds that such projects are based on a continuing, comprehensive, and cooperative transportation planning process carried on cooperatively by States and local communities . . . ." How State and local officials were to carry out the 3C planning process was left to them and in many cases, the State highway agency conduct or oversaw the process. Now, under Secretary Volpe's proposal, local officials would be encouraged to establish a consortium that would select projects through the 3C process.

In discussing the proposed legislation, the Secretary explained:

> We have reached the point where the localities must be given more flexibility in structuring their own urban transportation programs. The interstate system is well on its way to completion. Therefore, while our national commitment to an efficient transportation system is no less, the need for strong federal control has decreased.
>
> Now is the time for those nearest the problems to take the initiative in meeting their transportation challenges. Now is the time to break away from the established pattern of separate highway and mass transit programs.

For rural areas, the proposal would establish a Rural General Transportation Program, with $200 million a year for FYs 1974 and 1975. States could use the funds for surface transportation systems and facilities outside of metropolitan areas, including highways on or off the Federal-aid systems, bus and rail transit facilities, and rolling stock.

The Administration bill also funded the Federal-aid primary and secondary systems:

> The legislation would implement the recommendation of the Highway Needs Report that the present primary and secondary federal-aid systems be restructured to more accurately reflect the current and anticipated future functional uses of these highways. This program would be funded at a level of $800 million in fiscal years 1974 and 1975.

> Under the terms of the bill, the primary system would provide a system of connected main roads important to Interstate, statewide, and regional travel consisting of rural arterial routes and their extensions into or through urban areas of under 50,000 population.
>
> The secondary system would consist of rural major collector routes and arterial routes in urban areas of under 50,000 population.

The bill did not propose changes in the Interstate program, but did phase down funding levels from the current $4 billion a year to $3.25 billion a year in FYs 1974 and 1975; $3 billion for FYs 1976 through 1979; and $1.257 billion in FY 1980. Secretary Volpe said, "These authorization levels will then more accurately reflect the estimated levels of construction during these years."

The Federal share would remain 90 percent for Interstate construction, but the Federal share for all other projects, including mass transit, would be 70 percent.

Secretary Volpe also submitted a legislative proposal to amend the Highway Safety Act of 1966. Since then, Secretary Volpe said, the "combined Federal-State effort is beginning to show benefits." Still, 300,000 people had been killed in highway crashes since 1966, including 55,000 people in 1971. Much work, he said, remains to be done. Secretary Volpe explained that, "The purpose of this legislation is to amend the Act to improve the Department's effectiveness in preventing highway accidents and deaths and injuries resulting therefrom." (For information on the 1966 legislation, see "Epilogue: The Changing Federal Role" in *President Dwight D. Eisenhower and the Federal Role in Highway Safety* at http://www.fhwa.dot.gov/infrastructure/safetypr.cfm.)

The proposal would increase Highway Trust Fund revenue for State highway safety programs, require States to incorporate in their comprehensive and annual works programs all national emphasis programs designated by the Secretary of Transportation, provide incentive grants to encourage States to increase their funding commitment to highway safety, give the Secretary more flexibility than in the 1966 Act to penalize States not implementing an approved safety program, and clarify the Secretary's authority to promulgate a standard on planning, administration, and evaluation of comprehensive State safety programs.

Observers gave the highway/transit plan little chance of adoption. The May 4 issue of *Engineering News-Record* headlined an item in its Washington Observer column: "Volpe's Transit Fund Plan Bogs Down Early." It began:

> There's not much chance that Transportation Secretary John A. Volpe's plan for highway and mass transit funding will get very far this year . . . . Legislation to implement a plan that includes the controversial single urban fund concept just went to Capitol Hill last week, only to be met with indifference by the House Public Works Committee.

The Subcommittee on Roads, the column said, "was well on its way to working up a draft bill when Volpe's plan arrived." The subcommittee's bill was expected to reflect "its plan for developing a program for the transition period between the completion of the Interstate network and upgrading other systems." Volpe's plan "seems to satisfy no one." Transit groups "are opposed because they fear it will end hopes for a larger, separate mass-transit kitty." Highway interests opposed any diversion of highway user tax revenue. Although Volpe had asserted before a meeting of ARBA that his proposal was just an opening move in negotiations, the prospects were dim. ["Volpe Transit Fund Plan Bogs Down Early," Washington Observer, *Engineering News-Record*, May 4, 1972, p. 7]

An editorial in *The Journal of Commerce* agreed that Secretary Volpe's plan was "running into heavy weather," saying:

> [It] is clear that there is still powerful opposition to any and all plans to put any of [the new equipment and technology] to the test unless it can be fitted into the highway program—especially if it involves a limited release of highway trust fund revenues for urban transit purposes.

It is "perhaps natural" the proposals to divert highway funds to mass transit "should be considered shocking by those convinced that the Interstate Highway Program has been endowed with some heaven-sent priority over all other transportation needs." Why, the editorial asked, should "the special tax funds levied on virtually the entire population . . . be sequestered indefinitely in sacrosanct vaults and distributed in such a lop sided fashion." ["The Highwaymen," *The Journal of Commerce*, May 24, 1972]

On June 8, the Washington Observer column reported that the House Public Works Committee had nearly completed its bill, although work on the water pollution control bill was delaying release of the legislation. It was expected to continue the Federal-aid highway program as in the past, with increased funding for highway-oriented mass transit facilities. ["Biennial Highway Act Shaping Up," Washington Observer, *Engineering News-Record*, June 8, 1972, p. 7]

In a 1972 interview with *Government Executive* magazine, Under Secretary Beggs discussed the origins of the Single Urban Fund proposal. The article began:

> In the case of the current Administration's highway program, and Urban Mass Transit, genesis began with conversations several years ago "with almost everyone in the domestic side of the White House and the Office of Management and Budget," according to Under Secretary of the Department of Transportation James M. Beggs.
>
> "There were many discussions on the subject of opening the Highway Trust Fund," he said. "They started with framing of the Urban Mass Transit Act back in the early days of the Administration, and the desire there to get a more consistent form of financing for the program."
>
> Out of this and other discussions came revenue sharing proposals, giving local and state jurisdictions more flexibility, which finally culminated in the 1972 Highway Needs study.
>
> In this, said Beggs, "we highlighted the fact that it appeared to us that the highway program was moving off in new directions." The interstate highways [sic] system was nearing

> completion and the Nation was developing an urban character. The urban program was more troublesome, "in terms of defining routes, in terms of getting the clearances to build the new capacity that was needed, and in terms of permitting the local jurisdictions sufficient flexibility to operate."
>
> Out of that study came a counterproposal from OMB and the White House which suggested now was the time to open the Highway Trust Fund so that local officials could opt between public transportation and the highways.
>
> More discussions between Begg's [sic] office and OMB followed, which culminated in a proposal given to Volpe, which he was willing to support earlier this year.
>
> "This was a major decision on his part," said Beggs. "It meant, in effect, that he was going to tell the highway constituency" of this decision. A position paper to that effect was submitted to the House Public Works Committee, which held hearings in February and March. Last month, the subcommittee reported to the full committee and at press time, outlook for a favorable House decision was not very good but in the Senate, it looks more encouraging.
>
> "Like everything else in the Federal Government," said Beggs, "most of the legislative initiatives have a very long history. This one goes back well into the Alan Boyd regime in the Department . . . . Many studies were made then. Alan himself has strong views on this subject. They were passed on to this Administration, and then after a lot of discussions and a lot of policy papers, a number of position papers were put together over the past several years." [MacDonald, Scot, "The Hassle of Being Under Secretary," *Government Executive*, October 1972]

In truth, the Single Urban Fund and the other radical elements of Secretary Volpe's proposal were dead. Elizabeth Parker summarized the problem:

> This treatment of the transit program was viewed as a serious threat by the transit lobby and urban interests, largely because the transit program was so new and because it was felt that a combined program would result in all or more of the money being devoted to highways. At the same time, highway interests did not want any of "their money" to be used for transit. The Urban System program had only been in existence since 1970, so supporters of this program also felt threatened. Deprived of the support of transit groups and facing strong opposition from highway interests, the Nixon administration was unable to make any significant headway in its efforts to increase flexibility in the use of federal highway and transit money. [Parker, p. 57]

In the Senate

The Senate Subcommittee on Roads began hearings on proposed 1972 highway legislation on May 10 and would continue with hearings on seven additional dates through June 15. Many of the witnesses who had testified before the House Subcommittee on Roads appeared before the Senate Subcommittee to repeat their views. However, some new voices were heard.

Senator Bayh, the new chairman, opened the hearing at 10 a.m. After serving in the Indiana House of Representatives (1954-1962), he had won election to the United States Senate in 1962. A well-known liberal, he had been influential in passing Title IX of the Higher Education Act relating to women's equal opportunities in public education. As chairman of the Senate Subcommittee on Constitutional Amendments, Senator Bayh had helped secure adoption of two constitutional amendments, the 25th (1967, on presidential succession and disability) and the 26th (1971, lowering the voting age to 18). He also sponsored the Equal Rights Amendments, which Congress approved in 1972 but it failed to secure ratification by the States. (He would lose his reelection bid in 1980 to State Representative Dan Quayle.)

He opened the hearings by saying that the 1972 legislation "could have major impact on the Nation's entire ground transportation system for decades to come." This was because:

> Serious questions have been raised about the future of our highway program and its role in a coordinated transportation system. These questions need satisfactory answers.
>
> Earlier assumptions about the role, scope and financing of the Federal-aid highway program have been called into question recently.

Everything was on the table, including the role of the automobile, preferential financing for highways through a dedicated trust fund, and how to address the environmental impacts of transportation.

Highways remained the lifelines of the economy and personal mobility. "Over 98 percent of the trips taken by individuals are on highways." The 1972 Highway Needs Report had documented a "huge backlog" of needs that could not be ignored.

While many issues remained open, he had drawn a few fundamental conclusions:

> First, it would be unwise not to complete the Interstate System according to its basic original concept as a national network of interconnected, limited-access highways, with possible exceptions for certain densely populated metropolitan areas.
>
> Second, we should upgrade and in some cases reconstruct many miles of the old primary system which unavoidably has been neglected while the major share of available funds was invested in the interstate.
>
> Third, urban and secondary roads have failed likewise to keep pace with the tremendous increase in vehicle miles traveled and must be improved and modernized.
>
> Fourth, while it may not be in the direct province of this subcommittee, it is essential that much more be done to improve mass transit facilities throughout the country.

> Fifth, as disclosed by a survey conducted last year, there is a critical need for replacing thousands of dangerous, below standard bridges; more than 24,000 such deficient structures are located on Federal-aid systems alone.
> Sixth, sizeable additional funds should be committed to expanding and implementing various highway and vehicle safety programs.
>
> Seventh, whatever answers are provided to the many questions posed as we ponder new highway legislation, those answers must include adequate safeguards for protection of the environment in all areas from metropolitan air quality standards, the preservation of park land, and the protection of national resources.
>
> Eighth, the practice by the last two administrations of withholding from the States sizeable funds authorized, appropriated, and apportioned for highway purposes should be ended.
>
> Ninth and finally, the excessive amount of time and money consumed by administrative delays, paperwork and other "red tape" should be reduced. [*Proposed 1972 Highway Legislation*, Hearings Before the Subcommittee on Roads of the Committee on Public Works, United States Senate, 92nd Congress, 2nd Session, Serial 92-H37, p. 1-4]

Secretary Volpe was the first witness, accompanied by Under Secretary Beggs, Administrator Villarreal, and Deputy Federal Highway Administrator Bartlesmeyer. The Secretary thanked Senator Cooper for introducing the Administration's bill, which "would provide us a mechanism to better meet the pressing problems of urban transportation and achieve sufficient urban mobility through balanced transportation."

He acknowledged the vital role that highways played, but their improvement has "not been carried out without detrimental side effects, primarily in our large metropolitan areas." Part of the problem was that until very recently, "State and local officials had no choice" on urban transportation since funding for mass transit capital improvements was not available. Without investment choice, local officials "have been unable to develop effective multimodal planning capabilities." Review of these problems "leads to one simple conclusion," which he explained:

> We must develop more efficient transportation in our urban areas. At stake is the vitality and quality of life of our urban areas. Now is the time to begin this urgent task.

His "firm belief" was that, "We, in Washington should not make their decisions for the localities, nor should we arbitrarily control their decisions." The local officials who were most familiar with the problems of their localities must have the ability to make those decisions. The Administration's proposals grew from these ideas.

After summarizing the proposals, he said, "I realized that I would not receive unanimous approval for this new approach." He wanted to address some of the concerns, even misinterpretations of the proposal. He said that the first question he is always asked was "how can we propose using Highway Trust Fund moneys for public mass transportation purposes when our highway needs are so great." The 1972 Highway Needs Report should be kept in perspective. It documents the cost of bringing the highway network up to a set standard, not whether doing so would be "worthwhile in an economic or social sense." The standards "might be extremely difficult to implement" on many of the roads, particularly local roads and streets that constituted one-third of the total highway needs.

Another criticism was that "we would be taxing American motorists for uses that are not beneficial to them." He responded that, "Highway investments alone cannot cope with the pressing and severe problem of congestion that is so harmful to the effective functioning of our urban areas. Improvement of highways and mass transit would benefit the users of both. For example, many people who drive their cars in urban areas would prefer to use efficient public transportation service but "it simply does not exist." He said that "it seems to me that the case is very clear that good urban transit investments are strongly and directly beneficial to auto owners and highway users, and that it is in the best interests of all concerned to permit the use of some Highway Trust Fund revenues for these purposes."

Recognizing that his proposal was a "a departure from the past," he was heartened by recent indications that "industries closely associated with highway use and the private automobile are recognizing that our proposals are, indeed, in the best interests of highway users." He said:

> The Mobil Oil Corp. and the Standard Oil Co. of New Jersey are on public record supporting the concept of using Highway Trust Fund money for urban transit investments, and the National Automobile Dealers Association . . . has adopted a resolution explicitly endorsing the Single Urban Fund proposal.

In closing, he said:

> The opportunity which is before you and the committee, Mr. Chairman, to make a permanent and lasting contribution to efficient transportation in this Nation is enormous. The opportunity to represent the best interests of the American people is equally enormous. I recommend the administration's Federal-Aid Highway and Mass Transportation Act of 1972 for your most serious consideration. Knowing this committee, as I indicated earlier, I am sure it will receive a fair hearing. [*Proposed 1972 Highway Legislation*, p. 128-137]

Senator Bayh's first question was about the target date for completing the Interstate System. The Secretary indicated that the target was the end of the decade and that the funds proposed for authorization during that period would accomplish that schedule. Bayh did not question the schedule, but asked "what assurance does this committee have that funds it authorized will actually be released and expended?"

The Secretary replied, "I would not be here today, in making the proposal I have made if I had not received assurance that the funds that we are suggesting for authorization will be expended . . . ." Senator Bayh was skeptical. "I am sure you are as convinced of that as anything, because you are a very honest man." The Secretary had been similarly certain when he testified before the subcommittee about the 1970 reauthorization, but the record of the last 2 years put such assurances in doubt. Volpe replied that "I have assurances, not just Secretary Volpe's best assurance, but

assurance from the Office of Management and Budget, [that the Interstate funds] will be expended," an assurance he did not have 2 years earlier.
Secretary Volpe, in response to the Senator's question about project delays, said that, "I would say to you sincerely that even if we were to make more funds available than we have suggested in the authorizations today, I doubt seriously the Interstate System would be completed much before the end of the decade." Some routes had proven controversial, were tied up in court, and could not be completed before the end of the decade regardless of the money available for their construction.

Senator Bayh asked why the Administration was proposing to take "all mass transit funds . . . from the highway trust fund." The Secretary agreed that would be the case after FY 1974, except for research and development and demonstration programs. He continued:

> I tried in the first instance to get a mass transit trust fund, and we looked very hard and long at the sources of funding for mass transit. Unless you want to tap some other sources, the user charge philosophy just does not work in this situation, because I think you and I recognize that the bulk of the patrons today cannot afford such a tax . . . . The Highway Trust Fund however, [sic] is contributed to by the auto user for whom we are trying to reduce this congestion. [*Proposed 1972 Highway Legislation*, p. 137-142]

Senator Howard H. Baker, Jr. (R-Tn.), who considered mass transit subsidies a "bottomless pit," said "the concept of comity between systems, the concept of compatibility of urban mass transit and the highway system . . . has been made so thoroughly and patently desirable, that you completely shifted the burden, that one system is interrelated with the other." However, if transit was going to be funded out of the Highway Trust Fund, he thought transit users should make some contribution to it "in deference to the concept." Secretary Volpe said he would not only consider it "but we will give it very strong consideration." [*Proposed 1972 Highway Legislation*, p. 147-152]

Senator Randolph asked about the delays in project completion as a result of the "important steps [taken in recent years] to protect the environment as it relates to highway development." He said:

> I believe there must be a better way. There must be a coordinated effort, there has got to be some better plan. Otherwise what you should do in 1 or 2 years, takes 5 or 6 years, and this is not right.
>
> It is not right for the environmentalists, it is not right for the highway which needs to be constructed to serve the people.

He asked Secretary Volpe for suggestions.

New projects, Secretary Volpe said, were being "slowed down to some extent, but the delay is not inordinate" when all parties work together to meet NEPA requirements. With help from the new Assistant Secretary for Environment and Urban Systems, project development time "for clearance of those environmental impact statements has gone from as long as 14, 15 months or more, to 30, 45 days in some cases." The biggest problem was for projects that had been underway for some years. As a result of the retroactive aspect of NEPA, "we have very severe delays because we had to go practically all the way back and start from scratch." He said that they continuously encouraged the State highway departments to follow the requirements and not to try to avoid steps, such as public involvement.

Senator Randolph said that in view of the red tape associated with the Federal-aid highway program, "I wonder if it is not time when the departments themselves at the State level can be granted the authority, once, of course, the Secretary of Transportation determines that the State meets the Federal guidelines, to do this job on their own." Volpe replied that FHWA had "given some latitude to the State highway departments."

Administrator Turner had established a joint AASHO-FHWA Red Tape Committee to try to minimize delays, the results of which were described in a later submission to the subcommittee. Among its accomplishments were establishment of a Directives Clearinghouse to coordinate, review, and clear significant or revised program directives; issuance of the FHWA *Index of Applicable Directives* in November 1970 (updated in February 1972) to simplify, clarify, and consolidate the program directives system; reduced headquarters review of PS&Es; and release of streamlined procedures in Policy and Procedure Memorandum 80-5.2 on "Highway Beautification: Outdoor Advertising."

In response to Senator Randolph's idea of devolution to the States, Secretary Volpe said, "We will, of course, give consideration to the suggestion that you have made, at least as they relate to minor projects which are not controversial. [*Proposed 1972 Highway Legislation*, p. 155-158, information on Red Tape Committee, p. 139-140]

After a discussion of highway safety initiatives, Secretary Volpe concluded his testimony. On June 27, he submitted responses to questions submitted to him for written response. Some of the questions-and-answers follow:
Does the Administration oppose funding mass transit capital improvements at least in part from general fund revenue?

> As a matter of principle, the Administration does not oppose the use of general funds for financing mass transit capital improvements. The issue here is really, program level, rather than source of funds. It is the Administration's position that a program level approximately equal to that which can be sustained by the Highway Trust Fund is enough to meet those highway and transit requirements that are truly pressing.

It there anything improper or illegal about the U.S. Government using a portion of the more than $6 billion now impounded or not released from the Highway Trust Fund for purposes other than those related to Federal-aid highways?

> The question assumes a hypothetical situation which, in reality, will not occur and which will not actually present a problem with respect to the proposal that amounts in the Trust Fund shall be available for mass transit purposes.

> In reality, obligations are incurred under contract authority in advance of the collection of revenues credited to the Trust Fund. The lag between obligations and expenditures can be from one to three years . . . . Thus, unpaid obligations incurred against existing authorizations (1973 and prior years) will substantially exceed the cash balance of the Trust Fund on July 1, 1973, the effective date of the 1972 Act (Administration Bill, S. 3590).

Under the recommended program, does it seem likely that any one metropolitan area could receive Federal funding for mass transit at a level comparable to that which is possible now under current UMTA authorizations?

> Yes. We are convinced that, through the use of the special [discretionary] 20 percent fund for mass transit and the portion of the urban transportation funds allocated to the State, metropolitan areas will be able to meet their mass transit requirements as they may be defined in the future.

Since it is generally agreed that the Interstate System should be completed as soon as possible for highway safety reasons, does not the recommended change in Interstate funding represent a reduced commitment on the part of the Administration to the cause of highway safety?

> No, it does not. As you know, the safety program of the Department comprises many elements, only one of which relates to the completion of the Interstate System, and we have requested increased funding for our activities under both the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act. Our request for funding for completion of the Interstate System represents a level approximately equal to the obligation level currently experienced and, therefore, indicates no reduced commitment in that area . . . .

In view of the provision for time extensions until 1980 for completion of the Interstate System and until 1974 for notification of intent to build alternate segments, why is no similar extension proposed for the 1975 deadline for submission of plans, specifications and estimates?

> Our bill would delete the 1975 PS&E deadline. We recommend this approach specifically because in extending the Interstate completion schedule, PS&E would be required under present legislation more than 5 years in advance of construction for some segments. We believe that it is not realistic to expect that valid plans, specifications and estimates can be developed that far in advance of construction.

In the interest of reducing red tape and speeding up Federal-aid procedures, would it be desirable to simplify existing environmental requirements that must be met before highway projects proceed? Could this be accomplished without regressing from the present national commitment to environmental protection?

> The simplification of environmental requirements administratively is an ongoing effort of the department. The major problem has arisen with projects for which planning had begun before the passage of the National Environmental Policy Act. As you know, a recent study by the General Accounting Office determined that environmental requirements for new

> projects can be taken into account at the beginning of the planning process with minimal delay to highway projects. Legislation to simplify these requirements, therefore, is not needed at this time. [*Proposed 1972 Highway Legislation*, p. 161-167]

Senator Lowell P. Weicker, Jr. (R-Ct.) appeared before the subcommittee on May 11. A former member of the subcommittee, Senator Weicker had submitted a bill on January 19, 1972 (S. 3037), that he wanted to discuss. In a statement submitted for the record, he described the bill:

> If there can be a single phrase to describe S. 3037, it is "planned flexibility." As you well know, DOT administers an incredible mish-mash of Congressionally created transportation programs, making local inter-model [sic] planning and coordination virtually impossible . . . . Mr. Chairman, what I propose is that we mandate completion of the Interstate Highway System, albeit over a somewhat longer period to take into account the environmental, legal and technical problems encountered by several important Interstate sections. I then propose that State and local governments be *permitted* to spend their remaining highway dollars on public transportation, in accordance with the Urban Mass Transit Act. Note that I said "*permitted*." Nowhere do I *require* anyone to spend one dime on mass transit unless the responsible, elected State and/or local officials decide it is best for them.

Before introducing his statement, Senator Weicker had said:

> Somebody in the press asked me the question earlier today, "Is this the year we are going to break the back of the highway lobby?"
>
> I answer that the purpose of my legislation and legislation akin to it is not to break the back of any particular segment of our transportation industry or system here in the United States. What it does is bring about a balance; I realize that we are not going to be able to impose a Connecticut solution to transportation problems on Montana or any other State. What I have tried to do is give the tools or create the tools whereby we can have a balanced system.

Senator Bayh said that when he asked Secretary Volpe why the Administration's proposal did not include a commitment of general fund revenues, "I am not too sure we received an answer to it." He asked Senator Weicker about the intentions of his bill regarding the source of funding for mass transit. Weicker said that his bill assumed continued authorization of general revenue for UMTA outside of the Highway Trust Fund. "I think we have to have that kind of commitment, not just a limited trust fund, but a separate commitment by the Congress to mass transit." [*Proposed 1972 Highway Legislation*, p. 171-173, emphasis in the original.]

On May 18, the subcommittee heard from several environmental organizations. Robert Waldrop, assistant to the Washington representative of the Sierra Club and consultant to Friends of the Earth, said that his statement would "focus on the relationship between our emphasis on automobile transportation and the national energy situation." Over the years, he said, the automobile had replaced more energy efficient modes of transportation, such as buses, despite "our dwindling energy reserves." According to one study, the increasing demand for petroleum would "deplete all possible world reserves in 40 years."

His two organizations believed that "we should begin to change course now while there are still sufficient reserves to permit a less abrupt change." The focus should be on discouraging private automobile use "while promoting more energy-efficient means of transportation, such as buses and trains, [which offer] the best hope and least painful method of conserving the Nation's rapidly diminishing petroleum resources." Bicycling and walking as part of the transportation system also were helpful.

The Volpe proposal was "the important first step." Additional steps were needed to "stimulate increased use of public transit and a reduction in the reliance on the automobile where a more appropriate mode will suffice. Such a shift would reduce air pollution, the destruction of neighborhoods and parklands, urban disintegration, the death and injury toll on the roads, and the mobility problems of the poor, handicapped, elderly and young.

Waldrop's organizations "feel that the once necessary Federal assistance program for highway construction has fulfilled, to a large extent, its purpose." Now, he said, "Similar emphasis should be given to public transportation." They did not advocate termination of all highway programs, since needs in some areas "are still great." However, "in urban areas especially, a concerted program is needed to help establish an adequate public transportation system." [*Proposed 1972 Highway Legislation*, p. 490-492]

Concluding his statement, Waldrop introduced Richard O. Baumbach, Jr., of New Orleans. He and William E. Borah were preparing a book on the controversy over the proposed construction of the Vieux Carré Riverfront Expressway (I-310) along the French Quarter. Baumbach discussed the history of the expressway until Secretary Volpe cancelled it in July 1969, as well as the ongoing efforts to block "construction of a bridge in the highly stable, residential area of uptown New Orleans." Based on his experience and his work, with Borah, representing the Environmental Defense Fund in the effort, he had concluded that for New Orleans, Federal-aid urban highways had not "relieved traffic congestion in our city." In fact, he said, "evidence indicates it has encouraged the suburbanization of both commerce and people."

New Orleans, he said, "had one of the best transit systems in the United States." It ranked second behind New York City in the percentage of people using public transit to get to and from work. It was the only major city to show an increase in ridership since 1940. "Despite the quality of service, the volume of ridership, and a 15-cents fare—lowest in the country—the percentage of people using transit in New Orleans has declined from 63.2 percent in 1957, to 39.5 percent in 1967." The result was that the city's private transit company lost over $8 million in 1969. The company was now seeking a 5 cent fare increase "which evidence elsewhere indicates will cause a decline in ridership and service and a greater reliance on automobiles, highways, and parking lots, thereby compounding center city congestion rather than alleviating it."

In closing, he added:

> Without a balanced approach to transportation planning, without Federal funds made available for alternative forms of mass transit, the central business district will decline, deteriorate and decay, causing irreparable harm and damage to the entire metropolitan area.

> In conclusion, Mr. Borah and I respectfully request that this subcommittee support the use of Highway Trust Funds for alternative forms of mass transportation to preserve the strength and stability of the New Orleans metropolitan area. [*Proposed 1972 Highway Legislation*, p. 492-496]

(The book Baumbach and Borah were working on would become: Baumbach, Richard O., Jr., and Borah, William E., *The Second Battle of New Orleans: A History of the Vieux Carré Riverfront-Expressway Controversy*, The University of Alabama Press, 1981. For more information on the highway struggles in New Orleans, see "The Battles of New Orleans - Vieux Carré Riverfront Expressway (I-310)" at http://www.fhwa.dot.gov/infrastructure/neworleans.cfm.)

Finally, Waldrop introduced Steve Bossi of the National Catholic Rural Life Conference to discuss the rural implications of S. 3590, the Administration's bill. He spoke of the increasing sense of isolation in rural areas because of the "continuing outmigration of rural people with the consequent closing of small town businesses and service agencies [that] have been responsible for leaving our remaining rural residents farther away than ever from jobs, friends, goods and services." Rural transportation problems also affected rural health, income, employment, and housing options.

For these reasons, Bossi said, his conference was "very enthusiastic" about the Rural General Transportation Program, which would allow funds to be used for highways, railroad facilities and rolling stock, and mass transportation facilities and equipment. He favored public transportation systems that would draw rural people together and that would be "more responsive to the real transportation needs and desires of community people." However, many rural groups "have been able to obtain the necessary equipment and facilities but have failed to survive as a system because of an inability to meet the high continuing costs of operation." The costs of management, bookkeeping, maintenance and promotion exhausted resources. "I would suggest, therefore, that the purpose of the proposed rural general transportation program be broadened to provide grant and loan assistance for a variety of purposes related to establishing and maintaining a successful system."

He concluded:

> It is encouraging to witness in this bill the acknowledgement that transportation is as vital to rural communities as it is to our urban centers. The many struggling attempts being made across the country, most of them dependent on second-hand busses [sic] and volunteer drivers, testify to the desperation with which people are attempting to meet this need on their own. We in "Catholic Rural Life" feel that they have a right to look to their Government for assistance in this area and urge you to demonstrate to them your concern." [*Proposed 1972 Highway Legislation*, p. 496-499]

Senator Bayh was puzzled by Baumbach's comments about the public transit system losing money despite increases in ridership. "That seems to be a tough set of circumstances to try to combat." Baumbach replied that the transit company, called New Orleans Public Service, was confined to Orleans Parish and might have increased usage if it could extend its facilities.

The Senator asked if Baumbach meant that "whenever the government builds highways, automatically the use of public transportation falls off." Baumbach said he felt that "if the regional area had committed itself or would commit itself to mass transportation, that commitment would automatically mean the funds would be available to perpetuate this service," but without subsidies, the service, already losing $8 million a year, would run the risk of even bigger losses. He thought that expansion to a regional system accompanied by a decision not to build urban highways along with construction of fringe parking would strengthen the system and enhance the already strong central business district.

In response to a later question from Senator Cooper about how to reduce reliance on the automobile, Baumbach said that New Orleans, following the lead of European cities, had converted two of its streets in the French Quarter to pedestrian malls, "and it has been a tremendous success, so that many of the businessmen who were fearful that it would lead to a decline in the activities in the central business district have been pleasantly surprised." [*Proposed 1972 Highway Legislation*, p. 499-505]

Senator Alan Cranston (D-Ca.) appeared on May 25 in support of the Bicycle Transportation Act that he and Representative Koch had introduced. He recounted the history of the bicycle, including its fading popularity after the turn of the century:

> Today, after several decades of declining popularity, we are witnessing renewed interest in and enthusiasm for the bicycle. Young and old alike are pedaling for pleasure, entering bicycle races, joining bike clubs, and biking to and from work, school and shopping centers. Bicycle manufacturers report dramatic increases in sales, and Government officials have discovered a new citizens' lobby—the bicycle enthusiasts who are demanding bicycle use facilities for safe and pleasant recreation and transportation.

He had been "pleasantly surprised by the enthusiastic, nationwide interest in my bill." He had secured 14 Senate cosponsors, while Representative Koch had lined up 51 House cosponsors. The Department of Transportation had offered favorable views to the subcommittee in a letter dated February 23, 1972, with Secretary Volpe stating that the Department was "excited about bicycles" and was instituting an innovative program to encourage it. Senator Cranston said he agreed with the Department's concern about ensuring safety by emphasizing construction of bicycle lanes, paths, and trails that are separated from automobile lanes. He also had no objection to the Department's recommendation to expand the bill to include trails for hiking and equestrian use and that funds for bicycles be allocated only when an overall plan has been developed for safety and contiguous routes.

Senator Cranston also submitted a statement in support of the Administration bill, saying, "The bill to permit the highway trust fund to be used to construct mass transit systems, I think that is a very, very fine approach to getting mass transit going in our country." [*Proposed 1972 Highway Legislation*, p. 515-519]

Governor Daniel J. Evans, Republican of Washington State, testified next as a representative of the National Governors' Conference. He began by reading a policy statement on the role of each Governor in administering the States' transportation programs:

> He should have the ability to transfer funds among the various programs to meet his State's own priority transportation needs . . . . We call for the creation of a single unified Transportation Trust Fund incorporating existing transportation revenues earmarked for use within a specific mode of transportation or by beginning a phased program of percentage transfers from the highway and aviation trust funds and other funds made available for transportation, into the proposed unified National Transportation Trust Fund. Further, since the Governor is best able to determine the transportation needs and priorities of his State, the distribution of the National Transportation Trust Fund should be allocated through the Governor.

The National Governors' Conference had approved this policy 2 years in a row, but had not yet had a chance to vote on the Administration's proposal.

Governor Evans was supportive of the flexibility provided by Secretary Volpe's recommendations, but had some concerns. First, he was concerned that the plan did not contemplate continuing general Treasury funding for mass transit as at present. Without additional revenue, "we are not likely in my view to have sufficient money to really carry out the concept of flexible transportation funding, and adequately handle the problems of both highway needs and mass transportation needs."

Second, he did not believe that the States were being given a strong enough role in the urban planning process envisioned by the proposal. Its planning requirements represented "a serious erosion of adequate planning coordination" by weakening the State role. "Seldom do the needs of transportation, mass transportation, or highway transportation confine themselves to our urban centers." The State could best provide the broader perspective.

Finally, he recommended action on impoundments and cutbacks that were causing "serious difficulty in planning highway construction." He said:

> The problems of planning on a long-range basis, to provide a steady allocation of construction projects, simply cannot be done with the traditional methods we have used. Cutbacks from the highway trust fund, carried on by several Administrations now over the past 10 years, cannot continue without seriously affecting proper planning.
>
> We at the State level for many, many years have distributed money from our State raised gasoline tax to local communities.
>
> We distribute to counties, we distribute to cities. We do it without an appropriations process at the State level.
>
> We do it on a formula basis.

> The local communities know on a year to year basis what they can depend upon, and it is essentially their money, even though it is raised at the State level, through State taxes, and any changes in those levels must be assumed by the legislative body at the State level.
>
> I frankly cannot understand why Congress and the national administration have been unwilling to assume the same responsibility insofar as our present highway transportation fund is concerned, or . . . any future flexible transportation fund.

His solution, made "in the strongest words possible," was to make funds available to the States or even local communities "without the necessity of appropriation." In this respect, he was favoring contract authority for the funds.

Senator Robert T. Stafford (R-Vt.), who was conducting the hearing, asked Governor Evans whether the Highway Trust Fund could meet highway and mass transit needs. The Governor said he was certain that needs exceeded the amounts available from the Highway Trust Fund and simply broadening it for other transportation purposes "just aggravates that situation." The National Governor's Conference supported its expansion to a Transportation Trust Fund even if additional funds were not available.

"Are you," Senator Stafford asked, "proposing a type of revenue sharing . . . for transportation on a regular basis?" Governor Evans replied, "Yes, indeed I am." He was an "enthusiastic supporter of revenue sharing in general," which was practiced in many States, including Washington, where the State made funds available to local governments. "It is only in the relationship between the Federal Government and the States, that in no area, of which I am aware, has the Federal Government been really willing to share on a formula basis, without yearly appropriations, any major source of revenue." [*Proposed 1972 Highway Legislation*, p. 524-528]

Later on May 25, John W. Vardaman, an attorney with the prestigious Washington law firm of Williams, Connolly, and California, appeared before the committee to address the recommendation of groups such as AASHO and ARBA that project opponents seeking injunctions to halt projects should be required to post bond to protect the government from frivolous lawsuits:

> The bond proposal is not only unnecessary and unwise, but I believe that a realistic examination disclosed that its true purpose is to discourage, if not defeat, the use of injunctive proceedings by private parties to enforce compliance with Federal statutes which implement the national policy of protecting the environment.

Vardaman represented citizen groups in two of the most contentious highway conflicts in the country, both involving construction of an expressway through a public park. One involved construction of I-40 through Overton Park in Memphis and the other called for construction of the U.S. 281 expressway through Brackenridge-Olmos Basin Parklands in San Antonio. Highway officials often selected park locations for their projects to minimize disruption to homes and businesses. Section 4(f) of the 1966 Department of Transportation Act had raised barriers to this concept by imposing barriers to the use of parkland. Senator Ralph Yarborough (D-Tx.) had introduced this provision in response to the State's plan for U.S. 281 in San Antonio. He initially tried to include it in the Federal-Aid Highway Act of 1966, but it had been watered down as new Section 138 of Title 23, United States Code, to call for "cooperation" and "consideration" rather than the prohibition he sought. The Federal-Aid Highway Act of 1968 incorporated the stronger Section 4(f) language into Section 138.

Vardaman put his two cases into perspective:

> The disputes in Memphis and San Antonio brought into sharp focus the conflict between the value and importance of parks and the importance of urban freeways. They also brought into play the implementation and enforcement of Federal laws specifically designed to protect the environment and to require that highway planners take into account the intangible social values represented by parks, recreation areas, and open space.

The "recent success of citizen lawsuits" had brought sharp criticism from the highway agencies and builders and prompted their complaints about "frivolous suits brought by irresponsible environmental advocates," as Vardaman said ARBA had put it. He summarized the Memphis and San Antonio cases "to illustrate the types of areas that form the heart of the citizens lawsuits." He questioned the characterization of such lawsuits as frivolous and the plaintiffs as irresponsible:

> I have found 25 reported cases in which citizens groups have attempted to enjoin construction of Federal-aid highways on the basis of environmental laws. The plaintiffs were successful in 14 of those. Thus the initial point to make is that the plaintiffs have proved to be right more often than not: hardly an indication that the suits are frivolous.
>
> In the 11 cases that the plaintiffs lost, in no case did the court characterize the suit as frivolous or the plaintiffs irresponsible.
>
> Moreover, in none of those cases was there an injunction granted and later dissolved. Thus in those suits which were not meritorious there was no delay of the highway occasioned by the litigation . . . . Thus any delay has not been the result of an order in a frivolous case, but instead in a case in which the court determined that the plaintiffs were right.

In response to a question from Senator Bayh, Vardaman stated that he knew of no case where an injunction had been issued to stop construction "and later dissolved either by the court granting the injunction or by an appellate court." Again in response to a question, he said that he did not know of any case where the plaintiffs were using the environmental statutes to pursue purely private business interests.

Vardaman said "it is inappropriate" to suggest that citizens filing lawsuits were responsible for delaying highway construction:

> Where there is a delay, it is as a result of a Federal judge having heard the evidence from both sides and found either that the plaintiffs are likely to prevail, in the case of a preliminary injunction, or, in the case of a permanent injunction, that there has been a violation of Federal law . . . . If the blame for the delay of the highway construction is to be

> laid to one of the parties to the law suit, then it seems to me more appropriately laid at the feet of those who have been found not to have complied with federal law rather than those who have brought the law suits to seek compliance.

As a result, a new law requiring the posting of a bond was not necessary. Further, the Federal Rules of Civil Procedure allow a judge the discretion to impose a bond whenever a preliminary injunction is issued by a district court. A court of appeals also may require a bond. "It would be unwise to interfere with the operation of the rule adopted by the courts with the approval of the Congress that leaves to the discretion of the court the amount of the bond."

Vardaman also was concerned about the effect of a bond requirement on potential plaintiffs:

> Moreover, if the law required a bond which in any way approximated the dollar amount of the highway project at issue, the plaintiffs would in almost every case be without a remedy, even though the court might be satisfied that they had proved a violation of Federal law.

He also questioned AASHO's assertion that a bond was necessary to show the plaintiffs' sincerity of purpose and responsibility of action. "The undertaking of litigation against a Federal-aid highway requires substantial financial burdens which are wholly sufficient in and of themselves to deter any person or organization that is not serious."

In exchanges with Senator Bayh, Vardaman said that while he thought Section 4(f) could be broadened to protect other resources, "it might be a mistake" to make any drastic changes until the courts had a chance to rule on the current law. In 2 years, "if there is substantial uncertainty over the meaning of some of these statutes," legislative changes might be appropriate. Regarding the routing of highways through parks or homes, he said that each case had been looked at individually, keeping in mind that relocation benefits were not available for the homeowners but "Congress cannot . . . enact a statute which recreates the forest in the Memphis park or in any other park which would be taken away by a highway." He concluded his testimony on this point:

> Ultimately it is a question of balancing values, but I think once the decision has been made to put a highway through an urban area, which you must recognize is an extraordinary [sic] disruptive influence, in the cases I have seen, I think that the public interest would be served by not going through the park, but taking an alternative even though it results in some additional housing dislocation. [*Proposed 1972 Highway Legislation*, p. 596-607]

(The Memphis and San Antonio cases that Vardaman discussed were significant milestones in application of Federal environmental requirements. Section 4(f), which was introduced in response to the San Antonio case, remains a strong protection for publicly owned land in parks, recreation areas, and wildlife and waterfowl refuges, as well as historic sites of national, State or local significance. Ruling in the Memphis case on March 3, 1971, the Supreme Court found Section 4(f) to be "a plain and explicit bar to the use of federal funds for construction of highways through parks—only the most unusual situations are exempted." The ruling returned the case to the District Court where a settlement was reached that protected Overton Park by rerouting I-40 along the northern Memphis beltline. This ruling proved to be a landmark in application of Section 4(f) to Federal-aid projects to this day.

The Highway Action Coalition appeared before the subcommittee on May 26. Kramer was joined by Stewart L. Udall, Secretary of the Interior throughout the Kennedy and Johnson Administrations, who was a codirector of the coalition, and John Winder of the National Air Resources Commission, Tuberculosis and Respiratory Diseases Association. Secretary Udall had a longstanding reputation for environmental concerns. Traveling around the country, he had seen that "the environmental revolution is real, values are changing." As part of this evolution, he had observed "a revolt against the automobile." He said:

> I sense a growing awareness of the fact that the automobile is the most destructive single force in this country. The automobile's impact on human health, air and land pollution, and the slicing up of the cities are leading to highway disputes in almost every major city of this country.
>
> Roadbuilding, which 30 years ago was a universally applauded activity, is now being questioned. I am confident that opposition to continued highway construction is building up; it will not go away.

He recalled being in the U.S. House of Representatives (D-Az.) in 1956 and voting for the Federal-Aid Highway Act that launched the Interstate construction program. "I have had a lot of second thoughts since then." He concluded that "what we needed in 1956 was a national, balanced transportation policy." He continued:

> Instead, we opted in a very single-minded way for the automobile. We are now paying a price; just as we opted for housing programs, instead of programs to build communities; just as we opted for conservation programs, instead of total environmental programs.
>
> As a result of that decision, we let the railroads go down the drain, unlike Canada and many European countries.
>
> We allowed our public transportation systems to die a slow death. We saturated our cities with automobiles. We have been pursuing the twisted logic of more automobiles and more and more roads.

He said he had written an article for a national magazine about the relationship between transportation and the national energy crisis:

> We are very close, in my judgment, to a crunch. That is where I get off, in terms of these 20-year projections for both automobile and oil consumption.
>
> Many planners tell us that we are going to have to have two interstate highway systems, that we are going to have to spend three, four, five times as much on automobile transportation.

This country was going to "have to unhook" from the automobile. He saw an energy crisis on the horizon. Already, oil production in the United States had peaked about 18 months earlier and would continue to decline even as "we are going to have twice as many automobiles in the next 20 years, and two interstate systems on a curve like that." The United States would have to import 60 percent of our oil by 1982, much of it from the Middle East. Although, he said, the "Arab countries are moving very aggressively toward nationalizing oil as recent events in Iraq demonstrate only too clearly." The price of oil was "going to accelerate very rapidly" and the country was "moving into a whole new ball game."

Udall told the subcommittee that reviving public transportation systems was vital, whether it meant new subways, buses, even the return of the trolley. Putting the bicycle back to work was more important than building "some of these freeways that are being fought all over the country." His proposals did not mean the country had to "shutdown or throttle back an industry." Mass transit systems and the vehicles on them would have to be built. "If you build air cushion trains, for example, from Washington to Boston, you have a lot of construction activity."

He concluded his remarks by saying that, "The automobile-highway complex is perhaps the most important environmental problem before us." The time, he said, "for dramatic change in this important area is upon us. We have no alternative." [*Proposed 1972 Highway Legislation*, p. 701-704]

(The article by former Secretary Udall was "The Last Traffic Jam," which appeared in the October 1972 issue of *The Atlantic Monthly*. It elaborated on Secretary Udall's concerns about the pending energy crisis at a time when increased consumption by America's automobiles was predicted. "A limit on the automobile population of the United States would be the best of news for our cities." What was needed was a "necessary shift in public policy toward effective mass transit systems" and a commitment by Detroit to "developing external combustion engines (like the steam engine)" that would deliver travel twice as far on smaller horsepower and less gasoline. The choice, the article stated, was not between growth and stagnation, "but between short-term growth and long-term disaster.")

Kramer then addressed the subcommittee. His views, of course, were similar to those he expressed before the House Subcommittee on Roads, but he now had the chance to react to Secretary Volpe's proposal. He said that the coalition wholeheartedly endorsed the "central notion" behind S. 3590, namely "the use of highway trust revenues for public transportation on a local option basis." He added:

> We are, however, dismayed by the fact that S. 3590 would still earmark more than twice as much money for highway programs as for local option programs under the proposed "single urban fund." We are also uncomfortable with the implication that the highway trust fund will be extended into the 1980's.

The Single Urban Fund also was underfunded, and might result in some of the largest cities receiving less money for transit than under existing programs. The coalition recommended "either that more money be added to the single urban fund (perhaps out of general revenues) or that the urban mass transportation program be continued as anticipated by the original act."

He was concerned, too, that S. 3590 "specifically rules out Federal assistance to help cover transit operating costs." With at least 20 transit systems near bankruptcy and 18 more considering fare increases, "this stipulation is very unwise."

As for the Interstate System, it should be thoroughly reviewed and, if so determined, substantial segments should be eliminated. He said segments in at least 20 major cities were targets for elimination and cited the Embarcadero Freeway in San Francisco as "surely a monument to the futility of urban freeway building." He explained that, "We believe that many of these undesirable projects would never have been advanced were it not for the ready availability of the Interstate System's '10-cent dollars.'" He recommended that cities be given the option of using their 90-10 Interstate funds for transit "if upon close examination, it turns out that the city's public transportation needs are more pressing than its interstate highway needs."

Since no program "impinges more on the quality of our natural and social environment than does the highway program," Kramer strongly endorsed the environmental safeguards of Section 4(f) and NEPA. The recommendation that citizens should be required "to place multimillion dollar bonds before they can bring suit" should be rejected in favor of a requirement that attorney's fees and court costs should be paid if citizens successfully block highway projects. [*Proposed 1972 Highway Legislation*, p. 704-709]

Senator Bayh asked if the subcommittee should put a general transportation policy "high up the list?" Secretary Udall replied, "I think you are putting your finger on the big issue that is all-to-frequently [sic] tabled." Piecemeal policy changes were not going to address the larger questions before Congress. He preferred what he called "the most radical proposal, and the most creative that this coalition is putting forward," which was giving cities the option of using money to build and operate public transportation systems instead of Interstate highways. "This step alone would go a long way toward reducing the number of automobiles, reducing the cost of transportation and reducing air, noise, and land pollution." Congress must, he said, face "the big problem: The need for a single, comprehensive, national transportation policy."

As for addressing congestion, Kramer said that "we have come to the conclusion that new highways, particularly in urban areas, will only generate new traffic and make congestion problems yet more serious." Today's highway users would be better served by investing in other modes, although the mix would vary from region to region.

Senator Bayh asked what could be done to change the habits and life style of people regarding transportation. Secretary Udall said that was "another very big and very basic question." He thought that "the present juggernaut under which we are operating conspires against new life styles." People wanted a new, simpler life, but "the system we have now conspires against it."

As with other witnesses, Senator Bayh asked whether the Highway Trust Fund revenues were sufficient to meet transportation needs as proposed by the Administration. The question, Kramer replied, of whether to use Highway Trust Fund revenues for other modes is a red herring. True, highway user taxes paid for highways, "yet most of the external social, economic, and a lot of the environmental costs are borne elsewhere." No matter the source of revenue, "transportation is a single entity." Clearly, highway user revenue is not enough; other revenue from general sources is needed. [*Proposed 1972 Highway Legislation*, p. 710-715]

On June 6, Administrator Turner appeared before the subcommittee. His prepared statement was primarily a summary of FHWA's May 1972 Stewardship Report on implementation of the 1970 Act, which he said had "called for many fundamental modifications to the basic set of Federal-aid highway laws, the need for which had been demonstrated by changing national transportation demands and public expectations." The ability to make such adjustments had "historically been a hallmark of the Federal aid highway program, and one of the basic reasons for its success over the years." He said that it would be difficult to imagine "operating under the details of 1921's legislative directives," and in that spirit of recognizing the need for change and increased flexibility, the Administration had submitted the Federal Aid Highway and Mass Transportation Act of 1972.

Among his updates, Turner said that on April 11, 1972, FHWA had approved the Federal-aid urban system, totaling nearly 11,000 miles in 218 urbanized areas. Although the 1970 Act focused attention on bus transit road improvement projects in urbanized areas, "the position of public transit in 1972 is still deteriorating." Several successful exclusive or preferential bus highway projects had been implemented, but "even greater emphasis on bus transit improvements as an integral element of the Federal-aid highway program will be needed to achieve measurable improvements in the overall health of our transit industry." Turner said that, "Acting alone, neither industry will do an adequate job."

In cooperation with other Modal Administrations in the Department of Transportation, FHWA had "moved administratively to strengthen the [transportation planning] process through a more effective certification process, intermodal work program requirements, and improved coordination of field and headquarters planning staff." Increased funding for planning remained a critical need.

Turner did not comment on several other aspects of the Stewardship Report, including Section 124 of the 1970 Act on "Elimination of Segments of Interstate System Not to be Constructed." The report stated:

> It is anticipated that on July 1, 1973, the highway departments will have underway, on a schedule to match fund availability, the plans, specifications, and estimates for all remaining segments of the System, and that the intent of the Congress will be met if on July 1, 1975, the highway departments will have submitted PS&E for projects which will utilize all funds released for obligation through that date.
>
> A significant number of projects has been delayed because of litigation proceedings and location problems, many of which have to do with environmental considerations. At the present time, it appears that some 28 route segments totaling approximately 190 miles are in a questionable status regarding the legislative deadlines. Some States are considering substitutions on segments either on a one-for-one basis or by use of the balance of the 200

> miles authorized under the Howard-Cramer Act. [*Stewardship Report on Administration of the Federal-Aid Highway Program 1972*, Federal Highway Administration, May 1972, p. 19-20]

The Stewardship Report also commented on Section 144 of the 1970 Act calling for a study of the relationship of highway construction to transportation services. FHWA took the lead in this study but worked with UMTA, the Office of the Secretary, and several urban transportation planning consultants, as well as the American Transit Association, AASHO, and OMB. The Secretary transmitted the report to Congress in April 1972. The key finding was:

> The transit study indicated that during the next 20 years there would be approximately $6 billion in highway related public transportation needs in urban areas of over 50,000 population. This figure reflects the assumption that planned new rail systems in 7 cities (Atlanta, Baltimore, Buffalo, Los Angeles, Miami, Minneapolis, and Pittsburg [sic]) would be constructed. Approximately 60 percent of the total estimated costs were for busway-type facilities, with 30 percent for fringe parking and terminal facilities, and 10 percent for operation or traffic engineering needs. Approximately 55 percent of all needs are located in urbanized areas over 2 million population, 44 percent for areas between 500,000 and 2 million population, and the remaining 1 percent in those areas between 50,000 and 500,000 population. These projects are expected to eliminate the requirement for approximately 670 miles of new highways at an overall cost of about $6.5 billion.
>
> The study also pointed out the problem of funding projects not on specific Federal-aid systems, and the need for additional financial assistance to cover operating costs of the improved level of transit necessary to realize [sic] the full benefits of the highway improvement. [*Stewardship Report, 1972*, p. 40-41]

When Turner completed his summary, Senator Bayh asked about the impact of environmental requirements on the program. "One of the major criticisms that has been directed at the highway program is its impact on the environment." He asked how "to crank the public opinion of those who are going to be most directly affected by the highways into the planning at an earlier stage?" Turner agreed about the importance of public involvement. "To the extent that it can be done profitably, I think that we have the means, and are following not only the instructions, but the objective and intent of getting citizen participation." Much of the criticism about citizen involvement occurs when officials gather all the facts and listen to all the views but "the final decision may not be the one that the critic wanted. In other words, he disagrees with the umpire's decision."

To what extent, Senator Bayh asked, would Turner characterize the resulting lawsuits as nuisances rather than legitimate suits? Turner replied that out of about 60 suits filed thus far, "I would say not more than eight or 10 . . . are in the category of just plain nuisance suits." He continued:

> Some of these I suspect from the looks of them, are classroom exercises. The filing of a suit is taken on as sort of a classroom exercise, and I think it has no more merit than that. In fact

> in those cases, the suit has been dismissed when it got to the judge, or we have won the case, [so] I think it is a pretty clear indication it was a harassment.

The other suits generally challenged the procedures followed. Lawsuits attempting to block a project are typically filed under the provisions of the Administrative Practices Act claiming that State and Federal officials did not follow the requirements of NEPA:

> They complain about the lack of consideration for environment, failure to hold public hearings, a breakdown in the planning process, inadequate consideration or attention to relocation provisions, and things of that nature, and in most of the cases, they are the same.
>
> They look as though they have been filed from a mimeograph checkoff sheet and just fill in the blanks, because they generally charge failure of everything in the basic legislation in the hopes that perhaps you will hit on one if you cannot hit on another one . . . .
>
> Insofar as suits are concerned, there so far have been no suits with a decision that says a project was environmentally damaging, and, therefore, the project should not be cancelled for that reason. Most of the decisions so far have been procedural, rather than on the merits of the case.

Should those filing suits be required to post a bond, Senator Bayh asked. Turner believed that a person or group delaying a project "should be made to bear some responsibility for his actions," but he wasn't sure how to do so.

Senator Bayh observed that, "it is conceivable that one of good faith could be just as responsible for wanting the highway stopped for a good reason as the ones wanting to build it." Turner conceded the point:

> What I believe is that there are some of these that are not really in that category. I think there are cases that are put up purely for the purpose of harassment and delay, and, again, the individual is not satisfied with the decision, so he wants to appeal and delay it in order to try to force an acceptance of their particular point of view, but after all, somebody has to decide, somebody has to be the referee, and somebody has to be the fall guy that makes the decision.

Admittedly, he said, State and Federal officials "do make some mistakes," but "there has to be some presumption that the Highway Department and the Federal Highway Administration are acting responsibly and in the public interest."

For the record, Turner submitted a commentary on "Highway Delays Caused by Litigation." He identified:

> Location cases to enjoin construction filed on environmental and social grounds, 84; open cases, 60; closed cases, 24. Projects enjoined, 16; injunctions denied, 30.
> District Court action: Suits dismissed, 35; judgment for plaintiff, 7.

> Appellate action on suits dismissed in District Court: Appeals 29; affirmed, 12; pending 10; reversed, 7.

The earliest litigation listed was D.C. Federal Civic Association v. Thomas F. Airis, filed in December 1966 alleging violation of the D.C. Code in development of the Three Sisters Bridge, part of I-266 across the Potomac River between Virginia and the District of Columbia. In all, 14 lawsuits had been filed from 1966 to 1970. The bulk of suits had been filed beginning in 1970, the most recent being Chavez v. Volpe filed June 1, 1972, involving I-40 in New Mexico.

Some of the more substantial delays involved the Three Sisters Bridge on I-266 in Washington (5 years), the North Expressway in San Antonio (5 years), and I-40 through Overton Park (2 ½ years). The statement indicated that the "prime example of a 'phony' environmental suit" involved I-95 around Fayetteville, North Carolina:

> The action to block the construction of I-95 around Fayetteville was filed in June 1968 by a small group of businessmen who now enjoy a competitive advantage because of a break in I-95. Because of this break, traffic must leave I-95 and proceed down U.S. 301 past the plaintiffs' businesses in Fayetteville. The suit has preserved this competitive advantage since 1968. Although the U.S. District Court dismissed the suit in September 1971, finding no violations of social, environmental or other laws, plaintiffs have appealed this suit to the Court of Appeals in order to preserve their competitive advantage as long as possible.

He cited several other suits that he said also were using complaints about social or environmental violations to protect personal or business interests.
Turning to mass transit, Senator Bayh wondered if the proposed Single Urban Fund provided enough funding to meet needs. "It seems to me we are liable to end up with two undernourished children." Turner agreed that the proposal did not provide "adequate funding in total for either of the programs." He added:

> The basic question is how much of our resources can we apply to this set of immediate problems, and at the same time stretch them over a thousand other needs nationally, and these are the amounts the administration has decided to assign to a combination of transit and highway needs.
>
> I do not think there is any indication that this is supposed to be all that is needed.

Senator Bayh suggested that revenue from some other source might be added so that highways or transit would not be approved at the expense of the other. Turner explained that, "You would have to have a substantial increase in both of the funds, and the combined amount that is available here is nowhere near enough." Whether the Highway Trust Fund covered one or both or whether additional revenue comes from another source "would be a policy question." The Administration proposal was never intended to cover every need.

He said needs only on the Federal-aid highway systems totaled $360 billion over 18 years (plus needs of $240 to $250 billion off the systems). "These are not wish lists. They are actually carefully determined needs." In addition, he pointed out that mass transit needs were around $60 to $65 billion. The Highway Trust Fund clearly could not cover all needs, nor did the Administration think that its proposal would do so. "Whether or not there are resources available to double that amount that is being proposed here is another question. The administration has said there is not that amount of money."

Senator Bayh and Turner concluded the testimony with a discussion of highway safety. However, Turner subsequently submitted written responses to a set of questions. One question was whether FHWA review procedures caused undue delay on State highway projects. Turner pointed out that most procedural requirements were added because of legislative requirements. "Of the 23 major actions required by a State highway department to construct a Federal-aid highway project, only four of these requirements have been administratively imposed, and these four actions are tied directly to legislative requirements." The principal delays were caused "by having to comment, argue, and justify actions or proposals to some agency or group outside the highway program area."

Another question was how much reduction in review time could be achieved if procedures similar to those under the Secondary Road Plan were extended to other Federal-aid projects. Turner explained that the Secondary Road Plan made the State highway agency the agent of the Secretary of Transportation in carrying out Federal requirements. The change eliminated FHWA reviews, but the States still had to comply with all requirements. Since Federal-aid secondary projects usually were relatively minor, this procedure saved time since major delays were unlikely in any event. For larger projects, he said, "extending these procedures to other programs, could do no more than reduce the FHWA review time by a few days. The major time requirements would still remain." [*Proposed 1972 Highway Legislation*, p. 897-914]

While Turner was on Capitol Hill on June 6, Secretary Volpe was in Salt Lake City for a speech to the Western Association of State Highway Officials (WASHO), a regional division of AASHO. He assured his audience of his "allegiance to highway transportation and my deep respect for State highway officials." He added, "I have unshakable faith in this industry's ability to be just as competent, just as responsive, and just as devoted, in meeting the future transportation needs of this Nation."

At the same time, he said, those needs were unquestionably changing:

> And I submit that as we live in times of change, we must be the architects of that change or we will most certainly be its victims.

Volpe often used this line in his speeches. Here, it led him to this admission:

> Now I'll admit that in recent months I've had highway contractors, and even a State highway director or two, come up to me and say "Are you the same John Volpe who used to be President of the AGC?" or "Are you the same fellow who was in on the start of the Interstate System back in '56?"

> The answer, of course, has to be a double one. I'm the same guy insofar as I know that America needs mobility – the best brand of mobility it can imagine and afford.
>
> But on the other hand, having sat where I've been sitting for the past three years – getting the overview – I've changed in that I know that no one mode of transportation alone will ever solve all our transportation problems. Urbanization, environmental protection, safety, and other social concerns have introduced a new era – a new set of challenges – for the highway builder. And I know that you are up to meeting those challenges . . . .
>
> I am occasionally asked just what our national highway policy is. And my answer is brief: we don't have one. What we have is a National Transportation Policy.

He discussed highway-related transit solutions and described the Administration's transportation proposal:

> The primary goal of this legislation is flexibility – the ability to have money follow the priorities rather than vice versa . . . . Let me emphasize this point as heavily as I can: If a State – or urban area – wants to spend every last nickel of its money from the Urban Fund for highways – well, you go right ahead and do it! If you want to set aside five percent, or 10 percent to solve a particular congestion problem in a metropolitan area – go right ahead and do that! The decision won't be made for you in Washington!
>
> This is not a program to promote mass transit, or railroads, or Tracked Air Cushion Vehicles [that could ride on compressed air over tracks at 350 miles an hour], or highways. It is a program to promote the very best transportation possible.

He concluded by asking WASHO members to apply their "efficiency and talent" to provide "a new measure of mobility to all Americans."

End of an Era—A Legend Steps Down

Administrator Frank Turner, throughout his tenure, had been moderate in his response to critics, always focusing on the value of buses, downplaying rail transit, and emphasizing the environmental and social benefits of highway development. This approach was reflected in his comments on June 6 before Senator Bayh's Subcommittee on Roads, a familiar forum he had appeared in many times since his arrival in Washington in the 1950s.

However, on May 31, 1972, he had taken a more personal approach, using a friendly forum to lash out at the critics. Speaking to HUFSAM at the Sheraton Hilton in Washington, Turner gave a speech titled "Solutions Must be Based on Facts." The best way to approach transportation, he said, is to "first clearly define the problem, and then bring to bear in its solution all of the factual information available about it, to be analyzed objectively in reaching a conclusion." That, he said, "is the method we must <u>always</u> use." He continued:

> However, today, there are many who, although they do not have the needed essential training in transportation, are trying, nevertheless, to advance solutions to our transportation

> problem – developed from hunch, emotion, or incorrect facts arranged to fit pre-conceived conclusions. These include some sincere, misinformed persons, along with the zealots and dilettantes who regularly are opposed to anything for any reason, or even no reason at all.

He cited some of the statements HUFSAM and FHWA had classified as myths, and then provided the responses the organizations had been promoting for the past year:

- Ban the automobile from the city? "The fact is, if we ban the automobile from all of downtown, then downtown is going to be dead."
- Highways and the automobile cause urban sprawl? "The fact is that the automobile didn't *cause* people to move from the center city . . . it enabled them to."
- Stop building urban freeways? "The fact is that . . . highways will continue for as far as we can see into the future to serve as the principal or sole means of transportation . . . ."
- Cities enmeshed in hopeless traffic jams? "The fact is that, generally speaking, except for the morning and afternoon rush hour there is no real problem . . . ."
- Paving over our cities? "The fact is that as much area was used in cities for horses and wagons and buggies in pre-automobile days as is being used today."
- Consuming too much land? "The fact is that a 300-foot highway right of way stretching 225 miles between Washington and New York City . . . would require about 9,000 acres. Dulles Airport contains about this same acreage."

And so on. As these examples demonstrated, without facts, "we would find ourselves in a hopeless maze, with no way of finding the solid solutions that are needed to our transportation problems." He admonished his listeners "to be as insistent on using only the facts as we would have the opponents do." If they do so, "the conclusion – whatever it may turn out to be – will be a sound and valid one."

Turner had often offered similar views and his audience probably was familiar with them, but on this occasion, he knew something his listeners did not. He planned to retire at the end of June. Turner, 63 years old, informed President Nixon and Secretary Volpe of the decision in letters dated June 21. He told the President that, "I desire to avail myself of the provisions of the Civil Service Retirement Act, with its special benefits available to June 30." He took pride in his long service. "It is with regret that I now take leave of the finest organization and most dedicated group of coworkers in Government, but with the knowledge that each member of the Federal Highway Administration family will continue to render loyal and able service through the Department of Transportation to their fellow citizens."

He told Secretary Volpe that the decision was not an easy one. "It is only that continuing trouble with diminishing vision in my right eye and medical advice relative to that condition causes me to now make this difficult decision." He did not say so, but another factor was his wife Mable's deteriorating mental condition, characterized by confusion and anxiety, that would require an increasing amount of his time. He felt he could no longer leave her alone in their home in Arlington, Virginia, when his job called for him to travel out of the Washington area. [Swift, Earl, *The Big Roads: The Untold Story of the Engineers, Visionaries, and Trailblazers Who Created the American Superhighways*, Houghton Mifflin Harcourt, 2011, p. 304-305]

The President accepted Turner's resignation in a letter dated July 1, 1972. He said:

> A career of public service that spans more than forty-three years is, in itself, a remarkable accomplishment. But your career has spanned more than years; it has helped bring to this nation an incomparable interstate highway system that continues to play a vital role in our development and prosperity.
>
> As an architect of the interstate system, you should feel a very special sense of pride in the fact that this, the largest public works program in world history, has been administered with uncompromising integrity and steadfast dedication to public trust.

Turner, in closing his career, addressed a letter to his FHWA family. Trying to find the words to say goodbye after 43 years "has been a most difficult task." While many government agencies are "impersonal machines," he always thought of his FHWA colleagues "as individuals who were dedicated to doing a piece of the public business more as a service to your friends and neighbors than merely as a source of employment." He could not respond to all the letters and notes he'd received, but his letter was his way of saying "my thanks to all of you for your letters, your gifts, your expressions of good wishes, and many other nice things: but most of all for the fine performance you have turned in day by day as members of the FHWA team." ["Mr. Turner Bids Farewell," *FHWA News*, October 27, 1972, p. 1-2]

Secretary Volpe designated Deputy Federal Highway Administrator Ralph R. Bartelsmeyer to serve as Acting Administrator. Born in 1909 in Hoyleton, Illinois, Bartelsmeyer received his civil engineering degree in 1932 from the University of Illinois at Urbana. He began in 1931 as a Highway Engineer with the Illinois Division of Highways, remaining with the division until 1963 except for a brief period with the Marquette Cement Manufacturing Company (1946-1948). Returning to public service, he worked his way up to Chief Engineer of the Illinois Division of Highways in 1953 and remained in that position until 1963. He served as president of AASHO in 1959 and ARBA in 1961-1962.

After leaving State service, he became vice president of the engineering firm H. W. Lochner, Inc., in Chicago before being appointed Director of the BPR in May 1969. When BPR was eliminated as an administrative office within FHWA, he became Deputy Administrator in August 1970.

On June 6, 1972, when Turner was testifying before the Senate Subcommittee on Roads and Secretary Volpe was delivering his speech to WASHO, Bartelsmeyer also was in Salt Lake City for the WASHO meeting. His speech was titled "There is No Turning Back!" He addressed two important topics, the first being a summary of the proposed Federal-Aid Highway and Mass Transportation Act of 1972. After describing its provisions, he told the western highway officials that "I want to emphasize to you more forcefully that there is no intention to deemphasize the highway transportation program." The country would continue to need highways "as far into the future as anyone now can foresee—good highways—both expanded existing highways and new highways."

The other important topic was consideration of environmental issues:

> Let's be candid—and honest with ourselves—environmental impact statements are now a way of life for State highway departments—and they are here to stay . . . . And there are compelling reasons why we should do a good job in this area. For one thing, we can avoid a lot of litigation, and the resulting headaches if we do.

He characterized highway opponents as falling into three categories: those who have valid reasons for opposing a project, those who are "sincerely motivated but who are misinformed or misguided," and "the zealots or dilettantes who would blindly oppose highways on any grounds, and so choose the environment as a handy battleground." He said:

> Let's not make things easier for the zealots and the dilettantes by not doing our homework on environmental impact statements—by failing to file them or by doing them carelessly. We can save ourselves a lot of trouble, and time, by preparing them thoroughly and properly to begin with.

He estimated that in 1972, FHWA would process approximately 800 final environmental impact statements and 150 Section 4(f) statements. Those numbers were "vastly more than any other individual agency of the Federal Government." He told the audience: "Committed? You bet we're committed!"

Although the States were doing a good job, Bartelsmeyer identified several areas of weakness:

> These include noise and air pollution and the alternatives to the proposed action. In particular, all alternatives must be discussed in the environmental impact statement in sufficient detail to identify the probable beneficial and adverse effects. In addition, greater attention must be given to considering all reasonable alternatives to the proposed highway improvements.

He urged early consultation with State and local agencies such as departments of natural resources, parks, and health.

His comments reflected the evolving attitude of highway officials since enactment of NEPA. Many State highway officials saw critics as "zealots and dilettantes" who simply did not understand the benefits the community would receive from its highways. Their complaints could best be addressed by improved public relations initiatives to get the public on the side of highway development. Environmental reviews under NEPA, which highway officials considered unnecessary, could be done just well enough to meet requirements in minimal time.

Frank Turner and other FHWA officials, who may have shared the States' views, frequently made clear that as Bartelsmeyer put it, "Concern with environmental protection is here to stay." FHWA was committed to working with State highway officials to ensure the NEPA reviews were in full compliance with the law. He recognized that State highway officials experienced "a sense of frustration" and "an occasional wish that we could return to 'the good old days.'" Bartelsmeyer told WASHO:

> But there is no turning back for any of us—and I truly don't believe that any of us would really prefer the old days to the inspiring challenge of the dynamic Federal-State highway program we all are a part of now . . . .
>
> The die is cast. It is not a case of either/or. We will meet our commitment to providing the modern system of highways so essential to this Nation's well-being—while at the same time we will preserve the environment and protect the ecology.
>
> And we will do so not only because it is the law of the land—we will do so because it is right!

Bartelsmeyer would serve as Acting Federal Highway Administrator until June 1, 1973, making his tenure as Acting Administrator the longest in FHWA history.

Party Platforms

With the presidential campaigns underway, the Democratic and Republican parties held their national conventions that summer. Although the Vietnam War and the economy were among the most important issues, both parties adopted positions on many issues that would not be part of the ongoing election debate.

On July 10, 1972, the Democrats adopted a platform that said the automobile "has made a major contribution to economic growth and prosperity in this century," but the time had come for "better balanced transportation—more of it public." The fact that "15 times as much federal aid goes to highways as to mass transit . . . must change." The need for improved rural transportation must not be forgotten. The Democratic Party pledged:

> To create a single Transportation Trust Fund, to replace the Highway Trust Fund, with such additional funds as necessary to meet our transportation crisis substantially from federal resources. This fund will allocate monies for capital projects on a regional basis, permitting each region to determine its own needs under guidelines that will ensure a balanced transportation system and adequate funding of mass transit facilities.
>
> Moreover, we will:
>
> Assist local transit systems to meet their capital operating needs;
>
> End the deterioration of rail and rural transportation and promote a flexible rural transportation system based on local, state and regional needs;
>
> Take steps to meet the particular transportation problems of the elderly, the handicapped and others with special needs; and
>
> Assist development of airport terminals, facilities and access to them, with due regard to impact on environment and community

The Democrats nominated Senator George McGovern of South Dakota, the anti-war candidate, and his running mate, Senator Thomas F. Eagleton of Missouri. On August 1, Senator McGovern replaced Senator Eagleton on the Democratic ticket following revelations that he had been treated for physical and nervous exhaustion on several occasions and suffered from depression. In his place, Senator McGovern chose a brother-in-law of President Kennedy, Sargent Shriver, who had served in posts during the Kennedy and Johnson Administrations.

The Republican Party platform, adopted on August 21, 1972, reflected the views and accomplishments of the President and was dominated by international affairs, especially the goal of ending the Vietnam War. On the domestic front, the platform supported the President's General Revenue Sharing initiative:

> We hold that government planners should be guided by the people through their locally elected representatives. We believe that real solutions require the full participation of the private sector.
>
> To help ease the fiscal crises of State, county and municipal governments, we pledge increased Federal assistance—assistance we have more than doubled in the past four years. And . . . we remain committed to General Revenue Sharing, which could reduce the oppressive property tax.
>
> Our proposals for Special Revenue Sharing for Urban Development, transportation, manpower and law enforcement—all still bottled up by the opposition Congress—are designed to make our towns and cities places where Americans can once again live and work without physical or environmental hazard. Urban areas are already benefiting from major funding increases which we fought for in the Law Enforcement Assistance Administration programs and in our $10 billion mass transit program.

As for transportation, the platform stated that when President Nixon took office in 1969, "a crisis in transportation was imminent," based on "declining mass transportation service, mounting highway deaths, congested urban streets, long delays at airports and airport terminals, deterioration of passenger train service, and a dwindling Merchant Marine." He had addressed the crisis by enacting laws to enhance the transportation network, including the Urban Mass Transportation Assistance Act of 1970, the Airport and Airway Development Act of 1970, the Rail Passenger Service Act of 1970, and the Merchant Marine Act of 1970.

It described other accomplishments and initiatives:

> To reduce traffic and highway deaths, the National Highway Traffic Safety Administration has been reorganized and expanded, with dramatic results. In 1971, the number of traffic deaths per hundred million miles driven was the lowest in history.
>
> To help restore decision-making to the people, we have proposed a new Single Urban Fund providing almost $2 billion a year by 1975 to State and metropolitan areas to assist local authorities in solving their own transportation problems in their own way.

> Our proposal for Special Revenue Sharing for Transportation would also help governments close to the people meet local needs and provide greater freedom to achieve a proper balance among the Nation's major transportation modes.
>
> To revitalize the surface freight transportation industry, we have recommended measures to modernize railway equipment and operations and to update regulatory practices. These measures, on which Congress still dawdles, would help curb inflation by saving the public billions of dollars a year in freight costs. Their enactment would also expand employment and improve our balance of trade.
>
> The Nation's transportation needs are expected to double in the next 20 years. Our Party will continue to pursue policies and programs that will meet these needs and keep the country well ahead of rapidly changing transportation demands.

The platform's transportation plank concluded:

> The Nation's transportation needs are expected to double in the next 20 years. Our Party will continue to pursue policies and programs that will meet these needs and keep the country well ahead of rapidly changing transportation demands.

Addressing the Urban Crisis

During the weekend of June 10-11, 1972, about 100 residents of cities facing freeway battles gathered in Washington for a national conference organized by the National Coalition on the Transportation Crisis. The conference had been organized by Sammie A. Abbott and Angela Rooney, local anti-freeway activists. In 1964, they had formed the Emergency Committee on the Transportation Crisis (slogan: "White Men's Roads Through Black Men's Homes"), a coalition of African-Americans from northeast Washington and white opponents from the suburb of Takoma Park, Maryland. The immediate goal of the local committee was to block construction of the North Central Freeway (I-95/I-70S), but the group had taken in anti-freeway activists from around the country who came to Washington to lobby Members of the Congress or BPR/FHWA. While in the city, they often stayed with local highway critics to keep costs down.

During the pre-NEPA era, highway protests were usually improvised local affairs by homeowners trying to protect their homes and neighborhoods from planned freeways. The coalition sponsored national conferences in 1968 and 1969 as a forum to exchange information and ideas, but according to Abbott, the conferences were not held for 2 years because "we didn't have the money and we didn't have the forces." The 1972 conference was hastily arranged after Abbott collected $200 for a speech and $500 from a foundation. "With the $700, we had the option of preparing for a big conference in the fall after the election or having one now. We decided to do something in a short time so we could hope to have some effect on the election."

Participants appeared less interested in the election than in learning effective techniques for blocking highways. An article about the meeting concluded:

> However, it was law suits and air pollution that appeared to be the foremost interest of the freeway fighters who gathered for the conference, held at Catholic University. At one point, Emilia Govan, a leader in the fight to block construction of Interstate Route 66 inside the Capital Beltway in Virginia, asked how many people were involved in law suits against proposed freeways. About 20 people raised their hands.
>
> "And how many are contemplating litigation," she asked. Most of the remainder of the people raised their hands.
>
> To this, Mrs. Govan responded: "Good stuff." [Barnes, Fred, "Freeway Foes Meet to Plan Election Role," *Washington Evening Star*, June 13, 1972]

(Mrs. Govan and her husband James became leaders in the battle to block I-66 after attending a public hearing the Virginia Department of Highways held on September 29, 1970, in the Washington and Lee High School auditorium. Over 700 people reacted to the State's presentation with what the *Fairfax Sentinel* called "a great roar of righteous indignation." The Govans, who lived three blocks from the projected path of I-66, had hoped for information on the location of interchanges, the type of overhead lighting, and whether noise walls would be included. Instead, as James recalled years later:

> There was no information available for the public to look at . . . . There were no politicians or elected officials present. The highway officials were condescending and cut citizens off with curt responses. People couldn't get answers to basic questions. People were very upset when the hearing was over and simply started exchanging phone numbers.

(Emilia added that when the State revealed that I-66 would be 14 lanes wide in Rosslyn, "the whole thing crystallized for us." In October 1970, the Govans were among about 20 founders of Arlington Coalition on Transportation (ACT). In a history of the fight to kill I-66, Leland J. White described ACT:

> With a peak membership of approximately 1,500, ACT was predominantly composed of middle-class whites, many of whom worked for the federal government. Some lower income and elderly apartment residents along the proposed I-66 path also got involved. Because the highway's route did not include any areas with sizable racial or ethnic minorities, these were little represented. The group was fairly evenly split along gender lines, although women were more active in the day-to-day activities since many did not work outside the home and had more time to devote to the cause. With the Govans serving as co-chairs, ACT was loosely organized and operated on a shoestring, charging dues of two dollars per member. [White, Leland J., "Dividing Highway: Citizen Activism and Interstate 66 in Arlington, Virginia," *Washington History*, Spring/Summer 2001, p. 58-59]

While the conference was underway, *The New York Times* reported that, "The Urban Mass Transportation Administration has moved out of its organization days and into full operation." The Urban Mass Transportation Act of 1964 had assigned administration of transit funding to the Housing and Home Finance Agency in the Department of Housing and Urban Development. When the transit function was shifted to the Department of Transportation in 1968, the transit component became UMTA. Now, with a pending $1 billion budget for FY 1973, Administrator Villarreal said, "For the first time we have a meaningful program to improve public transportation."

The article stated:

> UMTA's mix of programs has lifted the mass-transit industry out of a lethargy that has lasted since the end of World War II. Profits for mass-transit systems began a steady decline then and last year such systems ran nearly $300-million in the red. During that period there was virtually no technological advance as Americans looked to the automobiles and the growing highway systems to provide them with transportation.
>
> But now Mr. Villarreal hopes to reverse that trend. "The transportation problem isn't limited to big cities," he said. "We have to realize that public transportation must complement the automobile. We have to offer an alternative."

UMTA was providing funds for subways and buses, but also for innovative facilities such as a 3-mile people-mover system built by Boeing in Morgantown, West Virginia, and the tracked air-cushion vehicle that Secretary Volpe had mentioned in his WASHO speech the week before. The article concluded:

> City and state officials and those in the transit industry are pleased with UMTA's work so far but hope for still more Federal funds, including operating subsidies, in the future. "The money is a very impressive figure, but it's still not enough," said Jack J. Hargett of the Institute of Rapid Transit. "It should have been a billion dollars annually long ago." ["Mass-Transit Agency Moves into Full Operation," *The New York Times*, June 11, 1972]

The Department of Transportation issued new metropolitan transportation planning requirements in mid-July 1972 calling on all areas with a population above 1 million to submit unified work plans to the Department to qualify for assistance. All SMSAs must have approved plans by mid-1974. Richard Bouchard, the Department's Director of Transportation Planning Assistance, explained that the new requirements resulted from a view that comprehensive planning for urban areas was not working:

> For 30 years those in urban transportation have said problems must be dealt with on a metropolitan basis, yet there is no effective decision making mechanism in government today to accomplish this. As a substitute we have established ad hoc arrangements. Some argue that this process has met with some success, and I would agree. But I would add progress has not been commensurate with the need.

Bouchard explained the key change:

> In the past, comprehensive plans concentrated on the traffic and economic consequences of building large regional facilities with little emphasis on balance between modes or consideration of social and environmental impacts.

Projects often were approved because they lacked negative impacts rather than because they contributed to a positive, integrated plan:

> From now on, DOT will be asking such questions as: Who will do the planning; how will each responsible agency carry out its mission; how much money will be needed; and what will the chain of command be for implementation?

One consequence was that a single metropolitan policy body would have to be designated to prepare the work program. Some areas had established informal groups to carry out the metropolitan transportation planning requirements of the Federal-Aid Highway Act of 1962, but the Department did not find that the resulting plans were satisfactory.

Under the new plan, the unified work program would serve as a baseline; only projects in the program would be eligible for Federal-aid highway, transit, or airport funding. The new body would prepare a long-term plan as well as an annual update. This was critical, Bouchard said, because "a major consequence will be staging decisions throughout the study process rather than leaving them open until the adoption of a master plan at the end of a long-term study." Changes could be made throughout development in a flexible and dynamic process.

Although obtaining Federal-aid might be harder, Bouchard said:

> It will help enable cities to make a single comprehensive grant application. Our office isn't designed to walk mayors through the process and show them how to fill out a federal form. But with a policy like this we can make it easier for them to integrate their grant applications. What we are hoping to do here is to provide help to mayors and other elected officials. The highway, airport, and transit people have their own units at the federal level. The elected officials don't and what we are trying to do is help them.

An analysis in *Engineering News-Record* said that, "DOT is in a sense substituting itself for the missing local mechanisms that have failed to develop truly comprehensive and complementary plans." It added:

> In a sense, the policy Bouchard outlines reinforces Transportation Secretary John Volpe's proposal for a Single Urban Fund (SUF), changing the present balance of highway, airport and transit spending. He would permit metropolitan areas to shift money between accounts, with 40% of the earmarked SUF allotments going directly to urban areas. But they would have to establish means to handle areawide problems or lose control to programming and spending to state governments.
>
> Even if Congress does not approve Volpe's SUF plan as part of the biennial highway act, and chances are that it will not, the unified work program will accomplish his aim of establishing strong metropolitan agencies and making them work.
>
> "It seems to me that a work program put together as we describe it both from an institutional and a technical point of view sets the stage in any metropolitan area for that city to be in a

> position to respond fully to both enacted and proposed legislation," says Bouchard. ["Metropolitan Areas Must Draft Unified Transportation Programs," *Engineering News-Record*, July 13, 1972, p. 10]

The Senate's Federal-Aid Highway Act of 1972

Mobil Oil Corporation published another in its full page ads in *The New York Times* on July 20, 1972:

LET'S GET MOVING
WITH A NATIONAL MASTER
TRANSPORTATION PROGRAM

Anyone who uses mass transit "knows our mass transit is pitiable." The benefits of improving mass transit included easing traffic jams, reducing air pollution, and conserving energy fuel. It also would "make moving around a lot more civilized." Rather than thinking about each mode separately, "we should approach them as part of an overall transportation plan." The ad explained:

> To carry out that plan, Congress should enact a National Master Transportation Program. The money should come from direct Congressional appropriation, based on clear and rational priorities. In the process, the Congress should review all special earmarked funds, including the Highway Trust Fund.
>
> Mobil supported the Highway Trust Fund when it was enacted in 1956, as a logical way to raise and husband the money needed to build the Interstate Highway system. Now we believe a new look is needed at the whole question of transportation and transportation funding.

Continuing the Highway Trust Fund indefinitely "could deter construction of more-urgently needed non-highway transportation facilities." It also could "encourage expansion of the fund's goals at a time when they ought to be cut back." Further, some urban sections of the Interstate System in, for example, lower Manhattan and south Philadelphia should be reviewed. "It is not at all certain that the benefits from these sections would justify the outlay."

Highways were important to Mobil since highway travel builds gasoline sales. "But traffic jams, and a glut of cars using too much gasoline to haul too few passengers, waste many resources, including oil." Mobil wanted its products to "help more people get where they want to go, with greater ease and less waste than is now possible."

While the Department was pursuing its balanced, flexible approach to transportation, the Senate Committee on Public Works was completing work on the Federal-Aid Highway Act of 1972. The Subcommittee on Roads approved a bill that adhered to traditional highway funding categories while limiting the rights of citizen to file suits against highway projects. It also authorized a new plan for toll roads and scenic and recreational highways. A rival bill introduced by Senators Kennedy and Weicker would authorize $3 billion a year for completion of the Interstate System, but free all remaining Highway Trust Fund revenue for use by States and cities for any transportation purpose. This bill was given little chance of approval.

On August 17, the Senator Public Works Committee approved its bill, but only after considerable internal controversy over transit issues. A *Washington Post* editorial on August 8 reacted to a draft committee bill by saying, "In short, this is still very much a highway bill." It "steers away from any politically uncomfortable challenge to the oft-invoked sanctity of the highway trust fund." The draft bill, according to the editorial, included at least $300 million a year "to encourage the development, improvement, and use" of highway-oriented bus facilities and, for the first time, the purchase of buses, but not for operating subsidies or rail transit. It included the new scenic roads program as well as a major effort to build bicycle lanes and trails. It authorized creation of metropolitan regional transportation agencies, but without the ability to mix transportation modes.

The editorial added that the draft chipped away at the environmental safeguards that kept "highway bulldozers from demolishing other public values." It did this by proposing "an entirely new alternative planning process which might enable states to wiggle out from under the detailed requirements of federal law." The editorial also regretted the measure introduced by Senators Lloyd Bentsen (D-Tx.) and John Tower (R-Tx) that would de-federalize the U.S. 281 expressway through Brackenridge-Olmos Basin Parklands in San Antonio so the project could advance with State funds, free of Federal restrictions. Overall, the Kennedy-Weicker bill was "a route toward sensible, comprehensive transportation planning which certainly should be explored." ["Better Transportation or Just More Highways?" *The Washington Post*, August 8, 1972]

On August 9, the committee considered an amendment introduced by Senator Muskie that would make available all urban Interstate highway construction funds for alternative public transportation systems in urban areas if the Governor determined that such systems are necessary to implement air quality standards or for other public purposes. Senator Cooper offered an alternative that would make all Federal-aid urban system funds available for public transportation facilities, including fixed rail, with local officials responsible for deciding on funding use. Senator Muskie joined in the motion and the committee voted 8 to 7 to adopt Senator Cooper's substitute.

One of those voting for the Cooper-Muskie amendment was Senator Stafford of Vermont. Overnight, he changed his mind. On August 10, he requested reconsideration of the previous day's vote. Efforts to table the motion, led by Senator John V. Tunney (D-Ca.) failed (8 to 7), and the committee then rejected the Cooper substitute, 7 to 8. Senator Muskie offered his original amendment for consideration, but it, too, failed, 7 to 8.

Senator Stafford said in an interview that he had decided to vote for the measure the day before after talking with Secretary Volpe. "Overnight, on reflection, I realized that my original view was right. I come from a rural state, you know." Senators Cooper and Muskie planned to introduce their amendments when the bill was under consideration on the Senator floor, but acknowledged that prospects were not good without committee approval. [Rosenbaum, David E., "Senate Panel Bars Road Funds to Aid Mass Transit," *The New York Times*, August 11, 1972; "Rollcall Votes During Committee Consideration," *The Federal-Aid Highway Act of 1972*, Report of the

Committee on Public Works, United States Senate, 92nd Congress, 2d Session, Report No. 92-1081, p. 47]

The August 10 vote ended prospects for rail transit funding in the committee bill, but the measure to allow the use of Highway Trust Fund revenues for bus purchases was in S. 3939 as approved on August 17—buses for urban areas, and a separate $50 million for buses in rural areas. Senator Randolph, speaking of the restriction on rail transit, emphasized that the committee intended to supplement UMTA funding for rail, not to serve as an excuse for weakening Federal financing for rail systems. [Eisen, Jack, "Road Funds Voted for Bus Purchase," *The Washington Post*, August 18, 1972]

Key provisions of S. 3939 included:

- Interstate construction authorizations would be reduced from the present level of $4 billion a year to $3.25 billion through FY 1979, with the completion date extended to June 30, 1980. This reduction, according to the committee report, was needed "to make more funds available for other vital programs such as highway safety, urban transportation, and upgrading the long-neglected Federal-aid primary and secondary systems."
- To facilitate resolution of controversies over urban Interstates, the bill would allow States to substitute alternative segments with the consent of local governments. "Dollar for dollar" substitution would be permitted rather than "mile-for-mile" substitution under the Howard-Cramer provision as in the past. If an alternative was not necessary for a connected system or the cost of the alternative was less than the cost of the original, the remaining funds could be used in the same urban area for projects on the Federal-aid urban system, including projects for public transportation purposes.
- In a "major departure," the bill recommended that "properly constituted metropolitan transportation agencies" would have direct control of Federal-aid urban funds. They would be "passed through" the State to the agency to "increase the ability of local elected officials to determine how these funds are to be used." The agency "must have sufficient authority to develop and implement a plan for the expenditure of funds allocated to it for the urban system including highway public transportation."
- The bill created a "small urban system" in urban areas of 5,000 to 50,000.
- The committee emphasized highway-oriented bus transit to supplement UMTA funds. It expanded eligibility to include the purchase of passenger equipment other than rolling stock for fixed rail at a Federal share of 100 percent. Of the $950 million authorized for the urban system, $300 million must be spent for carrying out highway public transportation measures. The report stated that, "The Committee believes that costs of rail transit systems, especially subways, are so high that the Highway Trust Fund would not be able to bear any substantial share without seriously impairing its ability to meet the highway needs of the Nation."
- Section 121 modified the Highway Beautification Act of 1965 to loosen restrictions on outdoor advertising. The 660-foot limit on the control of signs along the Interstate and Federal-aid primary systems would be eliminated, as would the penalty for States that do not remove signs beyond 660 feet that are visible from the main traveled way. With the limit removed, the authority to erect approved signs in areas zoned industrial and commercial that

were now valid within 660 would be extended beyond that distance. Signs that were not in conformity with State law would have to be removed within 5 years after they became nonconforming. Just compensation would be paid for the removal of all outdoor advertising signs that were lawfully erected. Further, the measure imposed a 2-year moratorium on the Secretary's authority to require States to remove any directional signs ("giving specific information in the interest of the traveling public," such as the location of motels, restaurants, and roadside attractions) lawfully in existence on June 1, 1972.

- To address red tape, the bill provided an alternative procedure to turn over to the State highway agencies the day-to-day execution of the Federal-aid highway program, consistent with guidelines issued by the Secretary and subject to continuous audit by the Secretary. "This procedure when implemented would prevent the withholding of apportioned highway funds."
- After receiving its final Interstate funding, a State may use Federal-aid primary funds for new toll roads or improvement of existing toll roads. The Federal share would be up to 70 percent, not including the cost of toll collection and service areas. "This financing arrangement would enable States lacking adequate resources to construct desperately needed roads to do so in a relatively short order." Further, any existing toll road included in the Interstate System as of June 30, 1968, that became toll free prior to July 1, 1976, would be eligible for improvement with Interstate funds. Finally, if construction of a toll road has seriously impaired the capacity of three or more Interstate routes interchanging with the toll road, Interstate funds could be used to improve interchange capacity.
- All Federal-aid highway funds could be used for construction of separate or preferential bicycle lanes, paths, or related facilities and equipment. In addition, the bill authorized $10 million a year for FYs 1974 and 1975 for bicycle projects in connection with new or completed Federal-aid projects, while the earlier eligibility change would apply only to new projects.
- The bill also made funds available for construction of separate walkways, including overpasses and underpasses, and equestrian trails in connection with new Federal-aid highway projects.
- Among numerous highway safety measures, addressed in Title II (Highway Safety Act of 1972), the committee included grants to the States to support highway safety programs, including programs administered by NHTSA. Funding was made available for a new program to eliminate roadway dangers on existing roads, including railroad grade crossings. The bill included $20 million in grants to States that demonstrated special efforts to comply with safety standards. ["Major Provisions, *Highway Act of 1972*, p. 5-27]

On August 18, Secretary Volpe sent a letter to Senator Randolph expressing the department's views on the approved bill. The Secretary appreciated the extension of eligible Highway Trust Fund expenditures to the purchase of mass transit buses, although he thought it should have gone further to include rail transit. He also supported providing funds directly to metropolitan transportation agencies as well as the need to direct resources to other priorities now that the Interstate System was nearing completion.

He objected to several provisions, including the alternative procedures that "would eliminate the ability of the Executive Branch to effectively establish program priorities and overall funding levels" and "disrupt the cooperative Federal/State relationship that has existed for better than 50 years. While the Administration has been trying to reduce the number of categorical grant-in-aid programs, the bill "would do just the reverse" by including a "proliferation of still more grant programs," such as small urban, Interstate transfer, highway public transportation, toll road, and bicycle/walkway/equestrian trails.

The 100-percent funding for bus purchases was objectionable because the increased Federal share favored one mode over another; the Federal share should be 70 percent. Secretary Volpe also stated that the "overall funding level contained in this bill is far in excess of the level we recommend and well beyond the level which is fiscally responsible" at a time when "we are finally reducing inflation" and fiscal restraint is more important than ever.

In addition, Secretary Volpe objected to the 2-year moratorium on removal of outdoor advertising with directional messages. The "very broad language" of the provision would prevent "the removal of this visual blight from our nation's highways" and not only disrupt the program but bring it "to a complete standstill." He urged deletion of this provision.

The committee report reprinted Secretary Volpe's letter and the views of Senators Muskie and Tunney. They objected to the bill's failure to support a greater range of locally developed transportation alternatives:

> Today the Federal-aid highway program, supported by the Highway Trust Fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban, and rural—where Federal funds are used to build highways. Trust fund monies are readily available to construct highway solutions . . . . On the other hand, Federal support for non-highway solutions to transportation problems such as mass transit—is in short supply . . . .

They objected to the self-perpetuating nature of the Highway Trust Fund as well as the continuation of policies favoring the use of motor vehicles that waste nonrenewable resources. "The Highway Trust Fund must be utilized to support a broader, more economical and more efficient transportation system." They promised to offer amendments on the Senate floor that will "recognize the differences between rural and urban America." Their amendments would "provide the means of assuring that, within metropolitan areas, all available transportation alternatives are considered and the most appropriate systems are constructed." ["Individual and Supplemental Views of Mr. Muskie and Mr. Tunney," *Highway Act of 1972*, p. 53-55]

Senator Cooper also offered views, although he was mostly supportive of the bill. On the subject of urban mass transportation, he had hoped to remove the restriction on rail transit. He said he had joined with Senator Weicker as a sponsor of S. 3037, which would have eliminated the restriction. He also praised the Administration for its Single Urban Fund proposal, but it "failed to attract widespread support primarily because it proposed to transfer financing of the Urban Mass Transportation Act from general fund appropriations to the Trust Fund . . . ." He did not believe that the Highway Trust Fund "can or should be the sole source of financing for both mass transit and highways," but "the time has come to resolve this issue, and to enable cities to better manage their capital expenditures for those closely related transportation modes." He intended to offer the

Cooper-Muskie amendment during Senate debate on the bill. ["Individual and Supplemental Views of Mr. Cooper, Urban Mass Transportation," *Highway Act of 1972*, p. 60-61]

Congress began its August recess on August 18 and would not return until September 6. By the end of the recess, the Nixon Administration was ready to concede that the Single Urban Fund would not be approved. It was looking for a way to get as close as possible to its goals as it could in the period leading up to the election.

1972 National Transportation Report

The Department of Transportation Act of 1966 directed the new department to "develop and recommend to the President and the Congress for approval national transportation policies and programs . . . with full and appropriate consideration of the needs of the public, users, carriers, industry, labor, and the national defense . . . ." To carry out this mission, the Department needed to gather information.

On September 25, 1970, Secretary Volpe had announced what a press release called "the first positive Federal action ever taken to determine national priorities in the establishment of a balanced transportation system." The objective was to develop a transportation plan by 1972. He began by sending letters and questionnaires to the Governors of the 50 States and Mayors of cities over 50,000 population, as well as leaders of the transportation industry. He explained:

> This survey is designed to define the areas in which public and private funds are needed through 1990 to finance highways, public transit systems, airports and other terminals, railroads, waterways and pipelines. Once the needs and anticipated costs are submitted to us, Department of Transportation specialists will analyze the material and develop a national transportation plan.
>
> The planning process, although new to the total transportation system, has been utilized by the Department in planning and construction of the interstate highway system. [It] will not be a one-shot effort but will function on a continuing basis. It is apparent to those of us concerned with national transportation policy that there has been little balance or consistency in transportation planning and programming. On occasion, this has resulted in modal interests competing in the political forums and private money markets for available investment resources. Frequently there is insufficient regard for national objectives and too little concern for the ramifications of the interaction between the public and private sectors.

The report would supplement reports the Department already was required by statute to prepare on individual modes:

- The National Highway Needs Report
- The National Airport System Plan

After analyzing the data submitted by the Governors, Mayors, and industry leaders, the Department planned to analyze alternative based on national objectives such as economic efficiency in transportation, protection of the environment, the improvement of safety, and the support of other national objectives.

Secretary Volpe transmitted the July 1972 report, *1972 National Transportation Report: Present Status – Future Alternatives*, to Congress on August 3, 1972. It was, he said, the first in a series of reports "on the state of the nation's transportation system and the planning alternatives of Federal, State and local governments for improving the system over the longer range future." The report provided:

- A comprehensive picture and future outlook of transportation;
- Estimates of investment needs and program priorities as seen by States, local governments, and the private sector;
- Analyses of selected issues in urban and intercity transportation; and
- Guidelines for future action by Federal, State and local governments and the private sector.

The concept of "transportation needs" caused some confusion, the report stated, because different modes and the private sector defined their needs differently. Highway and airport needs could be measured against approved standards for measuring deficiencies, but urban public transportation needs were based "generally on the costs of implementing existing plans prepared by the comprehensive transportation studies in the larger urban areas." Private sector needs stemmed from "projected streams of investment" based on past trends or using "estimates of the ratio of capital stock to future projected demand."

In short, "the reported needs from both the State and private sector are thus not necessarily justified economically or socially." The report, therefore, went "beyond the use of needs as a criterion for the efficient allocation of Federal funds." The Department asked each State to develop and report alternative capital improvement programs based on realistic Federal fund levels and flexibility; forecast travel and freight flow by mode; surveyed most transportation facilities and services at the State level to determine the types of improvements likely to be more profitable and of value to society; and surveyed the private sector to obtain estimates of future capital investment requirements. [*1972 National Transportation Report*, p. 4-5]

In an overview, the National Transportation Report stated:

> The Nation's transportation system has undergone significant changes over the last decade. Freight expenditures have increased more rapidly in trucking than in rail; air cargo, although still small in volume, has increased dramatically. Intercity as well as urban passenger movement has occurred primarily by private automobile. In urban transportation the comparatively mild increase in cost of private automobile transportation is partly response for a massive shift in its favor. Urban transit expenditures have declined severely. Airlines have captured most of the remaining intercity travel expenditures. [*1972 National Transportation Report*, p. 13]

The Nation's expenditures on transportation, including government and private activities, amounted to over $181 billion in 1970:

> Highway-oriented expenditures accounted for about 82 percent of the total. Rail and air each accounted for about 7 percent and 5 percent, respectively. While highways are important carriers of both passengers and freight, the rail expenditures were mostly for freight movement and air expenditures were for passenger movement . . . . The dominance of highway-oriented modes becomes even more evident when it is realized that in 1970 expenditures on intercity freight moved by truck ($20.4 billion) were greater than the combined total for the rail, air, water, and pipeline modes. In addition, $19.9 billion was spent on local truck freight and $33.2 billion on primarily nonfreight trucking in the employ of services and utilities.

Highways also dominated passenger travel:

> Highway passenger travel accounted for 42 percent of the Nation's transportation expenditures with $73.2 billion spent on automobiles and taxicabs as compared with $3.0 billion on all buses, i.e., transit, intercity, and school. The automobile dominated local and intercity transportation. In local public transportation, expenditures for taxicab transportation ($1.9 billion) exceed those on transit buses ($1.2 billion). [*1972 National Transportation Report*, p. 14]

These figures paralleled government expenditures. From 1957 to 1970, the Federal Government spent more than $66 billion for domestic transportation, with about 71 percent ($47 billion) going for highway programs, mostly for the Interstate System ($31 billion). Only about 1 percent was spent on public transportation during those 14 years, although expenditures had increased to more than 2 percent in recent years. [*1972 National Transportation Report*, p. 25]

Recent trends favored highways in urban areas:

> Most increases in urban transportation facilities have occurred in highways rather than rail. Municipal road mileage increased 28 percent from 1960 to 1970; this figure is conservative in that it does not directly reflect increases in road width that have occurred in many municipalities . . . .
>
> Federal Government transportation expenditures in urban areas have been particularly highway oriented. Over the period 1957-70, about $21 billion has been spent on urban highways as against about $703 million for public transit. [*1972 National Transportation Report*, p. 42]

The difference in expenditures is reflected in public preferences. Metropolitan areas had grown over the past decade, but virtually all of the increase was outside central cities, resulting in more cars per capita and per household:

> This has important consequences for public transit, for one or more of the cars of a multicar family is usually used by the wage earners for transportation to work and back. These auto trips are impinging on a key revenue-generating source of public transit . . . .

> Thus, it appears that the public transit industry is not providing an acceptable alternative to the automobile, especially in suburban areas. Moreover . . . the problem has been compounded by increasing fares and (to a lesser extent) reduced service. Accordingly, an unfortunate cycle has developed that, unless checked, will lead to the demise of many transit systems.

One result was the decline in private ownership of bus, rail, and trolley systems:

> According to the American Transit Association, there were 146 fewer systems on December 31, 1970, than on that date in 1959; however, there were 235 fewer private systems because many of the private systems were taken over by local municipalities. The result was a net increase of 89 publicly owned systems.

All modes of public transportation except taxicabs experienced declining revenue from 1960 to 1970:

> The greatest declines were in surface rail and trolley coach, but these were not offset by a shift to subway and elevated rail or motor bus. Rather, the shift has been either to private automobiles or to taxicabs and other personalized transportation, such as automobile rentals. Faced with declining patronage and increasing costs, transit companies have increased fares and, to a lesser extent, cut back service, especially in non-peak hour operations. [*1972 National Transportation Report*, p. 45-50]

The key point, the report concluded, was that "demand deficiency, especially for bus transit, is the main cause of the economic difficulties of urban public transit." The report explained:

> Costs have increased more rapidly than revenues in spite of large fare increases, but this is primarily because service levels have not declined as drastically as passenger levels. The industry is simply not filling buses and rail passenger cars the way it must to maintain a healthy economic posture.
>
> Consumer preference for the private automobile is undoubtedly the main cause of the demand deficiency in public transit. The industry has not yet found a way to change this preference at an acceptable economic cost. How to do this is, of course, the main issue that needs to be resolved. [*1972 National Transportation Report*, p. 59]

Looking to the future, the most important factor "for assessing transportation investment needs [is] the growth of traffic on the transport system." Growth would undoubtedly continue, but predicting how much could not be done simply by extrapolating from past growth patterns. The best approach is to "comprehend the forces that generate traffic and project traffic on the basis of expected trends in these forces." [*1972 National Transportation Report*, p. 85-86] Those factors included:

- Population: projected to be 227 million people in 1980 and 255 million in 1990;

- Income: Gross National Product (GNP) was expected to increase at a rate of 4.7 percent per year through 1980, rising from $936 billion in 1970 to $1,481 billion in 1980 and at the rate of 3.5 percent per year from 1980 to 1990, with GNP reaching $2,096 billion;
- Location patterns: western migration of population was expected to continue as was the shift to the suburbs;
- Price trends: "price movements have given an impetus to traffic growth on some modes and have impeded traffic growth on other modes," with air traffic benefiting from reduced fares, transit use declining because of increased fares, and the cost of operating an automobile likely to increase; and
- Quality of transportation: measured based on "swiftness, reliability, convenience, accessibility, and comfort," with service improvements since World War II occurring unequally—the Interstate System giving highways a "tremendous boost" and airlines gaining because of such factors as reduced fares and use of jet engines, while local public transit was "the only major form of transportation on which the quality of service has deteriorated and retarded traffic growth." [*1972 National Transportation Report*, p. 87-92]

Based on these projections, extrapolation from historical trends, and other factors, the report estimated growth patterns:

> Annual per capita travel on commercial modes will increase from roughly 1,000 passenger-miles in 1970 to 1,800 passenger-miles in 1980 and to 3,000 passenger-miles in 1990. Passenger travel in private motor vehicles will climb from 5,000 vehicle-miles per person per year in 1970 to 6,500 vehicle-miles in 1980 and 8,000 vehicle-miles in 1990.

Commercial passenger travel was expected to increase more rapidly than private transportation, primarily because of growth in aviation. The report forecast that local transit would grow at 2.0 percent per year "despite the fact that transit revenues have declined about 2.2 percent per year during the past 5 years." The reason for this paradox was:

> Public policies aimed at solving a number of urban problems are expected to produce this turnaround in transit use. Policies aimed at producing a more rational land use will include revitalized mass transit. Solution of the congestion and pollution problems plaguing cities will suggest greater reliance on mass transit. [*1972 National Transportation Report*, p. 93-94]

In assessing modal needs, the report stated that "they may be considered as representing an upper limit to the improvement projects that might be candidates for funding." [*1972 National Transportation Report*, p. 122]

The estimate of highway needs was based on "the most extensive effort to date to obtain an estimate of the cost of bringing the Nation's highways up to a uniform set of standards." The States were able to develop an inventory of existing facilities and assess needs within the short time frame available only "because of the research funds of the Federal Highway Trust Fund, and because of the long history of experience and professional development of the State highway agencies." For the period through 1990, the report found:

> The total needs estimate for the Highways category resulting from the Study came to $593 billion, including $32 billion for completing the Interstate System. Slightly under one-third of this amount was for local roads, and about one half of it was for arterial facilities. The remaining one-sixth was for collectors. Forty percent of the non-Interstate-Highway needs estimate was reported for urbanized areas based on 1990 population and boundaries, about 7 percent was reported in the small urban areas with populations between 5,000 and 50,000, and the remaining 53 percent in the rural areas.

An estimate of funds available for highways over that period indicated that highway needs were "roughly double the future funds available for that program." [*1972 National Transportation Report*, p. 124-125]

The lack of uniform standards was a problem in assessing urban public transportation needs. Because planning is a local responsibility, setting national transit standards for level of service and performance would not be "in consonance with the goals and objectives of every metropolitan area." The report estimated urban public transportation needs through 1990 to be $63.4 billion. [*1972 National Transportation Report*, p. xi, 126-127]

Urban transportation was "the most important segment of the Nation's transportation system because of the concentration of population in urban areas." About 74 percent of the Nation's population lived in cities and their suburbs, with that figure expected to increase to 82 percent by 1990:

> The development of land at urban densities occurred at a pace that was not, and probably could not be, matched with the provision of adequate physical facilities—in this instance, transportation facilities.

The population shift, coupled with the growing affluence of the populace, "created a real challenge in providing urban transportation service." Urban transportation systems "operate reasonably well" in moving large numbers of people and quantities of goods, but they have several problems. First was congestion, which generally reduced mobility during peak periods. Providing sufficient capacity for those peak periods was "generally too costly and inefficient." However, to some extent, "congestion results from peak-hour travelers not paying the full cost of providing additional peak capacity as well as from the failure to develop and apply more innovative solutions, both physical and institutional to deal with congestion."

Second, modal choice was too limited. For those with an automobile, it provided full access to the area, but for those who cannot afford one or do not want one, transit provided "a generally poor level of service and does not provide service to a large portion of travelers in an urban area."

Third, urban transportation had undesirable environmental effects. "These include air pollution, noise, accidents resulting from the operation of the system, disruptions and dislocations of homes, businesses, and communities, and the taking of scarce urban land for construction of the system." The consequences were ignored for many years because they "were not understood," but now the social and environmental costs of transportation decisions were factoring into planning transportation systems.

Finally, urban transportation facilities too often have been provided without taking full advantage of the opportunity to use them to foster desirable development patterns. In the past, transportation followed development and had "not been used to encourage development patterns that an urban area seeks as desirable."

These problems must be addressed as part of the solution to urban transportation problems. We have the ability to implement improvements that would address these problems, but it is "only through a process that identifies and fully analyzes a wide range of alternatives that intelligent decisions can be made." [*1972 National Transportation Report*, p. 186-188]

Typically, congestion results in pressure for increased highway capacity. "However, a wide variety of techniques can be employed to improve urban transportation systems." For example, instead of adding capacity, a more "complementary approach is to improve the productivity of existing urban transportation systems through means requiring relatively little capital investment." These alternatives include increasing the occupancy of vehicles and the flow of vehicles on the system:

> The first approach has focused on priority schemes for high-occupancy highway vehicles; that is, buses and car pools, and general improvements to public transportation systems. The second approach has been directed at highway improvements requiring minimum capital cost and short leadtimes, such as traffic operations improvements, freeway metering, congestion pricing, etc. The latter approach can also affect vehicle occupancy. [*1972 National Transportation Report*, p. 197-198]

The report paid special attention to congestion pricing. "Underpricing of transportation can lead to overconsumption of travel." In three ways, urban automobile transportation appears to have been "underpriced with respect to the cost of providing it and in relation to urban mass transportation." Those three ways were cost of travel in peak hours, cost of environmental and social impacts, and cost of operating and maintaining urban highways. Increasing the cost of automobile use during peak periods would reduce the number of motor vehicle trips, shift some travel to public transportation and carpools, reduce highway and parking facility requirements, reduce undesirable environmental and social effects, and shift some trips to off-peak hours.

Two major arguments had been offered against congestion pricing:

> First, the travelers that would be most affected by pricing would be the poor travelers . . . . Second, the nature of changes in travel patterns as a result of congestion pricing is unclear.

A number of techniques had been proposed for pricing:

> They range from simple techniques, such as increasing downtown parking charges, to complex approaches that would automatically monitor all vehicles through a central

> computer and bill users on monthly terms. [*1972 National Transportation Report*, p. 206-207]

Vehicle restrictions offered another alternative for reducing congestion. Increased attention was being paid to schemes for reducing traffic in downtown areas, including creation of pedestrian malls on certain streets and prohibiting all vehicles in certain areas. In short, "an improved environment for living and working can be achieved by restricting vehicle movements in crowded portions of a city," such as the central business district.

Improving public transportation systems to entice people out of their personal automobiles was another option. Increased service and ridership could result from improved travel time, lower cost, and greater convenience by better vehicle characteristics such as air conditioning, comfortable seats, and adequate lighting as well as operational changes such as well-kept schedules, restricted bus routes to better serve demand, and "shopper specials." [*1972 National Transportation Report*, p. 208]

Alternatives such as these had the advantage of minimal cost, especially compared with construction alternatives, but the difficulties of implementation could not be overlooked. "Institutional rigidity, established public attitude and habits, and the interests of special groups must all be dealt with." To make these changes a reality would "require a major effort to encourage, promote, and implement them. [*1972 National Transportation Report*, p. 208-211]

The key was greater flexibility. Urban area officials "should have considerable latitude in the assessment of their particular problems and solutions." Also needed was "an organization at the urban level with the ability to plan and implement transportation improvements effectively, and that is responsive to the democratic decisionmaking process." [*1972 National Transportation Report*, p. 253]

The report stressed that in considering highway needs, an economic analysis was essential. The Department estimated needs to determine how such investments would affect road-user travel and operating and accident costs:

> The following significant results were obtained: First, substantially less than one-half of the highway needs reported by the States were found to be justified on the basis of direct user benefits exceeding project costs. Second, the average user benefits-to-investment-costs ratio tended to be higher for improvements on highways of higher functional class. Finally, the proportion of improvements that result in measurable road-user savings exceeding added investment costs appears much greater in urban areas, particularly urbanized areas.

Subjecting the data to economic models to assess economic justification, the report concluded that:

> The analysis of the 22-year economically justifiable investment indicated that some $38.8 billion in 1969 dollars could be expended nationwide on major new construction or reconstruction on the rural and intercity arterial highway system, including the completion of the Interstate Highway System.

An additional analysis indicated that "only $640 million would be required nationwide for the 22-year period for investment in rural and intercity arterial highways . . . to maintain, on the average, today's user costs per mile of travel."

In short, reported highway needs were considerably higher than those that could be economically justified. [*1972 National Transportation Report*, p. 274-278]

In reviewing conclusions and guidelines for future action, the report stated that the Federal Government "may in many cases not be the most appropriate agent for taking actions that are most effective." The idea, therefore, was to seek "ways of increasing the options available for State and local government action by lessening the restrictions imposed by Federal aid programs."

If restrictions limiting funds to a specific mode were lifted, "the States and urban areas would take advantage of the added flexibility individually by State or urbanized area." Some of the largest urban areas indicated they would increase mass transit funding by at least 10 percent. However, "when viewed nationwide there would not be a radical shift into or out of any one modal area of investment if program restrictions were reduced." The biggest area, 15 percent, would be for mass transit. In the largest urbanized areas, rail would be the main component:

> Rail was reported to account for 71 percent of total future Urban Public Transportation investment; 81 percent in urbanized areas of over 2 million, and 41 percent in areas from 1 to 2 million population.

If modal barriers were removed, however, only 3 of the 10 largest areas (Boston-Providence, New York, and San Francisco) projected large shifts of funding from highways to mass transit. The shifts could be substantial, including nearly $2 billion in New York. [*1972 National Transportation Report*, p. 319-320]

In considering such shifts in the use of Federal funds, Federal officials needed to consider the State and local roles in transportation planning. State officials were concerned about "the possible fragmentation of metropolitan transportation system development" if funds were allocated directly to individual jurisdictions. "This would suggest that any Federal program of this nature should provide that a local recipient body have sufficient metropolitanwide scope to insure system connectivity."

These considerations led the Department to recommend a single urban fund for urban highway and mass transit projects, as reflected in the proposed Federal-Aid Highway and Mass Transportation Act of 1972. The Interstate Highway Program would continue as a separate category, but a rural general transportation fund would be established for highways on and off the Federal-aid systems:

> The creation of a flexible fund would result in transportation expenditures more in line with the goals and objectives of States and local governments. There is no evidence from the NTS that a Federal interest would be compromised by introducing extensive funding flexibility. Indeed, the evidence indicates there would be very little change, in the aggregate, in the funding of any component of the Nation's transportation system.

The 3C transportation planning process initiated by the Federal-Aid Highway Act of 1962 required the full participation of local and State governments. For the results to reflect State and local needs, "these governments need to have access to funds to finance transportation improvements." The report recommended "that a single urban fund be established, with appropriate intermodal flexibility . . . and that 40 percent of that fund be passed through to the control of local governments."

In view of State concerns about the ability of local governments to plan systemwide facilities interconnecting with State and national systems, the Department proposed "to allow the funds to be controlled by local entities only if they create a consortium of governments formed by units of general purpose government located within a metropolitan area." It continued:

> The consortium would also have to have certain other characteristics, including membership of high-level elected officials, planning authority for all modes of surface transportation, and authority to develop an annual program of transportation projects to be undertaken in the metropolitan area. [*1972 National Transportation Report*, p. 321-322]

The report emphasized the value of urban alternatives involving little or no capital investment. These included devices for giving priority to high-occupancy vehicles, increased regulation of automobile use in downtown areas, the removal of market-entry barriers for taxicabs and jitneys, and marketing to encourage use of public transportation. Another alternative was:

> A peak-period pricing system, in which each user is required to pay for the added congestion and external consequences imposed on others, would be an effective device for rationing urban highway capacity more efficiently for those users most willing to pay. This system, however, may be technically difficult to implement and would probably meet resistance from private auto users. [*1972 National Transportation Report*, p. 324]

Many State and local governments favored Federal operating subsidies. Some suggested increased flexibility in the use of Federal-aid funding, while others preferred a separate subsidy program. "Many of the comments regarding an operating subsidy program undoubtedly were motivated by fiscal crises at the local government level." The Department supported making funds available for general public purposes or general transportation purposes, including operating subsidies. "Such provisions are contained in the Administration's proposals for General Revenue Sharing and Transportation Revenue Sharing." The premise here was flexibility for local choice. At the same time, the Department was opposed "to another categorized grant program that would make funds available exclusively for public transit operating subsidies." The report continued:

> The key point here is that such a new categorical grant program for operating subsidies would in effect result in an even more decisive role for the Federal Government in setting local funding priorities among modes and, no matter how well conceived, would require Federal intervention and control in local transit policy and managerial decisions and continue to compartmentalize local program choices rather than encourage freedom of action responsive to local priorities. [*1972 National Transportation Report*, p. 325-326]

In summary, the national transportation policy recognized "a need and an opportunity to continue to improve the responsiveness of Federal aid transportation programs to the needs of State and local governments." As Secretary Volpe put it in his August 3 transmittal letter, the information in the report "reaffirms this Administration's commitment to provide more flexibility in Federal Aid programs, as contained in the proposed Federal Aid Highway and Mass Transportation Act of 1972, introduced as HR 14759 and S. 3590." [*1972 National Transportation Report*, p. xxii, transmittal letter]

Commission on Highway Beautification Interim Report

Section 123 of the Federal-Aid Highway Act of 1970 had established a Commission on Highway Beautification to study implementation of the Highway Beautification Act of 1965. The Commission, which began operation in late 1971, was to submit recommendations on implementation of the law and the preservation and enhancement of natural beauty along America's highways that may not have been dealt with fully in the 1965 Act. The Commission also was to review current policies and practices; compile data on the extent of control of outdoor advertising; study problems related to on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information essential to the motoring public; and consider financing options, including the Highway Trust Fund, for carrying out a highway beautification program.

The 11 Commission members included Senators James L. Buckley (Conservative Party, NY), Mike Gravel (D-Ak.), Jennings Randolph (D-WV), and Robert T. Stafford (R-Vt.) and Representatives Don H. Clausen (R-Ca.), Kenneth J. Gray (D-Il.), Wilmer D. Mizell (R-NC), and Jim Wright (D-Tx.), who served as chairman. (Senators Lowell P. Weicker, Jr. (R-Ct.), and Birch Bayh (D-In.), both of whom moved on to other matters during the life of the Commission, and Representatives Ed Edmondson (D-Ok.), who did not seek reelection in 1972) and Fred Schwengel (R-Ia.), who lost his reelection bid in 1972, were former members of the Commission.)

In 1972, the Highway Beautification Commission held public hearings in Atlanta, Los Angeles, St. Louis, Meriden (Connecticut), Syracuse, Washington, and Iowa City; commissioned two nationwide public opinion polls; and held public seminars in 1973.

The Commission issued an interim report in August 1972 with the following recommendations:

- The Commission therefore recommends that Congress consider the advisability of extending the control of outdoor advertising along Interstate and Federal-aid Primary highways to those additional signs which are visible from the controlled highway and erected with the purpose of their message being read from the controlled roadway.
- The Commission believes that the question of how to get [traveler-service] information to motorists in a most efficient manner consistent with highway beautification deserves more study before it makes any long-range recommendations. In the interim it is recommending that States be allowed, and encouraged, to remove first those nonconforming billboards which have no traveler-service orientation and to defer removal of nonconforming signs giving directional information to motorists. At the same time, States are reminded of the importance of their responsibility to provide information to motorists on Interstate and

Primary highways, and it is recommended that States make greater use of the authority provided in their laws to carry out developmental work in the expansion and improvement of information systems which might be used in lieu of nonconforming outdoor advertising signs.

- It appears Congress could direct the Department of Transportation to review standards regarding businesses eligible to use such signs; content, size and placement of signs, criteria for public service signs, and other matters. Congress could also consider the language in section 131(f) which now gives specific permission for signs giving information in the interest of the traveling public only within the right-of-way of Interstate highways.
- The Commission believes that Congress should reconsider the hiatus which exists, perhaps unintentionally, in the prescribed dates of erection of [lawfully erected] billboards for purposes of Federal participation in the payment of just compensation. The Commission believes that Federal matching funds should be available wherever Federal law requires the payment of just compensation. The Commission further finds that it is State, not Federal law which renders any signs unlawful, and believes that the term "lawfully erected" clearly applies to any sign which was erected in conformity with applicable State law at the time of its erection.
- In order to carry out its responsibility to the States under Title 1 of the Highway Beautification Act, it is recommended that Congress provide steady funding for removal of nonconforming outdoor advertising signs within a reasonable time, without impairing progress under other parts of Federal or State laws relating to highway beautification. When more complete information is available about the cost of the sign removal program, it is also recommended that funding be scheduled to complete the program within a specified time.
- The Commission is not prepared at this time to recommend any Federal standards [on location, design, construction, and maintenance of on-premise signs (those advertising activities conducted on the property on which the sign is located)] but urges units of State and local government to address themselves to the development of appropriate local standards for the governance of on-premise signs.
- The Commission does not recommend any change in Federal law at this time [regarding the right of States to zone areas for commercial and industrial purposes, a practice sometimes used solely to allow erection of outdoor advertisements] but believes that Congress and the Department of Transportation should resolve the position of the Federal government regarding the rights of States to zone roadside lands, and resolve any uncertainties about the Federal acceptance of State action.

[*The Priority of Quality*, Commission on Highway Beautification, December 31, 1973, p. ii, 3, 10-14]

Rebellion Against the Concrete Ethos

After approving the Federal-Aid Highway Act of 1972, the Committee on Public Works forwarded the bill at the request of Senator Williams to the Committee on Housing and Urban Affairs. The idea was to give the committee with jurisdiction over transit the opportunity to consider the provisions in the bill relating to urban mass transportation. The Public Works Committee requested a report by September 8.

With little time after the recess, the Banking, Housing and Urban Affairs Committee held a hearing on September 7. Senator Williams, who opened the hearing, supported efforts to open up the Highway Trust Fund:

> With almost $4 billion in pending applications for urban mass transit grants and only $1 billion available under the urban mass transit act for the coming fiscal year, additional monies are urgently needed and, in my opinion, the more money that we make available, the better off our nation's citizens will be. The imbalance between highway monies and transit monies still exists. We are still spending over $5 for highways for every $1 we spend for urban mass transportation; and with our ever-increasing mass transit needs, such an imbalance can no longer be tolerated.

They had three major proposals to consider. The first was the provision in S. 3939 that would allow the use of $300 million of Highway Trust Fund money for highway-related mass transit, including purchase of buses. Second, the Cooper-Muskie amendment would allow the use of $800 million in Federal-aid urban system funding for highways or mass transit, including rail mass transit systems. Finally, the Kennedy-Weicker amendment would allow a wider range of funds, namely $2.4 billion in non-Interstate Federal-aid funds, for all types of urban mass transportation at the discretion of the cities and States.

Whatever the committee or the Congress decided, Senator Williams wanted to ensure that it would be in addition to, not a substitute for, funding under the Urban Mass Transportation Assistance Act. He hoped that Secretary Volpe would make such a pledge. "If this pledge is not forthcoming, it seems to me we would be simply robbing Peter to pay Paul and all the proposals before us become a cruel hoax and paper promises to our Nation's citizens." [*Federal-Aid Highway Act of 1972*, Hearing before the Subcommittee on Housing and Urban Affairs, Committee on Housing and Urban Affairs, on S. 3939, 92nd Congress, 2d Session, September 7, 1972, p. 3]

Senators Kennedy, Weicker, and Cooper testified in support of their amendments. Senator Kennedy explained that the Kennedy-Weicker amendment "would be a step toward rationalizing the Nation's transportation system." It would provide, he said, at least $2.3 billion for non-Interstate purposes that "could be used for the construction of public mass transportation systems and the acquisition of mass transit facilities, including rail transit." It would not affect funding for the Interstate System or from the Urban Mass Transportation Act. The funding under the amendment was "supplementary to and not in substitution of funds under UMTA."

The greatest flaw of the Public Works Committee bill was that "it still tells cities and States that highways remain the single preferred answer to the transportation crisis." In contrast, "we are in the midst of a national rebellion against the concrete ethos," with some 32 cities trying to block construction of urban Interstates that they believe "would produce more harm than good." The greatest burden "always falls on the poor and the elderly." Their homes are the ones that are torn down for the Interstates. "Those who most need mobility—the poor, the handicapped, the old and the young—are made to suffer in a society which unwisely allocates its resources away from public mass transportation."

For too long, "we have condemned the Nation to a distorted transportation system by having separate funding sources for separate modes of transportation and placing the most money with the largest Federal share in the pot marked highways." No wonder, Senator Kennedy said, cities and States had "succumbed to the Federal temptation to pour concrete over the land and pray that the transportation crisis will be resolved." The Kennedy-Weicker amendment was intended to "halt that situation" by providing flexibility to State and local officials.

He hoped that, at last, the highway lobby "would become sensitive to the needs of many of us who live in urban cities" and the surrounding suburbs:

> The highway lobby is one of the most powerful lobbies in the Congress, comprised of the oil and gas groups, the contractors, the roadbuilders, and the truckers. For years, they have been insensitive, unyielding, and unbending to the needs of the great majority of Americans . . . . I would hope that they would be willing to permit those local entities and State governments who understand their transportation needs the most to have the opportunity to vote how best to use their allocation in meeting the critical transportation crisis. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 7-9]

Senator Weicker began by stating that "what is more important than a highway trust fund is the legislative trust of the U.S. Senate." In recent years, however, the Congress had "managed to avoid fulfilling that trust in transportation matters by deferring its powers of creativity to the supposed proprieties of an artificiality known as the highway trust fund." Highways were needed in 1956 and would be needed in the future. "What is clear now, however, is that highways alone or in overwhelming proportions are a mobility, environmental, and safety disaster." In view of congestion and the loss of 55,000 lives on the roads each year, he said, "We have become a Nation of automotive lemmings."

The Kennedy-Weicker amendment was designed to restore balance. "That in diversity rather than sameness lies . . . the answer to mobility." He and Senator Kennedy wanted "no part of the arrogant claim made on our behalf that the taxes we pay when purchasing gasoline should go to highways." Sometimes, people move by car, but others by train, bus, and plane. "And yet the Congress has said that moving by car is 10 times more important than moving by train or three times more important that moving by plane." He concluded:

> Gentlemen, please end the trance. This is illogical madness and all because of a 20-year old transportation irrelevancy. Whether it is Cooper-Muskie, Kennedy-Weicker, or the initiative of your own committee, please let the Nation know that the automatic pilot turned on 16 years ago as to national transportation has been turned off and humans are again making policy. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 10-11]

Senator Cooper, who was not running for reelection in 1972, said that he had been on the Public Works Committee for 18 of his 20 years in the Senate. He briefly described the evolution of the committee's work to provide openings for highway mass transportation. He acknowledged Secretary Volpe's Single Urban Fund proposal "but it became evident that it did not have widespread support."

He described the Cooper-Muskie amendment, actually Senator Cooper's substitute for Senator Muskie's proposal, that would give the Governors or State highway commissions the flexibility they needed. He wanted to respond to some of the arguments used against the proposal "by those who consider that the highway trust fund should not be touched or tapped in any way." He expected the Highway Trust Fund to be around for many years. He thought that if Cooper-Muskie became law, "there would still be ample funds for the construction of the necessary roads throughout the vast rural sections of our country." While the amendment did not offer as much funding as the Kennedy-Weicker amendment, he said that Cooper-Muskie "does remove, I believe, the possibility of a conflict between the urban areas and the more rural areas in our country."

He did not think that the Highway Trust Fund should be the sole source of financing for highways and mass transit. Especially in the case of subways, "the funds made available by this and future Highway Acts cannot possibly provide the primary Federal financing for them." The time had come, however, "to enable cities to better manage their capital expenditures for these closely related transportation modes." [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 11-15]

Secretary Volpe, the next witness, said he was "pleased" that S. 3939 incorporated several Administration recommendations. However, he did not believe that the bill as presently drafted "meets the critical need to achieve efficient urban mobility through balanced transportation brought about by real flexibility of modal choice." He appreciated the efforts of the Public Works Committee to broaden eligibility to bus purchases under Section 142 ("Public Transportation") of Title 23, but he thought the provision should be "broadened further if we are to provide meaningful alternatives to our local officials." Therefore, he endorsed the Cooper-Muskie amendment that would amend Section 142 to allow Highway Trust Fund revenue to be used for rail transit projects and equalize the Federal share of non-Interstate highway and transit projects at 70 percent.

He objected to the provision of S. 3939 that allowed 100-percent Federal-aid financing of bus purchases. "The lack of some degree of local contribution detracts from the responsibility and accountability which ordinarily is applied to investments of local revenues." Senator Cooper, Volpe said, intended to offer an amendment to change the Federal share to 70 percent.

Volpe also recommended amending the Urban Mass Transportation Act to authorize $3 billion in additional contract authority to sustain the transit program from general revenues through FY 1977. Given that the Senate had acted earlier in the year on the legislation and the House was still considering it, Secretary Volpe explained that the recommendation was coming late in the process because the Administration had been awaiting congressional action on the Single Urban Fund. "Now that we have an indication—and maybe it is more than indication—of the apparent unwillingness of the Congress to adopt our single urban fund in total," he was recommending the additional $3 billion. "We feel that this funding will satisfy our objective of assuring the continued progress and the guaranty of financing for the urban mass transportation program." The UMTA program was funded through FY 1974, but the addition of this funding now would ensure local officials and the transit industry of the continuity of the program.

Senator Williams did not seek the pledge he mentioned that the funding under consideration would be in addition to, not a substitute for, the UMTA funding. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 16-19, 26]

During the question period, Senator Robert Packwood (R-Or.) asked if Secretary Volpe would oppose the Kennedy-Weicker amendment when it came up for a vote on the Senate floor:

> Secretary Volpe. Let me put it this way, Senator Packwood. I am being—I will just use a mild term—slightly slammed because I have dared suggest an opening of the highway trust fund for a purpose which some people feel—some people feel—was not a part of its original intent. It just so happens that some of the members of this committee will remember back in 1955. I was serving as Commissioner of Public Works [in Massachusetts] when General Clay made his report to General Eisenhower. Legislation was adopted that year, but in 1956 it was enacted, and President Eisenhower saw fit to appoint me as the first Federal Highway Administrator. I was quite aware of the tremendous and gigantic program ahead of us. We set a course for ourselves, and I am very proud of what has happened under that program.
>
> By the end of this month, 80 percent of that program will be completed. Although there has been some criticism of it—I dare say that there would be someone who would find fault with the way I poured water of that pitcher into that glass—the fact remains that overall it has been a tremendously successful program. I say this especially in terms of the lack of corruption and the lack of any impropriety. Naturally, there may be some instances that might be found at levels 3,000 men down the line, but considering that this is the largest public works program in the history of the world, I think we can be proud of the record. The Federal/State partnership that has evolved in this program has been greatly responsible for that record.
>
> Today I frequently have to reply to highway contractors, for instance, who have criticized me for the step I have proposed. I have asked them what they have been doing the last 3½ years and they say, "Well, we are building highways." I said, "Fine." I said, "I have been sitting on a chair in Washington. I am not making quite as much money as you are making right now. I used to make the same kind of money or more than you made a few years ago; but the fact is, I have had an opportunity to sit in a seat where I can see what is happening, and I know that we are not solving the total transportation problem. Furthermore, unless we do something about it[,] all we will do is build more highways which are built and designed for 70 miles per hour at the very, very expensive costs but which at certain times of the day, and in some cities nearly all day long, they are utilized at 5 to 8 miles per hour. In my opinion, that's a tremendous waste of money.
>
> Senator Packwood. Do they agree with you?
>
> Secretary Volpe. When I talk to them individually, Senator Packwood, strangely enough, yes, they seem to finally say, "Well, gee, I hadn't thought of it that way." When I talk to them as a group, they never do. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 22-23]

Senator Proxmire, during his question period, wondered why Secretary Volpe opposed the Kennedy-Weicker amendment. "It seems to me this amendment fits into the revenue sharing philosophy of the administration." Decisions on mass transit versus highways would "be made at the grass roots level by those who are closest to the problem within their State and know best." Secretary Volpe responded by comparing the amendment to the Cooper-Muskie amendment:

> I like to feel I am pragmatic in my approach to problems, and I can only say to you that I believe in this year of our Lord, 1972, that if we are able to open up the highway trust fund to include the kinds of things that the Cooper-Muskie amendment provide for, in addition to what the Senate Public Works Committee has already provided, we will have gone a giant step toward getting our job done.
>
> I think the Kennedy-Weicker proposal is one which I just do not think is in the cards to get passed this year. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 27]

Allan Pritchard, representing the National League of Cities, discussed the focus of Federal and State funding on highways. "Compounding the inequitable allocation of funds to urban areas has been the inability of cities to use highway trust fund moneys to respond to local priorities unless those priorities call for more major highways and expressways." He added:

> More highways and expressways are not the answers to urban congestion in most of our cities. The restrictions against using full discretion in the application of the trust fund to finance comprehensive transportation systems in urban areas places rail transportation, particularly, and urban areas generally, at a disadvantage, as they compare to the highway system . . . .
>
> The question in our minds is not freeways versus rail transit, but how much of each as determined by the elected local decisionmakers.

The league, Pritchard said, supported the additional $3 billion in contract authority and an increase in Federal shares for transit projects (he estimated 80 percent rather than the Secretary's 70 percent). [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 30]

Carmack Cochran accompanied Pritchard on behalf of the American Transit Association. He said the association favored the Cooper-Muskie amendment over the Weicker-Kennedy amendment. Senators Proxmire and Cooper were surprised by the opposition to Weicker-Kennedy:

> Senator Proxmire. You are telling us then, from your standpoint, that the Cooper-Muskie approach would be better because it would assure a certain, specific amount and you think that is better than to leave it to the discretion of the State legislatures; is that right?
> Mr. Cochran. I do, sir.
> Senator Proxmire. Do all you gentlemen share that view?
> Mr. Pritchard. Yes.
> Senator Proxmire. Speaking for the cities?

> Mr. Pritchard. Yes. Well, theoretically, the Kennedy-Weicker proposal sounds as though it give a lot more discretion and potentially more use of funds in the urban areas for mass transit. We are afraid that the record of the State transportation operations, which are basically highway oriented as they deal with urban areas, have not been particularly good. Second, it is quite obvious that what we would end up with would be a project by project approval process from the State to local—to urban areas. The advantage of the Cooper-Muskie proposal is that there is a continuous flow of money to the urban area and it is possible for the urban planning process to develop a comprehensive plan, lay out its priorities, work program, and know that there is a fixed amount of money against which it can plan its total transportation program. [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 33-34]

Another witness, the American Trucking Associations' Edward V. Kiley, said:

> We share the obvious concern for urban mass transportation problems, and have no objection to any program to improve public transportation of any type. But we believe that to the extent these problems are not being solved through highway programs, there should be other, supplemental, programs.

He said the trucking industry "cannot accept the proposition that in addition to our recognized responsibility for the highway program, that we also have a special [tax] responsibility for other programs." The proposition, he said, "violates basic elements of equity and justice."

Charles A. Webb, president of the National Association of Motor Bus Owners, told the committee that it was "unfair for publicly-owned and subsidized enterprises to provide transportation at rates which sharply undercut those of their privately-owned competitors." [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 54-55]

John Kramer of the Highway Advisory Coalition also testified. He began by explaining what the coalition was. "Our two main areas of activity are promoting legislation similar to the two amendments before you and assisting local citizen groups engaged in transportation controversies." Senator Proxmire interrupted to say he appreciated the explanation because he assumed the Highway Advisory Coalition was part of the highway lobby. "No, sir," Kramer replied, "we are counter-highway lobby, as it were."

He picked up on the prior discussion with Kiley, stating:

> Now, looking at the trucking industry alone, we don't have any good national studies as to what the real costs of congestion are, but we do know that in the New York metropolitan area alone, increased delivery costs due to congestion amount of at least $100 million a year.
>
> Those costs aren't paid by the industry, I might add, rather they are paid by the people who purchase the goods that the industry delivers.

As for the suggestion that building more urban highways would relieve congestion, Kramer said, "I think the experience of the last 6 or 7 years in the highway program demonstrates that such an approach is neither practical nor desirable." He pointed out that in "at least 12 big cities, 60 percent of the land area is already given over to the movement and storage of the automobile." He continued:

> In 73 cities, according to the Environmental Protection Agency, we are going to have to limit the number of automobiles coming into the city if they are going to meet the standards of the 1970 Clean Air Act. And here we are talking about building still more highways, bringing more cars and trucks into the city. I just don't see how anyone can seriously believe that that is the answer to the problem. It is just beyond me, frankly.

Kramer wanted to address the pass-through issue in the Kennedy-Weicker amendment raised by Pritchard and Cochran in their testimony:

> I think there was a certain amount of misinformation with respect to the pass-through provisions of the bill as reported out of the Public Works committee. The two amendments don't affect the cities' control of the $800 million urban system authorization. That is the same with both bills.
>
> The only difference . . . was that the States could use most of the money authorized for programs of the Interstate System if, in their judgment, such an approach would best meet their particular transportation needs . . . .
>
> Another way of explaining it is that the Kennedy-Weicker amendment simply strikes out in each place it appears in section 142 of the bill the words "other than rail." Right now as the bill stands, States and cities can elect to use highway trust money for buses. What the Cooper-Muskie amendment does is allow cities to use the urban system funds for rail as well. All the Kennedy-Weicker amendment is doing is opening up the other programs as well. There is no change. They both have that guaranteed floor.

He also pointed out that Kennedy-Weicker would not touch the Interstate System, "the program they are particularly concerned about." Kennedy-Weicker and Cooper-Muskie "exclude the Interstate System from those programs in which local option for rail is provided."

Senator Proxmire wondered if at the end of the Interstate program, the Federal gasoline tax might not be lowered so the States that wished to do so could pick up the revenue and use it as they saw fit. Kramer said, "I think with increasing energy shortages over the years we will probably be in a situation where we will want to raise that tax rather than lower it." He thought, however, that the concept of user taxes was "a bit unreal." He explained:

> I mean if we are willing to accept the notion that particular industries or individuals have to get a direct return on every dollar that they pay in taxes in the precise area that they are paying tax—

Senator Proxmire picked up on the idea of the highway user taxes being used for any purpose. "When we talk like that I think we really generate tremendous opposition. I do not know if we do our cause much good." Kramer said the idea of user taxes was "ludicrous to me," using the analogy of taxes on alcohol. "Why can't we earmark all of the sales taxes that we pay on alcohol for saloons."

In a prepared statement, Kramer said that if S. 3939 were amended to include rail as well as bus transit, it "would go a long way toward correcting the longstanding balance between highways and public transportation." He summarized the debate between the two amendments under consideration:

> [E]ither one can pursue the approach of the Kennedy-Weicker amendment and open up all the non-Interstate authorizations of the bill for rail as well as for buses and highways on a local option basis or one can follow the line of the Cooper-Muskie amendment and just open the urban system authorization for rail transit as well as for buses.

The Highway Action Coalition favored the Kennedy-Weicker approach.

Kramer, in the statement, expressed concerns about the "Alternative Federal-Aid Procedures" provision of the Public Works Committee's bill. The coalition's concern was that by transferring "project by project approval" from the U.S. Department of Transportation to the State highway departments, the provision would "undermine those sections of the bill which give local elected officials greater leverage viz-a-viz the state highway departments in making local transportation decisions." He also thought it "might weaken the effect of important existing environmental, civil rights and housing relocation safeguards." It also would set a precedent for thwarting environmental requirements on other projects. Kramer also objected to the provision permitting construction of the San Antonio North Expressway "despite a ruling to the contrary by the Fifth Circuit Court of Appeals." [*Federal-Aid Highway Act of 1972*, September 7, 1972, p. 60-64]

In keeping with the timetable specified by the Public Works Committee, the Committee on Banking, Housing, and Urban Affairs submitted its report on September 8, 1972. The committee had voted for a two-part recommendation. The first part was to add an urban transit title, Title III, to S. 3939 to provide operating subsidies for mass transportation systems, as contained in the omnibus act, and an additional $3 billion in contract authority, as recommended by Secretary Volpe during his testimony. The committee's report explained that past Federal-aid for mass transportation had not done anything to "alleviate the financial distress of the transit industries and the increasing number of municipalities which own and operate transit systems." With this distress likely to increase in the absence of Federal subsidies, "cities and municipalities will continue to be forced to carry the burden of transit's financial decline." The report added:

> The major purpose is to assist in revitalizing the Nation's mass transportation systems by allowing States and localities to determine which systems in their jurisdiction are in need of operating assistance and, on this basis, to submit to the Secretary of Transportation a comprehensive mass transportation service improvement program to improve such service and to place mass transportation operations on a sound financial basis.

Williams proposed this measure in case the similar measure in the omnibus housing and urban development bill did not become law. Despite Administration opposition to the measure, it survived by a narrow vote, 9 to 5.

The additional $3 billion, as recommended by Volpe and put into amendment language by Senator Williams, "should satisfy the objective of assuring the continued progress and the guaranty of capital financing for the urban mass transportation program."

The second part of the committee's recommendations was in narrative form. The committee appreciated the Public Works Committee's provision making Highway Trust Fund revenues available for use within urban areas and certain rural areas for highway public transportation projects:

> The Committee feels, however, that it is most important that this proposal be further broadened to assure that viable and meaningful alternatives are provided local officials as they seek to best satisfy the transportation needs of their communities.

The committee recommended that the Public Works Committee modify Section 142 ("Public Transportation") of Title 23 to incorporate the Cooper-Muskie amendment to "provide that funds authorized for the Federal-aid urban system be available for the acquisition and construction of rail transit facilities and equipment, as well as the highway public transportation projects currently contained in S. 3939." Whether local officials decided to use the funds for highways or mass transit, "The option, in whatever case, would rest with the community, where the problems and needs are best known."

Finally, the committee stated that in view of the critical condition of mass transportation systems, it opposed impoundment of funds authorized and appropriated for the capital grant program:

> The Committee asked during public hearings for assurances from Secretary Volpe that if the Congress authorizes the $3 billion contained in Title III of the bill and the appropriations follow that the funds would not be impounded. Secretary Volpe replied: "I did not start this fight until I was given assurance that every dollar that the Congress authorized and appropriated would be spent, because the needs are there, and I have that assurance." The Committee would expect this assurance to prove valid should the Congress approve the increased authorization. [*Federal-Aid Highway Act of 1972*, Report of the Committee on Banking, Housing and Urban Affairs to Accompany S. 3939, 92d Congress, 2d session, Report No. 92-1103, September 8, 1972]

Following committee action, Title III containing operating subsidies and $3 billion in additional transit funding from the general Treasury was added to the Federal-Aid Highway Act of 1972. However, the Cooper-Muskie amendment would have to be considered on the Senate floor. The parliamentary maneuvering employed to shift the bill out of the Public Works Committee to a committee that would be less friendly to highways clouded the prospects for its recommendations.

Floor Action

As Congress convened for its final pre-election session before adjourning on October 18, transportation interests recognized that, as a headline in *The Journal of Commerce* put it on September 8, “Highway Trust Fund Under Sharp Attack.” [Xbilanow, Ale, “Highway Trust Fund Under Sharp Attack,” *The Journal of Commerce*, September 8, 1972]

On September 11, 1972, Bay Area Rapid Transit (BART) opened the first leg of its planned 75-mile system. It stretched 30 miles from Oakland to suburban Fremont. The opening made BART the first new rapid transit system to begin operation in the United States in decades. It contained many of the features that would be common among the new generation of subway systems, including automated operation via a computerized electronic network and fail-safe safety features. As *The Washington Post* put it, “Despite a decade of financial woes, political sniping, delays and bugs that plagued the system right up to opening day, the ultra-modern, fully automated BART complex represents a triumph of space-age technology and perseverance.” [Aarons, Leroy R., “S.F. Subway to Open Today,” *The Washington Post*, September 11, 1972]

On September 27, President Nixon was in California for campaign fund raisers and, as *The New York Times* explained, “visual” public events “for the benefit of television cameras . . . giving the impression he was mingling with many people.” One event was a trip with his wife Pat on 2-week old BART. They boarded the train at the San Leandro station and chatted with General Manager B. R. Stokes on the short trip to the Lake Merritt station where they visited the BART operations control center on the west side of the station. After seeing the electrified route displays on the wall of the control room, President Nixon said, “You know, it does look like NASA.”

At the San Leandro station, the President released a statement on BART that began:

> Though the Bay Area Rapid Transit system has been in operation only a matter of days, it already appears that the San Francisco Bay area may become as widely renowned in the future for the space-age efficiency of BART as it has been in the past for the romance of the cable car.

BART, he said, set an example for the Nation, with bipartisan support from Republican and Democratic administrations at the Federal level, as well as State, local, and private sector involvement. Through 1972, UMTA had authorized $181 million for BART, about 13 percent of overall costs and he was pleased to announce an additional Federal capital grant of $38.1 million for BART.

The President said:

> Not only here in California but all across the Nation, the urban transportation picture is brightening as we move into the 1970s. Not only are some cities, such as Washington, following San Francisco in the installation of fixed rail systems, but others are meeting their transportation needs through innovations such as exclusive-use rights-of-way for buses.

He stressed that he had proposed the $10 billion authorized by the Urban Mass Transportation Assistance Act of 1970, adding that the "better transportation balance which we are striving for is indicated by the fact that in fiscal year 1973, for the first time, Federal funds for urban mass transit will surpass spending on urban highways." He explained that the General Revenue Sharing legislation and the Federal-Aid Highway Act of 1972 that he hoped to sign soon would increase funds that local officials could use for transit:

> I was most gratified—as were city officials across the country, and the millions of citizens they serve—when in passing this bill the Senate accepted my Administration's proposal that the Highway Trust Fund be opened up to permit urban areas to use monies from the fund for public transportation if they so choose. This provision would not in itself take a cent away from highway needs[;] in fact, it scrupulously plays no favorites among the various alternative answers to urban transportation problems. What it would do is to give the people at the local level—the people who know best—a freer hand than they have had before in choosing that combination of answers which best suits their own particular needs.
>
> I hope that this sensible provision, together with the Administration's proposal to provide funds directly to metropolitan transportation agencies for the first time, will remain in the bill which both Houses finally approve. Certain other features of the present Senate and House bills are much less desirable, but I hope that these can be eliminated, the strong features retained, and a sound bill sent to my desk for signature before the Congress adjourns.
>
> Now that BART is demonstrating how pleasant and convenient movement within our urban centers can be, we should be less disposed than ever to be patient with how congested and difficult it all too often is. The speedy resolution of America's chronic and worsening traffic jams is far too urgent a matter to be stalled any longer by legislative or bureaucratic logjams, and I will continue my own determined efforts to keep it moving ahead.

(A week later, on October 2, the computer-controlled brakes on one of BART's trains malfunctioned, resulting in the train passing the end of the tracks and plunging down an embankment. The incident injured five people and raised concerns about the computerized controls intended to keep the trains and their passengers safe on the BART system and the other new rapid rail lines under construction in other areas. [Turner, Wallace, "5 on Bay Area Train Hurt as Automated Brakes Fail," *The New York Times*, October 3, 1972; Hartlaub, Peter, *San Francisco Chroncle*, http://blog.sfgate.com/thebigevent/2012/08/16/rail-to-the-chief-when-nixon-rode-bart/.])

On September 14, 1972, *The New York Times* contained the latest in Mobil Oil's advertisements on transportation issues. The headline on this one was unusually blunt coming from an element of the "highway lobby":

LET'S END THE HIGHWAY TRUST FUND

"While America has developed a superb highway system through Highway Trust Fund revenues," the ad began, "our mass transit has slipped sadly." Mobil had been urging Congress to develop ways of improving mass transit and "re-examine the desirability of the Highway Trust Fund":

> We doubt whether such special earmarked funds represent sound public policy. Experts in public finance have historically opposed trust-fund financing because this mechanism mandates decisionmaking and priority-setting by a bureaucracy with its own direction and momentum, without the proper annual review of proposed expenditures.

We could not afford to simply divert Highway Trust Fund revenues to mass transit:

> Robbing Peter to pay Paul by diverting revenues from the Fund will give us the worst of both worlds—poor highways and poor mass transit. We cannot afford either.

Under the current system, the ad pointed out, "highway-building has dominated federal transportation policy," in part because of the disparity in matching share. "From the states' viewpoint, it's just plain cheaper to ignore mass transit and simply build highways."

Transportation decisionmaking should not be "an either/or situation." By phasing out the Highway Trust Fund, Congress could "make appropriations at the federal level for an adequate, integrated transportation system." Simply doing "what we have had for the past 50 years" was not the answer:

> We must innovate, and we must look ahead as far as advanced technology can take us in meeting both present and future transportation needs.

The ad concluded:

> We are convinced that this can be achieved only through a National Master Transportation Program, financed both by existing gasoline taxes that would go into the general coffers and by annual appropriations large enough to do the job. A sound first step would be to end the Highway Trust Fund.

Not all highway interests shared Mobil Oil's sentiments. Robert W. Furtick, chairman of the board of the American Trucking Associations told a conference of the National Association of Shipper-Motor Carriers that the effort to siphon $800 million from the Highway Trust Fund for mass transit was being channeled through the Highway Action Coalition:

> I believe that this antihighway sentiment and this fervor to latch onto highway taxes is a much more serious threat than has been generally recognized within the highway community.

Chairman Hartke of the Senate Commerce Committee's Surface Transportation Subcommittee agreed the Federal-aid highway program was "under attack," with transit interests thinking they had better uses for "the idle funds" in the Highway Trust Fund. He vowed to "work to block" the diversion, saying, "we need to complete the job that has been planned and worked on for so long.

["Highway Trust Fund Diversion Fight Continues," *The Journal of Commerce*, September 15, 1972]

The Senate began considering the Federal-Aid Highway Act of 1972 on September 13, including Title III ("Urban Mass Transportation Act of 1964") as approved by the Committee on Banking, Housing and Urban Affairs. When the bill was entered into the record, Senator Robert C. Byrd (D-WV) asked unanimous consent that after disposing of all amendments to S. 3939 that were called up on this date, further debate would be delayed until the next week, with amendments then limited to the Cooper-Muskie and Kennedy-Weicker amendments. Senator Byrd said he had cleared his request with all Senators involved in the matter. The request was adopted. [*Congressional Record-Senate*, September 13, 1972, p. 30480]

Much of the bill's time on the Senate floor consisted of going through each of its provisions as approved by the Committee on Public Works. When Section 121 amending the Highway Beautification Act came up, Senator Cooper offered an amendment to remove the 2-year moratorium that Secretary Volpe had cited in his August 18 letter. Cooper recalled that Congress had been wrestling with control of outdoor advertising since 1958, when the Federal-Aid Highway Act of 1958 provided a Federal-aid funding bonus to States that entered into an agreement to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System. The 1965 Highway Beautification Act, he said, had been "ineffective because the States were slow to enact the necessary legislation and Congress . . . failed to provide funds to the States for the payment of the just compensation required by that act" for removal of signs erected legally under State law.

Now, S. 3939 was proposing a moratorium on removing directional signs:

> The argument is made that certain "directional" signs, such as those which point out restaurants, hotels, and motels, service stations, and similar facilities are of interest to the traveling public.

The idea was that the moratorium "will help small roadside businesses, small tourist motels, and small gasoline stations," but Senator Cooper said it would have the opposite result. "It will work to the advantage of the largest businesses, franchised chains, oil companies, and the large sign companies which have great capital resources." He pointed out that the Federal-Aid Highway Act of 1970 had established a Commission on Highway Beautification that had not yet submitted its findings; action on control of outdoor advertising should be postponed until the commission completed its work.

Senator Buckley of New York said he and Senator Baker of Tennessee had introduced the measure:

> Its purpose is not to delay progress on the removal of the signs, but rather to provide the time within which the Commission on Highway Beautification can complete its hearings and make final report to the Congress to carry out the final policy on sign removal.

> I might add that this provision which would be stricken by the amendment of the Senator from Kentucky was introduced at the specific recommendation of the Commission on Highway Beautification, of which I am a member, following some extensive hearings in which it was determined that to carry through on the removal of all signs which are addressed to tourists and travelers on our highways would be a disservice to those same travelers.

Before all such signs were removed, he said, "we should have the full benefit of these extensive hearings."

After further debate, the Senate rejected Senator Cooper's amendment, 31 to 44. [*Congressional Record-Senate*, September 13, 1972, p. 30491-30495]

One of the longest debates concerned Section 147 freeing the U.S. 281/North Expressway from any Federal restrictions. Senator Buckley introduced an amendment to strike the provision:

> This section would be the first step in involving the Congress in an endless round of specific adjudications over whether this highway or that dam or this canal should be exempted from compliance with Federal environmental statutes. It would thrust the Congress into the realm of the courts [and] into the adjudication of sharply contested specific disputes.
>
> We would be faced, as we are here, with serious factual questions raised by the parties to the dispute but with no satisfactory means to resolve them . . . . It would be the beginning of a whittling away of the strong and important safeguards incorporated into statutes such as NEPA.

Senator Bentsen opposed Senator Buckley's amendment. "The question is whether we are going to give equity to the people of San Antonio who have made a very major investment of their money in this project." They had, he said, $15 million at stake. This was not an environmental issue:

> We have 323 acres involved . . . . We are talking about a road that cuts across 4 acres of a golf course at the corner of Brackenridge Park. And across 5 acres that were already isolated on the golf course.

It was a $20 million project with only $1.8 million coming from the Federal-aid highway program. The State simply wanted to return the Federal funds so it could proceed without Federal restrictions such as Section 4(f) that had been enacted after work on the project had begun.

As for the concern about precedence, "I went back and redrafted this amendment to be sure that it was localized and applied only to San Antonio." The provision would not establish a precedent for projects begun after NEPA and Section 4(f):

> So let the people of San Antonio exercise their will. Let them pay their way. Let them use self-determination. They love their parks; they are concerned about the beauty of their city.

Senator Nelson, one of the Senate's leading environmentalists, was unconvinced. "What concerns me is that there is an attempt by all kinds of agencies to avoid the requirements of the Environmental Protection Act." Senator Randolph countered that, "I feel that we in no way do violence to the environmental program of this country in reference to the project which is incorporated in this legislation."

The Senate voted against Senator Buckley's amendment, 24 to 49. [*Congressional Record-Senate*, September 13, 1972, p. 30496-30503]

As provided for in Senator Byrd's unanimous consent request, the mass transit issues were postponed to the following week.

The day before the Senate was to debate the transit provision, an editorial in *The Washington Post* endorsed the Cooper-Muskie amendment:

> Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of the funds, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who *must* use the roads . . . have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place.

The editorial favored a mix of roads, rails, bike paths, and pedestrian ways that each community could select to meet its own needs. The Cooper-Muskie amendment, "while limited, is an important and attainable beginning toward that end." ["Roads <u>and</u> Rails for the Cities," *The Washington Post*, September 18, 1972. Emphasis in original]

On Tuesday, September 19, the Senate resumed debate on the Federal-Aid Highway Act of 1972. Senator Weicker began by introducing an amendment to modify State planning. This was not, he said, a funding measure since Section 104(g) of Title 23, United States Code, already allocated one-half of 1 percent of Federal-aid funding to the States for planning:

> This amendment would simply mandate the pass through of one-half of these funds to urban areas while the remaining funds would remain with State transportation planning agencies . . . . Local officials would definitely be consulted by State planners and local plans, created locally would be carefully plugged into broader State programs. The kind of coordination this amendment requires is absolutely essential . . . .

He explained:

> Mr. President, this amendment is very simple. It says that any highway construction project funded with Federal money must be part of an overall transportation plan rather than simply

> a highway plan. It also says that the Governor has ultimate responsibility for such planning and not just State highway officials.
>
> This amendment is important because it recognizes that highways, while a vitally important part of any balanced transportation system, should not be planned in isolation from mass, intercity rail or air transportation facilities. All should tie in with each other. All should recognize the varying environmental, social, and economic impact of alternate modes of transportation in all areas—rural as well as urban.

Without further discussion, Senators Randolph and Cooper indicated they supported Senator Weicker's amendment and it was adopted without a recorded vote. [*Congressional Record-Senate*, September 19, 1972, p. 31238-31329]

Senator Kennedy then introduced amendment no. 1482, otherwise known as the Kennedy-Weicker amendment, that would allow States to use $2.3 billion of Highway Trust Fund revenue for mass transit. After mentioning that the Public Works Committee had rejected the amendment, Senator Kennedy put it in context:

> A satellite photo of the United States traces narrow black ribbons that criss-cross over mountains, around valleys, and through cities. The neat lines seem to represent a carefully designed orderly arrangement attesting to human intelligence and ingenuity.
>
> Unfortunately, up close the rationality of the photo is distorted. For up close, we are aware that our transportation system is in crisis, we are aware that 55,000 homes are displaced by freeways each year. We are aware that two-thirds of our urban land area has been given over to the auto and its alleys, highways, and parking lots.

He quoted from DOT's national transportation policy statement, which he said "was not pollyannish in the remotest sense":

> On the whole, the transportation which has evolved, both consciously and unconsciously, represents an uneven fabric ill suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

He summarized the purpose of the amendment to correct these deficiencies:

> It does authorize cities and States to use noninterstate funds, specifically the primary system allocation, the secondary system allocation, the urban system allocation, for the acquisition and construction of rail facilities and equipment in addition to the other uses authorized by the committee. This would open some $2.3 billion to the trust fund for this purpose if States so desire.
>
> Thus, it would permit States and localities to find their own answers to the transportation puzzle in their communities and to develop a transportation plan to meet those problems, free from the lure of easy trust fund dollars if they pick highways.

Given that mass transit received only one-tenth as much as highways through Federal programs, "it is about time," he said.

Having said what the amendment would do, Senator Kennedy explained what it would not do. It did not affect the Interstate System. It did not alter the amount of Federal-aid highway funds any State would receive. It would not mandate a single dollar for urban rail mass transit. Finally, it did not diminish the amount available under the Urban Mass Transportation Assistance Act of 1970:

> The amendment we propose merely seeks to offer to States and cities an option in resolving their transportation problems that they do not now have.

Senator Weicker took to the floor to discuss the environmental impacts of highways. It took a while, he said, for "the man on the street" to realize that the soot in his eye, the murkiness of rivers and streams, and such abominations as smog, litter, heat inversions, oil spills, wildlife slaughter, and shattering noises fell under the broad term "environment." The times had changed "because today the environment is everything." He continued:

> For too long I had hoped to see a similar awakening with respect to the Nation's transportation problems. Sad to say it has not happened. Why?
>
> Because it has been creeping rather than instantaneous catastrophe.

Transportation, he said, is a city losing a park to an expressway, an old man dying of respiratory disease, 55,000 people dying in their cars, a business being torn down, and the poor without cars being unable to get to work. "So, when we realize what transportation is, we understand that the fight for an intelligent, balanced transportation policy is a fight . . . all about life."

He concluded:

> The choice, as I see it, is between moving America on for 2 more years—since this is a biennial review—or getting killed by fumes, or cars, or just waiting.
>
> I am reminded of the parable of how not to "cook a frog." If we were to boil a pot of water and drop the frog in, his reflexes would cause him to jump out of the pot, thus saving him from being cooked. On the other hand, put him in a pot of cold water, heat it slowly, and he would eventually be cooked.
>
> In terms of transportation in this Nation, we are the frog—and we had better jump.

Although Senator Bayh had moved from Public Works to the Senate Appropriations Committee, Senator Randolph asked him to talk about the Subcommittee on Roads' hearings. Senator Bayh opposed the Kennedy-Weicker amendment for several reasons. First, he said:

> I think a grave legal question can be raised as long as we presently have that Federal highway commitment under the Revenue Act of 1956 as to whether we can suddenly take

> funds that are paid in gasoline taxes pursuant to the 1956 act—to be used for programs related to highways—and use it in the rail system that the Senators would make possible under their amendment.

Second, given the Nation's mass transit needs, he was concerned that if Highway Trust Fund revenues were used as proposed, some of their congressional colleagues might decide that mass transit no longer needed general revenue.

He thought the approach taken by the subcommittee in allowing $800 million in funds that could be used at State option for bus-related transit was appropriate. Any Federal-aid highway funding used for bus-related transit "frees that much money from the urban mass transit program—taken from the general fund—which can go into the type of rail system which the two Senators are desirous of funding out of the highway fund."

Senator Cooper, noting that his Cooper-Muskie amendment was pending, said he believed "we should limit the highway trust funds available for rail mass transit to those funds which are allocated to the urban system as defined in the Highway Act[,] that is, to systems in areas of 50,000 or more population." If Congress thought more funds were needed, Congress should increase funding for the Federal-aid urban system.

Senator Randolph began his remarks by quoting from a letter that he and Senator Cooper had received from Secretary Volpe:

> The Kennedy-Weicker proposal would make every noninterstate highway program, primary and secondary as well as urban, eligible for financing rail rapid transit. Such a step could in some States lead to the diversion of primary-secondary highway funds into subway construction in our major cities, a step not conducive to a balanced transportation system.

Senator Randolph rejected the notion that the transportation system was in the terrible shape depicted by Senators Kennedy and Weicker. He agreed that problems existed, but "I think it is also necessary to say that there are today in this country millions and millions of persons who are moving, in any 24-hour period, by means of motor vehicles of one type or another." The Public Works Committee's bill offered a balanced approach that "reinforces the belief of the committee that the highway program and public transportation are inseparable."

As for Secretary Volpe's observation that funds authorized for rural highways could be used for subways, Senator Randolph said, "The basic fairness of such an approach obviously must be questioned." He also questioned whether such a sweeping change in the use of Highway Trust Fund revenues as proposed by the Kennedy-Weicker amendment could be made without changes in the authorizing revenue act.

He agreed that mass transit needs were substantial, but "it is important to remember that the issue we face in providing a balance [sic] transportation system is not one of highways or mass transit." The bill provided resources that could be used for urban mass transit, but "urban highway needs also are great and we must retain the available resources also to provide these roadways so that they, too, may serve as part of the public transportation system."

In view of the concern about the legality of using Highway Trust Fund revenues for mass transit without amending the Highway Revenue Act, Senator Kennedy introduced a letter dated September 19, 1972, from Robert F. Keller, Deputy Comptroller General of the United States. Keller said that the amendment would do what it was drafted to do. The short letter, however, did not offer any explanation of the legal theory behind it.

The Senate rejected the Kennedy-Weicker amendment, 18 to 60. [*Congressional Record-Senate*, September 19, 1972, p. 31237-31247]

Senator Cooper introduced amendment no. 1512, the Cooper-Muskie amendment that allowed Federal-aid urban systems funds to be used for mass transit, including rail. Senator Muskie began the discussion of the amendment by praising the Federal-Aid Highway Act of 1972 drafted by the Public Works Committee. However, the roads financed out of the bill would be in use at least into the 1990s. "For that reason, we must assure that the options available and the programs which can be supported under the legislation we consider today will be relevant to the transportation needs and priorities which this Nation will face in the decades ahead.

He cited several reasons why the situation was even more urgent now than in 1970 when he had proposed to broaden the use of Highway Trust Fund revenue for mass transportation, including rail systems. The existing program had encouraged proliferating suburban sprawl and other questionable land uses, as well as a high cost of car ownership that left society's left-outs at a disadvantage. Auto-related air pollution was hazardous to health, while the looming energy crisis (to be discussed later) would severely reduce private auto use. Congestion severely hindered personal transportation and delivery of goods.

The Public Works Committee addressed these concerns by allowing $800 million in Federal-aid urban system funds to be used for highway-related transit, with a minimum of $300 million that must be used for highway-related transit. However, "none can be spent for rail transit." This response "is not sufficient to meet our transportation crises and assure proper evaluation of all-options to the present highway program." The rail option, as permitted by the Cooper-Muskie amendment, must be available.

Senator Muskie concluded his initial remarks by saying:

> Transportation systems to a great extent determine the economic and social structure of a community. The Federal Government should thus avoid imposing any particular transportation system on a community. I have always believed that people at the local level most often know what is best for themselves. The program we propose will allow local citizens to decide for themselves what transportation system is best for their communities and their future . . . .

> [The amendment] has broad, bipartisan support. It applies only to the urban system aspect of the highway program that is before us. It involves only $800 million as against several times that figure which would still be available for highway construction.
>
> This is a reasonable step in the direction of using funds for nonhighway transportation objects.
>
> I urge my colleagues to support it. If they do so, they will make a significant contribution to a redirection of our transportation priorities in the next decades and in a direction related to public interest, the need of the disadvantages, the need of the poor, the need for public health, and the need for cities struggling under the impact of problems, so many of which are related to the automobile and automobile related factors. [*Congressional Record-Senate*, September 19, 1972, p. 31250-31252]

Several Senators spoke in support of the amendment. Senator Williams was among them. The Interstate System built over the past 15 years was, he said, "the finest in the world." However, in today's "dynamic, highly urbanized society, a different type of transportation is of the utmost necessity—urban mass transportation." The $3.1 billion authorized for mass transit in 1970 was helpful but insufficient to the need for "efficient, socially worthwhile mass transit systems." Clearly, he said, "changes in the operation of the highway trust funds are long overdue."

He discussed the actions of the Committee on Banking, Housing and Urban Affairs, including its support for the Cooper-Muskie amendment. In broadening the Highway Trust Fund to include public transportation, "it makes sense to include all forms of urban mass transportation and not only buses." He addressed the key question head-on:

> The only question which remains is, Why should automobile and truck owners pay for mass transportation?
>
> Many of these people feel that their money should go for highways, not buses and trains.
>
> The answer to that is simple: we are all in the same traffic jam together and what helps the urban commuter also helps the trucker and the car owner.
>
> Therefore, if we are willing to move forward and adopt the Cooper-Muskie amendment, we can replace our present traffic jams with efficient urban mass transportation systems which will make travel easier and more pleasant and which will help all of our Nation's citizens. [*Congressional Record-Senate*, September 13, 1972, p. 31256-31257]

Senator Randolph explained that "with some regret" he had to oppose the amendment. He recalled his comments during the debate on the Kennedy-Weicker amendment about why he opposed allowing highway funds to be used for rail transit systems. "The provisions of the Cooper-Muskie amendment would, if adopted, dilute out ability to tailor the highway program to respond to the transit needs of the great majority of American communities." He did not doubt the sincerity of Senators Cooper and Muskie:

> On this occasion, however, I fear that they are overresponding [sic] to one need with an answer that may compromise our ability to cope with the total problem of public mass transit.

He also questioned the legality of the amendment in view of Section 209(f)(1) of the Highway Revenue Act of 1956 ("Amounts in the trust fund shall be available for making expenditures which are attributed to Federal-aid highways"). The Administration bill, he noted, had proposed an amendment to address this legal restriction. Further, he introduced a letter from Chairman Mills of the House Ways and Means Committee, the committee which had drafted the Highway Revenue Act in 1956, to Chairman Blatnik of the Public Works Committee:

> I agree completely with the observations which you made concerning the fact that diversion of money from the Highway Trust Fund for mass transit purposes as indicated in the amendment . . . would clearly be a violation of the provisions of section 209 of the Highway Revenue Act of 1956, as amended. I agree with you completely, and I am sure, if I understand the feeling of the members of the Committee on Ways and Means, that the majority of the Committee Members would agree with me that this is clearly a matter within the jurisdiction of the Committee on Ways and Means and formal action would have to be taken by our Committee before any such diversion could be accomplished.

Senator Muskie responded to the question of legality. He said that the Public Works Committee's bill would permit Federal-aid funds to be used to purchase buses and build passenger-loading areas and bus lanes. "Thus, we are merely adding with our amendment another purchase, which is just as much in keeping with the overall intent of the proposed legislation." He continued:

> In addition, Mr. President, the committee's proposed section 142(c) states that the purposes authorized under (a) of section 142 shall be considered as "highway projects." That clearly would obviate any need to amend any other legislation. All we need to do is to label this a "highway project."

He also again cited Keller's letter to demonstrate that the question of law had been addressed. [*Congressional Record-Senate*, September 19, 1972, p. 31258-31259]

Senator Cooper said that Senator Muskie's answer to the objections "was equal to any that I have heard." He also introduced the complete September 18 letter from Secretary Volpe that had been cited during the debate on the Kennedy-Weicker amendment. Secretary Volpe had said he considered adoption of the Cooper-Muskie amendment "of utmost importance." Increased funding for the Federal-aid urban system and its use for highway-related mass transit as in the current bill were steps in the right direction, but the Cooper-Muskie amendment would take this movement one step further. Secretary Volpe continued:

> We believe that it is essential that we strike a balance between our urban transportation needs and our rural transportation needs. It is our considered opinion that the Cooper-Muskie amendment would strike this balance. It would provide the flexibility so sorely

> needed in our major urban centers while at the same time insuring the continuation of our very important and very necessary primary and secondary highway programs.

Senator Cooper then addressed the concern about "tapping the trust fund." He said:

> There is only one trust that I recognize. Each one of us on the floor should recognize that that is the legislative trust that was imposed on each of us in our election to this body. Otherwise why not create a range of trust funds—a trust fund for the military, a trust fund for pollution, a trust fund for agriculture, and on down the line—so that we never have to use either our imagination or creativity nor be held responsible for the consequences.
>
> To my way of thinking, there is no question as to what trust is important today. It is that legislative trust which is thrust upon each one of us.

Senator Weicker asked to speak. He said that shortly after the Kennedy-Weicker amendment was defeated, a member of his staff was going back to the Senate Office Building:

> The highway people traveling in the (congressional shuttle) subway were gleeful over the fact that they had won so overwhelmingly. But these are the last of the highway lobbyists. No longer does the highway trust fund have all of its members. Only recently some of them said "Let us end the highway trust fund." Henry Ford said, "Let us use the money from the highway trust fund for mass transit." The Mobil Oil Co., in a series of advertisements in the New York Times says: "Open up the fund. We need balance, coordination, sanity."
>
> Slowly but surely everyone in the country is moving ahead but the U.S. Senate. We have been clinging to the highway trust fund. Today the Senate can change the emphasis toward mass transportation.

Highways alone, he said, "or in overwhelming proportions, are a mobility, environmental and safety disaster":

> How do we answer the fact that the landscape is being paved over with concrete, all in the name of the God of Mobility, but still no mobility is achieved?
>
> I think it is important that this body maintain our fiscal integrity and maintain the integrity of this program. However, much more important, I think, is that we fulfill our objectives and our objectives and loyalty are not to this highway trust fund. Our loyalties are to the people of this country and their mobility and to the fact that they can live, to the fact that they can breathe, and to the fact that they can move.
>
> That is what I am here for, not to defend a fiction. [*Congressional Record-Senate*, September 19, 1972, p. 31260-31262]

Senator Kennedy also supported the Cooper-Muskie amendment. It was more limited than the rejected Kennedy-Weicker amendment, "but it does mark a beginning." At least it would permit "urban areas to make the choice between highways and rail transit." Today, cities had no choice if they want to receive their portion of the Highway Trust Fund. "They can accept their allocations and build highways or they receive nothing." The lack of choice forced cities "to tilt their transportation planning toward more autos and more highways, knowing full well that they are merely putting off the day of reckoning." The Cooper-Muskie amendment would move the country "in the direction that all observers of the transportation scene desire, in the direction of a balanced and integrated transportation system." [*Congressional Record-Senate*, September 19, 1972, p. 31263]

After a few more Senators spoke in support of the bill, the Senate voted to adopt the Cooper-Muskie amendment, 48 to 26. Senator Randolph was among those voting against the amendment. An article in *The New York Times* about the vote said that, "Opposition to the Cooper-Muskie proposal has been highly visible in the cloakrooms and offices [of the Senate] over the last few weeks, but it was muted on the Senate floor today." [Rosenbaum, David E., "Senate Votes Transit Aid From Fund for Highways," *The New York Times*, September 20, 1972]

Soon after this key vote, the Senate adopted the Federal-Aid Highway Act of 1972, as amended, 77 to 0. The approved bill included not only the Cooper-Muskie amendment but Title III providing general Treasury revenue for operating subsidies and $3 billion for urban transportation. [*Congressional Record-Senate*, September 19, 1972, p. 31266-31268]

Secretary Volpe issued a statement commending the Senate "for the significant and historic action it took today in approving a Federal-Aid Highway Act that for the first time allows both rail and bus mass transit – as well as highways – to be financed by the Highway Trust Fund." The legislation, he said, "provides funds for the challenges of today and tomorrow." He explained:

> Transportation, no matter what its mode, is not an either/or proposition, and such thinking can only lead us into an ever deepening urban morass. We need all modes of transportation in some of our cities and we need meaningful alternatives in all of our cities. This bill provides for these alternatives by giving local, state and regional leaders the flexibility they need to attack the problems which are making our urbanized areas uninhabitable.

He added that he had "just talked to President Nixon" who was "very pleased with the Senate passage of the Cooper-Muskie amendment." They urged the House to incorporate the amendment into their version of the legislation. "Our transportation system must be as dynamic as our society." He was certain that House members understood this "and will respond in an affirmative manner."

The historic vote to open the Highway Trust Fund to rail transit was the leading point in coverage of the Senate's adoption of the 1972 Act. An editorial in *The New York Times* called the Cooper-Muskie amendment "a modest proposal," but added that "since highway interests in Congress until recently were resisting the diversion of road construction money even for such closely related purposes as highway safety and beautification, this victory for other forms of transportation represents a decided achievement." The editorial lamented failure of the Kennedy-Weicker amendment, as did an editorial in *The Baltimore Sun*, which speculated that if the amendment had passed, the funds it freed for mass transit, along with the UMTA and State matching funds, "would have put the country on the road toward balanced transportation at last."

The St. Louis Post-Dispatch began its editorial by saying, "For the first time one house of Congress has decided that the highway trust fund is not a sacred trust for more and more pavements, but may be used for balanced transportation—meaning mass transit." The *Chicago Tribune* observed that, "The Senate finally has recognized that highways alone, despite the propaganda of the powerful highway lobby, cannot solve the problem of moving people in congested cities and suburbs." It recommended that the Highway Trust Fund be transformed into a Transportation Trust Fund to help provide "a balanced transportation system in our urban areas rather than face the prospect of sinking under the weight of concrete ribbons."

The Philadelphia Inquirer also praised the "historic step." It said:

> Sixteen years of over-emphasis on highways and under-emphasis on mass transit has left American cities a legacy of traffic congestion and antiquated, inadequate public transportation. It's time to put some badly needed flexibility into federal policy so that highway and mass transit facilities can be balanced in accord with local need.

["Transit Breakthrough," *The New York Times*; "A Boost for Mass Transit," *The Baltimore Sun*; "Senate Takes Historic Step: Highway Funds for Transit," *The Philadelphia Inquirer*; all September 21, 1972; "Not Highways Alone," *St. Louis Post-Dispatch*, September 22, 1972; and "Highways and Better Ways," *The Chicago Tribune*, both September 23, 1972]

On September 25, Secretary Volpe was in Seattle to address the 91st annual meeting of the American Transit Association. He emphasized the changes that had occurred under the Nixon Administration:

> Prior to 1969 mass transit was strictly a back burner program in Washington. UMTA had a Spartan staff, a shoestring budget, and no continuity of funding.
>
> Today public transportation is a billion dollar item in the Federal budget . . . . The Urban Mass Transportation Assistance Act of 1970 laid the fiscal foundations for a 12-year program. And for more than a year now we have been trying to broaden the base for public transportation financing.

He cited the origins of the American Transit Association:

> Seventy years ago – or even 90 years ago, when this Association was in its infancy – we needed public transit in America because not everyone could afford a car. Today we need it because nearly everyone <u>CAN</u> afford a car. So now it is our challenge to make transit competitive <u>WITH</u> the car.

The Administration, he said, had been "aggressively <u>PRO</u> public transportation" because "President Nixon is vitally concerned with the future of America's cities – and he knows, as you do, that 'step one' in the quest for cities that work is the creation of cities in which people, goods and ideas move freely and efficiently." The steps thus far were "just the <u>FIRST CHAPTERS</u>."

He cited progress in Seattle (the "Blue Streak" Demonstration Project), Atlanta (MARTA), San Francisco (BART), and in smaller cities such as Salt Lake City:

> It has consistently been our view that keeping transit wheels turning is <u>NOT ENOUGH</u>. We must move in new directions, turn to new ideas, and devote more resources and resourcefulness to improving the <u>FUNCTION</u> of public transportation as well as its facilities.

In this regard, the Senate had taken "historic action" just 6 days earlier in approving the Cooper-Muskie amendment:

> I would remind you that the 1972 Federal-Aid Highway Act not only provides flexibility to local and State officials to select that mode – or mix of modes – that will help solve their total transportation problem; it does it in such a way that it does not interfere with or lessen the amounts currently available for the Interstate, primary, secondary, or rural roads.

As he concluded his speech, Secretary Volpe said that, "highways are essential," adding:

> Without our highways, public transportation by bus could not exist or grow. Without President Eisenhower's foresight in launching the Interstate program and President Eisenhower's commitment to its completion, our roadway system would be hopelessly constricted, dangerously out-of-date, and totally inadequate to our growing needs.

Today, the debate "must not revolve around the relative merits of roads or rails, steel wheels or rubber tires, personal rapid transit or public mass transit." The central problem was how to improve "the people-moving capacity our cities must have to service the seventies and remain mobile in the eighties." That was why President Nixon believed the House should join the Senate "in voting to support urban public transportation needs through highway user revenues." In this week, which was officially designated National Highway Week, Secretary Volpe said he could bring "no better news for highway user and transit rider alike – than our pledge of continuing commitment to the cause of better public transportation throughout America."

As focus shifted to the House of Representatives, *The Wall Street Journal* began its article on diversion:

> This week is National Highway Week, and it could be celebrated by breaking open the Highway Trust Fund to help mass-transit systems.
>
> And that would mean less emphasis on highways.
>
> Whatever happens on this score in Congress this session, the momentum for using the trust fund to support transit is certain to increase. So much so, avers one Nixon administration

> official, that starting next year the administration's "modest proposal" for diverting some trust-fund money to transit "may fall by the wayside—the pressures will mount to open the trust fund all the way.

Nixon Administration "Congress-watchers" thought that "their chances on winning on the House floor, while much less solid than in the Senate, are still reasonably good":

> If the trust fund diversion can be pulled off, a Transportation Department official says, "This will be the most important thing we've done in this department in the first four years" of the Nixon Administration.

Pro-transit forces had clearly gained support on Capitol Hill, and felt confident that any provisions that were not approved this year would face better prospects in the next Congress:

> Some suggest this might come about, for example, by both highway and transit interests agreeing to support a boost in the four-cent-a-gallon federal motor-fuel tax, thereby providing a bigger pot for both roadbuilding and transit work. Another more modest proposal for fattening the trust fund is a tax on transit systems that could yield perhaps $100 million yearly, relieving some of the pressure on the gas tax. Right now, the move to raid the trust fund on behalf of both rail and bus transit is coming in the face of substantial opposition by most elements of the highway lobby, but with the backing of environment-oriented, antiroad organizations like the Highway Action Coalition, a combination of 19 groups including Environmental Action and the Sierra Club. [Karr, Albert R., "Diversion of Road Funds to Mass Transit Seen Having Good Chance on House Floor," *The Wall Street Journal*, September 25, 1972]

Now, the time had come for action by the House of Representatives.

The House Rules Committee

While the House Committee on Public Works was completing work on its version of the bill, EPA Administrator William D. Ruckelshaus was in Detroit for a speech to the American Automobile Association. He began by acknowledging that all Americans wanted a car but said the problem was that 75 percent of them succeeded in acquiring one:

> Winston Churchill once said in a characteristic fit of hyperbole that the worst disaster in the history of mankind was the invention of the automobile. The people do not seem to agree.

"The very popularity of the automobile," he said, "now seriously threatens its usefulness." Our cities were "confronted by pollution, congestion, noise, delay, ugliness and urban breakdown on a scale that has not been seen since the last days of imperial Rome."

The Clean Air Amendments of 1970 imposed air quality deadlines that cities would have to meet by 1975, but the vehicle itself would have to be improved in unknown ways to control emissions. The auto industry claimed it could not meet the required 90-percent reduction in hydrocarbon and carbon monoxide levels by 1975 and a 90-percent reduction in nitrogen oxides by 1976. At present, "exhaust emission controls cannot do the job by themselves where traffic volumes are too great or atmospheric conditions are unfavorable." Changes in the way the vehicles are used were likely:

> We will be hearing more about metered traffic, exclusive bus lanes, restricted parking, dispersed employment, and sanctions against the man who drives his six-passenger car to work with no one else in it.
>
> Statistics now show that the rate of occupancy of cars during peak load periods is down to 1.2 persons per vehicle and—at the present rate of passenger decline—by 1980, one out of every three cars will be tooling along without a driver.
>
> That wouldn't be much more absurd than the present practice of encasing one man in 5,000 pounds of steel, adding 400 horsepower and then making him creep along at 5 m.p.h. breathing a combination of synergistic poisons.

Some thought we should build more highways, others that we should eliminate automobiles from congested areas and replace them with mass transit. Because the "automobile is part of the larger mosaic of American life," he said that his "profound belief is that attempting to solve the problems of modern living by attacking a piece of that complex is wrong because it's shortsighted." He said:

> We desperately need a broad systems approach integrating emissions control of motor vehicles with highway planning, land and energy use, resource conservation, demographic factors, economic growth, and the protection of wilderness and countryside. We need transportation that is fast, safe, reliable and ecologically responsible.

He asked how the country can "get around the energy-resources-pollution-urban design impasse?" The answer "obviously" was to employ mass transit "like housing and the utility infrastructure—as a major element in the design of more efficient cities." The systems should be more attractive, with features such as air conditioning, express service, quiet low emission engines, flexible routes, courteous service, and "seating arrangements which recognize the importance of 'personal space.'" Such service would open suburban jobs to inner city residents who could not afford a car.

The automobile was here to stay, but "we must supplement it if we are to get the most efficient service out of it. Henry Ford himself has said so." Ruckelshaus mentioned such innovations as automated people-movers, dial-a-bus service, air-cushion trains powered by linear-induction motors:

> Overall, according to the Department of Transportation, the revolution in mobility will require as much as $33 billion in the next 10 to 20 years. Some of this money may be diverted from the highway trust fund; whatever its origins it will be well spent. We don't have to go from one place to another in ways that are time-consuming, wasteful of fuel, nerve-wracking or socially destructive.

As alternatives, he suggested changing to a 4-day work week or allowing employees to work from home:

> Above all, in discussing the future of the private car we must not fall into the trap of being mere participants in endless pro-versus anti-automobile debate. We need not be either to be pro-humanity.
>
> The open road is no longer simply an invitation to adventure but also a problem and a challenge. We have it within our power to create a kind of mobility which transcends movement for its own sake or movement compelled by circumstances. We can formulate a life style which guarantees the variable mobility a complex society requires. [Ruckelshaus, William D., "Living With The Auto," *The Los Angeles Times*, September 26, 1972]

On September 21, Representative Glenn M. Anderson (D-Ca.), a lifelong resident of Los Angeles, asked the House Committee on Public Works, which was nearing completion of its Federal-Aid Highway Act of 1972, to approve a provision similar to the Senate's mass transit section. The committee's rejection of the amendment, 10 to 26, was not a surprise given the members' longstanding support for highways. In a concession, the committee approved an amendment calling on the Secretary of Transportation to report to Congress on the country's public transportation needs.

As David Rosenbaum of *The New York Times* reported in his article about the defeat, some mass transit proponents "were encouraged because 10 members of the committee were willing to have the trust fund tapped to build public transportation systems." He added:

> The Nixon Administration is solidly behind the idea of letting urban areas use part of their trust fund money for mass transit purposes, and Administration lobbying in the Senate was said to have been instrumental in having the measure adopted there.
>
> In a rare alliance, the Administration has joined forces with the Democratic Study Group, an organization of liberal Democratic Representatives, to work to overturn the committee's decision on the floor.

Still, the highway forces were strong:

> Most of the members of the Public Works Committee are strong advocates of expanding the Federal highway system, and, in an election year, many of them have benefited from contributions by highway interests . . . . [Also] there are few Representatives who have not taken credit for new highways in their districts. Many of these legislators do not want to see the highway money siphoned off for other uses.

One of those legislators was one of the most influential:

> Representative Wilbur D. Mills, Democrat of Arkansas, has said that he believes that any legislation changing the use of trust fund money should go through his Ways and Means

Committee, which has jurisdiction over tax legislation. [Rosenbaum, David E., "House Panel Backs Ban on Diverting Highway Funds," *The New York Times*, September 22, 1972]

The committee completed work on its bill on September 25. It contained Title I ("Federal-Aid Highway Act of 1972"), Title II ("Highway Safety Act of 1972"), and Title III ("Prohibition of Discrimination on the Basis of Sex"). Its Declaration of Policy stated that after completion of the Interstate System, national policy would be to increase emphasis on improving the other Federal-aid systems to the maximum extent possible by 1990. [*Federal-Aid Highway Act of 1972*, Report, House of Representatives, 92d Congress, 2d Session, Report No. 92-1443, September 25, 1972]

The bill's provision on highway public transportation authorized the use of Federal-aid highway system funds for highway-related transit, including exclusive bus lanes and passenger loading areas and facilities, but not purchase of buses. If right-of-way were available, rail or nonhighway mass transit programs could be accommodated. The bill would repeal the provision of the 1970 Act that required exclusive bus lane projects to be less expensive and more feasible or prudent than additional automobile lanes.

As noted earlier, the committee bill also called on the Secretary of Transportation to cooperate with the Governors and appropriate local officials to evaluate the estimated $63.45 billion in public mass transportation needs through 1990 as discussed in the 1972 National Transportation Report. Funding for the $75 million study would come from the general Treasury. The report to Congress on the evaluation would cover:

(1) Refining the public mass transportation needs contained in such Report.
(2) Developing a program to accomplish the needs of each urban area for public mass transportation.
(3) Analyzing the existing funding capability of Federal, State and local governments for meeting such needs.
(4) Analyzing other funding capabilities of Federal, State and local governments for meeting such needs.
(5) Determining the operating and maintenance costs relating to the public mass transportation system.
(6) Determining and comparing fare structures of all public mass transportation systems.

This study, the committee believed, "would enable communities to develop actual programming to meet its public mass transportation needs whatever that form might be." After receiving the report in January 1974, "it is hoped that a proper look can be given to the need, if it may be necessary, to use any portion of the highway trust fund and other methods of financing to meet the pressing needs of mass transit (exclusive of highways) across the country." [*1972 Act*, House Report, p. 12, 18]

The committee's bill also contained such provisions as:

- Authorized an additional $8 billion for completion of the Interstate System ($3.5 billion a year for FYs 1974-1978 and $2.5 billion for FY 1979). The time for completion was extended to June 30, 1979.

- The bill approved use of the 1972 Interstate Cost Estimate for apportionment of Interstate funds as well as an additional $50 million for States that would otherwise receive less than one-half of one percent of the Interstate apportionment in FYs 1974 and 1975 if the State had not completed Federal funding of the System within its borders.
- Authorizations for other Federal-aid programs for each of FYs 1974 and 1975:

  Federal-aid primary in rural areas - $700 million
  Federal-aid urban - $700 million
  Federal-aid secondary in rural areas - $400 million
  Extensions of primary and secondary systems in urban areas - $400 million
  Forest highways - $33 million
  Public lands highways - $16 million

- Declared the national policy to be reduction of red tape to the maximum extent possible.
- Terminated Federal-aid involvement in the U.S. 281 North Expressway project in San Antonio. A related provision on the "Federal-State Relationship" explained that nothing in Title 23 shall infringe on the sovereign rights of the States to determine which projects are to be federally financed. It added that Title 23 provided for a federally-assisted State program.
- Extended the possible use of Certification Acceptance to all Federal-aid systems except the Interstate System.
- If an Interstate toll road became toll free, Interstate funds could be used for construction, reconstruction, and improvement of the road.
- Since the Commission on Highway Beautification established by the 1970 Act had not met its deadline, the bill extended the deadline to December 31, 1973, the year before the next 2-year reauthorization bill was due for consideration. The bill eliminated the present 660-foot limitation on the control of signs along the Interstate and primary systems. It changed the definition of "effective control" to state that signs beyond 660 feet would be limited to directional and official signs and notices related to motorist services. It also contained changed provisions on acquisition of signs to be removed and authorized $50 million a year for these purposes, as well as $15 million for control of junkyards. The funds would come from the Highway Trust Fund.
- Continued funding for Economic Growth Center Development Highways and authorized funds for a Special Urban High Density Traffic Program (for highways connected to the Interstates) and Priority Primary Routes (not more than 10,000 miles of high traffic sections of highways on the Federal-aid primary system connected to the Interstate System and built to Interstate standards). The Priority Primary Routes were essentially former Administrator Turner's "Junior Interstates" proposal.)
- Directed the Secretary to undertake a National Scenic Highway System Study and submit a report to Congress by January 1, 1975.
- Eliminated the 200-mile limitation on Howard-Cramer mileage, leaving the amount open-ended. Provided that substitute mileage and mileage for modification shall not exceed the cost (as shown in the 1972, rather than the 1968, Interstate Cost Estimate) of the aggregate of all mileage that is to be withdrawn from the Interstate System as nonessential. In considering substitute routes, the Secretary would give "preference, along with due regard

> for interstate highway type needs on a nationwide basis," to routes in States in which other routes were or hereafter are withdrawn and extension of routes which terminate in cities served by a single Interstate route, so as to provide traffic service through such cities. [*1972 Act*, House Report, p. 19-40]

The Highway Safety Act of 1972 included funding, primarily but not entirely from the Highway Trust Fund, for such activities as rail-highway crossings, bridge reconstruction and replacement, pavement marking, projects for high hazard locations, and elimination of roadside obstacles, as well as research and education. [*1972 Act*, House Report, p. 41-43]

Title III prohibited discrimination based on gender in any program or activity receiving funds under Title 23 programs.

The committee report on the bill included minority views on several topics. Representatives Abzug and Anderson joined Representatives James V. Stanton (D-Oh.), James R. Grover, Jr. (R-NY), Charles B, Rangel (D-NY), and George W. Collins (D-Il.) in offering their views on "Interstate System Transfers and Substitutes." Although they appreciated the sevenfold increase in funding for the Federal-aid urban system, "the bill does little to advance public transportation." They acknowledged the bill's changes in the Howard-Cramer amendment, but did not think it went far enough:

> We would amend the bill to allow Interstate funds to be used for non-Interstate purposes when an Interstate segment is to be deleted from the System and the responsible State and local officials jointly determine that this would be a better use of these funds. However, in no way would this amendment undermine the integrity of the System since no deletion could be made without the Secretary of Transportation first determining that the segment to be deleted was not essential to System continuity.
>
> Our amendment would require the Governor and appropriate local officials to jointly request that an Interstate segment be deleted. The Secretary of Transportation could only approve this request if he determines that the segment in question is not essential for the continuity of the System.
>
> Funds equaling the cost of the deleted segment as of the date of its withdrawal would be available for alternative Interstate segments or for projects on the Federal-aid urban system in the urbanized area in which the deleted segment was located. Thus for the first time, Interstate funds could be used for non-Interstate purposes.

They added that they saw no reason why "transportation capacity must be provided through an eight-lane limited access facility rather than through seven or eight separate upgradings of poorly designed existing streets or for that matter improved public transportation." At present, a city seeking additional capacity "must accept it the only way it is offered, as an Interstate highway segment." Under the proposed amendment, officials could select a different Interstate routing or several improved lesser facilities. [*1972 Act*, House Report, p. 73-74]

Representative Robert A. Roe (D-NJ) joined in their minority view on "Public Transportation." They endorsed the rejected amendment that would allow a portion of Highway Trust Fund revenue to be used to acquire and construct facilities and equipment for bus and rail public transportation. The provision would permit, not require, these options. "The point is that those who are most familiar with an area and its needs would be permitted flexibility in developing a transportation program." Getting people out of their cars would also benefit the trucking and business community by reducing congestion while helping alleviate air pollution and the oil crisis. They indicated they would offer the amendment when the bill came up for consideration on the House floor. [*1972 Act*, House Report, p. 76-79]

Representatives Jim Wright and Gray of Illinois joined Representatives Anderson, Abzug, Collins, Rangel, and Roe in expressing disappointment that the bicycle transportation amendment had been rejected. The amendment would have allowed Federal-aid to help States and localities construct bicycle and pedestrian paths and associated features such as bicycle shelters and traffic control devices in conjunction with highway rights-of-way. Allowing this use would have helped alleviate traffic congestion and auto pollution and provide "a healthy recreational activity as well." Apportioned Federal-aid highway funds could have been used for bicycle-related work, but the amendment would have added $10 million a year for FYs 1974 and 1975 specifically for this purpose. The amendment would not have affected city sidewalks, which were a local responsibility, but "would help meet the pressing needs of the ever growing army (80 million persons) of bike riders—both young and old—who enjoy commuting to work or school, and who enjoy the wholesome, healthy recreation of bicycling." [*1972 Act*, House Report, p. 75]

Representative Abzug individually opposed the priority primary concept as a second generation Interstate System. The new program would take away from the flexibility needed in determining transportation alternatives:

> We do not need another such system. What is now required are funds to best meet the different needs found in different States. If additional highways are needed, we should provide the funds but the States should decide how to use them. [*1972 Act*, House Report, p. 82]

On September 14, the House Banking and Currency Committee had completed work on its version of the omnibus housing and urban development bill the Senate had approved in March. The bill included a 2-year appropriation of $400 million—half the amount in the Senate bill—to cover operating deficits for transit systems. The prospects for passage on the House floor in the few weeks remaining were dimmed by other controversial provisions, including restrictions on Federal efforts to open the suburbs to minorities. *The New York Times* said the bill "was seen as progressive in its attempt to reform the grand system and aid the large cities in their development but sharply regressive in social content, moving against efforts of the Federal Government for an integrated, open society and for assistance to the poor." [Herbers, John, "House Unit Backs Housing Measure," *The New York Times*, September 15, 1972]

On September 27, the House Rules Committee voted 9 to 5 on September 27 to defer action on the legislation, effectively killing it. As *The Wall Street Journal* explained, the bill "had drawn fire both from liberals, who opposed restrictions on subsidized housing projects, and conservatives, who disliked the subsidies for mass transit systems and the continuation of any subsidized housing programs." Another sticking point was that "the size of the massive 314-page bill offended practically everyone, including the chairman of the Banking Committee, Wright Patman (D., Texas)." The House and Senate banking committees were reported to be working on continuing resolutions to fund current housing programs to continue funding in FY 1973 for the Department of Housing and Urban Development, Federal Housing Administration, and the Veterans Administration. ["House Rules Unit Kills Housing Bill With Transit Aid," *The Wall Street Journal*, September 28, 1972]

With a little more than a week before the Federal-Aid Highway Act of 1972 would reach the House floor, the debate over diversion continued. The American Trucking Associations' Furtick denounced the Senate bill in a speech to the Central Motor Freight Association in Chicago. The industry was willing to pay its fair share, he said, but "that is not what the Senate and others are asking of us. They are asking us to pay considerably more than our fair share," referring to the use of Highway Trust Fund revenue for mass transit. ["Mass Transit Use of Road Fund Hit," *The Journal of Commerce*, September 29, 1972]

Secretary Volpe again "most enthusiastically" supported the Cooper-Muskie amendment in a statement issued on September 29. "I become increasingly optimistic that similar legislation will be approved by the House of Representatives." The amendment was "moderate and limited" in scope, but would allow Federal officials "to work with these cities to help them meet their needs."

The change, moreover, "is completely consistent with the evolving history of the Federal aid highway program," as he explained:

> Over the years new uses for the Highway Trust Funds have been introduced. Today we see these funds being used for replacement housing, construction of exclusive bus lanes, parking facilities, safety programs, even ferryboats. I do not, consequently, see any conflict in the use of these funds for buses or rail purposes. The principal beneficiaries of this new program would be highway users themselves who would see lessening of highway congestion as more and more drivers took advantage of new or improved transit.
>
> The old way of Federal financing dictated that State and local officials must build highways – whether or not they needed them.
>
> The new way we recommend permits these same officials to make the wisest possible transportation investment with their Federal assistance. This new way, it seems to me, is in the best tradition of representative government.

The statement was accompanied by a Question and Answer section. One question was, "But how can you expect people who pay into the Highway Trust Fund to agree to this?" The answer:

> Virtually all Americans are highway users in one way or another. Either they use vehicles for private use or they obtain their basic goods from trucks that use those roads. They use it

> for business as well as pleasure. But the point is that congestion cannot be solved merely by building roads. We must make use of all forms of mass transit or in reality these tax dollars will not buy very much in the way of better transportation.

Another question asked if the Cooper-Muskie amendment was "unfair to truckers who pay the most taxes only to see some of the money going to mass transit which is of no benefit to truckers at all." The answer:

> The truth of the matter is that truckers will most certainly benefit. They compete with the private motorist in the highly congested urban areas. It has been estimated, for example, that the annual cost of congestion to truckers in New York City alone is more than $100 million. Our proposals are designed to help remove many of the private automobiles from streets so that all vehicles can operate more effectively. Truckers surely would not like one alternative that has been suggested – restricting truck use in urban areas to non-rush hours and even nighttime.

That same day, September 29, Secretary Volpe addressed State transportation officials gathered at Friendship International Airport in Maryland to discuss traditional and innovative approaches to transportation planning, organization, and financing. The Secretary told the assembled officials that he endorsed the Cooper-Muskie amendment in the Senate bill. It would not change the highway-orientation of the Federal-aid primary and secondary systems, but would allow urban officials to decide the best way to address their unique transportation needs. Among the beneficiaries would be motorists who would face less congestion as more drivers switch to transit. ["Volpe Promises Funds for Rail Transit System," *The Baltimore Sun*, September 30, 1972; "Volpe Supports Highway Aid Act," *The Journal of Commerce*, October 2, 1972]

(On November 16, 1973, Friendship was renamed Baltimore-Washington International Airport to reflect its regional role. In 2005, it was renamed Baltimore/Washington International Thurgood Marshall Airport (BWI) to honor the achievements and the legacy of Supreme Court Justice Thurgood Marshall, who was born and raised in Baltimore.)

At the start of a panel discussion, Under Secretary Beggs said of the Cooper-Muskie amendment:

> Although scaled down from our original request of $1 billion for urban transportation, the Bill as passed by the Senate would provide that flexibility in solving urban transportation problems we believe essential. It would bring funding and responsibility closer together.

He explained that success on the Senate floor followed defeat in committee:

> If we are to win this one, we will have to have a repeat performance of the minor miracle of overturning a powerful committee recommendation. The House Subcommittee on Roads and the full House Public Works Committee have by convincing margins voted against the use of Highway Trust Fund money to support transit systems other than bus-related highway facilities.

Whatever the outcome, he said, the "momentum for meeting transportation challenges on a systems basis grows." The Nixon Administration had shown "a willingness to go the extra mile in cooperating with you to solve your transportation problems and to help you meet your challenges."

On October 3, Secretary Volpe issued another statement in support of the Cooper-Muskie amendment. Thanks to the Highway Trust Fund, he said, "the United States has the most advanced and best transportation system in the world." He continued:

> The great emphasis we have placed upon highway construction for the past 16 years has been, rightly or wrongly, a major contributing factor to the urbanization of America. We are today a more complex society and that complexity is nowhere more evident than in the area of transportation.
>
> But the quality of mobility has become flawed in many of our urban areas. It is in the effort to restore mobility in our cities that we urge Congress to approve use of the Highway Trust fund for public transportation in urban areas . . . . Returning political philosophy and initiative to the original concept of the Highway Trust Fund – increased mobility – will give us that flexibility we need.

He praised the Senate for adopting the Cooper-Muskie amendment:

> Under the leadership of Representative John B. Anderson, a similar amendment providing $700 million to the Highway Bill will be introduced in the House of Representatives.
>
> In the interest of preserving the quality of mobility in our urban areas – the economic viability of our cities – I urge favorable consideration of the Anderson amendment.

The statement was accompanied by "Facts About the Highway Trust Fund" highlighting the many diversions from highway construction already approved. It included three recommendations for changes to House bill, which it described as "very much a traditional highway bill." Of course, the first recommendation was adoption of the Cooper-Muskie amendment. Second, Secretary Volpe said the House bill provided all Federal-aid urban system funds (increased from $100 million at present to $700 million a year) to the State highway departments. He endorsed an amendment that would allocate the funds proportionately among urbanized areas of 50,000 population or more:

> If a duly constituted metropolitan transportation agency were established, the funds would go directly to them. If no such agency existed, the State would administer the funds for use only in the designated urban area.

Finally, he endorsed an amendment on "Interstate Transfers." Current statutes allowed the Secretary to delete segments that were not essential for the continuity of the Interstate System. Deletions would free funds for use elsewhere, but the statutory mileage limitation on the length of the System was a limiting factor. The additional 200 miles currently available under the Howard-Cramer Act helped offset the limitation. "This additional mileage has the effect of permitting funds tied up in a relatively expensive short urban segment to be used for a much longer rural segment."

The House bill eliminated the 200-mile addition and authorized whatever additional mileage was needed. The Secretary favored an amendment that would remove the 200-mile ceiling but "would permit the funds earmarked for a deleted Interstate segment to be added to the Federal-aid urban system funds of the urban areas in which the deleted segment was located." The funds could then be used for any activity that was eligible for urban system funds. The statement did not say so, but approval of this amendment coupled with the Cooper-Muskie amendment would mean that the former Interstate funds could be used for transit, including rail transit.

The statement opposed the bill's 2-year moratorium on billboard removal, funding for priority primary routes, and provisions involving freeway construction in the District of Columbia.

The New York Times endorsed House approval of the Cooper-Muskie amendment. The editorial recognized that amending the bill in the House "will not be easy, given the extraordinary power of the highway lobby." It praised Secretary Volpe for campaigning hard for the amendment and President Nixon for supporting it. "If it fails, the fault will not be that of the Administration but of the Democratic leadership of the House." ["Roads—Or Rail?" *The New York Times*, October 3, 1972]

James D. Dilts, who covered transportation for *The Baltimore Sun*, tried to set the stage for the coming battle. His Sunday feature article began:

> In the annals of legislation, 1972 could be remembered as the year the first concentrated attack was mounted on the Highway Trust Fund.

The battle would be over the Cooper-Muskie amendment, which had been approved by the Senate with the support of Secretary Volpe and the Highway Action Coalition. Dilts summarized the evolution of the legislation, noting Secretary Volpe's testimony in support of the Single Urban Fund, which "was never heard of again, and did not emerge in either Senate or House versions of the highway bill."

On one side of the debate was HUFSAM, the federation of highway corporations. HUFSAM's Koltnow said, "Some of the proponents [of diverting highway funds into mass transit] are less concerned about the real needs of transit than they are annoyed by the highway program."

On the other side was the Highway Action Coalition. Dilts helped his readers understand the contrast between the antagonists. The coalition, he explained, consisted of the same groups that had defeated the SST. They had reformed a year earlier with a new target: the Highway Trust Fund. The coalition's offices were on the seventh floor of the Dupont Circle Building "which seems to be sort of a commercial Chelsea Hotel and in a similar state of physical decay." He added that, "A lot of people run around the halls with guitars." (The Chelsea Hotel in New York City was known for the artists, musicians, and writers who stayed there.) The current campaign consisted of "legislative lobbying and mailing out literature, piles of which consume most of the space in the office."

He introduced readers to John D. Kramer, who had taken a leave of absence from a fellowship in international relations at Oxford to run the coalition for $75 a week. Kramer headed a staff of four and operated on a budget of $15,000 a year. "Neither he nor anyone else on the staff has been paid in a month." Asked about the source of funding for the coalition, Kramer told Dilts, "That's the problem. We don't have one."

Dilts also visited "the plush offices" of HUFSAM a block away on the fifth floor of 1776 Massachusetts Avenue. "The federation is conducting a public information campaign and media blitz on the need for more highways." With a budget of $3 million a year, HUFSAM employed a staff of 50. Koltnow said:

> The transit case has been misstated. This illusion of a fat highway trust fund is a bunch of grapes that has been dangled in front of interested folks on the other side. The needs of highways have always outstripped the revenues. I defy you to find me a street you are satisfied with as far as safety and looks are concerned.

He added that, "We have no paid lobbyists on the hill," although Kramer claimed that HUFSAM lobbied anyway.

Both groups were focused on the House. Kramer told Dilts, "There is an awful lot of tricky maneuvering going on." [Dilts, James D., "Trying to Crack the Highway Fund," *The Baltimore Sun*, October 1, 1972]

Engineering News-Record also tried to give its readers a sense of the debate. The 1972 Act would be "one of the final, and most controversial bills Congress will handle before adjourning for the fall campaign." When the House passed its bill, "no doubt there will be a battle royal when conferees meet soon to work out differences."

Of course, the Cooper-Muskie amendment would be the chief battleground. In addition to the usual disagreements over rail transit, the article saw other problems:

> A potential complication that mitigates [sic] against the transit diversion was brought up by Rep. Wilbur Mills (D-Ark.). He says that any such change in authorization would require a change in revenue collection laws, an almost impossible legislative hurdle since Congress wants to adjourn soon . . . .
>
> Some sources consider it likely that President Nixon may veto any highway bill that calls for more than $6 billion in annual funding. ["Battle Shapes Up on Highway Fund Diversion," *Engineering News-Record*, September 28, 1972, p. 21]

Despite rejection by the House Public Works Committee of the Cooper-Muskie amendment, the Department of Transportation and mass transit supporters thought their intensive campaign had gained enough support to pass on the House floor. However, before the Federal-Aid Highway Act of 1972 could reach the House floor, it had to go through the House Rules Committee, which would determine which amendments would be out of order. In other words, any such amendment was not considered germane to the legislation.

The Rules Committee had outlawed amendments to alter several sections, including the U.S. 281 North Expressway provision. On October 3, Representative John A. Anderson (R-Il.) of the Rules Committee tried to convince his colleagues to send the bill to the House floor with a rule allowing consideration of the Cooper-Muskie amendment. The committee voted 7 to 8 to reject Anderson's proposal. All the Republicans except Anderson voted against his plan, while six Democrats favored it and two voted against it. This action meant that if the Cooper-Muskie amendment were introduced during the floor debate, it would be ruled out of order and not brought to a vote—as had been the case when the House refused to allow consideration of transit measures during consideration of highway bills in 1968 and 1970.

The vote led to partisan finger pointing. Liberal Democrats from urban areas blamed the Nixon Administration for not securing the needed votes to pass the Anderson plan out of the Rules Committee. Administration officials explained that President Nixon had written to Anderson on September 30 to offer unqualified support for the plan. "I consider it of the utmost importance that the House act to provide more flexibility in the use of the Highway Trust Fund for urban transportation projects—either highways or transit—along the same lines as those on which the Senate has acted." The President acknowledged the House bill's support for highway-oriented mass transit, but "urban areas must have the flexibility to design, and fund, a balanced system." He endorsed the Cooper-Muskie amendment as "the kind of flexibility we need today and that is why I am so pleased you will be offering your amendment."

Secretary Volpe had called nearly every member of the Rules Committee, and after the vote, had called Republicans again in hopes of convincing them to change their vote. They criticized Speaker of the House Carl Albert (D-Ok.) and Majority Leader Hale Boggs, who had refused requests that they help secure approval. The Minority Leader, Representative Gerald R. Ford (R-Mi.) had also refused to help.

What the Rules Committee's decision meant for the bill was unclear. Some officials thought it killed any chance of enacting a Federal-aid highway bill in 1972. The Administration, however, still planned to fight for the bill and thought it had a chance. ["Rules Panel Blocks House Vote on Nixon Plan to Let Urban Areas Use Road Funds for Mass Transit," *The New York Times*, October 4, 1972; "Providing for Consideration of H.R. 16656, Federal-Aid Highway Act of 1972," *Congressional Record-House*, October 5, 1972, p. 34066-34067]

On Thursday, October 5, the House began considering the bill. That morning, an editorial in *The Los Angeles Times* decried the House Rules Committee's action. The present restriction of the Highway Trust Fund to highways "no longer makes sense in light of environmental considerations and the crying need in many urban communities for a balanced transportation system including fast, efficient mass transit." The key House committees were still under the grip of the highway lobby, the editorial stated, but the Highway Action Coalition was convinced it had the votes to approve the Cooper-Muskie amendment if it came to a vote before the full House. "Barring a miracle, the drive to change the law is dead for this year" following the Rules Committee's action. Fortunately, "it is highly unlikely that the corpse will stay buried." Eventually, "common sense will prevail even in the U.S. House of Representatives." ["Another Setback for Mass Transit," *The Los Angeles Times*, October 5, 1972]

That same day, *The Journal of Commerce* reported that the International Brotherhood of Teamsters had broken with longstanding policy to support the use of Highway Trust Funds for mass transit. "It's simply a realization of the fact that highways alone can't do the job." The Teamsters, who had been influential in other battles in support of highways, said they would throw their lobbying support behind the Cooper-Muskie amendment because it would help relieve congestion on the streets and highways the truckers used. ["Teamsters Back Use of Road Fund For Mass Transit," *The Journal of Commerce*, October 5, 1972]

In the House, the first order of business was to adopt the House Rules Committee's resolution 1145 on the bill. Representative H. Allen Smith (R-Ca.) of the Rules Committee said he expected some controversy about the rule, especially regarding the use of Highway Trust Fund revenue for mass transit. He explained that the committee had considered Anderson's plan, but voted it down. On October 4, Representative Anderson had made a motion to reconsider, but it also had failed. He knew that several Representatives, including Anderson, had written an all-Members letters stating they would like to secure a vote on the Cooper-Muskie amendment. He could not speak for the Speaker or Parliamentarian, but he expected they would rule the amendment non-germane, consistent with the House Rules Committee vote. He added:

> Frankly, I am personally very much opposed to taking any of that money and diverting it and using that money for any type of mass transit. If they want to start a trust fund for that particular purpose, then they should start their own trust fund for that purpose. Because once you start going into trust funds, diverting them, you will have more and more and more problems.

He recommended support for the House Rules Committee resolution. [*Congressional Record-House*, October 5, 1972, p. 34064-34065]

Representative Anderson spoke in support of allowing a vote on his version of the Cooper-Muskie amendment. He said:

> Up until 11 o'clock this morning I had been assured that our amendment would be germane. At that time I was informed that new points had been raised, and that we were in a new ball game.

He explained why the Cooper-Muskie amendment was needed, citing support from Secretary Volpe and President Nixon. [*Congressional Record-House*, October 5, 1972, p. 34065-34067]

Members of the Public Works Committee who had signed the minority report also spoke in support of the amendment, with Representative Stanton, a Democrat, saying, "The minority leader has worked hard to make sure that the will of this body is not properly identified on this vote, in my judgment. I criticize him and those who seek that position."

Minority Leader Ford responded briefly that he had "asked that the Rules Committee abide by the rules of the House, and that is the proper procedure in any legislative body." He added, "To do otherwise would create uncertainty and legislative chaos."

Stanton replied sarcastically, "I agree, and the intense interest of the minority leader to abide by those rules is to thwart the free will of this body to make a decision on the mass transit needs of America." The Minority Leader asked Stanton to yield time for a response, but Stanton would not. He continued that he was seeking a vote "that is critical to the communities of America." [*Congressional Record-House*, October 5, 1972, p. 34067]

Representative Bingham, who had been subject to points of order in past efforts to secure Highway Trust Fund revenue for transit, spoke in favor of amending the rule to allow a vote on the Cooper-Muskie amendment. As a representative of New York City, "I feel very bitter about the way in which my constituents and other big city residents have been discriminated against over the years in the allocation of Federal funds for transportation purposes." He wanted to make two points. First, he pointed out that the National Board of the Governors' Conference supported the principle behind the amendment by supporting a Transportation Trust Fund consisting of existing earmarked transportation revenues or "beginning a phased program of percentage transfers from the highway and aviation trust funds and other funds made available for transportation into the proposed unified National Transportation Trust Fund." He said that the Governors' policy statement, as well as the Democratic Party's platform, which called for broadening the Highway Trust Fund to include mass transit, went further than the Cooper-Muskie amendment.

Second, he said he favored the germaneness rule in general. "Let us not frustrate ourselves, let us not paralyze ourselves, by a rigid application of the germaneness rule so that this issue cannot be voted on the merits." He did not want anyone to say that the House would have approved, or at least voted on, the Cooper-Muskie amendment "if we followed some other procedure." There was, he said, "simply no other procedure." He added, "I have been fighting this battle since 1965, and I know." [*Congressional Record-House*, October 5, 1972, p. 34068]

Representative John Byrnes (R-Wi.) brought up Secretary Volpe's statement in February 1969 when he said, "I believe that the integrity of the highway trust fund must be preserved without question . . . . In my opinion, to divert highway use tax revenues to purposes other than the provision of highways would abrogate a long-standing moral commitment, as well as a statutory provision." Byrnes thought the Secretary's comment was right on point. "Are we going to break faith with what we did in 1956 . . . .?" He quoted President Eisenhower in 1956:

> A sound Federal highway program, I believe, can and should stand on its own feet, with highway users providing the total dollars necessary for improvements and new construction.

Now, Byrnes asked, are we going to say to taxpayers that after making a firm commitment on how highway user tax revenue would be used, "we have decided we are going to use this money for any purpose that comes along that suits our desire at the moment." To do so would be to "break faith with those who pay these taxes." [*Congressional Record-House*, October 5, 1972, p. 34068-34069]

Representative Abzug said she thought House members had the right to hear arguments on both sides of the issue, especially since there was no other legislation where mass transit could be discussed:

> It is interesting that last week the Committee on Rules killed a housing bill which contained money not only for capital expenditures involving mass transportation but also for operating expenses for local transit agencies.
>
> I think this amendment is perfectly germane to the highway legislation and it is the only legislation to which it is germane. The fact of the matter is that the present subject matter of the legislation does encompass facts concerning mass transit, such as the construction of bus lanes, bus shelters, and fringe area parking . . . . We are merely asking that an amendment to the Highway Act be considered on the floor. The Committee on Rules has no right to make a substantive determination that we cannot discuss the relationship of mass transit to the highway trust fund. [*Congressional Record-House*, October 5, 1972, p. 34069]

After brief comments by Representative Koch in support of voting on the issue, Minority Leader Ford took the floor. He said that those who favored the amendment "would leave you with the impression that the Congress is not providing one penny for urban mass transit." He summarized funding in the mass transportation act. Now, he said, they want that funding, plus they "want to break faith with the trust fund." He said, "let me put this issue as clearly as I can." Do the Representatives think that the people paying taxes for construction of highways want that money diverted to fixed rail facilities and the purchase of passenger equipment? "Of course they do not. They do not want you to break faith with them, and if you vote 'no' [on the resolution] . . . you will."

Proponents spoke of the Cooper-Muskie amendment "as though this is a very simple, innocuous amendment," when they were just using the old "nose under the tent" theory. "If you open the door a wee crack, you are going to have the floodgates opened." Once Congress breaks faith on the Highway Trust Fund, those same proponents, Ford said, would want funds from the airport trust fund. He urged support for the House Rules resolution. [*Congressional Record-House*, October 5, 1972, p. 34069-34070]

Representative Wright said he supported mass transit, but wanted to explain the three reasons why the Committee on Public Works had considered the Cooper-Muskie amendment "very unwise." First was the breach of trust. Congress should no more break faith with the highway user taxpayers "than we would want to violate the social security trust fund." Second, every penny in the Highway Trust Fund was needed for highways, as documented in the 1972 transportation needs report. Third, the Public Works Committee had worked within the framework of the trust to the taxpaying public "to assist and accommodate the development of mass transit wherever it is needed and can be used." He cited the provision allowing the use of highway right-of-way for mass transit facilities as well as the provisions for fringe parking and preferential bus lanes. [*Congressional Record-House*, October 5, 1972, p. 34071]

Representative Harsha said that all the Rules Committee was asking the House to do was "abide by the rules we enacted some time ago." If non-germane subjects were considered on every bill "you will find yourselves legislating in a circus." The Rules Committee was not denying the House the right to vote on this issue if legislation were reported out of the committee with jurisdiction over this subject. "Then it can be brought before the House in a proper manner and dealt with according to the rules of the House."

He emphasized that Highway Trust Fund revenue was needed for highways. "By diverting even one penny from this highway improvement effort we are, in effect, endangering the lives of the people who travel on the Nation's roads." With 55,000 people already losing their lives on the roads, he said, "Let us not set the stage for killing many more."

If the Administration thought mass transit was so urgent, Representative Harsha asked, why had the Administration impounded $300 million of that money the previous year? Further, the General Revenue Sharing bill was awaiting passage, and that would provide more funds that communities could use for mass transit. "Now, how much do they want? What they really want, I think, is to have the operating costs of mass transit systems paid for by Federal funds." The Cooper-Muskie amendment would be "the foot in the door" that would allow "this mass transit special interest . . . to get money to operate the system, keep the fares low and thus have automobile owners subsidize the subway riders."

Allowing consideration of the amendment would violate the fiduciary responsibility of Congress. "Its word must be good. If it votes down the previous question and makes the rule open to amendment it will be saying 'Our word is no good, our promises are no good.'" Congress had given its word in creating the Highway Trust Fund and must not go back on it. [*Congressional Record-House*, October 5, 1972, p. 34072]

Representative Blatnik followed Representative Harsha by saying modestly "that I had a very small role to play over the years on the highway program which has been so ably handled by the former chairman of the committee, George Fallon, who is here on the floor of the House this afternoon, and the subcommittee chairman, the gentleman from Illinois (Mr. Kluczynski) and the able staff of the committee." He agreed with the arguments for mass transit. They are "absolutely justified." However, he also was aware of needs in rural areas where mass transit could not be the solution. "There is not enough money in the trust fund and you are never going to solve the problem by what is being attempted here—no one is going to solve these problems in this way." He favored identifying needs and providing funds to meet them. Congress "should not in the process take the moneys from other programs where they are equally needed." [*Congressional Record-House*, October 5, 1972, p. 34072]

Representative Thomas P. "Tip" O'Neill (D-Ma.), whose district in Boston included a portion of the controversial Inner Belt, spoke in support of Representative Anderson's request. Representatives from Boston, such as himself, and other urban areas should have the opportunity to vote on the Cooper-Muskie amendment. As a member of the Rules Committee, he had tried to waive the point of order on this amendment, but the majority had voted to deprive "millions of citizens in urban areas of improved public transportation systems." Allowing the Rules Committee resolution to control the debate "would insure that the metropolitan areas of America would continue to be torn by controversies which have immobilized efforts to achieve truly balanced transportation systems so desperately needed by all our citizens." [*Congressional Record-House*, October 5, 1972]

When the debate was concluded, the House voted 200 to 168 in support of the Rules Committee resolution. They would not vote on Representative Anderson's attempt to incorporate the Cooper-Muskie amendment into the Federal-Aid Highway Act of 1972. [*Congressional Record-House*, October 5, 1972, p. 34075-34076]

The Washington Post gave Minority Leader Ford much of the credit for the vote. His "strong speech of opposition" to modifying the resolution "lined up nearly two-thirds of the Republicans against it despite the President's support." The article noted that as Representative Anderson had said during the debate, the House Parliamentarian had assured him and his cosponsors that their amendment to consider their version of the Cooper-Muskie amendment would be ruled in order. On October 5, "they said they were told just the opposite, that it would be ruled out of order." Instead of debating the merits of their amendment, they had to fight on a procedural motion to change the House Rules Committee resolution. "It is usually more difficult to win a procedural fight than a substantive one." [Lyons, Richard L., "House Kills Bid to Open Road Fund," *The Washington Post*, October 6, 1972]

John Kramer and other mass transit supporters were angered by the maneuvering to prevent a vote on the issue. Kramer said, "This parliamentary maneuver insures that the highway lobby will continue to have a firm grip over America's transportation dollars and that millions of citizens in urban areas will be deprived of the quality public transportation service they deserve." ["Mass-Transit Use of Highway Fund Blocked by House," *The Wall Street Journal*, October 6, 1972]

Albert R. Karr wrote about the defeat in *The Wall Street Journal* on October 10. His article was titled "The Highway Boys Win Another One." He began with an anecdote about a man from Peoria who worked for the Caterpillar Tractor Company. While in Washington, he tried to find The Highway Lobby in the telephone directory. When he couldn't find it, he doubted its existence. Karr continued:

> Here's news for the man from Peoria. The highway lobby exists. It's in Washington—big as life, vigorous and fresh from one of its greatest victories.

After explaining the debate over the House Rules Committee resolution, he pointed out that it was "remotely possible" that the highway lobby might still lose if a House-Senate conference committee included the Cooper-Muskie amendment in the final bill. "Even so, the effort it has mounted in recent weeks would still be impressive." He summarized some of its efforts:

> One anti-highway man counted nearly 30 highway lobbyists working the corridors of Capitol Hill as the House proposal headed toward a vote recently. Moreover, a contractors group, the Committee for Action, already has reported contributing $74.400 in recent

> months to more than 60 political candidates. The contributions include $1,500 to Sen. Jennings Randolph . . . and $1,000 to John S. Blatnik . . . .
>
> So far, the Truck Operators Non-Partisan Committee has reported no donations. But if the rumors of recent donations proffered to House members during the recent debate are any indication, the truckers won't be sitting on their money for long.
>
> On at least two occasions in recent days, the truckers were reported offering campaign-contributions checks to members of House committees as key votes approached on the highway measure. When the House public works panel was to register its stand on the trust-fund diversion plan (it wound up rejecting the plan 26-10), some of the trucker offers amounted to "a couple thousand dollars at a crack," says an observer. "They pulled out all the stops . . . ."
>
> Later, more trucker offers were made when the rules committee took up a parliamentary question vital to passage of the bill. The highway lobbyists wanted the committee to rule that any amendment from the House floor to tap the trust fund for mass transportation would be out of order. The committee ruled accordingly.

The lobbyists, Karr said, were satisfied with their efforts until they learned that the Administration had convinced the House parliamentarian to overrule the committee:

> So the highway men went to work again. The House parliamentarian was instructed to uphold the point of order.

The House rejection of the Cooper-Muskie amendment in committee and on the floor during the debate on points of order had been "a major defeat for Mr. Volpe." He had supported the Cooper-Muskie amendment, rather than the more dramatic Kennedy-Weicker amendment, and now the prospects for either were dim. In supporting the more modest amendment, the Administration had "worked hard to persuade pro-highway members of Congress that the administration isn't out to sabotage the trust fund, just to relieve urban congestion and alleviate such environmental problems as air pollution." Another factor was at play as well. Secretary Volpe had been warning highway interests the week before that if the highway lobby did not support the relatively modest Cooper-Muskie amendment, they would only "encourage the extremists who want to abolish the trust fund altogether."

As for the Administration's Single Urban Fund, Karr found that:

> [W]hen the administration's pro-transit proposal came to its House test this year, the pro-highway lobbyists were working against it much harder than the pro-transit advocates were working for it. The transit interests apparently decided in advance that the administration proposal was a lost cause this year.

Now attention would turn to the conference committee, which would have to reach agreement on a single bill, and that was not certain with only a week to go in the session. The "sometimes-heavy hand of the lobby" was expected to be evident when the conference meets to work out differences:

> And the lobby may do very well, partly because the conference committee itself will, in effect, be stacked in its favor. The House members on the committee will be flatly opposed to aiding mass transit, and some of the Senators on it are more pro-highway than the Senate as a whole.

If the provision in the Senate bill did not survive the House-Senate conference committee, "the prospects of a veto of the entire bill by President Nixon are very real," according to an unnamed Transportation Department official.

Mass transit advocates thought that if the bill died with the end of the 92nd Congress, they would fare better in 1973. With some pro-highway members retiring and others subject to tough re-elections in November, the Rules Committee might be more favorable. An unnamed administration man told Karr, "I think we're going to see increasing pressure for that." He called the highway lobby's impressive effort in recent weeks "a dying gasp."

Pro-transit interests might face defeat in 1972, but "are optimistic over the long haul." The public, influenced by environmental and urban-oriented groups, was calling for less emphasis on highways, with Mayors and Governors supporting the transition. Karr pointed out that even some traditional highway supporters, such as the Teamsters Union, Mobil Oil, and the National Automobile Dealers Association were calling for change. The Administration, if President Nixon were reelected, was reportedly planning to push again for a formula similar to the one rejected by the House.

While these trends were clear, another was less clear. "The [highway] lobby already has lost much of its clout in the Senate." The Public Works Committee's close vote turning down the Cooper-Muskie amendment after Senator Stafford switched his vote overnight, was an illustration ("a rare event for a pro-highway committee that often votes unanimously"). The success of the amendment on the Senate floor illustrated the changing picture. Even in the House, where the highway lobby was "most potent," pro-transit interests thought they might have won a vote on the merits instead of on the procedural issue of the Rules Committee resolution:

> The pro-transit forces think the highway lobbyists would be wise to compromise ("They just can't seem to see the handwriting on the wall," an administration official says). One possible compromise would be to fatten the trust fund with new taxes, then use the fund to aid both roadbuilding and transit. But compromise didn't enter into the lobby's plans this year, even though the lobby's united front has broken down a bit of late.

Still, the House Committee on Public Works was seen as "a bastion of pro-highway support," Karr explained at the end of the article:

> In fact, the rural-dominated panel is philosophically so attuned to the highway lobby that it may almost be regarded as an extension of the lobby. For, as a committee staff man

> remarks: "We hear from the highway lobby, but we don't need to." And as Chairman Kluczynski explains: "We are all cousins." [Karr, Albert R., "The Highway Boys Win Another One," *The Wall Street Journal*, October 10, 1972]

Passing the House Bill

With the House Rules Committee resolution adopted, the House turned to the Public Works Committee's bill. Representative Kluczynski, the floor manager, began on a defensive note:

> [The] Federal Aid Highway Act of 1972, H.R. 16656, is now before this body and I believe it one of the best highway bills ever to come out of the Committee on Public Works. We have produced a highway bill this year which will give direction to the highway program for many years into the future.
>
> I would like to make it clear to you Members at the outset that this is not just another highway bill to add more miles of big monstrous freeways or to pave over the country and the cities with concrete and asphalt as many of our critics would have you believe. This is a highway system designed to meet the needs of America.

After summarizing the growth in vehicles, miles traveled, and deteriorating road and bridge conditions, he continued:

> So you see ladies and gentlemen, the problem we face in our highway program. With practically the same number of miles of road we must provide for almost a doubling of vehicles and vehicle miles of travel in only a 15-year period. Our program is not basically adding more miles of road, it is one of improving the safety and capacity of the ones we have. And believe me this is a costly proposition.

He went through some of the elements of the bill. He said the bill reduced authorizations for the Interstate System (from $4 billion to $3.5 billion a year) for two reasons. First, with 80 percent of the Interstate mileage open, the remaining mileage was taking "a little longer to build" so less funding would be needed each year. Second, additional funding was needed for the Federal-aid systems as they transitioned from the 50-50 matching ratio to 70-30. He stressed the policy statement in the bill that as the Interstate System nears completion, the national emphasis should be on accelerated construction of the other Federal-aid systems. "This policy is absolutely necessary if we are ever going to come close to meeting the needs I outlined earlier . . . ."

He said, "let me assure you that the Interstate System is coming to a close." Three States will have received all their Interstate authorizations in FY 1975 (Delaware, Nebraska, and North Dakota). To ensure rapid completion, the bill required the States to submit all remaining PS&Es to the Secretary by July 1, 1977 (except in the District of Columbia). [*Congressional Record-House*, October 5, 1972, p. 34078-34079]

Representative Kluczynski yielded time to other supporters of the bill. One of them was Representative Schwengel, who began by noting "with great pride" that he had voted for the

Federal-Aid Highway Act of 1956, which had resulted in "one of the finest investments in America that we have ever made in the form of a public works project." The cost-benefit ratio "has exceeded anything we have ever attempted in the form of a public works project."

He had listened to mass transit advocates, but concluded that the bill took the wise step of turning down their appeals for funding. Now, he said, "we can give more thought to this problem and evolve a plan which will come to grips with it and bring it to a successful consummation." After all, one of the "tragedies" of mass transit was that "we do not know how much it will cost." Officials from New York City had said they needed $9 billion. "That is just for New York City," and 67 other communities could support some form of urban transit. The bill provided funds to study the problem and help Congress identify solutions. [*Congressional Record-House*, October 5, 1972, p. 34083]

Representative Clausen of the Public Works Committee explained that he did not favor diversion of Highway Trust Fund revenues to non-highway related transit. He said that "if this occurred—and I am sure that the battle is far from over—it would have the net effect of literally drying up the very fund upon which those who look to the fund for help in financing non-highway related transportation." He favored creation of an urban area transportation system trust fund. The study called for in the bill would lead to hearings where Congress could "determine not only what the actual facts of transit life are as far as the needs and the estimates of costs of proposed programs are, but how to finance them through the creation of a third trust fund." [*Congressional Record-House*, October 5, 1972, p. 34087]

Representative Abzug quoted her testimony before the Subcommittee on Roads in support of mass transit. She added that, "It is extremely urgent that we provide Federal funds for the construction, maintenance, and operation of mass transit facilities." Further, "We must stop looking upon the highway trust fund as a sacred cow and start being realistic as to our transportation needs."

She also expressed her concerns about the precedent set by the provision related to the U.S. 281 North Expressway in San Antonio:

> I do not believe that Congress should become involved in trying to unravel specific highway disputes or disputes on any similar projects. I do not believe we should review each case in which a court grants an injunction under these statutes [NEPA and Section 4(f)] . . . . While section 113 is by its terms limited to San Antonio, many people throughout the country see the far ranging implications of this section and the threat it poses to existing environmental legislation. [*Congressional Record-House*, October 5, 1972, p. 34087-34088]

Representative Stanton said he appreciated the fact that the Federal-Aid Highway Act of 1970 had opened the Highway Trust Fund to highway-oriented public transportation. Now, however, "those critical transportation needs are not only still with us, but have intensified and we must go farther and reach more deeply into the heart of the urban transportation crisis." Support for urban roads and highway-oriented transit must be followed by a new opportunity, namely giving local officials the option of creating mass transit facilities as well as highways.

The first step in fulfilling this opportunity was giving State and local officials the option of deleting nonessential segments of the Interstate System:

> The funds released by any such deletions should be made available for all forms of transportation, not just highways. Sometimes other roads would be constructed with the funds, at other times, bus or railway transit systems. But essentially interstate sections which would cause unnecessary environmental, social, and economic damage—unnecessary because the section itself is deemed unnecessary—would now be deleted as would sections that simply were planned to suit the needs of another era.

He then discussed the amendment to allow Federal-aid urban system funds to be used for any form of mass transit, including rail facilities. The urban Interstates, he said, "have been reduced, for hours each day, to long, involuntary parking lots." Every time a new highway opened to cope with the problem, "we simply draw more cars onto the road." More highways may be the answer in some cities, but others needed public transportation. [*Congressional Record-House*, October 5, 1972, p. 34092]

Representative Anderson reiterated the importance of broadening funds for mass transit. Regarding the Rules Committee's resolution, he asked, "First of all, is it germane?" He answered, "I feel it is" because it was simply an extension of the bill's efforts to expand options other than the automobile for relieving urban congestion. What, he asked, could help solve the problem more than allowing a small amount of funding ($700 million in Federal-aid urban system funds) for mass transportation as well as highways?

This amendment, which had been ruled non-germane, was not a raid on the Highway Trust Fund. Under the amendment, the funding that could be used for highway-oriented public transportation also could be used for rail facilities. As for breaking faith with the highway user, he pointed out that, "during the rush hours our highways are clogged; no one can get anywhere with any degree of speed or efficiency." Does it not make sense, he asked, to give those motorists another option rather than simply building more freeways? [*Congressional Record-House*, October 5, 1972, p. 34092-34093]

The Reverend Drinan contrasted his efforts to improve State Route 52 in central Massachusetts with efforts in Boston to block construction of the Inner Belt/I-695. Unlike the "fierce local opposition" to the Inner Belt, the proposal to upgrade Route 52 "is both vitally needed and has received virtually unanimous support." He supported the provision authorizing funds for priority primary routes that could be used to upgrade Route 52. However, he was deeply concerned that the bill did not provide an adequate solution for urbanized areas:

> It seems to me, and to many of us, that the answer to the urban transportation crisis does not lie in more roads alone. The urban transportation crisis demands greater flexibility on the part of the Federal Government than is contained within this bill.

For that reason, he supported the Cooper-Muskie amendment on the use of Federal-aid urban systems funds. He pointed out that on October 2, Jack Beidler of the United Auto Workers had written to every Member of Congress:

> The over-use of automobiles in urban areas threatens the health of city-dwellers and the vitality of our cities. Indeed, continued reliance on the automobile for intra-urban travel will inevitably invite controls on the use of automobiles with consequent injury to the industry.

The proposed amendment would provide the relief from such restrictions by offering an alternative that local officials could use to address congestion and related environmental problems.

He also supported the amendment suggested by Representative Stanton that would allow Interstate funds to be used for non-Interstate purposes at the option of State and local officials. [*Congressional Record-House*, October 5, 1972, p. 34199-34100]

Representative Frank Annunzio (D-Il.), a lifelong Chicago resident, urged his colleagues to oppose the rule they had already voted on. The Senate, he said, had broken 15 years of precedent by approving the Cooper-Muskie amendment by a wide margin. They put aside partisanship to address "our present crisis in urban transportation." He said he had been the author of the measure in the Housing and Urban Development Act of 1972 that would have allowed Federal funds for operating subsidies:

> With the failure of passage of the 1972 Housing Act, the inequities in Federal financing remain unchanged, while the Federal dollars remain easily available for highway construction. This failure has been a critical blow to our cities, including Chicago . . . . And unless we make full provisions for a program to meet and solve the urban transportation snarl, it will grow progressively worse, and I fear that the only alternative being offered to us is bigger, better, longer, and wider concrete highways. There is still time to act—but it must be now. [*Congressional Record-House*, October 5, 1972, p. 34100-34101]

Representative Koch also spoke in support of mass transit funding:

> Do more highways necessarily benefit highway users? Or at this point in time can mass transit perhaps better serve highway users, as well as their own users, in many urban areas? History has shown that new highways simply attract more cars that slow the pace of traffic and ensnarl the streets of our central cities . . . . There comes a point of no return in highway building. No matter how many freeways we build, central cities can cope with only so many cars.

Even the auto company executives, he said, whose livelihood depends on the sale of motor vehicles had supported the Michigan legislation to allocate some State highway user revenue to mass transit.

Since coming to Congress in 1969, he had tried to create a Mass Transportation Trust Fund, but in this Congress he also had introduced a bill to create a single Transportation Trust Fund spanning all modes:

> It is in my judgment the most efficient and desirable approach to the entire subject. Only when localities have one source of transportation funding; [sic] namely, a single trust fund, will they be given a real choice in determining what form of transportation to construct. It is time that the Congress act to provide some of this needed flexibility in the Federal aid highway bill. [*Congressional Record-House*, October 5, 1972, p. 34106-34107]

In the final stage of introductory comments, Chairman Blatnik urged the House to approve the bill. Over the next 30 years, population would double and 80 percent of the growth would take place in urban areas that occupy only 3 percent of the land area:

> No prophetic vision is required to foresee the chaos that will then exist if we allow ourselves now to be divided by needless conflict instead of uniting on a prudent course of action.
>
> There is no cause for conflict. The question before the House today is not whether one form of transportation shall be chosen instrument of the future, but how best to meet the very different—and equally pressing—transportation needs of rural and urban America.

He agreed with those members pressing for mass transit facilities and those who favored improving primary and secondary roads outside urban areas. Highways and mass transit are needed:

> And if we are ever going to have them, if we are ever going to resolve our transportation crises, we must face up to the fact that there is not enough money in the highway trust fund, or in any other existing fund, to pay for them.
>
> Trying to do both jobs out of the same limited pool of Federal money makes about as much sense as trying to stretch a baby's clothes to fit a giant. And we are playing a cruel hoax on the people of this country if we tell them it can be done . . . .
>
> I am confident that the citizens of this country will respond to the crisis of our transportation system, once they have been fully informed as to what must be done, and how much it will cost them.
>
> But let us not delude them and ourselves with the notion that the job can be done on the cheap by grabbing a fistful of mass transit money out of the highway trust fund this year and another fistful next year.

The bill before them recognized "the dual nature of our transportation problem" by clearing the way "for genuine rather than token action on mass transit for the cities" while making a start on "closing the gap that has existed for too long in the rural and semirural sectors of our highway system."

The importance of rural road development was shown by the fact that it could reverse the migration toward the cities, helping to correct a problem that was usually defined as "overpopulation" but should be called "maldistribution of population." He said that, "America has room for all our people and can support the growth we expect; but not by compressing all of them into a few large, unmanageable urban sprawls."

As for mass transit, Chairman Blatnik cited the bill's provision calling on the Secretary of Transportation to study the problem and report his findings to Congress. "This evaluation is not just another wheelspinning study; it is an action plan to be presented to the Congress . . . little more than 15 months from now." It will examine each urban area to identify their different needs. With this information in just 15 months ("not an interminable delay"), "we will be in a solid position to determine what funds may be needed from the highway trust fund and other sources for mass transit."

He concluded:

> We are going to need enormous sums of money in the years ahead to provide the mass transit facilities that our urban centers must have. And snatching $800 million, or even $2 billion, out of the highway trust fund would not even make a dent in the total need . . . . We are not going to solve our problems by pitting rails against roads in competition for the highway trust fund. This legislation recognizes that new sources of funds must be found and brought to bear on the totality of our Nation's transportation problem. [*Congressional Record-House*, October 5, 1972, p. 34107-34108]

Following introduction of the bill, Representative Anderson introduced his amendment. Representative Robert E. Jones (D-Al.), a member of the Public Works Committee, raised a point of order based on the Rules Committee resolution that found such amendments non-germane. Moreover, the Committee on Ways and Means had jurisdiction over changes in how the Highway Trust Fund revenue could be used.

Representative Anderson argued that "the public transportation amendment which expands the use of highway trust fund moneys—is not a tax matter—but rather is a disposition of those taxes, a public works matter." As for whether the amendment was germane, he said that it "is directly related to the avowed purpose of both the law, and section 122 of the bill."

After listening to further debate, Representative Morris K. Udall (D-Az.), serving as Chairman of the Committee of the Whole, ruled that the amendment was not germane.

Representative Anderson immediately introduced a second amendment that was identical to the first except that it deleted each reference to rails, so it applied only to buses. Representative Jones said that the amendment basically now allowed Federal-aid highway funds to purchase buses. As Jones put it, "the amendment just puts us into the business of buying buses." He said, "I cannot understand why the point of order, if it could be sustained as against the first amendment, would not be sustained on this amendment.

The Chairman, Representative Udall, again ruled that the provision was not germane. The House would not vote on either amendment. [*Congressional Record-House*, October 5, 1972, p. 34115-34117]

After discussing highway-related provisions, Representative Abzug introduced an amendment the modified metropolitan planning. It would allocate Federal-aid urban funds based on population and provide the funds directly to duly constituted metropolitan transportation agencies formed by general purpose local governments that would have the authority to carry out Federal-aid urban system projects. She said that "this provision would reduce the power of State highway officials to deny funding to a local area whose officials refuse to accept the State officials' dictates as to where a project should be built." She also pointed out that the amendment had the support of the Secretary of Transportation, the Conference of Mayors and the National League of Cities.

Representative Harold T. "Bizz" Johnson (D-Ca.), who had been Mayor of Roseville (1941-1949) and a State legislator before winning election to the House in 1958, was a membter of the Public Works Committee. He objected:

> Over the years this highway program has been run on the most basic principle of government—the Federal-State relationship. There is no reason in the world why that should be changed.

The States were better equipped to set priorities across the State and among the cities. "If we do not continue this State relationship it means chaos in the administration of the program."

Representative Harsha agreed with Representative Johnson:

> In addition, it would encourage the creation of new bureaucracies, as the number of mini highway departments in all of the urbanized areas within which this money would be distributed are established. The effect of their creation would be to further compound the problems that already exist in getting highways built as quickly as possible.

He added that the amendment was "nothing more than an indirect form of special revenue sharing which the proponents of special revenue sharing were not able to secure approval of in the normal fashion." This amendment was a way of circumventing the jurisdiction of the Ways and Means Committee, which had jurisdiction over revenue sharing. "That is all this amendment is. It is an attempt to get, indirectly, what they could not get directly."

The amendment was rejected, 9 to 49. [*Congressional Record-House*, October 5, 1972, p. 34124-34126]

Representative Abzug introduced an amendment striking the provision prohibiting any court from issuing an order or taking any action to impede, delay, or halt construction of the Three Sisters Bridge linking Virginia and the District of Columbia. It also prohibited any such action by the Secretary of Transportation, the head of any other Federal Agency, the government of the District of Columbia, or any other body. She said that "even if the bridge is the greatest thing that could happen for transportation in this area," she opposed the provision because it created an exception to NEPA and deprived citizens of the United States "of their right to have access to the courts for redress of their legal grievances."

Minority Leader Ford agreed that the language in the bill was strong, but pointed out that "the language has come at the suggestion of a per curiam decision or memorandum from the Chief

Justice of the Supreme Court of the United States. On March 27, 1972, the Supreme Court had rejected the Nixon Administration's appeal of the U.S. Court of Appeals ruling issued October 12, 1971, requiring additional studies. As is typical when the Supreme Court rejects an appeal, it did so in a one-sentence statement without explanation. However, Chief Justice Burger had issued an unusual opinion explaining that he concurred in the decision to reject the appeal "but solely out of considerations of timing." The appeal, he said, contained questions of great importance to the Washington area, "not the least of which is whether the Court of Appeals has, for a second time, unjustifiably frustrated the efforts of the Executive Branch to comply with the will of Congress as rather clearly expressed in Section 23 of the Federal-Aid Highway Act of 1968." He did not want to delay work on the bridge for the year it would take before the Supreme Court could render a decision on the appeal. Representative Ford read the statement into the record, including its conclusion:

> In these circumstances Congress may, of course, take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the Three Sisters Bridge project, even to the point of limiting or prohibiting judicial review of its directives.

The Minority Leader said the provision in the 1972 Act was a direct result of the Chief Justice's suggestion and that the Chief Justice "fully concurs in the proposal by inference, if not directly, in this bill." Later in the debate, he added, "The Court is telling us we should do something of this kind, as reflected in this section, in order to stop the kind of litigation which has frustrated the Congress and the people of this area for better than 6 years."

Representative Abzug responded to Representative Ford by saying that after listening to the views of her colleagues, "I am more convinced than ever that this is one of the most scandalous provisions I have ever seen in a piece of legislation." The principle that citizens could be stripped of their right to petition the courts "does not affect only the Three Sisters Bridge area; the principle affects every single place in the country."

She also responded directly to Representative Ford:

> So far as the comments of Chief Justice Burger are concerned—by the way, they were purely an aside and certainly do not have the force of law—this provision goes way beyond even what he said. Even though he is a judge, his comments may have been injudicious. He did not suggest that we should restrain or should prevent any citizen from doing anything at all as to the enforcement of any provision of law relating to the Three Sisters Bridge. He did not say we should make it unreviewable by any court. Members are distorting it by constantly saying that is what the Chief Justice said.
>
> In any case, his statement is not a part of the law, and it was not a part of the decision. In fact, the decision sustained the lower [court], which had ruled that the bridge could not be built unless certain conditions were remedied. We must recognize that what is involved here is a complete denial of due process to any citizen who pays taxes in this area or in every other area of this country, and no responsible body, no legislature, could possibly agree to that and believe any words in the Constitution.

After a lengthy discussion, the House rejected the amendment, 125 to 173. [*Congressional Record-House*, October 5, 1972, p. 34130-34141]

Representative Stanton introduced an amendment on transfer of Interstate System mileage within a State. He said that "one of the biggest transportation headaches" facing State and municipal officials was unwanted urban Interstates "by reason of environmental and social disruption." He explained:

> With a situation of this nature, State and local officials often would prefer to abandon projects representing such segments, but they are naturally loathe to forego this type of transportation improvement if project abandonment means giving up altogether the Federal funds involved.

Current law allowed officials to transfer the funds from one Interstate to another, and even provided 200 additional miles to facilitate such transfers where the new route was longer than the old. The bill before the House removed the mileage limit for Interstate substitutions, but in Representative Stanton's view that change did not go far enough:

> My amendment would permit State and local officials to ask the approval of the Secretary of Transportation for transfer of funds representing the estimated cost of an unwanted interstate segment to the Federal-aid urban system for use on that system in the urban area affected.

The Secretary could approve the transfer of Interstate funds if he concluded that the segment was not essential for Interstate continuity:

> In these times when there are so many pressing demands on public funds at all levels of government, and when urban transportation problems are so severe, it verges on the criminal to let Federal funds be used for unwanted projects when State and local officials can find more desirable alternatives that better serve local, State, and Federal interests.

Representative Howard of the Public Works Committee objected because "the Interstate System is set up so all the interstate money will be used only for interstate roads." The bill already provided funds for roads off the Interstate System. He said the "one great mistake" in the amendment was its unfairness to nonurban areas. If an Interstate segment were not built in a rural area, the area would not get money for any kind of road. The amendment "would leave gaps and holes in the interstate system and would not do anything for any lasting good for urban areas and would prevent even 1 foot of a trail road being built outside of an urban area."

The amendment was rejected. [*Congressional Record-House*, October 5, 1972, p. 34141-34142]

Representative John E Moss (D-Ca.) introduced an amendment to delete Section 109 on minimizing red tape. Section 109 added a subsection to 23 U.S.C. 101 ("Definitions and Declaration of Policy"):

> (e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway program shall encourage the drastic minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

He stressed that he was as opposed to red tape as any Member of Congress, but "I do not know what redtape [sic] means—and I do not know what 'reduce to a minimum' means." He pointed out that "this broad brush language encompasses many statutes that have a direct effect on the highway program." He cited Fair Labor Standards laws, minimum wage, the Davis-Bacon Act, environmental laws, and others that apply to all Federal agencies, not just FHWA. He continued:

> I submit there is far too much redtape in all our Government and that we, in the Congress, ought to act affirmatively to clear it up. But I think much of it must be recognized as being there because the Congress has mandated procedural requirements that make it impossible to operate without that redtape. If we want to objectively look at our laws and the policies imposed upon departments and agencies and eliminate them specifically, I will give my wholehearted support, but this is not the way to do it.

Representative Wright, who had proposed Section 109, said "I honestly hope this section does some good." He did not think it would do any harm, but "if there is any one thing we do need, it is something to stop the proliferation of paperwork and redtape which seems inexorably to attach itself to every program as it matures." To illustrate the proliferation of red tape, he said that in 1950 or thereabouts, President Harry S. Truman had asked Alf Johnson of the Arkansas State highway agency to work with other State highway officials who opposed Federal-aid to convince them to support it:

> Alf Johnson reported that the reason they had heretofore opposed Federal aid was that without Federal aid they could build a highway and get started on it at least 6 months after they decided they needed to go ahead, but with federal aid it took a year and a half.

Now, Wright said, project development took 7 years. "Seven years from the time they decide they need the highway until they have fulfilled all of the proliferating requirements and may commence." He added that former Administrator Turner had testified "that new requirements imposed by laws and guidelines executively written were going to require—get this—18 million additional pages of paperwork a year by his department alone." To illustrate, he held up a photograph sent to him by the Illinois State Highway Department:

> The picture depicts all the paperwork related to just one highway project in their State. It is stacked between two chairs and two miniskirted girls are standing tiptoes on the chair trying vainly to reach the top of the stack.

Representative Dingell (D-Mi.) asked if the provision repealed NEPA. Wright replied that it did not repeal NEPA or any other law. What Section 109 did was simply direct the bureaucrats "to the maximum extent that they can to reduce excessive paperwork and to use minimum guidelines when they are necessary." He added that, "We passed one law with 45 words and by the time they wrote guidelines it had 7,500 words . . . and it literally required books for those trying to work under the guidelines."

The amendment to remove section 109 was defeated without a recorded vote. [*Congressional Record-House*, October 5, 1972, p. 34145-34146]

Representative Koch introduced an amendment on "Bicycle Transportation" that would allow FHWA to help States and localities build bicycle and pedestrian paths in conjunction with highway rights-of-way. His amendment was identical to a provision in the bill approved by the Senate with Administration support. In view of the growth of bicycling in recent years, "It is important that bicycles be recognized as a component of our transportation system." The purpose of the amendment was to "encourage the development and use of bicycle transportation so as to increase the traffic capacity of the Federal aid systems and to permit the development of pedestrian walkways in conjunction with highway rights-of-way." The amendment authorized $10 million a year (FYs 1974 and 1975) out of the Highway Trust Fund for the Federal share of the cost of separate or preferential bicycle lanes or paths, bicycle traffic control devices, bicycle shelters and parking facilities, and pedestrian walkways.

Representative George W. Collins (D-Il.) introduced a substitute that limited the funding for bicycle paths to forest development roads and trails, park roads and trails, parkways, Indian reservation roads, and Federal, State, and local parks. Representative Harsha said that the substitute amendment "cleans up the problems we [the Public Works Committee] had with the original amendment, and we are willing to accept it."

Representative Wright explained why he supported the Koch amendment. He said that "bicycling is an American tradition" that had emerged "as one of the most remarkable social phenomena of our times." It was no longer "a shiny toy more at home with children on the sidewalks than with the busy commuters on the streets of our cities and towns." The question was where the estimated 80 million Americans would ride their bicycles:

> Naturally, bicycles are banned from high-speed roads. They are not permitted on many sidewalks. They are extremely dangerous on crowded city streets, and are generally confined to the right lane in order not to obstruct traffic . . . . So most cyclists must share the city streets with cars and buses . . . .
>
> Americans are used to a mobile society and we have reached the point where we are going to have to find unique solutions to some of the problems brought about by this way of life. I believe a system of bicycle ways and pedestrian paths in conjunction with highway projects would provide such a solution.

In opposition to the substitute amendment, Representative Marvin L. Esch (R-Il.) pointed out its limitation to park lands and similar places:

> The intent of the main amendment is to provide for bicycle paths where they are needed the most; that is, within the cities in relationship to our highways.

He urged the Members to reject the substitute and support the Koch amendment.

The House agreed to the Collins substitute amendment and rejected the Koch amendment, again without a recorded vote. [*Congressional Record-House*, October 5, 1972, p. 34147-34148]

Representative Bingham introduced an amendment to delete Section 126, which called for designation of a 10,000-mile network of priority primary routes. "Frankly, you can call it what you want but what this system really is is a 10,000-mile extension to the Interstate System." The only difference was that the Federal share would be 70 percent, not 90 percent. It was funded at $600 million a year initially but he estimated it would end up costing $19 billion. Secretary Volpe, Representative Bingham said, had strongly objected to the new program. Voting for his amendment would be an economy vote and an ecology vote. "To now sit down at the map and draw up a 10,000-mile highway network that we are going to be building for the next two decades, makes absolutely no sense at all." He would prefer to give the funds to the States "with the fewest possible strings attached."

Rising in support of Section 126, Representative Cleveland said that the priority primary provision "is a most important part of this year's Federal-Aid Highway Act." In view of requests from around the country to expand the Interstate System, the Public Works Committee "believes it desirable to encourage and assist the States in building a new intermediate system of highways." He explained:

> The aim would be to improve a limited, integrated system of supplementary routes to be especially financed out of revenues from the Highway Trust Fund. In conjunction with the Interstate System, the new routes will provide accessibility to over 90 percent of all urban population and nearly all urban places of over 55,000 in size. In addition, such routes would provide much needed service to those rural regions through which they would pass.

The amendment was rejected (the recorded vote was 9 to 68), leaving priority primary routes a part of the bill. [*Congressional Record-House*, October 5, 1972, p. 34148-34150]

An amendment by Representative James J. Pickle (D-Tx) proposed to add a Title IV ("Transportation Development") to the bill. It would create a Transportation Development Administration in the Department of Transportation "to provide for the better coordination of research and development, planning, and demonstration projects," as Pickle described it. "The goal of this amendment is to help this Nation design and institute a meaningful national transportation policy." The Chairman, Representative Udall, ruled the amendment not germane and it was not subject to a vote. [*Congressional Record-House*, October 5, 1972, p. 34153-34156]

Finally, the House approved the bill, as amended, by a vote of 264 to 30.

The House and Senate would now establish a Conference Committee to reconcile to their two versions of the Federal-Aid Highway Act of 1972.

The Conferees Reach Agreement

With Congress nearing adjournment, and all Representatives and one-third of Senators eager to return home to their reelection bids, the conferees were under a strict deadline to resolve differences. In some respects, the task was simple. The House and Senate Committees on Public Works dominated the conference and their members could relatively easily compromise on the highway provisions. However, the conference included Senators Cooper and Williams, both determined to preserve as much transit spending in the final bill as possible.

On October 11, the *Times*' Rosenbaum reported that the conferees were deadlocked. "The principal issue is whether any of the highway money will be made available for mass transportation." He summarized the deadlock:

> According to reports from the conference room, Senate negotiators refused to accept any long-range highway legislation unless it allowed urban areas to use their share of the trust fund to buy buses and build rapid rail systems.
>
> House conferees reportedly objected to any legislation that would permit the trust fund to be tapped for mass transit.

The deadlock, he reported, "appeared likely to kill any major highway bill for the year." [Rosenbaum, David E., "Deadlock by Conferees Blocks Road Fund Aid to Mass Transit," *The New York Times*, October 12, 1972]

The following day, Friday, October 13, Peter Braestrup of *The Washington Post* reported that conferees were close to a compromise:

> The pro-highway House conferees, led by John Kluczynski (D-Ill.) of Chicago, were said to have offered a swap to the Senate pro-transit faction, led by John Sherman Cooper (R-Ky.). The offer was attractive to lobbyists for highway interests and the mayors, but not the administration or environmental groups.

The key was that the Senate bill included the controversial Cooper-Muskie amendment involving Federal-aid urban system funding, but also Senator Williams' provision for $3 billion out of the general Treasury for mass transit over 3 years plus $800 million over 2 years for operating subsidies:

> In effect, the House conferees last night said they would accept the Williams program—and even sweeten its provisions with more money [to $4.4 billion]—as long as the pro-transit senators agreed to drop the Cooper provision and leave the highway trust fund untapped for two more years.
>
> Cooper, who held proxies from six of the 12 senators in the conference committee [who were not present], was reported to be under heavy pressure last night from Williams to accept the House deal.

> Department of Transportation lobbyists and John Kramer, head of the environmentalist Highway Action Coalition, were urging Cooper to stand firm. [Braestrup, Peter, "Hill Nears Agreement on Road Act," *The Washington Post*, October 13, 1972]

An account in Washington's *Star-News* reported that Senate conferees said they would rather "see the entire highway bill go down the drain" than agree to some of the House provisions, including the one on the Three Sisters Bridge:

> The House, irked by years of litigation which has blocked construction of the span across the Potomac River, earlier voted to prohibit the courts from halting or further delaying construction of the bridge project. In so doing, the House was acting upon a suggestion by Chief Justice Warren Burger that Congress might wish to remove the bridge from any possible review from the courts.

Illustrating the difficulty of resolving issues such as this, the article quoted Senator Muskie as saying the entire House bill was "an indigestible morsel." [Angle, Martha, "3 Sisters Bridge Issue Stalls Highway Bill," *Star-News*, October 13, 1972]

On October 15, 1972, *The New York Times Magazine* carried a lengthy article by William V. Shannon called "The Untrustworthy Highway Fund." It began:

> After years of skirmishing, border raids and local guerrilla actions, the great highway struggle has broken out in open warfare. At issue is the fate of the Highway Trust Fund, which grows by more than $5-billion a year, pumps money into the states to build more roads for more automobiles and has had more to do with determining the physical character and social style of America's cities and suburbs than any other Government program.

Senate adoption of the Cooper-Muskie amendment, Shannon said, "was the first time either house of Congress had ever voted to divert any part of the Trust Fund revenues for anything except highway construction." Although the more expansive Kennedy-Weicker amendment was defeated, "it laid down the lines along which the coming struggle over national transportation policy will be waged." The goal was to convert the Highway Trust Fund into a general transportation fund.

Shannon pointed out that, "Highway interests have naturally made skillful propaganda use of the phrase 'trust fund.'" He quoted Senator Gaylord Nelson as asking, "If annual appropriations from the general fund and full, flexible control by the Congress are good enough for national defense, for housing, for education, why are they not good enough for highways?"

In the early days of the Interstate System, it was "greeted with fairly widespread approval." Shannon continued:

> But by the nineteen-sixties, Americans were becoming increasingly aware of the defects of life in the automobile age . . . . The automobile explosion has begun to arouse the alarm already evoked by the explosion in human population. Every time a baby is born in this

> country, two automotive vehicles are also born . . . . The appalling cost of a transportation system based upon tens of millions of private automobiles is gradually becoming apparent.

He quoted BPR's brochure *America's Lifelines* "boasting" that total excavations for the Interstate System "will move enough materials to bury Connecticut knee-deep in dirt" and that sand, gravel, and crushed stone could be used to "build a wall 50 feet wide and nine feet high around the world." Shannon said that, "Facts like these, which once would have been innocently impressive, are seen as alarming in a time of new concern over the dwindling supply of natural resources and the mutilated landscape."

The need for alternatives such as subways in big population centers "is obvious." Mass-transit facilities are admittedly expensive to build, renovate, and operate:

> But the financing ought not to be a problem: If Congress in 1956 had decided to allocate half the money in the Highway Trust Fund to highways and the other half to mass transit, scores of bus companies would not have gone into bankruptcy and commuter railroads would not have sunk into weedy disrepair.

He summarized highway controversies in Boston, Memphis, New Orleans, and Washington, D.C.:

> The antihighway forces have triumphed often enough to turn a once lightly contested issue into a closely matched struggle . . . . The Interstate system, the proud blue ribbon of the highway profession, has had the unintended effect of catalyzing diffuse antihighway sentiment and bringing into existence for the first time an effective national lobby against unlimited road building.

The Highway Action Coalition "is still far smaller in staff, financial resources, and political clout than its opposition spearheaded by the Highway Users Federation for Safety and Mobility." He discussed HUFSAM and AASHO, the latter with its "close links with Federal highway officials":

> These [Federal] engineers are also construction-and-maintenance oriented. Their narrow focus accounts for the highway lobby's intransigent resistance to the use of Trust Fund money for any other purposes, even highway-related ones such as safety or beautification.

They had "an ingrained hostility" to the "esthetic concerns of the landscape designers and the social concerns of the land-use planners." Shannon said that, "In their view, all that fussing about abstractions merely gets in the way of laying the concrete and moving the traffic."

HUFSAM, Shannon reported, had been "embarrassed" when a poll it commissioned was leaked to antihighway forces. The poll found that 57 percent of rural and urban people thought that limited automobile use in downtowns was a good idea. In cities, 66 percent favored this proposal.

As for former Administrator Turner:

> The hero of the career highway men has been Francis C. Turner, director of the Bureau of Public Roads under the Johnson Administration and promoted by Mr. Nixon to Federal Highway Administrator. Until his resignation in August [sic], Turner was a close rival to the late J. Edgar Hoover when it came to blunt talk and pushing for his programs, regardless of what his political superiors thought. Turner regularly denounced advocates of rail transit and critics of urban freeways.

Shannon described the *Resource Book on the Federal-Aid Highway Program* as "a manual of quick rebuttals to every criticism made of highways" and the role of TRIP:

> Everyone has heard of the "military-industrial complex" against which President Eisenhower warned in his farewell address, but at least equally powerful is what The Wall Street Journal has termed "the highway-auto-petroleum complex."

This complex remained unbroken, "but for tactical and public-relations purposes, some of its members have begun to back away from the lobby's hard-line, highways-or-nothing approach." Examples included Henry Ford II, Mobil Oil, and the National Automobile Dealers Association. "These shifts in position are significant if only as evidence that important interests are responding to a changed climate of opinion."

Unfortunately, "news of peace and reconciliation between automobiles and mass transit seems not to have reached Capitol Hill." Section 4(f) of the Department of Transportation Act of 1966, the first legislative victory of the anti-highway forces, and NEPA had been "under continuous counterattack by pro-highway forces in Congress." The proposed Federal-Aid Highway Act of 1972, Shannon said, undermined both. One provision "flagrantly" authorized the U.S. 281 North Freeway in San Antonio while another restricts the scope of citizen suits. "Since citizen organizations have won so many highway battles only in their last line of defense, the courts, these seemingly obscure provisions may be as significant as the better-publicized struggle to open the Highway Trust Fund for mass transit use."

The struggle to enact the Cooper-Muskie amendment gave anti-highway forces hope that someday, the Kennedy-Weicker amendment might be enacted. Unfortunately, adoption of the Cooper-Muskie amendment "is no guarantee that more progress in this direction is sure in the future." As reflected in the House version of the Federal-Aid Highway Act of 1972, "defenders of the Highway Fund are dug in to defend their special access to the U.S. Treasury." What made the sides in this fight so entrenched was that neither can "understand why their opponents think the way they do":

> One side sees the automobile as the basis of the contemporary American Way of Life, a marvelous vehicle which provides mobility, privacy, and the exciting lure of the open road. The other side sees the average American in need of emancipation from the tyranny of the automobile, which kills tens of thousands every year, poisons the air, paves over the landscape with endless ribbons of concrete and ugly gas stations and used-car lots, and provides only a noisy, slow, psychologically irksome and increasingly expensive and inconvenient form of transportation.

The outcome of the battle between the pro- and anti-highway forces "is now very much in doubt." Perhaps, Shannon concluded, "this is because in the end the battle is not for money and concrete, but for the mind of the ordinary American." [Shannon, William V., "The Untrustworthy Highway Fund," *The New York Times Magazine*, October 15, 1972, p. 31, 120-128, 128, 132]

The *Times* published a response from HUFSAM's Jack C. Martin in the letter-to-the-editor column of the magazine's November 5 issue. Martin said the amount of space devoted to the article "was most impressive," but he considered it "unfortunate" that Shannon "did not report the situation a little more realistically." He clearly had "relied on blatant antihighway propaganda and biased newspaper articles for his facts." For example, the statement that HUFSAM had been embarrassed by the opinion survey and the implication that it had withheld the results were "totally unfactual." HUFSAM had released the full results, including the support for automobile restrictions in downtowns, a few weeks after the poll was completed in July 1971.

Martin also criticized Shannon for "perpetuating the Highway Trust Fund 'surplus' myth." After explaining that the surplus consisted of money owed to ongoing projects, Martin lamented that "the hard-line antihighwayists won't listen." He concluded that, "Trying to boil a pot between highway and transit interests with distortions and clichés ('paving over America') is serving no good." What the Nation needed was an "honest and objective airing of the country's total transportation needs" so the public could make its own judgment regarding solutions. [Martin, Jack C., "Are Highways Worth It?" Letters, *The New York Times*, November 5, 1972, p. 32]

On Monday, October 16, Jack Eisen told readers of *The Washington Post* that Members of Congress had "traded angry accusations yesterday [October 15] after Senate and House negotiators failed to reach an agreement to extend the nation's highway program and expand it to include aid for urban mass transit." He said that "virtually no chance remained for a resumption of sessions" to agree on a unified bill.

The Cooper-Muskie amendment with its diversion of Highway Trust Fund revenue to transit was at the heart of the collapse. The House offer to fund transit, dollar for dollar, from the general Treasury for a total of $4.4 billion had not been enough:

> Finally, after four days of sparring in which the Cooper-led block outvoted its Senate colleagues, the sessions broke down. At 10:30 p.m. Saturday, House members stalked glumly out of the meeting room.
>
> Cooper . . . blamed the House members—for insisting on authorizing a new 10,000-mile super highway program, and for refusing to accept a compromise one-year extension of the existing highway law. He said House conferees insisted on 18 months or two years.
>
> Randolph, questioned by newsmen on a contradictory report of the proceedings, turned to Cooper and disagreed sharply. He said House members offered reasonable terms.
>
> Williams, with a side glance at Cooper, said those who refused to accept the House [compromise] transit plan were "sadly misguided."

> "I would suggest soul-searching with the question whether the effort was to aid mass transit or break up the highway trust fund," Williams said. "Sadly, it seems to me, the majority of the Senate conferees chose the latter course."

Representatives Kluczynski and Harsha issued a "bluntly worded statement" on behalf of the House conferees at 1 a.m. Eisen said the statement asserted "that four unnamed Volpe aides 'called the signals for this deplorable hatchet job, and they were followed obediently by seven Senate conferees—four of whom were not even present . . . .'" (Cooper voted their proxies.) The aim, the Representatives said, was "to bust up the highway trust fund at whatever cost."

With conferees deadlocked and Congress ready to go home, the Highway Action Coalition issued a statement accusing the House conferees of killing the bill "rather than accept the progressive Senate features." [Eisen, Jack, "Road Bill Dies Amid Anger," *The Washington Post*, October 16, 1972]

On October 18, the final day of the Congress, conferees surprised observers by breaking their deadlock to agree on a 1-year extension of the Federal-aid highway and safety program that would ensure the 93rd Congress would address the controversial issues the conferees could not resolve. To please the House conferees, the bill dropped the Senate provision allowing use of urban system funds for rail rapid transit. To please the Senators, the bill dropped the House's priority primary system funds but directed the Secretary to study the matter and report to Congress. The Interstate withdrawal and substitution provision of the Senate bill that allowed remaining funds to be transferred to the urban system did not survive the conference. However, the bill included $3 billion for the UMTA capital program, with a Federal share of 80 percent, and $100 million for operating subsidies the first year plus $300 million the following year, all out of the general Treasury. The Highway Trust Fund was not breached. [The conference report can be found at *Congressional Record-House*, October 18, 1972, p. 37115-37133]

The Senate considered the bill that evening. By unanimous consent of the Senators remaining in Washington, debate was limited to 10 minutes. When Senator Packwood suggested the absence of a quorum, Majority Leader Mike Mansfield asked unanimous consent to rescind the quorum call.

Debate proceeded with Senator Randolph explaining that conferees had worked approximately 40 hours before agreeing late that afternoon on a compromise:

> There was complete agreement of all conferees of the House. That is not to say that any conferees were satisfied 100 percent with the outcome of the conference. It is the composite thinking of men of understanding and purpose who were attempting to bring to fruition legislation that can be signed into law by the President to continue the highway program. We have also given dimension to other forms of transportation which have not only the approval of the American people but also the demand of the American people that we meet some of the unmet needs that have accumulated.

The bill would ensure the highway program continued without interruption. He explained that conferees had agreed on a 1-year bill "to assure that the Senate and House of Representatives would address themselves to the highway program early next year." They also would be able to consider several provisions "that were of great controversy in the conference."

The bill included all provisions that were identical or substantively alike in the House and Senate bills. He briefly listed the highway and safety provisions. He cited the general Treasury revenue for mass transit operating subsidies and increased funding for mass transit. These provisions "were adopted virtually as they passed the Senate."

He explained that the Cooper-Muskie amendment included in the Senate bill had been excluded from the conference report because its diversion of Highway Trust Fund revenue "was totally unacceptable to the House conferees." At the same time, Senate conferees were opposed to the 10,000-mile priority primary provision of the House bill:

> These were the major items on which the conferees could not concur, and they are sure to be among those which will receive searching inquiry during the first session of the 93d Congress.

He added:

> [This] conference was a difficult one, but it was carried out by men dedicated to the improvement of transportation of all types . . . . It appeared last Saturday that we would fail to produce a bill. But after considering the situation and recognizing that the highway program could not be allowed to come to a halt, I reconvened the conference this morning. I am glad to report that on this occasion we succeeded.

Senator Muskie asked for time to clarify two points. First, he wanted to confirm that the House had yielded to a 1-year bill, "which gives us a crack at this issue next year. Is that correct?" Senator Randolph agreed.

Second, Senator Muskie wanted to confirm that the bill did not authorize the priority primary system, that it expressed only the intent to consider the plan in 1973, "and that the system cannot be established without action by the Congress. Is that correct?" Senator Randolph confirmed this understanding.

Senator Cooper, in his last day in the Senate before retiring, agreed with Senator Randolph's comments about the priority primary system:

> The House conferees would not agree to the Cooper-Muskie provision. We fought against the establishment of a 10,000-mile "priority primary" system. No hearings were held on that in either House. The established [sic] minimum cost was $10 billion. We do not believe that should be done when the Interstate System is only 81 percent complete, and also it is not proper to add such a burden on the highway trust fund without proper consideration.

The 1-year extension would allow time for the Secretary to submit his recommendations and for the Congress to consider the concept. What was important was to keep the Federal-aid highway program active while the debate took place in 1973.

The Senate agreed to the report by voice vote. [*Congressional Record-Senate*, October 18, 1972, p. 37309-37311]

Bringing the conference report to the House floor, Representative Wright explained that, "It is not a perfect bill." The House yielded on some vital points, but so had the Senate. "We commend it to the Members as the best that could be achieved in the present climate." He described it:

> Essentially the bill we bring before the House in the conference report, Mr. Speaker, contains a 1-year extension of the authorization for the Interstate System and a 1-year extension of the authorization for the other systems, including the small urban systems.
>
> It contains $3 billion in authorization for mass transit out of the general fund, not out of the highway trust fund, and that $3 billion commits the Government to an 80-percent Federal matching share. Additionally, we would authorize a total of $400 million, $100 million for the present fiscal year and $300 million for the succeeding year, to be available for operating subsidies . . . .

Before he could continue, several Representatives requested assurances regarding this additional funding. Representative Ford wanted to know if it required action by the Committee on Appropriations. Yes, Representative Wright replied. The $3 billion "would be made available out of the general revenue through appropriations passed by the Congress of the United States." In response to a question from Ford about contract authority, Representative Wright added, "the construction grant commitments authorized in this bill would not be made before fiscal 1975, for fiscal 1976."

Representative John Anderson said "I am certainly still not clear in my own mind on the explanation that has just been offered as to this $3 billion . . . for mass transit." In view of the need for action by the Appropriations Committee, he wanted to know what assurance mass transit supporters had "that we are going to see anything near the sum of $3 billion made available in fiscal 1973, 1974 or 1975 for mass transit?"

Wright explained that this bill could only authorize the funds; it could not also appropriate them:

> In response to the gentleman's question as to what assurance he may have that those moneys will actually be appropriated, I would simply say that he might rely upon the assurance of the growing demand and clamor for something meaningful to be done for mass transit.
>
> The gentleman might wish to rely upon the good faith of the Secretary of Transportation who has repeatedly expressed his commitment to the needs of mass transit.

> The gentleman may rely upon the inclusion in the present bill of authorizations for operating subsidies for existing mass transit, for the very first time in the history of the Congress, for the existing fiscal year and the upcoming fiscal year.
>
> He might reply upon the fact that Senator Williams, who was the moving force in the Senate for something meaningful for mass transit, wanted this title included, is satisfied with what was done and believes it is the best that could be done.

If that were not enough to reassure Representative Anderson, Wright added:

> Beyond those assurances I know of none I could give to my friend except the growing need and the growing recognition of the need for something effective to be done to assist those communities afflicted with needs for mass transit.

In response to a question from Representative Jack L. Brinkley (D-Ga.), Representative Wright discussed the conference decision on priority primary routes:

> [This] bill establishes the intent of Congress to create a priority primary system of not to exceed 10,000 miles, to take up some of the glaring gaps that have developed in the past few years in our highway program. It calls upon the Secretary of Transportation to present to the Congress by not later than September 30 of next year an inclusive report advising us as to his recommendations for criteria to be employed for the designation of the routes to be included in that system.

He continued:

> Beyond that, I should like to add briefly that I believe the most significant and innovative thing contained in this bill is the inclusion of the House provisions in title II in their entirety. Those provisions will make available $1.1 billion over the next few years for measures expressly designed to make the highways safer.

Representative Barrett said he supported the conference report, which he said "goes a long way toward meeting our transportation needs not just for highways, but more importantly for urban mass transportation." He stressed that the omnibus housing bill had important mass transportation provisions, but that the House Rules Committee had refused to let it go to the floor for a vote. The Senate's Federal-Aid Highway Act had included those measures "and I am delighted that the conferees were able to agree on these urban mass transit provisions."

Representative Glenn Anderson of California expressed "a little concern" about the urban mass transportation funds from the general Treasury because they would mean additional taxes, instead of the Highway Trust Fund "where there is ample money." He said "we are introducing a wrong principle and a wrong area."

Representative Wright explained why the conferees took the funds from the general Treasury instead of the Highway Trust Fund. First, Congress has a "good faith obligation" to use highway tax revenue for highways. Second, “we need every penny in that highway trust fund if we are to keep that obligation.” Third, “we have done everything we think we can reasonably do and offered on the part of the House conferees to do even more.” He elaborated on this point:

> In the conference we offered to assist mass transit immediately. We offered to agree . . . with every basic premise of the so-called Cooper-Muskie or, we might say, Anderson amendment to permit the cities to have flexibility to make a decision, if they wanted to, within their own incorporated limits and to substitute rail for highways, and to give them that money through immediate obligational authority but take it out of general revenues instead of the trust fund. The senators are the ones who would not agree to that.
>
> We feel we have an obligation to the House to uphold its position insofar as possible. We feel we have yielded very greatly so far and have done everything we reasonably could to be conciliatory and ameliatory and get a bill. [*Congressional Record-House*, October 18, 1972, p. 37133-37135]

Representative Edward P. Boland (D-Ma.) said he regretted that the mass transit funds were not coming from the Highway Trust Fund. “But I am not going to belabor this point, because it is a dead horse . . . .” Instead, he wanted to stress that this bill was the first time the Congress had authorized operating subsidies. That, plus the additional $3 billion, “meets the problem and at least it is a step in the right direction.”

Representative Anderson of Illinois said “I must painfully conclude that I cannot agree with those who have just expressed the feeling that somehow in this conference report we have done a great thing for the cause of mass transit in this country.” After listening to the discussion, he could “only come to the conclusion that far from meeting the problem, we are putting it on the backburner.” The additional $3 billion for mass transit would not become available until FY 1975, while he and others had tried unsuccessfully to amend the bill to provide “$700 million now out of existing funds—out of money that is there in the highway trust fund.” He asked, “So how can you now try to sell us on the proposition that we are meeting the problem of mass transit by deferring this, by putting it on the backburner until the fiscal year 1975 . . . .” he said, “It simply defies my comprehension.” The present fiscal crisis meant the country must live within its means:

> Yet, when I look at this particular conference report, I come to the regrettable conclusion that if we adopt it in its present form, that once again this Congress will have been utterly derelict—utterly derelict—in its duty to try to establish some clear national priorities, and give the cities, to which urban systems highway money would go, the simple option of using that money for other modes of transportation.

Instead, the bill before the House offered “illusory promises of something down the road, when there are funds available here and now” in the Highway Trust Fund.

Representative O’Neill agreed with these comments. “We in the Massachusetts area have a terrific plight in the whole suburban area. We need mass transportation badly.” He, too, wanted the Highway Trust Fund broken. Actions of the past week had proven that the Highway Trust Fund “is not a sacred cow." However, he would support the bill because even if, as Representative Anderson feared, the money never became available, the House would "go back in here with special legislation to break that highway fund."

Representative John Paul Hammerschmidt (R-Ar.) thought the conferees could have done a better job, but at this late hour, approval of the bill was "vitally important to at least 36 States whose highway programs would be in desperate straits by early next calendar year if existing authority is not extended." His State, Arkansas, was one of those States. He recognized the importance of mass transit, but was pleased that the bill "does not open up the highway trust fund and break faith with those users who have paid and continue to pay into it for the construction and betterment of roads." He hoped the $3 billion for mass transit "will be a start to tackling the need but that in the next Congress we address ourselves to a solution that will not encroach on the highway trust funds."

His biggest disappointment with the bill was the failure to include the House provision on priority primary routes. The provision in the present bill at least acknowledged the congressional intent to establish such a system and was only calling on the Secretary to assist in developing a plan. "This is recognition that the plan is valid, the need is there and the program should move forward."

Representative Ford announced that he opposed the bill "for a variety of reasons." He would cite only two. First, he did not "like the idea of contract authority to the extent that is provided for in this conference report." Further, "I am totally, unequivocally, unreservedly opposed" to operating subsidies for mass transit. "I think it is the wrong program at the wrong time." Moreover, Title III would not have been considered germane had it been proposed separately to the House. "I do not think that is the right way to operate."

Representative Wright pointed out that Representative Anderson of Illinois, a Republican, "is opposing this conference report on the ground that it does not do enough for mass transit and he wants the money out of the trust fund, while the distinguished minority leader is opposing it on the ground that it does too much and he wants to protect the trust fund, but he is not willing to go to the contract authority." In short, "we are caught in this uncomfortable position of having done more than some wanted and less than others wanted." The conference report was "the best solution of the problems, the best compromise, hammered out on the anvils of mutual sacrifice, that we could possibly achieve."

The Minority leader agreed that they had worked hard to "maintain the integrity of the highway trust fund" and that the conferees "faced an impossible situation in a bad circumstance." However, "I happen to have the conviction that this is the wrong way to operate."

Representative Kluczynski called the bill "workable legislation" that met "the urgent need for extension of our essential highway program and the pressure for adjournment of the Congress, with the understanding that a thorough review of the highway-mass transit legislation would be undertaken early in the 93d Congress." He promised that "we shall consider whether an entirely separate fund should be established to provide the mass transit our major metropolitan centers must have."

Representative Clausen, one of the conferees, said he would vote for the conference report although he disagreed with some of its provisions. His strongest disagreement was with the 1-year extension of the Interstate System apportionment instead of the usual 2-year extension. To his "deep chagrin," the Senate conferees "would not budge" on the 2-year extension issue. His other deep concern was how "the Senate brought the controversial operating subsidies for mass transit and Title III into what was to have been a routine highway public works conference." The three Senate Banking Committee members had insisted on their Title III "at a time when we had neither jurisdiction over nor hearings on, the subject of mass transportation before the House Public Works Committee." He regretted, too, that the bill did not contain the House provision on priority primary routes.

He also discussed the idea of a Mass Transit Trust Fund:

> It is our desire to maintain the integrity of the highway trust fund by maintaining our entrusted fiduciary responsibilities, just as we should uphold the purpose and interest of the airport-airways trust fund . . . .
>
> There was more argument expressed by more Senators and House Members on the third trust fund concept than I have ever heard, including Mr. Mills, and other members of the Ways and Means Committee and Senator Williams of the Senate Banking and Currency Committee and other Senate and House conferees.
>
> As a matter of fact, the House offered, as part of their many proposals, the desirability of advancing the "Priority Primary" and third trust fund for mass transit as a package for immediate consideration next year.

He urged the House to approve the bill, for all its weaknesses, and then "let us come back next year, maintain the cooperation and momentum and move toward developing the best coordinated integrated and balanced transportation systems that modern and future technology can provide." [*Congressional Record-House*, October 18, 1972, p. 37137-37141]

The House interrupted to consider a bill amending the Federal Aviation Act. Before the Federal-Aid Highway Act of 1972 could be raised again, Representative John T. Myers (R-In.) initiated this dialogue:

> Mr. Myers. Mr. Speaker, I make the point of order that a quorum is not present.
> The Speaker. The Chair will count. One hundred twelve Members are present, not a quorum.
> Mr. O'Neill. Mr. Speaker, I move a call of the House.

A Call of the House was ordered.

> Mr. Mills of Arkansas. Mr. Speaker, a parliamentary inquiry.
> The Speaker. The gentleman will state it.

> Mr. Mills of Arkansas. Mr. Speaker, will the Speaker entertain a unanimous-consent request that the call of the roll be vacated?
> The Speaker. The Speaker does not have that authority under the Constitution. If there are any Members in the Chamber who have not answered and the Speaker can identify them, he will have them recorded. The Speaker does not have that authority, but he does not know of any such members.

When the Clerk called the roll, only 156 of the 432 Members of the House were present. In the lack of a quorum, the House adjourned *sine die*. [*Congressional Record-House*, October 18, 1972, p. 37199-37200]

Early on October 18, 1972, the Federal-Aid Highway Act of 1972 was dead.

Post-Mortems

The unexpected breakthrough by the Conference Committee had raised hopes that the 1-year compromise bill would be approved. It would have ensured that the pro- and anti-highway forces would be able to continue their argument in 1973.

The abrupt end on a quorum call, according to reporter Braestrup, "angered pro-highway forces, disappointed urban transit lobbyists, encouraged the environmentalists and pleased the Nixon administration, which opposed the bill's $400 million provision for mass transit operating subsidies." The end was more shocking because the bill was nearing approval by a simple voice vote when Representative Myers raised his point of order. Myers refused to explain his action, so reporters were left to speculate on his motivation, as Braestrup did:

> Myers was unreachable last night. But Republican House sources said he was angry because the bill no longer contained a House-passed provision barring any court interference with construction of the Three Sister Bridge, now stalled by environmental lawsuits.
>
> House Minority Leader Gerald Ford (R-Mich.) later said he had no part in instigating the Myers move. Other GOP members said White House lobbyists had no hand in it either.
>
> However, several administration lobbyists spoke earlier in the day of trying to persuade a congressman or senator to kill the measure, to save the President from a politically painful veto aimed at the mass transit subsidies provision.

Acting Majority Leader Tip O'Neill, whose Boston district included part of the unpopular Inner Belt, told reporters that the Highway Trust Fund was "no longer a sacred cow" in Congress. "It will be broken." [Braestrup, Peter, "Highway Bill Dies in Congress," *The Washington Post*, October 19, 1972]

Reporter Rosenbaum agreed on the subject of operating subsidies:

> The Nixon Administration engineered tonight the defeat of legislation that would have extended highway programs for one year and provided, for the first time, operating assistance for local mass transit agencies.

Republicans had refused to answer the quorum call, forcing the House to adjourn without acting on the bill. [Rosenbaum, David E., "G.O.P. Move Kills Road Fund Bill," *The New York Times*, October 19, 1972]

A few days later, Rosenbaum published a more detailed analysis of "one of the fiercest behind-the-scenes battles in Congress this year." The battle had been fought by insiders, such as Richard J. Sullivan, chief counsel of the House Public Works Committee; Alfred E. Johnson, AASHO's executive director; Joseph A. Bosco of Secretary Volpe's staff; Fred B. Burke, "the archetypical lobbyist—persistent, persuasive, and knowledgeable" hired by transit organizations and agencies; and John Kramer, the 24-year old head of the Highway Action Coalition formed with the "stated purpose" to "bust the highway trust."

Secretary Volpe had begun the struggle with his Single Urban Fund proposal that would allow local officials to use Highway Trust Fund revenue to buy buses and build commuter rail systems. In the past such proposals never had "much political muscle" behind them, but now it was coming from a Secretary of Transportation who had been the Federal Highway Administrator at the launch of the Interstate program.

Sullivan, Johnson, and their allies made clear to Members of Congress that the proposal was not acceptable. The pro-highway forces made their views known along with campaign contributions to the key congressional leaders. As for the anti-highway forces:

> Mr. Kramer, however, was not sitting on his hands. A novice at lobbying, he learned quickly. He planted ideas in the minds of newsmen, and, by summertime, favorable articles had appeared in publications including The New Republic and Business Week.

He rounded up support from Senators Cooper and Muskie and Representative John Anderson. Meanwhile, Burke was working with Senator Williams and other members of his committee to gain support for operating expenses.

These contacts and those from Bosco with every member of the Senate Public Works Committee resulted in the 8 to 7 vote in favor of the Cooper-Muskie amendment. "Mr. Bosco could hardly believe his success, but it was short-lived" because Senator Stafford changed his vote overnight:

> Whether one of the highway lobbyists or another Senator persuaded Senator Stafford to switch is unknown . . . . Mr. Bosco called Mr. Stafford. Mr. Volpe called him. It was to no avail. The vote stuck.

The Stafford switch appeared to kill Cooper-Muskie, but Bosco was optimistic. "Just wait," he said, "I think we've got the votes on the Senate floor." He was right, with the Cooper-Muskie amendment passing by a 48-to-26 vote.

In the House, Sullivan of the Public Works Committee was assisted by minority counsel Clifford W. Enfield, formerly general counsel of BPR; Lloyd A. Rivard, a committee staff highway engineer; and former Administrator Frank Turner, now a consultant to the committee. The committee's final bill contained no funding for mass transportation. "Even worse, from Mr. Kramer's and Mr. Bosco's point of view, the staff had written a provision into the bill calling for an additional 10,000 miles for the Interstate System."

Any hope for the Administration would be on the House floor. The key obstacle was a parliamentary problem. "The House parliamentarian had ruled in the past that amendments similar to the Volpe plan were out of order, since the legislation was not a tax bill." They tried to convince the House Rules Committee to prohibit points of order, but lost by a single vote. Next, Representative O'Neill, the Democratic whip (essentially the vote wrangler and counter) spoke with Lewis Deschler, who had been House parliamentarian for 4 decades:

> Mr. Deschler reportedly promised Mr. O'Neill that he would rule that the amendment was in order.
>
> By the time the bill reached the House floor, however, Mr. Deschler had changed his mind. He announced that he would rule the mass transit amendment out of order.
>
> Several Representatives said that Representative Carl Albert, the Speaker of the House, had prevailed upon Mr. Deschler to change his position. Other Representatives said it was Representative Wilbur D. Mills, the Chairman of the Ways and Means Committee. Mr. Deschler refused to say why he switched.

Following passage of the House bill, the Conference Committee met for 40 hours over 5 days. "Lobbyists crowded the hallways outside the meeting rooms. But time and again the negotiations broke up, deadlocked on the transit issue." Rosenbaum continued:

> At midnight on Saturday, Oct. 14, the conference broke up, supposedly for good. But Mr. Johnson and the other highway advocates went to work. The bill could not die, they said, or the states would be out of money. Senators and Representatives were flooded with phone calls from their constituents.

On Wednesday, October 18, the conference had reconvened and reached agreement on the 1-year extension. The Senate approved the bill with little debate and the House was expected to approve it before adjourning:

> But the Administration officials were not satisfied. They wanted to kill the bill, believing that if the highway advocates were in dire need of more highway money early next year, they would be willing to accept any bill, even one that let the trust fund be tapped for mass transit purposes.

> Somehow, someone then engineered a quorum call on the House floor. Republicans, presumably at the Administration's behest, refused to answer it, and the House was forced to adjourn, killing the highway bill for the year.
>
> Mr. Bosco said that night that the Administration had planned the maneuver. The next day he said he knew nothing about it. But, he said, he was enormously happy with the outcome.

Burke and Johnson telephoned their allies with the bad news. Sullivan began working on the new highway bill:

> And John Kramer, who had been through [none] of these experiences before, began inviting friends to a victory party, confident that he would win his fight next year. [Rosenbaum, David E., "Lobbyists Powerful in Road Fund Battle," *The New York Times*, October 24, 1972]

An editorial in *The Washington Post* tried to summarize what had happened. Following Senate adoption of the Cooper-Muskie amendment, the editorial said, "the guardians of the highway trust fund [in the House] had to pull out all parliamentary stops to block a pro-transit amendment."

The Conference Committee had, of course, been contentious:

> Though reports of the dealings conflict, it appears that the House conferees managed to drive a wedge through the Senate ranks by offering to accept $4.4 billion in mass transit aid—as long as it all came from general revenues, leaving the trust fund inviolate. This was agreeable to Sen. Jennings Randolph, chairman of the Senate conferees; Sen. Harrison Williams, the chief Senate spokesman for mass transit aid; and lobbyists for the mayors. But the deal was blocked by Sen. John Sherman Cooper, who controlled a majority of Senate votes in the conference. Sen. Cooper held out for opening up the trust fund or, as a last resort, for shelving the issue only till next year. At one point, the conference broke down in angry disagreement . . . .

They finally agreed on an interim bill that died when the House "failed to muster a quorum and adjourned for the year."

This unexpected end was discouraging, but the editorial had a different reaction:

> The most troubling element in all this is the myopia displayed by those mass transit advocates who leaped at the bait of billions from general revenues—billions which might be impounded—and were willing to forsake the goal of reform. In a bitter, late-night floor speech, Sen. Williams called for "soul searching on the question of whether the effort was to aid mass transit or to break up the highway trust fund."

The outcome could not be known, but the debate would be resumed in 1973. "Indeed, the friends of road-building are already gearing up for the next round, as if they sense, as we do, growing public interest in taking—and staying on—the path of reform." ["Roads Not Taken," *The Washington Post*, October 24, 1972]

An editorial in *The Baltimore Sun* predicted "a big fight early in the next Congress" over the highway bill. Many States would be running out of money by the start of the next fiscal year on July 1, 1973; some will have been forced to quit road building while waiting for a new bill. The highway lobby would continue to oppose use of Highway Trust Fund revenue for rail mass transit facilities:

> Will they relent next year, believing that only by doing so can they get a highway bill through Congress in a hurry, thus avoiding work stoppages in many states? Or will they use the increased pressure from state officials on members of Congress to make sure that there is no consideration of mass transit?
>
> Our guess is that the highway advocates will follow the latter course, and be successful in it, unless mayors and others who want mass transit money in Congress begin the minute the new Congress convenes. We urge them to, for the time has certainly come when the life or death of such cities as Baltimore depends on a wise—and new—transportation policy. ["The Next Highway Bill," *The Baltimore Sun*, October 24, 1972]

The impact on highway programs was felt soon after the 1972 bill died in the House. FHWA expected nine States to have problems: Arkansas, California, Florida, Kentucky, Michigan, Missouri, Tennessee, Texas, and Virginia. They would be short of their funding ceilings by a combined $295.7 million. A summary in *The Wall Street Journal* added:

> The Federal Highway Administration also says that because of federal limits on spending in interstate, urban, and other individual highway categories, there are 36 states that could fall a combined $431.5 million short of the spending limits in fiscal 1973, lacking new apportionments. But it's understood the Nixon administration plans to let the states temporarily switch funds between these categories to avoid this problem.

Tom Lewis, in his 1997 book *Divided Highways*, wrote about the demise of the Federal-Aid Highway Act of 1972, in part based on an interview with former Administrator Turner. Lewis recounted the parliamentary dispute on October 3 and 4:

> On October 3, the House Rules Committee . . . added a special directive allowing members to raise points of order against any attempt to add mass transit funding. To circumvent the committee's decision, Congressman [John] Anderson went to the House parliamentarian, the ultimate authority in such matters, who assured the congressman he would rule that his motion to amend the bill for mass transit funding was in order. Anderson would have no need to worry. His amendment would come to the floor. But on the morning of October 4, the parliamentarian ruled with the highway lobbyists because of the request of one of the most powerful representatives in Congress, the head of the House Ways and Means Committee, Wilbur D. Mills . . . .

> Just before the House took up the highway bill, Wilbur Mills announced that any change in the trust fund should originate with his House Ways and Means Committee, as it had written the original trust fund legislation in 1956, and it alone had the power to alter it. He would tolerate no amendment of the sort Anderson proposed to make. That Wilbur Mills took such a position was no surprise. Before entering Congress [in 1939], he had served as a judge (an administrative leader) in White County, Arkansas, where he had charge of highway building. It was there he first met the regional administrator [actually area engineer] of the Bureau of Public Roads, Francis Cutler Turner. The two men had been friends ever since and shared the same philosophy about highways.

During the Conference Committee, Senator Cooper "became adamant that the final legislation include Highway Trust fund money for mass transit." This was his final negotiation before retiring "and he wanted to go out with honor." Lewis continued:

> Meeting after meeting of the conference committee ended in deadlock. It was now mid-October in an election year; senators and representatives were anxious to return to their states and districts for the campaign. The Gallup poll showed President Nixon leading his hapless Democratic opponent, George McGovern, by as much as thirty-four percent. Many in Congress wondered if the coming Republican landslide might sweep them from office. Finally, on October 18, the joint committee reached a decision to appropriate $3 billion from the general fund for mass transit and rushed the bill to the floor of the House.

Many transit advocates, as discussed earlier, were suspicious of the compromise because the funds were a few years off and subject to appropriations and impoundment. With the bill seemingly certain of House passage, "Those who wanted to crack the trust fund had one maneuver left," namely the quorum call. Representative Mills tried to override the quorum call but when Speaker Albert said he could not do so, the bill died. [*Divided Highways*, p. 228-230]

The States that had been most aggressive in using their Federal-aid funds were the ones most likely to feel a pinch:

> "The states in the worst fix are the ones that are out ahead of the rest," in terms of vigorous programs, a highway administration spokesman says. [Karr, Albert R., "Highway Bill Delay in Congress Threatens to Disrupt Construction in Several States," *The Wall Street Journal*, October 23, 1972]

On November 3, Senator Williams wrote a letter to the editor of *The New York Times* "to review the reasons for the failure of the conferees to come up with a piece of legislation that could be enacted into law." He summarized the final compromise on October 18 and noted Senate approval of the bill. The bill died "when one House member demanded a quorum call." He explained that, "Three-quarters of the Republican members failed to answer the quorum call, and the House was forced to adjourn." He had no doubt about why the Republicans failed to respond:

> It is well known that President Nixon is flatly opposed to helping commuter lines meet operating costs. There had been broad hints throughout the conference that he would veto

> this bill because of the operating subsidies provisions, and millions of Americans would have been outraged if this had been done.
>
> They now have every right to be just as angry when he has one of his Congressional agents from a rural district kill this legislation through a quorum call. The Administration has even bragged about initiating the parliamentary maneuver which killed the Federal-Aid Highway Act.
>
> These are the facts. Now it is up to the American people to judge who is really to blame.

Senator Williams, writing on November 3, may have intended to influence the presidential election on November 7, but his letter was not published until November 16. [Williams, Harrison, A., Jr., "Death of Federal Highway Act," *The New York Times*, November 16, 1972]

Secretary Volpe issued a statement on October 26 saying he was "particularly disappointed that legislation which would permit the Federal-Aid Highway program to continue was not enacted before the 92nd Congress adjourned." Because disruption in the program was "not in the national interest," he had sought and received from President Nixon "the authority to ensure that the federally-assisted portion of our Nation's highway program can continue while Congress considers how it can best be responsive to the transportation needs of all our citizens."

The Secretary had directed Acting Administrator Bartelsmeyer "to work with all States where the lack of highway legislation impacts on their highway program." Bartelsmeyer could do the following:

1. Where necessary, to release States from the categorical restrictions now placed on the obligation of Federal-aid highway funds so that maximum use can be made of their available unused authorizations;
2. Permit States to utilize existing authority to undertake Interstate projects for which they can be reimbursed when a new highway law is enacted.

A statement from Bartelsmeyer was appended to the Secretary's statement. With the increased flexibility, "most States will have the necessary authorized funds to carry out the highway program at its current obligation level if the Congress acts expeditiously." He was optimistic about obligating $4.4 billion for Federal-aid highways in the current fiscal year (FY 1973).

U.S. News & World Report published an article in its issue of November 13, 1972, titled "As Funds Run Low for New Highways." It stated that the "controversial federal highway program," which already was running into objections from environmental groups, was now "facing another problem: lack of funds." Virginia was one of the worst hit. "We've used every cent we have," Douglas Fugate told the reporter. "Our Interstate program is at a standstill until new federal funds are released." He cited I-77 between Wytheville and the West Virginia border as an example of a project that was being delayed. The article continued:

> Kentucky and Tennessee have almost used up their Interstate funds. Kentucky had $900,000 left and Tennessee $500,000.
>
> At least six other States—Arkansas, California, Florida, Michigan, Missouri and Texas—also will be short of federal money by June 30 if Congress doesn't come through with new authorization [sic] early in the next session. ["As Funds Run Low for New Highways," *U.S. News & World Report*, November 13, 1972, p. 4]

A panel of city and Federal officials met at the Owens-Corning Fiberglass Center on Fifth Avenue in New York City on November 11 to discuss the future of transit systems. The occasion was an exhibition of advanced transportation concepts, including people-movers, personal rapid-transit systems, and an electric-powered car with a long, pointed glass-fiber "snout." The panelists agreed that such innovations would have little impact on the present. Mr. Jaquelin T. Robertson, Director of the Office of Midtown Planning and Development, said, "Everything here is Buck Rogers. It's not going to change our lives for many years to come." Mr. Jerome Kretchmer of the city's Environmental Protection Administration called the electric car, with its long "snout," a "menace," adding, "No one is really working to provide a transportation system that will work in our environment."

Robertson, who was working on a proposed Madison Avenue pedestrian mall, said that instead of focusing on "money and technology," officials should look to short-term solutions. "We will have to use existing technology and existing rights of way for the next 10 years, maybe 15." He favored such developments as "maxi-cabs and mini-buses, limited-size trucks, and a reapportionment of street use, banning autos from many central city areas." Such a ban was essential because, he said, "The automobile is a hopelessly inefficient carrier of bodies" in the urban environment. Existing funds, Robertson said, should be used to foster "pedestrianism and jitneys in the central city, and trains for intercity travel." Any money left over "can be spent diddling around with far-out things."

Deputy Administrator William Allison of UMTA agreed that items such as the people movers, which his agency was studying, were for 10 years or more from now. Long-range planning was necessary, but UMTA was committed to short-term planning as well. One research project could provide a new urban bus by 1974, while research in New York City included a gas-turbine commuter car for the Long Island Rail Road and a stored-energy braking system for the subway.

Representative Koch was also on the panel. He expected his bill to open the Highway Trust Fund to mass-transit uses to reach the House floor in January. There, it would encounter "the hardest fight imaginable" because of the powerful highway lobby. (It was unlikely a highway or mass transit bill, or any other, would reach the House floor in January, which the new Congress would devote to organizational issues, but the report of the conference cites his statement.)

Robert N. Rickles of the Institute of Public Transportation recommended outreach to the public to garner support for mass transit:

> Transportation is the only environmental issue on which we can excite the majority. It's not a white, middle-class, elitist issue. It's a political issue and the middle class and the poor

> must join together to demand what they are entitled to. We've got to convince people that transportation is important and that it can get better. [Prial, Frank J., "Officials Urge Better Transit System for Today, Not the Future," *The New York Times*, January 12, 1972]

AASHO held its 58th annual meeting in Phoenix on November 27. Dingwall of Texas, in his speech as outgoing president, acknowledged the "changing of the guard in the leadership of the United States" that had taken place in 1972. The departures included Frank Turner and "friends from the Halls of Congress," including some who participated in revitalization of the program in 1956:

> The old guardsmen, like the sentinels at Buckingham Palace, have personified the qualities of loyalty, discipline and dedication. Straight and stalwart, they steadfastly refused to be distracted from their duty.

Looking back over his year as AASHO president, Dingwall said:

> We have been active in the defense of the Highway Trust Fund. Most of the time it has been a rear guard action against self-serving bands of guerrillas, and at other times, we have faced well-meaning but generally uninformed people who have attacked the program . . . .
>
> To understand this, I think one must understand what's going on in our society. Highways are under attack from all directions. I think that this is so because there is a substantial protest subculture in the United States whose chief targets are the *successful* elements of the so-called Establishment. There is an amazing lack of protest over the failures of other programs. But show me a successful program, or organization, or institution and I'll show you a target for these attacks.

Still, he was not pessimistic. The challenges could be met "if we are willing to pitch in and work for continued progress in the highway program in each of our States and in the nation." He had observed some change in attitude in Congress. "The uncompromising hyper-idealism which has run rampant in the past five years now is being tempered with realism."

The key was to "return to the Federal-State partnership basis." To do that AASHO first must strengthen its headquarters staff "with additional well-qualified personnel to provide for continuous review of policy and legislative matters." Second, AASHO must accept that its duty was "not just to defend the highway program, but to inform legislators on the State and national levels of the needs for highways and of our accomplishments."

One thing was clear. "The need for highways, then, is not going to decline, but accelerate." As for mass transit, "let us not sit back with a 'dog in the manger' attitude, but let us cooperate and assist where we can." Highway officials "can share our knowledge, cooperate with other modes and still hold out for the sanctity of the Highway Trust Fund." This cooperation would "dispel the myth that we are opposed to mass transit in all its forms and manifestations." They were opposed only to the use of highway funds for transit. "If it's a trust fund that mass transit needs, I say let's help them get it, but with the understanding that they stop trying to break up ours."

He urged AASHO members to act:

> Without blaming anyone or any group, without pointing the finger, and without rancor, let's all talk to our congressional people and see if we can't get this bill going again in the very early days of 1973. [Dingwall, J. C., "President's Annual Address," *American Highways*, January 1973, p. 3-4, 17-18]

Dingwall, who had joined the Texas Highway Department in 1928, was one of those exiting the scene. He retired on January 31, 1973. ["J.C. Dingwall Retires as Texas State Highway Engineer," *American Highways*, January 1973, p. 18]

The new president of AASHO would be Thomas F. Airis, Director of Highways and Traffic for the District of Columbia. He had joined the U.S. Army Corps of Engineers in 1929 and had served in the military through World War II and during the Korean War. After working on the U.S. section of the St. Lawrence Seaway, he joined the District's Department of Highways and Traffic in 1959. He became director in 1964. ["Sixty-First President of AASHO," *American Highways*, January 1973, p. 17]

Acting Administrator Bartelsmeyer also addressed AASHO. Thirteen years ago, he said, he had addressed the organization as its president. "It was an honor I have always cherished, and it is one of the highlights of my 40-some years in the highway field."

(Bartelsmeyer's presidential address had taken place in Boston during AASHO's 45th annual meeting in October 1959. He had addressed the fiscal crisis facing the Interstate program as a result of accelerated funding to counter a recession in the absence of an increase in revenue; attacks and criticism of the program ("It must be realized that when any individual public financed endeavor gets as big as the highway program, such things are sure to occur."), accusations of corruption, the talk of increased Federal controls, changes in contract authority, and proposals by critics and local officials to curtail construction of the urban Interstates. On this topic, he said, "Since some of the greatest and most acute needs for adequate modern highways exist in the urban areas, it is inconceivable that a sound and well balanced Interstate Highway System should not include extensions into these areas.")

The 58th annual meeting, he said in 1972, was taking place "in a troubled time" with "some dark clouds hovering over us at the moment." He reminded them that "AASHO has met in troubled times before, and adversity – of whatever nature – has always been overcome." He quoted Shakespeare's *The Tempest* ("The morning steals upon the night, melting the darkness") and added, "Our dark hour will also pass."

He explained the steps Secretary Volpe and he were taking to keep the Federal-aid highway funds flowing despite the absence of congressional action to extend the program. "With this increased flexibility, most States will have the necessary authorized funds to carry out the highway program at its current obligation level . . . ."

The Administration favored early action on highway legislation in 1973 to avoid any funding lapses, but he wanted to make clear that there would be "no retreat from the general position" the Department had taken in 1972. In 1973, the Department would again support the pass-through provision that would provide Federal-aid urban funds directly to urbanized areas to use as they thought best, including for rail transit. In submitting legislation in 1972, the Department "thought *then* that this was desirable and necessary. We think *now* that it is desirable and necessary." In view of the "overwhelming problem of rush-hour traffic congestion," local elected officials "are in a much better position to decide how to spend their Trust Fund dollars than anyone else." The Department believed this change was proper "because, after all, anything that we can do to eliminate or reduce congestion is beneficial to the highway systems of those areas, and the motorists who use them."

He assured AASHO that Secretary Volpe would have said the same thing if a prior commitment had not kept him away:

> Incidentally, I know that there are some who feel that Secretary Volpe – who was the first Federal Highway Administrator back in 1956 – has turned his back on the highway program, that he has deserted it. This simply is not true. Believe me, at the Department I sit in many personal meetings with him, and I can tell you unequivocally that he has not relaxed one iota his concern over highways. His concern and commitment remain as deep and sincere as they have always been . . . .
>
> However, John A. Volpe is Secretary of *Transportation* – not Secretary of Highways. This is the crux of the matter. He must view transportation as a master plan, as a whole, rather than fragmented modes, or independent parts.
>
> And I submit that this is what we, as highway officials, acting in our role as an integral part of the total transportation endeavor, must also do.
>
> According to a Japanese proverb, "A small-minded man looks at the sky through a reed." Let none of us look through a reed; let us look, instead, at the broad sweep of the whole sky – the total transportation problem.
>
> Let us think not of ourselves only in the narrow, restrictive confines of highway engineers; rather, let us think in broader, more sweeping terms as *transportation* officials.
>
> Let our vision be broad and unlimited, and unclouded by vestiges of policies and procedures that once were considered highly desirable, but which are no longer applicable to today's dynamic American society.

Bartelsmeyer said he knew the members of AASHO, had been one of them, had worked with them, and he shared their pride in all they had accomplished as well as the many obstacles they had overcome. "However, life is a treadmill, and there is little time for us to relax and think about past accomplishments." Now, they must accept that the Federal-State highway program "has entered a new era – an era in which the role of highways is a changed one, but *not* a diminished one."

Highways remained vitally important, but today highway officials "must consider always where and how they must interrelate with the other transportation modes."

That is why the Department of Transportation was created, namely "to bring *all* of the transportation modes – highway, rail, air and water – together in a coordinated, unified program." They "must be completely coordinated into an overall transportation system if we are going to be able to measure up to our mandate." He continued:

> You, the members of AASHO, are being given the opportunity – now – to assume the leadership in this total transportation challenge. If you do not accept it, someone else surely will! I say let's accept this challenge eagerly and enthusiastically; and, as highway officials, let us measure up to the same high level of performance that we have always been capable of in the past. [Bartelsmeyer, Ralph R., Address, *American Highways*, January 1973, p. 9, 24-25]

On the afternoon of November 27, the featured event was a congressional panel discussion with Representatives Kluczynski, Wright, and Clausen from the House Committee on Public Works. Dingwall, in his role as moderator, began by asking about Secretary Volpe's intention to submit a bill in 1973 that included the pass-through for Federal-aid urban funds and the local option to use the funds for bus or rail transit. Representative Kluczynski cited the Department's 1972 National Transportation Report to demonstrate the size of highway needs:

> It seems ridiculous to me in the face of these facts to take money out of the Highway Trust Fund for mass transit or for any purpose other than highways. All this kind of action amounts to is robbing Peter to pay Paul, with both of them actually ending up in the poor house.

He advocated retaining Highway Trust Fund revenues for use exclusively for the Federal-aid highway system. He supported increased funding for mass transit from some other source. In fact, in response to a later question, he pointed out that Title III of the bill that came out of the Conference Committee "contained the largest and most comprehensive transit program ever to come before Congress." It contained an additional $3 billion from general revenues "over and above" previously authorized funds as well as "for the first time operating subsidy authorization" of a total of $400 million in 1973 and again in 1974. "Can you imagine a highway bill with such a big boost for mass transit?"

He explained that "there was not general agreement in the conference that general fund monies should be used for transit." He explained:

> You highway administrators know this only too well because you all received, in a move unprecedented to my knowledge in the history of Congress, a telegram from seven of the Senate conferees which indicated the thinking of some of the Senate conferees implying that they had given in on the Cooper-Muskie proposal to take mass transit funds from the Trust Fund. What they neglected to say was that the only reason they wanted a one year extension of the ABCD program instead of the two years which was in both bills, was to insure that

> the subject would have to be treated again early in the next Congress. As it turned out, of course, we have no bill and not even a one year extension, so those people got their way anyway.

He favored a third trust fund for mass transit. The idea had considerable support in the House and among transit proponents:

> Of course there are many people who profess to be in favor of a transit program, but are in reality simply opposed to highways. These people will undoubtedly find reasons to oppose a transit trust fund. But you people are just as aware of this situation as we are, and we will all have to face up to it and do everything possible to create this third trust fund, and I'm for that 1,000 percent.

He added that, "The highway opponents don't care how much public money has gone down the drain, but I care and so do you."

In concluding comments, Representative Kluczynski told AASHO that, "When you come before us next year, you should tell it like it is and lay it on the line." He wanted them to feel free to say anything they want to say. "You can't insult us." Talk about how the absence of a bill and impoundments increase unemployment. Discuss the cost increases resulting from delays. Let it be known "what the singlemindedness of the opponents of the highway program have caused and who is footing the bill."

He predicted that Secretary Volpe "will probably have some bright and shining new proposals for us developed from the warmed-over remains of what they have sent us before, and justified by reaching into the cloudy unknowns of the Office of Management and Budget." The committee was "behind you as always . . . but the fight is getting tougher."

Speaking of robbing Peter to pay Paul, Representative Kluczynski joked about the popular folk singers Peter, Paul, and Mary. "Now I didn't mention anything about Mary, but you can be sure if you start taking money from Peter to give to Paul, that pretty soon Mary is going to get a little suspicious and want her share, too." Representative Clausen picked up on this comment in discussing his support for a third trust fund:

> In my view, instead of raiding the one trust fund wherein as he said robbing Peter to pay Paul and then opening the door for Mary to fiddle around a little bit, it seems to me what is needed instead of everything trying to divide up a single pie, I believe we ought to have another pie.

He said that, "if there is so much interest for mass transit in this country, let's have the people put their money where their mouth is, let us create the vehicle at the Federal level."

He did not favor a broader trust fund. "Knowing the plight of the situation, you are going to create a single grab bag, and it will be a power play from this day forward as to which one is going to have the most to say about where the allocation will go." He favored hearings and studies to determine needs, estimates of costs, and methods of financing. "I think if we did that we would have a more realistic approach to the total problem."

He believed in a nationally coordinated transportation system, but warned AASHO that, "I can tell you that unless you unite and do your homework, you can find yourself on the outside looking in." Even as AASHO was meeting in Boston, the principal advocates for using Highway Trust Fund revenues for rail transit, namely the National League of Cities, were meeting to discuss this issue and lay out a strategy for achieving their objective. Noting that the House would have 63 new Members, he said:

> I can suggest to you that you had better go back home and communicate the problems that you have, not only with your local city and county officials (because we found on the one side it was the League of Cities that were principal proponents for mass transit), as well as with the counties and the governors who wanted to maintain the integrity of the Highway Trust Fund. And, I would suggest all of the trade organizations, be it Labor, Management, whoever it might be, needs to know the story, you and they need to get the message to their Senator or to their House people so that they have an understanding of what the real facts of life are as relates to the highway system.

Representative Clausen also discussed the proposed 10,000-mile priority primary network. He said that within the committee, support existed for extending the Interstate System after it was completed later in the decade:

> But in the wisdom of the committee itself, it felt that what should be done is to go back to the needs study report and come forth with a 10,000 mile intermediate highway program based upon priorities that would come from the States in cooperation with the local units of government.

The priority primary routes "could provide the nucleus, in conjunction with other improvements that we might make, to have, as an example, a safer route of travel for the trucks and the highways and the automobiles."

Pulling his topics together, Representative Clausen said that "the only way this is going to come about is for you to educate many public officials and start talking to some of the people in Congress."

Dingwall asked Representative Wright to discuss the safety elements of the 1972 bill. "I think all of us would have to agree," Wright replied, "that safety is what it's all about." Highway accidents were "the third most prolific killer of Americans when we consider all causes, following only heart disease and stroke." Well-engineered roads such as the Interstate highways "definitely can save human life."

The 1972 bill was "a forward-looking approach to try to do still more about highway safety in an effort to save American lives." He discussed provisions such as funding for high hazard locations, including otherwise well-engineered roads, where built-in death traps exist. "We discovered that you can apply money and effort and intelligent direction to those particular spots with dramatic results."

Representative Wright also said all these efforts would be meaningless unless we "keep highway construction at a level that will sustain safe highways.' He continued:

> There has been a lot of rhetoric about paving the country over with superhighways; some people want to quit building highways. Well, that, after all, is begging the question. To follow that line of reasoning to its logical conclusion, you would come up with a pretty cold-blooded formula – just to let people get killed on inadequate highways. Maybe they won't buy any more automobiles. I for one do not believe that.

The Highway Trust Fund must be limited to "the ongoing coordinated highway program with all the safety features we can build into it for two or three very important reasons." First, the Congress had made a commitment to the American motoring public: "Put up the taxes and we will build you better roads." Second, "we just don't have any surplus in the Trust Fund – certainly no surplus to our own needs. We need every penny." Third, better roads save lives. Regardless of the demands for transit or other modes, "I can't think of anything more important to the life, health and safety of the American public than an adequate highway program."

Representative Wright, in his concluding remarks, gave AASHO the same observation he said he had given to a graduating class:

> As we look to the future, all of us are going to have to broaden our perspective and see the bigger picture, and the thought I want to leave you with is that the fact that we can forgive the child for being afraid of the dark, but the tragedy of our lifetime is when grown men and women are afraid to see the light.

Moving forward, "we do want to approach these things with open eyes and a view to the future – not a partisan view, but an American view." He solicited AASHO's help, advice, and constructive criticism. "The Congress is an imperfect instrument and one of the most criticized." To do what people need done, "we need your help, we need your counsel. ["Congressional Panel Discussion on the Future Federal-Aid Highway Program," *American Highways*, January 1973, p. 6-8, 29-33]

Leaders of ARBA and AGC also addressed AASHO. E. J. Peltier, ARBA's president, reminded AASHO that one of the most important legislative achievements of the 92nd Congress had been approval in October of general revenue sharing. Funds totaling $30 billion would be made available to State and local governments for all types of ordinary and necessary capital expenditures as well as maintenance and operating expenses. The funds could be used for roads as well as transit operating subsidies:

> Some of you, perhaps, have forgotten about Special Transportation Revenue-Sharing. The proposal . . . has lain dormant in Congress. In essence, it involves a pooling of the revenues from the Highway Trust Fund, the Airports and Airways Trust Fund, and funds appropriated for the urban mass-transit program. This pool of money was to be distributed to State and

> local governments for application to any transportation program whatsoever, including maintenance and operating costs.
>
> The program presented last spring by Secretary Volpe, which centered around the proposed Single Urban Fund, is a step in the direction of Special Transportation Revenue-Sharing.
>
> The Cooper-Muskie Amendment to the 1972 Highway Act . . . represents a much smaller step in the same direction . . . .

If funding were made available on a "no-strings-attached" basis, he said, "there is no doubt that many cities will use this new funding to meet the operating deficits of their public transportation systems." That was understandable, but the Federal concern must be different, namely "to insure the development of an efficient transportation system" throughout the country. The Federal investment must be restricted to capital projects. If used for operating subsidies, "it will cease to be an investment." If operating subsidies were allowed, they would "involve a watch-dog operation to make sure the subsidies paid out are not frittered away." He explained:

> The problems associated with Federal operating subsidies for transit are similar to those associated with Federal aid for highway maintenance [which was prohibited]. In essence, the activities are not of a sort that can be adequately audited at the Federal level, and if the attempt is made, a mountain of red tape will result.

When the 93rd Congress convenes in January, he said, it would consider legislation for highways, airports, and urban public transportation. He urged AASHO to make clear that all are underfunded and that the Department of Transportation "has a responsibility to relate its legislative requests to the needs of the programs." While he acknowledged that "local transportation decisions can be made at the local level," he believed that "the Federal government also has a responsibility to exert leadership in developing a national transportation system." [Peltier, E. J., Remarks, *American Highways*, January 1973, p. 11-12]

The AGC's William Dunn was optimistic that the Vietnam War would soon be over, with funding no longer needed for that cause put to use building a better life at home. In the absence of a highway bill, "we must now seek solutions" based on fundamentals. First, a "Trust Fund" must be considered "a trust in every sense of the word." He said, "There can be no compromise on this principle." A separate trust fund was needed for mass transit, not one in which "Paul and Mary would be stealing from Peter." Third, if the public learned that the taxes it paid into the Highway Trust Fund were used for a different purpose, "they must speak out against it." In short, maintaining the integrity of the Highway Trust Fund was vitally important:

> We will not be coerced, cajoled or stampeded into a compromise on this basic principle. No matter how bad it hurts, once you compromise on principle, especially on as basic, as fundamental and as sacred as this; you're dead . . . . We simply have no right to tamper with trust funds; that is the right of the parties to this trust the American taxpayer, the American motorist, and his Government [sic]. [Dunn, William, Remarks, *American Highways*, January 1973, p. 14]

Carroll Quimby, president of the League of American Wheelmen, also addressed AASHO. He warned AASHO "to prepare for the great cycling syndrome that is sweeping our country." He said AASHO didn't have to take his word for it. He said to "just look around you; there is no escaping it." He said that, "Only the highway lobby is resisting . . . being dragged kicking and screaming into the America of the mid-70s."
He acknowledged that bicycles had equal rights to the road, but said that bicycles "can in no way compete with the automobile for the right to use the same roads." The ideal would be bike paths consisting of an 8-foot lane separated from traffic by barriers, hedges, and grade separations. He urged the State highway officials to accept that funding for bikepaths should come through established Federal and State highway departments. One thing was certain:

> It is projected that by 1975 there will be over 100 million cyclists in America, or every other American on a bike. Speaking to you as a representative of those cyclists, one way or another, we're gonna get you. ["Highway Officials are Warned to Plan for 'Cycling Syndrome'," *The Phoenix Republic*, November 28, 1972]

Tom Wicker, in his *Times* column on December 5, 1972, wrote about "Busting the Highway Trust":

> The Highway Action Coalition estimates that opening the massive Highway Trust Fund for some form of spending on mass transit projects "is a more likely possibility during the coming year than ever before." But neither the coalition nor anyone else interested in slowing the highway juggernaut can afford to consider the victory inevitable.

The coalition cited three defeats for the highway lobby in the past year as one cause for optimism:

> It was unable to have a percentage of alcohol tax receipts diverted into the trust fund, to stop construction of the Washington, D.C., subway system, or to win passage of a bill appropriating [authorizing] money from the trust fund without inclusion of a provision that a small portion could be spent for mass transit projects.

The election was another positive sign according to coalition headcounts:

> About 60 per cent of the House members who were defeated or retired were pro-highway, while only about four-fifths of their replacements seem to be so oriented. The Senate count is virtually unchanged, but that makes little difference; last year, the Senate passed the Cooper-Muskie amendment, which would have permitted mass transit projects to be financed from the trust fund, by about two to one.

Further, with much of the rural Interstate System completed, "the emphasis of the highway builders now is on urban projects that gobbled up land, ruin neighborhoods with air and noise pollution, scatter our cities into patternless chaos, and force more and more people into more and more automobiles for which there will never be enough parking until the country is paved over."

The final reason for optimism was that public support was growing steadily, as was support from public officials. Wicker cited Governor Sargent's new master plan for transit rather than highways in Boston, as well as the battles citizens were waging in court, legislatures, and administrative agencies "against big highway projects all over the country. In a Harris poll, 54 percent of respondents placed "higher priority on improving rail transportation rather than bus and air travel.

Still, it was not going to be easy. "No one ought to discount . . . the power and finances of the highway lobbyists," as Wicker explained:

> Now that they know how strong their opposition is becoming, after years when they were virtually unchallenged, they can be expected to fight to the last campaign contribution and the last big project dangled in front of some dazzled Congressman's nose. [Wicker, Tom, "Busting the Highway Trust," *The New York Times*, December 5, 1972]

The editor of *Better Roads* magazine, Frank Reid, was aware of the stakes facing the highway community. This might not be evident from the cover and contents of the December 1972 issue of the magazine "for Federal, State, County, Township, and Municipal Officials, Engineers, and Prequalified Contractors." The cover depicted a new Warner & Swasey 880 Gradall tearing out a stretch of concrete pavement on Arlington Road in Akron, Ohio. The contents covered the usual mix of articles – optically programmed traffic signals, equipment tips from the convention of the American Public Works Association, and a *Better Roads* forum on "Winter patching: what materials?"

Reid's editorial, however, saw the coming battle in stark terms. With the highway program "temporarily up for grabs," he said, "it is long past time to review some basic facts regarding the Highway Trust Fund." He continued:

> The purpose of the user tax was to improve highways. Funds were collected from highway users. The funds were distributed by formula to build the Interstate System. The Interstate System was not yet completed. Needs off the Interstate System are growing. Through impoundment, millions of dollars of Highway Trust Fund revenue had been withheld "in the name of economic stabilization.

This withholding created an artificial "surplus" that had "become an attractive target for other transportation modes that, for a variety of reasons, can not support a similar user-oriented tax." The final fact was:

> The existence of a group of irresponsible men in the Congress of the United States who apparently have decided that mass transit systems must be funded from the Highway Trust Fund and from *no other source*.

These facts, Reid said, "put the present highway crises in better perspective." An overpowering need remained for the money to continue flowing into highway projects. "Highway people would also not argue that a user tax is inviolate, *per se*." However, with user taxes earmarked for highway betterment, and those highways in "desperate need of the money," Reid told his readers "*there is no justification for creating an artificial surplus and their raiding it for other uses, however laudable*." Unfortunately, certain legislators had "determined that the Trust Fund must be raided, even to the point of spurning the required mass transit funds offered from the General Fund expenditures for urban roads!" This "highly irresponsible and illogical action" left the highway program in limbo until 1973, when the same claims for the "extra" money will be repeated:

> Now is the time for all good highway men and all other reasonable men and women who use outdated and deteriorating roads to do something about the unfortunately anti-highway attitude that exists in Congress.

Readers should attack the "surplus" concept by bombarding "your congressmen with pictures of outgrown streets in *his* district." Swamp him with traffic accident data "for the overtaxed roads in *his* district" compared with the safety record on newer roads. Show him the relationship between dollars spent and lives saved and remind him of how many more "could have been saved by the proper expenditure of these 'surplus' funds." And ask him "if he wants to be responsible for these deaths."

Reid concluded:

> You might as well face the hard truth, no one but highway people will do this important job. If the Trust Fund is to be saved you are going to have to do it.
>
> Do it now . . . tomorrow will be too late. [Reid, Frank, "Leave the Highway Trust Fund Alone: Its Job Is Not Yet Done," *Better Roads*, December 1972, p. 13, emphasis in the original]

Part 4
Finishing the Job

Aftermath of a Historic Landslide

Author and journalist Theodore J. White, writing in 1975, painted a pessimistic picture of Presidents who win by a landslide. They suffer, he said, from "the delusion of omnipotence." He illustrated with several examples:

> Roosevelt in 1936 (victory by a 60.8 percent, 11,000,000-vote landslide) went on nearly to wreck his second administration by his proposal to pack the Supreme Court. Lyndon Johnson (61 percent, 16,000,000-vote landslide) went on in 1964 to plunge the nation simultaneously into a social revolution, an unauthorized foreign war, and an inflation that still, in 1975, rages uncontained.

To this list White added President Nixon after he defeated Senator McGovern to win a second term as President. Nixon won the popular vote with an 18 million vote margin (or 60.7 percent of all votes), taking every State except Massachusetts and the District of Columbia to secure an electoral college victory of 520 votes to 17. [White, Theodore, *Breach of Faith: The Fall of Richard Nixon*, Atheneum Publishers/Reader's Digest Press, 1975, p. 169]

President Nixon's "coattails" did not significantly increase Republican membership in the Congress. In the Senate, Democrats gained two seats, bringing their total to 57. Republican Senator Allott of Colorado, the transit supporter, was defeated by Democrat Floyd D. Haskell, while the Democrat and future Vice President, Joseph R. "Joe" Biden, Jr., of Delaware, defeated Senator J. Caleb Boggs. In the House, Republicans gained 12 seats, but remained in the minority with 192 seats compared with 243 for the Democrats.

(On December 18, 1972, Senator-elect Biden's 30-year-old wife Neilia and 18-month-old daughter Naomi were killed in a crash on Route 7 in northern Delaware. Out to buy a Christmas tree, Neilia pulled out from a stop sign into an intersection and the family's station wagon was broadsided by a tractor-trailer. According to the police report, the station wagon continued "approximately 150 feet, spinning around, going backwards down an embankment, and striking three trees." Their two sons, 4-year-old Joseph ("Beau") and 3-year-old Robert, were seriously injured but fully recovered. Biden, in Washington interviewing potential staff members, flew back to Wilmington to tend to his sons at General Division Hospital.

(While taking care of his sons and recovering from the shock of his wife's fatal Christmas shopping trip, the Senator-elect considered resigning, but was persuaded to proceed. He took the oath of office at the hospital. To care for his sons, he began commuting daily between Wilmington and Washington on Amtrak, a practice he continued throughout his years in the Senate, where he became one of Amtrak's strongest supporters. [Associated Press, "Senator-Elect's Wife Dies in Auto Accident," December 19, 1972; United Press International, "Biden's Wife, Child Killed in Car Crash," December 18, 1972; Associated Press, "Biden Takes Oath Friday," January 2, 1972])

Like Presidents Roosevelt, Johnson, and other landslide winners, Nixon "was suffering from similar intoxication the morning after his 1972 election," but one that White described as "oddly sullen" rather than exuberant as had been the case with his predecessors. [White, p. 169]

Having won reelection, the President headed to Camp David in Maryland to plan the New American Revolution he had announced in the 1971 State of the Union Address but that had made little headway since. Speechwriter William Safire had coined the phrase to provide a unifying theme for the Administration – like the New Deal, New Frontier, and Great Society of past Democratic Administrations. Presidential historian Richard Reeves described the concept as "stringing together the same old programs and calling it a revolution." Nixon liked the phrase because it was colorful, in contrast with focusing on programs most voters never heard of or didn't understand. In the 1971 address, Nixon described what he had in mind:

> But above all, what this Congress can be remembered for is opening the way to a new American revolution—a peaceful revolution in which power was turned back to the people—in which government at all levels was refreshed and renewed and made truly responsive. This can be a revolution as profound, as far-reaching, as exciting as that first revolution almost 200 years ago—and it can mean that just 5 years from now America will enter its third century as a young nation new in spirit, with all the vigor and the freshness with which it began its first century.

The phrase had not caught the media's focus or the popular imagination, but having won reelection, the President wanted to accomplish the goal of his New American Revolution through executive actions, budget manipulation, and personnel purges, as Reeves described:

> He wanted to seize control of the government he believed was filled with time-serving incompetents and secret enemies. He was convinced that his orders were being ignored or subverted by bureaucrats in the State and Defense Departments, by Justice Department lawyers, by appointees at HEW, by the FBI and the IRS, by liberal numbers collectors in the Bureau of Labor Statistics.
>
> He intended to reorganize and reduce the size of the executive branch of the government and bring it under his own direct control.

By these moves the President would accomplish the goals of his 1971 government reorganization plan even if Congress had not approved the changes.

To accomplish this revolution, he wanted people around him who felt total loyalty to the President and would implement his policies without question. He would "personally choose general counsels, public affairs director and spokesmen, personnel directors, legislative liaisons, and the chief administrative executives of every agency." [Reeves, Richard, *President Nixon: Alone in the White House*, Simon and Schuster Paperbacks, 2007, p. 286 (Safire), 544 (reorganization)]

During a Cabinet meeting the day after the election, Chief of Staff H. R. Haldeman preceded the President into the room, asking the members to submit *pro forma* resignations for the President's consideration as he planned his new Administration. Then the President entered to a standing ovation from his Cabinet. White quoted an anonymous Cabinet member who said that the President's comments had "this joyless, brooding quality . . . you almost had the impression he had lost." He thanked his Cabinet and emphasized that he "wasn't about to go downhill," as many two-term Presidents had. The source added, "There was a vague reference about our submitting resignations, but it was so indirect." The President left the room, and Haldeman came back in to say, "I'm not entirely sure you people understood what the President said—when he said he wanted your resignations, *he meant he wanted your resignations*."

The anonymous source told White, "I was watching Volpe's expression and I could see Volpe was stunned. Volpe had knocked himself out in the campaign, talking two or three times a day for Nixon. He couldn't understand it. I couldn't."

What had happened was that the President was going to act on his longstanding plan to gain control of the Executive Branch as reflected in his 1971 reorganization plan:

> What was planned was surgery on the government of the United States, the extension of the concept of executive control of government by the elected President from that of tradition to an entirely new political theory—an attempted change in the nature of the Presidency, almost, but not quite, amounting to a Constitutional change.
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> The President was about to streamline by fiat the entire Executive Branch of government, install within every department a personal agent of the White House staff to supervise it, create about himself a super-cabinet lodged in the Executive Office Building, officially remove traditional Cabinet members from access to him, and purge the bureaucracy until it became the unquestioning subordinate instrument of the White House policy center which he alone would direct.

Some members of the Cabinet left voluntarily while others were elevated to new positions. Some did not receive such treatment:

> But others were thrust out brutally—Volpe was given half an hour's notice to decide whether he would accept the ambassadorship to Italy or leave entirely. He accepted the embassy and, on inquiry later, learned that the Cabinet was being purged of people who "had a base of their own." [White, p. 171-176, emphasis in original]

Volpe recalled the event differently. He had scheduled a speech to a highway safety symposium in Mexico in mid-November. The President had wanted to meet with each Cabinet member, but told Volpe to keep his engagement and to visit Brazil, Venezuela, and Argentina to exchange transportation information. Returning to Washington, Volpe prepared an agenda outlining his plans for the second term:

> Before Volpe left for the White House, Ehrlichman called, asking to see him fifteen minutes before his appointment. Volpe stopped in at Ehrlichman's office, and the White House aide delivered the news. He was to be offered the post of ambassador to Italy.

> Volpe was surprised and angered at the breach of courtesy, but he hid his annoyance as he was ushered into the Oval Office. There the president congratulated him on his work at DOT and formally offered him the job in Italy.

Volpe had wanted the post, but not yet. He asked for 4 more months to see crucial legislation, including the highway reauthorization, through Congress, but the current Ambassador, Graham Martin, was being shifted to Vietnam, and Nixon did not want the post in Italy to be vacant for long:

> Volpe returned to his office at DOT and shut the door. [Aide Barry] Locke found him sitting, silent, with the agenda on his desk before him next to the model of the SST. "The president wants me to go to Rome," he said, simply.

His wife Jennie was excited about the new post, but Volpe was not sure. "John," she told the Transportation Secretary, "go back to the White House and say yes before he changes his mind!" According to Kilgore, Ehrlichman called the next day to inquire about Volpe's decision, but Volpe had not made up his mind yet. The same conversation took place the second day. On the third day, Volpe told Ehrlichman, "Yes. You can tell the president I will go to Rome." [Kilgore, p. 197-198]

Perhaps Volpe should have seen it coming. Despite references to the President's full support for Volpe's initiatives, the Secretary had rarely been able to speak to President Nixon about crucial transportation issues. Their conversation in March 1971 about the SST was one of their few substantive discussions. They also had spoken following Senate passage of the Airport and Airways Improvement Act in 1970, 88 to 4, but only after Volpe made strenuous efforts to get through aides trying to block the call. After Nixon and Volpe talked about the legislation and transportation for a few minutes, the President said, "John, you know you can talk to me anytime you want." The next time Volpe tried to speak to the President, his aides made it virtually impossible.

Kilgore said:

> Volpe had taken the president at his word that he would be available to his cabinet, but within a few months of the inauguration, it was difficult to get a call put through to the Oval Office. Within a year, for Volpe it had become nearly impossible.
>
> In the years Volpe served in the cabinet, Nixon called him only once at DOT, on a day Volpe happened to be speaking on the West Coast. A wall seemed to be forming around the White House, impenetrable to all but a few insiders . . . . Word spread among the upper levels of the administration that the only way to see the president was through two White House staffers: John Ehrlichman, a young Seattle lawyer, and his friend H.R. Haldeman, a California advertising executive. [Kilgore, p. 189-190]

By June 1970, according to Richard Reeves, Nixon had identified Volpe as one of the Secretaries he wanted to get rid of, along with former Alaska Governor Walter J. Hickel (Secretary of the Interior) and former Michigan Governor George W. Romney (Secretary of Housing and Urban

Development). Reeves said of Hickel that he fell out of favor with the President "because like most former governors, Walter Hickel among them, he was used to being listened to and used to making his own decisions." Volpe, apparently, suffered from the same problem as far as the President was concerned. [Reeves, p. 231] (Hickel's downfall came soon after he criticized the President's policy in Vietnam; he departed his post on November 25, 1970. Secretary Romney survived to be replaced, like Volpe, after the 1972 election.)

In a retrospective article, former Under Secretary Beggs and former Assistant Secretary for Administration Alan L. Dean discussed the tensions that had existed between the White House and Secretary Volpe:

> Volpe was required by law to develop a transportation policy and submit it to Congress. The secretary, Under Secretary, and Paul Cherrington [Assistant Secretary for Policy and International Affairs] soon learned that the Nixon White House had its own ideas concerning the content of the report. What it eventually transmitted to congress fell far short of what the department had sought to do. This generated frictions between an energetic and imaginative secretary and a Nixon White House which became increasingly inclined to micromanage the executive departments. Frustrated in his effort to present a national transportation policy of the scope which he believed the country needed, the secretary turned to legislation as a principal means of addressing established needs and asserting the role of the department contemplated by the Department of Transportation Act . . . .
>
> In summary, no other executive department was as successful as DOT during President Nixon's first term in developing and securing the enactment of major statutes relating to its mission and programs. Unfortunately, Secretary Volpe and his principal policy advisor, Paul Cherrington, found that the Nixon White House gave the department little credit for these accomplishments. Volpe and Cherrington resisted White House efforts to revise DOT's legislative proposals in ways they regarded as harmful. White House aides increasingly viewed Volpe as aggressive and bothersome and not sufficiently responsive to their efforts to modify the department's recommendations. These frictions eventually culminated in President Nixon's 1971 recommendation to Congress that the Department of Transportation be abolished as a part of a general reorganization of the domestic executive departments.

Beggs and Dean summed up Volpe's 4 years:

> By the end of Nixon's first term the department had earned a reputation for competent management and had shown skill in developing and securing the enactment of urgently needed transportation legislation. The department also generally [succeeded] in securing the funds needed for strengthening old programs and implementing new ones.

There was one problem:

> As previously noted its very impressive accomplishments received little recognition from the Nixon White House. The effort to abolish the department got nowhere, and the only effect of this proposal was to make it more difficult to explain and defend the president's departmental reorganization program. [Dean, Alan L., and Beggs, James M., "The Department of Transportation Comes of Age: The Nixon Years," *Presidential Studies Quarterly*, Winter 1996, p. 209-215]

(One of the odder contacts between Secretary Volpe and the President occurred in May 1970. Demonstrating students had occupied public places, including the Lincoln Memorial, to protest the Vietnam War and its extension into Cambodia. They also were incensed because on May 4, National Guardsmen had fired into a crowd of protestors at Kent State University in Ohio, killing four students and wounding nine. On May 8, the President addressed the Nation on television, then began a restless series of telephone calls to friends and associates, beginning with National Security Advisory Henry Kissinger, presidential secretary Rose Mary Woods, his daughter Tricia, and Secretary of State William Rogers. In 3 hours, he made nearly 40 more calls, including one at 10:56 p.m. to Secretary Volpe. The brief call ended by 10:59, when the President called Representative L. H. Fountain (D-NH).

(Following the calls and a few hours of sleep, he took his limousine to the Lincoln Memorial where he had what White described as "a warm and pleading conversation on peace, foreign affairs and environment with the students encamped there." Next, he visited the Capitol before ending his overnight experience at the Mayflower Hotel for breakfast with Haldeman and others. "Whether or not Richard Nixon came close to nervous breakdown in the events of May, 1970, is debated seriously by his aides." [White, p. 131-132, Safire, William, *Before the Fall: An Inside View of the Pre-Watergate White House*, Doubleday and Company, 1975, p. 204])

Press secretary Ronald L. Ziegler announced Volpe's `selection as Ambassador to Italy on December 7, 1972. Volpe released a statement summarizing his accomplishments:

> I have tried in the past four years, with direction and encouragement from President Nixon, to focus all of our Nation's great and diverse transportation interests on the central task of building a better, more effective mobility for America.
>
> We have made a strong beginning. Public transportation is beginning to blossom again in cities and communities across the country. Our highways are a bit safer; our automobiles are safer. The passenger trains are running, more travelers are beginning to use them, and regular patrons are finding them cleaner and more efficiently run. Automation of the airways has been accelerated, and flight delays have been reduced.
>
> We have seen the enactment of meaningful, long-term legislation by a Congress sympathetic and responsive to transportation needs. We have made the first technical and regulatory assaults on transportation-caused air and noise pollution.
>
> And we have tried on every hand to put our country's critical urban transportation requirements into word and into action.

> But whatever we have achieved to make the wheels of transportation progress turn faster and more effectively for more people, I take greater satisfaction in what we have been able to do to make transportation contribute to a better environment, to help the minorities among us gain full and equal opportunity to the realization of the American dream, and to lessen the risks of death and injury in every transportation mode.

Some goals remained unaccomplished:

> For example, we have not yet been able to utilize the full flexibility of the highway trust fund to enable our cities to meet their urban transportation needs, afford the highway user all the value to which he is entitled, and provide real solutions to the total transportation problems.

That was the only unrealized goal he cited in the statement.

Secretary Volpe held a news conference on December 19 in Washington. His 4 years, he said, had been "constructive ones for transportation and the environment." After citing progress against airplane hijackers, he turned to "President Nixon's program of assistance for public transportation," including more than $2 billion in Federal mass transit funds since early 1969, the opening of BART, and the appearance in 1972 of "rather convincing proof of the effect exclusive busways can have on the travel habits of suburban commuters." On Shirley Highway in northern Virginia, he said, bus ridership was up 230 percent (30,000 commuters).

Progress on the Interstate System had continued (now more than 80 percent complete) along with improvement of the primary and secondary roads and highway safety. One disappointment remained:

> We worked very hard this year to make funds from the Highway Trust Fund available for urban transportation projects, including public transit if communities so desire. I confess I leave my post as Secretary with some sense of disappointment that the Administration's position on this important issue did not prevail in the last Congress. But I am confident that my successor will persevere in this cause, and that a proposed amendment to the Federal Highway Act will be foremost on our legislative agenda when the 93rd Congress convenes. As I have pointed out before, the language of the 1956 Highway Act specifically states that the trust fund will be "for the benefit of the user" – and I can think of no better way to get more mileage out of every highway dollar than to relieve the congestion on our urban roadways.

Claude S. Brinegar

His successor, press secretary Ziegler announced, would be Claude S. Brinegar, a 45-year old senior vice president of Los Angeles-based Union Oil Company. (His name rhymed with vinegar, as articles about him often pointed out.) He had never served in government but was "a very capable manager," Ziegler told the press. The President had never met Brinegar prior to their interview about the position, and he had contributed only $50 to the reelection campaign. ["Charlton, Linda, "Oilman Will Get Transportation Post," *The New York Times*, December 8, 1972]

According to a news account, colleagues described Brinegar as a "precise, able administrator who doesn't waste words and is an expert at statistics." He was the "type of administrator who must find things out for himself." One colleague said, "With most people, you can give them a mathematical equation and they'll use it, but Claude's got to derive the equation before he'll use it." An engineering colleague said, "He's considered one of the extremely good statisticians. He handles statistical analysis better than anyone I've ever run into. He also handles every problem from the standpoint of logic . . . and he's a very thorough grammarian."

Brinegar had limited experience with transportation, and that was mostly as a consumer:

> Brinegar's experience in transportation appears limited to what he has experienced at Union Oil—and that's mostly pipelines. He told a Los Angeles news conference yesterday that he has gained an extensive familiarity with transportation problems because he has flown one million air miles. He also pointed out he is a daily commuter on crowded Los Angeles freeways.

Another transportation link was his service on the Board of Directors of International Speedway Corporation, which operated stock car tracks in Daytona Beach, Florida, and Talladega, Alabama. His service on the board was not because he was a car buff, but because Union Oil owned 25 percent of the firm and was the official fuel supplier for the National Association for Stock Car Racing. [Aug, Stephen M., "Brinegar Known for Management," *Washington Star-News*, December 8, 1972]

The announcement of Brinegar's appointment prompted immediate opposition. The Highway Action Coalition said it was "outraged" by the nomination since Union Oil had been involved with the Santa Barbara oil spill and other pollution incidents. (On January 29, 1969, a Union Oil Company platform 6 miles off the coast of Santa Barbara, California, experienced a blowout that lasted 11 days and unleashed oil and natural gas. Crude oil created an 800-square mile oil slick that flowed onto 35 miles of coastline. Hundreds of birds, clams, dolphin, fish, lobsters, and other sea creatures became trapped in the oil slick and died. This incident was instrumental in creating public and congressional awareness of the need for Federal environmental oversight, which turned into the National Environmental Policy Act of 1969. See "Addressing the Quiet Crisis" at http://www.fhwa.dot.gov/highwayhistory/nepa/index.cfm.)

The coalition also was upset that Union Oil had contributed $20,000 in 1968 to a group that worked against a voter proposition that would have allowed 25 percent of California's highway user tax revenue to be used for mass transit and anti-pollution activities. The company also had contributed $10,000 in 1970 to defeat referenda that would have protected the California coastline, in one case by blocking off-shore drilling. John Kramer said the appointment "represents the payment of a political debt that would have been better left unpaid." As far as he was concerned, what was "probably the worst environmental disaster in California's history" rendered Brinegar unsuitable to be Secretary of Transportation.

Brinegar, asked at his introductory press conference about the $20,000 contribution, said he was living in Chicago at the time and was not aware of it. He said of himself:

> Although I have spent most of my business career with Union Oil, I by no means consider myself an oilman, whatever that term means. I think of myself as a professional manager.

He would have "no problem" working with environmentalists and added that sound, business-like analysis of the impact of commercial development "clearly needs to be done."

As for diversion of Highway Trust Fund revenue to transit, he considered the criticism of him unfair since he had never taken a position on the matter and had not played any role, pro or con, in his company's work with road lobbyists to prevent a shift. He had committed to the President to follow the Administration's positions, including support for diversion. [Charlton and Aug, and Holles, Everett R., "Nixon Appointee Shuns Label of Oilman," *The New York Times*, December 24, 1972]

As part of the effort to gain control of the agencies, the President selected Egil Krogh, 33 years old, to oversee the Department of Transportation. He would replace Beggs as Under Secretary, having most recently worked under the President's domestic chief, John Ehrlichman. ["2 Nixon Aides Get Sub-Cabinet Jobs," Associated Press, *The Washington Post*, December 10, 1972]

The Washington Post endorsed Brinegar for Secretary, noting that "this is no time . . . to be leaping to premature assessments of how or what he will do." The same sort of "weeping and wailing" that had greeted his selection had greeted the selection of Governor Volpe, a well-known road advocate:

> But as things turned out Volpe was the key figure in the administration's drive to tap the highway trust funds for public transit dollars. And it is noteworthy that White House Press Secretary Ron Ziegler took special pains the other day to emphasize that Brinegar is totally committed to the administration's goal of achieving greater flexibility in the controversial highway fund's use.

The editorial also endorsed Krogh based on his experience as the White House liaison on District of Columbia affairs. He had been involved in the long-running highway-transit controversy in the city:

> The experience he gained in that crucible won't hurt a bit in tackling national transportation problems, and the new assignment assuredly increases the chances of resolving Washington's own road-rail hassle. ["Oil and Brinegar," *The Washington Post*, December 14, 1972]

The Senate Committee on Commerce, headed by Senator Magnuson, held its confirmation hearing for Secretary-designate Brinegar on January 9 and 10, 1973. After a brief summary of his background, he concluded that "those who have worked with me know that I value honesty, integrity, objectivity, and hard work very highly, and I plan to bring these standards with me as I tackle this new assignment." [*Nominations—January 1973*, Committee on Commerce, United States Senate, 93rd Congress, 1st Session, Serial No. 93-5, p. 4]

After Brinegar's brief statement, Chairman Magnuson introduced John Kramer to testify on behalf of Theodore Kheel for the Highway Action Coalition. Kramer summarized the coalition's initial objections to Brinegar, then said:

> In general, we felt that Union Oil . . . had at best a questionable environmental record and that a man who had spent most of his adult life in high executive positions for that company . . . might not—I emphasize "might not"—be well suited for one of the most environmentally sensitive posts in the administration.

Nevertheless, the coalition had moderated its stance since his nomination:

> On the other hand, environmentalists and others had expressed similar doubts about the appointment of Secretary John Volpe 4 years ago. We proved to be wrong.
>
> We established a very close and mutually productive working relationship, and he proved to be an essentially able and energetic advocate of transportation reform.
>
> Needless to say, we at the Coalition, would like nothing better than to be similarly proved wrong in Dr. Brinegar's case. Similarly we would like nothing better than to continue our close relationship with the Department of Transportation in behalf of new transportation priorities.

Before deciding whether to support Brinegar, however, the coalition wanted to know his position on three issues: "(a) on opening up the Highway Trust Fund; changing the direction of national transportation spending priorities; (b) his views on various environmental safeguards that have been written into highway law, and various other important pieces of legislation; and (c) his views on the proper role of the citizens in the transportation planning process. [*Nominations—January 1973*, p. 5-6]

(Kheel's formal statement, reprinted in the hearing record, reiterated these points in greater detail. [p. 6-9])

Senator Hart of Michigan asked Brinegar to address the three issues Kramer had raised. First, Brinegar wanted to respond to other points in Kramer's presentation, beginning with the implication that "I am unqualified because of my business association." As for Union Oil being responsible for the Santa Barbara oil spill, Brinegar pointed out that four companies were operating that lease and they had contracted a drilling company to operate the off-shore well that led to the catastrophe. "In any case, the four companies cleaned it up and the beaches are now, today, better than ever."

Brinegar also pointed out that he was in Chicago when proposition 18, the measure to divert some highway user tax revenue to transit, was on the ballot in 1970. He added that after he moved to

California, Union Oil supported a legislative proposal that became law to impose a 5 percent sales tax on gasoline to support many of the same things.

Turning to Kramer's three issues, Brinegar said, "I support the administration's position of a flexible approach to the use of transportation funds." He wanted to study the issues more closely before getting into specifics, but said "the time has come to look more broadly at the Nation's transportation needs, and I plan to do that."

On the second point, Brinegar said, "I consider myself an environmentalist in the sense that I feel very strongly about the environment." He said of Secretary Volpe that he had, "I am told, a very fine record and I certainly intend to see that this approach is continued and expanded if need be."

He had no suggestions for citizen participation in transportation planning, but "would welcome their contributions and suggestions." (This response suggests he did not understand the question or the role of the public in transportation planning.)

Senator Hart said he understood the response to mean "you might well consider using some of that money for purposes other than the highway construction." This diversion had been proposed, Brinegar replied, and "the time has come to consider other uses." He wanted to explore the issue before making a commitment. [*Nominations—January 1973*, p. 9-10]

Senator Cannon mentioned that OMB had vetoed or quashed policies and programs dealing with national transportation programs. He wanted to know if Brinegar would be independent and "vigorously support and fight for the DOT programs when they are reviewed by OMB and the White House staff, or is your role simply to take orders from them, much as Secretary Volpe did in responding to the antihijacking problem?" Brinegar stated that his job, if confirmed, was "to vigorously fight for that which I believe the Department should be doing." He was not leaving his job at Union Oil "to take orders from somebody that isn't involved in my affairs." [*Nominations—January 1973*, p. 15]

The committee had invited Senator Randolph, whose Public Works Committee shared jurisdiction, to join the panel in questioning the Secretary-designate. His first question was whether Brinegar favored a single trust fund for all transportation modes or a third trust fund for mass transit. Brinegar replied that he had only begun to focus on such issues and had not yet "reached a point where I can give my position."

Randolph pointed out that the Administration had suggested reducing authorizations for the Interstate System. Did Brinegar believe the Interstate System should be further delayed? The Interstate System, Brinegar replied, "has been of enormous importance to the country," but he wanted "to see what the priorities are and what the programs are" before responding specifically.

In response to Randolph's inquiry about continuing the safety proposals included in the 1972 highway bill, Brinegar said he shared the concern about highway safety, but "the mechanics and funding to reach our objectives are things I really can't speak to" until he had reviewed what is proposed.

In a written response to these questions, Brinegar indicated that the Administration's legislative proposal would address safety and completion of the Interstate System. With 80 percent of the Interstate System open, "it is necessary to begin giving more weight to other transportation systems which had received a lower priority" during peak Interstate construction years. The legislative proposal would provide sufficient funds "to have the Interstate system fully authorized by 1980, our present completion target."

Before the hearing adjourned until the following day, Senator Randolph was given the opportunity to address one other issue: impoundment. He explained the congressional efforts to do something, including two "sense of the Senate" provisions, "but this has been meaningless from the standpoint of a response by the Executive to what the Congress feels." He cited the court cases working their way through the judicial system. He asked Brinegar whether Congress could anticipate additional withholding of funds.

The Secretary-designate did not have a position on the issue, but later submitted a formal statement on impoundment of highway funds. It stated that in 1972, Secretary Volpe had promised that if Congress approved the Single Urban Fund, it would be funded at authorized levels. Because Congress had not done so, the Administration was not bound by that promise. For the future, the key was that Federal-aid highway funds remained available beyond their year of authorization:

> Under certain circumstances, it is important to defer some transportation programs in the interest of the economic well being of the Nation and in order to make a more optimal use of Federal financial resources . . . . We believe that it is of paramount importance at this point to control inflation and avoid tax increases. We believe this must be done even though it means some deferral of our transportation programs.

Finally, Senator Randolph asked if Brinegar, as a former oil company executive, had any difficulty accepting the position of the administration that Highway Trust Fund revenues should be used for urban mass transit facilities. Brinegar replied that he had no difficulty with the general proposition; the time had come for more flexibility. He planned to "get into it very hard," in coming months, but "I do support the administration's general idea of flexibility."

In view of that statement, Randolph asked "could we say or would you wish to say that all trust funds should be available to mass transit, or those highway trust funds allocated to urban areas?" Brinegar replied, "I can't say that." [*Nominations—January 1973*, p. 17-22]

The committee resumed the hearing on January 10. Questions concerned the highway beautification program, the Alaska Railroad, the concept of an Interstate highway in Alaska, negotiations with Canada on improving the Alaska Highway, and a possible demonstration program for high-speed transportation linking the Washington area's two airports with the railroad hub at Union Station.

Senator Hartke was concerned about a report that on December 14, 1972, Secretary Volpe and other DOT officials met with representatives of motor carriers and transportation labor to discuss a legislative proposal–without inviting the Interstate Commerce Commission (I.C.C.) or Members of

Congress. “Do you feel that is the proper way to develop a legislative proposal?” Brinegar was not aware of the meeting, but said he would like to hear from all interested parties “very early.”

Hartke replied, “I am not asking about all interested parties. I am asking about the Congress.” He was clearly frustrated that Brinegar would not commit beyond saying, “I will certainly use Congress as a consultant” without indicating whether he meant in early deliberations or a later stage and in what venue. [*Nominations—January 1973*, p. 33-35]

Senator Howard Baker asked about completion of the Interstate System. In view of the failure of Congress to pass legislation in 1972, he asked if as Secretary he would support a stand-alone resolution to permit apportionment of Interstate construction for a 3-year period. Brinegar submitted a response for the record. It came after he had been sworn in and was testifying before the Senate Public Works Committee, during which he endorsed the idea of a resolution. Beyond that, he said the Administration was committed to early completion of the Interstate System. [*Nominations—January 1973*, p. 30-31]

At one point in the questioning, Senator Weicker asked “exactly what it is in your background that would qualify you for a position as a transportation advisor to the President?” Brinegar cited his management experience and his work with a variety of groups, technologies, and policies:

> When the President asked me, I reflected a bit on whether I was qualified. I looked into the Department, and inquired of myself, what could I bring to it? I found issues that were very important to the Nation that I could work on, and I concluded that I was fully competent to work on them. Yes sir; I think I have the ability.

Senator Weicker pointed out that he did not question his academic or management background. “But,” he said, “I have yet to hear one single response to a question relative to transportation, Mr. Brinegar, where there has been any sort of specific answer.” Brinegar acknowledged that he could not “speak technically of whether or not I could design an airplane, build a road, or run a railroad.” However, “I am not sure if this type of knowledge is essential for one coming into this office.” He expected to work with advisors who had the necessary expertise.

The Senator asked if Brinegar was familiar with the Cooper-Muskie amendment that had passed the Senate by a vote of 48 to 26. “Not specifically,” Brinegar replied. He had read about it “very briefly” and knew it permitted the use of Highway Trust Fund revenue for mass transit. Weicker explained that “nothing in transportation has come to the fore with greater clarity, or faster, than the entire issue of balancing our transportation systems, and utilizing funds for all forms of transportation.” He asked, “You do not find it strange that nobody in the administration mentioned this, during the course of interviews or talking with you or in the course of accepting this position?”

> Mr. Brinegar. I was asked to contribute if I could, to shaping a balanced transportation system. I was asked what my position was on the use of highway funds. As I indicated, I believe the time has come for a flexible approach.
> Senator Weicker. What does that mean—what is a flexible approach?
> Mr. Brinegar. In my opinion it means that the inflexibility of the past has to be changed.

> Senator Weicker. In other words, the highway trust fund being used solely for highways should be changed, is that correct?
> Mr. Brinegar. Yes, sir.
> Senator Weicker. Do you feel there is a similar commitment on the part of the administration, now, to utilization of highway trust funds for mass transit, as was the case in 1972?
> Mr. Brinegar. I have not inquired of the administration, sir, about its present commitment.
> Senator Weicker. And they have not raised it with you?
> Mr. Brinegar. No, sir.
> Senator Weicker. I thought you indicated to my previous question that the question of flexibility and use of these moneys had been discussed with you, Mr. Brinegar?
> Mr. Brinegar. We talked in a broad sense, in terms of how I view the matter. I indicated I obviously had a lot to catch up on with respect to the details of how the position evolved. I have not looked at the legislative proposals, at all. I was asked to come in and develop and help shape overall programs and focus on the priorities. I have not gotten into specifics, sir.

Senator Weicker pointed out that Secretary Volpe had "carried the ball for transportation" despite not having "the wholehearted—'enthusiasm,' I believe would be a better word than 'support'—enthusiasm of the administration." Secretary Volpe "had to do the job" because "if he did not do the job, nobody was going to do it." The Senator wanted to know if "there is going to be similar enthusiasm on your part" to "carry the ball." Was Brinegar "aware of anything in the way of facts that have occurred within the past several months to weaken that resolve and enthusiasm when the issue comes before the Congress again in the early part of the session?" Brinegar replied that he had not gone into the details of what happened in 1972.

Senator Weicker then raised an unexpected subject about whether the Administration's enthusiasm for diversion of Highway Trust Fund revenues to mass transit had been weakened by "anything in the way of facts that have occurred within the past several months":

> Would you say a contribution of $186,000 from the trucking industry to the President for his reelection campaign might cause such a weakening of the resolve to open up the highway trust fund for mass transit?

Brinegar said, "I have no way of answering that" and was not aware of the trucking industry's contributions to the reelection campaign. [*Nominations—January 1973*, p. 48-50]

Later, outside the hearing room, Senator Weicker talked to reporters about his allegation that the trucking industry's campaign contribution had cooled the Administration's support for diversion of Highway Trust Fund revenue to mass transit. "There's been a clear shift. It's a fact, the administration has switched. We've gone from red hot to luke warm." He added that transportation "is not a hot issue at the White House, anyway." That was one of the reasons why he was concerned about Brinegar's vague responses. They suggested to Weicker that the White House would control the Department's agenda through Krogh. [Winters, Bruce, "Nixon Road-Fund Shift Laid to Donation," *The Baltimore Sun*, January 11, 1973]

During the hearing, Senator Weicker asked Brinegar if he had discussed the future of the Highway Trust Fund with Secretary Volpe. Brinegar said he had told Secretary Volpe "that I think we need a more flexible view" and was looking forward to detailed briefings on the topic.

How many times had the Secretary-designate met with the President? They had met only once at Camp David for about an hour. Weicker asked if the President had given any indication of transportation policy. "No," Brinegar replied. "We talked generally about the transportation issues around the country. Also, we talked about my role but, the President's remarks would have to come from him."

After a lengthy discussion of Amtrak, Senator Weicker pointed out that Mobil Oil Company and Atlantic Richfield Oil Company had departed "the highway trust fund lobby" and favored diversion of revenue to transit. He asked if Brinegar knew whether Union Oil would take a similar position. Brinegar indicated, "I can't speak for the company's official position. I am not the chief executive."

The Senator also asked about Secretary Volpe's statement in early 1970 "that the Department of Transportation was drafting preliminary ideas for a national transportation trust fund." He asked Brinegar if he could "give us any idea of the status of these plans?" Brinegar replied, "I can't." He had not studied the issue and could not say whether he supported the concept. Did Brinegar favor "one transportation trust fund or would you favor several transportation trust funds?" He had not been close enough to the issue to have a position. [*Nominations—January 1973*, p. 53-54]

Senator Tunney, who as the Senator from California had formally introduced Brinegar to the committee, asked Brinegar to confirm that Union Oil's position on Proposition 18 would not influence his judgment on Highway Trust Fund diversion. "No, sir," he replied. "What went on will in no way influence my approach to this issue."

Concerning project delays for environmental review, Senator Tunney asked, "Would you stop or abandon these reviews." Brinegar favored "full study of the environmental issues." Would DOT change the environmental review process? Brinegar did not know "what the process is, so I obviously can't speak to it." Did he believe Federal law should exempt specific projects from environmental review? Although it would be "hard to make a broad generality," he would want to look at "the rationale behind exemptions and exceptions."

The Senator asked if "not building a highway is an alternative which must be considered by the Federal Highway Administration even though the alternative may not be within the jurisdiction of that bureau and I am thinking specifically where a NEPA evaluation may suggest that a proposed highway or highway system is environmentally unacceptable." Brinegar replied that he certainly did "and one of the things that I hope to do is to concentrate more on an interrelated intermodal approach as we look at these alternatives." [*Nominations—January 1973*, p. 56-57, 60]

Senator Tunney's questions concluded the hearing.

The Los Angeles Times expressed concerns about Brinegar in an editorial after the confirmation hearing. Brinegar, the editor said, "had little to say" and had "declined to give his views on a number of important transportation issues, chief among them the use of federal highway trust funds to support urban mass transit." His silence "may only have been a matter of prudence" but given the fight over the Highway Trust Fund, it "is also somewhat disturbing." Noting that the Cooper-Muskie amendment had passed the Senate with full support from Secretary Volpe, the editorial explained that the failure in the House "under great pressure from the highway lobby."

Diversion of even a small amount of funds to rail as envisioned in the amendment "is now more than ever a matter of urban necessity." Given the differences between the Senate and House, "it is particularly important for the Administration to put its weight solidly behind the effort." The editorial considered diversion "a fair and feasible approach" and hoped that Brinegar would "familiarize himself with the issue quickly, and that he will give it the degree of commitment it deserves." ["Brinegar's Silence on Urban Transit," *The Los Angeles Times*, January 12, 1973]

During Under Secretary-designate Krogh's confirmation hearing on January 11, the Senate Commerce Committee explored his involvement in Watergate-related issues at length. Krogh, an attorney who had served as Deputy Assistant to the President for Domestic Affairs since November 1969, acknowledged that he had helped set up the "plumbers" unit to investigate leaks in mid-1971, but denied any further ties to the unit after December 1971, long before plans to bug the Democratic National Committee's offices in the Watergate complex were developed. The committee accepted his responses.

Transportation issues covered a wide spectrum before turning, near the end, to the Highway Trust Fund. Chairman Magnuson asked, "Do you have any advice on the tapping of the highway trust fund?" Krogh replied:

> I support the concept of opening the highway trust fund for more flexible use by local governments. I support the initiatives that were introduced into the Congress in the last session.

Senator Weicker commented that he appreciated Krogh's response. "It is the most definitive response on that subject that we have had in the last 72 hours." [*Nominations—January 1973*, p. 88-89]

On January 19, 1973, in one of Secretary Volpe's final actions, he announced that he had rejected the proposed 3.7-mile section of I-40 through Overton Park in Memphis. He cited a recent Supreme Court decision and congressional actions. He had approved the routing through the park in November 1969, but the Supreme Court had ruled in March 1971 "that a lower court decision finding my approval in compliance with Section 4(f) of the Department of Transportation Act of 1966 was not substantiated by the record before the lower court." In January 1972, the U.S. District Court had directed the Department to make a new determination in view of the Supreme Court's decision.

Secretary Volpe noted several circumstances that had changed since his initial determination, including enactment of NEPA on January 1, 1970. He also cited new requirements included in the Federal-Aid Highway Act of 1970 for consideration of environmental effects, as well as the Supreme Court's ruling that "protection of parkland was to be given importance" under Section 4(f) and that "public parks were not to be lost unless there were truly unusual factors present" or "the cost of community disruption resulting from alternative routes reached extraordinary magnitudes." Based on these considerations, "I find that an Interstate highway as proposed by the State through Overton Park cannot be approved." He suggested several alternatives for I-40, including the use of the I-240 circumferential to carry I-40 traffic, the alternative eventually selected.

Immediate reaction to this decision in the long-running controversy was mixed. Mayor Wyatt Chandler saw the decision as a setback to the "90 percent of the people of Memphis" who supported the routing through the park, which had been redesigned repeatedly to satisfy "just about anybody of sound mind." In the absence of Federal-aid funding, the Mayor indicated he would seek State funding for the expressway. "It's the only feasible route." State Highway Commissioner Robert Smith agreed that, "We'll have to do something" because the "connecting ends are ready and there's nothing in between."

Kramer of the Highway Action Coalition said, "This shows at least that we need not accept the concrete cloverleaf as the national flower." John Vardaman, the Washington attorney who represented Citizens to Preserve Overton Park, emphasized how in the pre-NEPA era, individual citizens had taken on the highway builders. He attributed the victory to Mrs. Anona Stoner, now in her 70's, who had organized the neighborhood to defend against the expressway. "Without her," Vardaman said, "the highway would now be built." [Braestrup, Peter, "Volpe Bars Subsidies to Build Expressway in Memphis Park," *The Washington Post*, January 20, 1973]

Brinegar and Krogh received Senate confirmation by voice vote, without debate, on January 18, 1973. On February 2, they took part in a mass swearing in ceremony at the White House, along with 18 other Cabinet and sub-Cabinet positions. Chief Justice Warren E. Burger of the Supreme Court administered the oath of office, collectively, to the 19 men and 1 woman (Counselor to the President Anne L. Armstrong).

The Super-Secretaries

In January 1971, President Nixon had proposed a reorganization of the Cabinet to create four super-Departments based on the fundamental purposes of government: Human Resources, Community Development, Natural Resources, and Economic Affairs. The Federal-aid highway and transit programs would be shifted to the Department of Community Development. The President demonstrated the importance of this proposal by making a rare appearance in the White House Press Room to talk about the plan and by inviting Representative Chet Holifield (D-Ca.), Chairman of the House Committee on Government Operations, to fly with him to California on Air Force One. The trip gave Nixon an opportunity to lobby the chairman, whose initial public reaction had been negative, on the reorganization.

The President reiterated his request in March 1972, but Congress did not act on the overall reorganization plan. In May 1972, Holifield's House Government Operations Committee approved the Department of Community Development, 26 to 8. The House Rules Committee, which would have to schedule the bill for a floor vote, held it up.

Although Nixon promoted the Department of Community Development through the summer and the campaign, the House bill had little chance of proceeding, as Professor Mordecai Lee explained:

> There was no substantial political or policy constituency on Capitol Hill or in public opinion for such bills. Politics usually trumps policy in Washington, but in this case there was not much to trump. House leaders . . . never sent the DCD bill to the House floor for a vote in 1972. [Lee, Mordecai, *Nixon's Super-Secretaries: The Last Grand Presidential Reorganization Effort*, Texas A&M University Press, 2010, p. 2-3]

In the wake of his landslide reelection victory, however, President Nixon was even more determined to reorganize and gain control over the vast bureaucracy.

Professor Lee was a young scholar in late 1972 when he moved to Washington to research his dissertation in public administration on efforts to limit public relations in Federal Agencies. While examining files at OMB on his topic, the visiting scholar was given access to files on one of President Nixon's boldest administrative initiatives.

On January 5, 1973, the President announced an administrative reorganization that would accomplish the reorganization that Congress had rejected. He appointed three Secretaries to serve simultaneously as "counsellors to the president" for human resources, community development, and natural resources ("counsellor" was spelled with a double L). They would oversee all Federal activities under their jurisdiction across the lines of Departmental organization charts. They would report to one of the President's advisors, rather than to the President. Each would have his traditional office in Department headquarters, but also a counsellor's office in the Old Executive Office Building adjacent to the White House. As Lee wrote, "The media immediately dubbed these officials 'super-secretaries.'" [Lee, p. xi]

Under the plan, many elements of the Department of Transportation, including the Federal-aid highway and transit programs, would be overseen by counsellor James Lynn, the Under Secretary of Commerce who was nominated to be Secretary of the Department of Housing and Urban Development. Secretary of Agriculture Earl Butz would be the counsellor for Natural Resources, which covered the Council on Environmental Quality and EPA along with many other programs and activities. The counsellor for Human Resources was Caspar Weinberger, the former OMB director who became Secretary of Health, Education, and Welfare on February 12, 1973. The three counsellors reported to Ehrlichman, the President's Assistant for Domestic Affairs.

Lee explained the rationale for the changes:

> Nixon perceived the federal government to be a thick and virtually impermeable machinery geared to liberal values, increased domestic spending, and an ever-expanding role for the

> federal government in American society. From his perspective, the bureaucracy and its allies in Congress were indeed the enemy, and in many ways his assessment was accurate.

Civil servants were immune to political pressure since their tenure was not responsive to changes in political leadership. Expansion of Federal activities beginning with the New Deal in the 1930s had created multiple agencies that had become part of an "iron triangle of congressional committee, special interest groups, and agencies [that had] created a powerful and virtually impenetrable network of political power." Nixon wanted to find a way "to break the back of the bureaucracy." [Lee, p. 4]

Beyond the administrative reasons for the reorganization were Nixon's personal preferences. He was primarily interested in foreign affairs and had little interest in domestic policy. (Secretary Volpe's difficulty in meeting or talking with the President reflected this preference.) The reorganization of the domestic departments, with Ehrlichman as go-between, would minimize the time the President had to spend on domestic affairs. Nixon also "intensely disliked confrontations or any in-person tensions, even though he often talked about being tough and that he was cool in heated situations." Such situations could be minimized if he had little involvement in domestic issues that did not interest him. [Lee, p. 79 (confrontation) and 87 (foreign affairs)]

Even before announcing the reorganization plans for the second term, Nixon had taken steps to give the White House greater control over the Cabinet Secretaries. Haldeman and Ehrlichman had prepared a 10-item list that all appointees would have to accept. Some of the items were:

> It is the President's policy that insofar as possible all interdepartmental and inter agency issues should be resolved by the Counsellors and not the White House . . .
> A Cabinet Secretary should not be encouraged to anticipate either free access or frequent consultation with the President. Rather, his views will be transmitted to the President either in writing or via a principal secretary [i.e., counsellor] or Assistant [to the president] depending on the nature of the matter.
> Cabinet secretaries will be requested to delegate to Counsellors substantial authority concerning the operation of their departments. This delegation will be express and precise and, in each case, will be made in advance . . . .
> Cabinet meetings will be rare. Cabinet officers will be expected to act in concert with their colleagues in policy groups and policy councils [the latter chaired by counsellors] . . . .
> The Secretary agrees to submit to the appropriate Counsellor all Congressional testimony and public statements for clearance prior to release.

Another section stated that Under Secretaries and Deputy Secretaries would "play increasingly important roles." These would be former White Houses aides who would be more likely to implement Nixon Administration plans than Cabinet Secretaries who usually came from the private sector. The Secretaries were "expected to vest in their Number Two men broad capacity to operate and manage the Department." [Lee, p. 35-36]

In announcing the "super-secretary" plan on January 5, the Administration made clear that it also would continue pursuing legislation to implement the original reorganization plan. In the meantime, the administrative change would give the President the structure he needed. Despite the stated claim the legislation would be pursued, one goal of the counsellor initiative was to marginalize Congress while strengthening White House authority:

> Besides implementing an administrative (rather than legislative) reorganization through the counselors, this political effort included impounding appropriated funds that fit the president's agenda, moving to implement manpower revenue sharing administratively, and vetoing spending bills that went beyond what Nixon wanted. [Lee, p. 198]

The attempt to marginalize Congress reflected a contempt that was reflected in a comment by an anonymous presidential aide to a *New York Times* reporter:

> "Congress is lazy, too," said a Presidential aide, pounding his fist on his desk for emphasis during a recent interview. "They work short hours. They don't know how to consult. They say they want to consult with the President, but then they come up here and don't say anything.
>
> "They criticize us for not advising or consulting them in military matters," he continued. "But they cannot keep a secret. If we tell them anything it is out within 30 minutes after they have gone back to the Hill."
>
> This attitude toward Congress runs deep in the White House, and it underscores the seriousness of the constitutional struggle being waged between the executive and legislative branches of the Government as President Nixon, wielding perhaps more power than any President in history, moves into a second term with a landslide victory behind him. [Herbers, John, "Nixon's Presidency: Crisis for Congress," *The New York Times*, March 5, 1973]

The confirmation hearings for Brinegar and Krogh, as well as Secretary-designate of Housing and Urban Development Lynn included attempts to understand how Nixon's plan would affect the two departments. Senator Cannon asked Brinegar about reports that in offering the Cabinet post, the President "told you that you were not to report to him, but were to report to James Lynn . . . who will report to Mr. John Erlichman [sic], counsel to the President, who will report to the President." Cannon asked if the report was true. Brinegar said:

> No, sir, I do not believe it is . . . . The President and I did not discuss such a reporting relationship. The President expects me to serve as the Nation's principal transportation adviser to him, and to enforce the 1966 statute that established the department.

After listing some of the Secretary's duties specified by law, he said:

> I personally would rather work with Secretary Lynn, Secretary [of the Treasury George] Schultz, or Mr. Erlichman [sic] in resolving some of these matters than I would with some White House assistant whose role I am not sure of. And I think in this respect it is an improvement over what I understood to be the previous relationship.

As for Lynn's role in DOT business, Brinegar said, "I don't know. I view that he and other counselors [sic] will serve as chairmen of a group where we will discuss the issues and work them out." He added, "If I feel strongly about certain matters I feel that I have a right to go higher."

> Senator Cannon. Going direct to the President?
> Mr. Brinegar. Yes, sir.

Senator Cannon asked about "numerous reports in the press" that Krogh "will actually have responsibility for the Department, and that your role as Secretary will be to provide the administrative leadership and coordination within the Department." Brinegar denied that these reports were correct:

> The Under Secretary, Mr. Krogh, will serve as my alter ego, as Under Secretaries traditionally do, representing me in matters I assign to him . . . . I plan to be in charge. [*Nominations-January 1973*, p. 14-16]

Senator Hartke raised the subject with Krogh:

> Senator Hartke. Who are you going to report to ultimately, do you know? The Secretary or somebody at the White House?
> Mr. Krogh. I report to Secretary Brinegar.
> Senator Hartke. I know officially; I mean unofficially.
> Mr. Krogh. Unofficially I report to Secretary Brinegar.
> Senator Hartke. Are you the real hatchetman down there?
> Mr. Krogh. No, sir.
> Senator Hartke. My understanding was that that was what you were put there for, to watch the Secretary so he didn't get out of line.
> Mr. Krogh. No, sir. I just hope to stay out of trouble. He is going to be watching me. [*Nominations-January 1973*, p. 82-83]

Secretary-designate Lynn's confirmation hearing before the Committee on Banking, Housing and Urban Affairs, chaired by Senator Sparkman, was on January 17. Lynn, a native of Cleveland, was a lawyer who left private practice in 1969 to become General Counsel at the Department of Commerce. Lee described Lynn:

> James Lynn was a conscientious member of the president's political team. He wanted to be a team player from the White House perspective. Coming from the Commerce Department, where he had been general counsel and then the undersecretary, Lynn was a novice to community development, but he had faith in his ability to master new policy areas. In a sense, he represented the underlying philosophy of generalist public administration. A person with generic managerial talents was expected to be able to oversee just about any policy portfolio.

Naturally, the hearing concerned primarily housing issues, including impoundment of funds. But Lynn's role as counsellor did prompt questions. The new member of the committee, Senator Biden, said he was confused by Lynn's dual roles. As counsellor, would he be responsible for coordinating five departments? "No. Not departments," Lynn explained. "It is by function. It is activities within departments." Then, Senator Biden asked, if Congress wanted information on mass transit programs, should it go to Secretary Brinegar or counsellor Lynn? Lynn replied:

> The President also made every [sic] clear that the responsibility for the Department of Transportation lies with the Secretary of the Department of Transportation. Therefore, the primary person that would be called in that connection would be the Secretary of Transportation.
>
> On the other hand, if the issues involved were ones that did relate, that were of extreme importance, that have a relation to this coordinating role—in other words, they do impact on other programs of the Government—and you thought it well—if the committee decided to call me to ask me about that particular problem, they could call me . . . . But it is true that I can be called and the Secretary of Transportation could be called. I would assume you would definitely call him and you might call me. [*Nomination of James T. Lynn*, Hearing, Committee on Banking, Housing and Urban Affairs, United States Senate, 93rd Congress, 1st Session, January 17, 1973, p. 50]

Lee remarked that of the three counsellors, Weinberger was the most aggressive and Butz the least interested in his secondary role. Lynn was in between, recognizing that he was a manager without expertise in his program areas. As counsellor, he focused on Housing and Urban Development and the community development programs of DOT and Agriculture. As he saw it, transportation and economic development were inherent in solving urban problems that he was responsible for as Secretary. He had explicit interest in highway and mass transit legislation. [Lee, p. 135, 139]

One More Passing

The State highway agencies, in cooperation with FHWA, continued steady progress on construction of the Interstate System. As of December 31, 1972, a total of 34,393 miles or 80 percent of the 42,500-mile Interstate System was in use. FHWA's quarterly press release on the status of the Federal-aid highway program stated:

> As currently designated, the System consists of 34,385 miles of rural and 8,115 miles of urban highways. As of this report, 27,826 miles or 80.9 percent of the rural mileage, and 6,567 miles or 80.9 percent of the urban mileage were open to traffic.

Secretary Volpe was quoted as saying:

> This represents an addition of 1,405 miles completed in the 12-month period since December 31, 1971. It reflects the steady progress being made in constructing this, the safest and best engineered highway network in the world.

Overall, work had been completed or was underway on 98 percent (41,709 miles) of the Interstate System. "Only 791 miles, or 2 percent, have not yet advanced to the point where location public hearings have been held."

Thus far, the States had put $49.94 billion to work on the Interstate System since the Federal-Aid Highway Act of 1956 had authorized the accelerated program:

> As of December 31, 1972, work estimated to cost $12.97 billion was underway or authorized, including $8.86 billion of construction; and $4.11 billion of engineering and right-of-way acquisition.

The accelerated program had largely been the work of President Eisenhower and three Members of Congress. The former President had died on March 28, 1969. Senator Gore, one of the three Members of Congress who were the primary authors of the 1956 Act, had focused on foreign affairs and taken little interest in highway matters through the 1960s until he was defeated for reelection in 1970. The second, Representative Fallon, had remained intimately involved in developing highway legislation and protecting the Highway Trust Fund until he, like Gore, was defeated in his 1970 reelection bid.

The third, Representative Boggs, had incorporated the Highway Trust Fund concept into the 1956 Act and fought to protect its integrity for years. However, he had moved into leadership roles in the House, first as Majority Whip in 1962 and then as Majority Leader in January 1971. In these roles, he was less involved in fighting for the integrity of his creation.

When Representative Myers issued his quorum call to kill the Federal-Aid Highway Act of 1972, Boggs was not in Washington. He was in Alaska making campaign appearances for Representative Nick Begich, who had defeated banker Frank Murkowski to win election in 1970 as Alaska's At-Large Representative. Now he was facing a tough reelection campaign against Republican State legislator Don Young.

On October 16, the Cessna 310C carrying Boggs and Begich left Anchorage and disappeared before reaching Juneau. A search for the plane and its occupants was abandoned in late November. They were never found. (Begich won the election posthumously, but Young won a special election to fill his seat and would go on to become Chairman of the House Committee on Transportation and Infrastructure (2001-2007) with jurisdiction over the Federal-aid highway program.)

For Majority Leader in 1973, House Democrats selected Representative Tip O'Neill, who was looking for a way to transfer Interstate funds intended for the Inner Loop through his Boston district to transit.

As consideration of the Federal-Aid Highway Act resumed in 1973, the three authors of the 1956 Act that made construction of the Interstate System possible were no longer in Congress to defend their creation.

State of the Union

President Nixon, in creating the counsellor initiative to insulate him from domestic affairs, also showed his disregard for Congress by deciding against delivering a State of the Union Address in 1973. Instead, he released a series of "State of the Union Messages to the Congress." They covered:

- Overview and Goals (February 2, 1973)
- Natural Resources and the Environment (February 15, 1973)
- The Economy (February 22, 1973)
- Human Resources (March 1, 1973)
- Community Development (March 8, 1973)
- Law Enforcement and Drug Abuse Prevention (March 14, 1973)

The messages on Natural Resources and the Environment and Community Development addressed transportation issues.

President Nixon began the message on Natural Resources and the Environment by stating that:

> When we came to office in 1969, we tackled this problem with all the power at our command. Now there is encouraging evidence that the United States has moved away from the environmental crisis that could have been and toward a new era of restoration and renewal. Today, in 1973, I can report to the Congress that we are well on the way to winning the war against environmental degradation—well on the way to making our peace with nature.

He took credit for NEPA, which "has reformed programs and decision-making processes in our Federal agencies and has given citizens a greater opportunity to contribute as decisions are made." The Council on Environmental Quality, established under NEPA, and EPA were among the reasons why, "Day by day, our air is getting cleaner; in virtually every one of our major cities the levels of air pollution are declining." Looking forward, the President said he would be guided by five principles:

- The first principle is that we must strike a balance so that the protection of our irreplaceable heritage becomes as important as its use.
- Second, because there are no local or State boundaries to the problems of our environment, the Federal Government must play an active, positive role.
- Third, the costs of pollution should be more fully met in the free marketplace, not in the Federal budget.
- Fourth, we must realize that each individual must take the responsibility for looking after his own home and workplace.
- Finally, we must remain confident that America's technological and economic ingenuity will be equal to our environmental challenges.

He had been disappointed that Congress had not approved many of his legislative proposals, including:

> Controlling Environmental Impacts of Transportation. As we have learned in recent years, we urgently need a mass transportation system not only to relieve urban congestion but also to reduce the concentrations of pollution that are too often the result of our present methods of transportation. Thus I will continue to place high priority upon my request to permit use of the Highway Trust Fund for mass transit purposes and to help State and local governments achieve air quality, conserve energy, and meet other environmental objectives.

He returned to this theme in his March 8 message on Community Development. The President indicated he would submit a bill called the Better Communities Act to extend revenue sharing to community development. "The Better Communities Act is intended to replace inflexible and fragmented categorical grant-in-aid programs, and to reduce the excessive Federal control that has been so frustrating to local governments." He also planned to again seek approval for a Department of Community Development to consolidate programs from Housing and Urban Development, Transportation, Agriculture, and other agencies:

> The Department of Community Development will be a constructive center in the Federal Government for assistance to communities, large and small. It will facilitate rational planning, orderly growth, and the effective employment of resources to build viable communities through the United States. It will help to strengthen the physical and institutional bases for cooperative action by Federal, State and local governments.

After discussing first term housing initiatives, Nixon turned to transportation, saying "Without better transportation, our communities will either stagnate or choke." He listed the Administration's transportation successes, including investment of $23 billion in highways (1970-1974).

The United States had "the best highway system in the world," but "the commuter who uses a two ton vehicle to transport only himself to and from work each day is not making the most efficient use of our transportation system and is himself contributing to our transportation and environmental problems." Good public transportation was essential for transportation and "to forward the common goal of less congested, cleaner and safer communities." In improving mass transit systems, "we must be aware of the two special challenges in coordinating the needs of the inner city and the suburb and in alleviating potential disruptions which new transportation systems can bring to neighborhood life." To accomplish this goal, he said:

> I recommend that the Congress authorize the expenditure by State and local governments of $3.65 billion over the next three years from the Highway Trust Fund for urban transportation needs, including capital improvements for bus and rapid rail systems. I also recommend continuing the rural highway program at the $1 billion a year level, and providing ample resources to advance the Interstate System as it approaches its 1980 funding completion date . . . .

> Some communities now feel unduly obligated to spend Federal monies on controversial Interstate highway segments in urban areas. I urge the Congress to allow States and localities to transfer such funds to the construction of other Federal-aid highways and mass transit capital improvements. In this way, we can help resolve controversies which have slowed work on a number of Interstate links in urban areas.

This was not, he explained, "an arbitrary Federal shift of funds from highways to transit." It was simply recognizing "the right of local governments to choose the best solutions for their urban transportation problems."

As a "companion measure to our Federal Highway Bill," he urged Congress to increase mass transit capital grants by $3 billion to a total of $6.1 billion. He also wanted Congress to amend the Urban Mass Transportation Assistance Act to increase the Federal share to 70 percent for capital grant assistance projects to achieve parity with non-Interstate Federal-aid highway projects.

Richard Rovere, a journalist and author who wrote the "Letter from Washington" column for *The New Yorker* (1948-1979), wrote in March that Nixon was "outdoing just about all his predecessors in gathering to himself as much power as possible and wielding it with clear purpose and remarkable vigor." This tendency had been evident in the first term, but Rovere continued:

> But the real evidence that Nixon has more zeal for his personal consolidation of power than for the diffusion of authority on which he has expended so much rhetoric has come in the last couple of months, in which he has reorganized his own branch of government, defied the Congress on a half-dozen issues, and sought to establish personal control over institutions that few President have ever regarded as adversaries.

Presidents usually favored a Cabinet of diverse backgrounds and opinions. Nixon, by contrast, "wishes to preside over a government all of whose members speak as he speaks and do as he tells them." With the possible exception of Kissinger, no one at the White House or in the Cabinet was known to "harbor views differing in some degree from those of his patron":

> All in all, the aides are a rather drab and undifferentiated group, but in the President's mind this may be an asset, since he is able to stand out in their midst and impose his discipline with ease.
>
> Last year's congressional elections and the recent Administration behavior toward Congress have increased congressional resistance to the White House, and it is currently an open question whether, no matter how strenuous an effort he makes, Nixon will get the legislative actions he called for in his astonishing series of State of the Union Messages.

Any successes would come only after "some of the most acrimonious debate heard here in years."

Rovere thought the President's revenue sharing proposals had a chance of success:

> This would be politically astute, because it would win for the White House a constituency it now lacks—governors and other high state figures—while further reducing the authority of Congress and of the professional bureaucracy here.

It also might have initial popular appeal because of "the American myth that there is more concern, understanding, and sound judgment in local units of government than in this remote and (as the myth has it) heartless capital." Despite the growing "spirit of resistance [that] has been growing at a brisk pace in Congress," the President remained popular and revenue sharing had some appeal on Capitol Hill. [Rovere, Richard, "Letter from Washington," *The New Yorker*, March 24, 1973, p. 142-143]

Professor J. Brooks Flippen put Nixon's message on Natural Resources and the Environment in perspective. Although President Nixon approved numerous lasting environmental measures, he saw the environment primarily in political terms. Having won his final election in November 1972, he had little interest in pursuing environmental battles as he tried to rein in government expenditures:

> The battle, as Nixon termed it in one interview with the *Washington Star*, was to "shuck off" and "trim down" domestic programs. The man who two years earlier had created EPA now plotted another offensive against a government "too big and too expensive." Predictably, with the election a memory, it did not bode well for the environment.

The selection of Secretary of Agriculture Butz as the counsellor overseeing the Council on Environmental Quality and EPA was revealing:

> The environment predictably stood as a major Nixon target. Butz, now operating in his new capacity as natural resources counselor [sic], made this point clear in a policy paper submitted just after the new year. "There are many more important things than the environment," Butz wrote. The issue had not hurt the president in the election and he had no reason to champion the cause now. "In all likelihood environmental problems will be solved by science," Butz continued. Nixon should place environmental protection "in the correct order of priorities."

In his budget proposal for 1974, the President had proposed to cut environmental enforcement while promoting some activities that environmentalists opposed, including the Tennessee-Tombigbee Waterway and new advocacy of the SST:

> With his budget before Congress, Nixon's annual environmental address surprised no one. The message, [Richard W.] Fairbanks [III, Associate Director for Natural Resources of the President's Domestic Council] acknowledged beforehand, "will replay our triumphs of the past" and add "general rhetoric and exhortation." Ehrlichman, terming the Clean Air Act a "complete failure," advised an aggressive defense of the administration's position. Nixon did not disappoint him and essentially declared the environmental crisis over.

Flippen quoted passages from the message about the success of the Nixon Administration's efforts and the principle that guided it. [Flippen, J. Brooks, *Nixon and the Environment*, University of New Mexico Press, 2000, p. 186, 190-191]

Setting the Stage for Action

In January 1973, the sides in the longrunning battle over the highway legislation were looking ahead to the upcoming fight. *Highway User* magazine, published by HUFSAM, expected 1973 to be "a decisive year." Although it expected the "tug-of-war" to resume, the magazine saw the possibility emerging of "reasonably adequate financing" for highways and public transit. "The compromise could come in proposals to establish a separate trust fund for Federal-aid to urban areas faced with the need to expand and improve public transportation facilities."

Highway officials were coming around to the concept, but transit officials also recognized that tapping the Highway Trust Fund would not provide enough funding to meet urban needs. Robert M. Coultas of the Institute for Rapid Transit said "there is not enough money in the Highway Trust Fund for both." The institute had supported a total transportation trust fund or the opening of the Highway Trust Fund, but it also supported highway improvement because "good transit depends upon good highways and roads."

Stanley H. Gates, Jr., president of the American Transit Association, said that transit's needs "can be met only with sufficient funds to support all transit operations, improve and extend existing bus and rail systems, and help build the several new rail systems now being supported by local areas." Making a limited amount of highway funds available "does not deal with this issue."

The "thorny question" was where the revenue would come from for a Mass Transit Trust Fund. This question "will be among the forefront of those to be faced" in 1973.

The State highway agencies were facing slowdowns in the absence of new authorizations, while "approximately $1.9 billion in highway funds have been held in reserve" because of impoundments. These problems were compounded by environmental restrictions, such as NEPA:

> Although highway departments have come to appreciate the environmental impact statement as a positive element in the planning process and an efficient mechanism for improved coordination among highway planning agencies, the process has slowed highway expansion and has, in many instances, forced federal highway officials into court.

Efforts to improve air quality and control motor vehicles in central business districts were among the problems "heaped" on the others. To comply with air quality standards, EPA was considering gas rationing in some areas, while municipal governments were considering "rigid traffic curbs such as high fees for commuter parking, bans on daytime deliveries by heavy duty trucks, drastic cutbacks in areas available for parking, prohibitions against single passenger automobiles, and staggered working hours."

Governor Sargent, the article stated, had taken "the most drastic action of this sort to date" by canceling $1 billion worth of Boston expressways and curbing increased downtown parking. "The third portion of his transportation program for Boston is a proposed $1.5 billion 15 year expansion of mass transit facilities, anticipating at least two-thirds of this to come from federal funds."

The article referred to the Administration's support for using Highway Trust Fund revenue for mass transit and for giving local officials a greater say in transportation decisions. It quoted Acting Administrator Bartelsmeyer's comment, "There will be no retreat from that general position." Still, given that needs exceed Highway Trust Fund revenues, the article said that "transportation specialists are asking why the Highway Trust Fund should be tapped for projects unrelated to highway transportation, especially when the money is derived from special taxes on highway users who are entitled to the improvements they pay for." The answer, the article concluded "will determine in large measure the future of transportation in the United States." [Talbott, William R., "Prospect '73," *Highway User*, January 1973, p. 1-6]

One of the controversial topics during development of the legislation was expected to be the highway beautification program. "The battle lines are drawn," the *Washington Star-News* declared on January 1, 1973, "for a fierce behind-the-scene fight over an issue always in public view: the highway billboard." The article stated that 700,000 to 800,000 billboards were illegal under the Highway Beautification Act of 1965. Only 70,000 had been removed, but "erected in their place through a loophole in the law have been more than 2,500 'jumbo' signs—some 60 feet high—that tower along some of the most scenic stretches of federal road." The industry was seeking a 2-year moratorium on removal of "directional" signs before 1975.

The House and Senate had included the moratorium in the failed Federal-Aid Highway Act of 1972. In 1973, billboard opponents expected the moratorium to resurface, only weaker. As included in the House version of the 1972 Act, but rejected by the Senate, Chairman Blatnik and other key members favored a provision that would allow six directional signs along each mile of rural road for a net addition of 400,000 billboards. George McInturf, chief of FHWA's beautification program, said the provision would "cripple the billboard removal program." Under Secretary Volpe, "We finally got the states to take action after threatening to cut off a portion of their highway funds." If Congress gave the States a break now, "pulling all the teeth in the world will not make them start again."

The Highway Action Coalition, National Wildlife Federation, and other national environmental groups were coordinating an attack on efforts to weaken the Highway Beautification Act. Ken Hampton of the NWF was optimistic. "Last time, the billboard lobby caught us with our pants down. It won't happen again." [Bernstein, Peter J., "New Congress Faces Fierce Billboard Fight," *Washington Star-News*, January 1, 1973]

The coalition, of course, was primarily concerned about the overall bill. "It's not that we're against highways," Kramer said, "it's just that they don't always make sense." He was particularly optimistic because of changes in the makeup of the House Rules Committee, which might be less inclined to block funding for transit in 1973. Representatives William M. Colmer (D-Ms., the Chairman), William R. Anderson (D-Tn.), and H. Allen Smith (the ranking Republican from

California) had retired, making pro-transit Representative John Anderson the ranking Republican. (Representative O'Neill left the committee and was now Majority Leader.) Further, the November 1972 election had resulted in a net gain of between 15 and 20 Representatives willing to vote for diversion of highway funds to transit.

On the other side, highway advocates such as Randy Russell of ARBA thought that, "Our principal argument is that there are not enough funds in sight to finance the highway system." He predicted that opening the Highway Trust Fund to transit would "destroy the rationale for the fund – that highway users should pay for highways." ["Freeman [sic] Foes Prepare Next Road Block," *Jersey City (NJ) Journal*, January 17, 1973]

Asked by *The Wall Street Journal* if the highway program was at a crossroads, Representative Wright chuckled. "I don't think that's too corny." He said it was more like a rail crossing where "we have to figure out how to let both the highway traffic and the rail traffic move without a collision." The *Journal* said that the bill, once routinely approved every 2 years, "is sprouting all kinds of controversial side avenues, evolving into a legislative package that could have considerable impact on this auto-dominated society." Should Highway Trust Fund revenue be used for mass transit? Should the gas tax be raised to accommodate new uses? With the Interstate System 80 percent completed, should the focus shift to a 10,000-mile network of "junior" Interstates? Should the Federal Government rescue transit systems by providing operating subsidies?

Senator Baker had observed a new "spirit of compromise" and said, "I predict we'll get a highway bill fairly promptly." He favored diversion to mass transit, but Representative Wright wanted transit revenue to come from the general treasury. "I don't see them as rivals for the same dollar. It's a little childish to play off against each other."

Wright and other members of the House Public Works Committee feared that approval of a limited measure such as the 1972 Cooper-Muskie amendment would lead to additional poaching schemes. Senator Muskie lent support to that concern by stating that he wanted to use Highway Trust Fund revenue not only for buses and subways, but for enforcement of auto-exhaust controls:

> It appears that many, if not most, control systems aren't working properly and we know that some garages are disconnecting the devices for their customers.

Highway Trust Fund revenues, he thought, should be used to hire inspectors who would check each car's control devices.

Highway advocates such as Senator Bentsen argued that diversion of highway revenue would be too little to address urban needs. "I don't think that's doing mass-transit systems any favor," said Senator Bentsen, now chairman of the Subcommittee on Roads. "You ought to have separate funding for mass transit. I don't think there's enough money in the trust fund to take care of both." He and others hoped that providing general Treasury funds to mass transit would satisfy those seeking highway dollars. However, "If I had to predict, I'd say the result in the Senate probably won't be far different from last year" when the Senate approved the Cooper-Muskie amendment.

The gas tax was under debate as well. Senator Percy wanted to end the Highway Trust Fund and create a transportation trust fund that would receive additional revenue by increasing the gas tax to 6 cents (from 4 cents). Others advocated simply increasing the gas tax with the additional revenue credited to the Highway Trust Fund to maintain current highway funding levels while providing aid for mass transit. Senators Baker and Bentsen did not think an increase was likely. Bentsen said, "I'm not at this stage ready to endorse that as a solution." [Large, Arlen J., "The Highway Bill, Formerly Routinely Voted, Now is Enmeshed in Transit, Pollution issues," *The Wall Street Journal*, February 5, 1973]

Clearly, the rival lobbies were ready for the fight. The powerful highway lobby recognized that holding its position in the Senate would be difficult and that the fight would come down, once again, to the House. On the other side, according to *The Baltimore Sun*, the Highway Action Coalition was expected to apply the "muscle" for the fight. Kramer, according to the *Sun*, expected the Senate Public Works Committee to split evenly on the diversion of Highway Trust Fund revenue, but he expected the Senate as a whole to vote as it had in 1972. He viewed the House Public Works Committee as "hostile to mass transit interests," but as noted earlier, was encouraged by the departure of pro-highway members of the Committee on Rules. The battle would be won, he predicted, on the House floor and he expected it to be a close fight. [Nordlinger, Stephen E., "Key Road-Aid Battle Looms," *The Baltimore Sun*, January 15, 1973]

The Advocates on PBS

On January 25, 1973, Boston's Public Broadcasting Service (PBS) affiliate, WGBH, was in Faneuil Hall taping an episode of *The Advocates*, a weekly debate program that appeared on PBS from 1969 to1974 with support from the Ford Foundation. Advocates argued for and against a proposition, calling witnesses who were questioned and cross-examined. The program then invited viewers to send postcards to vote for the side they favored. On this episode, the proposition was:

> Should half of the federal dollars reserved for highways be diverted to mass transit systems?

U.S. Representative Margaret M. Heckler (R-Ma.), an attorney from Boston, was the guest moderator. Former State Representative Michael Dukakis, a frequent moderator of the program, argued pro and Eric Julber, an attorney from Carmel, California, took con.

Dukakis began his defense of the proposition by saying:

> The automobile is choking our cities, ripping up our neighborhoods, polluting our air, and in New York City, today, traffic moves more slowly than it did in 1900. It's time to end this nonsense. It's time to give the states and metropolitan areas of this nation the right to use their share or part of their share of the federal highway dollar for the mass transportation systems they desperately need.

Julber responded in the negative:

> The proponents of mass rail transit are well meaning. But we expect to show you that the so-called benefits of mass transit are a myth. And certainly there should be no invasion of highway trust funds, which is the money that you and I pay for our highways when we buy each gallon of gas. Keep an open mind on the question until you hear our side, and we think you will vote no.

Dukakis asked his first witness, former Secretary of the Interior Udall, how he felt about voting, as a member of the U.S. House of Representatives, for the Federal-Aid Highway Act of 1956. Referring to Representative Wright, another witness in the studio, Secretary Udall replied:

> Congressman Wright and I were classmates [in the 84th Congress], and this was the first, I think, really big piece of legislation in our first term [that] was enacted. Looking back, this is hindsight, of course, I voted for it, I think that I made a mistake. I think that it was one of the big blunders of the 1950's. Not that I don't think we needed a basic trunk interstate highway system to connect the main urban areas, but I think we put all of our eggs in the automobile basket; and that was the mistake.

What, Dukakis asked, should we have done instead?

> Well, I think, looking back, and this is all hindsight, that what we needed in the 1950's was a national transportation policy. And I think that we needed a national transportation fund. The idea of earmarking moneys and saying this will be used only for highways . . . meant that we went down the wrong road. We should have given attention to our railway systems, mass transit, bicycle paths, the whole works, and have that kind of balanced flexible system, letting the states and the cities decide essentially how they wanted to use their money.

Asked his opinion of the automobile, Secretary Udall said:

> If you ask me to single out the one most destructive thing on the American environment, it's the automobile. The pollution of most of our cities, the automobile is the main contributor. It and its highway system have squandered our land. The noise problem that's rising in most cities is primarily automobile. And certainly, it's been wasteful all the way around. And I would add the final factor. We thought that this was going to reduce the number of automobile deaths. It hasn't. And I think that's part of the tragedy.

Julber, during cross-examination, suggested to Secretary Udall that mass transit was the actual cause of the problem. He cited New York City as an example because the availability of the country's largest subway system supported "an insane density of people." However, Secretary Udall would not concede that sprawling development would be better, pointing out that "we're running out of land in this country, of land that's prime land for cities; and we're finding already that one of the big mistakes we've made is sprawling too thin." The trend, he said, was "toward compactness and cluster."

Julber responded that "people around the country are proving they don't want to be compacted. Every man wants to move out in the suburbs." Secretary Udall cited new towns such as Columbia, Maryland, and Reston, Virginia, as based "on the idea of cluster." Based on building permits, he added, "we're going to more and more low-rises, apartments, townhouses, and so on because we're running out of land."

If the Nation were going to switch to rail mass transit, Julber asked, where was the additional electricity going to come from when already "on the East coast, I read about brownouts and blackouts"? Secretary Udall could not say how the additional electricity would be generated, but added:

> Well, we're going to have to generate it, but that electricity, because of the efficiency of mass transit, will use far less energy than the automobile, which is the most wasteful vehicle we've ever come up with.

The next witness for Dukakis was Governor Sargent. Asked about his major policy decision on transportation, the Governor answered:

> What we essentially decided was that we were not going to continue to build eight-lane, 10-lane, 12-lane highways into the city of Boston. We just can't do it. We cannot continue with that. Instead, we're going to build rapid transit. We're going to improve bus service. We're going to build tunnels for restricted use of emergency vehicles, and so on. And we're going to turn the thing around and not have a total reliance for the commuter on the automobile, the way we have at the present time.

He discussed the Boston transportation review he ordered:

> And clearly it showed to me that we would have to have a balanced transportation system. But we're not saying that we're never going to have any roads. But we're not going to build any more interstate highways into this city. And this was one of the clearest indications that we got from the study. And the study wasn't merely a highway study. This was a study made by architects and engineers and social economists and others. I'm positive we're doing the right thing for this city.

Dukakis asked if Governor Sargent faced any problems with his plan.

> Well, the principal problem is one of money. And this is why I feel that we should be able to turn to the highway trust fund, that the highway trust fund shouldn't be purely for highways, that each state should be able to decide how to use the available money for transportation. Obviously, the situation in Massachusetts is not going to be the same as in Montana. But today you've got to spend that money on highways.

Was the Governor facing pressure to spend that highway money? "Oh, tremendous pressure, very obviously."

But would people get out of their cars to use Boston's new transit options?

> Oh, I'm positive they will. We have a new line going to South of Boston; it's about nine miles long. It's got an increasing usage of some, I think, 25,000 people that are using it today. It isn't the best that we can have. I think that we can look to the future. But it is fast, it is clean, it is on time, and it is much better. Now, the old rickety system, granted, is nothing but chaos.

Did other Governors agree with his decision?

> Well, you know, it's interesting. We had a meeting of the Governors' Conference back a few years ago, and virtually none of the governors were in favor of busting the trust fund. But at the last meeting of the governors, they all saw the benefit. They realized that they would be able to have flexibility and be able to make decisions that were proper for them, and we could make decisions that were proper for us in Massachusetts.

When Julber's question time came, he asked the Governor if his decision was universally popular. "No," Governor Sargent answered. "I don't think you can face any sort of a transportation question, be it in the city or be it in the rural areas, that there isn't going to be a heck of an argument."

The Massachusetts Bay Transit Authority (MBTA) operated one of the country's biggest subway transit systems in Boston. Despite all the so-called need for transit, Julber pointed out, the authority lost $70 million in 1972. "Now, if you build it any bigger, won't it just lose more money?" Governor Sargent pointed out that the automobile industry is spending a billion dollars a year just to advertise automobiles and "to drag people away from using mass transit." Overall, the country was spending "billions and billions and billions and billions of dollars building highways and just a tiny fraction for mass transit."

If Boston wants a bigger subway, why can't officials use local funds, or use the $180 million the State received in General Revenue Sharing?

> We're putting money into the improvement of our rapid transit. We're building more. But what I don't want to do is, just because the money is there, go ahead and build more highways right into the middle of the city of Boston. I, frankly, want Boston to be different from Los Angeles, if you really want to know.

But hadn't Boston brought on its own problems? "Five years ago, you rebuilt downtown Boston with a lot of federal money, great skyscrapers. Your skyline rivals New York." How, Julber asked, "are we going to get all these additional people in and out of this little area of land?"

Governor Sargent replied:

> Twenty-five years ago, we designed a highway system that made sense then, we thought. But we learned that it would be disastrous for that city because when the interstate system—and I don't disagree with the interstate system, I favor it, I think it was a great thing for this country—but when we started building these interstate highways through and into cities,

> they were used for commuters and not for interstate purposes, they were polluting the air, and they were tearing the cities apart. And I don't want to do that anymore.

Julber introduced his first witness, Professor Hilton, the Economics Professor from the University of California who challenged the value of rail rapid transit. Was rail rapid transit, Julber asked, suitable for modern needs?

> Well, not at all because it serves essentially only the trip into a central business district which is declining very rapidly. As recently as 1960, about 11 percent of all trips in Chicago were to the Loop. It's down to about eight percent now. It's expected to be down to five percent by 1980.

But doesn't mass transit decrease automobile traffic? Professor Hilton said it did not. "What it does is quite consistent between the new installations." He cited the new line to Quincy that Governor Sargent had mentioned. It diverted fewer than 1,000 vehicles a day from the parallel Southeast Expressway. "That expressway carries between 80,000 and 120,000 vehicles in the ordinary course of working days. And so the thousand vehicles is imperceptible relative to that variance and also to the growth, which is usually about four percent per year." He pointed out that the city could "do approximately the same thing with buses on thoroughfares for about two percent of the investment."

But what about the great new BART system in the Bay Area? Professor Hilton pointed out that it had cost $1.5 billion and was expected, by its proponents, to divert about 5 percent of trips from the automobile into the area, "which would make its experience consistent with what I've just mentioned." It cost about $2 per passenger for riders who were paying an average fare of 64 cents. "The rest will be made up by the subsidy."

Does transit help poor and minority groups?

> No, because all it does, essentially, is provide a higher quality trip into a central business district. The trip which they find most difficult in making is from an urban residential area, a ghetto, to outlying places of employment. And linear systems of all sorts, and I include buses in this, are too inflexible to provide this trip for them.

Are these systems economical for the country?

> Oh, no. A high official of the Department of Transprotation said quite straightforwardly that only two percent could be justified by fare box revenues.

Then what is the more sensible answer to urban transportation problems?

> Well, the main thing we need is a different system of charging people for the use of the roads, something to replace a flat tax on gasoline, something which will charge people more for driving in rush hours than in off hours so as to give them an incentive to use buses or existing rail systems. Second, we need more circumferential freeways, like Routes 128 and

> 495 here [and] the beltways around Washington and Baltimore. And third, we need competitive taxicab and bus systems, which is to say, jitneys as distinct from monopolized or Cartelized ones, to make public transit more demand responsive.

Dukakis, in rebuttal, pointed out to Professor Hilton that HUFSAM predicted that the country would add 66 million cars by 1985, for a total of about 188 million. "How many more highways and interchanges are we going to have to build to accommodate those cars?" Professor Hilton replied:

> We're certainly going to have to build a great many more highways, mainly in rural areas and the circumferential routes which I mentioned because that's where the major increase in trips is. I think building additional radial facilities, paralleling the Southeast Expressway here with another expressway of that sort, is as wasteful as building your Quincy Rapid Transit Line has been. Basically, both of those are symptoms of the fact that the way in which roads are at present priced tends not to inhibit people from using automobiles for peak hour service. And so, you get the excessive demand for investment just to deal with peak hours. We have the same problem with [the] Panama Canal, airports, and a large number of others.

He didn't recommend closing existing transit systems. "I'm arguing against investing in additional ones."

As for those beltways in the Boston area, Dukakis pointed out, "One of them is absolutely jammed beyond capacity, and the other is on its way." How many more beltways would be needed to relieve congestion? Professor Hilton answered:

> [Given the] present nature of all pricing, you're going to have a saturation of most urban facilities in any case, whether or not you build rapid transit and whether or not you build additional roads. What it is is just a standard example of elementary economics courses, is that you get queuing when you give away anything free.

He favored increasing the cost of driving to encourage the use of transit, mainly buses. Then, Dukakis said, "you would favor a fairly substantial expansion of bus systems, at least, if not rail rapid transit." The professor said;

> That would very automatically come because one of the consequences of this form of pricing would be speeding up buses relative to automobiles. The only attraction of rail systems, essentially, is that they're out of those queues of vehicles, which the nature of present road pricing creates. By speeding up the buses, we make them more attractive relative both to the automobiles and the rail systems.

Professor Hilton agreed with Dukakis that bus systems did not operate at a profit and required a subsidy, but pointed out that current bus systems were monopolies operating on routes inherited from the unprofitable streetcar lines. "If it were a competitive industry of owner-operated buses, it would be very cheaply operated."

Shouldn't the people of Massachusetts have the right to tap the Highway Trust Fund for transit if that is what they think they need? Professor Hilton did not want to defend the Highway Trust Fund, but he pointed out that people "vote with their feet," by which he meant that they "tend to leave public transit as it is presently organized."

Julber's final witness was Representative Wright. They discussed the nature of the Highway Trust Fund and its use for construction of the Interstate System and other Federal-aid highways. Then Julber asked what Representative Wright thought about the claim that highways create congestion?

> Well, of course, that isn't true. That's like saying hospitals create disease. You get the hospital, and you get it full pretty soon. Are we going to stop building hospitals because they're full?

Do good highways help relieve air pollution? "Well, good highways do, and they should." Circumferential highways keep vehicles out of the congested center city, thus relieving air pollution to an extent:

> [It] has been estimated that 12 automobiles travelling on a freeway at a reasonably steady pace emit less carbon, less pollution into the air than one automobile moving on old style streets, stopping at every traffic light over the same distance.

Did Representative Wright agree with Secretary Udall that decentralizing of the cities is a bad thing?

> Well, it seems to me that it isn't a good thing just to tell American citizens that they've got to congest even tighter into greater population density. It seems to me that population density is a serious and growing problem and that it contributes an almost geometric progression to the root of every social ill that we have, from environmental pollution, to crime, to psychosomatic illness, to human instability; and it strikes me that if the American public wishes, and I think manifestly it does wish in a large degree, to spread out and get a little more privacy, to get a little bit of ground around them, have a little more pleasant life, it isn't the business of government to tell them that they can't do that.

The Department of Transportation identified $600 billion in needed highway work over the next 20 years. Is that all for new roads? Representative Wright said that only about 1 percent of the money would be for new roads. The "remainder would go for widening, broadening, and making safer the highways that already exist."

Julber's final question was, "Do you think it would be wise or fair to invade that highway trust fund when we have those highway needs over the next 20 years?" Representative Heckler requested a brief answer because Julber's question time was running out. "No," Representative Wright answered, "I think we can meet mass transit needs without invading the highway trust fund."

Dukakis explained that Governor Sargent just wanted the right to decide how to use Highway Trust Fund revenue in Boston. "Now, what's so bad about that?" Representative Wright pointed out that he was the author of a proposal included in the Conference Report on the failed Federal-Aid Highway Act of 1972 that would have let Governor Sargent trade in unwanted expressways for an equivalent amount of obligational authority. "Not out of the highway trust fund, no." He continued:

> What's your objective? Do you want money for mass transit? If so, we'll give it to you. Or do you want to stop highways? I think we need them both. I think this country can afford them both. I think we need all the money that's available in the highway trust fund to build the highways that we need for safety for America's public.

Wouldn't President Nixon simply impound a lot of that transit funding, Dukakis asked, adding that we "can't be sure of anything the Nixon Administration's doing these days"? Representative Wright said that in deference to Republican Governor Sargent, he did not want to get into a debate on President Nixon:

> What I'm saying is that I think our needs for highways are very massive throughout the country, but we don't have too much money coming in from this highway users' tax to pay for it, that there are other ways that mass transit can be financed and it should be financed just as other things are financed.

In fact, Representative Wright wondered why Dukakis thought "the only solution is the highway trust fund." Dukakis replied, "That's where the money is, Congressman, paid by the taxpayers." Representative Wright countered:

> That's not the only place where the money is. Oh, by all means, no. That money's all obligated. There isn't any surplus in the highway trust fund. Every penny in the highway trust fund plus some has already been obligated to the States . . . . for the construction of needed highways throughout the United States . . . . Now, if you want to spend money, rather than for urban expressways in the heart of Boston, on mass transit, fine. I'm for a system that would give you that money. But don't take it away from the highway program because we need that to complete the highway program that people all throughout this country have been paying into it on the good faith assumption that their money was going to build safe highways for them, and they don't ever come near Boston . . . . I'll work it out for you. We can work it out. But you don't have to rob the taxpayers who put their money into the highway trust fund. That's money for highways. I say we can do both.

In a closing argument, Julber said he did not think the problems of 1973 could be solved by reverting to 1890s solutions:

> Rail systems to a crowded central city have gone the way of the horse and buggy no matter what kind of glamorous paint jobs you put on them. What we do need is to decentralize our cities . . . . We should continue to upgrade our highways. We should make cars smaller. We should stagger working hours, develop pollution-free engines and alternate sources of energy. But what we should not do is to invest further in systems that have proved to be

> failures in the past. And certainly there should be no invasion of the highway trust funds that are made up primarily of the pennies of the working people of this country.

Dukakis closed his argument by expressing some bewilderment because "the wisdom of the proposal we've been debating tonight seems so obvious that it's hard to understand how anyone could seriously oppose it." He continued:

> Mass transit for all of us, city resident and suburbanite as well, it's a good thing. And that working man that Mr. Julber has been talking about has been paying through the nose for highways that won't work and can't work here in the United States.
>
> We're not asking the government to order a mandatory shift of highway funds to mass transit. No, all we're asking is that the people of our states and metropolitan areas be given the right to decide what kind of transportation system they want and the right to use, not all, but just a part of the highway money they've paid in to the federal government for that transit system, if they want it. So if you've ever sat and fumed for hours on an expressway in a traffic jam and wondered if there wasn't a better way, if you've ever watched in horror as bulldozers ripped down another neighborhood for another one of these 10-lane monsters, if you're wondering if your favorite park is next on the highway builder's list, now's the time to send those politicians in Washington a message. We hope you'll vote a resounding, "yes," on tonight's proposal.

Representative Heckler concluded the show by reminding viewers to send their post cards to *The Advocates* to vote "yes" or "no" on the show's proposition. The results would be revealed on the following week's program. [http://openvault.wgbh.org/catalog/9576b8-should-half-of-the-federal-dollars-reserved-for-highways-be-diverted-to-mass-transit-systems]

(According to a 1979 book by Altshuler and coauthors on urban transportation, the Quincy extension opened in September 1971:

> Vehicle counts several months later on all major road facilities in its corridor revealed that whereas traffic had previously been increasing by about 4 percent a year, it was now up about 7.5 percent from the year earlier figure. Although no one attributed the acceleration of traffic growth to the transit opening, there was certainly no basis for contending that it had produced any congestion relief. [Altshuler, Alan, with Womack, James P., and Pucher, John R., *The Urban Transportation System: Politics and Policy Innovation*, The MIT Press, 1979, p. 369])

Ongoing Battles

While Washington anticipated the policy fight over the highway legislation, highways battles continued on the ground around the country as reflected in the following survey of activity in January 1973 based on news accounts:

- Environmental organizations plan to seek an injunction to block construction of a superhighway in the U.S. 7 corridor through Vermont, Massachusetts, and Connecticut. They want Federal officials to consider rail passenger service in the corridor. ["Three-State Attempts to Block Route 7 Corridor Idea is Due," *The Rutland (VT) Herald*, January 2, 1973]
- Connecticut highway officials began a new housing survey to determine the impact of I-291 on Bloomfield and Windsor following criticism in September 1972 from the Department of Housing and Urban Development that the route would "destroy" what it called "unique . . . stable and racially mixed neighborhoods." If replacement housing is not available for displaced residents, Federal officials may decide to authorize "last resort" housing as provided for under the Federal-Aid Highway Act of 1970. [Daniels, Jeffrey, "Survey to Gauge Effect of I-291," *The Hartford Times*, January 4, 1973]
- The FHWA ordered the Connecticut Department of Transportation to prepare an "overview" of the need for I-84 between Hartford and Providence. Environmental critics had accused the State of "segmenting" hearings to cover up the full impact of the road along its entire corridor. In Rhode Island, highway officials were considering a request from environmentalists for a 45-day extension of the comment period on the environmental impact statement for I-84. ["Conn. Ordered to Justify Rte. 94 Need," *The Providence Journal*, January 7, 1973]
- Secretary Walter L. Revell of the Florida Department of Transportation was still considering the routing of I-75 from the State's west coast to Miami. A study had recommended the Everglades Parkway (Alligator Alley) as the alternative that best met traffic needs, but Secretary Revell said the State was studying criticism of the route by the Florida Audubon Society, the Florida Wildlife Federation, and the National Wildlife Federation. They were concerned that routing I-75 along the parkway would sabotage plans to create a Big Cypress national firewater reserve in south Florida. "We are studying every criticism the wildlife people have made," Revell said. [Witwer, Stan, "State Road Officials Still Undecided on an Alligator Alley Route for I-75," *The St. Petersburg Times*, January 7, 1973]
- The Virginia Highway Department delayed widening a .8-mile strip of U.S. 1 (proposed I-595) in Arlington because of neighborhood objections and the absence of Federal funds following congressional failure to pass the 1972 highway legislation. The State said it would prepare an environmental impact statement and hold a new location and design hearing. [Mathews, Jay, "Va. Delays Widening of Route 1," *The Washington Post*, January 10, 1973]
- In Texas, Federal District Judge Jack Roberts ordered State and Federal officials to proceed with "all speed reasonable under the circumstances" with environmental impact and alternate route studies on the U.S. 281 North Expressway through parkland in San Antonio. This order was in accordance with an August 1971 Appeals Court ruling that State and Federal officials had not complied with Section 4(f) or NEPA in routing the highway. [Jackson, Wayne, "Highway Studies Ordered," *The Austin Statesman*, January 10, 1973]
- The Maryland Court of Appeals upheld a lower court ruling that the city's plan to route I-70 through Leakin Park did not violate the will of the late J. Wilson Leakin. The lower court found that the city's plan to exchange part of the parkland for improvements to the remaining part would not be a breach of trust. ["Court Upholds Leakin Route," *The Baltimore Sun*, January 10, 1973.

- In an effort to lessen the impact of Lake Freeway (I-794) on Juneau Park in Milwaukee, the County Expressway and Transportation Commission voted to put the freeway underground. This action was in response to environmentalists who had obtained a Circuit Court injunction on April 28, 1972, blocking construction through the park. ["Underground Expressway Plan Backed," *The Milwaukee Sentinel*, January 11, 1973]
- Following a barrage of protests, the Arizona Highway Department decided to reconsider the need for a third interchange on I-8 in Gila Bend, population 1,726. At a public hearing attended by some 300 citizens, residents argued that development around the interchange would siphon off business from the community. Representatives of the Papago Indian Reservation, who owned the private land near the interchange, favored construction because it would serve their planned industrial park. ["Controversial Interchange Plan Taken Under Study," *The Phoenix Gazette*, January 11, 1973]
- Chairman Charles E. Simons of the Texas Highway Commission told the Fort Worth Area Chamber of Commerce that the architects and urban planners who attack freeways are responsible for many of the urban ills they blame on the automobile. He cited the World Trade Center in New York, saying, "It is small wonder that they have congestion and strain transportation facilities . . . when they concentrate hordes of people in a few square blocks." He said that "the architects, environmentalists, sociologists, economists, urban planners and conservationists have been having a field day taking pot shots" at road building. "We hear very little protest against the dismal failure of the welfare, housing and urban development and scores of other costly programs which sap the moral fiber and vitality of the body politic." He added that it's the successful programs, such as road building, that are "the target for attack." ["Speaker Fires Back at Freeway Critics," *The Dallas News*, January 12, 1973]
- In West Virginia, the Kanawha County Regional Traffic and Arterial Study Committee wrote to Secretary Volpe and State Highway Commissioner William Ritchie urging them to halt all activity on continuation of the Danville-to-Charleston segment of Corridor G of the Appalachian Development Highway System except line "F" from Boone County to Charleston via Marmet. Line "F" would be shorter and would replace U.S. 119, while the approved line would require relocation of up to 9,500 feet of the Coal River – an option likely to result in environmental court suits. [Gallagher, Andrew, "Marmet Route Urged for Corridor 'G,'" *The Charleston Gazette*, January 17, 1973]
- An EPA official, David L. Calkins, held out little hope that mass transportation could solve the smog problem in Phoenix, Arizona. During a workshop on auto pollution, he said that the area's diversified traffic pattern made mass transportation impractical for emission reductions. Calkins suggested that better options included formation of car pools, rapid turnover of government cars, limited vehicle restrictions, and even the more drastic step of Federal limitations on land use to encourage a corridor concept that might make mass transportation feasible. State Representative Burton S. Barr told the workshop that 55,000 cars would have to be junked for failure to meet Federal emission standards. ["EPA Official Says Mass Transit Won't Work Here," *The Phoenix Gazette*, January 17, 1973]
- When Mayor William Donald Schaefer took office in Baltimore on December 7, 1971, he inherited a decision to build an I-95 tunnel near Fort McHenry instead of a signature bridge across the Inner Harbor. Residents objected that the bridge, a unique cantilevered design with canted support towers, would disrupt historic Federal Hill and Fells Point. The

planned tunnel, wrote City Hall reporter David Ahearn, will not be an international trademark for the city. It "will look like any other" tunnel. The new Mayor was not bound by the decision, but little support existed for the bridge. "Whether the system turns out to be a triumph of pleasing creativity or just another big road network is up to many more leaders than just Schaefer alone." [Ahearn, David, "Schaefer Urged to Junk Harbor Tunnel for Bridge," *Baltimore News American*, January 18, 1973]

- California State Highway Engineer Robert J. Datel announced that the State will reexamine proposals and hold public hearings for four freeways in northeast Sacramento County in the vicinity of Carmichael, Fair Oaks, and Citrus Height (Routes 65, 143, 244, and 102). The expressways had been planned 10 years earlier to complete the area's freeway grid. The Mother Lode Chapter of the Sierra Club responded to the announcement by saying, "Seldom have the county's residents had a better chance to determine their own highway destiny. Seldom have state and county agencies declared themselves more responsive to citizens' pressures." ["New Attitude Toward Freeway Planning," *The Sacramento Bee*, January 20, 1973]
- FHWA approved a final draft of an environmental impact statement for the Papago Freeway in Phoenix. The statement, consisting of three 2-inch thick books, addressed criticism from EPA and the Departments of the Interior and Health, Education, and Welfare, as well as citizens groups trying to block the freeway and encourage substitution of mass transit. As alternatives, the document considered mass rapid transit on exclusive rights-of-way, an expanded bus system, widening existing streets, and doing nothing. "It was found that because of diverse travel patterns generated by the current and planned use in the Phoenix urban area, little promise is held for an expanded role for public transit, regardless of form." Despite some "unavoidable environmental effects," the statement concluded, failure to build the freeway, the statement concluded, would leave Phoenix an undesirable place to work and live. [Tragash, Steven, "Impact Report Backs Freeway Despite Faults," *The Phoenix Republic*, January 30, 1973]

Boston, too, was in the mix in January 1973. When Government Sargent announced on November 30, 1972, that he was canceling the remaining Interstates in the Boston area, one expressway was nearing completion. On February 6, 1973, Massachusetts opened 1 mile of a 3-mile elevated section of the I-93 Connector into Boston. Commissioner Sargent had begun construction of this final segment linking Boston to New Hampshire in 1965 at a time when it was designed to link to the Central Artery (I-93), the Northeast Expressway (U.S. 1), and the I-695 Inner Belt. When Governor Sargent imposed a moratorium on Boston freeway construction in 1970, he allowed work on the $100 million I-93 Connector to continue.

As the State prepared to open the connector, *The Wall Street Journal* began an article about the route by saying:

> It's some kind of highway, all right. Eight lanes wide and partially double decked, it sweeps into downtown Boston from the northern suburbs.
>
> But there's one problem. It may be useless . . . . Thanks to some curious political and bureaucratic decisions, however, the highway is missing some key appendages.

> Consequently, it won't mesh properly with the existing roadway in downtown Boston to which it is attached . . . .

The connector would feed four lanes of traffic into an area that already backs up 2 miles or more during peak periods and would introduce a dangerous "weaving" for an exit shortly after the connector merges with the Central Artery. These problems were not contemplated when the highway was designed because the plans included the Inner Belt and the bridge linking Leverett Circle and the Tobin Bridge, both of which would have diverted some I-93 traffic:

> The highway was originally planned along with two other projects—another highway would have drained off a lot of traffic before it reached the busy downtown area and a bridge that would have solved the weave problem. The two additional projects, however, were stalled when, in 1970, Massachusetts Gov. Francis Sargent bowed to antihighway forces and declared a moratorium on highway building within greater Boston.

Critics, including Governor Sargent's political opponents, considered the highway unusable. Suggestions included putting bleachers on it to run the soap box derby, install mobile homes for low- and moderate-income housing, or simply convert it into "the world's longest bowling alley." Fred Salvucci, then Mayor White's transportation advisor, suggested, "Just leave it there as a monument to a mistake." [Gumpert, David, "There's a Swell Road Into Downtown Boston, But Don't Drive on It," *The Wall Street Journal*, January 11, 1973]

Salvucci had a suggestion, all kidding aside, as quoted in *The Boston Globe*:

> Mayor White's transportation adviser, Frederick Salvucci, wants [Secretary of Transportation] Altshuler to consider seriously the idea of depressing the Central Artery in-town. The suggestion first cropped up during the Sargent-ordered [1970] restudy. [Plotkin, A. S., "I-93 No Bowling Alley – At Least in One Direction," *The Boston Globe*, March 18, 1973]

(The first week of July, the State opened the southbound lanes of I-93 to its junction with I-95 – where I-93 motorists encountered a traffic light. It was an interim measure designed to operate as a metering light to regulate traffic flow while FHWA and State officials considered solutions to the traffic problems. ["Stewart, Colin, "Boston's Interstate Red Light—The Expressway Ends," *The Christian Science Monitor*, July 5, 1973]

The battle between the pro- and anti-highway forces in Washington and around the country did not diminish traffic volumes on the Nation's roads. FHWA announced in January 1973 that during the past 4 years, traffic on all roads had increased nearly 25 percent. In 1968, vehicle miles had topped the 1 trillion mile mark for the first time (1,016 billion vehicle miles) and had increased to an estimated 1,250 billion vehicle miles in 1972. "One and one-quarter trillion miles is such a mind-stretching figure that even comparisons are hard to grasp," Acting Administrator Bartelsmeyer was quoted as saying. "It is equal to more than two and one-half million round trips to the moon."

The announcement also reported:

> Passenger cars represented nearly 80 percent of the vehicles and accounted for over 79 percent of the travel . . . .; trucks and truck combinations, 17 percent of all vehicles and 19 percent of all travel; similar figures for buses were less than one-half of 1 percent.

The Interstate System, which contained about 1 percent of total mileage of roads and streets, carried 19 percent of the travel. Overall, roads included in the Federal-aid systems carried 67 percent of the travel. ["1972 Highway Travel Equal to 2 ½ Million Moon Round Trips," *FHWA News*, January 31, 1973, p. 8]

Los Angeles: 20th Century Ghost Town

On January 15, 1973, EPA Administrator Ruckelshaus announced a draft plan for reducing smog in the Los Angeles area in accordance with the Clean Air Amendments of 1970. The legislation required transportation control measures where automobile emission controls and stationary pollution controls (e.g., gas stations) are not enough to reduce pollution. The Los Angeles area exceeded the .08 parts per million of photochemical oxidants in 1970 on at least 150 days.

Ruckelshaus acted reluctantly only after a court ruled that he must. Plaintiffs, including the cities of Riverside and San Bernardino, had petitioned the court to require EPA to submit a plan to meet the national standards under the Clean Air Act in the Los Angeles area. Following the U.S. District Court ruling, Ruckelshaus acted on the final day in the court order.

In announcing the plan, Ruckelshaus told a crowded news conference that "now is not the time for emotional responses, not the time for panic," but he hoped the plan would at minimum "force the public to confront the issue." He acknowledged the area's unique characteristics, saying, "The encircling mountains and frequent inversions hold in pollutants, and the Southern California climate provides ample sunshine to aid the formation of photochemical smog." Given these circumstances, the area's transportation mix was the immediate problem. "The automobile is by far the dominant mode of transportation. For example, in 1972, the South Coast Air Basin contained over 10 million persons and nearly 6 million motor vehicles."

The EPA plan called for reducing automobile use in the Los Angeles area by gas rationing to reduce driving 82 percent during the high smog months (May through October). Options for rationing included issuance of gasoline coupons and restrictions at the retail level. The plan also called for retrofit devices to prevent evaporation from gas tanks and carburetors in cars for model years 1966-1969 and trucks for 1966-67; conversion of all 1971-1974 cars and trucks in fleets of ten or more to low-polluting fuels such as natural gas; and changes for stationary sources, such as vapor recovery systems at gas stations and prevention of evaporation of solvents into the air at dry cleaners. Emission controls and stationary source controls were not enough; they would leave an excess of roughly 270 tons of hydrocarbon effluents daily that could be reduced only by gas rationing.

He knew the plan was drastic:

> Reduction in the mobility of workers and consumers could have a major impact on the economic fabric of the community. Interference with the ability of citizens to move as

> freely [as at present] will alter the life-style of the region . . . . Cost of doing business may rise to an unknown extent.
>
> I am proposing a strategy, but by no means saying we have exhausted all the other means. Other strategies we have not proposed should be examined by the public . . . . We believe that very serious, intelligent investigation of mass transit here in Los Angeles is very important.

EPA, Ruchelshaus said, would hold public hearings on the proposal. The public would have to decide "through the political process" whether mass transit or a change in the law was desirable. He acknowledged that he would have preferred more flexibility under the law:

> If the economic and social dislocation of the people of this community is severe, then their representatives in Congress may see a need for stretching out the time limit in meeting those standards. I don't know if reducing traffic by 80 percent is possible if you're still to have a viable community. It takes something like this to get people to focus on the nature of the problem.

Ruckelshaus was right that the reaction to his proposal would not be favorable. Robert L. Ohass, Los Angeles County's chief air pollution control officer, called it "illogical and impractical." He continued:

> It would be a little like destroying a community to save it. It would shut down the community. It would have a serious impact on all aspects of life. Essentially, it is not a solution.

While modification of the Clean Air Act was desirable, the EPA Administrator cautioned that "if the result [of the proposal] were to convince people that the act itself was a bad act, it would be very unfortunate."

On January 16, Senator Muskie, one of the authors of the Clean Air Amendments of 1970, announced that he planned to reintroduce a version of the Cooper-Muskie amendment. Further, as chairman of the Public Works Committee's Subcommittee on Air and Water Pollution, he would resist an amendment to the enforcement deadline, but an aide thought some adjustment was inevitable. "The Congress has got to know what the full social and economic–as well as environmental–costs of the problem are. But you don't get this input until you have this kind of confrontation."

Senator Tunney, a resident of Riverside, predicted that the plan, if put into effect, would make southern California "a 20th century ghost town." The plan, he said, "fails to recognize that we can have a healthful environment and a prosperous community." He endorsed the stringent deadline, but worried that the EPA plan would give critics an excuse to gut the Clean Air Act. In addition to supporting Senator Muskie's new version of the Cooper-Muskie amendment, Senator Tunney announced he would introduce legislation to use $900 million from the Highway Trust Fund for a 3-year crash program to develop a clean auto engine that he said would solve 80 percent of

Southern California's smog problem. He also advocated using $3 to $4 billion of Highway Trust Fund revenue to construct a bus-and-rail transit system in the area by 1980.

Representative Glenn Anderson announced that EPA's plan "borders on negligence" because it did not offer "an attractive, inexpensive, efficient transportation alternative." Gas rationing "would encourage a black market that would make Saigon look like Disneyland" while permitting gas station operators just beyond the region to reap large profits. He said he would renew his fight to allow Highway Trust Fund revenues to be used for mass transit. [Aarons, Leroy R. "Rationed Gas Proposed for Autos in L.A.," *The Washington Post*, January 16, 1973; Lydon, Christopher, "Muskie Urges Mass Transit Aid in Light of Proposed Auto Curb," *The New York Times*, January 17, 1973; Houston, Paul, "Tunney Urges Use of Highway Fund for Car Research," *The Los Angeles Times*, January 18, 1973]

What was not evident at the time of Ruckelshaus's announcement was that freeway building in California had passed its peak years, as explained by David W. Jones, Jr., of the Institute of Transportation Studies, University of California, Berkeley:

> The year 1967 was the high watermark of California's freeway era. The Interstate program was in its tenth year and nearing its peak. The manpower of the Division of Highways stood at 9,000 engineers—up from 6,000 a decade earlier. The Highway Commission was aggressively certifying routes for freeway construction, and right-of-way expenditures were at an all-time high.
>
> The Division of Highways was geared up for mass production and was building freeways at an extraordinary pace. It built 225 miles of freeway in 1965, 264 miles in 1966, and then 328 miles in 1967. But 1967 was to prove the peak.
>
> Freeway production sagged after 1967, was restored briefly, and then collapsed after 1970 . . . .

Freeway completion totaled 276 miles in 1970, 182 miles in 1971, 236 miles in 1972, 146 miles in 1973, and 88 miles in 1974 – the highest total for the remaining decade:

> [I]nflation was the proximate cause of retrenchment. But the underlying cause was political as well as fiscal: Inflation was allowed to dismantle the highway program because other priorities had moved to the fore.

As for inflation, "real dollar expenditures were quartered from 1970 to 1976." This reduction in buying power was worsened by fiscal stringency:

> Thus, the early seventies were the mirror image of the late fifties. In the late fifties, the Interstate windfall had enabled the Division of Highways to gear up for mass production. In the seventies, fiscal stringency dictated equally rapid retrenchment.

The gas tax was part of the problem:

> Through the sixties, the fuel tax was the locomotive of the freeway program. But in the seventies, it became a liability rather than an asset. This is because fuel taxes have no built-in mechanism to adjust for inflation, and because fuel tax collections were depressed by the set of events that came to be known as "the energy crisis."

Another factor in the "cost-revenue squeeze" was what Jones called "the inflation of project concepts." He said that "freeway projects became progressively larger and more complex as traffic became heavier and heavier." The result of "upscoping" was a significant project cost increase.

Governor Reagan was another factor in the retrenchment:

> The governor's cornerstone policy was that the State must live within its means, and Reagan instructed his highway department to make do with diminished resources.
>
> There was a brief debate within the Governor's office over the special circumstances created by the idiosyncrasies of the gas tax, but the Governor personally rejected this argument. Reagan insisted that the Division of Highways make the adjustments in program necessary to balance its budget. In the years immediately following, revenues declined sharply, forcing the State to abandon land banking and advance route determination.

His successor, Governor Jerry Brown (1975-1983, 2011-) accelerated the retrenchment:

> Governor Jerry Brown took outspoken positions on environmental issues and appointed a conservation-minded planner as his Director of Transportation. The Governor argued that the "Era of Limits" was appropriate for the highway program, and Transportation Secretary Adriana Gianturco echoed this view.
>
> Gianturco's outspoken environmentalism and her knack for stirring up public controversy personalized and polarized the policy debates of the late seventies. And, as a result, it is widely perceived that retrenchment began with the Brown Administration and that it was its willful policy. A more accurate statement is that retrenchment accelerated during the Brown Administration, and was allowed to run its course.

At the time, the Division of Highways was working from the Freeway and Expressway Plan approved in 1959. Jones summarized the central premise behind the 1959 plan:

> The congestion could and should be kept at bay by building successive generations of parallel freeways. This was the plan's intellectual core, and the operative premise of the freeway program in metropolitan California. Outmoded by the events of the seventies, the commitment to parallel facilities was gradually abandoned in the eighties—not formally, not explicitly but nonetheless decisively.

The plan also had been approved on a key assumption, namely continuation of "the funding level that prevailed during the Interstate build-up and its implementation required a sustained program of continuing investment." That expectation turned out not to be the case. [Jones, Jr., David W., *California's Freeway Era in Historical Perspective*, Institute of Transportation Studies, University of California, Berkeley, for the California Department of Transportation, June 1989, p. 309-320]

(Gianturco, as Jones noted, was controversial. She had been director of planning for the Massachusetts Office of State Planning and Management from 1973 until she became Assistant Secretary of California's Business and Transportation Agency in the fall of 1975. Governor Brown nominated her to become director of the California Department of Transportation in early 1976, and she was quickly branded as anti-freeway. While awaiting confirmation from a skeptical State Senate, she told reporters, "I think the highway system is going to remain the most important element of the transportation system in the foreseeable future," adding, "My approach is for balanced transportation." She explained that "different solutions are appropriate in different situations. In heavily settled areas mass transit may be a better way to move people around." She had mixed feelings about "heavy-rail" solutions such as BART. "I would tend to favor less expensive, more flexible systems," such as heavier use of buses. ["Caltrans Chief Outlines Goals," Associated Press, *The Los Angeles Herald-Examiner*, March 30, 1976]

(She was immediately blamed for the Santa Monica Freeway (I-10) Diamond Lanes (concurrent-flow preferential lanes for buses and carpools) that had been planned during Governor Reagan's term, but went into effect on March 15, 1976, as she took office. When the Diamond Lanes turned the general traffic lanes into "parking lots," Gianturco was vilified as "Giant Turkey," "the Madwoman of Caltrans," and "Our Lady of the Diamond Lane." The Diamond Lanes came to an end 21 weeks later when the U.S. District Court ruled against the project. In an interview years later, she recalled that she was "besieged, vilified, crucified" over the Diamond Lanes. She added that, "The freeway fiasco lasted only five months; I stayed in that job for (nearly) seven years," but she would never overcome that initial image as "an arrogant, power-crazed madwoman." [Bettijane Levine, "A Driven Woman: Adriana Gianturco Fought a Lonely Battle for Car-Pool Lanes in 1976. Now, They're Part of the L.A. Map," *The Los Angeles Times*, February 22, 1994])

The impact of the Clean Air Amendments of 1970 was being felt around the country. On February 5, 1973, the Southern California RTD announced a $5 million bus service improvement program and a shift away from rapid transit planning. Gas tax revenue earmarked for rapid transit would be shifted to expanding the district's 1,500-plus bus network. The district hoped to gain support for using General Revenue Sharing funds to maintain a flat 30-cent fare anywhere in Los Angeles County. Alternatively, revenue sharing could be used for a $140 million "saturation" bus system. The RTD's general manager, Jack R. Gilstrap, explained that sufficient revenue was not available to finance a high-capacity rapid transit system, or even to start such a system. [Hebert, Ray, "Transit Officials Stress Improved Bus System," *The Los Angeles Times*, February 6, 1973]

Transportation planners in San Diego wanted to eliminate the automobile from downtown and replace it with "people movers" that would carry people in electric-powered, one-car vehicles on an elevated concrete track. They would link peripheral parking garages with downtown street corners. City streets would be for pedestrians only. Such a system was in operation at the University of West Virginia in Morgantown, with Federal funding help. Planners thought riders might even be able to use the system for free if developers would contribute to the cost or if expenses could be paid out of the gasoline tax. The city had submitted an application to the Department of

Transportation. [Associated Press, "Downtown San Diego Planning its Farewell to the Automobile," *The Baltimore Sun*, February 7, 1973]

California also was developing an ambitious expansion of bikeways. In October 1972, the Department of Water Resources had opened the first 67-mile section of a 444-mile bikeway on the California Aqueduct's 20-foot-wide service road. The initial section stretched from Bethany Reservoir near Tracy to San Luis Dam near Los Banos. In Marin County, a 24-mile bicycle route system ran through the county and crosses the Golden Gate Bridge to connect with bikeways in San Francisco. The State had passed legislation requiring the State Department of Public Works' Division of Highways to spend a minimum of $360,000 in highway funds each year for bikeways. The Highway Division already was converting older roads to bikeways after they were replaced by newer facilities.

The bicycle was still far behind the automobile as a mode of transportation. Peter M. Flanagan, a presidential assistant, had said that even as the energy crisis grew, "The United States is not going back to the cold, the dark, and the bicycle." Nevertheless, with at least 60 million bicycles in use nationally, efforts were underway to give them greater prominence. ["Bikeways Spread on Coast as More Take to Cycling," *The New York Times*, January 28, 1973]

In Richmond, the Virginia Air Pollution Control Board proposed gasoline rationing to reduce pollution levels in northern Virginia. Such a proposal would have to be coordinated with Maryland and the District of Columbia through the Metropolitan Washington Council of Governments (COG). On January 24, COG had proposed a series of controversial measures to reduce pollution, but not including gasoline rationing. Proposals by COG included a $2 a day surcharge on all-day parking in commercial facilities; banning daytime truck deliveries; abolishing free and low-cost parking for government employees and private industry, as well as improved bus service, incentives for carpooling, and completion of the Metro rapid rail system. ["Gas Rationing Urged for Area," *Washington Star-News*, February 7, 1971]

The Opening Salvo

On January 18, Senator Muskie introduced three bills that collectively would divert $1.8 billion a year from highway construction for 2 years. In introductory comments, he said that the failure to adopt legislation in 1972 "should not overshadow the historic significance" of the Cooper-Muskie amendment because by adopting it, the Senate "served notice that the highway trust fund is too narrowly focused to serve today's transportation needs." Since a national transportation policy was a critical element of a national growth policy, the 93rd Congress "must seek ways in which we can all move freely about, without endangering our health, destroying our communities, and wasting our resources in the process."

He considered his first bill, which was a revised version of the Cooper-Muskie amendment, "the cornerstone of a new transportation policy for America." It corrected "the most glaring flaw" in the current policy, namely the "closed circle of Federal funding which perpetuates highway construction as virtually the only solution to transportation problems that most cities and States can afford to choose." The revised amendment increased Federal-aid urban funding to $1 billion a year (from $800 million) and allowed the funds to be used for capital projects to improve ground transportation, including rail mass transit facilities and equipment. Other Federal-aid funds, including Interstate funds, could be used for highway-related public transportation improvements, excluding rail.

The second bill, the Highway Act Amendments to Provide Motor Vehicle Emission Programs (S. 738) required the States to establish annual inspection programs for auto emission control devices. An estimated $350 million a year from the Highway Trust Fund would reimburse the States for the inspection programs.

The most controversial bill was the Highway Act Amendments to Allow Transfer of Funds in Air-Impacted Urbanized Areas from Highway Programs to Other Programs to Improve Transportation (S. 739). It allowed the Secretary of Transportation to use up to 10 percent of annual Highway Trust Fund revenues for emergency programs to develop or improve transportation systems in the 28 urban areas in 18 States that EPA had indicated would not be able to meet the 1977 clean air deadline. The bill would prohibit approval of new highway projects that might raise pollution to levels that would jeopardize public health. It also would allow highway funds to be shifted to public transportation in cities with high pollution levels.

Beyond the three measures, he encouraged Senator Randolph to consider additional provisions in the new Federal-Aid Highway Act, including a special program to focus on the highway needs of urban areas of less than 50,000. He continued:

> It should give Governors the program direction authority now given to State highway departments. It should finance the separation of highway-railway grade crossings from the highway trust fund. And, finally, a new bill should give local governments increased authority to make transportation decisions through an allocation formula for regularly apportioned urban system funds.

In support of his three measures, Senator Muskie explained that each year, "the circle closes tighter as the problems multiply." Whatever the problem, he said, "more highways and more cars have become the only answer—even when they are obviously not the right answer." The automobile had "revolutionized life in America," but now it threatened "to degrade the quality of life." He continued:

> Highways and automobiles have had as destructive an effect on our cities themselves as they have had on the health of the people who live in those cities. Highway construction divides our urban areas with ribbons of concrete—separating people from their jobs and from each other, destroying the integrity of communities, and encouraging suburban sprawl and other questionable land uses . . . . . The senseless construction of urban freeways has run roughshod over the real transportation needs of city residents . . . . In the process of destroying the environment, threatening our health and ravaging our cities, highways and automobiles are also helping to lead us to an energy crisis from which there may be no road back . . . .

> With great ingenuity, productivity, and activity, we have created the present mess. I am convinced that with an equal amount of ingenuity, productivity, and activity, we can reverse it—and create a sensible national transportation policy. [*Congressional Record-Senate*, January 18, 1973, p. 1527-1531]

Each of the bills was expected to encounter opposition from pro-highway Members of Congress. However, Senator Muskie thought that the drastic steps announced to combat air pollution in southern California had dramatized the need for mass transit alternatives to the motor vehicle. [Kenworthy, E. W., "Muskie Will Seek to Tap Road Fund," *The New York Times*, January 18, 1973]

On January 23, Senators Bentsen, Randolph, and other members of the Committee on Public Works introduced S. 502, the Federal-Aid Highway Act of 1973. It authorized $3.25 billion a year through FY 1979 and $257 million for FY 1980 to complete the Interstate System. It also authorized Interstate fund apportionments based on the 1972 Interstate Cost Estimate and extended the completion due date to June 30, 1980 (from June 30, 1976).

The bill included a declaration of policy that the Secretary should carry out the Federal-aid highway program "in such a manner as to give the highest priority in all instances, to highway safety and the saving of human lives." The companion Highway Safety Act, however, was not included with the January 23 bill (it would be introduced on February 19).

In addition, the bill would:

- Establish a national policy to "encourage the minimization of paperwork and interagency decision procedures" and make "the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government."
- Provide for transfer of Interstate mileage upon the joint request of a State Governor and the local governments concerned if the Secretary determines that the segment is not essential to completion of a unified and connected Interstate System and that the State does not plan to build a toll road in the corridor. The mileage would then be available for designation of another Interstate route that was considered essential for connectivity
- Remove from designation on July 1, 1973, any Interstate segment for which the State has not provided assurances of its construction. Prior to July 1, 1974, the State may substitute an alternative segment that meets Interstate requirements. Any segment should be removed from designation on July 1, 1974, unless the State has provided a schedule for construction within the period of fund availability. (These provisions did not apply to Interstate segments designated under the 1,500-mile extension authorized in 1968.)
- Authorized funds from the Highway Trust Fund for the Federal-aid systems, Forest Highways, Public Lands Highways, and Parkways. Also authorized general Treasury funds for forest development roads and trails, public lands development roads and trails, park roads and trails, and Indian Reservation Roads.
- Federal-aid urban funds would be made available to metropolitan planning organizations (MPOs) to carry out projects if the MPO "has adequate powers and is suitably equipped and organized to carry out projects on the urban system."

- Federal-aid urban funds could be used for construction of facilities "to serve bus and other public mass transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail."
- Federal-aid highway funds could be used for the construction of separate or preferential bicycle lanes or paths and other bicycle-related facilities as well as pedestrian walkways and equestrian trails in conjunction or connection with Federal-aid highways. No motorized vehicles would be permitted on these facilities except for maintenance purposes.
- Authorized $50 million a year for the Special Urban High Density Traffic Program for the construction of highways connected to the Interstate System in urban areas.
- Based on guidelines issued by the Secretary, a State may submit a certification that it has processes for carrying out Federal-aid highway construction responsibilities. The certification, if approved, would allow the Secretary to discharge his responsibility for project approvals, other than to oversee the procedures to be sure they are satisfied. The Secretary could not approve certification if he concluded that the procedures will not satisfy the social, environmental, and economic objectives of Federal requirements. To protect the rights of aggrieved parties, the provision allowed for suits under Section 5 of the Administrative Procedures Act to be heard in an administrative hearing regarding a State's failure to comply with its certification.
- Funds for Forest Highways and park roads and trails could be used for adjacent vehicular parking areas, related facilities, and the purchase of buses to provide interpretive [sic] or shuttle transportation services as an alternative means of transportation.
- Authorized the Secretary of the Interior to develop the Highland Scenic Highway as a parkway from West Virginia Route 39 to U.S. 250 near Barton Knob.
- Provided for reconstruction of the Alaska Highway and the Haines Cutoff in Canada.
- Requested reports by January 1, 1975, on the feasibility and necessity of constructing six specified routes, including extension of I-70 from Cove Fort, Utah, to serve Ely and Carson City, Nevada, to Interstate standards for purposes of including them in the Interstate System.
- Severed the contractual relationship between the Federal and State Governments for the San Antonio North Expressway between I-35 and I-410. It would cease to be a Federal-aid project. Texas must repay Federal-aid funds used to develop the expressway.
- Called for demonstration projects to relocate railroad lines from the central area of Lincoln, Nebraska, and Elko, Nevada.
- The Secretary is to report to Congress by January 1, 1975, on the feasibility of establishing a national system of scenic highways linking recreational, historical, scientific, and other similar areas of scenic interest and importance.
- Authorized $20 million a year for a 2-year Rural Highway Public Transportation Demonstration Program to encourage development, improvement, and use of public mass transportation systems operating vehicles on highways to enhance access to employment, health care, retail centers, education, and public services.

On January 23, Senator Baker introduced Senate Concurrent Resolution 6. It authorized the Secretary of Transportation to apportion Interstate funds to the States based on the 1972 Interstate Cost Estimate. If adopted, the resolution would address the problem created when Congress failed to approve the Federal-Aid Highway Act of 1972. The 1970 Act had authorized Interstate construction funds through FY 1976, but without approval to use the 1972 Interstate Cost Estimate, the Department did not have the legal authority to apportion additional Interstate funds. Early passage would allow States to proceed with Interstate projects using funds already authorized while Congress completed work on the new Federal-aid authorization legislation.

(A concurrent resolution is usually initiated on matters affecting the operations of both Houses of Congress. They are not equivalent to a bill and are not submitted to the President for approval. Instead, they normally are used to express facts, principles, opinions, and purposes. According to a 1974 guide to congressional actions, the Clerk of the House and Secretary of the Senate would transmit approved concurrent resolutions to the Administrator of General Services for publication in a special part of the Statutes at Large. [*How Our Laws Are Made*, Government Printing Office, Stock No. 5271-00424, 1974, p. 8-9])

The committee announced that it would begin hearings on February 7.

Engineering News-Record saw the expected battle in Congress shaping up as a repeat of the unsuccessful struggle in 1972. The committee bill was similar to the 1972 version of the bill, but did not allow the use of Highway Trust Fund revenue for non-highway related transit facilities. It authorized $650 million a year for the Federal-aid primary system and $350 million for secondary highways. Urban extensions of primary and secondary highways would be funded at $350 million a year. One difference was that the authorization for the Federal-aid urban system was cut to $650 million, with all of it available for highway-oriented mass transit. (The 1972 bill authorized $800 million a year for the urban system, but required $300 million to be used for bus transit.)

Henrik E. Stafseth, AASHO's new executive secretary, said:

> Congress is reacting by just getting a bill into the hopper as soon as possible. The fastest way to do this is by using last year's bill. ["Fight on New Highway Act is Repeat of '72," *Engineering News-Record*, January 25, 1973, p. 24]

In discussing the pending battle, an editorial in *The New York Times* emphasized the significance of the Los Angeles clean air plan. It gave "dramatic force" to the familiar arguments of critics that "major highways in cities and suburbs often disrupt neighborhoods, invade parks, obliterate historical landmarks, and usually intensify the traffic congestion they are designed to relive." The editorial endorsed Senator Muskie's bills. "Before gas masks and gas rationing become the order of the day, it is time for Congress and the Department of Transportation to draw up the plans and take the action to meet a rapidly developing emergency." ["Coming Up For Air," *The New York Times*, January 27, 1973]

On January 31, 1973, Senators Kennedy and Weicker introduced the Highways and Related Transportation Systems Improvement Act of 1973. Under the bill, 90 percent of non-Interstate funds would be apportioned to the States. Half of this amount would be administered by the State Governors, and the other half passed through by the Governors directly to local governments in the metropolitan areas where some 73 percent of citizens reside. The non-Interstate funds could be used for highways, as at present, or for acquisition, construction, improvement, operation, or maintenance of public transportation systems, including rail transit.

The remaining 10 percent of non-Interstate funds would be available to the Secretary of Transportation for discretionary use to help urban areas meet the ambient air quality standards of the Clean Air Act and emergency relief programs in the event of a natural disaster.

For the funds apportioned to the States, the Governors would use their portion and pass through the urban share based on population. The bill required comprehensive planning at the State and urban area levels with the objective being "the solution of transportation problems with a combination of roads, rail, and buses that makes the most sense." Comprehensive plans were not possible, Senator Kennedy said, "when adequate funding existed only for the construction of highways." Without sufficient funding, "transportation planning will remain an empty exercise for planners."

The Governor must approve the State plan and submit it to the Secretary of Transportation for approval. The Secretary may approve it only if the State considered "social, environmental, and economic impacts of various mixes of transportation modes for solving transportation problems."

Senator Kennedy explained that by approving the Cooper-Muskie amendment in 1972, the Senate had "finally blasted the first crack in the transportation ethos that more highways are the only answer to our transportation needs." He continued:

> Now it is time to extend that recognition to the Congress as a whole and to permanently change the highway trust fund from a federal conduit for concrete into a sensible national mechanism to finance transportation solutions—whether they call for mass rail transit, buses, intercity rail or essential highways.

Now was the time, he said, because of "the transportation crisis that now exists." He summarized the problems stemming from "a free-flowing Federal spigot that has poured out more than $53 billion for the past 16 years" for highways: "too many cars and trucks in urban areas, severe decay of the environment and financial distress in key segments of the transport industry." The "failure to examine the concrete dream that has produced federally financed highways that are laden with air pollution" was given renewed emphasis by EPA Administrator Ruckelshaus's proposed rationing of gasoline consumption in the Los Angeles area. "A major city is being told to kick its autos off the streets if it wants to assure an adequate supply of clean air to its citizens." He emphasized the larger point:

> While Los Angeles may be unique in its geographical and meteorological characteristics, the essential element remains: almost total reliance on highways and the automobile to meet transportation requirements has produced a host of environmental, social, and economic disasters in its wake.

In addition to authorizing $3.25 billion for Interstate construction for each of the next 6 years, the bill required a review of remaining Interstate routes and a halt of those in urban areas where cities and States concurred. The funds for withdrawn routes could be used in the area for transportation projects, including mass rail transit. The substitute plan would require continuation of the Interstate System around a city via a bypass or beltway. Senator Kennedy explained that these provisions were particularly critical because $17.5 billion of the $30.7 billion remaining cost of completion involved urban Interstate segments that "often carry unacceptable environmental, social and economic consequences in their wake." He cited his home State as an example:

> Thus, in Boston, after a 33-month exhaustive study, the Governor concluded that it was in the public interest to put a permanent moratorium on interstate routes planned through the Boston metropolitan area. Instead, he opted, and wisely I believe, for a plan that concentrated on mass transit. Highways still will be constructed, but not through urban neighborhoods or scarce parklands or historic sites.
>
> Similar actions appear likely in a host of other cities where routes have been stalled by citizen and court actions.
>
> In all of these areas, present law prohibits money allocated for highway routes to be used for any other purpose. If it is not used to complete the original route, then it is reallocated to another area. Nor is the bill introduced by the committee an adequate answer since it still prohibits a single dollar of those funds from being used for mass rail transit.
>
> Our bill would remedy this flaw, permitting the completing of an interstate network and at the same time promoting urban transportation solutions.

Senator Kennedy said that unlike the 1972 version, the new bill did not mandate the formation of metropolitan transportation agencies. It did, however, strengthen and encourage them by providing that in the new planning process, elected officials and citizens would be involved from the inception of the plan. "Elected authorities would participate in the management of the planning agency and they would have voting power proportional to their population."

This shift was the key because "it provides flexibility to local and State decisionmakers on how to meet their transportation needs and it assures adequate funds to permit the creation of a balanced transportation system." The bill did not mandate more mass transit and fewer highways, but for the first time, "it does not distort the planning process by tempting financially pressed cities and States with Federal dollars for highways and virtually nothing for any other transportation programs."

In drafting the planning section of the bill, Senator Kennedy said, "The critical issue to be decided is whether we will give the mayors and the governors new options to enable them to meet these problems." The bill tried to separate State highway officials from transportation decisionmaking. Elected Governors and elected local officials, the Senators reasoned, "have the best understanding of the transportation priorities of their regions." In short, they were more likely to be responsive to citizen/voter demands for alternative transportation modes than unelected highway officials who saw highways as the solution to most transportation problems.

Senator Kennedy introduced the bill, designated S. 679, as well as articles on "the transportation crisis." The reprints included articles about the EPA plan for the Los Angeles area, William Shannon's *Times* article "The Untrustworthy Highway Fund," a statement by Theodore Kheel ("The

Fight for a Transportation System That Works"), a piece by Ben Kelley ("The Highway Lobby—Congestion and Pollution"), newspaper articles about the difficulties confronting mass transit, and an article by Senator Kennedy called "Our Nationwide Transportation Mess."

Senator Weicker emphasized that the bill did not interfere with Interstate construction funding. "The important distinction is the treatment of an estimated $2.75 billion allocated for noninterstate funding." The bill simply gave State and local officials a new option for the use of this funding on rail or bus transit. Further, funding for these areas would go directly to metropolitan areas under a pass-through provision based on each city's size:

> The overall intent of these pass-through provision is to stimulate transportation planning in urban areas at the local level. And, in fact, money becomes available under the passthrough [sic] only when a city or agency has a comprehensive transportation plan approved by the Secretary of Transportation and the Governor.

He called the new bill "the most progressive and appropriate plan for applying our Highway Trust Fund to the transportation needs of America." He continued:

> Highways were our first priority when the trust fund was set up in 1956. But the building of highways became a national obsession—and this obsession has caused what can only be described as "the great American motion sickness."
>
> Our transportation system has become an indifferent, inefficient, destructive, and deadly "beast of national burden" . . . . What we are now saying to the Congress is that the highway trust fund is no more sacrosanct than any other federal project, regardless of what it is called . . . . [The] highway lobby in Washington has fought a vigorous battle to protect "its" fund. Arrogantly they claim to speak for all Americans, and unfortunately most Americans are too lazy to face them down.

Because the problem "has been a creeping rather than instantaneous disaster," people sat in their cars and grumbled while accepting "the traffic jams, the death, the pollution, the environmental desecration." He repeated the parable he had used in 1972 about cooking a frog, concluding as he had then, "In terms of transportation, we are the frog and we had better jump or - " [*Congressional Record-Senate*, January 31, 1973, p. 2688-2705, statement ended as shown]

President Nixon was continuing to impound funds as part of his plan for economic stabilization. In early February, the White House announced that it was holding $8.7 billion in "reserve." The largest item in the list of impoundments was $2.5 billion in Federal-aid highway funds that were being withheld to "help maintain economic stability without undue price and cost increases." Other transportation impoundments included $20 million in urban mass transit projects, $207 million in FAA air facilities construction, and $50 million in National Park Service road construction.

The President had defended impoundments during a January 31 news conference.

> Q. Mr. President, how do you respond to criticism that your impoundment of funds abrogates power or authority that the Constitution gave to Congress?
> A. The same way that Jefferson did, and Jackson did, and Truman did . . . . The constitutional right for the President of the United States to impound funds—and that is not to spend money, when the spending of money would mean either increasing prices or increasing taxes for all the people—that right is absolutely clear.

He acknowledged that Congress wanted responsibility for funding decisions:

> Believe me, it would be pleasant to have more sharing of responsibility by the Congress. But if you are going to have responsibility, you have to be responsible, and this Congress . . . has not been responsible on money.

He had checked the campaigns of every Member of Congress, he said, and reported that "I didn't find one Member of Congress, liberal or conservative, who had campaigned on the platform of raising taxes in order that we could spend more." Congress had to choose whether to raise taxes or cut programs. That was difficult for Members of Congress because they often represented special interests. The President was the one person who spoke for the general interest, not the special interests:

> Therefore, I will not spend money if the Congress overspends, and I will not be for programs that will raises the taxes and put a bigger burden on the already overburdened American taxpayer.

Deputy Attorney General Joseph Sneed testified before the Senate Judiciary Committee's Subcommittee on Constitutional Rights that precedent and the Constitution upheld the President's right to impound. Senator Ervin, chairman of the subcommittee, replied, "Every generation has its murderers and thieves, but that doesn't make murder meritorious or larceny legal." ["Congress Challenges Nixon Budget Priorities," *Engineering News-Record*, February 15, 1973, p. 12]

On the eve of appearing before the renamed Senate Subcommittee on Transportation, Secretary Brinegar announced that he was abolishing the post of Assistant Secretary for Environmental and Urban Systems, the post once held by former Seattle Mayor Braman, and creating a position for an Assistant Secretary to handle congressional relations, which Secretary Volpe had handled himself. John E. Hirten, an architect and urban planner who had held the environmental position since July 1971, would become an Assistant to the Secretary, while his former duties would be spread among other Assistant Secretaries.

For the new post of Assistant Secretary for Congressional and Intergovernmental Affairs, Brinegar selected Robert T. Monagan, a former Republican leader in the California State Assembly. In the State Assembly, he had voted regularly to use part of the State's gas tax for mass transit. According to unnamed Department sources, Brinegar concluded that the veteran politician Monagan would be more effective at lobbying Congress than the politically inexperienced Secretary. [Braestrup, Peter, "New DOT Job Seen Going to Monagan," *The Washington Post*, February 6, 1973]

Hearings Get Underway

The Subcommittee on Transportation of the Senate's Public Works Committee began hearings on its bill, S. 502, on February 7. The Department of Transportation had not yet completed its legislative proposal, but Secretary Brinegar would be one of the witnesses on this first day.

Chairman Bentsen began by summarizing the failure of the Federal-Aid Highway Act of 1972 after the House and Senate had reached agreement on the final day of the 92nd Congress. The Federal-aid highway program could continue through the end of FY 1973 (June 30, 1973), "but many States, including my own, are rapidly depleting their resources for continued highway upgrading and development." States were uncertain whether to program projects for FY 1974, but "I do not believe we would serve our cause or the Nation's by rushing this measure through without a thorough examination of the issues involved." He would not, he said, "sacrifice responsible highway legislation in the name of expediency.

To ensure a balanced and comprehensive view, he had scheduled nearly 40 witnesses "from all walks of life" to discuss the serious questions before the subcommittee:

> I have directed the various witnesses to address themselves to the most difficult and controversial issues confronting us, including, the proper authorization levels for the various Federal-aid programs, interstate, primary, secondary, and urban; the value of retaining the various categorical programs as opposed to encompassing them under three or four general headings; the use of highway trust funds for public transportation purposes, including rail transit; the so-called "pass through" of highway funds to urban areas, bypassing the States; the transfer of interstate mileage and the substitution of alternative segments by the States; and the advisability of the so-called "priority primary" system in last year's House bill, which would have authorized a new 10,000-mile system to approximate interstate standards using selected, heavily traveled roads.

He acknowledged that S. 502 contained $500 million less from the Highway Trust Fund and the general fund than the bill the Senate passed in 1972. The total still represented "a substantial investment for highways and highway related purposes," but he recognized "that the needs in these areas must be viewed in light of our efforts to contain inflation and offer reductions in Government spending."

The day before, February 6, a school bus collision with a train in his home State of Texas had killed seven children and injured several others. This tragedy in Littlefield dramatized "the serious national problems of highway safety in the United States." He said he would introduce a comprehensive highway safety bill in a few weeks. [*Federal-Aid Highway Act of 1973*, S. 502, Hearings, Subcommittee on Transportation, Committee on Public Works, United States Senate, 1st Session, 93rd Congress, Serial No. 93-H2, Government Printing Office, 1973, p. 1-3]

(According to a contemporary AP account, a Santa Fe freight train slammed into the rear of the school bus at a speed of 58 mph. Red signal lights at the rail-highway crossing were working. Seven children were killed, including two sets of brothers and sisters. Seventeen were injured, including the bus driver. [Associated Press, "7 Killed in School Bus Crash," *The Daily Register*, Red Bank, New Jersey, February 7, 1973]),

Senator Bentsen introduced Senator Randolph, who acknowledged that, "We are in a period of change, perhaps even more important, a period of challenge." In addition to the usual issues involved in any Federal-Aid Highway Act, he said the subcommittee faced "the overriding controversy of the relationship of the highway program to mass transit." He wanted to listen to all voices, but his view was clear:

> I believe highway funds can and should be used to strengthen public transportation systems that are oriented to the use of highways. This is the type of public transportation on which most American communities depend, and it is the type that can be expanded, realistically expanded, rather quickly to meet situations that we have in certain areas of our country.

He would continue to support funding for mass transit from sources other than the Highway Trust Fund, but said that "we have a job to do, the completion of the Interstate System and the improvement of other roads."

He pointed out that Congress had created a second trust fund for airports and airways rather than tapping the Highway Trust Fund. Now, the Senate was considering additional funding for airports and airways complexes. "There was no effort made to amend that legislation . . . to divert that money from the airport and airways trust fund for mass or urban or rail transit." As this example suggested, "I believe that we will find if we are diligent, ways in which we can fund mass transit from other sources, Mr. Chairman, rather than to deplete the highway trust funds, and set in motion a deterioration of this worthwhile effort." [*Federal-Aid Highway Act of 1973, S. 502*, p. 68-69]

Senator Baker discussed Senate Concurrent Resolution 6:

> This measure would provide the Secretary of Transportation the authority to apportion Interstate System funds for 1974, so that while Congress debates the greater issues, the States will not lose the spring construction season for the Interstate System. This, I believe, is very important.

He emphasized the importance of the subcommittee's first task in providing for completion of the Interstate System "as quickly as possible." He continued:

> Second, provide for an orderly, intelligent, attractive system of urban mass transit for the United States of America, and third, begin to decide the future of the highway program, and its relation to a unified transportation system. [*Federal-Aid Highway Act of 1973, S. 502*, p. 70-72]

Next, Senator Muskie introduced his three measures. He said that when the Senate approved the Cooper-Muskie amendment in 1972, "it was clear that a more flexible and more sensible transportation policy was a necessary step in securing for us the benefits of growth without making us its victims." His revised version of the amendment "would correct the most glaring flaw in our present transportation—a closed circle of Federal funding which perpetuates highway construction as virtually the only solution to transportation problems that most cities and States can afford to choose."

After summarizing his two other bills, he said:

> The automobile has revolutionized life in America, but now, it threatens in many ways to degrade the quality of life in America. Highways and the cars that use them pollute the air and menace our health, transform and degrade the urban environment, inefficiently consume our resources, and distort our transportation priorities.
>
> The costs of air pollution take the highest toll among the residents of our Nation's great cities, where motor vehicle emissions account for upward of 80 percent of urban air pollution . . . .
>
> Highways and automobiles have had as destructive an effect on our cities themselves as they have had on the health of the people who live in those cities. Highway construction divides our urban areas into ribbons of concrete, separating people from their jobs and from each other, destroying the integrity of communities, and encouraging suburban sprawl and other questionable land uses. The senseless construction of urban freeways has run roughshod over the real transportation needs of city residents, displacing hundreds of thousands of people and businesses in the process.

They also were leading the Nation into "an energy crisis from which there may be no road back." Motor vehicles used 40 percent of all petroleum consumed in the United States, with 55 percent of that share devoted to private cars. "In light of an impending energy and fuels crisis, this waste is unacceptable; but as long as automobiles remain our principal mode of urban transportation, that reckless consumption of dwindling supplies of fuel will continue unchecked."

Clearly, he said, "Americans are paying a heavy price for the luxury and convenience of private automobile transportation." Many Americans who paid the price got nothing in return. "For these Americans, the highway trust fund and the transportation system it creates rob Peter to pay Paul." Urban Americans without a car did not have the mobility "to gain access to adequate education, health care, job opportunities, and other necessities . . . ."

The Highway Trust Fund, he said, perpetuated these "inequities and imbalanced transportation priorities," and the time for change was now. His three measures "will not provide automatically the ingenious new transportation systems we need nor quick public acceptance of mass transportation as a substitute for the luxury and convenience of the private automobile." However, diversion of Highway Trust Fund revenue "must come first, both to signify our willingness to change and to make it financially possible to do so."

In closing, he cited the I-93 Connector in Boston and asked the subcommittee to reprint an article from *Newsweek* called "Boston—The Road to Nowhere" (the issue of February 12, 1973) that cited the nicknames that "disgruntled city fathers and private citizens alike" call the new connector: "that stupid thing," "the road that goes nowhere," and "the $100 million misunderstanding." Far from relieving traffic jams, opening the road "will almost certainly make them worse—and a good deal more dangerous." The highway was, the article said, "an idea whose time has gone," and explained that when Governor Sargent imposed his moratorium, the I-93 Connector was excepted because "with $60 million invested in the project and 90 per cent Federal financing guaranteed for the remaining cost, it was cheaper for the state to finish the job than call if off."

Senator Muskie concluded:

> This road to nowhere epitomizes the ridiculous misallocation of spending priorities which the current highway program fosters, and which I hope this year's highway legislation will find a way to correct. [*Federal-Aid Highway Act of 1973, S. 502*, p. 73-74, 94-95]

Secretary Brinegar's Busy Day: A.M.

Secretary Brinegar was the first witness. He began by saying that since his confirmation hearing, he had spent "a substantial amount of time" studying existing programs and the proposals from 1972 to formulate current policy. He did not consider himself "a 30-day expert on all aspects of this important program," but he had done his homework and was prepared to discuss the issues.

In view of the disruption caused by failure to pass the Federal-Aid Highway Act of 1972, he said that the Administration supported Senator Baker's Senate Concurrent Resolution 6. It was not a substitute for a comprehensive bill, but it would alleviate the situation in States whose Interstate highway authorizations were running short.

He had not yet completed work on the Department's bill, but he would outline its broad concepts, provide the Administration's views on S. 502, and respond to Senator Bentsen's questions to all witnesses.

The Senate's adoption of the Cooper-Muskie amendment in 1972 "broke important new ground in adding flexibility to the uses [of highway funding], and we believe it is of utmost importance to continue in this direction. Federally supported highways had made cities accessible, but too many cars made them almost inaccessible at times. At the same time, public transit systems "have become increasingly incapable of offering attractive alternatives."

The Administration would address these problems in three directions. First, it would propose to extend the FY 1974 funding level of $1 billion for UMTA to continue another 3 years. Second, local officials could use General Revenue Sharing ($6 billion a year) to address pressing needs. And third, Secretary Brinegar favored additional flexibility in the use of Highway Trust Fund revenue in urban areas to deal "with transportation alternatives that will improve the cities' overall transportation systems." They were not a substitute for UMTA's capital program:

> Rather, they will be aimed more at the myriad of capital needs that every urban area has and can best develop its own program to solve. No doubt, funds will go to meet highway needs, some will go for bus lanes and related investments, some will go to purchase buses, and

> some would go to make capital improvements in urban rail systems. The end result, of course, is to allow cities to find ways to improve their overall transportation systems. The fiscal year 1974 budget sets an authorization of $1.1 billion for this purpose.

He emphasized that he did not agree with those who thought the use of Highway Trust Fund revenue for nonhighway projects was unfair to highway users who paid the tax. First, motorists would be better off if mass transit, whether bus or rail, reduced traffic on urban roads to relieve congestion. Second, he pointed out that the taxes combined into the Highway Trust Fund were existing taxes credited prior to 1956 to the general Treasury. Approximately 50 percent of highway user revenue would have been collected for general purposes if the Highway Trust Fund had not been created. "Thus, on grounds of equity it seems fair to consider that a sizable amount of trust fund moneys could be legitimately used for transportation purposes that broadly benefit a large segment of the population."

The only question was to determine the "fair portion" of Highway Trust Fund revenue that could be used for this broader purpose. He considered one-quarter of the general fund-type taxes to be fair. Therefore, he was recommending that $1.1 billion or slightly over 20 percent of all Highway Trust Fund revenues be available for flexible uses. Accordingly, Federal-aid urban system funds should be available for capital highway and mass transit projects, including rapid rail systems, subject to decisions by State and local governments. Similarly, State officials should have the option of using Federal-aid highway funds in rural areas for highways or bus service projects.

Secretary Brinegar also discussed the pass-through provision. The Administration had supported pass-through for local general purpose units of government that created a metropolitan agency equipped to address transportation problems on an areawide basis. The Senate's 1972 bill had adopted the idea. S. 502 contained a similar provision, the difference being that the cutoff for earmarking funds to urbanized areas was 250,000 population instead of 50,000. The Administration had modified its position as well:

> We would recommend that the urban system funds be earmarked only for urbanized areas which have a population of 400,000 or more. Some 55 areas fall into this category. We believe that the problems of such cities are extremely complex and that these cities are more likely to have the organization and staff to solve their own problems. For areas smaller than 400,000, we think that the State should continue to play the primary role in developing transportation programs. Also, we would recommend a modification which would permit general purpose agencies to be the recipients of pass through funds, as well as single purpose transportation agencies. We encourage the formation of State departments of transportation, for example, but we do not believe that the Federal Government should be fostering the creation of otherwise unnecessary special purpose agencies at the city level.

The Department wanted to continue the vital Federal-State partnership "and we envision the States playing an important role in determining suitable institutional arrangements, such as having the authority to approve the makeup and boundaries of local general-purpose agencies chosen to receive the funds."

In 1972, the Secretary recalled, the Administration had supported the Interstate transfer provision of the Senate's 1972 Act that authorized unlimited mileage to facilitate transfers and substitutions, with the estimated cost of the withdrawn segment determining the amount available for substitutions. S. 502 differed in allowing the substitution of other important highway and public transportation projects. Secretary Brinegar described this change as "a laudable move toward flexibility," but he suggested several changes. In particular, "we do not believe that as a general rule, if an interstate segment is dropped, a new interstate segment should be designated." The State and locality should "be given the option to use these funds on any other Federal-aid system, including the urban flexible fund, at the prevailing matching ratio."

Regarding the proposed alternative Federal-aid highway procedures, he was concerned that they stripped the Secretary of adequate controls. He favored a more moderate approach similar to the procedures used on the Federal-aid secondary program. Extending these procedures to the other systems would "eliminate unnecessary engineering and construction supervision and still retain the cooperative Federal-State relationship that has existed over the past 50 years."

He favored consolidation of categories, particularly those focused on urban areas, and urged Congress to "resist the continued proliferation of new categorical grant-in-aid programs." They were inconsistent with the goal of increased flexibility for State and local officials. He also opposed the priority primary concept. "Now that the Interstate System is nearing completion, we should avoid the creation of such programs and should give the States more flexibility to determine and meet their future transportation needs."

The Department's bill, he said, would request authorizations for 3 years instead of the traditional 2 years. "With the failure to enact a bill last year, to remain on a biennial cycle could require Congress to enact a bill this year and then again next year."

Finally, he addressed an issue that had come up during his confirmation hearing, namely whether Congress should exempt specific projects from environmental statutes. He had replied at the time that he generally did not favor granting exceptions. Now, he said, he could say that he opposed the practice because, "it is my belief that granting exemptions for single projects increases pressure to exempt a large number of other sensitive projects, and could seriously compromise the environmental laws which Congress has directed me and others to enforce." [*Federal-Aid Highway Act of 1973, S. 502*, p. 95-102]

Senator Bentsen began the questioning by recalling that in 1972, Secretary Volpe had assured the Public Works Committee that OMB had promised to let FHWA spend the $3.25 billion in the 1972 bill for the Interstate System. S. 502 retained that amount and Secretary Brinegar had mentioned it, but the President's budget referred to only $2.6 billion. Initially, the Secretary deferred an answer because he had been focusing on "the larger issues, the general thrust of the program" during his few weeks in office. He had not had time to review Secretary Volpe's testimony or speak to him about it. In a written response submitted later, the Secretary explained that Interstate funding was a long-term measure; if sufficient funds were not made available in one year, they would be made available in a subsequent year. The $2.6 billion in the President's budget for FY 1974 was the program level needed "to promote the economic well being of the Nation."

Looking at the budget for the entire program, Senator Bentsen saw the Administration was requesting a total program of $5.35 billion, but only $4.4 billion in obligations. "Are we saying that you are talking about impounding approximately a billion dollars?" Secretary Brinegar acknowledged that impoundment "is a particularly technical and, partly, legal issue" but it was one that "I am not prepared to discuss today in any depth."

If the country was not going to spend the tax revenue collected, Senator Bentsen asked, should the tax be reduced? The Secretary had not yet reviewed enough information to comment on needs, "but I do want to make the point that the revenues and program levels each year have not necessarily balanced out." He cited Administrator Ruckelshaus' plan to ration gasoline in the Los Angeles area as an example of how future revenue levels are not easily predicted. He later submitted a written reply that the Administration did not recommend a tax change now, but tax rates could be considered in the future "as we attempt to define a Federal transportation program for the post Interstate period." [*Federal-Aid Highway Act of 1973, S. 502*, p. 102-105]

Senator Buckley, during his question period, said that "the heartbeat of the city lies in movement" and pointed out that since he understood that 50 percent of Highway Trust Fund revenue came from urban areas, "I think this should be an allocation of a fair share to the cities." He was concerned about the article in *The Washington Post* indicating that the post of Assistant Secretary of Transportation for Environment and Urban Affairs was being abolished. He pointed out that this was the office that reviewed all NEPA statements and this function "would be assigned, for example, respectively to the Federal Highway Administration and Federal Aviation Administration," as contained in a DOT Order dated February 5.

Secretary Brinegar appreciated the opportunity to correct the article. He had simply reorganized the Office of the Secretary "so that the areas I find most closely related are under the proper staff people." He now had an Assistant Secretary for Environment, Safety and Consumer Affairs "so the function has by no means been moved away." He shifted the urban systems function to the staff involved with planning and programs across the whole system. Moreover, former Assistant Secretary Hirten was now "my principal assistant, and will advise me personally on matters in the environmental area." He continued:

> The responsibility for reviewing environmental statements was placed with the administrators. This was based on my conception and belief that these people should be forced to deal responsively with the environmental issues. I am by no means turning my back on these things . . . . I think we are strengthening them in a way that will allow us to speak more quickly and more effectively. [*Federal-Aid Highway Act of 1973, S. 502*, p. 105-106]

Senator Pete V. Domenici (R-NM), a former Mayor of Albuquerque who had won his first term during the 1972 Nixon landslide, recalled Senator Muskie's reference to robbing Peter to pay Paul. Since the country had enough highway needs for all Highway Trust Fund revenue, was that not what we would be doing, robbing Peter to pay Paul, if that revenue were diverted to other needs? Secretary Brinegar had not yet fully absorbed all the data to respond, but did believe that "the problems in front of us are very much tied to highway problems as we move to our big cities, so I must say yes, there are adequate funds to do what we are trying to do in the near term." [*Federal-Aid Highway Act of 1973, S. 502*, p. 106-107]

Senator William L. Scott (R-Va.) said he was frustrated about delays in building I-66 into the city. "I hate to think that our Government is so ineffective that we cannot build a highway." (Scott had defeated Senator Spong in November 1972 and was serving his first term; he was the first Republican to represent Virginia in the Senate since the post-Civil War reconstruction era.) He knew about the court action delaying the route, but he wanted to know what the Secretary could do to expedite construction "and without telling us why it cannot be built." Secretary Brinegar noted that he now lived in Virginia and was aware of the problems of getting into and out of the city. However, "I have to admit I have not yet gotten to I-66." [*Federal-Aid Highway Act of 1973, S. 502*, p. 107-108]

Senator Baker agreed with Senator Scott about the need for I-66, but wanted to state that Senate Concurrent Resolution 6 was not a substitute for the needed comprehensive legislation. "The resolution is simply to enable the Interstate to proceed at once, so as to avoid the prospect of losing this construction season." He cited his home State of Tennessee, which he said "will miss bid opening for this spring, and will effectively, delay for a year completion of much needed sections of the Interstate Highway System." [*Federal-Aid Highway Act of 1973, S. 502*, p. 108-109]

When Senator Bentsen's turn came again, he asked for the Secretary's position on operating subsidies for mass transit. The Secretary mentioned that he would be testifying soon before the Senate Subcommittee on Housing and Urban Affairs and would oppose subsidies. In that case, what did the Secretary think about adding a penny to the gas tax for mass transit, a proposal that would raise $1 billion over 5 years? Secretary Brinegar could not speak directly to the question but said that President Nixon "has spoken in broad terms about not wishing to raise any taxes in the years that are ahead of us." [*Federal-Aid Highway Act of 1973, S. 502*, p. 109-110]

Senator Buckley, in his second round of questions, asked if the Department was studying the post-Interstate period "when the primary national interest in the highway construction is at an end"? One idea was to turn the major responsibility for highways over to the States. Secretary Brinegar explained that the 1972 Report to Congress on National Highway Needs covered the period of the 1970s. The 1974 report would cover the 1980s. "It is far too early, however, to draw any conclusions, but certainly we would not rule out studies of the feasibility of reducing the Federal role substantially and placing greater control in the States and communities."

The Senator also asked if the delegation of final NEPA authority to the Modal Administrators had been cleared with the Council on Environmental Quality. The Secretary replied in bureaucratic terms:

> Sir, there again, the use of the word final is not proper. What we are striving for is to have the work done in the agencies. We feel they must work with the concepts in the organizational structure that is down the line. Final authority has not been delegated. I have a staff process to make sure that we are involved. We are discussing it with the Council on

> Environmental Quality, and we will proceed properly, I assure you. [*Federal-Aid Highway Act of 1973, S. 502*, p. 110-111]

Senator Domenici, in his second round, wanted to make clear that although New Mexico was a rural State, he fully supported mass transportation. However, with roadway needs so great, he questioned the idea that diverting highway funds "could really have an impact on that [mass transit] need when we see systems that are costing five, six, eight, 10 times the original estimates in their experimental stages." Secretary Brinegar thought the issue came down to two questions:

> First, are we able to forecast the cost of the system when we start—and that is an issue I will address myself to as an administrator—and, second, how do you establish, allocate priorities?

He would do his best to address both points over time.

Finally, Senator Domenici emphasized that he wanted to be sure that rural States received their fair share of the roadway dollar. Could Secretary Brinegar confirm that "a State like ours with no desire to have a mass transportation operation in it would not get less than it would have otherwise received?" The Secretary replied, "Yes, sir." [*Federal-Aid Highway Act of 1973, S. 502*, p. 111-112]

Senator Scott asked the Secretary's view on retaining all highway tax revenue for highways until the Interstate System was completed before considering diversion. "It just seems, Mr. Secretary . . . that if you are using all of the money for one purpose and then you start using it for two purposes, that the consequence will be delay." The Secretary said he did not see the split as involving two purposes. With 80 percent of the Interstate System open, and most of the remaining mileage in urban areas, the use of Highway Trust Fund revenue for mass transit "is just a matter of adding another step to help the cities solve the problems."

After again discussing I-66, which then ended at the Capital Beltway and was his commuter route into the city, Senator Scott asked about the suggestion that highway funds bypass the State highway agency and go directly to urban areas. The Secretary acknowledged that areas over 400,000 population, including two in Virginia, would have the option of receiving the funds directly on a pass-through basis. He also acknowledged that Highway Trust Fund revenues could be used for mass transit at local option. The Senator made his position clear:

> Let me say unequivocally, I will vote against any measure that takes any money out of the highway trust fund for any purpose other than highways until the Interstate System is completed, so you have one obstinate member of this committee. [*Federal-Aid Highway Act of 1973, S. 502*, p. 112-114]

Senator Randolph emphasized the importance of citizen involvement in highway planning at an early stage. He had tried to provide needed legislation, but wanted to know if the Secretary could direct FHWA to more fully implement the statutory requirements. "I do not want to use the word 'subvert' lightly, but I think this has been happening."

The Secretary had not yet considered this issue, but promised to submit a response in writing. His written statement indicated that additional legislation was not needed. FHWA had been working aggressively in this area through policy requirements and research. One policy, which had been implemented in September 1972, directed the State highway agencies to develop environmental Action Plans for identification of social, economic, and environmental effects; consideration of alternative courses of action; involvement of other agencies and the public; and use of a systematic, interdisciplinary approach. The plans had to include early citizen participation in the highway development process. Details were left to the States, which could exercise considerable freedom based on their unique needs and condition. [*Federal-Aid Highway Act of 1973, S. 502*, p. 114-119; *America's Highways 1776-1976*, FHWA, 1976, p. 375]

Senator Muskie used his next question period to ask several quick questions. Did the Secretary support the revised Cooper-Muskie amendment, now called the Muskie-Baker amendment? "We are looking at it." Did the Secretary believe a formula should be developed to limit State highway department discretion in urban areas? The Secretary supported pass-through of Federal-aid urban system funds for urban areas with populations of 400,000 or more. Did the Department have a view on S. 739, which allowed the Secretary to use up to 10 percent of the Highway Trust Fund for emergency plans in areas such as Los Angeles that could not meet air quality standards? The Secretary was not ready to offer a position.

What was the Department's position on substituting the Governor for the State highway department as the primary policymaking authority for highway programs? The Secretary submitted a written response that substituting the Governor "would cause serious difficulties in States where transportation policy-making authority is vested in the State legislatures." In other States where the highway agency is responsible to the executive branch, "an amendment along these lines has no major impact." The department would not support such a change.

Senator Muskie wanted to respond to the argument that the provision might discriminate against rural areas and States:

> I would like to point out that 51 percent of all trust fund revenues come from urban areas, and for regular Federal aid routes other than Interstate, urban areas receive $475 million, while rural areas receive $950 million. So the argument of discrimination ought to be in the perspective of those facts. [*Federal-Aid Highway Act of 1973, S. 502*, p. 119-120]

Senator Bentsen asked how the Secretary arrived at the figure of 400,000 as the cut-off for pass-through to urban areas. Secretary Brinegar said "we looked at the list of cities that might be affected, and in looking for a proper breaking point for the various urban areas, 400,000 seemed to give us the 55 major areas we thought should be included." He was open to considering different views. "We don't have the final answer." [*Federal-Aid Highway Act of 1973, S. 502*, p. 123]

The Secretary's Busy Day: P.M.

That afternoon, Secretary Brinegar appeared before the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs to discuss the proposed

Emergency Commuter Relief Act, S. 386. Senator Williams had introduced the measure on January 16 to provide for Federal-aid to defray operating expenses of mass transit systems. At the start of the hearing on February 6, Senator Williams said:

> This would be a program of grants on a two-thirds Federal, one-third matching basis, to State or local bodies to assist any mass transportation system maintaining service in an urban area, and to pay operating expenses incurred as a result of providing this service. Included within the terms of such assistance are grants for debt servicing for mass transit investments.
>
> The operation assistance provisions are geared to fulfilling three prime objectives: Maintenance of service to the public; stimulation of further ridership, especially in the commuter peak-hour category; and assistance to communities in meeting their overall development aims.

The bill authorized $800 million over the next 2 years, a figure based on the hearing record during the 92nd Congress. It also provided $3 billion in contract authority for the capital grant program under the Urban Mass Transportation Act of 1964 and increased the Federal share to 90 percent for capital assistance projects to provide parity with Interstate highway projects.

He stated that, "Today, we once again begin hearings—or rather rehearings—on the problems and prospects of mass transit," adding, "Like the Gospel, we don't expect the story to contain any surprises—its strength and power is in the retelling." Many witnesses would testify, but "even as we hear their testimony, we must face the grim fact that costs are going up, fares are increasing, and as a result, service is being curtailed and more and more transit riders are being forced to use private automobiles."

They had heard all the arguments against the measure in previous years. The delay in passing the 1972 bill had "the one great benefit . . . that the grim predictions once made to rebut such arguments have come to pass." More systems had failed and gone into public ownership while ridership declined as a result of deteriorating service. [*Emergency Commuter Relief Act*, Hearings on S. 386, Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing and Urban Affairs, United States Senate, 93rd Congress, 1st Session, February 6 and 7, 1973, Government Printing Office, 1973, p. 1-3]

Before beginning testimony, Senator Williams introduced statements on the bill. Senator Adlai Stevenson III (D-Il.), a cosponsor of the bill, pointed out that similar legislation had passed over the past 2 and a half years, "only to have its final passage founder." Events during this period had rendered the situation a true "emergency," and more appropriately a "crisis." He cited Chicago as an example:

> Chicago is under the threat of an order to be effected on February 18 raising Chicago Transit Authority fares to 50 cents—from 45 cents, already the highest average fare in the country—closing down 23 "L" stations altogether, eliminating 18 bus lines, and curtailing most evening and weekend service.

Chicago faced all the "attendant problems of pollution, relatively high energy consumption, congestion, too much concrete, and too little parking" that can lead to proposals such as the EPA's draft plan to ration gasoline in the Los Angeles area. "The time is now to save mass transit. In doing so we shall be saving our cities." [*Emergency Commuter Relief Act*, p. 10-11]

Senator Weicker's statement said that he had supported $800 million for subsidies in 1972, but had to exercise "some degree of caution" on S. 386 because he opposed "underwriting mediocrity, ad infinitum." Operating subsidies "must go hand-in-hand with programs that will renovate and improve our transportation systems." Opening up the Highway Trust Fund to transit, which he expected to happen in 1973, would not be sufficient to revitalize mass transit systems.

Further, "We have seen what happens when transportation decisions have not been made by living humans, but rather by a highway trust fund created in 1956." Since then, an "automatic pilot" had been turned on that allowed the "trust" concept to shape transportation policies. "Trust fund sounds so proper," he said, but "the fact is that with the creation of the trust fund, the Congress of the United States turned over its responsibilities in the area of transportation to private interests." He did not want the same pattern to apply to operating subsidies. Too often, cities examining mass transit "found a fatal downhill spiral of increasing fares, decreasing service, and diminishing ridership." He said:

> The only way we can break away from deficits is by making a sufficient investment in research and development and capital improvements. We cannot expect the American taxpayer to shell out money to cover deficits, ad infinitum. This runs directly in the face of good business practice or good Government practice.

He strongly supported the additional $3 billion to address capital needs:

> To have balanced transportation in America, we must have a balanced attack on the deficits that plague the mass transit sector of our transportation systems. The approach taken in the allocation of $3.8 billion in the proposal we are considering today represents a most responsible and intelligent step in dealing with the mobility crisis in America. [*Emergency Commuter Relief Act*, p. 12-14]

Representative Koch appeared to discuss a bill he had cosponsored, H.R. 2734, with Representative Fernand J. St. Germain (D, RI) to accomplish the same purposes as S. 386. After discussing the provisions of H.R. 2734, he said, "Outside help must be forthcoming if public transit is to be properly utilized." He cited the new element of compliance with the Clean Air Amendments of 1970. New York State's Department of Environmental Conservation had developed an air quality implementation plan that called for transportation control strategies involving fundamental changes in New York City's transportation patterns, including restriction of vehicles during peak hours. The plan was geared to the 1977 deadline permitted by an EPA extension, but a recent decision by the Third District Court in Washington reversed the extension, "putting the city under even greater pressure than originally anticipated."

He said he'd been before this committee, at this same desk, for 4 years, and hoped something would be different this time. Given all the support for mass transit, "it is hard to understand why . . . we haven't had more success." [*Emergency Commuter Relief Act*, p. 14-16]

At 2 p.m. on February 7, Secretary Brinegar appeared before the committee accompanied by UMTA Administrator Frank Herringer and the Department's General Counsel, John W. Barnum. Although the Department had not yet completed its bill, the Secretary was prepared to offer his views on S. 386.

Regarding subsidies, the Secretary understood the plight of urban mass transportation. "Yet, I cannot believe that the approach proposed in S. 386 is the proper one." Although every system was losing money, just five of the systems were responsible for 70 percent of the losses or $500 million (New York, Boston, Chicago, Philadelphia, and Los Angeles). New York City, for example, reported a deficit in 1968 of $77 million, but the shortfall had increased to $179 million in 1972. "Simply offering to divide up $400 million a year amongst the Nation's transit systems certainly will not arrest rapidly increasing deficits such as these."

Federal operating subsidies would offer the "easy way out," he said, "and passing the higher costs and inefficiencies upward to the Federal level is to invite an accelerating subsidy program." Subsidies would offer an excuse for system operators and their political partners to avoid addressing fares, routes, personnel, and wages that "can only properly be dealt with at the local level where the real knowledge and responsibility exists, and where ultimately the tough decisions have to be made." The Secretary stated that "it is by no means clear that either the causes or the solutions are simple enough to be addressed by such a subsidy grant program as here proposed."

Finally, with over 1,000 transit systems in the United States, and at least 300 serving metropolitan areas of 50,000 and over, at least 500 would qualify for subsidy under S. 386. Properly judging needs and distributing the funds "would be most serious not to say costly, and time-consuming." He cited labor costs:

> Some systems, for example, have labor costs that are 60 percent of revenues while others are 80 percent. Should we insist that labor costs—or even particular labor rates—go down in the high ones or revenues up, or a little of both, or what?

He did not want to be so negative, but "this problem, like many in our country, cannot be best handled by yet another Federal grant program."

He did support the provisions of S. 386 that increased capital grants funding and the flexible use of Federal-aid urban system funds. However, he opposed the provision to increase the Federal share from 66¼ to a mandatory 90 percent for capital grant projects. "We do favor shifting the maximum percentage to 70, to provide a level that makes it equal with highway funds, other than Interstate, and with the proposed flexible funds from the highway trust fund." [*Emergency Commuter Relief Act*, p. 49-53]

Senator Williams detected what he considered an inconsistency. The Secretary acknowledged in questioning that the Nixon Administration's proposal for Special Revenue Sharing for Transportation would have allowed the use of funding for operating subsidies. To be consistent, the Senator said, the Secretary should support the use of Federal-aid urban system funds for the same purpose. The Secretary disagreed:

> When you have highways in the cities—and they do impact on transit systems in terms of capital construction—we feel that the money in the highway trust fund can legitimately be brought over and used to extend or modernize the transit systems that are intimately connected with the highway system. But to try to embrace within those concepts the operating deficit problem, we feel would overwhelm this program. [*Emergency Commuter Relief Act*, p. 54]

Senator Robert Taft, Jr. (R-Oh.) asked if S. 386 should be amended to include an allocation formula for the operating subsidies. Secretary Brinegar could not state a position since he opposed the operating subsidies. In that case, Senator Taft asked, would the Secretary's position be different if the legislation required transit systems to submit comprehensive mass transportation service improvement plans in return for help with operating expenses. The Secretary said, "I would have trouble embracing that, because, as I indicated, I think the proper long-term solutions are going to have to come from allocations at the local level." [*Emergency Commuter Relief Act*, p. 56]

(Secretary Brinegar's comments about the departmental changes did not entirely satisfy the environmental community. An editorial in *The Washington Post* expressed concern about abolition of the post of Assistant Secretary for Environment and Urban Systems noting that Hirten had "performed valiantly" under Secretary Volpe. The *Post* also expressed concern about shifting environmental approvals to FHWA and the other agencies that funded the projects.

(Concerns about these moves "were not relieved" by Secretary Brinegar's explanation of them. However, DOT "loyalists" assured observers that, as the *Post* put it, "there is nothing sinister afoot at all." The Secretary had simply needed to free an Assistant Secretary slot for congressional and intergovernmental affairs. Environmental affairs was chosen because, the editorial summarized, "the old-line transportation agencies have become so infused with an environmental conscience, and so tied to detailed review procedures, that a separate review office has become superfluous."

(The *Post* was willing to take a wait-and-see approach, but "this is no time to back off from close review of specific projects, or from the broad assessment of alternate strategies." ["Switching Tracks at DOT," *The Washington Post*, February 17, 1973])

Carmack Cochran, speaking on behalf of the American Transit Association, addressed some of the points Secretary Brinegar had raised. Cochran said that since the idea of operating subsidies had first come up in 1970, two major points against it had been cited. "First, critics say it won't work [and that] it will not prevent the decline of transit." He cited the exclusive bus lanes on the Shirley Highway and cities where subsidies "have been instituted, and as a result, fares and deficits have stabilized and riders increased" (Denver, Colorado; Erie and Reading, Pennsylvania; Louisville, Kentucky; Madison, Wisconsin; Oakland, California; and Tulsa, Oklahoma). He said:

> The important point is that an operating subsidy is not a stopgap measure to prop up financial deficits. It is not a case of pouring funds down a rathole. It can indeed breed incentives, improve service, lower fares, and reduce the number of automobiles congesting our streets and polluting the air. The key is the infusion of operating funds.

The second argument against operating subsidies was that “revenue sharing will enable local officials to take care of the problem.” Carmack explained that in a survey of 1,000 transit systems, the association found that only 5 cities used General Revenue Sharing for transit operations (Detroit, Little Rock, Terre Haute, New York, and Wichita). One reason for this lack of usage was “that only 25 percent of all the publicly owned transit systems are within city departments supported by funds from the regular city budget, and are thereby the beneficiaries of general revenue-sharing payments.” The remaining systems are “independent public authorities supported from their own sources of income.”

On behalf of the American Transit Association, Cochran urged Congress to “act swiftly and decisively to enact transit assistance legislation” as its “No. 1 priority.” [*Emergency Commuter Relief Act*, p. 65-68]

Familiar Voices

Many of the organizations that had testified on the Federal-Aid Highway Act of 1972 testified again in 1973. Because of the large number of witnesses, Senator Bentsen limited the witnesses to 15 minutes, although witnesses could submit written testimony of any length.

ARBA’s Daniel J. Hanson testified on February 7, accompanied by J. L. Cone, Jr., of ARBA’s Contractors Division, Eugene M. Johnson of The Asphalt Institute, and Ray W. Burgess, ARBA’s senior vice president and Director of Public Works for Baton Rouge, Louisiana. Hanson based his statement on policy positions ARBA’s executive committee had approved on January 22, 1973.

ARBA supported completion of the Interstate System at the earliest possible date. To accomplish this goal, Burgess read the policy position calling for $4 billion a year, not the reduced amount of $3.25 billion a year in S. 502:

> The program has been stretched out too long already. This stretch out has cost a great deal of money, transportation efficiency has suffered, and needless human lives have been lost.

With funding delayed, ARBA recommended extending the deadlines included in the Federal-Aid Highway Act of 1970 for deletion of Interstate segments that did not have a schedule for expenditures (from 1973 to 1975) and for which PS&E had not been approved (from 1975 to 1978). “Under the unfortunately adverse circumstances we have been confronted with in recent years, additional time is needed, and we believe this additional time will afford the States time to get these projects in line.”

ARBA, which also backed a strong Federal-State partnership for the Federal-aid highway program, opposed the pass-through provision:

> The difficulties of establishing "suitably equipped and organized" metropolitan transportation agencies are immense. If we are to maintain the same level of professional competence which the program now enjoys, "pass through" will require greatly increased staffing in both local and Federal highway agencies. In our opinion, the potential benefits are simply not worth the additional staffing requirements and other necessary added on functions.

Burgess added that while flexibility has much merit, "too much flexibility may result in completely losing the identity of the long and well established Federal aid highway program." The pass-through bypassing the State highway agencies "would greatly complicate the overall administration of the highway program without any significant offsetting benefits."

Hanson also expressed concerns about S. 502's "alternative highway procedures." Under certification acceptance, FHWA waived the requirement to obtain Federal clearances at each stage of project development, with final acceptance based on an inspection of the finished project. S. 502 proposed that FHWA would certify that the highway agency would meet all Federal requirements. ARBA was concerned that FHWA would have to establish "elaborate machinery" to review each agency's operations. "While the objectives are desirable, in our opinion, a more evolutionary approach is needed." Burgess added, "There is a real possibility that this effort to avoid redtape would actually impose an additional burden of redtape."

In support of highway-oriented public transportation, ARBA recommended that highway funds be made available for road projects that "will enable bus transit to reach its full potential with respect to speed and convenience . . . ." In particular, ARBA wanted to remove the restrictions in 23 U.S.C. 142(d) and (e) on the use of Federal-aid highway funds for fringe or transportation corridor parking facilities. Johnson explained:

> At the present time, the restrictions referred to above make it quite difficult to establish project eligibility for transit-related highway improvements. We believe it should be made as easy as possible for highway departments to use highway funds for physical improvements in support of bus transportation.

ARBA did not support the use of highway funds to acquire buses, but did support creation of an urban public transportation trust fund.

In view of the long lead time needed for highway projects, ARBA opposed impoundment of Federal-aid highway funds:

> In 1956, Congress said that in effect, you can not have it both ways. If you want the advantages of financing a program from a special fund, you will have to suffer the disadvantages of working within the capability of that fund.
>
> The response of the Executive Branch, as expressed through the current impoundment policy, has been somewhat different. The Administration feels that the program must suffer the disadvantage of special funds without enjoying any of the advantages. The taxes are

> levied, theoretically at least, at levels intended to sustain the highway program authorized by Congress. However, the level of active obligations has been substantially below that level in recent years.

ARBA did not want to abandon the Highway Trust Fund. "It must be said, however, that the Highway Trust Fund, as it has been administered for the past several years, places an inequitable tax burden on the highway user."

During the brief question period, Senator Bentsen explained that "the problem we face is one of continued inflation in this country . . . and that is the present reason for substantially reducing the levels of authorizations" for the Interstate System. He asked Burgess if he believed the urgency of Interstate needs overrides the need to control inflation. "Absolutely," Burgess replied, citing the safety benefit. He also doubted that increasing Interstate authorizations would cause inflation.

The Senator commented that Johnson had discussed support for an urban public transportation trust fund but had not indicated how it would be financed. Would ARBA support a 1-cent increase in gasoline taxes for this purpose? Johnson replied that ARBA had not taken a position on this idea, but he did not think the organization would be supportive. Then, Senator Bentsen asked, what should be the source of revenue? Johnson could offer only his personal opinion that the trust fund should equal whatever percentage of general Treasury revenue was being authorized for UMTA's programs.

Senator Bentsen also asked Johnson why ARBA supported highway-oriented public transportation but not the use of Federal-aid highway funds to purchase buses. Johnson replied:

> I feel that the highway trust fund is for highway construction, and all of the appurtenances of the highway itself, rather than the vehicle that is driven. [*Federal-Aid Highway Act of 1973, S. 502*, p. 133-158]

L. P. Gilvin appeared before the subcommittee on behalf of the AGC. In introductory comments he stated that AGC could not support diversion of Highway Trust Fund revenue to mass transit, which he described as "meaning generally rail lines in a handful of our largest cities." Congress should look into mass transit needs as it did before initiating the Interstate System. He suggested establishing a Mass Transit Trust Fund as "the best possible way to provide funds" for that purpose.

AGC's statement explained that in 1956, a "solemn commitment" was made with highway users that revenue for the Highway Trust Fund would be used only for highways. In seeking funds for mass transit, some advocates stated that the Highway Trust Fund now had a "surplus" that could be diverted, but this was a false statement. The idea that highways and mass transit needs could be met from the Highway Trust Fund "is ill advised, to say the least." AGC recommended a separate Mass Transit Trust Fund, stating only that the source of revenue should be other than the existing highway and airport trust funds.

The pass-through of highway funds to urbanized areas "would destroy the current Federal-state relationship " by allowing local officials to choose options that "would negate the planning and coordination of the State Highway Department or State Department of Transportation." AGC's statement continued:

> Another disruptive feature of the "pass-through" is that it would be likely to allow politics to play a large part in determining how the funds are used. We feel that allowing politics to become involved would be detrimental to the highway program, mass transit projects, and the nation.

In brief questioning, Senator Bentsen asked about a possible source of funds for mass transit. Gilvin could suggest only that a Department of Housing and Urban Development program provided funds that communities could use for buses. [*Federal-Aid Highway Act of 1973, S. 502*, p. 158-181]

The Sierra Club followed the AGC to the witness table. Brock Evans, the organization's Washington representative, and Dr. Robert Burco, an international transportation consultant from San Francisco, presented the organization's views on S. 502.

Although S. 502 had some good features, such as its provision for bicycle pathways, Evans said that the Sierra Club had concluded "that the general thrust of the highway legislation seems to be quite destructive of many features of the American environment." It reflected the "same philosophy that we have lived with for so long now, a philosophy that seems to concern itself primarily with moving vehicles as opposed to moving people." The time has come "to look for truly meaningful solutions."

The Sierra Club was particularly disappointed that the section of S. 502 on public mass transportation excluded rail transportation:

> Buses will not do the required job, and neither will traffic control devices; these are just a part of what is necessary.
>
> And while rail transportation may not be a panacea for our transportation ills, it too is certainly a part of any meaningful and truly balanced transportation system.

The Sierra Club was strongly committed to Senator Muskie's amendment and urged the subcommittee to "reconsider this and include rail systems at least as a part of the local option." The club also opposed provisions that had the effect of "further encroachment upon the dwindling scenic and natural resources of the Nation." Evans cited the provision authorizing funds for roads in "remote back country areas of our national forest system." Most of the funding would be used for roads primarily to encourage timber sales.

He objected to the provision of S. 502 that terminated the Federal role in the North Expressway in San Antonio. The club opposed it "not only because it means the destruction of a beautiful park, but also because of the serious precedent which it establishes."

In addition, the Sierra Club opposed the priority primary system, which would have "the probable result of a great deal more adverse environmental impact than if the roads remain as they are now." Evans said the Sierra Club would oppose the "Alternative Federal-Aid Highway Procedures" provision because it would have "the effect of removing the Federal watchdog role of environmental protection . . . by giving, in effect, a green light to State highway departments to proceed with destructive highways without a Federal overview." [*Federal-Aid Highway Act of 1973, S. 502*, p. 182-184]

Dr. Burco explained that the environmental side effects of motorization should be considered when setting urban and national transportation policies. The problems caused by the automobile extended "far beyond the narrow concerns of personal mobility," as the EPA plan for the Los Angeles area illustrated. "Either the law must give, or a way of life must change so drastically that few can comprehend how it could come about." He continued:

> The very same traffic restrictions that may be called for in achieving air quality goals may be those needed . . . a few years later when shortages of petroleum energy may impose restrictions on gasoline availability for much discretionary travel, or at least send pump prices of gasoline soaring to the point where auto-dependent cities make little economic sense.

In S. 502, he did not see "a concern for these environmental externalities," but rather "an attack on even those environmental protections that have been hard won in the Congress and in the courts for park land preservation and Federal environmental impact review."

Much can be done "to break out of the destructive circle of deteriorating environmental quality, citizen protest, blocked urban highway projects and further deterioration of both existing mobility and confidence in Government." Dr. Burco cited Governor Sargent's freeway moratorium as an example of how citizen-initiated issues can lead to "a plan for the future substantially different from the expectations of only a few years ago." That type of review was the responsibility of the Federal Government, he said, not just the States and urban regions.

In particular, States and regions should be able to "choose freely the transportation course best suited to them," as he explained:

> This means not just a local option of where to put an interstate freeway or a network of expressways, but a local option of choice to invest heavily in traffic controls, rail transit if they desire, and greatly expanded local bus services, as an alternative to more urban highway investment.

He recommended opening up the Highway Trust Fund "to a substantial commitment of resources to urban public transportation, including rail systems where locally desired." Expenditures for the urban Interstates should be reduced, with many of the contested urban segments, such as the Century Freeway in Los Angeles, dropped. This move would free up resources for urban transit "now, and not on some distant day" when the consequences of urban motorization would be too severe for remedy.

He favored the creation of regional transportation commissions and said that a pass-through of funds would put the modes on a more balanced footing. Balance can more readily be obtained by an organization with "the governmental capability for resolution of problems close to these problems, rather than in a sometimes distant State capital." [*Federal-Aid Highway Act of 1973, S. 502*, p. 184-189]

As with the other witnesses, Senator Bentsen asked if Dr. Burco had a recommendation on how to fund mass transportation, such as a 1-cent increase in the Federal tax on gasoline. Dr. Burco thought such a tax might be useful, but believed that additional study of transit needs was essential. He also thought that reducing investment in highway operations in urban areas would free funds for other priorities. [*Federal-Aid Highway Act of 1973, S. 502*, p. 184-189, 192]

The National Wildlife Federation's counsel, Robert M. Kennan, Jr., testified next, stating that his organization "supports the practicable funding for all modes of urban transportation, not only highways and expressways, but also rail rapid transit, from the highway trust fund." The organization opposed the priority primary system as well as the exemption of the North Expressway from Federal involvement.

Kennan also was concerned about developments within the Department of Transportation, particularly elimination of the Office of Environment and Urban Systems and delegation of NEPA review authority to the Modal Administrations. An independent review, particularly of projects under the Federal-aid highway program, was essential to ensure consideration of alternatives, including alternative modes. Further, when the Department was created, the Secretary retained authority under Section 4(f) "to establish a mechanism by which the new Office of the Secretary of Transportation could exercise control over the very independent Federal Highway Administration." Retaining that oversight was vital:

> We have had too much experience with the Federal Highway Administration over the past 5 to 10 years, to be very sanguine about that Agency's dedication to the principles of section 4(f) and the principles of the National Environmental Policy Act.
>
> We do not feel at all comfortable about this new delegation of responsibility.

His formal statement discussed the federation's views in greater detail. It outlined the problem:

> The federal-aid highway program is this nation's largest and most expensive continuing public works project. It provides the means for consummating America's love affair with the automobile. Its offspring include mobility, more diverse productivity, energy depletion, pollution, injury and death . . . .
>
> In urban areas, the highway problem is much more acute. Air and noise pollution from motor vehicle traffic frequently rise to levels that endanger public health. Precious space is taken for parking that could be devoted to more productive uses. New highways disrupt neighborhoods and destroy community cohesion. Finally, highways tend to dominate the fabric and character of our cities.

The statement called the exemption of the North Expressway "a shameful precedent" and expressed relief that S. 502, unlike previous legislation and the House bill in 1972, did not contain any "ill-conceived provisions that would have confounded the confusion resulting from the Congress' first foray into the District [of Columbia] highway matters in 1968."

When Kennan completed his statement, Senator Bentsen asked if he could recommend a source of funding for mass transit, such as the 1-cent gas tax proposal. The Sierra Club had not taken a position on the matter, but speaking for himself, Kennan thought the 1-cent proposal was possible, but added that Highway Trust Fund revenues should be available as well. The Senator asked if Kennan thought the Highway Trust Fund could meet highway and transit needs. Kennan replied:

> Within our large urban areas, the completion of the Interstate System is not a high-priority item. In many cases, the interstate segments that are proposed have been inadequately planned, and mass transit facilities might well replace them.
>
> The highway trust fund, I think, is probably an inadequate level of funds. Perhaps some additional funds from the general funds are needed if we are talking about meeting the basic needs of mass transit.

Senator Scott wondered why the National Wildlife Federation was interested in highways. Kennan explained that "some of the most important continuing problems that we have with protection of the environment of this country are created by highway construction, operation and maintenance." Because Kennan's formal statement commented on the freeway controversy in the Washington area, Senator Scott asked, "What wildlife do we have within the Washington metropolitan area?" Kennan replied that wildlife was not the organization's only interest. "Our concern is with the quality of people's lives." Was he concerned, the Senator wanted to know, about people going back and forth to work from the suburbs? Kennan suggested that one way to help them would be to increase carpooling. When the Senator asked if Congress should mandate carpooling, Kennan stated that while it should not be mandatory, "it is an important component of strategies of local communities . . . to reduce highway congestion during rush hours."

Senator Domenici asked if Kennan agreed that roadways made it possible for people to enjoy America's scenic beauty and its wildlife. Yes, Kennan answered, but too many automobiles were making those places harder to enjoy because of overcrowding. He cited the north rim of the Grand Canyon as an example.

In addition, Senator Domenici wanted to clarify the National Wildlife Federation's views on completion of the Interstate System. Kennan said that organization was mainly concerned about the urban segments. "The Interstate System can be completed without completing many of these very controversial and many very expensive short segments of highways in the urban areas." By contrast, he agreed that Florida needed an Interstate to connect Tampa and Miami. "The concern of the National Wildlife Federation with that particular road is not whether the road is needed, that is quite clear. The question is where it is to be located." [*Federal-Aid Highway Act of 1973, S. 502*, p. 192-200]

The final witness on February 7 was the president of the National Association of Regional Councils (NARC), a member of the County Council of Prince Georges County, Maryland, and chairman of the National Capital Area Quality Planning Committee. Francis B. "Frank" Francois called S. 502 "a good bill" that contained several improvements over present law, "such as giving local decisionmakers a larger role in determining transportation needs and priorities." On behalf of NARC, Francois wanted to suggest several changes to make the program even more responsive to local and regional needs.

NARC, he said, strongly supported the pass-through provision for Federal-aid urban system funds because "local governments acting in concert are the best decisionmakers . . . ." He applauded the provision allowing the use of Federal-aid highway funds for public transportation systems and vehicles, but urged Congress to allow Highway Trust Fund revenues to be used for rail transit as well. The importance of this change had been brought home in recent months because "approximately 70 metropolitan areas have an automobile related air pollution problem that requires the development of a transportation control strategy to reduce pollution to acceptable levels required under the Clear [sic] Air Act of 1970."

For the Washington area, "substantial changes in travel modes" would be needed to meet national air quality standards by 1975. At least $130 million would be needed for buses alone, in addition to the commitments already made to construction of the Metro rail system. Rail was, Francois said, essential in Washington and elsewhere:

> Without this discretion, we are convinced that it will be difficult if not impossible for urban areas to solve their transportation problems, and at the same time meet the necessary air pollution standards imposed under Federal law.

He recommended revising S. 502 to enable general purpose local governments to "effectively participate in the allocation of urban system funds." The metropolitan transportation agency should consist of elected officials from general purpose local governments because that would involve "the real regional decisionmakers" in the process. The bill also should prohibit creation of more than one metropolitan transportation agency in a multi-State urbanized area. To ensure equitable voting procedures within the agency, S. 502 should provide for "a proportionate voting system or in the alternate, a procedure providing that local governments representing 75 percent of the area approve decisions" on the use of urban system funds.

NARC also supported the provision allowing transfer of Interstate locations in urban areas, with reallocation of these routes on a dollar-for-dollar basis.

In addition, NARC agreed with the $1 billion authorization for the rural Federal-aid primary and secondary systems, but recommended requiring the State highway agencies to work with rural regional councils in a joint decisionmaking process.

Francois said that NARC supported the alternative highway procedures, but only if S. 502 included "adequate safeguards to insure that the continuous transportation planning under section 134 is maintained and given weight in making decisions on urban projects."

In response to a question from Senator Scott about metropolitan area decisionmaking, Francois said he did not think the metropolitan transportation agencies should be involved in decisions on rural Interstate segments, but when the Interstate becomes a commuter road in an urban area, "I think that is a local problem for local jurisdiction."

Senator Domenici wanted to clarify the role of the metropolitan transportation agency. Was Francois suggesting that Congress give governmental functions to councils of government? Francois replied:

> From the standpoint that they are becoming operating agencies, no.
>
> From the standpoint they are becoming planning and decisionmaking agencies, yes. I think somebody has to make the regional decisions, and I think the locally elected officials operating through their regional councils are best able to do it.
>
> Once made, those decisions, they are up to the governmental units themselves involved.

Why, Senator Domenici asked, do "we need councils of Government making final decisions . . . instead of the States?" Francois acknowledged that this question "is very real right now in State after State." About 100 years ago, he said, many rural-dominated States gave away their responsibilities to local governments. Today, those States "are trying to regain some of these powers." The decisions, though, should be made at "the level closest to the people affected." Many issues cut across jurisdictional lines and in those cases, either the State must decide or the local governments must come together in regional councils to make the decisions. [*Federal-Aid Highway Act of 1973, S. 502*, p. 218-226]

(Francois, a patent attorney, served in a local capacity until 1980 when he became executive director of the American Association of State Highway and Transportation Officials. He held the post until he retired in 1999.)

Watergate Committee

Elsewhere on February 7, 1973, the Senate's discussion on how to approach the Watergate controversy came to a head.

Senate Majority Leader Mansfield had been disturbed by the early allegations in the Watergate affair and decided that the Senate would investigate them. The Senate Judiciary Committee was the proper venue for investigation, but its chairman, Senator James O. Eastland (D-Ms.), was personally loyal to President Nixon. Mansfield decided that Senator Ervin, chairman of the Subcommittee on Constitutional Rights, should lead the investigation.

Mansfield and Ervin drafted a resolution creating the Senate Select Committee on Presidential Campaign Activities. On February 5, Senator Kennedy had offered Senate Resolution 60 for consideration. Theodore White described the result:

> Angrily, futilely, plaintively, Republicans argued that any investigation of Presidential elections should look into the elections of 1964 and 1968 and the allegations of wire-tapping, fraud, eavesdropping that ran to Lyndon Johnson. Outnumbered, they saw their amendments voted down, and finally, on February 7th, they too joined in the language of the original resolution, voting by 77 to 0 for a Select Committee that would "conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged by any persons . . . in the presidential election of 1972 . . . ." Further, the Select Committee would have the power to subpoena any persons "who the select committee believes have knowledge or information" about such activities. And, finally, it should bring back recommendations for any new legislation "necessary . . . to safeguard the electoral process by which the President of the United States is chosen."

The Select Committee, which quickly became known as the Ervin Committee, would include four Democrats, including Ervin, and three Republicans. Senators Mansfield and Ervin had agreed that at least on the Democratic side, they did not want potential presidential candidates to be included because that would give the investigation a partisan tone. They selected Senators Daniel K. Inouye (Hawaii), Joseph M. Montoya (New Mexico), and Herman E. Talmadge (Georgia). Minority Leader Baker included himself as well as Senators Edward J. Gurney (Florida) and Weicker. [White, p. 230-231]

Reeves quoted President Nixon's comment, captured on the Nixon Tapes, following approval of the resolution:

> "I don't see how the Senate can destroy us," Nixon said that day. "The problem with all this is that it is going to be a television story. But, on the other side of the coin, it may wear out the story after a certain length of time."

Haldeman agreed. It would, he thought, turn out to be the same old thing over and over. "I just can't imagine that the people really get very interested." [Reeves, p. 570)

The Kennedy-Weicker Bill, S. 679

Senators Kennedy and Weicker were the lead witnesses on February 8. They presented S. 679, the Highways and Related Transportation Systems Improvement Act of 1973, before the subcommittee with opening statements that recycled their comments from when they introduced the bill. Senator Weicker left off his ending about cooking a frog and instead concluded by comparing the effort to divert funds from the Highway Trust Fund to a wreck on the highway that backs up traffic for miles in State after State:

> So when New York choked on its automobiles it was not long before New Jersey and Connecticut ground to a halt and then Massachusetts and then Delaware and then Maryland and then . . . . Let's clear this highway trust fund off the highway and get America moving again. [*Federal-Aid Highway Act of 1973, S. 502*, p. 231-258 (Kennedy), 258-268 (Weicker)]

Senator Bentsen began the questioning by saying he agreed that the mutual objective was "to move the people effectively and efficiently." Considering the enormity of the task, the question was whether the Highway Trust Fund by itself was sufficient to meet highway and mass transit needs. He then asked his standard question about an alternative source of revenue, including a 1-cent gas tax increase earmarked for mass transit.

Senator Kennedy agreed that the additional revenue would be helpful, especially for the mass transit system in Boston, but "I do not think we want to lose sight of one of the essential aspects of our proposal," namely giving Governors and metropolitan transportation agencies the flexibility to use non-Interstate funds to "provide for a balanced transportation system assuring safe movement of people, and protection of the environment as well." Senator Weicker agreed that while the additional penny for mass transit might be desirable, it would not address "the point we are trying to make."

If the Kennedy-Weicker bill passed in its entirety, Senator Bentsen asked, should funding continue from the general Treasury for mass transit. "Well, yes," Senator Weicker replied, "there is no question to that fact. Mass transit has been [starved] so long, you have some catching up to do . . . . It is a tragic situation, so you could not meet the needs of mass transit solely from the highway trust fund." Senator Kennedy illustrated this need by citing "over $4 billion worth of applications for mass transit funds, and less than a billion dollars in funding which is available."

Senator Stafford wanted to clarify the bill's plan for distributing funds. The bill requires a State to apportion 50 percent of the non-Interstate funds to metropolitan areas, but he wanted to know if the remaining 50 percent also could be spent in urbanized areas. Senator Weicker responded that their bill left the decision to the Governors and the metropolitan area transportation departments the bill encouraged the States to create. Senator Kennedy added that such a scenario was unlikely since the State legislature was unlikely to approve matching funds in such a case and the Secretary of Transportation retained a veto over the State's plans.

Senator Randolph began his question period by observing that he was "intimately acquainted" with the two Senators' viewpoint. "I am appreciative of their continuing interest, yet I am pleased also at their ineffectiveness to do what they have attempted." Senator Kennedy said that he and Senator Weicker would prefer to think of it as Senator Randolph's effectiveness, rather than their ineffectiveness.

Senator Randolph pointed out that Senator Weicker had been a member of the Committee on Public Works in the 92nd Congress, but left for a post on the Committee on Banking, Housing, and Urban Affairs in the 93rd. "I think it would have been valuable to us, Senator Weicker, had you actually been a member of the committee as we attempted to resolve our transportation problems." That comment was an opportunity for Senator Randolph to say he was upset by a reference in Senator Weicker's introductory statement to the February 6 broadcast of NBC's news magazine show, *First Tuesday*. Weicker had said:

> Slowly, Mr. Chairman, attitudes and people all across America on this issue are becoming more informed. In large part, this is the result of the very proceedings we are participating

> in today—which, in turn, have led to informative news coverage, such as the very fine network program of 2 days ago, on NBC's "First Tuesday," which displayed an informed, in depth, and most valuable contribution by commentator Paul Duke and producer Paul Jefferies.

Senator Randolph, referencing Weicker's favorable comment, said "well you might commend NBC, because they took good care of you." Senator Randolph would not presume to tell the news media "how particular stories should be covered," but he did have some observations on the program, specifically about how he was presented:

> It dealt with those individuals and groups that attempt to influence highway legislation before the Congress . . . . Specifically, the two brief occasions, I think it was 18 seconds, on which I was seen, gave a totally false impression of my position on the issues discussed.

Anyone watching the show, Senator Randolph said, would get the impression that he was "totally inflexible in regard to the use of highway trust fund revenues, and I believe there should be no deviation from past practices, when all of these funds were dedicated solely to highway construction." That was simply not the case, he said. He opposed the use of Highway Trust Fund revenue for rail transit, "but I do believe their use for certain other public transportation purposes are proper." He had given this view in an extensive interview for the program, but the program did not present his views accurately.

Similarly, Senators Kennedy and Weicker were wrong to assert that the Committee on Public Works "has not attempted to cope with the problems of mass transit." He pointed out that the Senate had approved the Urban Mass Transportation Act of 1970, and while the Kennedy-Weicker bill had been defeated in 1972 (by a vote of 60 to 18, he helpfully noted), virtually every member who voted against it had voted for the 1970 Act:

> That indicates that to try to line up sides in a matter of this kind, to speak in disparagement of what the highway program has done in an effort to raid a fund which was created by the Congress for the purpose of doing a specific job, I think, I suggest is the wrong approach.

He added that the Interstate System was not yet completed, many other highway needs existed, and the Administration was impounding funds to accomplish these works. He would "very eagerly and earnestly join" in helping to create a Mass Transit Trust Fund.

Next, Senator Randolph wanted to talk about a strike that was starting on this day. "These people you talked about that need to be moved, those millions of people, or hundreds of thousands of people, are not being moved." By contrast, the automobile did move, he said. "It is not affected by a strike."

(About 28,000 workers from the United Transportation Union had gone on strike against the PennCentral a minute after midnight, February 8, in a dispute over reductions in crew size. Commuters through the Northeast Corridor, from Washington to Boston, would be affected.

On February 9, Congress approved emergency legislation ending the Penn Central strike for 90 days. The legislation also required the Department of Transportation to preserve rail traffic in the Northeast. Workers returned to their duties before President Nixon was able to sign the bill, which had to be flown on commercial jet to the "Western White House" in San Clemente, California. [Jones, William H., "Pennsy Halted by Rail Strike," *The Washington Post*, February 8, 1973; Shabecoff, Philip, "Penn Central Operating Again; Nixon Signs Bill Halting Strike," *The New York Times*, February 10, 1972])

As this example illustrated, Senator Randolph said, "I am not a pessimist, but I feel that those who believe that the answer is rail transit are going to be very sorely mistaken." He said that BART was supposed to be the "showcase of this type of rail transit," but he introduced several articles on the theme that it been a disappointment:

- Harris, Michael, "Optimistic Glow Has Faded," *San Francisco Chronicle*, February 4, 1972 (". . . the cheery economic predictions from the BART management have not been borne out . . . . And when the full system goes into service, the financial problems may grow even worse.").
- Nolan, Dick, "BART's Empty Seats," *San Francisco Examiner*, December 17, 1972 ("BART, the crisis creature that devoured the tax rate, very likely has developed an insatiable appetite for red ink, and this is the biggest BART problem, not merely its operational troubles under automatic train control.").
- Nolan, Dick, "The Puffing of BART," *San Francisco Examiner*, December 17, 1972 ("No amount of gelatinous puffery put out by the BART propaganda mill has been too much to swallow.").

Senator Randolph summarized the articles:

> The article of December 17, 1972, discussed the downward revisions in traffic estimates, BART management has lowered this estimate, they say quietly, to 18,000 passengers per day, from the original estimate of 26,000 passengers per day. Well, the actual traffic is amounting to only 13,000 persons per day. The article says that that "ain't good." I do not want to use that kind of language, but the record so far is not very impressive, and I think perhaps there has been overselling.
>
> I hope that this will not be true in every instance. The article covers the costs and all of these matters that are of concern to you gentlemen who came today, advocating that we siphon off funds dedicated to highway development.

Senator Kennedy responded that he realized Senator Randolph's State of West Virginia needed more roads, "but just do not hold it against us in Massachusetts, in our being able to develop our own transportation system." Washington did not always know what is best for each local community, and he believed the Mayors and Governors should decide what is best. "They are saying, we cannot control the situation, because we have not got the authority or the responsibility." He added:

> Finally, let me say the trust fund has been cracked over the objection, the very articulate and able objection, of the Senator from West Virginia, with the acceptance last year by 48 to 26 of the Cooper-Muskie Amendment . . . . We know that there are very strong men that are arguing that we are trying to kill the Interstate System, but we are not. All we want is a balanced system.

Senators Randolph and Kennedy continued:

> Senator Randolph. Mr. Chairman [Bentsen] . . . I do not want him to accuse me of being parochial any more than I would accuse him of being parochial.
> Senator Kennedy. I want to be parochial. I want to be parochial for Massachusetts, and I want to see the people of that State decide how the funds out of the Interstate System should be spent. That is what I am here for. I welcome that label.
> Senator Randolph. I thought you took a broad view of the country, Senator.
> Senator Kennedy. That is why I supported the Interstate System. I think you can have both. That is what we tried to do, support the national concept of the Interstate System for its continuation, and also to permit the States themselves to be able to resolve their transportation needs. Hopefully, we can get the best of both worlds, I think we can.
> Senator Randolph. Then you support a trust fund for rail transit?
> Senator Kennedy. Well, we have to see how. We would have to see how that is developed. I think what we need is to develop a single transportation fund, rather than a proliferation of different trust funds. If we have a single transportation fund, within that concept there would be a continuation of financing of the Interstate System, but you would also be able from that to devise a formula to develop a balanced transportation system, including all modes of ground transportation and it could be done from a single fund.

Senator Weicker interjected his opposition to a Mass Transit Trust Fund. "The fact is if we indulge ourselves in what seem to be coming [sic] the national fad of the 1970's, we will end up putting all of our money in mass transit rather than in highways." Neither he nor Senator Kennedy wanted such an outcome, which is why they favored a single transportation trust fund.

Because of time problems, Senator Bentsen interrupted this testy exchange so he could call on Senator Domenici, who mentioned that he came from a rural State with only one metropolitan area "and it is barely that within the definition used in Congress." He indicated that highway needs existed in every State, but that "the need for mass transit in spite of your nationalizing it, is regional." He was concerned that their policy would lead to more people moving into metropolitan areas ("by making it more easy to get around") and that would lead to more of the social problems that were common in large cities.

Weicker responded that when he, a single term member of the House of Representatives, ran for the Senate in 1970, "the people upstate, they said, what does he know about our problems. All he knows is mass transportation. That is a problem peculiar to southwestern Connecticut" near New York City. He continued:

> Then, all of a sudden, a highway came through the suburbs of Hartford, and there was one highway too many. They say we do not want this highway and we have got to have an alternative.
>
> It was not mass transit that attracted people to Hartford. The people moved into that area, and all of a sudden, mass transit, the idea of a balanced mass transportation system, not relying on highways, is no longer an issue for southwestern Connecticut, but the whole State of Connecticut is now involved.

He concluded, that "all we tried to do in the bill is to allow, the option to determine how you are going to resolve your transportation problem in your community." The approach would work in Connecticut or New Mexico.

Senator Quentin N. Burdick (D-ND) wanted to know if the bill would reduce funding for States "of wide open spaces, a State of low population" that thrives on roads and cannot support mass transit systems. Senator Kennedy assured him that total funding would increase and that "I think North Dakota would actually come out ahead." But no State would get less than at present.

On a second round of questioning, Senator Bentsen asked about the appropriate size of an SMSA for purposes of handling pass-through funding. S. 502 called for a pass-through for areas of 250,000 population, while Secretary Brinegar recommended 400,000. Senator Kennedy said the Kennedy-Weicker bill set the minimum at 50,000 population, but he thought 250,000 would be satisfactory. In response to another question from Senator Bentsen, Senator Weicker explained that in States where SMSAs followed county lines and included some rural areas, the Governor would be responsible for designating a metropolitan transportation agency that left rural areas to the State.

This exchange concluded Senator Kennedy's and Senator Weicker's testimony. [*Federal-Aid Highway Act of 1973, S. 502*, p. 268-283]

Representative Glenn Anderson was the next witness. He lamented that by a vote of 200 to 168, the House of Representatives had rejected the Cooper-Muskie amendment in 1972. In 1973, he felt "that we will be successful in permitting a portion of the Trust Fund to be used for mass transit purposes." In Los Angeles, he said, he had seen the problems caused by highways and automobiles. "We have seen the strips of concrete rip out homes, and separate entire communities like the Great Wall of China." He had seen the pollution, the freeways that resembled parking lots during rush hour, the wasted fuel. Based on this experience, he was not trying to stop all highways or claim that mass transit was the sole answer:

> But, rather, I am here to urge this committee to permit flexibility in the use of highway trust funds . . . . We do not want to require someone to build a mass transit system—nor do we want to demand that a State construct a highway, if the elected officials do not want it.
>
> The point is, State and local officials should be permitted to select the modes of transportation that they feel are best suited to their particular situation, taking in the

> consideration of the needs of the people, the environmental considerations, and the demand for energy.

The freeways of Los Angeles, he said, had average speeds under 20 m.p.h. This experience indicated that "more and more freeways will not alleviate our transportation problems . . . [but] would only compound our problems, especially with the environment."

He said that he, and the people of the Los Angeles area, understood the rationale behind EPA's January 15 announcement of its plan to meet clean air standards. "But we cannot require a 82-percent cutback [sic] of automobile usage without providing an efficient and economical alternative." Public transportation was essential for the area "to allow people the freedom on which this country is based."

He discussed the use of existing rights-of-way for mass transportation and the provision of a more energy efficient transportation option. As for the Highway Trust Fund, he addressed the argument that the fund was a "trust" reserved for highway uses. He pointed out that "50 percent of the receipts of the trust fund were derived from taxes [in 1974] which were on the books long before the trust fund was created in 1956, and prior to that time, were used for general revenue purposes." Since 1956, he said, "the trust fund, presently, has been so changed to meet other needs that it is difficult to argue that mass transit is not highway related." He cited examples of how Highway Trust Fund revenue was being used for purposes other than highway construction:

> In 1962, Congress allowed trust fund moneys to be used to help relocate families who were forced to move by highway construction.
> In 1970, Congress permitted the use of trust fund moneys to construct ferryboats on the same basis as in the construction of highways.
> Two-thirds of the cost of the highway safety program is paid out of the Highway Trust Fund.
> The 1970 act also permits trust fund revenues to be used for exclusive busways, passenger loading facilities, and fringe parking to serve any type of public mass transportation.

As this list indicated, the Nation could use Highway Trust Fund revenues for ferryboats, but not to purchase or construct a bus or rail transit system:

> In short, the Highway Trust Fund was created to meet our transportation needs by taxing the people of the United States. I contend that a portion of that money for mass transit would certainly help meet that need by eliminating a part of the highway congestion, by reducing auto pollution, and by helping to alleviate our energy crisis.

Specifically, he endorsed the use of Federal-aid urban system funds for rail or bus mass transportation as well as highways. He also recommended the subcommittee amend S. 502 to permit the Secretary of Transportation to allocate up to 10 percent of Highway Trust Fund revenues for emergency mass transit programs in areas targeted by EPA to curtail automobile usage.

Senator Bentsen began the questioning by asking about the difference between the original cost estimate for BART and present estimates. Representative Anderson conceded that costs had increased. “However, to place this in perspective, the Interstate Highway System, approved by Congress at a cost of $27 billion in 1956, is now estimated to cost $68 billion to complete.” He expected BART would work out its problem, but “they will have to get some assistance.”

What about the charge that BART had been oversold and that many people who told pollsters they would ride the line never did so. Again, Representative Anderson conceded that ridership was lower than projected, in part he said because feeder lines had not been started.

The Senator asked his usual question about funding for a mass transit trust fund. Representative Anderson did not favor an increase in the gas tax at this time; his concern “with the financing of our present transportation problems is that it is not flexible.”

Recognizing that Representative Anderson was on the House Roads Subcommittee, Senator Bentsen pointed out that “you have not succeeded on three occasions, at the Rules Committee, Public Works Committee, or on the floor to get the Cooper-Muskie amendment passed.” What were the chances in 1973? Anderson pointed out that he had handled the amendment in the House:

> The Rules Committee, we lost that vote by an 8 to 7 vote. Three of the members who voted against us on that Rules Committee are not back in Congress this year. While we have examined the makeup of the new Rules Committee, we have not had a chance to determine whether it is still 8 to 7 again.

He said that “a number of Congressmen who did not support us last year” did support the amendment this year. “All we needed was a few turnarounds to pass the Muskie-Cooper amendment.”

Senator Stafford asked how many miles of urban rapid rail transit could be built for a billion dollars. Representative Anderson did not know, but he did recall what was said in 1972 about the $800 million in the bill:

> At that time, the Secretary of Transportation told us that he could not even spend that money at that time; that there was not enough equipment that could have been bought to have used it up.

Did Representative Anderson know how much a rail system for Los Angeles would cost? No, he did not but added that he thought “we should first use separate bus lanes, and probably bring rail into the picture at a later date.” He added regarding the Los Angeles area:

> I feel we would be better served with bus transit for the immediate future, although we do have some areas, where years ago we did have a rail system, with many of those rights-of-way still there, and still unused, and perhaps could be picked up, and we have some of the rail companies, the big railroad companies, that have lines we could utilize for some type of a rail system. [*Federal-Aid Highway Act of 1973, S. 502*, p. 284-290]

AAA, American Trucking Associations, and the Highway Action Coalition

When AAA's turn came to testify on February 8, J. B. Creal, executive vice president, said in his formal statement that AAA had testified at length in May 1972. To save time, he would comment on the questions raised by Senator Bentsen in inviting witnesses.

Although generally supportive of S. 502, AAA found two provisions unacceptable. The first was the use of Highway Trust Fund revenue to purchase buses. AAA was supportive of mass transit, but "with less than 50 percent of the revenue in sight to carry out needed highway improvements, it is essential that each program continue to be funded as now provided by existing laws." Local jurisdictions could purchase buses with UMTA and General Revenue Sharing funds:

> If the public transportation crisis is as urgent as we have been led to believe, high on the cities' list of priorities should be the purchase of transit buses. They now have the funds to place many new buses in service.

Under the Federal-Aid Highway Act of 1970, highway users already were "doing a great deal for transit," not only providing the roadway on which 75 percent of public transit patrons ride, but preferential bus lanes, construction of parking lots and loading areas and shelters for transit users:

> Now the proposal is that the highway user pay for the vehicle itself! Will the highway user next be asked to pick up the tab for all or part of the fare?

S. 502, he added, called on the motorists to pay for equestrian trails and walking and biking paths, national forest fire control facilities, municipal parking lot bonds, and aid for the construction of toll roads, among other things:

> We don't believe that the American public wants its highway user taxes used for purposes other than providing a first-class highway system.

In May 1972, AAA had cited its member poll showing that 80 percent of respondents favored using gas taxes only for highways. Recent polling by AAA member clubs produced similar results:

> AAA believes that it is time we get back to basics. The Highway Trust Fund was established to provide the federal share of the costs of building our Primary, Secondary, and Urban highways, not just the Interstate System. The Interstate System was designated as part of the Primary System and a high priority was established for its early completion. Despite this, a thirteen-year program has stretched out to seventeen years and is likely to extend a quarter of a century if we don't resist all of these efforts to change the original concept of the Trust Fund. . . . If [highway user taxes] are not to be used for such purposes, then why should the tax be continued?

The second objectionable feature of S. 502 was the provision allowing a State to shift Interstate routes without regard to existing mileage limitations:

> AAA recommends that we adhere to the original limited mileage and needs formula concepts. If a state indicates its intention not to build a route, or a segment of a designated route, then the cost of the System in that state should be reduced in an amount equal to the cost of the uncompleted segment, based on the latest available cost estimate. But, under Sec. 111(c) of S. 502, it is proposed that if the new route costs less to build than that originally planned, the difference in cost may then be added to the apportionment of the urbanized area from which the withdrawn route or portions thereof were located.

Local officials, he said, seem to think they were entitled to Interstate funds even if they did not intend to use them to build an Interstate highway. AAA preferred the existing concept:

> If a state decides not to build a segment of the agreed-upon system, then . . . the cost of the entire system is reduced and that state's proportionate share of the cost of completion of the system is reduced.

In other matters, AAA said the authorization of $3.25 billion for the Interstate System was too low and should be increased to the former level of $4 billion a year in the interest of expeditious completion. AAA supported consolidation of categorical grants. "We believe that a large number of specifically authorized programs unnecessarily impede the individual highway departments." A functional realignment of roads among the Federal-aid primary, secondary, and urban systems to assure roads were assigned to the proper system would eliminate the need for transfers among systems.

Finally, AAA supported the priority primary routes "since it works toward the objective of placing our highway dollars to work on those roads where the traffic needs are the greatest." Focusing the funds on roads included in the 10,000-mile system "should bring maximum return on the dollars invested."

Senator Stafford began the brief question period by pointing out:

> Critics of the highway program claim that it is actually an incentive for the American public to buy more and more automobiles which calls for more and more miles of roads. They point out we are reaching a level of diminishing returns in our overuse of automobiles because of the problems of pollution, congestion, social dislocation, and so on.
>
> Is it your view that this country will have to rely less on the automobile in the future in order to solve some of the problems?

Creal was doubtful about the phrase "love of the automobile," and preferred to think people loved "their freedom of mobility" and do not want to give it up. "The problems "should be basically tackled one at a time, but not in a state of panic as one big problem, as we have heard from some areas."

Senator Bentsen wanted to clarify the provision of S. 502 regarding toll roads:

> I should point out that the toll roads in our bill can only be constructed once a State has exhausted all of its interstate funds. Also, the tolls must be applied to the State share of the project, that is paid off, then it becomes a free road. Now, does that appear fair to you?

Charles N. Brady, director of AAA's Highway Department, replied that "one of the reasons we object to this provision is the continuation of tolls." Highway users had been paying into the Highway Trust Fund "and yet what they wind up with is a toll road." AAA did like the provision that the toll road would become toll-free after bonds, with their interest payments, were retired.

Senator Bentsen explained that the provision was really intended for Louisiana "where the people feel the tax burden is such that they cannot handle this problem" without resorting to toll financing. The subcommittee "became convinced of the equity of it" and wanted to help build those roads at the earliest possible moment. Brady replied that given the long time needed to pay off bonds, S. 502 should extend the Highway Trust Fund for a 15-year period.

Did AAA believe, Senator Bentsen asked, that UMTA revenue was sufficient for mass transit facilities? Creal recommended that Congress follow the process that led to the Interstate System. First, study transit needs, then determine how to raise the money:

> It seems to us that mass transit is a pretty loosely used term, because some people think of it in terms of rail transit only. We are pretty well convinced that only five to seven communities will be able to use rail transit with any hope of economic feasibility.

Regarding AAA's hard line on diversion of Highway Trust Fund revenue, Senator Bentsen asked for AAA's views on using the revenue for highway safety programs such as replacement of railway crossings, pavement markers, and bridge replacement. Since such measures "are improvements to the highways themselves," AAA agreed that they were legitimate expenditures of Highway Trust Fund revenues.

The Senator pointed out the problem of inflation, the desire to avoid tax increases, and the need to cut spending. He noted AAA's recommendation to restore Interstate funding to $4 billion, but wanted to know if AAA would agree to reductions in view of those problems. No, Brady replied, AAA would not. "The highway program is funded out of the Highway Trust Fund, adding that to the extent funding is reduced, "the further you are slipping behind, and we are already, even at the $4 billion level, into the 1980's before we can finish this up."

Senator Bentsen emphasized "the whole spectrum of human concerns" facing the Congress and said that if we do not address them now, "I do not know when we will do it and therefore, as much as we want these things, some of these things, we are going to have to defer." Brady replied that the Highway Trust Fund was "a stabilizing type of operation, if it would be permitted to operate as it was intended." It had a predictable income and a well-known level of expenditures. If it had operated as intended, cost overruns would have been minimized and unit costs would not have fluctuated greatly but instead, Presidents "have been manipulating the funds through impounding and cutbacks." [*Federal-Aid Highway Act of 1973, S. 502*, p. 307-317]

On February 21, John de Lorenzi, managing director of AAA's Public and Government Relations, wrote to Senator Bentsen to say that AAA had not been given an opportunity to comment on the proposal to increase the gas tax by 1 cent to finance mass transportation "while numerous other organizations and spokesmen were." AAA was opposed because it "feels there is no basis in equity to single out all highway users as the tax source of support for mass transportation." Mass transit "is a responsibility of the general fund of the Treasury." [*Federal-Aid Highway Act of 1973, S. 502*, p. 318]

John Kramer also testified on February 8 on behalf of the Highway Action Coalition. The organization's chairman, Theodore Kheel, could not attend but submitted a statement for the record.

Kramer said the issue of how transportation should be financed, and especially the future of the Highway Trust Fund, was the central issue for the 1973 legislation in view of the plight of the Nation's mass and intercity transit systems:

> Since the establishment of the Highway Trust Fund in 1956, 268 transit systems have gone out of business, leaving millions of Americans with little or no access to public transportation of any kind. Most of the remaining systems are expensive to the rider and decrepit in service and operation.
>
> Only massive Federal aid will prevent many more transit systems from disappearing, much less assure quality service to the rider at a reasonable cost.

He cited the disparity between Federal spending for highways and transit:

> Last year highways consumed more than 60 percent of the total Federal transportation budget, as compared to mass transit's meager 6 percent.
>
> Including the revenues that local and State governments spent for road construction, maintenance, and safety, the total bill for our nation's highway systems came to $21.9 billion last year.
>
> This is a huge sum of money. It is not only vastly more than was spent on mass transit, but it is also more than the total Federal, State, and local government expenditures on housing, urban renewal, parks, recreation, sanitation, and police and fire protection combined.

The time had come to shift priorities from highways to transit and that, in turn, "will require making at least some Highway Trust Fund revenues available for public transportation."

The Highway Trust Fund, he explained, distorted local transportation priorities:

> Clearly, many localities and States have built highways because they had Federal funds to build those highways, and did not consider mass transit systems because they had inadequate funds to build and operate them. That was true whether or not the highways were the better solution to the locality's particular transportation problems.

He summarized his organization's priorities:

> Recognizing the urgency of the urban transportation problems and the lack of a single, simple solution, the Highway Action Coalition believes that the only viable policy is to increase the flexibility that local governments have in determining how Federal funds are to be used in their urban areas.
>
> Local elected officials must have the option of determining whatever mix of ground transportation modes will best meet their overall transportation needs, whether these needs be predominantly highway needs or transit needs.

He appreciated that S. 502 made Federal-aid urban system funds available for the purchase of buses, but the coalition was "sharply disappointed that S. 502 represents a retrenchment from the . . . bill of last year in that it makes appreciably less money available for the urban system." Coalition members also were disappointed that unlike the 1972 bill, S. 502 did not allow primary and secondary funds in rural areas to be used for rural bus programs.

The group "enthusiastically" endorsed the provision of S. 502 that gave State and local officials the option of using Interstate funds to satisfy other transportation needs instead of building a controversial Interstate segment. He recommended, however, that the Federal share for these substitute projects be changed to 90 percent "so as not to unduly prejudice local transportation decisions in favor of an otherwise unwanted Interstate project."

The Highway Action Coalition strongly supported the new Muskie-Baker bill and the Kennedy-Weicker bill, S. 679.

As for other elements of S. 502, Kramer endorsed the provision calling for annual transportation hearings and directing the Secretary of Transportation to issue guidelines to increase citizen participation in the transportation planning process. He also endorsed the pass-through provision as "a crucial step." The provisions of the Kennedy-Weicker bill encouraging States to form transportation departments and making highway revenues available for public transportation were "important and desirable innovations."

Members of the coalition were concerned that NEPA, Section 4(f), and other safeguards not be "undermined, and that citizens continue to have recourse to the courts, when Federal and State officials violate these important laws." In particular, the coalition opposed environmental exemptions for specific projects, such as the North Expressway in San Antonio:

> We understand that an effort may be made to similarly exempt the Overton Park Expressway in Memphis, Tenn., and Interstate Route 66 in Arlington, Va., from the environmental protection statutes.

He urged the committee to include "measures to deal with the problem of automobile-related air pollution and the need to conserve our increasingly scarce petroleum resources." For this purpose, he endorsed Senator Muskie's proposed amendments to S. 502 providing emergency transit assistance to cities having difficulty meeting Federal ambient air quality standards, establishing mandatory auto emissions inspection programs, and prohibiting new highway construction that might cause air pollution levels to exceed Federal limits.

During the question period, Senator Bentsen objected to the implication that "construction of rapid rail transit does not also result in some substantial economic, environmental and social damages." Kramer acknowledged that it can:

> Living within 20 feet of a Metro station, where there is construction at 7:30 in the morning, I can attest to some of the damage, at least in the form of noise pollution that mass transit can cause, and on a serious note, I think it is important that these various environmental protection statutes also extend to mass transit.

However, looking at overall environmental impacts, "there can be little doubt as to which is the more environmentally preferable."

Senator Bentsen's final question concerned operating subsidies, which the committee had supported in 1972, but that Secretary Brinegar said he opposed. Kramer replied, "No question but that operating assistance is perhaps the No. 1 priority of public transportation." He shared some of Secretary Brinegar's doubts about assuring subsidies do not undermine quality service and admitted that "we are a little bit nervous about some of these proposals currently before the Senate." However, if that was the best that was possible, the Highway Action Coalition could live with it. [*Federal-Aid Highway Act of 1973, S. 502*, p. 320-328]

William A. Bresnhan, president of American Trucking Associations, began his testimony by recalling creation of the Highway Trust Fund in the Federal-Aid Highway Act of 1956:

> We supported the program in 1956, but with a degree of reluctance because we feared the very thing that is happening now. We felt in our bones that before the program was completed there would be an effort to divert large parts of the money to other purposes. The variety of proposals to divert substantial sums of money for other purposes are particularly unfair to the trucking industry.

He listed the taxes paid by truckers:

> We agreed in 1956 to pay these taxes for as long as the people and the Congress felt there was need for the money for the construction of highways. We have been faithful in keeping our end of the bargain, and did not come up here asking repeal of the excise taxes when they were repealed a couple of years ago for automobiles and commercial vehicles weighing less than 10,000 pounds.

If Congress was going to stop or curtail the Federal program, it should also stop or curtail the special highway-user taxes.

His organization supported mass transit, including a fund for it, and was willing "to pay our share of any across-the board taxes that apply to all businesses and industry to finance such a program." He continued:

> But we think it is unfair to single out one industry to bear the brunt of taxation to tackle a problem like mass transit which should be the responsibility of everyone.

Bresnahan also addressed the size-and-weight issue affecting operation of trucks. The 1956 Act, he said, contained size-and-weight limits for the Interstate System that the States could ignore only if they were willing to forgo Interstate construction funds. Those limits were temporary, pending completion of a study conceived by AASHO, BPR, and the Highway Research Board, to measure the effect of size and weight variations on pavements and bridges. That study, known as the AASHO Road Test, resulted in recommendations for changing the limits.

The Johnson Administration supported a legislative change and the Senate approved the new limits in 1967. However, the House had not voted on the proposal after "distorted and misleading attacks" on the bill. Although eight western States had changed their legal limits in accordance with AASHO's revised standards, "they still cannot permit them on the Federal Interstate System—the best roads in the world—without losing their funds for completion of the Interstate System." He urged Congress to repeal the standards in the 1956 Act or increase them "to more realistic levels." (For information on the AASHO Road Test, see (http://www.fhwa.dot.gov/infrastructure/50aasho.cfm).

In response to a question from Senator Bentsen, Bresnhan said that his organization did not object to bus lanes, but "we regret the need to object to the acquisition of buses." The best he could say for it was that other proposals, such as making 50 percent of Federal-aid highway funding flexible, were worse. He saw "no reason why buses should be paid for out of the trust fund."

Senator Bentsen asked if American Trucking Associations would consider a 1 cent tax on gasoline to support mass transit as the type of across-the-board tax Bresnahan mentioned:

> Not really, because that is just another highway tax . . . . I am not recommending this, but it would be fairer and more tolerable for example if there was a 1-cent gasoline tax on all fuel, including, not only that used by trucks and automobiles, but airplanes, water carriers, and railroads, but even if you did that, you would be narrowing down the responsibility to a degree that we do not think it should be.

Was Bresnahan satisfied with Secretary Brinegar's comment that since truckers pay highway user taxes, "it is reasonable that those funds be directed to the special use, namely, that of meeting the extra cost of building highways to meet truckers' needs." Bresnahan replied, "No; not at all" and continued:

> [It] is one thing to talk about fair share, and charging the trucks more, because it costs more to build highways for trucks, when all the money goes for highways, but when you talk

> about spending a billion or $2 billion on transit, in our view, the whole issue of fair share goes out the window.

In response to a question from Senator Domenici, Bresnahan commented on the Secretary's view that since highway user taxes prior to 1956 went to the general Treasury, taking 20 or 25 percent out of the fund for transit was not objectionable. Bresnahan agreed with the Secretary's facts, saying, "Well, that is true, but in effect, he is saying to go back to an injustice that existed before 1956, and apply it again . . . ."

Senator Randolph closed out the questioning by noting that Senator Clifford P. Hansen (R-Wy.) was going to introduce a bill to repeal the size and weight limitations on Interstate highways. [*Federal-Aid Highway Act of 1973, S. 502*, p. 351-357]

To end the day's hearing, Senator Bentsen had scheduled witnesses to discuss his bill's Section 147, the provision that eliminated the Federal role in the North Expressway project through Brackenridge-Olmos Basin Parklands in San Antonio. The initial panel included Anthony Athens, Jr., chairman of the Sierra Club, South Texas Group, and Boone Powell, architect.

Athens began by saying the special exemption for the North Expressway "would set a dangerous precedent weakening vital environmental safeguards" while the road as planned "would seriously degrade the major urban park and open space system of San Antonio." In fact, the road would be "a disaster" for the park. In view of court victories thus far, intervention by Congress was "inappropriate and unnecessary." He credited Congress for "genuine environmental awareness" in passing the laws, NEPA and 4(f) in particular, that it now wanted to eliminate compliance with for this one project.

Exempting this project "may well open a Pandora's box of requests for similar exemptions from across the Nation wherever crudely planned and environmentally damaging projects have been the source of controversy." Athens estimated that any one of the 50 or so controversial road projects could be "candidates for tomorrow's pleas to the Congress for special exclusion." The issue, therefore, was not just about what the citizens of San Antonio want, "but rather a question of the continuing wholeness of the environmental safeguards which were the broad intent of Congress." Eroding these safeguards risked letting them be "eroded into oblivion."

The North Expressway was "a dinosaur of the roadbuilding concept," conceived 30 years earlier before people saw "the untrammeled use of automobiles destroying and distorting our cities, befouling our air, squandering our resources, and giving us inefficient transportation in the bargain." As an example of changing attitudes, he cited EPA's requirement of strategies to reduce urban automobile use, including moratoriums on free construction and increased reliance on public transit. "Advocacy of such a project without full study of alternatives is, we believe, the worst form of environmental folly, and one which the Congress should not encourage."

Powell, an architect living in San Antonio, discussed some of the city's charms as well as earlier historic preservation battles, such as a 1930's State plan to put a highway through the grounds of historic Mission San Jose. The mission was saved and was now a national monument. He also described the park and its many features:

> In conclusion, there are numerous reasons why the special legislation for San Antonio should not be enacted. Two successive Secretaries of Transportation have refused to approve the route proposed by Texas; the Federal court, in an exhaustive opinion, held that Federal laws had not been followed; the legislation has been opposed by all Federal agencies with expertise in the area—the Department of Transportation, the Council on Environmental Quality, and the Environmental Protection Agency.

The issues could be resolved through completion of the environmental impact statement without congressional action.

Senator Bentsen acknowledged the "sincerity and good will on the part of both sides" of the controversy. He noted, however, that EPA had calculated that by 1990, the expressway would substantially reduce air pollution in the area of the park due to more efficient traffic movement. Athens replied that in his opinion, "that is a thesis which remains to be proven."

The Senator pointed out that parks officials supported the expressway, including the director of parks and recreation and the San Antonio Zoological Society. Athens could not speak for those officials, but his own observation was that "it will very, very well do decided damage to the park, and all of the potential of the park cutting it in such small pieces."

Senator Bentsen disputed the statement that the case was not unique and would set a bad precedent:

> It is the only case in America which I know of in which the people have been denied their right to build a highway within the boundaries of their own State, with their money, for their own use.

That concluded his time without a response to his statement.

Senator Buckley, who opposed the exception for the North Expressway, observed that he had over a dozen cousins and aunts living in San Antonio "and not a single one of them has lobbied me one way or the other." (Senator Bentsen observed, "Considering your position, I wish they had.") He wanted to know if the Texas Highway Department had taken any steps to comply with the court's August 1971 decision. "Not that we are aware of," Powell replied. How long would compliance take? Powell estimated 18 months.

If the Texas Highway Department returned the Federal-aid funds used on the expressway as envisioned in Section 147, Senator Buckley asked, would the recaptured funds remain available to Texas. Powell explained his understanding that the repayment was "a mere shift in bookkeeping" that would not affect the amount of Federal-aid highway funding available to Texas.

Finally, Senator Buckley asked if the State had made any effort to comply with Section 4(f). No, Athens explained, because the State claimed that since it had applied for funding before enactment of the Department of Transportation Act of 1966, it was not bound by the provision requiring consideration of all "feasible and prudent" alternatives before approval of the taking of parkland for a Federal-aid highway project. [*Federal-Aid Highway Act of 1973, S. 502*, p. 372-379]

Sam McDaniel of the Texas Highway Department and Frank A. Bennack, Jr., publisher of the *San Antonio Light* newspaper, testified in support of the North Expressway. He explained that the project was a local issue. The city of San Antonio had proposed the project, located it through the park, and asked the State to build it. He displayed a map showing the route "in light of the 'First Tuesday' program the other night on NBC . . . ." He did not question the sincerity of those who opposed use of the park, whom he characterized as "quite affluent, some of them," but added, "There is not much controversy over the fact that the expressway is needed, and any alignment which avoids this basin will displace over 1,000 families, not people, but families, by either going to the east or west to avoid the basin area."

What created the controversy was the State's decision to use Federal-aid for the project and then to not withdraw from Federal-aid soon enough. The State was bound by its agreement with the city to build this road "whether or not it is approved for Federal aid, because this is what the people of San Antonio want."

McDaniel tried to address the earlier question about how long compliance with Federal-aid requirements would take. The State could complete the environmental impact statement "without a terrible amount of delay" but that was "merely the first step in the procedure . . . ." Having already worked on the project for 9 years, the State would need around 5 more years to complete the review process.

Bennack explained that he was appearing before the subcommittee as a citizen representing groups favoring the expressway. He provided some of the history, such as the 1961 referendum in which residents approved a bond issue, 2 to 1, and how FHWA had approved the route 9 years ago before Section 4(f) and NEPA. He added that in 1971, after years of controversy, "the community still was able in a very short time to get 103,000 people to sign the petition that they wanted this project completed."

Senator Bentsen asked Bennack how many elected city officials supported the project. Bennack replied that, "I believe it would not be stretching a point to say it is almost unanimous."

Senator Buckley said he was curious why the State had decided to ask for Federal-aid for the project in the first place. McDaniel simply stated that the project was routinely scheduled for Federal-aid. When opposition arose, the State "felt it would not be proper to change it just because there was controversy," especially since the State thought it could repay the Federal-aid funds and proceed with State funds if it did not agree with the Secretary of Transportation's decision.

After the District Court allowed the project to proceed, the State and Secretary entered into an agreement "that the Secretary would agree to the end sections, if the [Texas Highway] commission would agree that unless the Secretary approved the middle section [through the park], no Federal funds would go into the end sections either, and that any funds that got into the end sections prior to the decision on the middle section, would be refunded to the Secretary." Construction began on that basis, but the Appeals Court ruled that the project had not been properly reviewed and returned it to the District Court. They could continue through the courts to secure approval to de-Federalize the project, but "we feel that the people of San Antonio need this expressway, and that they will get it much, much quicker, if we can get the Congress to turn it loose."

Senator Buckley said, "What I am concerned with is the principle, whether the Congress should be legislating to overturn a court decision, and what the impact of this legislation will have on the integrity of the environmental laws." McDaniel did not believe such an action would set a precedent for other controversial projects:

> I think it is the only case in which all of the right-of-way acquisition had been made, and the route approval had been given, prior to the effective date of either one of the statutes, and all of that had been done with local funds, no Federal funds whatsoever were involved.

Other controversial projects such as I-66 in northern Virginia "are cases in which you are talking about clearly Federal projects, and many of them are interstate projects, and you are not talking about a project where the city originally asked for it and its people voted for it."

When Senator Buckley asked if Texas would be willing to forgo $1.8 million in Federal funds, Senator Bentsen pointed out that under Section 147, the funds would be credited to the unprogrammed balance of Federal-aid funds for the category they came from, "but it is my understanding from counsel that it does not go back to Texas, that they lose that allocation, whereas the House bill provided it did go back to Texas." Senator Buckley said he was still not satisfied.

Senator Bentsen concluded this portion of the hearing, and the day's sessions, by saying, "I hope the day never comes when Congress will not be willing to judge a particular situation on its merits, or listen to local people . . . ." [*Federal-Aid Highway Act of 1973, S. 502*, p. 449-457]

Following 2 days of hearings, *Engineering News-Record* said that the "battle to shape a new highway bill has reopened on Capitol Hill with little sign [of] an impending compromise." Instead, the hearings "saw old antagonists reiterate familiar positions . . . ." After a brief comparison of Secretary Brinegar's proposal and the Kennedy-Weicker bill, the magazine's Washington Observer concluded:

> Although the highway battle promises to be a protracted fight, Administration sources say they are confident of prevailing in the Senate. The crunch will come in the House, which last year refused to go along with Senate-passed legislation to tap $800 million in trust fund money for optional spending. ["Highway Fund Battle Recurs Over Urban Spending," Washington Observer, *Engineering News-Record*, February 15, 1973, p. 7]

The hearings triggered editorials around the country. The *Baltimore Sun*, which was still chronicling the long-running controversies over the city's Interstate connections, began an editorial: "There is a good chance this year that Congress will agree to tap a sacred cow, the Highway Trust Fund, so some of the $6 billion in it can be used for mass transit." The possible limitation of funds to the purchase of buses was "fine—as far as it goes. But such a restriction would do nothing to repair deteriorating train service or build needed new transit systems." The newspaper was hesitant about the proposal to increase the gas tax by a penny for mass transit. "In effect, such a step would leave the brimming fund intact." The Eisenhower plan for the Interstate System was "a resounding success," but the "urgent need now is for improved mass transportation serving urban areas." Still, the highway lobby was strong:

> It seems evident, therefore, that the price of improving mass transportation facilities includes eagle-eyed vigilance by the public, while the bill is being drawn up and when Congress votes on it. ["Don't Blink," *The Baltimore Sun*, February 8, 1973]

The *Birmingham News* thought the Highway Trust Fund "is the logical source of funds with which to provide alternatives to the automobile." Diversion was sound for several reasons:

> It would reduce pollution. It would help preserve urban land being consumed by more and more highways. It would reduce costs of transportation to individuals and help reduce the need for more and more highway construction. It would help relieve urban vehicular congestion. It would require less energy be used by moving more people more efficiently.

There was no reason why details could not be worked out "to shift some of the focus from highway construction toward total transportation systems." This was essential because, "Making it possible for even more cars to pour into the cities over new highways only adds to the problems." ["To Aid Mass Transit," *Birmingham News*, February 10, 1973]

The *Cleveland Plain Dealer*, which also supported diversion, hoped proponents were right that chances were better in 1973 than they had been in 1972:

> We believe the American public will benefit from the better-balanced transportation system that would be made possible by diverting some highway construction money into bus or rail transit in auto-choked urban areas.

After endorsing the Kennedy-Weicker bill, the *Plain Dealer* acknowledged that there "may be an element of inequity in expecting highway users to help pay for mass transit." However, "it is no more inequitable than having the general public, through its taxes, support railroads, or aviation, or barge or ship transportation." This was especially true since highway users would benefit by improved mass transportation that could help relieve congestion. ["Use Road Funds for Mass Transit," *Cleveland Plain Dealer*, February 10, 1973]

The *Milwaukee Sentinel* said that Secretary Brinegar's proposed to tap the Highway Trust Fund for mass transit "is an indication of another idea whose time has come." The highway lobby, the editorial stated, could no longer "fend off reasonable approaches for spreading around the gasoline tax money which feeds the fund." Operating expenses should remain a State and local responsibility, while mass transit advocates and environmentalists would be well advised to "temper their zeal with a more responsible attitude toward basic highway needs." The effort to kill Milwaukee County's freeway system was "an example of misused zeal." The editorial encouraged all parties to "start working together in a common cause." ["Tap the Fund," *Milwaukee Sentinel*, February 12, 1973]

The *New Orleans States Item* thought that reasons "for opening the enormous highway fund to other modes of transportation become more compelling with each passing year." The usual argument, that mass transit would relieve traffic congestion, was valid, but a new problem also should be considered. "In contemplating the national energy problem, Congress might view the efforts to channel highway funds into mass transit systems in a new light." ["Energy and Mass Transit," *New Orleans States Item*, February 13, 1973]

An editorial in the *Tucson Citizen* reported that when Phoenix Mayor John Driggs, who supported construction of a 200-mile freeway system, announced that he opposed diversion of Highway Trust Fund revenue to mass transit, Citizens for Mass Transit—Against Freeways took "strong exception." The group did not want to "follow in the footsteps of sprawling, ugly, smog-ridden Los Angeles." The editorial agreed with the group that "Freeways are not the answer in Phoenix anymore than they have been in Los Angeles or would be in Tucson." For years, the highway lobby had "succeeded in keeping a lock on the Highway Trust Fund." Now, it was "time that lock was picked, and the legislation introduced in Congress could just do it." ["Break the Trust," *Tucson Citizen*, February 13, 1973]

President Nixon was more determined than ever, according to the *Pittsburgh Press*'s editorial, to make Highway Trust Fund revenue available "for buses, commuter trains, and other mass transit projects." Secretary Brinegar's proposal, plus the $1 billion a year available through UMTA "could give hard-pressed rail and bus systems the funds to upgrade their service." Highway boosters thought highway user revenue should be used only for highways. "But tax money should be spent where the need is greatest—and the need for clean, fast commuter systems is far greater at the moment than the need for new roads." The editorial quoted Cincinnati Mayor Theodore M. Berry who had said the only alternative to improved mass transit is "more highways, more cars, more pollution." That alternative, the editorial stated, "cities would do well to avoid." ["Nixon and Mass Transit," *Pittsburgh Press*, February 16, 1973]

Governor Sargent

When the Subcommittee on Transportation returned on February 15 for a third day of hearings, Governor Sargent was the first witness. He was participating as Governor of Massachusetts but also as a representative of the National Governors' Conference, which he served as chairman of its Committee on Commerce, Transportation, and Technology.

He began by saying the pending legislation "holds immense significance" and its impact "will be felt for decades to come, and into the next century." With that in mind, he said, the Governors "feel that the day has come when the Federal Highway [sic] must be broadened." It must allow flexibility so that each State is allowed to meet its transportation needs in its own way.

The country was justifiably proud of its "magnificent highway network," but when those highways moved into the cities, they "began to tear up neighborhoods, uproot families, and displace industry." Commuters abandoned the buses and trains and "they now clog our expressways every morning and every evening." The "inescapable conclusion" was that highways alone "cannot meet the transportation needs of some of our urban areas."

The National Governors' Conference recognized the need for more rural roads, but "certain metropolitan areas have exhausted the potential of expressways." Those areas should be given "the full capacity to create a more balanced system to reflect their specific needs." That was not the case under current law:

> Today the Federal Government pours dollar after dollar into a State which builds highways. As a result, there is enormous pressure on a governor of an urban State to build more and more highways.
>
> And it is no easy task to refuse.
>
> So what the Congress must do is to change the system. You must, in my view, modify the highway trust fund to allow greater flexibility.

Governor Sargent said a panel of State Secretaries of Transportation, including Secretary Altshuler, would be testifying later and could address the technical details of the proposals under consideration. The National Governors' Conference supported the proposals Secretary Brinegar had presented, but he would limit himself to a couple of suggestions, starting with the Interstate transfer provision. It would greatly ease the burdens on some States that would no longer be "shackled to outdated plans that were designed for an earlier age":

> The Governors' conference [sic] believes that the Congress should allow the State to refuse the highway but still retain the money. It should allow the State to transfer such funds to either a different highway construction project or to mass transit, rail or bus.

At the same time, the conference opposed the pass-through that would bypass State governments in the allocation of money. The intention to involve local communities in the highway program was good, he said, but "the means are questionable":

> By giving money to both the communities and the State you will be splitting the two apart. With an independent source of revenue, each will march off in its own direction. And any hopes for comprehensive statewide planning will be lost.

Governor Sargent broadened his subject to the looming energy crisis the country was facing. The country needed new energy sources but in the meantime "must make better use of what energy resources we now have." He cited a study by Chase Manhattan Bank concluding that "passenger cars alone burn 40 million barrels of oil a day," representing 30 percent of total daily use. He also cited a floor speech in which Representative John Anderson pointed out that in urban areas, automobiles use twice as much gasoline per passenger mile as transit buses, four times as much as commuter buses, and seven times as much as commuter rail.

He also pointed out the environmental crisis that EPA had so clearly documented in finding that as many as 28 cities would be unable to meet ambient air quality standards by 1977. “And they will fall short because we now rely too heavily on the automobile for urban city travel.” Automobiles, he said, produced two-thirds of all carbon monoxide emissions, more than 50 percent of hydrocarbons, and two-fifths of nitrogen oxide. “In comparison, the pollutants left by the other forms of transportation are negligible.”

For these reasons, the day had passed “when the automobile can travel unrestricted through our central cities.” The time had come to revise the Highway Trust Fund to give each State the flexibility to create the transportation network it needed. While we should take pride in our highway network, it was at the same time choking urban areas, paving through neighborhoods, displacing families, and fouling the air. “And the irony is that we did not intend to do this in the first place. It was an oversight, a mistake.” Now was the time to correct the mistake:

> I hope, in my view, that you will revise the highway trust fund. I hope you will let each State meet its own transportation needs in its own way. [*Federal-Aid Highway Act of 1973, S. 502*, p. 484-488]

Senator Bentsen noted the endorsement by the National Governors’ Conference of diversion of highway revenue to transit but pointed out that Governor Robert Docking of Kansas said on February 7 that, “The Highway Trust Fund should be preserved for the purpose it was intended, to build the Interstate highway system, and to make improvements to other Federal aid highway systems.” Did this not reflect division among the Governors?

Governor Sargent explained that when he first raised the idea before the conference of using Highway Trust Fund revenues for mass transit, “it got nowhere.” Each year, however, support for flexibility grew “and at the last meeting, there was a clear vote on the part of the Governors to support this concept.” Even Governors from rural States that wanted more highways, not mass transit, supported the concept when they understood that their States would not be short changed. As with most witnesses, Senator Bentsen asked the Governor about funding options for transit, including the 1-cent gas tax increase. With $5 billion over 5 years from the increase plus the commitment of UMTA funds, “do you think that would support that?” Governor Sargent said he was primarily interested in “the matter of flexibility of the highway trust fund.” An additional penny a gallon “would provide that additional flexibility.” To provide sufficient funds for mass transit, “I would not say let us cut out the funds by any stretch of the imagination, but I would like to feel that the States would have this flexibility with the use of the highway trust fund.”

Regarding the pass-through that the Governors opposed, Senator Bentsen asked, “Would not that increase the flexibility?” The Governors, Sargent said, “feel that it is important to channel these funds through the Governors of the 50 States” and they can work with local officials, as had happened in the Boston area, to decide the best mix of projects.

Did Governor Sargent have an opinion on whether metropolitan areas of 250,000 population, as in S. 502, or 400,000, as Secretary Brinegar had proposed, could best determine how the funds should be spent? Governor Sargent did not express a preference. Instead, he replied, “I think that the State has got to look to the overall plan, the overall planning, the comprehensive planning for a balanced transportation system of the State."

Senator Stafford wanted to clarify whether Governor Sargent meant that the Interstate transfer provision should allow the funds to be used within the State or another State such as Stafford's own Vermont. Governor Sargent replied that like other States, Massachusetts had plans "that were prepared 20 years ago, that we have determined cannot be continued":

> We would like to be able to transfer those dollars to our projects that made more sense, in the light of the problems that we created by this great commuter crush that we have . . . . We love Vermont, but we need our Massachusetts money in Massachusetts.

Since the pass-through provision would leave Boston decisions to Boston officials, Senator Stafford asked how Federal-aid urban system funding under the Muskie-Baker amendment might be spent in the area. "Would most of it still go to roads, or would half of it go to buses and rapid transit?" Governor Sargent did not want to predict a percentage, but after summarizing the Interstate highways he had halted, he said:

> We have decided that to do that would really be disastrous to the entire metropolitan Boston area. We would like to not build it, in fact, we are not going to build that, but what we would like to do is to have a large infusion of funds, to meet and to construct rapid transit, and to update on [sic] buses, and to modernize our system, use it for capital improvements, that we would consider we would use quite a percent of those funds for that purpose.

He would include rail mass transit systems. "I personally think that we should have the broadest range of possibilities so that you truly can have a balanced transportation system."

Senator Stafford also wanted the Governor's view on whether the Governor, the State department of transportation, or the highway department should be responsible for long-range transportation planning. Governor Sargent thought that States with a department of transportation should let the department handle long-range planning, but in States without such a department, the Governor should be responsible.

Senator Domenici said that as a former Mayor, he had come to a simple conclusion. "I have concluded that the greatest problem we have in our country is piling people on top of each other, and then trying to undo the social entanglements." He thought it might be better to move people out, "even if it were called sprawl," than try to solve city problems. As a new Senator, he found that "people are saying, let us experiment thoroughly with a program of any magnitude before we commit our country to it." He did not want to support something in the 1970s only to have people look back 20 years later and "then say that was wrong." He asked Governor Sargent:

> So, I wonder if you have an opinion as to whether we know enough about the interrelation of the problem of why people use cars, will they use mass transit, will it really have any more of an impact on the total problem than trying to complete in the best way we can a system of highways that at least we know something about, and address ourselves to a true,

> true feasibility experiment of some magnitude with the total problem of moving people in a manner called mass transit.

The Governor said that as for sprawl, "I think we can all agree that planning used to be a dirty word," but it is desperately needed now because "we should be doing the planning rather than having the developer do the planning for us . . . ." He did not think that in the 1950s, when the cities clamored for Interstate highways, "we thought we would be setting up a system used by commuters a good deal, so we have created some problems." In Boston, with its antiquated subway system, he was "very encouraged to find that the use of this is increasing tremendously," including a new line that is computer run:

> I think that people, if they find they can have rapid transit that is clean, that is efficient, that is on time, they will use it, but certainly Americans have had a love affair with the automobile, and people like to be able to have that flexibility, being able to go whenever they want, wherever they want.

In response to questions from Senator Scott, Governor Sargent explained that he planned to expand mass transit in the Boston area to include additional lines and new computerized equipment. He was using revenue from State bond issues and funding from UMTA.

The Senator and the Governor then engaged in a colloquy that went to the heart of the matter:

> Senator Scott. Is it your feeling that the people who use the highways should pay for mass transit?
> Governor Sargent. Yes; I believe, for example, in my State, that we would be much better off and all of the people would be better off if they used mass transit.
> Senator Scott. Are you going to make the people use mass transit, whether they want to or not?
> Governor Sargent. We are going to try to persuade them to by having a good system.
> Senator Scott. Do you take it upon yourself to tell the people what is best for them, because you are the Governor of the State of Massachusetts? Don't we live in a democratic society, where we have freedom, and where people should decide such things as this for themselves? Is this not a big brother type of approach?
> Governor Sargent. I think that the people want to have a balanced system. I think they want to have alternative ways of doing things, and I am not saying, Senator, that a rural State should lose any money at all for highways. I am just saying that I think that an urban State should have flexibility in usage.
> Senator Scott. Would it be reasonable to complete the Interstate System before we start diverting funds out of that system and weakening it for mass transit and other purposes.
> Governor Sargent. Mr. Chairman, I very strongly feel that we should finish the Interstate System.
> Senator Scott. Before we take any money out of it for the other purposes?
> Governor Sargent. Well. I think for instance in our State, and I was faced with this problem of some 20-year old plans that were there, that would have torn through the city, and so on, and we said no, we are not going to build those facilities, we said that we should use some

> of those funds for mass transit. That does not mean that we are not going to complete the Interstate System. I think that we should complete the Interstate System nationally, I think we should complete it in Massachusetts?
> Senator Scott. Before we divert funds?
> Governor Sargent. I do not think we should, however, say we are going to go forward with that 20-year old plan that would ruin the city of Boston and Cambridge and so on just because the plans are there.

Senator Scott, a native of Williamsburg, Virginia, then became nostalgic, recalling the small community where he grew up. He said, "we did have mass transit, we had street cars that ran from one little community to another, they are all gone now," adding, "I cannot help wondering what happened to the street cars." Like Senator Domenici, he wondered what would happen in 20 years, but he could not "understand such a thing as stopping beltways."

The final questioner was Senator Randolph. Regarding the Governor's endorsement of Secretary Brinegar's proposals, he asked, "Are you aware we do not have them?" Governor Sargent said he was not aware of the details, but based his comments on the Secretary's statement. Senator Randolph added, "The members of the committee are awaiting those details, which we hope will be brought to us as soon as possible."

Senator Randolph pointed out that he had tried to "pass a bill to be resourceful and creative and come out of the straightjacket in which we found ourselves, to encourage uses of bus lanes, and many other innovative matters in connection with the movement of people." The bill had failed in 1972, but "sometimes we have a feeling that some of the witnesses do not want to really give credit for that which has been done." He wanted to clarify Governor Sargent's concern about the pass-through provision of S. 502. Regarding community participation, did the Governor mean determining whether rail or some other form of transportation would be pursued rather than the use of highways? Governor Sargent confirmed:

> I could be accused of being a Governor, and therefore I feel that way, but I think the funds should go through the Governor, so he could be concerned with the overall transportation planning, to try to have a balanced system, rather than having it go directly to the cities and towns.

The same applied to the use of Federal-aid urban funds. "We have set up machinery to work with the communities on this, but we would want to be sure again that this was part of an overall comprehensive plan for the entire State."

The Senator explained that the Interstate routes were included in the Interstate System to meet a transportation need. If that need no longer existed, "then how can an obligation be imposed on the trust fund?" Confused by the question, Governor Sargent said he would go back to the issue of flexibility. "It seems to me that a Governor and his secretary of transportation in a State can make the wisest decisions regarding his State." [*Federal-Aid Highway Act of 1973, S. 502*, p. 488-497]

More Familiar Voices

Dr. Ronan of the Institute for Rapid Transit and MTA testified next. He explained that MTA was expanding the New York City subway system, redeveloping suburban railroads, and operating suburban bus routes. It also had been authorized to build a highway bridge crossing over Long Island Sound:

> The proposed Rye-Oyster Bay Bridge, to be connected into Interstate highways 95 and 287, will vastly improve access by automobile, bus and truck between Long Island and the mainland.

In his multiple capacities, he opposed Section 130 of S. 502 on "Urban Highway Public Transportation" if it restricted funding to mass transit systems other than rail. As such, he said, "the bill would have the effect of discouraging the transportation of passengers within urban areas by rail." He did not believe that such an outcome "would be in the national interest for a variety of reasons, including economics, air pollution control, and the need to conserve energy." He added that whether a metropolitan area would be better served by bus or fixed rail "should not be predetermined by Federal statute." The past 20 years had shown that if the legislation did not allow the use of Highway Trust Fund revenue for rail mass transit, "there would be a strong inducement for State and local governments to opt for highways just to get the Federal financing to do something about their problems."

He also was concerned about the definition of metropolitan transportation agencies in the section of S. 502 on availability of Federal-aid urban funds:

> As presently defined in the bill, a metropolitan transportation agency must have the power to engage in highway construction to qualify for assistance. This would eliminate most of the publicly owned urban transit systems in the country as grant recipients.
>
> We believe that the bill's definition of areawide metropolitan transportation agencies should be modified to permit funds to be made available directly to governmental bodies that have been duly authorized to construct and operate urban public transportation services. [*Federal-Aid Highway Act of 1973, S. 502*, p. 498-502]

Daniel Mikesell, supervisor of San Bernardino County, California, and other county officials represented the National Association of Counties (NACo) before the subcommittee. Mikesell, who chaired NACo's Steering Committee, explained that county officials were responsible for 67 percent of the Nation's roads, or about 2.3 million miles out of 3.8 million miles. "Most of the Federal aid secondary system, as well as the urban system [designated] under the 1970 act, is under county control." With that in mind, NACo supported the reduced authorization level for the Interstate System in S. 502 because it meant "the backlog needs of other systems will be given increased money." He urged that Congress authorize at least $2 billion for non-Interstate roads.

NACo opposed the use of Highway Trust Fund revenue for mass transit. For several years, it had recommended creation of a separate Mass Transit Trust Fund, with the full amount of Highway

Trust Fund revenues reserved for highways through 1977 without cutbacks or delays. "While the establishment of a trust fund does not come under the jurisdiction of this committee, the establishment of such a fund might change your approach to providing funds for public transportation."

With that distinction in mind, NACo supported the proposed increase in contract authority for mass transit, from $3.1 billion to $6.1 billion as well as funds for operating subsidies.

In addition, NACo opposed the pass-through provision:

> These metropolitan agencies do not now have the authority or power to develop and implement the plan. Nor is it likely that this authority or power will be provided by State, county, and city officials in the foreseeable future.
>
> We also are not convinced that such a provision would necessarily give local governments more flexibility and control over funding. State governments would still control the distribution of other State road assistance, a major part of outside funding for local governments in many States, in addition to the large expenditure of State funds on major roads within the State.

NACo favored retention of the funding categories for the Federal-aid highway systems, but reduction of the special purpose programs. Once these programs had focused attention on the area in question, such as TOPICS, bridge replacement, or railroad-highway grade crossing safety, they should be folded into one of the basic categories.

The Interstate transfer and substitution provisions in S. 502 were generally acceptable to NACo. However, the funds resulting from a withdrawal should be used only on the Interstate System, not the other Federal-aid systems. If the State could not use the funds, the funds should be retained in the Highway Trust Fund and the total cost of completing the Interstate System should be reduced.

NACO had serious reservations about the proposed 10,000-mile priority primary system. The cost of these routes "would be better used for needed improvements on he other non-Interstate System—primary, secondary, urban, and urban extensions."

During a brief question period, Senator Stafford pointed out that while NACo favored reduced authorizations for the Interstate System, most other witnesses favored completing the network as soon as possible. Mikesell explained that given the tremendous amount of mileage that needed upgrading in the country, "we are not able to cope with the conditions of the roads or the traffic they now bear." He added that "we are so behind in bringing these roads up to standard, that we feel that some slight reduction in the interstate, it would not be adverse to the public interest."

Senator Stafford asked if NACo would support a 1-cent gas tax increase for urban mass transit systems. NACo had not taken a position on how to fund a Mass Transit Trust Fund, but Mikesell suggested an excise tax on automobiles as "a source that is not being tapped now, and oftentimes they blame automobiles for the terrible conditions of our Nation, and maybe it would reduce the sale" of the vehicles. [*Federal-Aid Highway Act of 1973, S. 502*, p. 510-515]

As in the past, former Deputy Federal Highway Administrator D. Grant Mickle represented HUFSAM. In response to the questions submitted to all witnesses, Mickle stated that the documented need for highways and safety improvements is "so huge that total highway and safety authorizations should fully utilize highway trust fund income."

He recommended consolidated categorical programs because the present array "increasingly hampered management by the States and cities." He favored a functional reclassification of roads to align them better with the goals of the Federal-aid primary, secondary, and urban systems. As a result of such a reclassification, a new priority primary network would not be needed since the routes would be classified as principal arterials and included in the Federal-aid primary system. "Within a state's own improvement priority system, such routes could be given precedence." He recommended eliminating the Special Urban High Density Program, the proposed Rural Public Transportation Program, and other special systems and categorical programs. He did, however, favor study of a possible National Scenic Highway System, as proposed by S. 502.

HUFSAM strongly supported mass transit and would not object "to a public transit trust fund supported from general tax sources . . . ." Mickle supported pass-through of funds to qualified urban governments, but recommended against allocating the Federal-aid urban system funds on a population basis, which would lead to "inequities which defeat the worthy purpose of an increased emphasis on urban highway needs." He suggested amending S. 502 to require each State to develop an allocation plan for Federal-aid urban system funds, the plan to be approved by the Secretary of Transportation.

In view of urgent urban needs, HUFSAM favored strengthening metropolitan planning in stages. First, encourage development of metropolitan area transportation planning agencies for better coordination of highway, transit, and land use planning. Second, the agencies should receive Federal-aid funds directly when the State and U.S. Secretary of Transportation certify that they "have shown their ability and desire to carry out, as well as plan, areawide transportation improvements." Where significant changes in community plans occur, the Federal-aid program should be suspended temporarily to allow for assessment and adjustments.

HUFSAM opposed any Interstate transfer or substitution provision that was contrary to completing the Interstate System. Route substitutions should be used only to ensure System continuity. Any cost savings should be applied to accelerated completion of the Interstate System.

Senator Stafford asked Senator Bentsen's usual question about increasing the gas tax by a penny with the revenue dedicated to mass transit. The gas tax, Mickle responded, is regressive in that it "takes away a higher fraction of total income from the poor than from the affluent." The motoring public accepted this disparity because of the "special benefits provided to the users as a class in the use of the proceeds from that tax." HUFSAM would object to a 1-cent increase for mass transit "because it is regressive without the special benefits." A Mass Transit Trust Fund should be "funded from the very broadest base of tax because it benefits a very broad base of use."

Did Mickle not believe, Senator Stafford asked, that a 1-cent gas tax for mass transit would benefit highway users by relieving congestion? Mickle explained "the approximate amount of diversion from highways to mass transit is about equal to 1 year's growth in traffic." His written statement elaborated on this point. The 1972 Transportation Needs Study provided one reason for his statement:

> All told, the DOT study showed that the proportion of travel by transit will drop from seven percent in 1970 to six percent by 1990—and this was based on the *assumption that planned transit improvements [totaling $63 billion] would be made*. The study's findings—that transit needs are high, and that they have no appreciable affect [sic] on highway needs, are brought into perspective by recent and proposed high-quality transit improvements.

He cited Canada's 1967/Expo Transit, BART, and the Washington area's METRO:

> Downtown-oriented, high capacity transit systems—although they may be needed in a few corridors—will make few if any inroads on the major transportation demands our cities and suburbs will experience.
>
> Transit riders—just like everyone else—also "vote with their pocketbook." Three out of four transit patrons use buses, and dominate in every city except New York. And when they can, nonauto users opt for auto-like services. Taxis carry more passengers than all the urban rail and commuter rail systems combined. Buses and taxis, needless to say, need good highway transportation in order to do their job well.

Senator Stafford asked Mickle to comment on the claim by highway opponents "that better highways will in themselves lead to greater congestion and more pollution" by increasing demand for more automobiles. Mickle replied:

> I have a suspicion that people that make statements like that were not around during the period immediately following World War II when we had a tremendous backlog of needs in highways. The demand was not generated by highways, it was generated by the desire of people to have a flexible type of transportation provided for by automobiles.
>
> The kind of needs program we see for the future is not one of building vast mileage for new superhighways. There are tremendous needs of the type I mentioned in my statement of improving unsafe bridges, narrow highways, bad curves, bad intersections, and most of the funds will be for that type of thing in the future, not for new highways. [*Federal-Aid Highway Act of 1973, S. 502*, p. 520-534, emphasis in original]

The afternoon session on February 15 began with Senator Jacob Javits of New York. He recalled his role in securing Senate approval in 1972 of the Cooper-Muskie amendment and said that position should be sustained in 1973:

> There is a very big issue involved here, Mr. Chairman, and that is whether or not the United States is going to realize the fact that most of our people live in major cities, about 70

> percent of our population, and just how far you can go with these ribbons of highway, and so very, very frequently, one person to a car, or when we have to adopt some other approach before we are inundated with traffic, which . . . will throttle us all, and the pollution of the emission of miles upon miles of automobiles.

We should be very proud of our modern system of highways, "but that does not mean our feet have to be rooted in concrete." In view of these concerns, he supported the two bills Senator Muskie had introduced, S. 738 to support State auto emission inspection programs and S. 739 to allow diversion of Highway Trust Fund revenue. He explained:

> Mr. Chairman, with regard to mass transit, for years and years we thought the only way out of our national transportation problem was the highway, and established an enormous trust fund for that purpose and this trust fund is today so great, it is not even being expended . . . . We have a tremendous challenge before us, where already overburdened municipalities face either deficits or the takeover of their municipal transit systems.

He also supported S. 386, the Emergency Commuter Relief Act, but this bill addressed only mass transit "and only indirectly moves to correct the fundamental imbalance in our transportation system."

He said that "an effort has been made to see the highway trust fund as a sacred cow," which means "if you took it literally, that you have got to keep tightening the noose of the highway around our necks with all of the money we have available." He continued:

> It is almost a case, Mr. Chairman, where we have to ask ourselves, have we got enough brains to save ourselves, or must we be like the lemmings, just walk into the ocean and commit suicide? Perhaps we are as blind as they are, but I would hope not.

Senator Stafford referenced Senator Javits' description of the Highway Trust Fund as a "sacred cow" and asked if he saw any reason why it could not be modified. Senator Javits said, "There is no commitment in it that cannot be changed by the Congress with the signature of the President." The Highway Trust Fund represented a commitment at that time, but the time had come to make a different commitment.

Senator Bentsen mentioned the comment about Highway Trust Funds not being expended leading to a carryover from year to year. He pointed out that these were funds impounded despite their authorization by Congress. Senator Javits acknowledged the problem.

Senator Stafford requested Senator Javits' views on a transportation trust fund for all surface transportation. Javits replied:

> The general treasury is in such trouble . . . [that to] start now and try to find $11 or $10 billion out of the general treasury, you might as well forget it. I would rather use the existing trust fund.

Senator Randolph began his question period by pointing out that he supported mass transit, had voted for every mass transit bill in the Senate, and had urged the President to release impounded mass transit funds. However, he told Senator Javits, "I am concerned that you in your desire to take care of the problems, which is certainly a problem in certain cities, you are really shrinking a highway trust fund that is needed . . . to meet the needs of some cities." If funds were diverted, "we may be in a position where we are not going to complete either one of the jobs you think need to be done, urban mass transit, including rail in some instances, and the highway program."

He was determined to complete the Interstate System and "we will work in every possible way to see that that is brought about." That would cost $17 billion to $19 billion. Meanwhile, the cost of a rail system, in even a few cities, "is astronomical." He continued:

> For that reason, I think we are going to have to find additional funds; I think we are going to have to tap new resources, as it has been suggested, with the imposition of a tax.

He pointed out that Senator Javits had supported the Highway Trust Fund and the Airport and Airways Trust Fund, "so I suggest that you might give thought to an urban mass transit trust fund." He explained, "I know it is impossible, as I see it, to have enough funds to do the job that you think must be done if we are to draw away from the Highway Trust Fund."

Senator Javits responded, "I believe it is the duty of the Congress to evaluate the pace at which the interstate highway system is built, in terms of advancing social and environmental developments in the country." If it were up to him, he would allocate 70 percent of the Highway Trust Fund revenue to urban problems, because 70 percent of the people live in cities. By contrast, Senator Muskie was proposing the use of only one-sixth of the funding for alternate uses. Further, in view of the many problems facing urban areas, we should consider whether "the greatest public weight must fall with the completion of the interstate highway system by a given date, which would mean utilizing all of the Highway Trust Fund for the purpose, or whether the greater public interest dictates that might be slowed up somewhat . . . ."

Senator Muskie concluded the session with Senator Javits by saying that in traveling around Maine, he found the reaction to the Muskie-Baker amendment was "so long as the Congress does not undertake to dictate to Maine what it should do with its share of the Highway Trust Fund, that Maine people ought not to undertake to dictate to New York what it should do with respect to its transportation needs—and that is what the Muskie-Baker amendment says." [*Federal-Aid Highway Act of 1973, S. 502*, p. 546-554]

William D. Ruckelshaus

In the afternoon of February 15, EPA Administrator Ruckelshaus appeared before the Subcommittee on Transportation. He was, he said, particularly interested in provisions of S. 502 that offered assistance to communities to alleviate motor vehicle pollution. He mentioned construction of bus lanes and the purchase of buses, but said that while these were laudable measures, "we believe this approach alone offers too little too late." Events necessitated "a more comprehensive approach in solving the major problems accompanying transportation programs."

He explained that the Clean Air Amendments of 1970 mandated the attainment of NAAQS, designed to protect public health, by mid-1977, at the latest:

> Currently, we estimate 20 metropolitan areas, including eight of the Nation's 10 largest cities, will need some form of transportation controls if air quality standards are to be met by 1977.

Transportation controls would be needed that go beyond traditional air pollution control measures. Examples included "improvements in mass transit, auto free zones, parking surcharges, staggered work hours, and conversion of fleet vehicles to gaseous fuels." Given the complexities of the issues, EPA had extended the deadline by 2 years, from 1975 to 1977. (Gaseous fuels include natural gas, hydrogen, and hydrogen-natural gas blends that reduce harmful emissions.)

The Los Angeles area faced the most severe problems. Ruckelshaus explained that EPA, under court order, proposed regulations that "would require expensive retrofitting of pre-1975 motor vehicles, conversion of fleet vehicles to gaseous fuels, greater control of stationary sources, and extensive gasoline rationing during the 6 worst months of the year."

Even in areas with less severe problems, however, "motor vehicle travel must be curtailed . . . at a time when intracommunity motor vehicle usage is increasing and continued urban growth is occurring, particularly in those areas already experiencing the greatest problems." The only way motor vehicle use could be reduced is "if alternative modes of transportation are made available." Efficient mass transit capable of "moving people where they want to go fast, and in an inexpensive fashion," would give people the incentive to reduce use of their automobiles.

Not every urban area is suited to a rail system, Ruckelshaus said, "but local elected officials should have the option of choosing between buses, rail, and highways." EPA, therefore, "strongly" endorsed Secretary Brinegar's proposal to allow greater flexibility for local communities in how they use Highway Trust Fund revenues. "Local officials are in the best position to determine the transportation systems that will solve their communities' transportation, environmental and social needs."

He was "under no illusion" that improved mass transit alone will solve the air pollution problem:

> If air quality standards are to be met and maintained, appropriate measures must also be adopted to discourage the use of private automobiles. Clearly, an integrated approach of providing better mass transit service coupled with a regulatory and/or economic disincentive mechanism will be needed in many communities.

In concluding his opening statement, Ruckelshaus pointed out that controlling air pollution was "only one aspect of the challenge of a balanced transportation system." If all vehicle emissions were eliminated, the Nation's urban areas "would still be faced with a host of transportation related problems—noise, waste of fuel resources, congestion, deteriorating cities, unemployment and underemployment, and physical alienation." Congress had to look to alternatives:

> With sufficient incentives and flexible funding, we could provide buses and commuter trains that are fast, safe, reliable, and convenient. Mass transit as a part of a sensible long-term solution to communities' modern transportation needs must be included as a major element in the design of more efficient cities.

Highways were still needed as part of an integrated transportation system:

> A balanced transportation system will only evolve if decisionmakers at the local level have a choice between various modes of transportation to serve their citizens' needs. [*Federal-Aid Highway Act of 1973, S. 502*, p. 565-567]

Senator Bentsen began the questioning by asking whether a "reasonable reduction" in air pollution would occur if the billions of dollars requested by Secretary Brinegar for mass transit were used for mass transit. Increasing mass transit funding would be "meaningful," but if Senator Bentsen was asking if that kind of expenditure would solve the problem in an area such as Los Angeles by 1977, "my answer is 'No,' it would not." In Los Angeles and some other areas, "solutions must be projected into the future in terms of decades, and not in terms of years." He added that if we continue to build highways in these areas, "we are going to assure that decades in the future, air pollution problems will be with us, hence we are not really addressing the problem as comprehensively or intelligently as we should."

Regarding operating subsidies, Senator Bentsen acknowledged that the Nixon Administration was opposed, but he wondered what EPA's view might be. Ruckelshaus stated that the Administration's position was that "they do not believe the operating subsidies should come from highway trust funds, or from the Federal Government itself." Subsidies should come from the local communities. "I think we ought to distinguish between the large capital expenditures needed to get a mass transit system underway, and the need for the continued operation of those systems in competition with any other mode of transportation at the local level."

In view of the controversies surrounding urban Interstate segments, would EPA be concerned about passage of Senator Baker's Senate Concurrent Resolution No. 6, which Secretary Brinegar had endorsed, authorizing the immediate apportionment of Interstate funds? Ruckelshaus said that Secretary Brinegar had endorsed the resolution because he did not want to see Interstate funding held up while complex issues were debated during consideration of Federal-aid highway legislation. EPA was satisfied that NEPA and other laws provided "a sufficient handle" on the controversial Interstate segments. Ruckelshaus was more concerned about "the larger issue of whether the fund itself, should be broadened so as to make its moneys available in a more flexible way."

Senator Stafford asked what assistance the Muskie-Baker amendment, if adopted, would give to areas such as Los Angeles in meeting air quality standards. Ruckelshaus replied:

> I am not so naïve to believe there is any panacea for the problem in Los Angeles. Simply by the Congress waving a wand, will not alleviate all that air pollution.

Giving local officials flexibility in how they use Highway Trust Fund revenue might encourage them to adopt a long-range plan for alternatives modes of transportation that over a decades-long span, not by 1977, would reduce emissions. Taking such a long range approach, "rather than simply to say we cannot achieve it, we are not going to do anything about it, is pretty much where we are right now in Los Angeles."

What about buses, Senator Bentsen wanted to know, if enough motorists could be attracted out of their cars? Buses, using diesel fuel, had two problems, odor and particulate matter or smoke. The newest diesel engines "can in fact be used in a more environmentally acceptable way." Further, buses are less of a problem than automobiles when it comes to carbon monoxide and hydrocarbons:

> The problem in Los Angeles is primarily a problem of hydrocarbons and its interaction with nitrogen oxides and with sunlight that in turn forms smog. What we are trying to do in Los Angeles is reduce drastically the amount of hydrocarbon that is being emitted in the air.

If buses were well patronized by former motorists, they "would greatly reduce the amount of hydrocarbon emitted into the air."

Senator Muskie said that in drafting the Clean Air Amendments of 1970, the Committee on Public Works recognized that "if the timetables set out in that legislation were to be met, that we would have to develop not only a clean car at the earliest possible date—and we set the date, 1975—but in addition, there would have to be drastic changes in the way we use the private automobile in our cities." He said that this same committee was refusing to do anything to achieve those goals. "We have to make a beginning, and I think this is the place to make it."

Since HUFSAM and others estimated that the country needed $600 billion worth of highway improvements, Senator Muskie asked what such an expenditure "would do to this country." Ruckelshaus replied that "it is almost beyond my comprehension, Senator, what that would do to this country." He would redefine the term "needs" since what was needed was "a transportation system that is safe, convenient, efficient, effective, and that whatever it takes to provide such a transportation system is the kind of approach" that is needed.

Would it be a "wise public policy" for the Federal Government to continue supporting highway construction in urban areas with air quality problems? Ruckelshaus did not want to rule out highway construction, but building more highways that would "exacerbate a situation, is the wrong way to go." Local officials needed to think in terms of transportation options "to achieve as clean air as possible consistent with moving people" and that generally meant "some alternative than simply to building more highways."

Senator Muskie asked if EPA was complying with Section 102 of NEPA and Section 309 of the Clean Air Act that "require EPA to file environmental impact statements on all Federal highway projects." Ruckelshaus explained that EPA commented on all environmental impact statements. "As a matter of fact, the biggest single burden on our Federal Activities Office is to comment on impact statements filed pursuant to highway projects." The Senator asked if EPA was commenting adversely on highway projects in the regions that needed transportation controls. Ruckelshaus replied that EPA did comment adversely in many instances. For the record, he submitted letters EPA had written commenting on the Stadium Freeway in Milwaukee; the widening of the Lincoln Highway in Cook County, Illinois; the I-95 Center Leg Inner Freeway in Washington; the Papago Freeway in Phoenix; and the Long Island Sound Crossing in New York.

Senator Muskie had additional questions, but deferred them in view of time constraints and requested written responses. Ruckelshaus, who submitted them after Secretary Brinegar released the Department's Federal-aid proposals later in the month, generally accepted that the Department's proposals would address the concerns Senator Muskie raised.

Senator Bentsen interrupted Senator Muskie to respond to the comment that the committee had not done anything about clean air. "We provided for bus lanes, we have provided for the expenditure of funds for buses, which will have an immediate impact on the emission of pollution." They were steps to cut pollution "and I think that is an affirmative step on the part of the committee."

Before Senator Bentsen could ask Senator Randolph to take his turn in the questioning, Senator Muskie said he appreciated Senator Bentsen's comment about the committee's actions. "I will concede the committee has done something. So I will modify my position to say that what it has done, in my judgment, is completely inadequate."

Senator Randolph said he was sorry Senator Muskie felt that the committee's effort had been completely inadequate. The committee had "done so much" but "is not given credit" for these efforts. "There is a feeling among some people in the country that the Public Works Committee is a pork barrel committee. That is said over and over again" even though the committee addresses a broad range of problems. He told Senator Muskie that he had worked hard to ensure that environmental reports on highway projects—"6,000 or 7,000 a year"—were part of the process. "I think that we are just concerned with how best to do the job, how quickly it can be done."

Senator Randolph had missed Ruckelshaus's formal statement but speculated that "you may have indicated that we have to think of the long-range program, how one can fit into another . . . ." Ruckelshaus confirmed that he had said "if we are going to advantageously impact not only the problem of air pollution, associated with the use of the automobile, but the local problem of transportation, and in fact the quality of life of our people in a given community, we are talking in terms of decades and not just years."

Before Senator Muskie began his second round of questioning, he wanted to smooth over any hurt feelings. He began by saying, "I am very proud to have been a member of the Public Works Committee ever since I came to the Senate, and the fact we have been able to agree unanimously on so many pieces of environmental legislation is, I think, a tribute to the committee."

If Congress did not open the Highway Trust Fund to support public transportation in urban areas, the Senator asked, was Ruckelshaus aware of any other funds that might be made available quickly to help meet the Clean Air Act requirements? "A short answer to your question, Senator, is no." The only other source was UMTA funding.

What other transportation alternatives did EPA envision? Ruckelshaus said that increased use of buses was “clearly the only short-term alternative that is available in most metropolitan areas.” Constructing a rail transit system “obviously takes longer.”

Was EPA concerned, Senator Muskie asked, about recent trends increasing the size and weight of cars as well as fuel consumption? Ruckelshaus replied that unless the country looked at the totality of the problem, including these trends, “we are really never going to solve it.” He added:

> In fact, in my own mind, even though I am the Administrator of the EPA charged with the enforcement of the Clean Air Act, I sometimes have mixed emotions about solving the air pollution part of the problem of transportation, because what that may, in effect, do is take away the public pressure to do something about transportation as a whole. I think we need public demand to address this problem in a comprehensive and intelligent total way if we are really going to come up with any solutions that make any sense in the long run.

Was EPA considering the issue of limiting motor vehicle sizes? “I think we are just on the threshold of discussing that issue. The issue has arisen in term of the claims that the emission devices that are being put on the 1973 automobiles are causing an enormous fuel penalty.” People were discussing the fuel penalty all over the country:

> We made an analysis of the factors that were causing fuel penalties, and we found that automatic transmission causes a 6 percent fuel penalty, an air conditioner causes a 9 percent fuel penalty—up to 20 percent during certain periods of use in the summer—that automobile emission devices, on the average, of a 1973 automobile over the uncontrolled 1968 cars causes a 7 percent fuel penalty, but the single most important factor in fuel penalty is the weight . . . . If we are concerned about the conservation of fuel, then I think we ought to look at all of these things that cause fuel penalties and think about limiting those that are of less social benefit. If you do that, then the last one you get to would be emission control devices.

Senator Randolph took the final question slot by asking about the BART system in the Bay Area. Ruckelshaus had not ridden it, but said officials in San Francisco told him they “are optimistic about its eventual use, and we are watching it very carefully as is the Department of Transportation.” Senator Randolph agreed it was “a tremendous project,” but added, “It is the terrific cost of these projects, and to pull the money from the highway trust fund, that is not going to do the job.” Ruckelshaus agreed it would not do “the total job,” but the country had to “start somewhere.”

“The Congress has committed itself,” Senator Randolph said, “to urban mass transit,” but Ruckelshaus doubted that “the commitment is sufficient in terms of the long-range kind of commitment that exists with the trust fund.” The Senator asked if he would support a trust fund for mass transit. Ruckelshaus said the Administration’s approach was to use “available trust fund money, so as not to bias the decisions of the local officials toward one mode of transportation over another.”

Ruckelshaus added that comparing rail, bus, and automobile alternatives in urban conditions, a rail system is not always the best way to go" although it might be cost-effective in some cases. Senator Randolph said he was skeptical about rail systems:

> I hope that the rail systems work. I hope we have enough money to do the job. In the BART system, the estimate of traffic has been cut by 50 percent . . . . I frankly am a believer in change, and in meeting the problems of change, but I doubt that the Metro system in the District of Columbia is going to be the success that is envisioned. I hope it will be, but I doubt it very much. The periods of use of such a rail system are 3 or 4 hours a day, when the road is being used 24 hours a day, and in that long period, the rail system is not being used.

Ruckelshaus cautioned against judging BART or any new rail system in its first few months of operation "because we are talking about attitudes of people, and their dependence on certain modes of transportation shifting to another." Education was needed to "convince people why they should adopt some provision of transportation which is public." But the decisions made today will last for decades, so "I think we have to protect ourselves into the future in determining how we have to move our people in order to answer ultimately many of these questions." [*Federal-Aid Highway Act of 1973, S. 502*, p. 567-576, 619-620]

Following Ruckelshaus, the subcommittee heard from a panel of State transportation officials: Secretary Altshuler of Massachusetts, Secretary Harry Hughes of Maryland, Secretary Norman Clapp of Wisconsin, and Commissioner Raymond T. Schuler of New York. Secretary Hughes, a former State legislator since winning election in 1954, took the lead in explaining that 20 States now had departments of transportation. They met informally for the first time in September 1972 in Baltimore and 17 of the States attended a second meeting, held in Miami, the previous week. One of the reasons for the Miami meeting was to discuss the Federal-Aid Highway Act.

(The Maryland Department of Transportation had begun operations on July 1, 1971, the 12th State transportation department in the country. It combined the Maryland State Roads Commission, the Baltimore Metropolitan Transit Authority, the Department of Motor Vehicles, and the Aviation Commission.)

Secretary Hughes said State transportation officials recommended a funding level of $4 billion for the Interstate System, $1.5 billion for urban roads, $1.5 billion for rural needs, all out of the Highway Trust Fund, and $ billion for transit out of the general Treasury. In addition, Hughes said, the 17 States were "for flexibility in the funding of transportation, and in meeting the transportation needs, and are in favor of some more simplicity in trying to meet these problems. He then went through the issues the 17 States had discussed. They recommended a general block grant structure combining existing and proposed Federal-aid categories into three principal parts: Interstate, urban and rural.

The pass-through provision should be modified to permit a responsible State agency to perform the functions of developing transportation plans.

All the States, except California, supported optional use of urban and rural funds for public transportation. Eleven States favored optional use of the funds for rail transit, while the others, including California, opposed it.

The States favored completion of the Interstate System but recognized that because of environmental challenges, some segments would not be built. For those that were deemed not essential to Interstate connections, flexible substitution provisions should be provided, with the emphasis on: "A dollar-for-dollar rather than a mile-for-mile substitution, with costs being determined at time of transfer." In addition, some or all of the States favored permitting substitutions as follows:

> For other Interstate Highway projects anywhere within the State.
> The transfer of all or part of the removed segment funds to the urban fund for the use of the urbanized areas from which the segment was withdrawn.
> The responsible statewide transportation institution must consult with local governments affected by substitution. The consultation must not be interpreted as requiring local government approval which would undermine the responsibility of the State institution to complete the Interstate System.
> The present deadlines must be amended to require submission by the States of their schedule for completion of the Interstate System. The new deadlines should be July 1, 1974, for submitting completion schedules.

Senator Bentsen pointed out that the President's budget included only $4.4 billion for the Federal-aid highway program as part of the effort to address "the problem of inflation, trying to hold down the cost of living, and trying to protect the deteriorating dollar." He said that "some things have to give" and that S. 502 called for less than the comparable bill in 1972. Was it realistic to talk about an $8 billion authorization under the circumstances? Hughes explained that requesting an authorization of $8 billion was the consensus of the 17 States meeting in Miami. It was based on the cost of completing the Interstate System and addressing other road needs and urban problems. He admitted he did not think it realistic.

Commissioner Schuler of New York added that "the significant thing about our appearance today is that . . . we speak in terms of full funding because we are here fighting for everyone's interest in transportation in the Nation." The point was not the level of funding, which was a matter for the President, OMB, and the Congress to decide. Rather, the point was "the need for flexibility in this funding, so that those of us who do have transportation responsibilities in our States [can] use the dollars to the best needs we have in our States, and not be bound to the strict and past categories . . . ."

Senator Bentsen asked for clarification of the States' views on the pass-through provision. Schuler stated that in New York, as in the other 19 States, his department "is responsible for all modes in all areas of the State." As a result, "the State is the most effective mechanism to address transportation problems and their solutions . . . ." He acknowledged that in States without a department of transportation, the pass-through provision might be desirable if the funding went to "a constituted government on the basis of one-man, one-vote which has a viable organization to implement projects."

Altshuler elaborated on the Miami discussion by pointing out that the metropolitan perspective was "very important in dealing with urban highway problems," but State transportation officials objected to pass-through for several reasons:

- First, "there are few genuine governments at the metropolitan level" that could implement projects. "As written, its real intent is to pass through the funds to the individual cities and towns within the metropolitan areas via the conduit of the co-called metropolitan transportation agency."
- Second, the provision did not specify that the metropolitan agency must encompass all modes. It "could be simply a highway agency."
- Third, the provision appeared to anticipate that States would continue to provide the matching share. The States would be less concerned "if it were the localities that would put up the matching funds required for utilization of Federal-aid."
- Fourth, he thought the provision "gets much of its thrust from the history of certain abuses that have occurred in the Interstate program." States had "overridden the desires of the local communities" for certain Interstate segments in view of the 90-10 matching shares, but no such history of abuse occurred on other Federal-aid highway and transit programs. These projects, moreover, did not have the "devastating impacts that some Interstate projects in urban areas have had."
- Finally, the Secretary of Transportation already had the authority to reject projects where a dispute arises between the State and local communities.

"Thus, our position is that the executive responsibility ought to remain with the State governments, which have the capacity through their Governors and State Departments of Transportation to keep the process moving, with all modes of transportation and the full statewide and metropolitan-wide perspectives receiving their due." [*Federal-Aid Highway Act of 1973, S. 502*, p. 567-576, 621-628]

The Final Day of Senate Hearings

On February 16, AASHO was among the final witnesses before the Subcommittee on Transportation. The District of Columbia's Thomas Airis, president of AASHO, began by acknowledging that many of AASHO's recommendations in recent years were incorporated into S. 502. However, the 1972 Transportation Needs Study had identified extensive capital improvement requirements:

> Their totals included $602 billion representing highway needs; and urban public transportation needs of $63.5 billion, which were divided approximately $45 billion for rail oriented, and $18.5 billion for highway-oriented transportation. The latter is largely busses [sic].

Realistically, he supported a program of $300 billion, extended to 1990, to address the most important needs, or $20 billion annually. This total involved Federal, State, and local funding, with the Federal share in the magnitude of one-third or $6.7 billion per years, not including highway safety programs.

The fact that 80 percent of the Interstate System was open "does not really indicate the total work effort needed to complete the Interstate System." Cutbacks, impoundments, and other delays had affected the schedule. The job of completion was "going to be more complicated and complex" because the remaining segments were among the most difficult, "such as sections in highly populated metropolitan areas, or mountainous sections, where the expenditure per mile is very high." Nevertheless, the Interstate System could be completed in the 1970s "if the funds were made available." That is, if the funds were authorized and the Administration did not impound a portion of them, "the highway industry can give quick job opportunities to the returning veterans, because we are geared for a greater volume of work than really has been allowed."

AASHO also addressed the questions raised by Senator Bentsen in his invitation. Some of the answers were.

- The matching ratio for the basic Federal-aid highway program should be changed permanently from 50-50 to 70-30 "in order that the accumulating Highway Trust Fund balances can be recycled into their intended purpose."
- Congress should consider changing the traditional 2-year Federal-aid highway bill to a 4-year authorization.
- Interstate authorizations should continue at $4 billion a year.
- The bill should not include language that would "impair or encroach upon" the State highway agencies' authority over the State highway system, including extensions through urban areas of 50,000 population and above.
- Urban areas of 50,000 population and above should be encouraged to provide an areawide "authority" or "consortium" to carry out the 3C transportation planning process and commit local governments to the implementation phase of highway improvements. The State highway agency would have to approve the plan.
- AASHO opposed impoundments, but if they occurred, "an amount equal to the highway user revenues withheld [should] be automatically distributed by the Secretary of the Treasury directly to the States" based on their contributions.
- Up to 50 percent of funds, up from 20 percent at present, should be available for transfer among the Federal-aid system categories.
- Congress should consider equitable reimbursement for toll roads, bridges, and tunnels incorporated into the Interstate System so they may become free of tolls.
- Regarding Interstate completion, Congress should retain 1973 for submission of schedules for expenditure of funds for completion of remaining segments. However, the Secretary should be allowed to extend the 1975 deadline for submission of PS&Es.
- Those attempting to block highway projects in court should be required to post a bond of sufficient amount "to show sincerity of purpose and responsibility of action."
- AASHO opposed the pass-through provision by an overwhelming majority of the State highway agencies.

- AASHO supports simplification of program procedures, and recommends extending the procedures in place for Federal-aid secondary projects to the other systems, not including Interstate projects.
- Congress should create an adequately financed mass transportation trust fund from revenue other than from taxes currently levied for the Highway Trust Fund.

Senator Bentsen commented on the difference between AASHO's recommendation of $7½ billion and the Administration's $4.4 billion. Maine's David H. Stevens replied, "we felt a compulsion to bring those [amounts] to the attention of the Congress because of the needs in the highway program." He added, "We would like to get this money under the wheels, if we can, as quickly as possible" to curtail construction cost inflation.

The Senator observed that AASHO had not taken a position on the priority primary network. Stevens said the members had several concerns. They were concerned about creating another category "with all of the paper shuffling in the program." They also wanted to concentrate on completing the Interstate System and were concerned that funding might be diverted. In addition, the States were concerned "over how the routes could be selected, and whether or not they could be uniform throughout the States without definite guidelines." [*Federal-Aid Highway Act of 1973, S. 502*, p. 702-712]

Towards the end of the day, the Subcommittee on Transportation heard from Dr. George Wiley of the Urban Environment Conference, Inc., and Helen Leavitt, author of *Superhighway-Superhoax*. Dr. Wiley said he was the national coordinator for the Movement for Economic Justice. "This movement is a new movement by the people concerned about the terrible disparities in the distribution of income and resources in our very rich and affluent society." He identified the group's important concern:

> . . . the fact that the resources going into the highway trust fund are being used to the great disadvantage of the people who reside in the cities of America, and it is a great disservice to the majority of people in the country, and it works a special hardship on poor people and minorities who live in the center cities, but I believe that it does a disservice to us all, and I especially want to emphasize on poor people.

Millions of working people who live in cities and earn $5,000 to $15,000 are faced with the poisoned fumes of the automobiles even though they do not receive benefits from them:

> [It] is these people whose pocketbooks are being raided by the terrible misuse of their tax money for purposes that do not benefit them or their families, and whose jobs are being undermined and whose access to jobs are undermined by the encouragement of the flight of business into the suburbs, a flight that they may not be able to follow, because in many cases, they do not, or they may not have access to the transportation to get to those jobs that they do desperately need and depend on.

Wiley did not view S. 502 from the perspective of the "world of politicians, planners, engineers, and administrators." He viewed it from the world of the urban poor:

> These are the people whose homes most often get destroyed, neighborhoods bisected, jobs siphoned away, whose transit systems disappear, and whose very health and that of their children is endangered.

From that perspective, he said that "it is unreal coming to hearings like this," adding:

> Everyone living in the real world knows that the Federal highway programs have, since 1955, had an incalculable impact on the face of this country and on its social fabric.
>
> Who is it who does not know that the highway programs have been one spur to the tremendous growth of suburbia?
>
> Is there anyone here today who does not know that building those roads was accomplished time and again, in city after city, by bulldozing a poor neighborhood.
>
> That has been common knowledge from the beginning for anyone who cared because the decisions to run the roads through those neighborhoods were conscious decisions, based on the economics and politics of the situation.

According to recent studies, Wiley said, a center city resident is twice as likely to be unemployed as his or her suburban counterpart. "The principal causes of this disparity are the displacement of people and jobs and the disappearance of urban transit systems." He continued:

> In the 3 years between 1967 and 1970, 146,950 families were rooted out of their homes by highway and renewal programs.

In a job market based on the automobile, "not having one often becomes a sentence to joblessness, homelessness, and disillusionment, and eventually welfare." He summarized the destructive efforts of "the Nation's romance with the automobile" and the consequences of highway building:

> It is well known that—80 percent of air pollution in major cities attributable to cars; as much as 60 percent of land area in some cities devoted to streets and parking; as many as one-third of the people in major cities with health and respiratory problems attributable to or aggravated by air pollution; fuel shortages; dying transit systems and the flight of jobs to the suburbs—that these and other problems are getting worse.

As for S. 502, Wiley said that the Urban Environment Conference believes "we need to provide a great deal more money for our cities to begin to turn around the decline of public transportation." The group strongly supported the Kennedy-Weicker bill, and supports the Muskie-Baker amendments only as an "interim measure which would start to change Federal transportation priorities." In addition, the group supported the provisions that gave State and local officials the option of using Interstate funds "to satisfy other transportation needs in lieu of segments of the planned system under challenge with the qualification that the Federal share should be at a 90-10 ratio on the substituted project as well." Wiley said the bill also should provide for rail transit as called for in the Muskie-Baker amendments, S. 679.

S. 502 was converting concerns "into politically acceptable rhetoric, but there is a vast gap between rhetoric and substance." He concluded:

> Past transportation programs have consciously sacrificed the needs of the urban poor in the interests of suburbia and more highways.
>
> It is time some of the money started flowing back the other way. If the center cities could sacrifice their neighborhoods and their livelihoods so that the suburbs could drive to work, it is only fair now that the suburbs apply some of their automobile taxes to transportation benefitting the inner city.

Senator Bentsen pointed out that Dr. Wiley had used up the time allotted, but he gave Leavitt a couple of minutes. She agreed with Wiley that S. 679 and Senator Muskie's amendments "provide more flexibility for funding public transportation." As might be expected, she was for opening the Highway Trust Fund, but her explanation was unusual:

> I contend it has been "open" for many years. A cursory look at the administration's unified budget for 1974 reveals that highway trust fund receipts will total $5,749 billion. Outlays will total $4.700 billion, leaving a $1 billion surplus. This surplus, along with other Federal trust fund surpluses, will simply be applied to the budget deficit. In other words, trust fund receipts are now helping finance space, defense and other federal financed programs.
>
> Between 1971 and 1974 the surplus balance from the highway trust fund alone increased 100 percent from $3.6 billion to $6.7 billion. Over one-quarter of the $505 billion public debt is money borrowed from trust funds established for specific programs. Indeed, surplus highway trust fund taxes are treated as any other tax collected, and simply applied to deficits accrued from other programs.
>
> So much for "opening" the sacrosanct trust fund.

She pointed out that 67 cities would soon have to curtail automobile transportation to meet the new air quality standards. She cited the District of Columbia, where she lived, as an example of a metropolitan area that once had a trolley service that worked well until after World War II. Initially, she said, "engineers recommended the system be expanded and that no radial expressways be built in the Nation's Capital." However, "pressure from road interests and generous funding resulted in a massive freeway program to accommodate the automobile." By 1960, the trolley system was being dismantled. "Today these same trolley cars serve the residents of Barcelona, Spain." Commuter rail also deteriorated.

Now, with 1.2 million motor vehicle trips a day, the District was experiencing one of the worst pollution problems in the country. "And it is auto-generated." At present, she said, "we have embarked on a $3 billion subway construction program in an attempt to duplicate and even improve the service we once had."

The "Federal generosity toward highways" had distorted the transportation planning process in metropolitan areas such that "you now find yourselves in the ridiculous position of further expanding and multiplying your mistakes with still more money for the Interstate System, and more money for the ABC programs." And based on the same logic, "you intend to provide a still larger juggernaut on our small towns and cities, the economic growth center development highways." Meanwhile, she said, "our transportation problems grow worse, which is itself an incredible feat."

Put simply, "we need public transportation, and we need it now." She opposed automatically funded programs based on the trust fund concept "because such programs experience little or no review and no control of spending." Simply adding public transportation to the "pot" of highway legislation would not address the problem "without reform of both this committee and your counterpart in the House, as well as at the State level, [and] will no doubt result in further chaos in transportation planning."

Leavitt proposed making Federal transportation funding contingent on each State establishing a department of transportation. She pointed out the precedent that the Federal Aid Road Act of 1916, which established the Federal-aid highway program, required each State to have a State highway agency capable of carrying out Federal-aid projects. She continued:

> As for reform within this committee, it would be imprudent, immodest, and most unladylike for me to tell you gentlemen what I think you ought to do.

With the conclusion of her statement, Senator Bentsen asked if Dr. Wiley agreed with the Nixon Administration's opposition in 1972 and again in 1973 to operating subsidies. The reply was indirect. "I could agree with the administration on some things that they do, but I believe that their opposition is based on the wrong reasons." Construction of superhighways should be halted until a serious review of mass transit can be undertaken and the Highway Trust Fund can be opened to nonhighway uses.

Leavitt added that the Urban Environment Conference would support operating expenses "with the realization that again unless you have some kind of oversight, some kind of control on operating expenses, it too can become a runaway spending program." She added:

> In other words, we could look forward to the day when public transportation serves the needs of the majority, and it might actually become a profitable venture again, at which point one might question operation expenses . . . . We will never know whether a bus company could make a profit, until we get a balance in transportation, and more people start using it.

With so many other problems facing the Nation, Senator Bentsen asked where the money for mass transportation should come from. "How do you balance these out, Doctor?" Wiley pointed out that the problem was the priority given to superhighways despite all their negative consequences. "If we are talking about priorities, the priority ought to be on the people who are the most disadvantaged . . . ." The priority should be "on mass transit, and development of a comprehensive transit plan rather than on pouring money down the sewer of superhighways."

Senator Bentsen asked Dr. Wiley, "Are you antihighway, or are you just against the degree of expenditure for highways?" Wiley replied "that the priorities are just totally out of whack" and the time had come to "put a stop to the rush for more highways until there could be a serious evaluation of how much more money could be put into mass transit systems." The Urban Environment Conference urged putting no more Federal money into highways until this was done.

Senator Stafford referenced Dr. Wiley's comment about the percentage of air pollution attributable to automobiles. Will not a considerable proportion of that pollution be alleviated by 1975 under the Clean Air Amendments of 1970? Wiley replied with a question: "Will we tolerate the people killed between now and 1975?" Leavitt pointed out that *The Washington Post* carried a story that morning in which the Ford Motor Company said it could not meet the standards. Wiley added that the devices to curb pollution would not deal with the total problem he had described in his statement.

Senator Stafford also wanted to know if Leavitt wanted to dictate how a rural State such as Montana should spend its receipts from the Highway Trust Fund. She replied that she was concerned that many States still did not have a department of transportation. As for Montana, it may be a rural State, but "this does not mean that one cannot take a look at other forms of transportation." Just changing the psychology to think of transportation rather than "simply highways" would be a step forward. [*Federal-Aid Highway Act of 1973, S. 502*, p. 750-760]

The Brinegar Bill

Secretary Brinegar finally released the Department's legislative proposal on February 21, 1973. It was called the Federal-Aid Highway and Public Transportation Bill of 1973. As he had indicated during his testimony, the bill would open Highway Trust Fund revenues for mass transportation capital improvement projects, including rail projects in urbanized areas. A companion measure would amend the Urban Mass Transportation Assistance Act by virtually doubling the $3.1 billion of funding made available in 1970. In a statement announcing release of the bill, Secretary Brinegar said:

> President Nixon, in a special message to Congress, placed high priority on the use of Highway Trust Fund money for mass transit. We are implementing this policy by providing greater flexibility both in transportation funding for urban areas as well as in the disposition of those funds by State and local authorities, who know their own priorities best . . . . The increased UMTA funding would assure program continuity and orderly development of new large-scale projects in our urban areas.

In a letter transmitting the legislation to the Congress, Secretary Brinegar explained:

> Since the adjournment of the last Congress, we have reviewed our prior proposals and those advanced by members of the Congress. We have given particular attention to the important question of the proper use of Highway Trust Fund monies for transportation projects—especially those in urbanized areas. We believe that only by the proper combination of highway and mass transit capital investment can we expect to effectively meet the severe

> and complex transportation problems faced by our urbanized areas. Our proposed bill . . . reflects this belief by making funds available for both types of investment, including improvements to bus and rapid rail systems.
>
> We also believe that because of their familiarity with the particulars of their transportation problems, large urbanized areas should decide for themselves the proper mix of highway and mass transit capital investment. Accordingly, the bill passes through urban system funds to urbanized areas having a population of 400,000 or more.
>
> The bill also provides a means for the resolution of the controversies which have tied up a number of Interstate links in our urban areas. Recognizing that the controversies are usually not whether additional transportation capacity is needed, but rather how best to supply it, we would permit funds originally authorized for the Interstate System to be expended for other highway and public transportation projects.

In a departure from tradition, the bill provided for a 3-year authorization (FYs 1974-1976) instead of 2 years. Over that period, the bill requested \$3.65 billion for the Federal-aid urban system and \$3 billion for rural highways. Interstate authorizations totaling \$19.8 billion were spread over the period through FY 1980, the revised completion date for the System. As part of the Interstate facility, Interstate funds could be used for the construction of the following:

> . . . exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, and fringe and transportation corridor parking facilities to serve bus and other public transportation passengers.

Mass transit projects could not be approved unless the Secretary was satisfied that the responsible public mass transportation agency had adequate capability to use fully the proposed project and to maintain and operate properly any equipment acquired.

Secretary Brinegar highlighted other important features, including changes affecting the Federal-aid urban system. All routes on current systems, including primary and secondary extensions, in urbanized areas were to be combined into a more flexible urban system. Federal-aid urban system funds—\$1.1 billion for FY 1974, \$1.2 billion for FY 1975, and \$1.35 billion for FY 1976—could be used on highway projects or public mass transportation projects defined as:

> . . . ground transportation providing general or special service (excluding school bus, charter, and sightseeing service) to the public on a regular and continuing basis. Included within the scope of the projects are exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, and fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers; the construction of fixed rail facilities; and the purchase of passenger equipment, including rolling stock for fixed rail facilities.

The rural segments of the primary and secondary systems would be combined into a rural primary system. The bill also encouraged rural public transportation systems by permitting primary funds to finance the Federal share of projects for:

> . . . highway traffic control devices, passenger loading areas and facilities, including shelters, and fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail facilities.

The goal, Secretary Brinegar said, was "continuation of a strong rural highway program, providing State officials flexibility for transportation investments for rural areas, extension of the secondary road program procedures to all Federal-aid systems other than the Interstate System, and expansion of the coverage of our billboard control program."

The Interstate transfer provision would be available until July 1, 1974. Upon the joint request of a State and the local government concerned, the Secretary could withdraw approval of a controversial Interstate segment if he determined that it was not essential to completion of a unified and connected Interstate System and he received assurances the State did not intend to build a toll road in the corridor. Following withdrawal, the Secretary could permit dollar-for-dollar substitution, based on the 1972 Interstate Cost Estimate, for any project on any Federal-aid system within that State, including substitute Interstate routes and highway-oriented or fixed rail mass transit projects. The matching ratio would be the ratio applicable to the particular Federal-aid system.

The Secretary would remove from designation on July 1, 1974, any segment that the State had not established a construction schedule for within the period of Interstate funding availability and where the Secretary had not received assurances the schedule would be met. In addition, the Secretary would remove any Interstate segment that had not submitted a PS&E for approval by July 1, 1976.

The planning section of the bill required the Secretary to cooperate with the States in the development of transportation plans and programs formulated with due consideration to their probable effects on the future development of urbanized areas. Projects must result from a 3C transportation planning and programming process conducted by local governments with consultation and participation by the State. All reasonable measures must have been taken to permit public participation in the planning and programming process.

Similarly, Federal-aid urban system projects must be selected by appropriate local officials after consultation with the State in accordance with the 3C planning process.

Further, Federal-aid urban system funds apportioned to any State attributable to urbanized areas with a population of 400,000 or more would be allocated to that area based on the ratio that the population of the State bears to the population of all such urbanized areas within the State. If the urbanized area had established an agency to plan and carry out projects, the funds would be made available to this agency. The urbanized areas were not required to create such an agency, but such agencies would receive funding if they were created under State law by the local unit or units of general purpose government and were suitably empowered, equipped, and organized to plan and carry out projects.

Other provisions included:

- The concept of Certification Acceptance, available only for Federal-aid secondary projects, could be extended to the other Federal-aid systems, exclusive of the Interstate System. The Secretary would discharge his responsibilities by accepting a certification from the State that it is capable of performing those responsibilities. The Secretary would be required to conduct a final inspection. Certification Acceptance applied only to the Secretary's responsibilities under Title 23, United States Code, not to NEPA or other laws.
- Added a section, Section 146, to Title 23 for development of routes for bicycles, pedestrians, and equestrians. Funds authorized for the Federal-aid systems could be used for such routes on or in conjunction with highway or other appropriate rights-of-way. The funds also could participate in the cost of traffic control devices, shelters, and bicycle parking facilities. Projects would have to be consistent with an overall plan providing for safety and contiguous routes. Similar projects also could be developed with funds authorized and appropriated for Forest Highways, forest development roads and trails, public lands development roads and trails, parkways, Indian Reservation Roads, and public lands highways at the discretion of the Department charged with responsibility for the programs.
- For the first time, funds for Indian reservation roads and bridges would come from the Highway Trust Fund. Funds for Forest Highways and public lands highways would come from the Highway Trust Fund as directed by the Federal-Aid Highway Act of 1970.
- Established a new federal-aid highway system consisting of roads on Indian reservations that were not on any other system. Funds would be made available to the Secretary of the Interior for use in a manner consistent with the exercise of his trust responsibility. The first step would be for the Interior Secretary to work with the States, counties, and Indian Tribal councils to conduct a study of the new Federal-aid system, including a functional highway classification study and a cost estimate to be completed by July 1, 1974.
- The bill retained the Federal-State matching share of 70-30 included in the 1970 Act.

Senator Baker introduced the bill as S. 967 on the Senate floor on February 21. He was confident, he said, that with 4 days of hearings completed, the Committee on Public Works would complete its work expeditiously. "This is vital. Each day of delay means that we are likely to miss another day of the spring and summer construction season in many areas of the Nation." He added that Secretary Brinegar supported Senate Concurrent Resolution 6 to allow apportionment of FY 1974 Interstate funds. [*Congressional Record-Senate*, February 21, 1973, p. 4825-4832]

In the House, Representative Kluczynski introduced the bill as H.R. 5138.

A Change of Heart

Also on February 21, Representative Kluczynski reversed his longstanding view of how Highway Trust Fund revenues should be used. He now favored giving cities the option of using them as they saw fit. He still supported the national highway program, as he had throughout his 22 years in Congress, but said, "I feel that the need is so great in the cities of our nation, and especially in my own city of Chicago, that I have decided to step forward and support proposals to grant the states and cities the option to spend a portion of the monies, heretofore earmarked solely for highways, for public transportation programs, as well." Broadening the uses of Highway Trust Fund revenues would "help the highway program to continue to meet the nation's transportation objectives."

Washington observers attributed the surprising development to "severe pressure, partially from federal officials, but more from Mayor Daley, who has been known to feel for some time that too much tax money was going into rubber tires and not enough into buses, subways and commuter trains." Some of the pressure came from trying to help his hometown address its transit problems. The Chicago Transit Authority (CTA), which managed the city's buses, subways, and elevated trains, was operating under a State interim subsidy of $18.9 million but faced millions of dollars in operating losses before the end of the year. If funding to close the operating deficit could not be found, CTA would have to cut service and lay off some of its 12,000 workers.

Milton Pikarsky, a new member of the CTA board and soon to be its chairman, said he was not surprised by the turnaround. "I've known for at least a year his feelings on public transportation," but suggested that Representative Kluczynski had continued to act on his earlier views because he knew his support for diversion of Highway Trust Fund revenue was not shared by other committee members.

John Kramer of the Highway Action Coalition praised Kluczynski as a "statesman" for his reversal of position, saying his support "will make a major difference to our efforts to shift national transportation spending priorities away from yet more highway construction towards needed public transportation facilities and services." Kluczynski had been "one of the chief roadblocks" to opening up the Highway Trust Fund to transit, but his shift had come "in the light of new realities." [Murray, David, "Kluczynski Switches, Backs Road Funds for Mass Transit," *Chicago Sun-Times*, February 22, 1973; information on CTA operating subsidy from "Chicago Transit Board to Set Cutbacks Today as Subsidy Funds End," *The Wall Street Journal*, July 5, 1973]

The *Chicago Tribune*, in an editorial, praised the Nixon Administration for its efforts to allow the use of Federal-aid highway funds for mass transit, and agreed with its opposition to operating subsidies. The Federal Government should help urban areas plan, construct, and equip mass transit systems. State and local governments must assume responsibility for ensuring that the levels of service and fares meet the transportation needs of the people they serve. "If an operating subsidy is needed to provide adequate service it should not come from Washington."

Efforts to open the Highway Trust Fund in 1972, failed "thanks in part to Rep. John Kluczynski . . . ." The editorial continued, "Now that the CTA is in trouble—and at Mayor Daley's urging—Mr. Kluczynski has seen the light and has pledged to support the legislation."

The newspaper pointed out that Mayor Daley wanted Federal funding for operating subsidies. Based on experience, the editorial did not think Illinois would get back as much as it put in. "Illinois taxpayers would be contributing to subsidies not only in Chicago but also in New York City, Atlanta, St. Louis, and elsewhere." Instead of waiting for Federal subsidy funding, the State should create regional mass transit authorities to administer funding from State or local sources. ["Highway Funds for Mass Transit," *Chicago Tribune*, February 25, 1973]

Engineering News-Record observed that Kluczynski's "defection" was "bound to hurt trust fund purists." Their reaction, however, was subdued. An unnamed "highway user group spokesman" said:

> We really don't want to criticize Klu. He's been under intense pressures. It is hard to envision him suddenly switching positions like this, but on any vote that's on the public record, he's going to have to vote for diversion from now on. ["Roads Subcommittee Head Now Supports Tapping Trust Fund," *Engineering News-Record*, March 1, 1973, p. 12]

(On March 27, 1973, the Illinois Senate voted to override Governor Daniel Walker's veto of a bill to provide $12.6 million to aid mass transit in Chicago, to be matched by $6.3 million from Chicago and Cook County. The Illinois House had voted to override the veto a week earlier. The funding would cover CTA's operating deficits through June 30. Governor Walker had asked that the State pay only half of the needed $18.9 million. ["Chicago Transit Agency to Get Subsidy Funds; Veto is Overridden," *The Wall Street Journal*, March 28, 1973])

King Auto's Day of Judgment

In the wake of Ruckelshaus's plan for the Los Angeles area, *The Baltimore Sun* published a column on February 3 titled "King Auto's Day of Judgment Approaches." Despite "a howl of incredulity and anguish" arising after the announcement, "something of the sort will come to pass" around the country in time. It was "high time to divert public funds from more highway construction to the improvement of public transportation":

> The "concrete lobby" of highwaymen prevented President Nixon, last year, from tapping the federal Highway Fund for that purpose. In Michigan, where King Auto first proclaimed his suzerainty, the state concrete lobby prevented Governor Milliken from using any part of the sacrosanct state highway fund even to hire more highway patrolmen. We go on tearing cities and countryside apart for new roads, as if we meant to pave the whole face of America with concrete, and drive madly in all directions, fouling the air until we are asphyxiated.

Soon, the end would come. "When King Auto expires, I'll go to his funeral—but just for the ride." ["King Auto's Day of Judgment Approaches," *The Baltimore Sun*, February 3, 1973]

President Nixon had anticipated that day in his State of the Union Message on Natural Resources and the Environment, submitted to Congress on February 15, the same day Ruckelshaus appeared before the Subcommittee on Transportation. The President had extolled his Administration's progress in passing NEPA, the Clean Air Amendments, and other legislation, as well as creation of

EPA. "Year by year, our commitment of public funds for environmental programs continues to grow; it has increased four-fold in the last four years." Much remained to be done. In the area of "Controlling Environmental Impacts of Transportation, he had said, as noted earlier:

> I will continue to place high priority upon my request to permit use of the Highway Trust Fund for mass transit purposes and to help State and local governments achieve air quality, conserve energy, and meet other environmental objectives.

EPA, however, was having trouble in the courts with implementation of the Clean Air Amendments of 1973. Its decision to extend the deadline for compliance with air quality standards by 2 years was under challenge in the courts.

On January 31, 1973, the U.S. Court of Appeals in the District of Columbia had ordered EPA to rescind its order extending the deadline for 17 States. The court acknowledged that Ruckelshaus had acted "in the best of faith," but had violated the "strict requirements of the Clean Air Act of 1970" and in so doing had not complied with the congressional intent as reflected in the setting of "limited and well-defined statutory extensions." Ruckelshaus was to inform the 17 States that the compliance date was April 15, 1975, for submitting corrected plans for meeting the standards. The States must identify plans to meet the standards or make a persuasive case for a delay until 1977. [Kenworthy, E. W., "Court Bars Delay in Cleaning Up Air," *The New York Times*, February 2, 1973]

The auto industry was not faring much better. On February 10, the same court turned down the auto industry's request for a 1-year extension, but ordered EPA to hold hearings on their concerns and decide within 60 days. [Kenworthy, E. W., "New Hearings Set on Car Emissions," *The New York Times*, February 11, 1973]

Having lost in court, the industry tried public relations. The president of Ford Motor Company, Lee A. Iacocca, appeared before the New York Chamber of Commerce on February 15 to argue for a 1-year extension of Federal emission standards for automobiles:

> As of today . . . we know of no practical way to meet the 1975 emission standards for our products in time to produce 1975 models.

As Helen Leavitt would mention during her testimony before the Subcommittee on Transportation, Iacocca recommended a 1-year extension and temporary standards that could be met by cars without catalytic converters. "We've already spent millions of dollars and we can come pretty close, but can't meet the precise requirements of the law." California, he added, would need a 2-year extension. His proposal, he said, could save "at least $100 to $125 a vehicle and still improve air quality." [Associated Press, "Ford Chief Asks Exhaust Rule Lag," *The Washington Post*, February 16, 1973]

Two days earlier, Judge Charles W. Joiner of the U.S. District Court in Detroit fined Ford $7 million because some employees had tampered with test engines so they would comply with air quality standards. Ford did not contest the Justice Department's charge. The tests in question—engines ran for 50,000 miles over 100 days—had taken place between the fall of 1971 and the spring of 1972 on engines for the 1973 model year. The improper adjustments had not been reported to the EPA, but rendered the results meaningless when discovered. U.S. States Attorney Ralph Guy, Jr., said the fine "demonstrates that the Government means business in enforcing the provisions for the Clean Air Act." [Salpukis, Agis, "Court Fines Ford $7-Million in Suit on Pollution Test," *The New York Times*, February 14, 1973]

By contrast, the National Academy of Sciences released a report on February 16 that concluded the industry probably could meet the 1975 standards. The report, called for under the Clean Air Amendments of 1970, said four types of system could work: a modified conventional engine equipped with an oxidation catalyst, a carbureted stratified charged engine (Honda), a Wankel rotary engine equipped with a thermal reactor (Mazda), and a diesel engine (Mercedes-Benz).

The report said the U.S. industry was concentrating on the most expensive and least satisfactory methods for meeting the standards. Consumer advocate Ralph Nader explained why he thought that might be the case.

> As has been their practice for more than 20 years, the domestic automobile companies once again are mounting an intense propaganda campaign to advertise their "inability" to meet air pollution control standards . . . . What the giant auto corporations say they cannot accomplish in 1975, two small Japanese auto companies have already accomplished. According to official U.S. Environmental Protection Agency (EPA) test results, Honda and Toyo Kogyo have easily met the 1975 standards for 50,000 miles with their respective vehicles, the Honda and the Mazda.

According to Nader, the industry had known since the 1930s that automobile pollution was a cause of the Los Angeles smog problem. When California demanded that vehicles sold in the State come with exhaust controls, the industry said that such equipment would not be feasible until the 1967 model year. "But when California certified the control devices of two non-automotive companies, GM, Ford and Chrysler suddenly announced they could indeed install such devices in 1966 vehicles." Nader indicated that the real reason for the delay was revealed in 1969 as a result of a Justice Department lawsuit against the domestic manufacturers and the Automobile Manufacturers Association for conspiring to restrain development of auto exhaust control systems since 1953:

> The evidence brought together prior to this suit by a Los Angeles grand jury outlined the cross-licensing agreement and other close associations between these so-called auto competitors that forged this illegal, united front of inaction. In September 1969, the domestic auto companies entered into a consent agreement with the government agreeing never to engage in such a conspiracy again.

Now, he said, the companies remained "obstinate to all government pleas," insisting on installing "a less effective but more expensive exhaust control system—the catalyst-equipped vehicle which will carry a gouging sticker price of $230 above the 1970 vehicle price . . . ." He concluded:

> What these corporate mastodons need is more competition from smaller companies and strong antitrust enforcement. [Nader, Ralph, "Detroit's Excuses," *The Washington Star-News*, February 25, 1973]

(A secret Justice Department memorandum, which Nader had obtained in 1971, summarized the conspiracy to suppress development of pollution controls and recommended criminal prosecution. As he said, the memorandum was based largely on a grand jury investigation in Los Angeles, July 1966-December 1967, led by Samuel Flatow of the Department of Justice's Antitrust Division. The memorandum stated:

> Throughout the entire conspiracy, the participants were cognizant of the antitrust implications of their activities. Despite this fact the conspiracy was carried on for economic reasons. The health and welfare of the community were disregarded. In these circumstances criminal prosecution is clearly indicated.

(In January 1969, the Justice Department decided instead to launch a civil conspiracy complaint against General Motors, Ford Motor Corporation, Chrysler Corporation, American Motors, and the Automobile Manufacturers Association. Several smaller manufacturers were named as coconspirators rather than defendants. On September 11, 1969, the manufacturers entered into a consent decree in which they admitted no guilt but agreed not to conspire to obstruct development of pollution control devices. They also promised not to cross-license patents or patent rights, restrict publication of research relating to the devices, jointly assess patents submitted by inventors, or act jointly to file safety data with government agencies. [Graham, Fred P., "U.S. Settles Suit on Smog Devices," *The New York Times*, September 12, 1969; Mintz, Morton, "Justice Dept. Had '68 Memo on Auto Plot," *The Washington Post*, May 19, 1971])

Referring to the new study, an editorial in *The Los Angeles Times* drew a similar conclusion, saying the U.S. auto industry was pursuing a dual-catalyst system "that the academy has criticized for high cost, poor fuel economy and expense of maintenance":

> The blame for that, the academy study says, falls on the industry. The auto makers were extremely laggard in their pollution control and development work, and did not really begin to move until government pressures were exerted. Then they chose to devote their antipollution efforts "almost entirely" to "minimal modifications" of existing engines.

Whether to stick with the industry's current efforts or extend the deadline to give the industry more time to adopt a better option was "as the academy notes, a multibillion-dollar choice." ["A Hard Choice on the Auto Deadline," *The Los Angeles Times*, February 25, 1973]

In California, Senators Cranston and John Tunney, both Democrats, appeared before a Southern California Association of Governments meeting on February 15. Senator Cranston predicted that Congress would divert Highway Trust Fund revenue for rapid transit, while Senator Tunney said he intended to introduce legislation that would divert revenue from the Highway Trust Fund to help develop a smogless alternative to the internal combustion engine. ["Road Use for Fast Transit Forecast," *The Los Angeles Times*, February 16, 1973]

On February 20, the Los Angeles Environmental Quality Board met at Parker Center police headquarters to receive suggestions for alternatives to EPA's drastic plan. An article about the meeting said, "Most said the plan calling for an 80% reduction in vehicle use was too radical and posed a serious threat to the economy." Suggestions included improving the rapid transit system and increasing the use of bicycles. The article said that according to the Southern California RTD, "it would take about 8,000 to 10,000 buses to fill the void created by a reduction in vehicles called for by the EPA plan." ["Alternatives to Gas Rationing Proposed," *The Los Angeles Times*, February 21, 1973]

On the eve of 3 weeks of EPA hearings in the Los Angeles area, reporter Gladwin Hill, who specialized in environmental issues for *The New York Times*, explained:

> Officials of Los Angeles County, which covers the biggest portion of the basin, say that by rigorous regulations going back to 1947 they have reduced smog from stationary sources, such as factories, to only 10 per cent of total air pollution, and that 90 per cent of the smog now comes from automobiles, whose emissions are a Federal responsibility.
>
> Neither local officials nor state officials see any possibility—short of stopping auto traffic entirely—of meeting Federal standards even by 1977. But they foresee, with an ever-increasing ratio of fume-controlled cars, the problem being brought within bounds by 1980 or soon thereafter.
>
> William D. Ruckelshaus, the E.P.A. Administrator, has suggested that one solution for Los Angeles would be to seek a special dispensation from Congress extending the compliance deadline even beyond 1977.
> In a sense, the Los Angeles basin hearings will be an academic exercise, because the Federal antipollution agency has no power to enforce whatever transportation control plan it finally promulgates. The agency is dependent for this on state and local cooperation in adopting the legislative and administrative measures necessary to carry out any plan.
>
> But, in another sense, Mr. Ruckelshaus has said, Los Angeles is a national test case in the willingness of citizens to alter lifestyles to meet air quality standards they have already espoused through their Congressmen. [Hill, Gladwin, "Hearings to Open on Alternative Solutions to Smog Problem in Los Angeles," *The New York Times*, March 4, 1973]

According to Hill, the first day of EPA's hearings "did not evoke a high pitch of civic excitement." He said, "Fewer than 200 people attended the initial session, in the auditorium of the Parker Center police headquarters." State and local officials addressing the forum agreed the region could not meet the standards even by 1977. Hill summarized:

> The consensus of initial witnesses was that blame for one of the nation's worst air pollution problems rests with the automobile industry, and that the Federal Government should be centering its attentions on Detroit rather than Los Angeles.

He quoted Senator Tunney as calling the EPA proposals "a drastic and nonsensical" measure that "would lead to economic and social chaos and be impossible to enforce without putting a bayonet at the back of every motorist." Tunney added that, "Instead of turning to police-state solutions, we should mobilize our effort to develop mass transit and to mass produce an alternative to the internal combustion engine." He explained that, "Detroit, by sticking with the present internal combustion engine, has been trying to saddle a dinosaur." [Hill, Gladwin, "Plan to Cut Auto Travel in Los Angeles Basin Scored at Hearing," *The New York Times*, March 6, 1973]

The second day of hearings brought some optimistic comments. Harold Sullivan of the California Air Resources Board thought the area could reduce automobile travel by 10 to 15 percent by 1977 through extensive use of buses, carpools, and parking restrictions. Land use controls were also a potentially important measure. Larry Moss, the Sierra Club's southern California representative, recommended land use limitations (including zoning controls and embargoes on electricity, gas, and sewage hookups) and controls on shopping centers, sporting arenas, and other crowd-generating venues. Auto travel could be reduced 30 percent, he said, by such measures as increased bus service, exclusive bus lanes and low fares, priority treatment for high occupancy vehicles on freeways, and car-free zones in the city. He also advocated a car tax based on the individual emissions of each vehicle.

By contrast, Donald C. Tillman, the city engineer and president of the Los Angeles chapter of the American Society of Civil Engineers, recommended completing the area's freeway system, coupled with efforts to relieve bottlenecks. He also suggested the area encourage bicycling, implement 4-day work weeks, expand carpooling, and increase rapid transit.

With a mayoral election underway, candidates attempting to defeat Mayor Sam Yorty, who had been a strong backer of freeway construction, appeared before the forum. Jesse Unruh, a former Speaker of the California State Assembly who had lost his 1970 bid to defeat Governor Ronald Reagan, said that trying to attain the 80-percent reduction in auto travel through gasoline rationing as proposed by EPA would lead to "quite possibly a revolution." If implemented, the plan could lead to "armed raids on gasoline stations." He thought a 20-percent reduction might be possible through increased bus service and reduced parking fees for carpools.

Another candidate, City Councilman Thomas Bradley, an African-American former city police officer, commented that "obviously" automobile travel would have to be reduced. [Dreyfuss, John, "Public Will Sacrifice to Fight Smog, Panel Told," *The Los Angeles Times*, March 7, 1973]

On March 9, 1973, *The Los Angeles Times* reported discouraging news for those seeking to cut automobile traffic:

> Downtown Los Angeles is bulging with more people who use cars each day but fewer commuters and shoppers appear to be riding buses to get there, the city Traffic Department reported Thursday.
>
> By 1975, it will be worse. There will be about the same number of persons, but more vehicles will be entering and leaving the Central City, the researchers reported. They said

> the number of vehicular trips by then will equal the postwar peak set in 1957 when there was no freeway loop for motorists to bypass the downtown core.

The report, based on figures compiled in May 1972 from a count at cordon boundaries around a one-square-mile section of the Central City core, found an increase in carpooling "especially among the Civic Center's government workers," but a decrease in the number of people using the area's buses to enter the core (124,226 passengers, down from the previous year's 125,659):

> The cordon count showed that while automobiles account for about two-thirds of the persons entering the downtown area, buses carry 20.7%, down from 21.3% in the previous count. Significantly, however, automobiles account for nearly 89% of the traffic entering the Central City but buses only 1.5%.

The number of pedestrians also was declining, partly due to the loss of apartment houses and other multi-unit structures on the downtown fringe. [Hebert, Ray, "Auto Riders Up in Central City; Bus Use Drops," *The Los Angeles Times*, March 9, 1972]

At the same time, Governor Reagan signed a law creating the California Department of Transportation in the State Business and Transportation Agency, effective July 1. The new department would include divisions of transportation planning, mass transportation, and aeronautics, in addition to absorbing the Department of Public Works that was responsible for freeway development. In signing the bill, the Governor said, "This plan will provide balanced transportation systems consistent with our state's social, economic and environmental goals." He added:

> The new department will be responsible for developing a statewide transportation system based on regional plans submitted by local councils of government or transportation commissions. After public hearings and adoption, regional plans will be brought into the statewide plan with necessary adjustments for inter-regional systems. This will give California a coordinated transportation system that will serve all the people better now and in the future. ["Calif. Bill Sets up State Department of Transportation," *The Journal of Commerce*, March 9, 1973]

The Los Angeles Times observed on March 19 that plans for the area's freeways were slipping:

> Southern California's freeway development program is dying a slow death. Legislative deletions have decimated some routes. Others have been hit by court actions and a financial crunch is threatening still others.
>
> Clearly, the freewheeling, freeway-building days of the early 1960s, when every mile of freshly paved freeway was considered a blessing, are gone.

The article claimed that the "changing mood about Southern California's freeway program" was casting "serious doubt on the future of all routes not yet built." The area's 23 freeways, fully or partly completed, had cost more than $3 billion, but an additional 17 routes had seen "little planning and no construction" thus far. Highway officials were concerned because, as one unnamed State highway official pointed out, this remaining mileage was part of the 1,557-mile network adopted 15 years earlier. "When you start chopping up the system, you defeat its purpose." [Hebert, Ray, "California Freeway Plans Slip," *The Los Angeles Times*, reprinted in *The Washington Post*, March 18, 1973]

The Los Angeles City Council acknowledged on March 19 that the city did not have a satisfactory program to control auto emissions. The council voted 12 to 2 to grant the city's Department of Environmental Quality's (DEQ) request to present suggestions, during testimony before EPA's March 23 hearing, on alternatives to EPA's radical plan for gasoline rationing in the Southern Coast Air Basin. General Manager Jack Green told the council that DEQ had studied several options:

> They include improved public transportation, incentives to discourage auto use, auto-free zones, increasing parking costs, carpooling, exclusive bus and car pool lanes, limitation of second and third-car ownership, limitation of auto registration, exclusive bicycle lanes and "park-and-ride" facilities.
>
> Other studies have been carried out, he said, [of] on-ramp metering on freeways, reduction of speed limits to 55 m.p.h., staggered working hours and a four-day work week.
>
> "The general conclusion of these studies," the report said, "has been that the programs would have only a minimal effect on emission reduction."

The council directed DEQ to inform EPA that the council was awaiting a DEQ proposal for the conversion of city-owned cars to meet the 1975 standards; the city is encouraging improved public transportation, including freeway rampside parking, mini-buses, and incentives for bus use; the DEQ would soon report on the status of the city's 4-day week program and submit recommendations for staggered work hours and a split week; and that the council had instructed DEQ to recommend to the city's Public Health, Welfare and Environmental Committee any Federal, State, and local abatement programs for support by the city.

The plan, said Councilman Arthur K. Snyder, was weak, "but at least it will be better than the city standing mute." [Baker, Erwin, "City Council Approves 'Weak' Pollution Report, *The Los Angeles Times*, March 20, 1973]

Since 1938, the State constitution had limited revenue from the State gas tax to highway construction and maintenance. On March 20, James R. Mills, a Democrat representing San Diego in the State Senate, introduced a constitutional amendment to allow use of some of the $700 million collected annually from the State gas tax for rapid transit construction. Funds from motor vehicle taxes also could be used for control of smog caused by automobiles. Mills, Senate President Pro Tem, had been the author of a similar measure, known as Proposition 18, that voters had rejected in 1970 by a vote of 3,121,611 to 2,648,287. An article about the new measure said:

> Proponents argued in 1970 that rapid transit would reduce air pollution and speed up commuting in large metropolitan areas. Opponents claimed passage would mean a gas tax hike and lessen funds needed to complete the state freeway system.

In 1973, Mills said, the constitutional gas tax restriction "has outlived its usefulness and now threatens to stifle development of balanced transportation systems." Compared with proposition 18, chances for the new measure had improved because, "Californians are demanding that we do more to solve our transportation and air pollution crisis." He added, "We just can't continue to pour all of our gas tax money into more and more freeways. That makes absolutely no sense at all." [Gillam, Jerry, "Senate Gets Measure to Boost Rapid Transit," *The Los Angeles Times*, March 21, 1973]

Also on March 20, Vice President Spiro Agnew was in Los Angeles as the featured speaker during a luncheon at the Los Angeles Convention Center for an international seminar on rapid transit. The focus was on promoting a rapid transit system for Los Angeles, but attendees included representatives from Atlanta, Montreal, San Francisco, and Washington, D.C. The Vice President said the automobile was not a monster, but it could turn into one if cities such as Los Angeles became totally dependent on it:

> We can develop more rational and efficient ways to move around in our cities, and mass transit—whether it be bus, rail or an innovative new system—can free us from automobile servitude.
>
> A decision must be made. People are ready for a change. We see it in the lines of traffic jamming Los Angeles freeways.

The Federal Government was ready to help the Nation's cities, as reflected in Secretary Brinegar's highway and transit proposal to open the Highway Trust Fund to urban bus and rail use. Vice President Agnew also cited the proposal to allow State and local officials to withdraw controversial Interstate segments in favor of other highway or transit projects, a plan that "makes a great deal of sense." He explained:

> Highways are not an end in themselves. Their purpose is to solve the needs of a transportation corridor. If there is a more efficient and effective way, or a combination of ways . . . is it not wiser to give localities real flexibility?

Regarding the Los Angeles area, the Vice President praised bus and rail transit options. A bus could take the place of 30 automobiles, but a rail system was "even more impressive." Building a rail system would take time, but Los Angeles and other cities could take steps to solve some of their transportation and environmental problems in the meantime. Steps included "fringe benefits" for transit riders, such as fare reductions supported by private businesses, as well as auto-free zones and pedestrian malls that would create an incentive for walking.

He also referred to the Pacific Electric interurban rail network that had once served the area before being replaced by a bus system because "the tracks got in the way of the automobiles . . . ." He said:

> Paradoxically, you are now considering ways of re-creating the efficiency and environmental integrity of that system at a cost of several billions of dollars. Perhaps that is an unfair oversimplification, but we have come nearly 180 degrees since those tracks were removed to facilitate automobile traffic. [Hebert, Ray, "Auto May Turn Into a Monster, Agnew Cautions," *The Los Angeles Times*, March 21, 1973]

The EPA hearings ended March 22 after testimony from more than 200 witnesses in nine Los Angeles Basin cities. Ruckelshaus said EPA would review the 3,500 pages of testimony before releasing its own "transportation strategy" for Los Angeles by June 15. Overall, the witnesses generally did not challenge EPA projections, but they did not believe automobile traffic could be cut by the proposed amounts. Gladwin Hill summed up:

> Three weeks of public hearings have convinced Federal aid pollution officials that there is no possibility of imposing a big reduction in Los Angeles Basin auto traffic to clean up the air.
>
> Instead, the Environmental Protection Agency will recommend a combination of less harsh measures, such as improving mass transit, car pooling, "disincentives" to downtown driving and conversion of fleet vehicles to natural-gas fuel. [Hill, Gladwin, "Pollution Aides Doubt Traffic Cut," *The New York Times*, March 26, 1973]

While the hearings were underway in the Los Angeles area, EPA had been holding hearings required by the U.S. Court of Appeals on the auto industry's request to delay Federal emissions standards for 1975 cars. On April 11, Ruckelshaus announced that he had decided to suspend the requirements for the 1975 model year and approve two standards for the country. The stronger standard would apply in California where cars sold in 1975 would be required to have their exhaust systems purified to release no more than 0.9 grams of hydrocarbons and 9 grams of carbon monoxide per mile of travel. For the rest of the country, the second standard limited emissions to 1.5 grams of hydrocarbons and 15 grams of carbon monoxide. The stiffer standards envisioned by the Clean Air Amendments of 1970 would apply to 1976 models (0.41 grams of hydrocarbons and 3.4 grams of carbon monoxide).

Ruckelshaus explained that this two-phase approach would avoid the risk of "societal disruption." An article in *The Washington Post* about the decision stated:

> Ruckelshaus, in explaining his decision, said he had to weigh the symbolic rollback from the act's requirements against the risk of unleashing a political and consumer backlash by forcing Detroit into putting troublesome devices on 1975 automobiles. Such a backlash, he said, might "destroy the momentum" of the effort to clean up the air.

> He said the White House had accepted "with alacrity" his suggestion that it stay out of the decision on Detroit's request to suspend the 1975 clean air requirements for one year. "This is my decision," he said.

Ralph Nader immediately denounced the decision. He charged that "once again the concessionaires within the Nixon administration have sold out the environment to industry polluters."

The four Detroit-based auto manufacturers (General Motors Corporation, Ford Motor Company, Chrysler Corporation, and American Motors Corporation) expressed concern about the technology available for meeting the interim standards for 1975 and its cost. General Motors' chairman, Richard C. Gerstenberg, said "we are disappointed and dismayed by the decision of the EPA. While the 1975 standards, as originally established, have been delayed for a year, the interim standards will be most difficult to attain and may well require the use of costly catalytic converters nationally." Henry Ford II said that "on the basis of what we know now, the requirements for 49 states are so tough as to make it extremely doubtful that we can meet them across the full range of all production without the use of expensive, untried catalysts." Chrysler considered the standards "beyond our present non-catalytic capability," while American Motors called the ruling "regrettable." [Wilson, George C., "Auto Makers Win Delay on Clean Air," *The Washington Post*, April 12, 1973; and Salpukas, Agis, "Detroit Unhappy with E.P.A. Action," *The New York Times*, April 12, 1973]

(The original standards had been developed by Delbert Barth of the National Air Pollution Control Administration in the Department of Health, Education, and Welfare, but based on the state of technology, he proposed them for 1980 vehicles. The Senate Committee on Public Works, with strong encouragement from Senator Muskie, applied the standards to 1975, in effect legislating technology. [Train, Russell E., *Politics, Pollution, and Pandas: An Environmental Memoir*, Island Press/Shearwater Books, 2003, p. 167])

The media understood Ruckelshaus' position. "Rather than risk widespread economic disruption," a *New York Times* editorial stated, "by insisting that all the standards be met for 1975 models, he chose to postpone their full impact to 1976." Unfortunately, the editorial added, "the Administrator lacked the authority to require the car manufacturers to use their grace period for developing a better approach, for example, a counterpart of the Honda engine . . . ." *The Washington Post* called it a "realistic decision, the best choice that could have been made from among a number of unattractive alternatives." It said that Senator Muskie was threatening congressional action to impose engine design and efficiency standards on the auto industry. "It is not an idle threat" since foreign auto makers had met the standards. "What Muskie and others are demanding to know is why Detroit has failed to exploit that technology, to the coming detriment of car buyers and of air quality." ["Year's Grace," *The New York Times*, April 12, 1973; "Car Deadline: Reality and Discontent," *The Washington Post*, April 12, 1973]

Similarly, *The Wall Street Journal* applauded the EPA decision and criticized the automakers for "embarking on a campaign to persuade Congress to roll back those standards . . . ." Instead, they should "demonstrate good faith" instead of "swarming over Capitol Hill, taking full-page advertisements, and having vice presidents fan out over the countryside making speeches denouncing the standards." Admittedly, "environmental zealots" wanted to "punish Detroit for past sins even more than they would like clean air." They may make "the loudest, most irritating noises," but that was no reason for the auto industry to "react in kind." Americans would be willing to "make accommodations along the way as long as it feels in its bones that the manufacturers are trying." ["A Matter of Emphasis," *The Wall Street Journal*, April 13, 1973]

(Flippen, in his book about President Nixon's environmental actions, provided an historical viewpoint that was not available to reporters at the time:

> In the year since the original denial, science had developed adequate catalyst technology on prototype cars. Because the cost of expanding this technology to mass-produced models was extensive, the companies argued that the necessary technology was unavailable, a conclusion that environmentalists vigorously challenged. General Motors Corporation, anxious to curry favor with the administration and improve its image with the public, offered a solution: interim standards establishing a two-tier system. California, GM suggested, would have to meet the rigid EPA standards and thus require catalysts on all models. The rest of the nation would only have to meet 50 percent of the standards. This allowed more time for study while making the effort feasible for the companies. The proposal constituted a significant weakening of the law, but Nixon insisted that EPA accept. "Pull Ruckelshaus in when he goes too far," Nixon wrote an aide upon hearing of the offer. "I want sympathetic consideration of this request." Under pressure, Ruckelshaus announced in early April that EPA agreed. The issue was "terribly complex," Ruckelshaus tried to explain. It was inexcusable, the National Resources Defense Council replied. The administration had "sold out to big business" . . . .
>
> It was for the companies only a matter of the bottom line; had EPA not forced them to spend the necessary money, the nation would have paid the price in its air quality. It was indeed complex, but Nixon's order to compromise was more in the interest of the auto industry than the nation's air.
>
> It was also, the White House calculated, in its own political interest. The companies unleashed a furious public relations campaign to convince Americans that the rigid standards necessitated a dramatic increase in the price of a new car. Company engineers insisted that the cost would rise by an average of almost one thousand dollars, a figure outrageously high. They also maintained that fuel efficiency would suffer, that cars with catalysts would consume more gas and thus cost consumers an additional two hundred dollars annually. Environmentalists and their champions on Capitol Hill did their best to counter such claims . . . . It was, however, a tough argument to debunk, as the White House knew. [Flippen, p. 192-193])

Mayor Yorty, who had become Mayor on July 1, 1961, had defeated Councilman Bradley in the 1969 Democratic primary by claiming the former police officer was a Black Power-type radical. Now, in 1973, Bradley was again challenging Yorty, but with rapid transit a key issue. On April 18, Bradley met with the press about 90 minutes before Mayor Yorty's weekly news conference. This was part of Bradley's new strategy of taking the initiative from the Mayor, who had been using his news conferences to make charges against his opponent. On this day, Bradley said, "We've got to get on with the matter of rapid transit," adding:

> You know, Sam Yorty seems not to recognize that we have a rapid transit problem and perhaps that's true because he flies about this city from home to work or other places in a $150,000 helicopter, paid for by the taxpayers of this city. Now, while he's flying overhead, we're stuck on our overcrowded freeways, unable to move."

He cited his own actions in support of rapid transit. He led the fight to get the State Legislature to provide funds, $4 million a year, for the first leg of a rapid transit system (Yorty had tried to transfer the funds to nontransit needs). He supported setting aside freeway lanes for exclusive use by buses, known as "freeway flyers" (Yorty "hasn't opened his mouth or lifted his finger to do anything about it"). He had proposed a successful mini-bus plan ("not a word from" Yorty in support) and attempted to break the Yellow Cab monopoly ("Sam Yorty's commission has blocked that effort"). Bradley said he also had been involved in the fight in Congress to break open the Highway Trust Fund for mass transit ("not a word from Sam Yorty on that issue.").

Los Angeles, Bradley said, ranked 20th among the 21 major recipients of Federal transportation funds on a per capita basis. "It's time that this city had a mayor who would not simply fly above (the traffic problems), or fly away from them, but who would care about all the people of this city, who would begin to deal with the problems that face us."

Mayor Yorty, in his news conference, denied all the "wild charges" and said he was only addressing the point because, "I'm trying to clear up a little confusion based on demagoguery." He had backed rapid transit, and Bradley knows it, so "rapid transit is not an honest issue in the mayoralty race." As for the allegation about the helicopter, "Everybody knows that isn't true. He doesn't seem to care what he says." As he had in 1969, he accused Bradley of trying to become Mayor so he could "get control" of the police department. (*The Los Angeles Times* had looked into the helicopter issue some time ago. Based on a review of departmental records, the newspaper found that Mayor Yorty rarely used the helicopter to commute, but did use it to keep speaking engagements and reach other events around the State.) [Reich, Kenneth, and Bergholz, Richard, "Bradley Accuses Yorty of Failure on Rapid Transit," *The Los Angeles Times*, April 19, 1973]

Senate Concurrent Resolution No. 6

While completing work on S. 502, the Senate Committee on Public Works approved Senator Baker's Senate Concurrent Resolution No. 6 to allow Secretary Brinegar to apportion $1 billion of Interstate funding on the basis of the 1972 Interstate Cost Estimate. Senator Baker brought the resolution to the Senate floor on March 6.

It was, he said, "an emergency measure designed to assure that interstate highway funds continue to be available for obligation by the States without interruption." The failure of the Federal-Aid Highway Act of 1972 left many States without Interstate funds. Virginia had no funds left, while eight States had less than $5 million available. Seven States had between $5 million and $10 million available while five had between $10 million and $20 million. With the spring construction season about to get underway, "these States are in immediate need for fiscal year 1974 apportionments."

Senator Baker pointed out that the resolution enjoyed support from the Nixon Administration, but "will become effective immediately upon passage by the House without Presidential signature." Senator Bentsen said that S. 502 involved a number of controversial measures that would take time to resolve, but in 1972 and again in 1973, there was "no controversy" over continuing development of the Interstate System. Some controversy did exist about the appropriate funding level. While that issue was resolved, Senate Concurrent Resolution No. 6 involved only a portion of the funding:

> Although the full amount authorized for fiscal year 1974 is presently $4 billion, the committee chose to apportion only $1 billion at this time for several reasons. The availability of $1 billion would permit the States to award construction contracts this spring at the beginning of the construction season when activity of this type normally is greatest. Further, the committee did not believe it would be wise to apportion the full amount since we are now considering a reduction in the annual authorization for interstate construction.

He emphasized that adoption of the resolution would "in no way impair the ability of the Congress to enact a new general highway bill," adding:

> It has been considered by some that the urgent need for interstate funds would be an incentive for prompt action on the bill. The committee considered this situation in deciding to apportion only $1 billion at the present time. The continued nonavailability of the remainder of the fiscal year 1974 funds should remain as one of the encouragements for prompt action, but reduce the pressure sufficiently to prevent us from being rushed more than is necessary for the thoughtful deliberations that are required on the highway transportation issues we face this year.

Senator Randolph concurred:

> While the Congress works to produce a new general highway bill, there could be widespread unemployment in the highway construction industry and severe disruption of State construction schedules. At the same time, continuing inflation would push the ultimate cost of the system to new highs.

Without a recorded vote, the Senate approved Senate Concurrent Resolution No. 6. [*Congressional Record-Senate*, March 6, 1973, p. 6431-6433]

The Senate Committee on Public Works Bill

On February 28, Secretary Brinegar wrote to let Senator Randolph know the Department of Transportation's views on S. 502. The Secretary stated that the Federal-Aid Highway and Public Transportation Act of 1973, S. 967, introduced a week earlier, reflected the Administration's position. He believed that "its enactment would go a long way toward solving some of our Nation's major transportation problems." However, S. 502 included "a number of the constructive measures" that had been included in the 1972 legislation the Senate had approved.

The most important issue was whether "the bill will be amended to provide our State and local officials with a full range of options as they attempt to solve their transportation problems." He rejected the "arbitrary limitation" on the options for highway-related mass transit:

> In my testimony before your Committee, I made the point that the taxes which accrue to the Highway Trust Fund are quite general in their incidence and predate the establishment of the Trust Fund. To treat these taxes as specific user charges and to insist for that reason that their revenues cannot be invested in rail transit facilities or equipment is to sharply impair the ability of State and local officials to grapple with the complexities of today's urban transportation problems . . . . S. 967 goes much further and provides the flexibility we believe essential to the solution of our transportation problems.

Secretary Brinegar also had some concerns about modifications in the pass-through provision. The original version made Federal-aid urban system funds available to urbanized areas, but the present version earmarked the funds for incorporated municipalities with populations in excess of 400,000:

> Under such a provision, funds for an urbanized area that were attributable to suburban areas would be held at the State level while funds attributable to the major city would be first, earmarked for that city and second, made directly available to them if they were suitably equipped to carry out the program . . . . Such an action would constitute the severest setback to our efforts to encourage State and local officials to approach urban transportation problems on an areawide basis.

He strongly opposed the revised measure and urged the committee to return to the original version.

He recommended that Federal-aid urban system funds be limited to areas with populations of 50,000 or more, instead of 5,000 as in the bill. In addition, he suggested combining Federal-aid urban system funds with funding for the urban extensions of the Federal-aid primary system. Retaining the separate funding categories "will result in duplication and unnecessary administrative complexity."

The Secretary approved the committee's efforts to consolidate some categories, but opposed its retention of the Special Urban High Density Traffic Program at $50 million. "We believe that roads of this type can be constructed under existing programs and would recommend the deletion of the new grant program."

The provision allowing Federal-aid funds to be used for construction of parking facilities inside central business districts was a concern because it did not require that they be located and designed in conjunction with public transportation facilities. "We believe there is no justification for Federal funding unless such facilities are part of a public transportation program."

He also was concerned about the toll road reimbursement program, which would permit the States to commit future Federal-aid primary funds far in advance of Federal-aid authorizations and receipt of tax revenues. "The program has always operated on a pay-as-you-go basis and we recommend that this principle not now be abandoned."

The exemption for the North Expressway in San Antonio was "neither good government nor conducive to preservation of the environment that all have accepted as a primary national goal." [*The Federal-Aid Highway Act of 1973*, Report to Accompany S. 502, Committee on Public Works, United States Senate, 93rd Congress, 1st Session, S. Report 93-61, March 13, 1973, p. 45-47]

The Department's bill, however, had been introduced too late for any real committee consideration.

On March 1, the Senate Public Works Committee rejected, 6 to 8, the Muskie-Baker amendment to open Federal-aid urban system funds to rail transit. Senator Muskie was optimistic that the amendment would be approved on the Senate floor. Recalling the 48 to 26 vote approving the Cooper-Muskie Amendment in 1972, he said, "We had a good margin last year and I hope we do as well this time." ["Mass-Transit Backers in Senate Lose Bid to Tap Road Fund But See Eventual Win," *The Wall Street Journal*, March 2, 1973]

The committee also rejected Senator Muskie's amendment to modify the pass-through provision to allow funds to go to cities of 250,000 population, instead of 400,000. In addition, the committee rejected his motion to increase Federal-aid urban system funding from $650,000 to $1 billion, but accepted Senator Randolph's substitute to increase funding to $850 million.

In other committee votes, Senator Buckley moved to strike the provision dealing with the North Expressway in San Antonio, but the motion failed. The committee adopted a measure introduced by Senator Burdick that each State should receive a minimum of one-half of one percent of the Interstate apportionments for FYs 1974, 1975, 1976. This measure was intended to ensure that States such as Delaware, Nebraska, and Burdick's own North Dakota that would finish their Interstate mileage over the course of the bill would not be denied Interstate funding. [*The Federal-Aid Highway Act of 1973*, S. Report 93-61, p. 43]

The committee approved the bill on March 1 by unanimous voice vote. Aside from the usual funding provisions, the bill included:

- Funds for Forest Highways would come from the Highway Trust Fund as in the 1970 Act, as would funds for parkways and Indian Reservation Roads for the first time. Funds for forest development roads and trails, public lands development roads, and park roads and trails would come from the general Treasury.
- Continued the Federal share of 70 percent for non-Interstate projects.
- The Secretary was to administer the Federal-aid highway program to "encourage the minimization of paper and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.
- The Federal-aid systems would be realigned based on anticipated functional use in 1980. The Federal-aid primary system would consist of rural arterial routes and their extensions into or through urban areas; the Federal-aid secondary system would include rural major

collector routes; access roads to airports would be eligible to be included in the Federal-aid secondary system. The Federal-aid urban system would include urban arterial and collector routes, exclusive of extensions of rural arterial routes through urban areas; it also could include access roads to airports and other transportation terminals.

- At the request of a Governor and the local governments concerned, the Secretary could withdraw approval of any Interstate segment if the route is not essential to completing a unified and connected system within a State. Dollar-for-dollar substitution of an essential connection would be permitted without restriction on length. The existing 200-mile limit for substitute routes, known as Howard-Cramer mileage, would be repealed.
- If a substitute connection were not needed, or if the cost of the connection were less than the cost of the original route, the total amount of the difference would be available for use on the Federal-aid urban system or for local public transportation purposes under Section 142 of Title 23.
- States must notify the Secretary by July 1, 1974, of their intent to build remaining Interstate segments. By July 1, 1975, States must submit a schedule for completing their remaining segments (including alternate segments). Otherwise, segments would be removed from the System.
- States could employ Certification Acceptance for all non-Interstate projects.
- The existing authority of the States that issued bonds to construct projects on the Federal-aid primary system, including the Interstates, was extended to allow use of Federal-aid funds to retire not only the principal of such bonds, but the interest in the case of the Interstate System.
- Any toll road included in the Interstate System that becomes toll-free would be eligible for Interstate funds for construction, reconstruction, or improvement.
- The States would make Federal-aid urban system funds available for use in urbanized areas of 400,000 or more population, with the amount based on population. If the Secretary of Transportation finds that the municipality had sufficient authority to develop and implement a plan for expenditure of funds for the urban system and related highway public transportation purposes, the State must pass the funds through the funds to that municipality.
- Allowed construction of publicly owned parking facilities in the central business district and the imposition of parking fees to repay bonds or other obligations used for the local share.
- Federal-aid highway funds could be used for highway public transportation purposes within urban areas. Eligible activities included construction of exclusive bus lanes, traffic control devices, passenger loading areas and facilities, and the purchase of passenger equipment other than fixed rail for use within such areas. Interstate funds could not be used to purchase buses, but could be used for exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Buses must meet emission standards prescribed by the EPA.
- Federal-aid funds could be used to develop and improve bicycle transportation, equestrian trails, and pedestrian walkways on or in conjunction with highway rights-of-way. Eligible activities included separate or preferential bicycle lanes or paths, bicycle traffic control devices, bicycle shelters and parking facilities, pedestrian walkways, and equestrian trails. Projects must be part of an overall plan providing for safety and for contiguous routes.

- The Secretary could reimburse States with Federal-aid primary funds after they have received their final Interstate apportionment for 70 percent of the construction cost for new toll roads and improvements to existing toll roads. All toll revenue would be devoted to retiring bonds while also covering operating and maintenance costs.
- Authorized $50 million for construction of special highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Federal share of Special Urban High Density Traffic Program projects would not exceed 90 percent.
- Authorized $15 million for access highways to public recreation areas on Federal lakes.
- Provided for construction of the Highland Scenic Highway as a parkway from West Virginia State Route 39 to U.S. 250 near Barton Knob.
- Provided for relocation of U.S. 25E through a tunnel to be constructed in the Cumberland Gap National Historical Park.
- Authorized over $58 million for reconstruction of the Alaska Highway.
- Increased authorizations for construction of two bridges on Federal dams on the Arkansas and Tennessee Rivers in the vicinities of Fort Smith, Arkansas, and Chattanooga, Tennessee.
- Required feasibility and necessity studies for five specified routes proposed for inclusion in the Interstate System.
- Terminated the San Antonio North Expressway as a Federal-aid project upon the return of Federal-aid funds paid to the State of Texas for that purpose.
- Funded demonstration projects in Lincoln, Nebraska; Elko, Nevada; and Brownsville, Texas, for the relocation of railroad lines from the central city to eliminate rail-highway grade crossings.
- Funded a rural highway public transportation demonstration program to include traffic control devices, passenger loading facilities, fringe and corridor parking facilities to serve mass transportation passengers, and the purchase of passenger equipment other than railroad rolling stock.
- Directed the Secretary to complete by October 1, 1973, the draft environmental impact statement on I-66 in Virginia from the Capital Beltway to the Potomac River. By December 31, 1973, the Secretary must complete review of all public hearing comments and file the final environmental impact statement and make the final determination on whether the project may proceed. The Secretary's decision would be conclusive. [The Federal-Aid Highway Act of 1973, Report of the Committee on Public Works, United States Senate, 93d Congress, 1st Session, Report No. 93, 61, March 13, 1973]

On March 4, President Nixon gave a radio address to the Nation in advance of his State of the Union Message on Community Development:

> A few years ago we constantly heard that urban America was on the brink of collapse. It was one minute to midnight, we were told, and the bells of doom were beginning to toll. One history of America in the 1960's was even given the title "Coming Apart."

Many of the problems that prompted that concern had been addressed. "Today, America is no longer coming apart." Crime was down as were civil disorders and substandard housing. "The air is getting cleaner in most of our major cities." Cities were no longer on the brink of financial catastrophe, the business world was investing in downtowns, while, "The Nation's first new transit system in more than 20 years has just been opened in San Francisco. Another is under construction in Washington, D.C.; others are planned in Atlanta and Baltimore." He continued:

> What does all this mean for community life in America? Simply this: The hour of crisis has passed. The ship of state is back on an even keel, and we can put behind us the fear of capsizing.

One reason was that the Federal Government no longer thought it "should take the lead in developing local communities." America, the President told the Nation, "is still recovering from years of extravagant, hastily passed measures, designed by centralized planners and costing billions of dollars, but producing few results."

He discussed the General Revenue Sharing Act he had approved at Independence Hall in October 1972 and promoted the Better Communities Act, which would provide $2.3 billion in its first year of operation with no strings attached. He also cited the proposal to establish a Department of Community Development and pointed out that he had taken a first step by appointing Secretary Lynn as the Counsellor to the President for Community Development.

Turning to transportation, he said that over the past 20 years, "Federal money has helped build the world's best system of modern highways." But the time had come to "concentrate on moving people within cities as effectively as we move them between our cities." The focus must be on helping "communities develop urban mass transit systems of which America can truly be proud." He explained his plans:

> I propose that our States and communities be given the right to use a designated portion of the Highway Trust Fund for capital improvements in urban public transportation, including improvements in bus and rapid rail systems.
>
> Changing the way we use the Highway Trust Fund should be one of the top items on our national agenda. If we do not act now, our children will grow up in cities which are strangled by traffic, raked by noise, choked by pollution.
>
> By opening up the Highway Trust Fund today, we can open up great new vistas for our cities tomorrow.
>
> I have also asked that Federal funding authority for mass transit capital grants be doubled—from $3 billion to $6 billion. And I recommended that the Federal share of mass transit projects be raised to 70 percent.
>
> All of these steps will help us meet the challenge of mass transit.

He concluded his radio address:

> If the spirit of community means anything, it means a spirit of belonging, a spirit of responsibility, a spirit of participation. Restoring this "spirit of community" is the ultimate purpose of all the community development efforts of our Administration.
>
> "A great city," Walt Whitman wrote, "is that which has the greatest men and women." Only by appealing to the greatness that lies within our people can we build and sustain the kind of communities we want for America.

President Nixon would repeat his recommendations in his March 8 State of the Union Address on Community Development as discussed earlier.

On March 8, Secretary Brinegar addressed the National Newspaper Association. He emphasized that President Nixon "believes quite strongly that decision-making authority should be returned to the people—to the community—as much as possible, along with the funding to help those decisions to work." The enhanced prospect for moving decisions back to the communities to improve transportation was "the kinds of 'good news' that are so often hard to find in any newspaper."

Everyone, he said, agreed on the importance of transportation. "It's certainly no great discovery to observe that transportation changes the land around it and, in turn, is then changed by the changes." He illustrated with an example from American history:

> How many of our cities began as "Tank Towns" and "Whistle Stops"? Or "Portlands" or "River City Junctions"? And our way of living is still being shaped by transportation. Huge shopping centers appear because of beltways and bypasses, not vice versa. Thus, we see that transportation planning and policy making is a complicated interrelated affair.

Today, "the very popularity of the car, at least as we now know it, is threatening its utility." If, as the President says, "we must do a better job of community development," that translates "to a significant degree, to better transportation development." Transportation decisions affect, and are affected by, land use policies, the economy of the community, and its desirability as a place to live and work. The Department's 1973 Highway and Transit bill, he said, embodied the types of changes he was encouraging Congress to enact.

The country had done a good job with the Interstate System, but now was the time "to bring our urban mobility up to the standards we have come to expect in Interstate travel." The keys were "flexibility," not inflexibility, and "intelligent resource usage," not just using dollars on a "use it or lose it" basis:

> The era for the "sugar bowl" type financing that inflexibility encourages should be over. It's a luxury we can ill afford as we try to use the nation's resources as intelligibly [sic] as possible.

While summarizing the provisions of the Department's bill, he endorsed the Muskie-Baker amendment and said:

> This amendment is in no way a "raid" on the Trust Fund. It is a logical use of the monies to meet pressing transportation needs that are quite related to past uses. The amendment does not affect the amount of money going to any state, but only offers some new options on its use.

The Senate Takes Up The 1973 Act

The Senate began considering the Federal-Aid Highway Act of 1973 on March 14. Peter Braestrup of *The Washington Post* reported that the pro-highway and pro-transit forces predicted close votes on the controversial amendments that would permit the use of Highway Trust Fund revenue to build subways and buy buses. "Major issues and pet projects have made the three-year, $18 billion measure the focal point for considerable behind-the-scenes lobbying."

Senator Randolph planned to lead the opposition to the Muskie-Baker amendment with the backing of such groups as AASHO, HUFSAM, and American Trucking Associations. The Muskie-Baker amendment had the support of the Nixon Administration, Mayors, the public interest group Common Cause, unions such as United Auto Workers and the Teamsters, and "most actively," the Highway Action Coalition. Braestrup recalled the vote, 48 to 26, on the similar Cooper-Muskie amendment in 1972, but both sides expected the vote to be closer in 1973, perhaps with only a six-vote margin:

> John Kramer, chief lobbyist for the environmentalist coalition, said yesterday that most of those senators absent from last fall's vote were pro-Randolph men, so those results were somewhat misleading as to true Senate sentiment. "The outcome in the Senate," Kramer predicted, "will have an important psychological effect on the House side"—where the administration's "bust-the-trust" drive faces stronger opposition.

Randolph, Braestrup wrote, had endorsed Senator Williams' Emergency Commuter Relief Act, which was going to be offered as an amendment to the Federal-Aid Highway Act of 1973. It would authorize an additional $1 billion a year for UMTA programs and $400,000 a year for operating subsidies, with all the funds from the general Treasury. "Randolph has endorsed the Williams amendment—partly to offset arguments that, by defending the Highway Trust Fund, he is 'anti-transit.'"

The reporter also cited the Kennedy-Weicker amendment to open non-Interstate funds to bus and rail transit. This was, of course, a more radical proposition than the Muskie-Baker amendment. The prospects were not good since as Braestrup pointed out, the 1972 version of the amendment received only 18 votes.

Braestrup also mentioned another controversial amendment:

> Last but not least of the major amendments is Sen. Clifford Hansen's proposal to lift all federal weight and size curbs on trucks using the Interstate system. This proposal is favored by Randolph but not by Muskie, the American Automobile Association or the environmentalists. [Braestrup, Peter, "Narrow Vote Seen in Senate on Roads Bill," *The Washington Post*, March 14, 1973]

In an introductory statement, Senator Bentsen explained that the bill was in some ways similar to the 1972 bill that the Senate had passed. However, with additional time to consider the issues, the Public Works Committee had improved on that bill. "So, while some of the issues are the same as in 1972, our responses to them are, in several cases, different."
One major difference was that it covered 3 fiscal years instead of the traditional 2. "Had the committee reported a 2-year bill this year, it would have meant that highway legislation would have to be considered again in 1974, almost before the present legislation was fully implemented.
Given the importance of the Interstate System, Senator Bentsen explained why authorizations had been reduced from $4 billion authorized in recent years. The reduced amount "is adequate for orderly continuation of the program as its present stage and will not work an undue hardship on any state's highway activities." Because of impoundments, the amount was more than had actually been made available and more than the President's budget proposal of $2.6 billion a year.

Even with the $16 billion authorized by the new bill, the Interstate System would not be completed until about 1982. He pointed out that while construction time would have to be extended, "the cost of the system also has grown and today stands at more than $73 billion." Under current legislation, the next Interstate Cost Estimate was due in 1974, but the new bill would change that date to 1975 when "we will be in a better position to make a determination on the final cost and completion date of the system."

One reason the Interstate System was behind schedule was that it included many controversial segments that had been held up for several years. He described the Interstate transfer and substitution provisions:

> The bill revises the statute to permit interstate transfers on the basis of cost rather than mileage . . . . In this connection, the bill also provides that where State and local officials determine that an interstate link is no longer desirable, it can be removed from the system entirely so long as the removal does not leave a gap in the total nationwide Interstate System. In both cases—Interstate transfers or total removal of a segment—any funding remaining would be transferred to the urban system apportionment for the urban area concerned.

He stated that 56 urbanized areas with populations of 400,000 or more were eligible to receive Federal-aid urban system funds attributable to them on the basis of the relationship their population bears to the State population. Cities of 400,000 or more within those urbanized areas were eligible to receive pass-through funds:

> This means that the cities themselves rather than the State highway departments would carry out urban system programs if they quality as pass-through recipients. To qualify, the cities would have to have the legal authority under their State laws, and would have to demonstrate to the Secretary of Transportation their competence to carry out an urban highway program.

The committee, Senator Bentsen said, had spent more time on the urban funds than any other, but the most controversial element of the discussion involved the use of Federal-aid highway funds for public transportation:

> The committee is aware that there is a strong relationship between the highway program and public transportation. In recent years that relationship has been given emphasis by programs to construct preferential or exclusive bus lanes and such other facilities as fringe parking, first as demonstration programs, and later as permanently authorized activities.
>
> S. 502 proposes to broaden this relationship by authorizing the use of urban system and urban extension funds for public transportation purposes, including the purchase of equipment. The key issue in this section, and the one which has precipitated much controversy, is the limitation on equipment purchase to that which is highway-related. Rail transit equipment is specifically excluded.
>
> As it did last year, the subcommittee and the committee gave very careful consideration to the public transportation needs in American cities. Once again we concluded that the highway program could be used to help meet these needs by restricting its involvement to public transportation which is highway oriented.

He pointed out that rail transit was assisted through UMTA programs, which were far more effective than funding from the highway program:

> The limitations of apportionment formulas utilized by the highway program would prevent any city from receiving a significant amount of assistance for very expensive rail construction. On the other hand, the proposals of S. 502 would relieve some of the pressure on the urban mass transit program and consequently make more money available from this source [UMTA] for rail construction.

Regarding the provision on the North Expressway, he said, "This action was requested by the State and local governments so that they might complete the expressway with wholly local funds if the project meets local standards."

After summarizing other provisions of S. 502, he concluded:

> S. 502 continues the evolution of the program that began when it was first adopted in 1916. A great part of the success of the federal-aid program certainly is due to the continued vigilance of the Congress and to the adaptability that regular reviews of the program have fostered.
>
> Highway transportation is essential to the continued growth and prosperity of our country. It is a basic form of transportation and will continue to be such in the foreseeable future. [Federal Aid Highway Act of 1973, *Congressional Record-Senate*, March 14, 1973, p. 7890-7892]

Senator Randolph said of the bill:

> To say that this is a comprehensive bill is, of course, the truth. To say that it is an innovative bill is also the truth. To say that it is a bill that meets the challenge of our changing times is true.

He quickly began a defense of the Highway Trust Fund. Congress, he said, "did not approve an abstract concept" in 1956. It approved construction of the Interstate System "so that the mobility of America might continue to expand, so that the products of its factories could move to the cities, so that the products of its farms could move to the consumers, and that Americans generally would benefit." No one could deny that the Interstate System had benefited every State.

In his years in the House and now the Senate, he had been involved in the development of highway legislation and seen many changes that kept the Federal-aid highway program "abreast of the times." He continued:

> Seldom, however, had I been involved in the development of highway legislation that has stimulated both the public and congressional concern as has the bill before us. The success of the highway program in recent years has solidified the American public's preference for motor vehicles as its primary form of transportation. The highway program, as a result, has been subjected to careful scrutiny concerning the role it plays in American life.

The new bill was based on "our continuing experience in the Senate," and "addresses contemporary needs, and does so in a responsible manner." It "neither maintains the status-quo, nor makes changes intended to be permanent in the future."

After defending several special interest provisions, including the Highland Scenic Highway in his home State, he concluded:

> [The] Federal-Aid Highway Act of 1973 is the product of a careful evaluation of America's highway transportation needs. When the Federal-aid program was begun 57 years ago, these needs were relatively small. In 1973, they are vastly more complex and I am convinced this bill is the mechanism by which these needs can be met. [*Congressional Record-Senate*, March 14, 1973, p. 7893-7894]

After further introductory discussion, Senator Cranston was the first to address the key issue. He praised the bill for addressing the very critical needs of the cities "to some extent." The bill, however, "falls far short of meeting the critical transportation needs of our cities." He explained:

> Urban and intercity transit systems are faced today with crippling financial difficulties and their plight is worsening. Since the establishment of the highway trust fund in 1956, a total of 268 city transit systems have gone out of business, and 100 of these have folded since 1963. As freeways are built to accommodate the suburban commuter, those left behind in the cities—most often the very young and the very old, the handicapped and the poor—are left without a means of transportation and must absorb the increasing social costs associated

> with the inner city deterioration. Today, only 7.3 billion transit passengers are carried annually as opposed to the 23 billion carried in 1945.

UMTA funding was helpful, but he discussed the 30 to 1 disparity in funding for highways compared with transit:

> To begin to move toward the development of clean, efficient, nonpolluting, and energy conserving mass transit, we must recognize that our total surface transportation resources are finite and that we must, therefore, reallocate some of the funds currently allocated for highways to mass transit.
>
> Today, the Senate will have three opportunities to provide more adequate funds for public transportation.

They would be the Kennedy-Weicker and Muskie-Baker amendments and an amendment to be introduced by Senator Williams. These amendments were "critically important to California and to the Nation." He mentioned the public hearings that EPA was conducting in Los Angeles regarding the proposal to institute gasoline rationing and other severe measures. The EPA plan, in the absence of an adequate public transportation system, "would wreak economic and social havoc on the Los Angeles area." Some 66 metropolitan areas faced similar restrictions before they met EPA air quality standards.

He quoted the Highway Action Coalition's testimony to demonstrate the superiority of transit to the automobile ("Per passenger mile, a car consumes five times as much fuel as a train, and six times as much as a bus."). The air and noise pollution of the automobile "are reaching unbearable levels," with the brunt of these problems falling on those left behind by the suburban exodus, namely the old, the poor, and the handicapped. "The highway user and the city dweller alike will benefit from a vigorous Federal effort to develop viable transportation alternatives to the automobile." He urged his colleagues to support the three amendments. [*Congressional Record-Senate*, March 14, 1973, p. 7895-7896]

Senator Williams introduced the first amendment, his Emergency Commuter Relief Act amendments to the Urban Mass Transportation Act of 1964. After it was entered into the record, the Senator asked that Senator Kennedy and Weicker be added as cosponsors. When that was done, Senator Bentsen asked that he be included, and that was so ordered.

Senator Williams explained that the Senate had approved this amendment in 1972 on "several occasions." He yielded to Senator Javits, who recalled that he was a proponent in 1972 and cosponsor in 1973. "The time for responsible congressional action is now if the present picture of our mass transit systems is . . . one of rising fares, increasing deficits, and declining ridership to that of a financially sound and viable transportation operation." Senator Javits emphasized the key provisions, including $800 million over 2 years for operating subsidies and a $3 billion increase in contract authority for the UMTA capital grant program through FY 1977:

> It is now up to the Congress to seize the initiative before it. The more than 70 percent of the Nation's people suffer from crippling and decaying mass transit and commuter systems and cannot bear the continued delay over needed Federal assistance.
>
> Mr. President, we are subsidizing airlines, railroads, ships, housing, and numerous other programs, but I know of no subsidization more indispensable to the life and environment of the increasingly city dwelling American people than this kind of buttressing which is called for by this amendment.

Senator Williams added that, "three times the Senate has responded by overwhelmingly passing legislation which would not only provide for the future of mass transit, but which would also enable it to survive its present crisis." The 91st and 92nd Congresses had passed the bill as part of the housing bill and as an amendment to the Federal-Aid Highway Act of 1972. "But each time the legislation failed short of final enactment."

The Emergency Commuter Relief Act was designed to meet the overwhelming need:

> It is designed to halt the raising of fares to intolerable levels, and the curtailment of essential transit services.
>
> It recognizes that mass transit is the lifeblood of an urbanized society and that a program of capital grants meshed into one of operating assistance can go a long way toward alleviating the distress of both private transit operators and the increasing number of municipalities who own and operate systems.

He concluded:

> During the 4 year delay in enacting this legislation, costs have risen, fares have increased, and services have been curtailed and as a result, more and more transit riders have been forced to use automobiles.
>
> And while expenditures have been held in check, transit plans and projects that are urgently needed in urban areas have piled up and gathered dust . . . .
>
> By adopting the Emergency Commuter Relief Act, we in the Congress will by our deeds explicitly affirm the President's pledge to make mass transit our Nation's top transportation priority for the 1970's.

Senator Stafford said he supported the amendment, in part because the revenue it authorized did not come from the Highway Trust Fund. He supported mass transportation but "the highway trust fund is not large enough to meet the extensive needs of all rail systems." He was pleased to join the Administration in supporting the additional $3 billion for capital grants. Although the Administration opposed the $400 million a year for operating subsidies, his view was that "the subsidy provision is vital to the effort to reverse the trend that has seen the death of so many urban transit companies across our Nation in the last 15 years." He added that this bill did not "supplant" the Muskie-Baker or Kennedy-Weicker amendments that would be considered later.

Senators Randolph and Bentsen indicated their support for the Emergency Commuter Relief Act, but Senator Baker said that while he supported the $3 billion in additional UMTA funds, "I find myself not in agreement with providing operating subsidies in the amount of $800 million." Further, he was concerned that "our Committee on Public Works is stretching its jurisdiction to the extent that I believe we are intruding on the jurisdiction of another standing committee of the Senate in the authorization of funds to be appropriated other than from the trust fund for these purposes." When the discussion of the amendment ended, he would introduce a motion to table (not consider) the amendment.

Senator Williams, who knew the motion was coming, stated "my strong position in opposition." The Committee on Banking, Housing and Urban Affairs had jurisdiction over transit. Since a housing bill to attach the amendment to was unlikely, the committee concluded that "it would be proper for me to bring this measure to the Senate as an amendment to the highway bill which also deals in part with mass transit, insofar as bus systems are concerned."

Senator Weicker stated that he would vote against tabling the amendment. I do think it far better at this point of the entire debate to offensively anticipate what is going to take place here rather than be on the defensive":

> There are two situations involved here: No. 1, the direct funding of mass transit in this Nation; and, on the other hand, the situation as it relates to the Highway Trust Fund whereby those moneys will be available for all forms of transportation—rail, highway, bus, etcetera.
>
> So I want to make the situation quite clear that, in supporting the very fine amendment offered by the distinguished Senator from New Jersey, it will also be my intention to attack another problem or another aspect of the problem, which would specifically relate to uses of Highway Trust Fund moneys, because we are so far behind in the task of providing mass transit that the effort that will be required will be on both grounds, the use of money from both the Highway Trust Fund and those that are directly related to mass urban transportation. We will not have done our job in behalf of mass transit merely by passage of this particular amendment.

Senator Biden recalled Secretary Brinegar's testimony opposing subsidies but acknowledging that they could not be met from the farebox:

> I think it is unreasonable to expect all mass transit systems to be on a pay-as-you-go basis. Like the police and fire departments, mass transit systems provide a service essential to the vitality of our communities and like those departments such systems should be subsidized, if necessary. Unlike the police and fire departments, however, which are highly localized and serve a resident constituency, the mass transit systems often cross the jurisdictional lines of local governments and transport people from one constituency to another—and they should be encouraged to do so . . . . Because of the jurisdictional conflicts, such transit systems

> may require Federal initiatives for their construction and quite reasonable Federal subsidies for their operation.

As for concerns about abuse of the subsidy, Senator Biden pointed out that the Federal funds would require a grant from the State or local public body in the ratio of 2 to 1. "This local commitment would provide an incentive for limiting the size of the operating subsidies and thereby encourage efficiency." He contrasted that incentive with General Revenue Sharing, which he said did not have "the checks and safeguards available under the present legislation, and I think that would be throwing the money away."

Senator Domenici recalled the decision to change the name of the subcommittee from "Roads" to "Transportation." He said:

> It was expressed then by our chairman that the reason was that this committee should be involved in the whole matter of public transportation, so that it would not be a matter of merely roads, but also a matter of the financing program for transportation.

He noted, however, that the amendment, and specifically the operating subsidy provision, had never been considered by the Committee on Public Works. Therefore, he agreed with Senator Baker's proposal to table the amendment:

> If the Senate is going to be critical of priorities, then we should not bring to the Senate, without even going before the Transportation Subcommittee of the Public Works Committee of the Senate, a matter that is not included in the bill under discussion by the Senate.

When Senator Baker introduced his motion to table the amendment, it was rejected. Then, by a vote of 59 to 36, the Williams amendment was agreed to. [*Congressional Record-Senate*, March 14, 1973, p. 7896-7902]

The Kennedy-Weicker amendment was the next up for consideration. Senator Kennedy introduced the amendment by saying the Federal-Aid Highway Act of 1973 now before the Senate "contains a series of highly important and valuable reforms in the highway aid program." He cited six reforms. The bill:

- Would make funds previously earmarked only for urban highways available for mass transit systems, including the purchase of buses.
- Would increase Federal-aid urban system funds eightfold to $850 million. "I would note that if enacted, this would be the first time a highway aid bill recognized the high financing share borne by urban residents over the past 16 years."
- Allowed State and local officials to halt an Interstate route and use a portion of the funds for other urban transportation.
- Permits the Secretary of Transportation to allocate $350 million of "urban extension" funds to help areas comply with air quality standards under the 1970 Clean Air Amendment Act.

- Recognized rural mass transit needs by authorizing a small demonstration bus transit program.
- Finally, "the bill recognizes the desirability of enabling large urban areas to plan for themselves and to implement those plans by pass through urban funds to urban areas larger than 400,000."

Even so, "this bill still falls woefully shy of its own objective, the objective of an efficient, balanced, safe and environmentally sane national transportation system." This was because it "rejects the lesson of history by denying to cities and States full flexibility in how they use the great bulk of trust fund moneys, outside the Interstate System." He continued:

> Instead of seeking to remedy the past mistakes in the highway trust fund mechanism which have flawed the worthy objective of creating a national interstate highway system, this bill perpetuates those mistakes. For it says to cities and States, you may not build rail mass transit systems, even though they may be your most urgent need. And it says to rural States, you may not build bus transit systems, with any of your rural fund moneys, even though they may be high on your list of priorities.

The Kennedy-Weicker amendment tells State and local officials that they "are not imprisoned by an archaic concept of national transportation needs that sees highways as the only answer to the Nation's transportation needs."

After describing the provisions of the bill, he said:

> Passage of this amendment would shatter the practice of separate funding for separate modes of transportation. It would end a system in which the national interest has come in second best to special interests which see the highway trust fund as their private property. And it would call a halt to a Federal financing philosophy that has prevented a single city, State, or region from selecting the mix of road, bus, and rail services that it felt best to meet its transportation needs.

He restated many of the points he had made when he and Senator Weicker introduced the amendment. Cities paid 50 percent of the Highway Trust Fund revenue, but less than 10 percent of Federal-aid mileage was in urban areas. Over 50,000 people lose their homes to the highway bulldozer each year, while two-thirds "of urban America is dedicated to repairing, parking, selling, and carrying the auto," despite the fact that, "In cities across our land, the 16-year highway boom has left the worst possible debris—foul air that actually endangers the health of local citizens." He cited the Los Angeles problem:

> The failure to examine the concrete dream has produced federally financed highways that are so heavily laden with air pollution that health officials will not allow us to drive on them. EPA Director William Ruckelshaus' proposal for gasoline rationing to cut auto use in Los Angeles by 80 percent within the next 3 years demonstrates the extreme nature of the problem facing the country.

He cited the air quality improvement and energy savings of a shift of motorists to mass transit.

He referred to the hundreds of failed transit systems and the backlog of $4.4 billion in urban mass transit needs:

> Passage of this amendment would mean that the highway trust fund would no longer be merely a concrete conduit. It would mean that the trust fund would no longer take the form of a club over the heads of State and city decisionmakers with the slogan "use it or lose it." Instead, it would offer a new slogan, "use it the best way possible" to solve local transportation problems.

To those who argued that the Highway Trust Fund could not be used for rail mass transit, he pointed out the way Congress had broadened eligible activities in recent years to include replacement housing, training of highway officials, and archeological salvage. "If all of these various programs can be funded out of the trust fund, then surely bus and rail mass transit can be funded as well." Moreover, many of the taxes had been enacted for general revenue purposes until the Highway Trust Fund was established in 1956. "Legally, there is no question of our power to provide this option, and the GAO and the American Law Division of the Library of Congress, and the General Counsel's Office of the Department of Transportation all have indicated their agreement that Congress has the power to authorize these programs from the trust fund."

The issue, Senator Kennedy emphasized, was not highways versus mass transit "and it never has been." The amendment did not require one dollar to be spent on mass transit. The issue was flexibility:

> Passage of this amendment will place Federal transportation financing on an even keel for the first time and will enable cities and States the flexibility they have been denied in the past to meet local transportation problems. If we seek a balanced transportation system in this land, then this amendment should be approved . . . . I would hope, Mr. President, that the Senate would realize the importance of providing flexibility in this bill to permit those who come from States which are urbanized, as well as those which are rural, to decide for themselves how to develop their own transportation system. Because I believe their concern is how to move people and I do not believe they want to be required to lay down more concrete. [*Congressional Record-Senate*, March 14, 1973, p. 7903-7905]

Senator Weicker recalled that the Cooper-Muskie amendment that passed the Senate in 1972 "came to grief in the House." What this meant, "quite simply, is that the Congress will today shape one of the most important transportation policies of our time." As with Senator Kennedy, he restated many of the arguments he had used when they had introduced the amendment. He concluded:

> Highways alone are a mobility, environmental, and safety disaster—and we have now become a nation of automotive lemmings. There is no longer any reason for a Senator to advocate a particular form of transportation—transportation is not a question of States' rights. Mobility is a national concept.

Citing the example he had used of the wreck on the highway blocking traffic from State to State, he said, “Let us clear this highway trust fund off the highway and get America moving again.” [*Congressional Record-Senate*, March 14, 1973, p. 7905-7906]

Senator Biden spoke in support of the Kennedy-Weicker amendment:

> Having only recently been an elected local county officials, there are several misconceptions which I would like to attempt to clarify regarding the whole question of mass transportation. First, is the misconception that the automobile has been the friend of the suburbs. One of the most important tasks of any local official is to plan the growth and development of his community. Such planning requires controls over concentrations of development or lack of concentration.
>
> Unfortunately, the car, because of its mobility, permits people to spread at will and virtually forces the roads to follow it as the congestion develops. This fact makes coherent development practices more difficult. The automobile, unlike mass transit, removes investment decisions from local officials and gives them to each individual, so that the local government cannot use transportation to control growth in the same way that it can use sewer or water extensions where it controls the investment. The resultant sprawl has virtually eliminated the sense of community that so many Americans used to have and which I believe they still want.
>
> Without overdramatizing, it seems to me that many of our suburban problems, such as increased crime, greater drug use, and the dissatisfaction of our youth, can be traced in some measure to the kind of community or, really, lack of community that we have built.

Mass transit, he said, could “guide the development of these communities by focusing transportation services in certain areas while diminishing the ability to just settle anywhere.”

Senator Biden also disputed what he called the second misconception, namely, “that fixed rail transportation is not feasible for some of our smaller urban areas.” A fixed rail system could help the small town of today plan as it becomes tomorrow’s large urban area. “The development of mass transit facilities in currently rural areas may be the backbone of orderly development in the future.”

Without the ability to use Highway Trust Fund revenue for long-range mass transit planning, “good, solid, local planning cannot take place.” He concluded:

> Transportation can and should be a good social program that will enhance the life of all our citizens. But there are many other arguments for the Federal Government to make the highway trust fund available, at the option of the local government, for mass transit purposes. [*Congressional Record-Senate*, March 14, 1973, p. 7906-7907]

Senator Stafford was the first to speak in opposition to the Kennedy-Weicker amendment. He was concerned that it would “take us too far afield and into areas where there are few demonstrated needs and fewer demonstrated solutions." He thought that the Muskie-Baker amendment would address urban mass transit problems. As for rural areas such as much of his home State of Vermont, the Federal-Aid Highway Act of 1973 "contains what I believe is the most orderly and most effective way to attack the problems of rural transportation." Everyone wanted to spend Federal dollars wisely, but the pending amendment "carries the potential for spreading these dollars too far and too thin at this time."

Senator Bentsen also found the amendment to be unacceptable, saying it "places before the Senate some new issues not even presented to the committee during its hearings." He commented on the use of rural Federal-aid highway funds, which were now to be opened to rural mass transit. "I believe it is legitimate to ask if there presently exists any ongoing rural transportation program which would give the States or any level of government responsible for spending these funds an idea of the kinds of programs that will produce results." Since he considered the answer to his question to be "no," the rural transportation demonstration program in S. 502 would help determine what works.

He also was concerned that the amendment would open one-half of the funds credited to the Highway Trust Fund for possible use for mass transit:

> I would remind my colleagues that we still have considerable highway needs for upgrading and construction in this country, particularly in the rural areas. To dilute the funds by this much, as this amendment suggests, would be very unwise.

In view of the government's need for fiscal restraint, the Public Works Committee had held down expenditures in the bill. "But it is quite another thing to take this reduced authorization and then to open it up as broadly as this amendment suggests to the funding of mass transit." To do so would "cripple a highway program that we have already cut back."

Senator Kennedy responded by reiterating his point that about 50 percent of Highway Trust Fund revenue came from urban areas, while less than one-third of non-Interstate funds were spent there. "At least let us spend it for mass transit, buses and highways if we want."

Senator Weicker said the Kennedy-Weicker amendment raised the same issue as the Cooper-Muskie amendment in 1972 and the Muskie-Baker amendment in 1973. "The issue is clear. Is there to be a matter of choice or are the State and local officials going to be told how their money is to be spent?" He said all the Nation's "energy, thoughts, and money" had been directed solely to highways. Now the time had come to find other modes that "will unsnarl us from the traffic jams."

He continued:

> Consider the arrogance of this lobby called the Highway Trust Fund Lobby. Who are they? They are the ones who sell the ingredients for a highway system. Our job is not to sell anything but mobility on the floor of the Senate. That is our job. They have the arrogance to suggest that when we pay our gasoline taxes we expect them to use it for highways. I dare say that there is not one person in 10 who knows what the gasoline tax is going to be

> used for. I dare say that there is not one in 10 who wants it to be used for highways only, rather than for other modes of transportation. Americans want to be able to move, and our legislative work here in the U.S. Senate ought to be geared toward that end. [*Congressional Record-Senate*, March 14, 1973, p. 7907-7909]

Senator Mike Gravel (D-Ak.) was concerned that "we have this desire to crash down the trust fund" to satisfy mass transit needs:

> So the committee tried to respond to the needs of this country rather than adopt a policy which would result in crashing down and distorting and destroying a program that has served this Nation well . . . . In fact, the trust fund has worked so well that certain people want to invade the trust fund for other uses.

This attempt to "piggyback the program" would be "an unfortunate development as a policy of this country."

Senator Tower, responding to Senator Weicker's comments about the highway lobby, asked, "I wonder if it could not be charged that there is a lobby behind this mass transit movement from the people who sell rolling stock on railroads, who sell the rails or the ties, or what have you." The highway user tax is "probably one of the fairest taxes in this country, because the proceeds from that tax go to benefit those who pay the tax." The Kennedy-Weicker amendment would be "totally inequitable." In fact, it was "immoral."

He regretted the vote to incorporate the Emergency Commuter Relief Act:

> We have just provided an operating subsidy for mass transit, and we will regret the day we did it, because we are encouraging poor management and inefficiency, and discouraging applying the cost of mass transit or passing it on to the people who use mass transit. Why cannot the people who use mass transit pay for it, instead of making the people who use the highways pay for mass transit?

Senator Kennedy again stated that 95 percent of the tax revenue going into the Highway Trust Fund had previously been part of the general Treasury:

> Yet, "we are robbing Peter to pay Paul" the opponents say. Just because the highway trust fund has been able to earmark their own boondoggle . . . does not give them a right to say that they have a right in perpetuity to use those funds for building highways. Congress authorized the program and Congress can change that authorization.

He emphasized that he and Senator Weicker were "merely trying to give the kind of discretion to those in the States, the governors and the mayors, so that they might be able to enter into the development of transportation systems." whether in rural or urban areas,

As the debate wound down, Senator Weicker wanted to respond to Senator Tower's point about the existence of a mass transit lobby:

> The highway trust lobby is a very well defined group. On our side, it is the people's lobby. It is not anyone who wants to sell railroad cars or buses. It is a people's lobby and they have had it.

He also disagreed with Senator Gravel that the purpose of the Highway Trust Fund was to build highways:

> I would point out that this is not the objective. The objective is to have transportation systems to move people.

He said that he and Senator Kennedy thought the time had come to learn from experience, "which has been a bad one."

Senator Tower replied that much of the marketplace moves by highway, not on mass transit systems. That is why the Interstate System should be the concern. "The fact of the matter is that the urban mass transit benefits only those who live in those localities." Further, "these systems cannot now maintain themselves based on their current methods of operations and their current revenues." By approving Senator Williams' amendment, the Senate had voted that everyone in the United States would subsidize the urban mass transit systems in the Northeast corridor. "However, a case cannot be made that urban mass transit systems—and particularly those in communities—are a greater national asset than the Interstate Highway System which moves not only people but almost everything else of importance in this country." [*Congressional Record-Senate*, March 14, 1973, p. 7909-7910]

Senator Randolph took up much of the remaining time before the Senate voted on the Kennedy-Weicker amendment. He began by addressing the issue of lobbying:

> Mr. President, there was not a vote, last year, of 60 against this amendment and 18 for it because Senators were voting as a part of a lobby, either for a rapid rail transit lobby or a highway lobby. The Members of the Senate were thinking these problems through and expressing themselves, just as they will today.

He pointed out that despite Senator Kennedy's and Senator Weicker's antihighway comments, Massachusetts had 256 highway projects underway and Connecticut had 228 highway projects under construction:

> What I am saying is that rapid rail transit would be an adjunct, moving people into a city, either Hartford or Boston. Remember, my fellow Senators, that the persons who work in the buildings, the persons who provide the services in the complex of structures throughout a great metropolitan area, will never receive those items on which they work and which they use by rail transit. Those items will be brought to the front door, to the alleyway, or to the back door, and if there are those who ride by rail into the city, remember that the products and the items used in servicing the people of a great city will move by road, by highway. It cannot be any other way.

If, as the two Senators and their cosponsors proposed, the mode of travel were reversed, the cost would be "astronomical" for the movement of people and products.

Improved rail transportation could not be accomplished via the State's highway allotment:

> For example, how much in primary and secondary funds could Rhode Island use? . . . [It would receive] $4 million. How much can Connecticut use? $6.5 million. How much can Massachusetts use? $9 million.
>
> What would this buy in the way of rail service, and still meet the highway needs of the States I have mentioned?

Senator Kennedy interrupted to ask "why not let the people of Massachusetts decide how they are going to expend that $6 million" [sic]?

> Mr. Randolph. Is the Senator saying that there is not a need in this country for a highway trust fund? Is he saying there is not a need in this country for an airports and airways trust fund? Why does not the Senator from Massachusetts advocate an urban mass transit trust fund?
> Mr. Kennedy. If the Senator will yield further, he asked me that question before his committee, and I indicated that I think there ought to be a single national transportation trust fund with this kind of flexibility, so that we could develop balanced transportation for communities, for States, for regions, and for the country. So we have answered that particular question.
> Mr. Randolph. No, the question has not been answered, because earlier today I indicated that the trust fund will die in 1977, and then is the time to evaluate its future.
> Mr. Kennedy. The Senator indicated that Massachusetts would get $6 million. All our amendment would do would be to permit the people of Massachusetts to decide how that money would be spent rather than depend on an arbitrary restriction devised in 1956—for conditions then.
> Mr. Randolph. Well, remember, the Senator has referred to the people. The people in those States, we know, pay user taxes. They have had highway programs, and those moneys come from bond issues on which they vote directly. Today if we adopt this amendment or another amendment, we begin to put a stop to a program which is not completed but must be completed. I wish the Senator could realize that fact . . . .
> Mr. Kennedy. Mr. President, as far as completion of the Interstate System is concerned, there is no change. Our amendment does nothing that would threaten the completion of the Interstate System. Second, if these States had gone ahead and had various bond issues or made long-term commitments or had obligations, then the States themselves can make that determination, and decide, as far as they are concerned, that they are going ahead and build more highways. But if other States have a different view and if Massachusetts does not desire to make highways its number one priority, then, I still ask the Senator why he wants to mandate a formula that would require us to do so.

He asked unanimous consent to include supportive material in the record, including a March 13 telegram from Kramer of the Highway Action Coalition wholeheartedly endorsing the Kennedy-Weicker amendment on behalf of 19 national environmental, consumer, civil rights, and trade union organizations:

> We believe that granting cities and States the option of selecting whatever nix [sic] of ground transportation modes that will best meet their particular needs is an essential and vital step.

Other items included letters from Dr. Ronan of the Institute for Rapid Transit, Stanley H. Gates, Jr., of the American Transit Association, and Stephen Bossi of the National Catholic Rural Life Conference.

Senator Randolph had the final word as time to debate the amendment expired. He pointed out that, "The funds are distributed, of course, on the basis of highway needs. There is no formula by which we make distribution based on rail needs. One is clearly defined. The other does not exist."

The Senate rejected the Kennedy-Weicker amendment by a vote of 23 in support, 70 against. The amendment had gained some support since securing only 18 votes in favor in 1972, but still was not close to adoption. [*Congressional Record-Senate*, March 14, 1973, p. 7910-7913]

Next, the Senate considered the Muskie-Baker amendment opening Federal-aid urban system funds for rapid rail systems. Senator Muskie emphasized that this amendment was "a sensible proposal" that would affect only Federal-aid urban funding. It would not affect rural areas. It would not force cities to substitute mass transit facilities for highways, but would merely make that option available for the first time. "The amendment would not divert trust funds from highways that ought to be built; it would allow cities to substitute alternatives for highways that should not be built.

He also pointed out that the amendment was not supported by only narrow interest groups. It was supported by the Nixon Administration and a broad coalition that included the Nation's Governors, the National League of Cities/U.S. Conference of Mayors, the United Auto Workers, and Common Cause. "It has become clear to these and many other Americans that our current national transportation policies are badly out of step with our needs." In addition to the problems of congestion, "highways and the cars that use them pollute the air of our cities and menace the health of the people who live there." In passing the Clean Air Amendments of 1970, the Senate resolved to protect public health:

> We explicitly excluded considerations of economic and technological feasibility in setting ambient air quality standards under the act. And for the same reasons we set a statutory deadline for the development of a clean car.

He cited the Public Works Committee's report on the Clean Air Amendments of 1970:

> As much as seventy-five percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill . . . .
>
> Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems. Central city use of motor vehicles may have to be restricted.

Senator Muskie said that a switch from auto to rail would vastly improve air quality:

> On one hand, Mr. President, we have told the cities they must make changes to their transportation systems to protect the public health. But on the other hand we have withheld the funding flexibility that would make those changes possible. This is not consistent policy on our part, and it is a disservice to the cities and to the national policies we ourselves established. By finally granting that long-sought flexibility, this amendment would make it possible for the cities to fulfill both their responsibilities . . . .

He was concerned, too, about the destructive impact of highways and automobiles on cities. “The heedless construction of urban freeways has run roughshod over the real transportation needs of city residents, displacing literally hundreds of thousands of people and businesses in the process.” He continued:

> On one hand, Mr. President, we have expressed our concern over the fate of our cities as places where people can live and work, and we have created programs and spent money to restore the urban environment. But, on the other hand, we have forced those same cities to build highways which defeat that objective.

The Muskie-Baker amendment would “restore good faith and good sense to our efforts to save our cities.”

Then there was the waste of fuel at a time when the country was facing “an energy crisis from which there may be no road back.” He pointed out that the Highway Action Coalition predicted that cutting automobile use in urban areas by merely 25 percent would save 1 million barrels of petroleum a day. He said that “our present extravagance is unacceptable,” continuing, again using the one-hand/other hand image:

> On one hand, Mr. President, we have rung the alarm concerning the energy crisis, and we are seeking ways to reduce our fuels’ consumption and to increase our reserves. But on the other hand, our policies have the effect of pressing upon our cities the most wasteful and inefficient form of transportation that exists.

The Muskie-Baker amendment would “bring our transportation policies in line with our energy concerns.

The amendment also would address the problems of households that did not own a car. Many Americans pay “a price for urban highways that we cannot afford” while getting “nothing in return." For these citizens, in short, "the highway trust fund and the transportation systems it creates rob Peter to pay Paul." The Muskie-Baker amendment would "correct these inequities" by making the Highway Trust Fund "more sensible, to bring it up to date, and to revitalize it as a useful funding mechanism to meet our transportation needs."

Senator Muskie reminded his colleagues that the funds now credited to the Highway Trust Fund once were credited to the general Treasury. "The question now before us is whether—the original purpose being nearly completed—those General Treasury revenues presently in the trust fund should be applied to a broader purpose." He pointed out that Congress had never "made that trust fund irrevocable, nor has the Congress ever waived the right to modify its purposes." In fact, the purpose had been modified, for example by extending Highway Trust Fund revenues to billboard removal and relocation of junkyards. "And this year, S. 502 would authorize trust funds for the relocation of railroad lines . . ." in Lincoln and Brownsville. "The argument that the trust fund is sacrosanct falls in light of these precedents."

One option was to build only more roads, "regardless of whether they are wanted or needed." A second option would be to return some of the funds to the general Treasury to create a public transit trust fund. The problem with this option was that competition for general Treasury revenue was fierce, and instead of giving State and local officials flexibility, it would restrict them to using the funds for public transportation.

Therefore, the best option was to amend the Highway Trust Fund to allow some of its dedicated funds, that were not subject to the competitive forces of general Treasury revenue, to be used in a flexible way for the transportation mix State and local officials think best.

In summary, Senator Muskie said that in 1956, when the priority was to build the Interstate System, but the Senate was faced now with "another transportation problem that is national in scope." In approving the Muskie-Baker amendment to address this new problem, he said that no trust will be violated, no money wasted, and no transportation project built "that does not make sense from the point of view of the people who must live with it." The amendment would not "provide automatically the ingenious new transportation systems we need for our cities, nor quick public acceptance of mass transportation as a substitute for the luxury and convenience of the private automobile." However, it represented a "starting point, both to signify our willingness to change and to make it financially possible to do so." [*Congressional Record-Senate*, March 14, 1973, p. 7914-7916]

Senator Muskie then engaged in a brief colloquy, probably arranged, with Senator Frank F. Church (D-Id.) in which Senator Church asked about the impact of the amendment on a rural State such as his own Idaho. Would the amendment diminish funding for Idaho? "Not in any way." Idaho would not lose a penny? "The Senator is absolutely correct." The principle is that people at the local level should decide for themselves how best to address their transportation problems? "The Senator has cited it with precision." [*Congressional Record-Senate*, March 14, 1973, p. 7937]

Senator Baker took a few minutes to explain why he believed the Muskie-Baker amendment "completes what we set out to accomplish in S. 502; that is, to allow urban areas the freedom they need to plan effectively for transportation" without diverting resources from rural areas that have different needs. Some might ask about the provisions in S. 502 that open Highway Trust Funds for buses, "Isn't this far enough?" That question misses the point, Senator Baker said, which is "to remove artificial barriers to rational transportation planning."

He was convinced that the majority of urban areas would continue to spend most, if not all, of their Federal-aid highway funds on highways and highway-related projects. If the amendment is adopted, those cities will be able to spend their funding for roads because they decide that "roads are the best answer to their problems and not because the only funds available must be used to construct highways."

He did not dispute the historical justification for past policies or "the tremendous impact of the Federal-State highway partnership in developing the Nation," but today, especially in urban areas, "highways are no longer the single answer to transportation needs."

He believed that public transportation systems could, some day, be profitable. He planned to introduce an amendment that would direct the Secretary of Transportation to report to Congress within a year "on means by which those mass transit systems which benefit from highway trust funds can contribute to the trust fund." If such a means can be found, it would help maintain "the integrity of the trust fund as a user fund."

Finally, he emphasized that neither he nor any of the other cosponsors of the Muskie-Baker amendment intended the Highway Trust Fund to be "the major source for massive investment in urban mass transit." Continued investment through UMTA was essential. "The significance of the amendment lies less in the amount of urban system highway funds finally expended on rail projects than on the provision's recognition of the need to encourage truly comprehensive transportation planning and rational consideration of a range of alternatives to the use of private automobiles in congested urban areas." [*Congressional Record-Senate*, March 14, 1973, p. 7938-]

When Senator Bentsen took the floor, he recalled that S. 502 increased Federal-aid urban system funds ($100 million to $850 million), which he said was "a recognition by this committee that the transportation problems of our urbanized areas have become increasingly severe in recent years, and that the Federal Government has a responsibility to meet them." For cities with a population over 400,000, S. 502 provided a pass-through of Federal-aid urban system funds "because we believed that incorporated municipalities of that size were in a better position to judge their local needs" and "have considered some State highway departments insensitive to their local needs." Local officials could use the urban system funds for highway-oriented mass transit or traditional highway projects.

Why not, he asked rhetorically, allow the use of Highway Trust Fund revenues for rail mass transit? He understood the great need for all forms of mass transit, including rail. For that reason, he supported the Emergency Commuter Relief Act that added $3 billion to UMTA funding for capital grants and $800,000 for operating subsidies. Further, he rejected the idea that if you were pro-highway or pro-transit, you had to be anti- the other option. "If you are pro mass transit, as I am, it does not necessarily follow that you are anti highway or that you believe that the Highway Trust Fund is necessarily the proper vehicle for directing funds into mass transit."

His argument, he said, was practical, not philosophical. If the Muskie-Baker amendment passed, each State would receive a relatively small amount of Federal-aid urban system funding that could be used to address large amounts of needs. He pointed out that the District of Columbia, which was building its Metro system at an estimated cost of $2.9 billion, would receive $5 million. San Francisco was building the BART at an estimated cost of $1.45 billion, but the State of California would receive only $98 million in urban system funds that, under the Muskie-Baker amendment, could be used for mass transit. Georgia, with its $1.3 billion subway system under development in Atlanta, would receive $14 million for its urban areas, some of which would not go to Atlanta. New York's share would be $84.4 million:

> With needs that vast, it is obvious to me that a move now to open the Highway Trust Fund to rail mass transit would be interpreted as little more than a symbolic gesture, which would tend to offer only token support to both highways and mass transit. In other words, we could very well harm the highway program without offering more than very minimal support for mass transit.

Senator Bentsen said he was ready to study "any alternative which would provide realistic funding for these purposes." He planned to look into the issue as a member of the Senate Finance Committee. Senators Muskie and Baker knew that he was sympathetic to their general goals. "At this time, however, I believe that the Highway Trust Fund is neither an adequate or realistic vehicle to achieve their objectives."

Senator Weicker responded to Senator Bentsen by asking Senator Muskie a question. "Is there any directive in the language of this amendment . . . that directs that any portion of the money be used for mass transit?" Senator Muskie replied, "Not at all." Therefore, Senator Weicker stated, the issue was not one of highways versus mass transit but rather highways versus a balance in transportation policies. He fully supported the Muskie-Baker amendment, which he thought would "set a new direction for transportation policies in this country." He added:

> Then the only persons that I feel sorry for are those in the House of Representatives who will have to be subjected to the last-ditch effort of those who feel that the answer to the problem is more highways. And, to that extent, they will be pressured by the lobbys [sic].

Senator James A. McClure (R-Id.), who was serving in the House of Representatives when he won election to the Senate in November 1972, agreed with the point that transit needs far exceeded the resources of the Highway Trust Fund. He quoted Robert Coultas of the Institute for Rapid Transit who said:

> We believe that the highway system should be built and completed, and we believe that there has to be much more Federal support of urban transit systems. Now there is not enough money in the Highway Trust Fund for both.

Senator McClure stated that the end result of adopting the Muskie-Baker amendment would be "to deprive us of a safe, efficient road system, to meet our future needs, while simultaneously failing to meet the mass transit needs of the urban areas." In fairness, he contended that the "basic beneficiaries of future transit systems should pay the costs of building and operating those systems."

Senator Domenici also cited the high cost of transit systems, pointing out the section of the Public Works Committee's report that stated:

> Costs of rail systems are so high that the highway trust fund would not be able to bear any substantial share without seriously impairing its ability to meet the highway needs of the Nation.

Some people, he recognized, preferred to "do something, even something marginally effective" rather than "do nothing." Of course, S. 502 did something by allowing the use of Highway Trust Fund revenue for highway-oriented mass transit. "These changes were made because the committee felt that buses can be made available quickly to utilize existing urban highways, whereas rail transit, in addition to being costly, has a long development time." To allocate funds that are insufficient to have a "significant beneficial impact from the highway trust fund simply because it is a convenient source, will have the unintended and undesirable effect of delaying the development of a comprehensive resolution to the dilemma of urban transportation . . . ."

Senator Domenici said that human nature being what it is, he anticipated that approving the Muskie-Baker amendment would encourage people to think "these initial modest diversions from the highway trust fund" could accomplish "more than is possible." The unfortunate result would be a loss of momentum in finding a real solution to the funding problem.

He concluded with a defense of highway transportation. Without roads and motor vehicles, people would be living in "skyscrapers and cubicles," unable to see the out-of-doors because they could not get around:

> I do not think it is fair to attack the automobile and the highways of America because this country has not seen fit to take care of another and completely different problem, the problem of the central city and the need for a transit system. [*Congressional Record-Senate*, March 14, 1973, p. 7938-7942]

Senator Buckley of New York was fully supportive of the amendment, as he had been in 1972. "We have heard official after official complain of the compartmentalized thinking which has resulted too often from certain programs." The highway program was an example because it prompted State and local officials to think in terms of highways rather than transportation solutions. "We have reached a point of diminished returns as we try to conceive of our transportation needs as a whole . . . ." He continued:

> I believe that what is contained in the Muskie-Baker amendment will serve, if nothing else, to psychologically liberate our planners, to liberate their thinking so that they can see the pool of resources available and determine in the most intelligent manner possible how best to deploy those funds towards the completion of a system which has as its objective not rail, not highway, not one form of transportation nor the other, but the most effective way of

> allowing individuals to move where they need to move and allowing goods to be shipped where they need to be shipped.

As for "the so-called sanctity of the trust fund," he used the oft-stated point that 50 percent of the revenue comes from urban residents who "favor the kind of flexibility which we speak of, and . . . recognize their own convenience as motorists is best served by relieving the congestion that too often frustrates them." He concluded:

> I do not believe that we should allow a fixation on this narrow issue of "sanctity" of the fund to preclude us from advancing in the direction which this country so vitally needs. [*Congressional Record-Senate*, March 14, 1973, p. 7942]

Senator Percy agreed that S. 502 was a step forward in opening the Highway Trust Fund to highway-oriented mass transit. "Unfortunately, however, the committee bill forbids cities like Chicago from using their allotment for rapid rail improvement." He discussed Chicago's experience:

> The city of Chicago now has a public transportation system with both rail and bus elements. The rapid rail routes complement and supplement service provided by buses. Both elements are in serious disrepair, and yet the committee bill would prevent Chicago from improving its rail service.

He introduced into the record an article he had written for the *Chicago Sun-Times*, March 11, 1973, that began, "Chicago today faces the unhappy prospect of losing a public transportation system it desperately needs, and of possibly gaining a superfluous superhighway." (He was referring to the controversial Crosstown Expressway, designated I-494.) While Federal-aid matching ratios favored highways, congestion was growing. Meanwhile, the CTA was threatening a fare increase (to 50 cents from 45 cents) and a cutback in service unless the State provided immediate relief. "Without this aid," the article said, "the CTA cannot pay its employes [sic], buy supplies or meet other day-to-day operating expenses."

Senator Percy's article traced the problem to 1956 when President Eisenhower was in office and Mayor Daley was serving the first year of his first term. In that year, the Nation embarked on construction of the Interstate System and established the Highway Trust Fund to finance it. "Compared with the Highway Trust Fund, the machinery designed to provide funding for mass transit resembles an anemic step-brother." Aid began, he said, only 3 years earlier under the Urban Mass Transportation Act. "Unlike highways, whose financing comes from a sacrosanct trust fund that can be used only for highways, mass transit gets its money from general revenue" and must compete with other priorities.

The article concluded:

> We have seen enough of bulldozers razing homes and paving over parklands to make room for more roads which quickly become so congested no one can move.

> Neighborhoods threatened by the proposed Crosstown Expressway must be preserved, as must the CTA.
>
> It is hard to overstate the mindless callousness of a system which permits a four- six- or even eight-lane superhighway [sic] to rip through the heart of a city, tearing up entire neighborhoods and wiping out public parks and irreplaceable historical sites, all so that thousands of additional cars can crawl along at the grand speed of 15 m.p.h., causing intolerable pollution and consuming more of our increasingly limited supply of gas and oil resources. [*Congressional Record-Senate*, March 14, 1973, p. 7942-7944]

Senator Muskie responded to some of the amendment's opponents. The Muskie-Baker amendment gave officials the option of using rail transit to solve their transportation problems, but does not change in any way the highway option for States that wish to go that route. He pointed out, again, that 98 percent of the revenue credited to the Highway Trust Fund once went into the general Treasury:

> Congress decided to divert those funds from the General Treasury into the highway trust fund for the specific purpose of building the Interstate Highway System. It is now time to consider whether to make those funds available in part to serve another national transportation need, having to do with the need for mass transportation in our cities.

As for Senator Bentsen and others who opposed the amendment because it involved relatively small amounts of funding, Senator Muskie said:

> I make two points in response. First, the highway trust fund when this bill is enacted will have undertaken to finance $87 billion of highway construction in this country since 1956. Resources of this magnitude surely, if applied to our needs in the next 21 years, are sufficient to build us a balanced transportation system.
>
> I am not proposing that at this point we divert these funds entirely to mass transit. We are not ready for it . . . . The Muskie amendment is a first step, a beginning step, not a total step in giving the people of our cities a choice as to the transportation system that makes the most sense to them, the people that delivered it.

Really, he added, those who thought the Muskie-Baker amendment was too small should have voted for the Kennedy-Weicker amendment. [*Congressional Record-Senate*, March 14, 1973, p. 7946]

Senator Randolph said the issue was not diverting funds but whether enough funds were available to meet highway needs. He fully supported mass transit and would support an urban Mass Transit Trust Fund. He asked Senator Long, chairman of the Finance Committee, how he would feel about setting up such a trust fund. Senator Long said that if the Senate wanted to earmark funds, even highway user tax revenue, for that purpose, "I personally would be happy to vote for such a proposal." Congress could earmark any tax because "there is nothing sacred about any particular source of revenue." He suggested consulting Administration officials about their support for such a trust fund and the sources of revenue.

After thanking Senator Long, Senator Randolph explained that he did not oppose the Muskie-Baker amendment because he opposed its objectives. To the contrary, he supported urban mass transit:

> My argument with the proposed amendment . . . is based on the fact that it will not accomplish their objective, if their objective is to improve our ability to respond to demonstrated need . . . . The proposal is a charade. It is not being offered as an effort to meet urban transit needs, but as a means to "bust the trust," it is without genuine purpose, for it is ill-timed and arises in the wrong context.

The funds involved, he pointed out, did not come close to meeting needs as documented in the Department of Transportation's 1972 needs report. If all the Federal-aid urban funds were used for rail mass transit, it would still not be "a serious gesture." It was, instead, "the offering of a false promise."

The areas that required substantial transportation control measures to meet air quality standards by mid-1977 will not be able to build rail transit systems by then. That was why EPA Administrator Ruckelshaus told the Subcommittee on Transportation that bus service was the best option within the timeframe.

He disagreed with the concept that "we are letting the dead hand of the past control our ability to respond to the problems of the present." The Highway Trust Fund had been created in 1956, but Congress had reviewed and extended it in 1961 and again in 1970. "The issue of the use of the fund has thus been before the Senate twice since the highway trust fund was established" and would be again in the 94th Congress. "The issue of extending the fund, modifying it, or letting it pass from existence will be squarely met then." Creation of a Mass Transit Trust Fund also could be considered in the next Congress.

After other Senators expressed their views, the Senate voted to approve the Muskie-Baker amendment, 49 to 44. [*Congressional Record-Senate*, March 14, 1973, p. 7946-7950]

The final vote of the day was on an amendment offered by Senator Henry L. Bellmon (R-Ok.) to prohibit impoundment of authorized Federal-aid highway funds unless necessary to "defray expenditures which will be required to be made from" the Highway Trust Fund. Before Senator Bellmon commented on the amendment, the Majority Leader, Senator Mansfield apologized for bringing the measure to the floor after having promised that the Muskie-Baker amendment would be the final vote of the day. "However, circumstances make it almost mandatory—if I may use the word advisedly—to consider this amendment at this time." Debate would be limited.

Senator Bellmon explained the purpose of his amendment:

> My information is that at the present time there are $2.5 billion of highway trust funds impounded, and this measure would have the effect of releasing those funds and starting the

> orderly flow of this fund back to the States, so the States could build the system in an orderly fashion.

Impoundment of Federal-aid highway funds, he said, began in FY 1967. Since then, "this executive intrusion has had a devastating impact." It affected construction schedules, completion of the Interstate System, and construction industry jobs. He did not believe the Constitution allowed such a practice:

> The Congress has gone on record on several different occasions to express the sense of this body that this practice be stopped. Up to now the executive branch has ignored the will of the Senate and continues to impound the funds.

He cited Missouri's lawsuit and Judge Becker's ruling. The U.S. Court of Appeals had heard the case on January 10, 1973, and a ruling was pending. To those who argued Congress should await the ruling, he pointed out that the ruling could involve "many possible variables," and would likely be appealed to the Supreme Court. That could take many more months. "Let the Senate act now to finally set the record straight, upon the enactment of this new highway program."

Senator Bentsen explained that he had to reluctantly oppose the amendment. He was deeply concerned about impoundment, but with the courts considering the matter, "I think any action which we take today would cloud the clarity of our legal position in opposition to impounding." His concern was that the court could find that "Congress was so unsure of the President's lack of authority to impound in the past that it has for the future removed any question . . . ." Alternatively, if the Senate rejected the Bellmon amendment, "it could be argued that . . . the Senate was upholding the President's authority to impound." He asked that the amendment be withdrawn. Senator Baker said he was reluctant to vote for the amendment, but would do so. He pointed out that one of the first colloquies he had engaged in after coming to the Senate in 1967 was in opposition to President Johnson's impoundment of Highway Trust Fund authorizations. He was concerned that a vote against the amendment would appear to be, as Senator Bentsen had said, support for the President's authority to impound. "I want to keep intact the cash-and-carry nature of the highway trust fund" so reluctantly, he would vote for the amendment.

Senator Bentsen requested a vote on tabling the amendment (neither approving nor disapproving it), but the vote was 29 to 59 against doing so. The Senate then voted, 64 to 21, to approve the Bellmon amendment as part of S. 502. [*Congressional Record-Senate*, March 14, 1973, p. 7950-7953]

On March 15, *The New York Times* reported that the Administration had "lobbied hard" for the Muskie-Baker amendment, but had "vigorously opposed" Senator Williams' amendment, primarily because of its funding for operating subsidies, and Senator Bellmon's amendment. In addition:

> The bill has been the subject of intense lobbying over the last week. Even this morning [March 14], representatives of road builders and truckers were visiting Senate offices to argue against the Muskie-Baker plan.

> And lobbyists from the White House, including John D. Ehrlichman, President Nixon's chief advisor on domestic matters, were also in touch with Senators, working for the transit proposal.

Senator Weicker said approval of the Muskie-Baker amendment was "a shattering victory over the highway lobby, which has for years held the Highway Trust Fund in a grip of concrete." Senator Randolph objected to the reference to lobbies. "The equities are with those of us who oppose the amendment." [Rosenhaum, David E., "Senate Approves the Use of Road Funds for Transit," *The New York Times*, March 15, 1973]

A spokesman for HUFSAM said, "We're heartened by the closeness of the vote on the Muskie amendment. It will give us a better chance in conference this time around." Despite Representative Kluczynski's change of heart, the House Committee on Public Works was not expected to include a version of the Muskie-Baker amendment in its bill. However, transit advocates were not worried. John Kramer predicted, "We're going to win on the floor," citing a more "urban-oriented" House membership than in 1972. He predicted that "the floor vote is going to be very close."

An additional concern was the threat of a presidential veto. Inclusion of funding for operating subsidies and the prohibition on impoundment raised the concern. ["Senate Again Votes for Highway Trust Fund Diversion," *Engineering News-Record*, March 22, 1973, p. 54]

The Senate Finishes Its Bill

On March 15, the Senate took up numerous amendments, some of which involved State interests. Senator Byrd began by introducing an amendment cosponsored with Senator Randolph to add Wheeling, West Virginia, to the railroad relocation demonstration project. No one objected to this amendment, but before the Senate voted, Senator Randolph wanted to address a point Senator Muskie had made:

> The Senator from Maine pointed out we are doing something in reference to railroads. I think it is important to have the Record reflect that the relocations are made so that the highways near these railroads can better serve the people. This is the reason for the relocations.
>
> We are not in the business of relocating a railroad; we are attempting to make the highway program more meaningful to the people involved and the community where the relocation takes place.

The Senate approved the amendment. [*Congressional Record-Senate*, March 15, 1973, p. 8182]

Senator Buckley revived the amendment he had introduced in 1972 to delete the provision, now Section 148 of S. 502, allowing Texas to return Federal-aid funds used on the North Expressway and build it as a State project. The future of the North Expressway, he said, was in the courts. After Secretary Volpe had approved the two end segments, the U.S. Court of Appeals had found that the action did not satisfy NEPA or Section 4(f) because he had not considered feasible and prudent alternatives to the middle section that would require the taking of parklands. The Department of Transportation had since issued a report on the middle section, including alternatives, but had not decided on the preferred routing. "Thus the status of this dispute is that construction of the North Expressway is enjoined by order of the court until the State and the Secretary make the required study."

The Senator objected to the provision because it would be "the first step in an unending process of undermining on a case-by-case basis the environmental protection statutes which we now recognize as essential to safeguard the country's environment." Congress would become involved in "an endless round of specific adjudications over whether this highway or that dam or this canal should be exempted," thereby thrusting Congress "into the realm of the courts in the adjudication of sharply contested specific disputes." He introduced a letter from Russell E. Train, chairman of the Council on Environmental Quality, stating that Section 148 "represents an extremely bad precedent and a retreat from the Federal Government's commitment to important national environmental concerns . . . ."

Senator Buckley said, "I do not believe we should take that first step."

Senator Bentsen began by observing that Senator Buckley did not object to the project, but only to the precedent he believed Section 148 would set. "I am sure that is a great comfort to the people of San Antonio who have been trying to build this project since 1959." He explained that Section 148 did not set a precedent. "It simply approves the action already taken by the State of Texas in returning the Federal funds designated for this project and removes any Federal involvement." He continued:

> Senator Buckley speaks of all these interstate projects waiting back here in the hills and in the wings which will be seeking relief. This is not an interstate project. I have not heard any State offering to build a 90 percent federally financed interstate system with local funds. Just name me one. Even if a State wanted to build one, Congress could not wash its hands of such a project. Interstate highways have been designated as part of a national system. What we have in San Antonio is local people wanting to build a local road with local funds. According to testimony received by the Transportation Subcommittee, this is the only instance in which such local action has not been allowed.

He also recalled Senator Buckley's support for the Muskie-Baker amendment, saying "how he wanted local options and local decisions to be made. That is what I am asking for the people of Texas."

Senator Tower pointed out that 6 months ago this week, the Senate had debated this identical question before the amendment was "soundly defeated." The House had approved the amendment, but of course, the bill failed for unrelated reasons.

He wanted to address the two primary objections to Section 148. First, he cited the unique circumstances, already explained, that would prevent the provision from setting a "dangerous precedent." The second objection was that the expressway "would be detrimental to the environment of San Antonio." He said that "it has become apparent that oft times false claims have unfortunately overshadowed the facts." He pointed out that only 9 acres of the park, located at the extreme southwest corner of the Brackenridge golf course, would be affected. "In fact, the golf course has been rebuilt to accommodate the expressway and has been back in play in its realined configuration for some 4 years."

He concluded:

> I would hope that we in this body never reach the point that we feel ourselves so restrained by statute that we refuse to examine the merits of an individual case which reaches us for consideration. The San Antonio north expressway represents just such a case, boasting facts which, when balanced, find the equities in favor of its completion.

Senator Buckley responded that he was for local determination, but "when one seeks Federal money it comes with Federal conditions attached. This is a fact of life." He insisted that section 148 would set "a very large precedent and one which will be cited time and time again." He knew of "over 30 cases, certainly not on all four's with this one, where equivalent arguments could be made for elimination of Federal protection." He noted the provision in S. 502 on I-66 in Virginia, but pointed out that it did not exempt the project from NEPA or other Federal requirements, but only gave the review process priority.

He pointed out that Senator Cotton planned to introduce an amendment later in the day that would waive certain Federal-aid requirements for I-93 through Franconia Notch in New Hampshire:

> No; we will be opening a Pandora's box if we isolate a specific case where matters affecting sensitive areas in a Senator's State are concerned . . . . I do not believe we here should be arguing whether or not this is desirable or not desirable. This is precisely the determination that is to be made by competent transportation authorities on the basis of a comprehensive study.

His chief regret was that few Senators were on the floor to hear the debate so they would understand the essentials of the issue. In fact, Senator Buckley was convinced that his amendment had been defeated in 1972 by nearly 2 to 1 because the Senators had "an insufficient understanding of the importance of this matter."

Senator Domenici said he reluctantly disagreed with Senator Buckley:

> The theme of his argument is that it is wrong to commit a present injustice in the name of avoiding a future misapplication of this section . . . . [It] seems to me there is no question but that to agree with the Senator from New York is to agree that the present injustice of a serious nature must be permitted to stand because we are concerned that we will not be able in the future to distinguish similar injustices that come before us or other tribunals charged with environmental protection for the citizens of this country.

As a member of the Subcommittee on Transportation, he had read the statements of experts from San Antonio indicating that "no harm would come, and they would like to complete it for themselves."

The Buckley amendment was "an anomaly" because the trend was to turn over to local officials the flexibility to make their own decisions. All Texas was saying is, "Let us finish this ourselves." In this case, "this action is infinitesimal even if it were to cause some little harm to the environment."

Senator Baker said he would support the Buckley amendment. He did not want to interfere in the affairs of the State of Texas:

> I cannot help but express my concern for the precedent being set here. I have a somewhat dissimilar, but not entirely dissimilar, situation in my own State of Tennessee with respect to the Overton Park project, which is now involved in litigation . . . . I have never contended that it should be removed from the Federal system, or that the law of the United States should not be complied with. Rather, I believe, that we should get about the business, as fast as possible, of resolving this dispute so we can build the highway, not remove it from the Federal system.

The Buckley amendment may cause some hardship to the people of Texas, but Senator Baker thought the issue was "important in principle."

Senator Tower wanted to underscore Senator Domenici's observations. The route for the North Expressway had been approved and the right-of-way acquired years ago, and a great deal of money had been spent before enactment of NEPA:

> The matter became fouled up in a faceless bureaucracy here and was subjected to the whims of some arbitrary civil servant who treated the people of San Antonio with the arrogance of a maharajah. I do not think our cities should be subjected to that kind of treatment.

The spirit of environmentalism, he said, dictated opposition to the Buckley amendment:

> [If] you want to foul up the environment in San Antonio, [then] force the people to buy the right-of-way for another route, leave this structure a useless eyesore, force them to buy another route and use up other valuable land.

Senator Randolph pointed out that in 1972, the Senate undertook "a very thorough debate" on the Buckley amendment and then chose to vote 49 to 24 to reject it. Referring to Senator Bentsen, Senator Randolph said, "I believe that today he has again made a case for the rejection" of the amendment.

Senator Buckley said this was a new Congress with new members who had not participated in the debate in 1972. The Congress was "not, in my judgment, bound by such precedent as we may have established last year" on the amendment.

He also wanted to reply to the argument of injustice based on timing:

> The fact is they did not first apply for Federal funds until 1968, or 2 years after the enactment of section 4(f). Federal approval did not come until August 13, 1970, 8 months after the enactment of NEPA. There was nothing to stop the city of San Antonio from proceeding, however it wanted, without Federal funds, as its willingness to return those funds confirmed.

He acknowledged the popular votes in favor of the North Expressway. "I suggest that they did not necessarily vote for this precise route, given the number of alternatives that are available . . . ."

Senator Gaylord Nelson concluded the debate on the Buckley amendment. He began generally by recalling that in 1970 he had said that a national environmental agenda for the 1970s must begin, as he phrased it then, "to utilize the billions of dollars a year that could be made available on completion of the Interstate Highway System to provide new transportation alternatives, including mass transit, in our polluted, congested, highway-choked urban areas."

He said that S. 502 "responds to our changing transportation needs in this country." One way it did so was by addressing a unique situation in Wisconsin involving delays in construction of I-57 south of the Saukville interchange leading into Milwaukee. At the State's request, FHWA had designated I-57 (Milwaukee to Green Bay) in December 1968 as part of the 1,500-mile Interstate extension authorized by the Federal-Aid Highway Act of 1968. For the section of I-57 into Milwaukee, the State would not be able to meet the deadline of July 1, 1973, for submitting a schedule for completing construction within the period of availability of Interstate funds. The Secretary of Transportation was to remove the designation of all segments that failed to meet the deadline.

Senator Nelson explained that at his request, Section 112 of the Senate's Federal-Aid Highway Act of 1972 provided that for projects added under the 1,500-mile extension, the first qualifying deadline would be changed to July 1, 1974. The House had not included the deadline switch and it did not survive into the conference bill. However, after the legislation failed on the last day of the 92nd Congress, Senator Nelson secured an assurance from Senator Randolph that the issue would be addressed in 1973.

The routing of I-57 in Milwaukee via the proposed Stadium Freeway was still under debate, but whatever the routing, the State could not set the schedule for construction. The Governor and local officials had reached an agreement "which conditions this project as well as some others on a show of substantial progress in off-setting the housing deficit in Milwaukee resulting from past construction of all kinds." State legislation had been enacted to establish a Wisconsin Housing Authority that would address the problem, but the legislation faced a court challenge claiming that it conflicted with the State constitution. Section 112 of S. 502 would, like its predecessor in 1972, address the deadline problem for Wisconsin.

Following the discussion of I-57, Senator Nelson addressed post-Interstate needs:

> In order to turn the focus of attention on creating a truly balanced transportation system in this Nation, however, we must also have a greater degree of flexibility to meet the specific and varying needs of each State, urban and rural. Now is the time to allow a wider degree of

> discretion and alternatives to State and local governments in the allocation of Federal transportation funds to essentially local transportation needs.

For that reason, he had supported the Williams and Muskie-Baker amendments the day before:

> If our focus is to be on the best possible transportation for the maximum number of people, we cannot limit our flexibility or dictate our transportation financing options. A singular choice is really no option at all. Allowing the steadily available dollars of the highway trust fund to be applied to mass transit in our urban areas, if local government wishes to use their share of funds in such a manner, provides a real alternative.

He did not say so, but his concern about the deadline approaching for I-57 was not an attempt to exempt the segment from environmental or right-of-way requirements; he wanted to give the State more time to do so. The provision exempting San Antonio's North Expressway from Federal oversight was another matter. He concluded his floor presentation by supporting the Buckley amendment:

> The National Environmental Policy Act established in law and principle that Federal and federally aided projects should be carefully reviewed for their environmental impact before they are undertaken. If we begin now, under whatever guise, to excuse projects from such requirements, Congress will simply be writing the beginning of the end of this vitally important environmental protection law . . . . While this particular exemption would appear to have a very limited narrow application, we can be sure others who might wish to avoid environmental studies will be tempted to view it as a possible precedent . . . .
> I express my strong opposition to the San Antonio exemption and urge Congress to require that this project comply with the law. While this particular exemption would appear to have a very limited narrow application, we can be sure others who might wish to avoid environmental studies will be tempted to view it as a possible precedent.

The Senate vote was closer than in 1972, but still went against the amendment, 50 to 43. [*Congressional Record-Senate*, March 15, 1973, p. 8184-8193]

(Wisconsin officials wanted to use the number 57 for the new Interstate between Milwaukee and Green Bay because they planned to route the Interstate along State Trunk Highway 57 north of Saukville. The number was approved in 1969. However, a routing controversy resulted in a shift of the route to the U.S. 141 corridor along Lake Michigan. In 1974, the route was renumbered I-43 to avoid confusion with I-57 between Sikeston, Missouri, and Chicago, Illinois.)

The next amendment was considerably easier. Senator Hugh Scott introduced an amendment to designate a transcontinental route the "Dwight D. Eisenhower Highway" as initially suggested by Secretary Volpe. It specified the routing via I-70 from Washington, I-25 from Denver, and I-80 from Cheyenne, Wyoming, and indicated that all references to these segments should designate them by this new name. Senator Scott did not need to take much time on this amendment. He said:

> President Eisenhower was a forceful advocate and initiator of our present Interstate Highway System, which was created during his administration. The adoption of my amendment would be a fitting tribute to the man who made so many contributions to develop the outstanding highway system we now have across the country.

Senator Randolph pointed out the importance of designating public facilities "to call attention to certain men in public and private life who have been instrumental in moving the country forward." President Eisenhower provided "the leadership from the executive branch of Government, in bringing to being this program, which has been of great importance to the strengthening of America, the servicing of our people."

Senator Bentsen and Senator Stafford briefly indicated their support and then the amendment passed on a voice vote. It passed. [*Congressional Record-Senate*, March 15, 1973, p. 8193-8194]

Senator Hansen introduced his amendment to repeal the weight limit restrictions in Section 127 of Title 23, United States Code. Section 127 imposed a weight limit of 18,000 pounds on a single axle and 32,000 pounds on a tandem axle for trucks using the Interstate System. The restrictions had not been changed since they were included in the Federal-Aid Highway Act of 1956. "In adopting Section 127, the Congress relied upon the size and weight recommendations of the American Association of State Highway Officials—AASHO—a recommendation which in 1956 was 10 years old." His amendment would return regulation of size and weight to the States:

> I have no fear whatsoever of the States abusing that jurisdiction, because money for highway maintenance is provided exclusively by the States. There is no Federal-aid whatsoever for highway maintenance costs. Furthermore, there is no evidence that Interstate highway maintenance costs have been excessive or unusual in those States who were grandfathered in 1956 and whose limits exceed 18,000 pounds for a single axle and 32,000 pounds for a tandem axle.
>
> It is significant in my judgment that eight western States have enacted legislation permitting axle limits for non-interstate highways that exceed the limit for interstate highways . . . . My purpose in offering this amendment is solely to give an opportunity to the Western States to increase their ceilings to the standards recommended by the Bureau of Public Roads in 1964 [as a result of the AASHO Road Test].

Earlier in the week, AAA spokesman Chuck Brady had said, "This is one of those sleepers. Nobody's paid any attention except us and the truckers." Both sides agreed that the provision in the 1956 Act was a bar to bigger trucks; they disagreed only on whether this was a good thing. The resulting State-by-State limits were "a crazy quilt," according to a Hansen aide. AAA was concerned that if the ban were dropped, "we'll soon see trains of wide trucks and trailers on the highway," resulting in higher maintenance costs and increased safety hazards. "The law has helped to hold the line," said Brady. [Braestrup, Peter, "Sleeper in Bill Would End Curb on Interstate Trucks," *The Washington Post*, March 13, 1973]

On the Senate floor, Senator Henry M. "Scoop" Jackson (D-Wa.) said that if weight limits were left to the States, "the State that raised it the highest would set the standard" because the other States would be pressured to accommodate the heavier vehicles. Senator Hansen replied that "a person might assume" that to be the case, but he did not think so, primarily because the States are responsible for 100 percent of maintenance costs:

> I cannot envision that any State would be so irresponsible as to assume it would abandon all caution and throw good judgment to the winds and say that while we legally can go higher than we should go, that is what we will do, rather than working at keeping the Interstate System in repair and making such changes as would conform to the standards in the system now.

Senator Jackson responded that "it seems to me to be logical for the Federal Government to insist on uniformity . . . in connection with usage by the trucking industry on those roads." Senator Hansen pointed out that because of the grandfather provision, the States were not uniform at this time. "All we are asking is that the States may have control over policies and actions in those areas where it is not inappropriate."

Senator Jackson, with support from Senator Buckley, argued that instead of eliminating all limits, perhaps the legislation should establish a national level comparable to the prevailing limits. Senator Hansen pointed out that in 1968, the Senate had approved a measure to increase the limits to 20,000 pounds for a single-axle and 34,000 pounds for the tandem axle based on a BPR recommendation, but the House did not consider the provision.

Senator Stafford referred to "the long and controversial history of legislation dealing with the subject of larger buses and trucks and of the inability of the Congress to reach any agreement on the matter after prolonged study and debate." He did not think it would be appropriate "to attempt to legislate this issue on the floor without the benefit of committee deliberations." He was particularly concerned about the safety implications of larger trucks and buses:

> There are too many unanswered questions of safety—of survival on our highways—to act on this sweeping proposal at this time on the floor of the Senate. Our highway death toll is a national disgrace as it is. We should not take any action here today that may hinder our efforts to reduce that highway death toll.

Senator Hansen did not consider the safety issue to be "germane to the amendment." He pointed out that Senator Stafford's State of Vermont is one of those with higher, grandfathered limits:

> So it seems somewhat inappropriate to me that the question of safety should be raised by my good friend from Vermont, because I think that the action taken by the Bureau of Public Roads in urging that the width be increased and the action taken by the Senator from Vermont pretty well speak for themselves.

Senator Stafford conceded that his State had higher limits, but said:

> It comes right down to this. That the operators of trucking concerns, as long as we have some reasonable limits on the Interstate System, are not generally going to buy trucking equipment which is larger than they can operate on the Interstate System. So, in Vermont and many States like it, while axle weights are larger than on the Interstate, the truck operators, in fact, buy equipment which complies with the Interstate requirements, rather than the State law.

Senator Hansen agreed, but added:

> We can continue as we now do and it will take far greater numbers of trucks on the American highways today to move the same amount of material. I think that in itself endorses this amendment.

Senator Kennedy said that he opposed this effort "to sidestep normal Senate procedures . . . ." The amendment "denies the Senate and the Congress the opportunity to judge the safety impact of this action," let alone the financial impact on the States. "Every time in the past, when this has been attempted, we at least have had the benefit of hearings."

The Hansen amendment was soon defeated, with 23 votes in support and 67 opposed. [*Congressional Record-Senate*, March 15, 1973, p. 8194-8200]

When Senator Cotton's time came to introduce his amendment on I-93 through Franconia Notch, Senator Bentsen first introduced remarks submitted by Senator Nelson for the record because he could not be on the Senate floor at the time. "I would like to express my opposition to any amendment which would exempt this proposal in any way from full consideration of its environmental impact and of requirements in Federal law to protect park land wherever possible from any highway development."

Senator Nelson included an analysis by the Highway Action Coalition of the controversy. The four-lane I-93 had been routed through Franconia Notch State Park, which included the rock formation known as the "Old Man of the Mountain," the iconic symbol of the State of New Hampshire. Conservationists were concerned that traffic vibrations would cause landslides and rock damage that might harm the Old Man of the Mountain, "and would create an unwelcome intrusion of noise, air pollution and concrete into the Park environment." The Interstate also would "consume a large part of the usable land on the floor of the narrow valley."

On March 2, 1970, Secretary Volpe had informed the State that construction was to be indefinitely postponed in view of his responsibilities under Section 4(f) and NEPA. Further, he did not believe that projected traffic volumes warranted a full-scale Interstate. He suggested the State consider alternatives, possibly involving parallel U.S. 3, and reiterated his opposition to the planned Interstate in the fall of 1972. However, a reduced-scale highway would not satisfy the design requirements for an Interstate route.

Senator Cotton explained that his amendment expressed the sense of the Senate that the Secretary of Transportation should reconsider a request from any State to build a parkway instead of an

Interstate if the request were approved by the Governor, the State Legislature, the Department of Public Works and Highways, and the State's congressional delegation. He added that he had written the amendment in general terms, instead of specifying I-93 in New Hampshire, but that facility was the only one covered by the amendment.

He said that he and other State officials had visited Secretary Volpe shortly after he took office to make their case:

> We all went down and had a hearing to express the desire of New Hampshire. All precautions had been taken. No hazard to the natural objects up there from blasting or otherwise would have to be faced, because the new lane would be on the opposite side of the Notch—from the side of the Old Man in the Mountain [sic].
>
> Now, Mr. Volpe sought to be fair. But the Secretary of Transportation rejected the request of our delegation . . . and the highway was not able to be constructed through the Notch.

He acknowledged that under current law, the Interstate would have to be open to multipurpose traffic, including trucks, and could not be limited to noncommercial traffic as his amendment would accomplish. The amendment would express the sense of Congress that the Secretary should consider the State's proposal for a parkway design and exempt it from the design requirements for an Interstate highway. The resulting project also would send trucks and other heavy traffic by an alternative route. "As a result, you would not have the situation we now have of people driving through the Notch, trying to see the Old Man in the Mountain [sic], and running into other cars."

Senator Stafford asked Senator Cotton "whether or not there is any intent in his amendment to seek exemption on meeting environmental requirements, so far as the amendment is concerned?" Senator Cotton replied:

> There is absolutely nothing in the amendment that denies to any person, any environmentalist, or any ecologist the full appeal to the courts. All we seek is reconsideration. Then, before we proceed all persons will have all their rights protected by the court.

Senator Bentsen said he had opposed the original version of the amendment, but he wanted to confirm that the revised amendment did not mandate construction of the highway and that it was merely expressing the sense of the Congress that the Secretary should reconsider the State's proposal. When Senator Cotton confirmed this understanding, Senator Bentsen offered his support.

After Senator Randolph offered his support, Senator Cotton said that "having tried cases for many years, I know that when the court is with you, it is time to stop arguing your case." He requested a vote. The Cotton amendment was agreed to by voice vote. [*Congressional Record-Senate*, March 15, 1973, p. 8204-8206]

By this time in the debate, Senator Byrd asked if future amendments could be subject to limited time in order to get through all of them. That having been agreed to, the Senate turned to an amendment from Senator Abraham A. Ribicoff (D-Ct.) concerning New York's plan to build a 16½-mile bridge across Long Island Sound from Rye in Westchester County to Oyster Bay in Nassau County. Although the bridge would be in New York, it would affect Connecticut:

> The proposed structure will have an immense impact not only on New York, but on the entire Long Island Sound region. Because its northern end is located only a few miles from the Connecticut border, this bridge will funnel millions of cars and trucks onto the already overcrowded Connecticut Turnpike and Merritt Parkway.

New York's MTA estimated that the bridge would carry 33 million cars a year, "half of which would be overflow traffic from other New York bridges and half of which would be newly created." Because the authority "has kept important information from the public, it is difficult to predict what impact the bridge will have on the local ecology." However, Senator Ribicoff predicted that it would create chaos for shipping on the sound and that "noise will increase, the sound's water quality will deteriorate, the air will grow dirtier, and valuable wetlands at both ends will disappear."

Connecticut did not want this bridge to be built. His amendment provided that the Secretary of Transportation could not approve any project that would significantly affect a contiguous State's highway system without the concurrence of that State.

Senator Bentsen indicated he concurred (signaling that the Committee on Public Works recommended approval) and the amendment was approved by voice vote. [*Congressional Record-Senate*, March 15, 1973, p. 8214-8216]

Senator Scott took a few moments to discuss Section 152 of S. 502, the provision concerning I-66 in Virginia. He said that he had requested a seat on the Committee on Public Works primarily because of his interest in the completion of I-66 from the Capital Beltway into Washington. At the committee's organization meeting on January 18, 1973, he had expressed this interest, and had repeated his interest during the hearings on S. 502.

He explained that I-66 "is an integral part of our overall balanced transportation system in the area, and an important link in moving the suburban commuter and the visitor in and out of our Nation's Capital." Section 152 set a precise schedule for considering the issues and completing all determinations necessary for construction. "When a matter has been under construction [sic] for 17 years and the road still is not built, then it seems reasonable to me that some dates for administrative action should be taken . . . ." He was pleased that the committee had included his amendment in S. 502 and he hoped the House of Representatives would do the same. [*Congressional Record-Senate*, March 15, 1973, p.8216-8217]

Senator Weicker, with support from Senator Kennedy, introduced an amendment that modified Section 105 ("Programs") of Title 23, United States Code. Section 105 provided that as soon as practicable following apportionment of Federal-aid highway funds for a fiscal year, the State highway agency shall submit a program or programs of proposed projects for approval by the Secretary. The Secretary may approve the program except for any projects not on the Federal-aid systems.

Among other things, Senator Weicker's amendment replaced references in Section 105 to the State highway department with the Governor. He explained that under his amendment, "any highway construction project funded with Federal money must be part of an overall transportation plan rather than simply a highway plan. It also says that the Governor has ultimate responsibility for such planning and not just State highway officials. He added:

> This amendment is important because it recognizes that highways, while a vitally important part of any balanced transportation system should not be planned in isolation from mass, inter-city rail or air transportation facilities. All should tie in with each other. All should recognize the varying environmental, social, and economic impact of alternate modes of transportation in all areas—rural as well as urban.

Senator Kennedy added that under the amendment, "any highway project funded with Federal money must be part of a comprehensive transportation plan rather than merely be covered by a highway construction design. And it says that the final authority should be with the official who is elected by all of the people of the State, the Governor, rather than the State highway departments." Under the present system, a Governor can "rightfully claim that his hands are tied" if people disliked the State highway department's choice. This amendment would ensure accountability "by pinning the final decisionmaking responsibility on the Governor."

Senator Bentsen indicated his support, saying "this amendment complements the bill and is a good addition to the bill. The Senate agreed to the amendment by voice vote. [*Congressional Record-Senate*, March 15, 1973, p. 8217-8218]

Senator Robert Dole (R-Ks.) introduced an amendment to add two routes to those identified in Section 146 of S. 502 to determine the "feasibility and necessity for constructing to appropriate standards proposed highways . . . ." One route was from Wichita, Kansas, to Tucumcari, New Mexico. The other was from Kansas City, Missouri, to Baton Rouge, Louisiana. Both, he said, were important to his State of Kansas. After Senator Bentsen said he supported the amendment, the Senate adopted it by voice vote. [*Congressional Record-Senate*, March 15, 1973, p. 8218-8219]

Senator Domenici introduced an amendment eliminating the provision of S. 502 apportioning one-half of 1 percent of Interstate construction funding to any State that completed its designated mileage:

> My concern, Mr. President, and Members of the Senate, centers on what I believe is a very bad precedent. It seems to me that what the committee language . . . does is say to the States, "When you complete the Interstate System we are going to give you a bonus. We do not really know why. We do not know whether you finished because you did a better job than others." We are going to say to the other States that they did not finish, and we are not going to give them that bonus. We do not know why. We have just decided that those States that have finished will get additional revenues to complete other highway programs in those States.

Senator Burdick, representing North Dakota, one of the three States that would benefit from the one-half of 1 percent apportionment at that time, objected. From the start of the program in 1956, the State highway departments had been told to make the Interstate System their top priority:

> The mandate was clear—to move swiftly toward early completion of the Interstate System. It seems now that three States may have completed [their Interstate segments] too fast for their own good . . . . Ironically, if the proposed amendment passes, it would have been more advantageous for the three States to prolong Interstate completion even though this would have cost the Federal Government more money in terms of rising construction costs now estimated to be about 10 percent a year.

He explained that Congress originally anticipated that the States would complete their segments simultaneously. That would have resulted in a smooth transition from Interstates to non-Interstates. In part because Congress added 1,500 miles to the Interstate System in 1968, simultaneous completion was no longer practical. He offered a substitute amendment making clear that the one-half of 1 percent is "an interim provision to be reconsidered at the expiration of this authorization."

With support from Senator Bentsen, the Senate agreed to Senator Burdick's substitute amendment, again by voice vote, after the measure was limited to the 3-year authorization period covered by the 1973 Act. [*Congressional Record-Senate*, March 15, 1973, p. 8219-8221]

Senator Paul J. Fannin (R-Az.) introduced an amendment that would increase the width of buses allowed on the Interstate System from 96 inches to 102 inches. He mentioned that hearings had been held on the issue in December 1971 and February 1972, but that the issue was deferred until the Department of Transportation completed a report on the issue. On January 22, 1973, Secretary Volpe sent the report to Senator Randolph. The study by FHWA and NHTSA concluded:

> In summary, the 102-inch wide bus is safe. The research did not indicate any properties of 102-inch wide buses which would suggest that they pose an increased hazard to cars, despite the fact that lateral maneuvering space is reduced by 3 inches or half the additional bus width. On the Interstate Highway System, lanes are at least 12 feet wide and the 3-inch width increase still allows car maneuver space of at least 53 inches, which is adequate for all operating conditions.

He pointed out that his amendment was wholly permissive, leaving each State to decide whether to permit wider buses on its Interstate highways.

Senator Bentsen said the Fannin amendment was more narrowly drafted than the Hansen amendment that had been rejected earlier "in that it pertains only to increasing the width of buses to a specified size rather than lifting all limits on the size of buses and trucks." He did not say he supported the amendment but he did say he would not oppose it.

Senator Stafford was concerned that the limited increase "may be a foot in the door which will result in additional amendments which can be offered or may be offered to increase the size of trucks and buses, as well. He opposed the amendment.

After Senator Baker briefly indicated he opposed the amendment, Senator Harold Hughes (R-Ia.) asked Senator Fannin several questions:

- Was the decision on bus width purely optional? "That is correct."
- Could a wide bus from Chicago ride through Iowa if State had not authorized that width? "It is my understanding that this is permissive legislation."
- What would happen when these buses leave the Interstate to get to their destination? "I think he [Senator Hughes] realizes that city ordinances and State laws would be effective in this respect."
- Is it the intention of the bus companies to use this extra width to increase passenger comfort. "That is correct. I think there is a safety factor, too, as far as bus construction is concerned."
- What is the width of a two-lane Interstate highway? "On the Interstate Highway System the lanes are at least 12 feet wide."
- If two wider buses were passing each other, they would have 208 inches? "There would be a clearance of 53 inches."
- Does the Senator have the engineering dynamic studies on these buses? "I can answer . . . that there is a negligible difference in aerodynamic disturbance effects between 96-inch and 102-inch buses."
- Would a wider bus passing an automobile in a high wind have a dangerous effect? "I do not think there would be."

Senator Hughes stated that he asked these questions because of his concern about "putting wider vehicles on highways that are already glutted with traffic, particularly on holiday weekends and summer vacations." Senator Fannin said he thought the amendment would have the opposite effect because the more comfortable buses would encourage more drivers to take the bus instead. Senator Hughes was unconvinced, concerned that as Senator Domenici had said, this amendment was a "foot in the door."

The Fannin amendment was defeated, 14 to 68, with Senator Hughes among those opposed. [*Congressional Record-Senate*, March 15, 1973, p. 8221-8223]

Senator Baker introduced an amendment that modified the pass-through provision of S. 502. It would allow the municipalities or combination of agencies to undertake any Federal-aid urban system project "which shall be planned in accordance with the planning process required by section 134 of this title*, and which shall not be in conflict with any State Transportation Plan approved by the Governor*." (Amendment in italics.) "While the amendment does not endanger the powers given to urban areas meeting the criteria of the pass-through provision of the bill, it assures that projects undertaken under that section will not impede the efficiency of statewide transportation programs." He said he was mainly concerned that urban plans not conflict with the hard work of the Tennessee Department of Transportation in developed "a forward-looking plan." With Senator Bentsen's concurrence, the Senate approved the amendment. [*Congressional Record-Senate*, March 15, 1973, p. 8223]

Senator Baker also introduced an amendment that called on the Secretary of Transportation to study revenue mechanisms, such as a fuel tax, that could be used to finance transportation activities receiving assistance from the Highway Trust Fund, with a report due by July 1, 1974. His goal was "to explore revenue mechanisms relative to mass transportation systems which would afford the basis for preserving the 'pay-as-you-go' feature of the trust fund." He added that he did not believe that "a concept so basic to the trust fund should be discarded." He continued:

> The study will disclose among other things the amounts which public transportation systems already contribute to the fund or would contribute under the existing tax setup, and how any additional tax burden should be distributed in order not to penalize those systems which do not share in the trust fund.

He did not expect the added amounts to be substantial initially. "But it is my belief that in time as the concept of urban mass transit becomes more popular these systems may become major contributors to the fund."

Senator Bentsen raised no objection and the Senate approved the Baker amendment by voice vote. [*Congressional Record-Senate*, March 15, 1973, p. 8223-8224]

Senator Baker's amendment was the last one considered.

Senator Bentsen began the concluding remarks:

> Mr. President, we have had a long and vigorous debate on this measure, and I believe we have aired many of the difficult and controversial matters associated with the highway program.

After committee leadership complimented each other and their staff and several Senators engaged in colloquies on specific measures, including amendments they had intended to introduce but did not, the Senate voted 77 to 5 in favor of the $18 billion, 3-year Federal-Aid Highway Act of 1973. Senators Kennedy and Weicker voted "Yea," while Senator Muskie was among the 18 Senators who did not vote. [*Congressional Record-Senate*, March 15, 1973, p. 8224-8232]

Reporting on the vote, *The New York Times* considered the Senate's rejection of Senator Hansen's amendment on size and weight limits to be the major story on March 15. "Because most truck and bus routes include mileage on Interstate highways, the law has the effect of restricting the size of vehicles on nearly all roads." The article pointed out that:

> Trucking interests have lobbied in Congress for years for increasing or eliminating the limits. But environmentalists and organizations of motorists have opposed any change, and the truckers have never succeeded.

The article described the Ribicoff and Muskie-Baker amendments and Senator Williams' Emergency Commuter Relief Act, each of which had been included in the bill:

> The Nixon Administration supports diverting trust fund money into mass transit, but it opposes operating subsidies. An Administration spokesman said today that President Nixon

> would veto the bill if the final version contained the operating grants. [Rosenbaum, David E., "Senators Retain Truck, Bus Limits," *The New York Times*, March 16, 1973]

Engineering News-Record reported that transit advocates "were jubilant after the Senate action, while pro highway forces in Washington were regrouping for the crucial showdown on the House floor." The article continued:

> A spokesman for the Highway Users Federation said, "We're heartened by the closeness of the vote on the Muskie amendment (it carried 48-26 last year). It will give us a better chance in conference this time around."

The House's recently renamed Subcommittee on Transportation was opening hearings on its bill the following week. "Despite the fact that its chairman, Rep. John Kluczynski (D-Ill.), recently reversed his long standing opposition to diversion . . . the full committee is expected to retain its previous stance."

The Highway Action Coalition was not worried. "Says its director John Kramer, 'We're going to win on the floor.'" By contrast, a HUFSAM spokesman acknowledged that the House makeup in 1973 was more "urban-oriented" than in 1972 and predicted that "the floor vote is going to be very close."

The Senate version, the article stated, contained two provisions—funding for transit operating subsidies and the Bellmon amendment prohibiting impoundment of Federal-aid highway funds—that could attract a presidential veto. "The Administration has staunchly opposed operating subsidies for public transit. And Nixon contends that the executive has the power to impound appropriated funds." ["Senate Again Votes for Highway Trust Fund Diversion," *Engineering News-Record*, March 22, 1973]

The Los Angeles Times commended the Senate for approving the Muskie-Baker amendment. "For the second straight year, there is a question of whether the House will show a similar sense of responsibility to the transportation needs of the cities and concur in the Senate's action." Concurrence was "imperative" if urban areas were to relieve "the terrible congestion" they faced. The House was the "big hurdle because it is there that the influence over key committees by the highway lobby—a coalition of interests that profit from the building and use of roads—is most powerfully felt."

The editorial acknowledged that the Interstate System was "a good system that allows rapid travel from one state to another," but "what the nation now needs are good systems to allow rapid travel from one side of a city to another." It added:

> Breaking open the trust fund makes sense not only because most cities desperately need efficient mass transit systems as a supplement or alternative to increasingly inefficient reliance on autos, but because the federal highway program no longer can usefully absorb all of the money earmarked for it. ["Breaking Open the Highway Fund," *The Los Angeles Times*, March 16, 1973]

The Baltimore Sun, in another city wrestling with highway controversies while trying to boost mass transit, also commended the Senate action. "If the House of Representatives goes along, then a real turning point in the development of American transportation policies will have been taken." It continued:

> "Busting the trust," as it has come to be called, has been the goal of those who favor balanced transportation development. They argue, and we agree, that the idea of an exclusive trust fund for highways only is shortsighted and illogical. If there has to be a trust fund in this field, it ought to be a general transportation fund (as in Maryland), since the needs of motorists and transit passengers are so related.

The editorial explained that "the idea of a sacrosanct trust fund is not all that traditional," having been created only in 1956 to include revenue mainly from longstanding excise taxes. "This fund has been successful. It did what it was created to do—built an interstate system and greatly improved other federal aid roads. But times change." ["Busting the Trust," *The Baltimore Sun*, March 16, 1973]

Sun columnist Ernest B. Furgurson was not optimistic that "common sense" would prevail in the House where "a powerful bloc" wanted to restrict 100 percent of the Highway Trust Fund revenue "to the exclusive task of paving over the rest of the country." He explained:

> The bloc of legislators is in league with such selfless lobbying outfits as the American Trucking Association [sic], the Highway Users Association (another cover name for the truckers and their friends) and with various state highway officials whose bureaucratic empires are founded on continued restriction of the money to highway building.

They were upset about the Muskie-Baker amendment "as if it heralded the end of the free enterprise system." Furgurson pointed out that the $850 million in Federal-aid urban system funding represented less than 5 percent of the total authorized funds. "And it is not as if the urban areas would be ordered to use it for buses, subways or trains; they would merely be allowed to, and be just as free to use it for more freeways if they wished." He added:

> It is not the money, it is the principle of the thing. The principle is that the highway "trust" fund, because it comes from federal taxes on gasoline, tires and trucking tonnage, should not be used for anything that would not benefit buyers of gasoline and tires and operators of trucking lines—only more highways.

The concept "is bogged down way back in the Nineteen-teens, in the days when young Lt. Dwight Eisenhower drove across the continent [in the 1919 Army convoy] and wisely concluded from that experience that we could use a better road system." Four decades later, he had signed the Federal-Aid Highway Act of 1956 and now, in the 1973 Senate bill, a transcontinental route was to be named after him:

> But as Eisenhower himself might appreciate by now, things have changed. The automobile had metamorphosed from servant to master. The highway has passed the point of merely

> linking towns and cities, until now it functions mainly to channel congestion and pollution back and forth from cities to suburbs.

Furgurson concluded that "to continue to ram roads into our cities without making a major effort to develop parallel systems is to assure our strangulation . . . ." [Furgurson, Ernest B., "Common Sense and Highway Money," *The Baltimore Sun*, March 18, 1973]

A *Washington Post* editorial said the vote on the Muskie-Baker amendment gave "a big boost" to the "campaign for saner urban transportation policies." It was "an important victory for the crucial principle of flexibility in metropolitan transportation planning." This flexibility was also reflected in the provision allowing a Governor to cancel controversial Interstate projects.
Overall, the bill was "generally sound," although it included several "special-interest" provisions, such as the provision allowing Texas to build the North Expressway through a park in San Antonio. The amendment to kill this provision failed in the Senate, but "by the surprisingly small margin of seven votes." The editorial explained, "This outcome suggests a rising impatience with efforts to build highways by circumventing environmental laws."

The prospects in the House were "more encouraging than in the past, thanks to President Nixon's strong support for reforms in transportation policies, and the recent conversion of Rep. John C. Kluczynski." His conversion, "spurred by the financial woes of Chicago's mass transit system, symbolizes a growing recognition that federal policies must be reformed to deal with the mass congestion and pollution which afflict the cities." Continued hard work "by the broad coalition which prevailed in the Senate" meant that "there is a real chance to achieve such reforms this year." ["Roads, Rails and Realities," *The Washington Post*, March 21, 1973]

Washington's *Star-News* considered the Senate vote "a dress rehearsal" for the "real show" that was beginning with the start of hearings by the House Committee on Public Works. A similar bill, the editorial reminded readers, had passed the Senate in 1972 but died in the House, "where opposition was strongest to further encroachments on the highway trust fund for non-highway uses."

The editorial asked, "Can the wall be breached this time?" It answered, "We fervently hope so." It explained, "The case for viewing urban transportation as a multi-faceted problem, in which roads are only a part, is indisputable—and the Senate bill merely nibbles at that approach."

Citing Senator Muskie's comments about the highway user taxes prior to 1956, the editorial declared the idea of a "sacrosanct" Highway Trust Fund to be "a myth that has grown with age."

The diversity of transit-related provisions in the Senate bill was "an encouraging change in congressional sentiment that clearly was absent only a few years." The Nixon Administration's "enlightened support has been most helpful and should be exerted anew in the House." ["Transit's Big Chance," *Washington Star-News*, March 20, 1973]

Ramifications

Officials were looking at the legislation from the perspective of their own transportation issues. In Maryland, for example, Secretary Hughes had announced on February 22 that the State would not build I-95 through Prince George's County into Northwest Branch Park. In Washington, the route was to connect with the I-70S North Central Freeway, a segment that faced intense opposition by residents. Short of killing the project outright, he recommended considering an alignment along a Potomac Electric Power Company (Pepco) transmission line paralleling New Hampshire Avenue.

Addressing a meeting of the steering committee of the Western Prince George's Transportation Alternatives Study at Parkdale High School, Secretary Hughes said:

> I am in no way convinced that this option is feasible or desirable in terms of the ultimate outcome of the study. There are several compelling reasons, including legal considerations, for its inclusion . . . ."

The Secretary had previously killed a spur of the North Central Expressway from the Capital Beltway near Silver Spring south into Washington. [Eisen, Jack, "Official Kills I-95 Route Into D.C.," *The Washington Post*, February 23, 1973]

Now, with approval of the Senate's bill, States such as Maryland and Massachusetts potentially had an option to replace unwanted Interstate segments, not with other Interstate segments, but with other highway or transit projects. *The Baltimore Sun* pointed out that the "sleeper provision" could mean "a whale of a lot of money if the House of Representatives sees fit to retain" the Interstate transfer provision. Although Maryland had built 326 miles of its 358-mile Interstate network, "the most expensive—and most controversial sections" in the Washington and Baltimore areas remained only lines on the map.

The newspaper pointed out that Maryland was due over $1.1 billion, which was "more than the total $975 million cost of the first 28-mile phase of the rapid rail transit system proposed in Baltimore." The unbuilt Maryland sections of I-95 and I-70S in the Washington area accounted for part of the money, but Baltimore's controversial "3-A system" was responsible for the larger share. The 3-A system consisted of "extending I-70N through Leakin Park to intersect with I-95 near Washington Boulevard, building a boulevard through the Franklin-Mulberry corridor, and building the Eastern portion of I-95 under Fort McHenry to Canton and out through the Northeast area to link with the Kennedy expressway." Mayor Schaefer, according to a spokesman, was "committed to a 3-A system and that's the way he wants it to stand."

In the wake of Senate action on the 1973 Act, Secretary Hughes and Governor Marvin Mandel "were noncommittal on the possibility of using expressway money for buses or rail transit." The Secretary was "on record as preferring to use any unspent urban interstate funds on improving primary and secondary roads in the state." He would allow the use of the funds for mass transit, according to a spokesman, only "if and when it's demonstrated that currently planned highways can't be built."

John Kramer had lobbied Maryland's Senators to support the transfer provision:

> Mr. Kramer also said Mayor Schaefer, Governor Mandel and Mr. Hughes are "very key figures" in the national bill, due to their leading roles in national political and transportation groups. He said Governor Mandel had been "very helpful" in pushing for use of the highway trust for urban transit, and could be very influential in swinging needed votes in the House, where the Maryland delegation, for instance, is split down the middle. [Hill, Frederic B., "Funds for 3-A Road Could Go to Mass Transit," *The Baltimore Sun*, March 19, 1973]

In New York, the Ribicoff amendment on the Long Island Sound bridge was of special interest. The *Times* reported that the amendment passed by "voice vote and with little discussion" to give Connecticut "veto power over Federal funds for the bridge's access roads." The article explained:

> Initially, Mr. Ribicoff planned to offer an amendment specifically barring Federal funds for the Long Island Sound bridge's access roads unless the New York and Connecticut legislatures gave their approval. After discussions during the afternoon with the staffs of Senator James L. Buckley, Conservative-Republican, and others, the language was rewritten to omit any specific reference to the Long Island Sound bridge and to the legislatures of the two States. The Ribicoff aide said that the revised language "has the same immediate effect" of the Senator's original proposal.

Many residents and officials in Long Island, Westchester County, and Connecticut opposed the bridge. The State legislature had twice tried to rescind its earlier approval of the bridge, but Governor Rockefeller had vetoed the bills. A similar battle was expected in the current legislative session. [Madden, Richard L., "L.I. Bridge Faces a New Obstacle," *The New York Times*, March 19, 1973]

In February, Judge Lloyd F. MacMahon of the U.S. District Court had ordered the State to solicit additional information on social, economic and planning factors before holding public hearings. On March 16, the Department of the Interior indicated it would not grant easements for the access routes because they would harm a wildlife refuge that Oyster Bay Town had deeded to the Interior Department in 1968 to protect the area from the bridge. State Transportation Commissioner Schuler hoped Federal transportation officials could convince the Interior Department to change its position, but an FHWA spokesman pointed out that the Secretary of Transportation could not overrule the Secretary of the Interior. Governor Rockefeller was thinking of appealing to the White House. [Bender, Judith, "There's Hope for Bridge Yet: NY Aide," *The New York Times*, March 21, 1973]

Robert Cahn, a Pulitzer Prize winning staff writer for *The Christian Science Monitor* who specialized in environmental and parks issues and was a founding member of the Council on Environmental Quality, wrote about how the Senate came to include the San Antonio North Expressway provision in the bill. "Congress is being maneuvered to turn its back on its own environmental protection laws in the case of a controversial Texas highway," namely NEPA and Section 4(f). Senators Tower and Bentsen had "buttonholed colleagues seeking support, making deals for their votes on other legislation," with Senator Bentsen taking advantage of his post as chairman of the Subcommittee on Transportation.

Cahn, who had written about the San Antonio controversy periodically, disputed the claims the two Senators had made while talking with their colleagues–that NEPA was applied after the route had been set ("a point refuted by the court decision"), that the area where the highway would be built was not a park but a "flood retention facility" ("It includes 13 baseball diamonds, a golf course, a wilderness trail, and many other recreational facilities"), that "the" alternative route outside the park would displace many poor people ("Actually a number of alternative routes are available, one of which would take only a few homes of wealthy people in the City of Olmos Park"), and that city residents had twice approved the route ("a 1961 'approval' was on a bond issue that did not specify an expressway route" while a recent county petition in support of the expressway had secured 100,000 signatures but "wasn't checked for name and address validity").

Pro-park citizens had worked with national environmental groups to oppose the provision and enlisted Senator Buckley to lead the Senate battle. Secretary Brinegar and Chairman Train of the Council on Environmental Quality had expressed their opposition to the provision:

> On the day of the vote, the environmentalists were confident of victory. Surprisingly, six members of the Public Works Committee voted against Chairman Bentsen. But Sen. Henry M. Jackson (D) of Washington, principal author of NEPA, and Sen. Hubert H. Humphrey (D) of Minnesota, who had written letters to citizens saying he would vote against the San Antonio expressway, both voted against the Buckley amendment. This encouraged other senators who may have been hesitating.
>
> As a final blow, some Republicans received word on the day of the vote that the White House did not support Messrs. Brinegar and Train, that it was all right to back Senator Tower. When the roll call ended, Senators Bentsen and Tower had won by seven votes.
>
> Special Assistant to the President Tom C. Korologos was in the Senate reception room before the vote passing on the White House position to Senate Republicans. Had he urged support for the Buckley amendment, four more Republican votes could easily have been obtained, and the decision reversed.
>
> I asked Senator Jackson to explain his vote. He said the San Antonio case was unique, that no other exceptions would be allowed. So he felt the environmental laws would survive. Also, Senator Bentsen had assured him that the San Antonio provision was necessary, that the alternate route would take the homes of a thousand poor people.

If the environmentalists prevailed in keeping the San Antonio provision out of the House bill, Cahn wrote, "the issue will go to a House-Senate conference dominated by Public Works Committee members favorable to the Bentsen-Tower position." Cahn concluded:

> What has happened to date in the Senate is a blatant example of elected representatives acting for "special interest" and neglecting the national interest. [Cahn, Robert, "Texas

> Highway: Will Congress Ignore Own Rules?" *The Christian Science Monitor*, April 4, 1973]

(Cahn won a Pulitzer Prize in 1969 for a series of articles on the future of National Parks and ways of preserving them. On January 29, 1970, President Nixon announced his nominees to serve on the Council on Environmental Quality established under NEPA: Russell E. Train, then serving as Under Secretary of the Interior; Gordon MacDonald, a geophysicist on the faculty of the University of California at Santa Barbara; and Cahn, a Washington State native living in the District of Columbia. The President joked:

> And incidentally, I asked the three gentlemen, "Now, which one of you shall I call a doctor?" Of course, Dr. MacDonald is from the University of California at Santa Barbara. Russell Train said, no, don't call him a doctor, although I do think he has an honorary degree, and Mr. Cahn said, "No, I am just a journalist."

In September 1972, just a few weeks before the presidential election, MacDonald and Cahn resigned. In his book about Nixon's environmental record, J. Brooks Flippen said that, "While Cahn avoided direct criticism of Nixon, his disappointment was obvious. 'The bureaucracy has grown slow in giving weight to environmental factors in decision-making,' he explained. 'Correspondence with the White House was less than ideal.'" [Brooks, p. 131])

With the House about to take up the Federal-Aid Highway Act, newspapers looked to their State's congressional delegation to get a sense of their position on key issues. The *Sun* found that, "Maryland's eight members of the House of Representatives still are divided sharply on use of Highway Trust Fund money for urban mass transit." As in 1972, they were split 4-to-4.

In 1972, Representatives Edward A. Garmatz (D), Goodloe E. Byron (D), Lawrence J. Hogan (R), and William O. Mills (R) had voted against using the funds for transit projects. Representative Sarbanes, who had defeated Representative Fallon, had voted in favor of the measure along with Representatives Gilbert Gude (R), Clarence D. Long (D), and Parren J. Mitchell (D).

In 1973, Representative Margaret S. Holt (R), who had taken retiring Representative Garmatz' seat in the 1972 election, planned to vote against diversion. "I believe strongly in a balanced transportation system, but at this time, I don't feel we should go into the highway fund." Representatives Hogan and Mills confirmed that they were still opposed to diversion. ["Road Fund Splits Delegates," *The Baltimore Sun*, March 18, 1973]

In California, where compliance with the 1970 Clean Air Amendments was a critical issue, a canvass of the House congressional delegation found that it was "sharply divided as the issue heads for House action." The survey found that 13 of the Representatives supported diversion of Federal-aid highway funds for mass transit systems, including bus and rail. Four were leaning in favor of tapping the Highway Trust Fund. Four were "solidly against" the idea, while three were leaning in that direction.

The Los Angeles Times reported that Representative Glenn Anderson would be "leading the 'bust-trust' effort in the House," as he had in 1972. "We are giving local officials an effective tool to help solve the energy crisis, clean up our air, use our land more effectively and transport people in a safe, efficient and economical manner." He had lined up six cosponsors from the delegation for his version of the Muskie-Baker amendment, H.R. 101, but Representative Alphonzo Bell, a Republican representing a Los Angeles district, had introduced his own bill. He said:

> The trust fund is a logical source of funds for mass transportation projects, since highway users will benefit from the decrease in congestion and traffic which mass transit provides.

Some of the opponents were concerned about "breaking faith" with highway users who paid the taxes that went into the Highway Trust Fund. They were particularly opposed to using the funds for rail transit, and more supportive of highway-oriented transit. They favored general Treasury funding for rail systems.

The Highway Action Coalition was lobbying those leaning toward opposing diversion, with special attention being paid to Representative Delwin M. Clawson, a Republican from Downey in the heart of Los Angeles, who was leaning toward opposing diversion. [Houston, Paul, "Californians in House Divided on Using Highway Funds for Transit," *The Los Angeles Times*, March 19, 1973]

With the fate of the issue now in the House, reporter Mary Russell of *The Washington Post* published a profile of Senator Randolph because he might be the key voice in the conference committee that would likely be needed to reconcile differences in the House and Senate versions of the Federal-Aid Highway Act of 1973. It began with a quote from the Senator:

> "When I first came to the Hill in 1933 I became a member of the House Committee on Roads. Even before that I had envisioned a need for a superhighway system. I was so bold as to draw lines on a map outlining where it would go. Then I introduced legislation. I didn't see it as a process of machines laying concrete and asphalt. I saw it as a process of one part of America getting to know another part of America."

Back then, in the 1940s and 1950s, Russell pointed out, no one challenged the slogan "America on the move" and Randolph "was considered progressive and liberal for his dedication to superhighways." Times had changed:

> Today, in an America beleaguered by air pollution, crowded in cities already congested by traffic and facing the prospect of possible gas rationing this summer, Randolph's views sound a little outdated. He sounds, in fact, like the New Deal liberal he is—a liberal who believes social change can be accomplished by outlays of money for material goods and nonmaterial programs, as opposed to the new breed liberal, who wants to attack institutions he feels are preventing social change.

Randolph may have been "losing ground" but he was "far from fading." If, as expected, the House rejected the use of Federal-aid urban system funds for rail transit as permitted by the Muskie-Baker amendment, Senator Randolph would be "the key to the form the country's transportation policy will take—at least for a while." The expectation ("not much doubt") was that he would concede the House's position on the issue, leaving mass transit to wait until 1976 "for another shot at a slice of the lucrative pie." If so, "Randolph will deserve much of the credit for preserving the trust fund intact."

He was, clearly, a friend of the powerful highway lobbyists. Indeed, Russell pointed out, he had worked for ARBA after leaving the House in 1947 until he joined the Senate immediately after a special election in 1958. A Senate aide pointed out, however, that saying the Senator was "selling out" to the lobby was pointless. "Randolph's past the point where the highway lobby can influence him much more." Being from West Virginia, Randolph understood that roads "don't just mean going from place to place. They mean jobs, and that's the point from which Randolph looks at it."

The Highway Action Coalition's Kramer acknowledged that Senator Randolph was "very good at clubby Senate politics" and using his position on the Public Works Committee to "trade off votes on the highway act." For example, the coalition had expected Senator Magnuson to vote for the Muskie-Baker amendment but instead he agreed to a "live pair" with Senator John C. Stennis (D-Ms.).

(When a member expects to be absent for a vote, he may arrange in advance to be recorded as in favor of, or opposed to, the measure by being "paired" with another member who holds a contrary view but also will be absent. As the 1974 guide to Congress explained, "A specific pair of this kind shows how he would have voted if he had been present." It also ensures that his absence will not be the deciding factor in the outcome of the vote. If one of them unexpectedly is present, he "votes as he would have voted if he had not been paired, and subsequently withdraws his vote and asks to be marked 'present' to protect his colleague." This arrangement is known as a "live pair." [*How Our Laws Are Made*, p. 33])

Russell quoted Kramer as saying:

> Randolph used two tacks. First, he reminded Magnuson he had given him everything he wanted—a dam, fish hatcheries, some roads. Then he said the real issue is "whether I'm chairman of the committee or Muskie is." That got to Magnuson as a fellow chairman.
>
> With (Sen. Howard) Cannon [who voted against the Muskie-Baker amendment], Randolph played the trust fund bit. Cannon's interested in airports, and Randolph told him if they break this trust fund they'll break the airport trust fund. With (Sen. Mike) Gravel, he just gave him the Alaska highway and (Sen. Russell) Long got the toll road he wanted.
>
> Randolph came close, but he failed on this vote because trading off pork just doesn't pay at the ballot box the way it used to. And when an issue gets a lot of coverage and members know their vote is going to be watched, Randolph's kind of politics just doesn't work.

Senator Randolph denied calling in "chits" (favors). "I just never do it. I don't believe in it." Instead, a Republican Senator's anonymous aide said, Senator Randolph was "a courtly Southern mogul of another era, a gentle courtier even when he's pushing you around, and a very hard working sob [sic] who knows his stuff." The aide explained that the Senator's attitude was, "Does anybody want anything? Just let me know." In return, he assumed they would give him what he wanted.

Senator Randolph's politeness had its limits, as Kramer explained:

> "Every time Lowell Weicker comes within 20 feet of Randolph, his jowls start quivering. When Weicker starts in about children dying in school bus accidents and highways for the rich and paving the country with asphalt, Randolph nearly goes into cardiac arrest."

The Senator recognized that times were changing. "I know it is not enough just to think anew; we must act anew." Citing under-utilization of BART as an example, he was convinced that the country, including its urban areas, would need roads for many more years. The cost of rapid rail transit was well beyond the revenue in the Highway Trust Fund. Russell wrote, "He feels the mass transit people should 'get their own trust fund, like the airport people did.'" He added, "I only want the interstate system completed so I can dedicate myself to work in the front ranks of mass transit." As for how long completion of the Interstate System would take, his reply "holds scant comfort for the transit backers: 'About 10 years, maybe longer.'" [Russell, Mary, "Sen. Randolph: Key to Highway Trust Fight," *The Washington Post*, April 16, 1973]

Frank C. Herringer

On December 19, 1972, the White House announced that Alexander P. Butterfield would be nominated to be FAA Administrator. Butterfield, a former Air Force pilot and Deputy Assistant to the President, had served most of the past 4 years in the White House as a deputy to H. R. Haldeman. Butterfield's confirmation would be delayed in February when Senator Magnuson, chairman of the Commerce Committee, explained that the White House had acted "naively" by forwarding the nomination to Congress before Butterfield resigned his "retired" commission as a Colonel in the Air Force. The law establishing the FAA said that the Administrator "at the time of his nomination shall be a civilian." The White House would have to withdraw the nomination and resubmit it.

In two earlier cases, Congress had passed legislation to waive the FAA requirement, most recently President Johnson's nomination of Air Force General William F. McKee in 1965, the only four-star General in the history of the Air Force without a pilot's license. In 1973, the Congress would not consider such a bill, as a Senate aide told the Newhouse News Service. "LBJ was enjoying the zenith of his power in Congress then. The climate in 1973 is vastly different." Further, an aide told *The New York Times*, "Nobody here likes the White House much, and Butterfield is a rather routine career officer who never amounted to much until he latched onto Haldeman. So why make it easier for them to stuff another crony into another agency?" [Newhouse News Service, "Hitch Delays FAA Nominee," *Washington Star-News*, February 16, 1973; Apple, R. W., Jr., "Nominee to F.A.A. Quits Air Force, *The New York Times*, February 27, 1973]

After Butterfield resigned from the Air Force (at a cost of $10,000 a year), the White House resubmitted the nomination. The Senate confirmed Butterfield who served as FAA Administrator from March 14, 1973 to March 31, 1975.

Also on December 19, 1972, the White House announced the appointment of Frank C. Herringer to be UMTA Administrator. Herringer was born in 1942 in New York City and raised in Seaford on Long Island. He graduated Phi Beta Kappa from Dartmouth College, having majored in mathematics and economics. He joined the international management consulting firm of Cresap, McCormick and Paget, Inc., in 1965 and remained there until joining the White House in November 1971 as a deputy to Frederick V. Malek, the President's advisor on personnel matters. As Professor Lee noted, Malek was "the White House staffer in charge of appointing loyalists to positions in the departments and agencies for the second term . . . ." before moving to OMB as Deputy Director. [Lee, p. 99]

The Senate Committee on Banking, Housing and Urban Affairs held a confirmation hearing for Herringer on January 26, 1973, with Chairman Sparkman presiding. The nominee did not make an opening statement. Senator Proxmire began the questioning by pointing out that Herringer's biographical sketch did not include any experience in the field of transportation or mass transportation or work related to mass transportation. "Were there other opportunities you had to develop any understanding or experience in the area of transportation?" Herringer had to admit, "No, sir; there were not."

Senator Proximire explained that, "I am concerned about the administration's tendency to appoint very bright people—you are extraordinarily young—who have no experience at all in the field in which they are moving . . . ." Although the Senator was certain Herringer was "a very quick learner," he wondered "if it is logical to appoint nonexperts in all these areas." He mentioned the appointment of James Lynn to be Secretary of Housing and Urban Development as another example.

Herringer responded that UMTA had many experts who knew the technical details of the field. "I think what I bring to the task are management skills, as my record attests."

Nevertheless, Senator Proxmire was concerned that someone with so little expertise would head a billion dollar agency when the Administration may be thinking about making sharp reductions. "If the man in charge doesn't have a feeling in his heart and in his stomach about the need for the program, it seems the program could be crushed, before you get to develop that kind of sensitivity and understanding of what is needed."

Herringer said "it is my understanding that this is not an area in which there are great cuts to be made." Further, in his review of the field since the nomination, he had come to very few conclusions but one "I can state without a shred of doubt: this has to be one of the most exciting, the most challenging fields in or out of Government." He planned to thoroughly review UMTA's demonstration programs and its research and development activities "to insure that the money is being spent on projects which have a real benefit, that appeal to the needs of the consumer, and that somehow advance the technology of urban mass transportation." He also planned to address the long-range objective for the major cities. "It seems that much of the work has been ad hoc, such as in response to a grant request. I hope to push out in that direction."

Senator Proxmire pointed out that "the heart of this problem is that our highway trust fund has resulted in providing a steady growing source of funds for building highways." He asked Herringer how he felt about transferring Highway Trust Fund revenue to mass transit. He called Administrator Villarreal "a champion" of diversion. Herringer said he would have supported the Cooper-Muskie amendment had he been in office in 1972, but "beyond that, I really do not know the answer . . . ." Given the need to complete the Interstate System and improve other highways, "that decision would have to involve people far beyond the Urban Mass Transportation Administration."

Seeing Senator Weicker on the panel, Senator Proxmire asked about the Kennedy-Weicker amendment from 1972. (At this point, Senators Kennedy and Weicker had not yet introduced their 1973 amendment.) Herringer was hesitant to take a position because of the broad scope of the amendment. "I do not think from that perspective I can by myself make a determination of whether those dollars should be transferred around." The FHWA Administrator, the Secretary of Transportation and others "with a perspective that encompasses all of the aspects of the problem" would have to be involved. He would say only that he would determine how much money should be spent on urban mass transportation and then "work with the Secretary and with others to develop the funding, especially where it concerns transferring money from one program to another."

Senator Proxmire concluded by saying:

> One way of holding down very expensive programs is to divert money from the highway trust fund into mass transit. Very painful to the highway people, but very logical from the standpoint of some of us who want to get as much as we can out of a very limited budget . . . . The best way to make a priority is the way the highway program became a priority, and that is to give it a funding [source] that is protected, insured, and growing. [*Nomination of Frank C. Herringer*, Hearing, Committee on Banking, Housing and Urban Affairs, United States Senate, 93rd Congress, 1st Session, 90-185, January 26, 1973, p. 1-6]

Senator Weicker asked if Herringer supported the concept of diversion. He did. Senator Weicker also wanted to confirm that aside from diverted Highway Trust Fund revenue, Herringer supported separate funding for mass transit. He did. If funds were diverted, would that reduce funding from other sources? Herringer said he had no way to answer the question.

Senator Biden had not been in the Senate in 1972, but said he understood that Secretary Volpe had been a strong advocate for opening up the Highway Trust Fund. Would Herringer be as strong an advocate? "Well, Senator, people who know me would be very quick to say that I am not a passive individual." Advocacy would be needed. [*Nomination of Frank C. Herringer*, p. 7-9]

On a second round of questions, Senator Biden asked if Herringer would support Federal funds for operating subsidies. Herringer had studied the issue, but still had some questions, such as:

> [How] do you do this without throwing money down this tunnel forever? How do you motivate management to hold down labor costs, how do you insure equitable treatment from one city to another, particularly since transit systems do not have common accounting systems, fares are at different levels vis-à-vis expenses; and some cites, like Atlanta, have a sales tax to subsidize their mass transit, while someplace else does not. [sic]

He worried that once started, subsidies would become a long-term commitment. He wanted to study the issue further. As an alternative, local subsidies were an option. "Hopefully through the capital grants program and through improved management of the transit operating companies, we can also reduce the problem from the serious level where it is now, I believe about $450 million a year."

Senator Biden, having just come from local government, mentioned their financial straits. He added, "I would hope that you would not rely too much on the local municipalities and State governments to begin to solve the problem." He agreed that a long-term plan was vital, but "the Congress has been so reluctant to formulate such a plan that if we wait until the plan is formulated, everything else may come to a screeching halt in terms of mass transportation." [*Nomination of Frank C. Herringer*, p. 10-14]

The committee approved his nomination on January 26 and the Senate confirmed him without debate on January 31 along with other nominees, including James T. Lynn as Secretary of Housing and Urban Development.

Shortly after 31-year old Herringer took office, *Business Week* told its readers that his nomination had "startled many Washington observers." The article explained:

> Other than the fact that his father is a signal maintenance man on the New York City subway, Herringer has virtually no transportation experience. As part of the Administration team that must race to fashion legislation allowing cities to use highway funds for mass transit, Herringer will step from obscurity into the Capitol Hill equivalent of a barroom brawl.
>
> Last year, an Administration-backed proposal to tap $800-million of the heretofore inviolate $5-billion Highway Trust Fund for urban mass tranit sparked a bitter battle, pitting environmentalists and urban-oriented rapid transit forces against the powerful coalition of roadbuilders, oil companies, and motor carriers that make up the highway lobby.

Now, even with the States running out of highway funds, "neither mass-transit nor highway forces [are] showing any willingness to compromise." It would be a stern test for the new Administrator:

> Characteristically, Herringer dismisses the problem with the insouciance of a young man accustomed to victories. The highway battle will be a tough fight, he concedes. "But I'll have some help," Herringer smiles. "Last year, we just ran out of time."

That battle aside, Herringer will find "problems aplenty" at UMTA, not least being "surrounded by the outstretched hands of big-city mayors, who must combat increasing congestion and air pollution problems with crumbling, debt-ridden transit systems." In addition, he wanted to examine UMTA's priorities:

> One of the first tasks ahead of Herringer will be establishing a clear order of priorities for UMTA, which has been dispensing its grants both to bus systems and to the more expensive rail systems. "My principal responsibility will be to determine how much money we should be spending on urban mass transit," he says. "I [also] want to take a hard look at all our R&D, to make sure it is wanted and needed by our consumers. My training and whole outlook say, 'Let's get a sense of the long-range plan, then make sure everything we do is compatible with it.' And I get the feeling that everything that is going on at UMTA is a response to events of the day."

Herringer's White House boss, Malek, had a reputation as a strong partisan ("a hard-nosed hatchet man") not only for the reelection of the President but the plan to disperse Nixon loyalists to Federal agencies to thwart independent agency heads and bureaucratic obstruction. Herringer denied having any role in Malek's partisan activities. His job had been "placing people in slots." He told *Business Week*, "I've never gone to an Under Secretary's office and told him to clear out by 5 o'clock. And I wouldn't characterize myself as a housecleaner or hatchet man." He planned to be more concerned with, as the article put it, "seeing that commuter trains—rather than heads—manage to roll." Herringer said, "I plan to be very accessible, especially now that I'm trying to get the total picture at UMTA. I want to get to the cities and see mass transit first-hand, and I plan to meet with industry."

The article concluded:

> Herringer, who lives with his wife in Fairfax, Va., is embarrassingly forced to reflect on the urban dilemma every morning from behind the wheel of his car. "Yes, I drive to work," he admits. "I hate it, but it's indicative of our transit situation." ["His Job: To Push Urban Transit," *Business Week*, February 17, 1973]

Urban Mass Transportation Act Hearing

On March 21 and 22, the House Subcommittee on Urban Mass Transportation, Committee on Banking and Currency, held a hearing to consider the Urban Mass Transportation Assistance Act of 1973. Representative Joseph G. Minish (D-NJ), a former labor organizer and long time resident of West Orange in northeastern New Jersey, was the chairman. He explained that the committee had established this subcommittee "to highlight the importance with which we as members of the Banking and Currency Committee view the whole matter of urban mass transportation."

The hearing, the new subcommittee's first, was being held to consider several mass transportation bills. Representative Minish had introduced the Urban Mass Transportation Assistance Act of 1973 (H.R. 5424) containing the transit provisions from "last year's housing bill which the House never had an opportunity to consider." The act included $400,000 a year for operating subsidies, a $3-

billion increase in UMTA grant funds, and a prohibition on grants for school buses. The hearing also would consider the Administration's proposals to amend the Urban Mass Transportation Act of 1964. The Administration bill (H.R. 5919) included the $3-billion increase, changed the Federal share to 70 percent, funded a training program "to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation field," and several technical amendments. [*Urban Mass Transportation Assistance Act of 1973*, Hearings on H.R. 5424 and H.R. 5919, Subcommittee on Urban Mass Transportation, Committee on Banking and Currency, House of Representatives, Committee Print 93-384, March 21 and 22, 1973, p. 1-5)

The first witness on March 21 was Dr. Ronan. He complimented the committee on the creation of the new subcommittee, which he was sure would result in "a greater congressional commitment to the proposition that improving the health of our metropolitan regions and their urban public transportation systems is indispensable to the national interest." He supported the Administration's proposed increase in UMTA funds for capital grants and recommended increasing the Federal share to at least 80 percent, rather than 70 percent as Secretary Brinegar had proposed. He supported S. 502, the Federal-Aid Highway Act of 1973, with its transit provisions.

Transit systems across the country were making "heroic efforts" to help urban public transportation systems pay their operating and maintenance expenses. "The day is past for expecting local transit systems to be able to operate out of the farebox." The Federal Government "can and must play a role in helping to stabilize transit finances." He supported the Minish bill and S. 502 and said he was "greatly encouraged by the widespread support which these bills have garnered for this is indicative of a national awareness that the Federal interest is well served by their intent."

He acknowledged that "roughly one-third" of the funds from the Minish bill for operating subsidies would go to the tri-State area surrounding New York City, including Minish's New Jersey, but said:

> If we look at it, realistically, I think a more modern approach as meeting a regional need wherever that may be is indicated. In some parts of the country, a metropolitan region is totally within one State and in other areas it may be an interstate region. In the New York area and some other areas, we have tristate metropolitan regions. We really ought to look at it in this way.
>
> Now, I would also observe that many other areas of Federal assistance do not have a limitation based on State boundaries. In other words, the aid to agriculture is not limited to a certain percentage of people within the State or farm communities within the State.

Dr. Ronan also endorsed the Muskie-Baker amendment in S. 502 because it made "meaningful sums of moneys" available that State and local communities could use for "projects involving rail transit, buses, new technology, or highways—which best suits local needs at local option." *Urban Mass Transportation Assistance Act of 1973*, p. 7-9]

Carmack Cochran addressed the committee on behalf of the American Transit Association. He appreciated the important steps taken since passage of the Urban Mass Transportation Assistance

Act of 1970, but now, he said, "is the time to reassess, to reevaluate, and to reorder priorities." The foremost goal "must be the guaranteed financial stability of urban transportation." The debate over operating subsidies was now in its third year, with the delay signifying "that there is an unlimited capacity [on] the part of the money spenders to think up new reasons for not making good on a broad commitment to transit." The industry should be thought of as a "public service" since anyone thinking of investing in it "would be better advised to speculate elsewhere." Only the Federal Government had the resources to provide the needed assistance.

He addressed some of the arguments against Federal operating subsidies, including the idea that it would to be "a case of pouring public funds down a rathole." He argued that subsidies "can indeed breed incentives, improve service, lower fares, reduce the number of automobiles congesting our streets and polluting the air." Atlanta, he said, was an example of how subsidies can increase ridership.

To those who say that localities can use General Revenue Sharing for operating subsidies, he replied that a survey of 1,000 transit systems revealed that only five cities had used the funds for this purpose (Detroit, Little Rock, New York, Terre Haute, and Wichita). A major reason was that "only 25 percent of all the publicly owned transit systems are within city departments supported by funds from the regular city budget, and are thereby the beneficiaries of General Revenue Sharing payments." Further, many localities simply choose to use the funds on other activities.

"A Federal program, then, is needed to assist the cities in continuing present service innovations and to provide the incentive to other cities to institute public transit programs." Time was of the essence. "Fares across the country are breaking the 50-cent barrier and the reaction of the riding public is predictable. Those that can, will ride, one to a car, and jam our downtown parking and highways even more." [*Urban Mass Transportation Assistance Act of 1973*, p. 26-29]

ARBA's Daniel J. Hanson also testified. Although ARBA was primarily an association of road contractors, its constitution cited "other forms of transportation facilities, including urban mass transportation vehicles." He said that Federal grants were more effective when "directed toward clearly defined objectives." Federal-aid highway funds met this goal by being restricted to capital improvements, not for maintenance or operation. Given the needs in this area, ARBA supported increasing the Federal share from the traditional 50 percent to 70 percent for Federal-aid highway projects and supported the increase to 80 percent for mass transit projects under Chairman Minish's bill.

He strongly supported Federal-aid highway funding for highway-oriented transit activities, but "we are opposed to the use of highway funds for the purchase of equipment, either buses or rail transit vehicles, and for the construction of such facilities." He explained:

> We believe that there is a principle involved and that the Federal aid program should be clearly defined in structure and in meaning and [that] overlapping and duplication of programs should be avoided. Under the terms of the Senate bill, local transportation authorities would, I am sure, go shopping around for the best buy in Federal urban mass transportation grants.

> The advantages of using the so-called title II urban mass transit funds [the Emergency Commuter Relief Act] would be considered against other provisions for financing from the Federal level. I think this is the precise kind of problem that has confronted us in the past in regard to overlapping and receipt of complaints from local officials.

He encouraged consideration of a trust fund for transit to put it on the same footing as highways and airports. [*Urban Mass Transportation Assistance Act of 1973*, p. 74-76]

Baltimore's Mayor Schaefer appeared on behalf of the National League of Cities and the U.S. Conference of Mayors. "It is our position that the preservation of public transportation in our cities cannot be met solely by State and local financial resources, but requires a substantial commitment from the Federal Government." The additional assistance for capital grants was vitally needed. The proposed Federal-State matching ratio of 80-20 should be mandatory instead of discretionary.

He also stressed the importance of the proposed operating subsidy of $800 million over 2 years. "At present, transit fares have reached that point in a geometric progression where each new mandated rise and concurrent service cut will drive away more and more riders." His own city of Baltimore had been operating its transit system in the black but was about to slip into the red. Cities had many needs and limited budgets. "We are being innovative and creative, but our resources are clearly limited. Moreover, we cannot stretch revenue sharing to cover everything."

Baltimore, he said, was a rebuilding city with a strong commitment to mass transit. It must be adequately financed. "To partially finance it places us in a position where we accomplish little." An analysis of ridership around the country made clear that:

> If we do not have the subsidy, the rate continues to increase to a point where it is impossible for people . . . they can't pay the fare, then we are defeating our purpose. So in addition to having adequate funding for capital programs we must have the operating assistance to keep the fare within reason. [*Urban Mass Transportation Assistance Act of 1973*, p. 132-134]

Commissioner Schuler of the New York testified that "there is almost universal agreement [that] operating assistance is an absolute requirement for the continuation of what public transit we have." What was at issue was the role of the Federal Government, which traditionally shied away from operating subsidies "which may turn into 'rat holes.'" He argued in favor of Federal assistance:

> If, indeed, it was proposed to simply make up transit operating losses, the "rat hole" argument would be valid. But if ridership is the key, if the program builds in incentives for better service, increased ridership, and equitable fares we can have a positive program . . . . I believe a case can be made for Federal operating assistance for urban public transportation on the basis of its role in helping urban centers maintain economic health, which in turn affect [sic] the health of the Nation. If price-support programs to maintain the well-being of farmers are in the national interest, operating support for urban transit is also in the national interest. [*Urban Mass Transportation Assistance Act of 1973*, p. 147]

On March 22, UMTA Administrator Herringer was the first witness. He began by summarizing the mass transit provisions of the bill Secretary Brinegar had released on February 21:

> First, to increase the authorization to incur obligations from $3.1 billion to $6.1 billion . . . . Second, the administration recommends increasing the maximum Federal share of capital grants and technical studies from two-thirds of the project's cost to 70 percent of project costs . . . .
>
> In addition to increasing the authorization and the Federal share, the administration's proposed bill would clarify the scope of technical study activities and eliminate restrictions on the number and type of managerial training grants, making the program a much more effective tool for improving the management and operation of mass transportation.

He also commented on the bill Representative Minish had introduced. Under H.R. 5424, the Secretary would be able to make grants or loans of $400 million a year for 2 years for operating costs provided the applicant submitted and the Secretary approved a comprehensive mass transportation capital and service improvement plan. Herringer did not question the seriousness of the struggle to cope with rising costs but could not "accept that the proper Federal role is to provide operating subsidies." He explained:

> The dilemma we are faced with is that on the one hand for the Federal Government to allocate operating subsidies without setting standards and controls would provide absolutely no assurance that the moneys were being used effectively—while on the other hand to establish controls and standards at the Federal level would require that we involve ourselves in making local decisions that we are not competent to make.

For example, H.R. 5424 would require the Secretary to determine whether a local plan would provide efficient, economical, and convenient mass transportation service and would place operations on a sound financial basis. Such a determination "would immerse the Federal Government in myriad local issues relating to such matters as fare levels and fare structures, maintenance standards, management practices, labor work rules and practices, and the like." Even with an expanded bureaucracy, UMTA "would not be in a position to make these local tradeoffs for each and every system," which he estimated totaled between 500 and 1,000. "Who are we," he asked, "to tell New York City or Boston or any other city what fare it should charge?"

Adding the Federal Government to the determination of fares, routes, wages, and other characteristics "will not provide answers." Instead, he said:

> In fact, it may allow local authorities to avoid taking the tough, non-monetary steps, such as traffic regulations, pricing of parking facilities, and the like, which are absolutely essential. Instead, what we will probably be faced with is a continually accelerating demand for greater and greater subsidies, without producing real improvements. [*Urban Mass Transportation Assistance Act of 1973*, p. 89-91]

The questions for Herringer covered many aspects of UMTA's programs but some focused on the key issues raised during consideration of the highway legislation. Representative Koch said he was "really sorry" that Herringer had opposed operating subsidies. "It is hard for me to really understand that." He asked if Herringer agreed that "you simply cannot pay the cost of operating the subways and the commuter lines out of the fare box." Herringer could not say that. "I would say that many cities have decided that the priority is to lower fares and, therefore, incur an operating deficit for the purpose of getting more people on mass transit."

Regarding the concern about having to establish a bureaucracy, Koch said that would not be needed, at least under the bill passed in 1972: "That bill provided in its formula that a mass transit facility would receive a subsidy based on the number of fare passengers carried." This would establish a competition among the systems. "Isn't the competitive aspect there something you want to encourage to upgrade mass transit?"

Herringer explained that the bill provided for a formula allocation of funds, but only after the local body had submitted a plan and the Secretary approved it as putting the system "on a sound financial basis, whatever that means." He continued:

> We would have to get in and evaluate this plan. How are we going to decide whether New York and Atlanta will be on a sound financial basis? What does that mean? Does that mean because New York's labor costs may be 80 percent and Atlanta's may be 60 percent, that one is and one is not on a sound financial basis? There are many problems.

Representative Koch said that "with all of the talent" in UMTA, he was confident it could make such evaluations. Herringer replied, "I appreciate your confidence in the Urban Mass Transportation Administration, but I don't think we are competent to do that." [*Urban Mass Transportation Assistance Act of 1973*, p. 103-104]

Representative Steward B. McKinney (R-Ct.) also wanted to talk about operating subsidies. He encouraged Herringer to read a book called *Is Your Volkswagen a Sex Symbol?* (Jean Rosenbaum, M.D., Hawthorn Books, 1972). He summarized the book as saying:

> The American people are in love with the automobile. The love affair is beginning to cool quickly. They don't run, they don't get any gas mileage, gasoline is going to increase in cost dramatically, probably double or triple over the next 10 years, people are going to find out it costs more to drive their car to work than it does to get there by any other means.

The alternative is just as bad. "We have insulted the America people with public transportation over the last 30 years that anyone with an ounce of dignity finds it very difficult to find an excuse to ride on it." To get people out of their cars, "you have got to have a system that is running and sustaining its cost and educate people slowly to the fact that, gee it is going to run on time, my goodness the air conditioning does work. Gee, it doesn't take any longer now than it did in 1947." He asked how Herringer would feel about a subsidy limited to 3 years "to educate your people to let them know that, yes, you do have a system that works."

As a daily commuter for 3 years on the New Haven Railroad, Herringer said he understood the problems Representative McKinney was describing in Connecticut. He could not, however, support a temporary subsidy. One problem was that he did not believe the subsidy would be temporary. "I think the pressures would be such it would be very hard to limit it to 2 years or 3 years because everyone would be back asking for more in 2 or 3 years." Further, what guarantee was there that during the temporary period, urban mass transportation would improve to the extent that it would convince people to use it instead of their automobiles? He pointed out that some localities had put a surtax on gasoline to pay for mass transportation, citing Atlanta and California.

(A few years earlier, journalist Anthony Bailey had offered this faint praise for the New Haven Railroad:

> [The] poor railroad's passenger traffic problems are so tediously familiar that one is liable to forget that even the New Haven Railroad in its present bankrupt state, carries passengers to the towns on its tracks as fast as a car. Moreover, despite its extravagantly over- or underheated cars; its dry, overpriced sandwiches; its wet, overpriced omelettes; its dusty, collapsing seats; and thermopane windows turned into seasick-inducing chambers by a rock that has been thrown by a vandal and a railroad-carwashing machine which half filled the window with water—despite all this it sometimes allows one to read, eat, or sleep en route. [Bailey, Anthony, *Through the Great City*, The Macmillan Company, 1967, p. 13-14])

Representative McKinney pointed out that such a tax might work for a city, but in a megalopolis such as Washington, with its ties to Maryland and Virginia, or Connecticut with its links to New York City, "we have a tough time just deciding on what color upholstery is going to go in the cars," yet alone how to increase revenue. Herringer pointed out that:

> The institutional problems are great and are a whole different set of problems from the operating subsidy problem. You would still have the institutional problems with an operating subsidy. [*Urban Mass Transportation Assistance Act of 1973*, p. 105-106]

(Dr. Rosenbaum's book explored the psychological forces that cause people to select a car, pet, home, and other items. The chapter on the automobile began:

> Instead of the eagle, the national symbol of the United States should be the automobile, for the nation has become the land of pistons and the home of horsepower.

(She attributed the success of the automobile to several factors. For example:

> The automobile is the number-one answer for the lazy man who lives within nearly all of us. This lazy man, who has little or no regard for the muscular or motor functions of the body, is the reason we continually look for easier ways of doing things. The automobile not only has catered to that laziness but in some ways has strengthened it.

(The automobile also is a symbol. "Owning and driving a car are a sign of adulthood, though not necessarily a sign of mature and responsible adulthood."

(Dr. Rosenbaum assigned "the biggest psychological basis and compensation for owning an automobile" to the fact that "the automobile has become an extension of the individual personality." She continued, "It has become the means by which man is able to actively express his wishes for power and mastery over nature." Beyond those factors, she called the automobile "the most common sex symbol in our modern society. It is identified with sexual ability and physical sexual characteristics."

(These forces played out in our choice of automobile. "There are psychological reasons for choosing the automobile you do, and your choice of car may reflect exhibitionism, inferiority, family loyalty, delusions of grandeur, and other personality traits." Gender and marital status also affected selection. Women, Dr. Rosenbaum said, are more interested in style, color, consumer ratings, and convenience of handling than men:

> They also make inquiries about the performance of an automobile from relatives, friends, and the salesman. They are more willing to be guided in their selection. Women are probably shrewder buyers because they are less swayed by horsepower and nonessential accessories. They are accustomed to bargain hunting and are interested in getting the most for their money.

(As for the Volkswagen cited in the title, Dr. Rosenbaum says that its buyers were a special group:

> When you buy a Volkswagen, you don't just get a car; you also acquire a lot of friends—other Volkswagen owners. The Volkswagen is a way of life. More than that, it is a declaration of a certain attitude toward life and society. The Volkswagen owner is saying that he is concerned about economics, air pollution, and good craftsmanship. Volkswagen owners include students, professional people, and executives as well as a large number of older retired persons who appreciate economy and ease of handling. Creativity marks the Volkswagen owners. They usually take an intellectual and rational view of life. They are individualists. A Volkswagen owner is almost fiercely loyal to his "bug" and does not harbor secret wishes to own a Cadillac, a Thunderbird, or a Continental.

(She acknowledged another personality trait:

> Although it is difficult to ignore the automobile, some people try to and do, to an extent, succeed in organizing their life-style in at least a semi-nonautomotive pattern . . . . Because of the psychological and sociological implications surrounding them, automobiles have become particular objects of disdain.
>
> It has even become the "in" thing among some intellectuals to adopt a pseudoprimitivism and denigrate the place of automobiles in modern life. There is a big scrap heap in these people's minds to which they consign automobiles, television sets, and elaborate and (to them) unnecessary household appliances and gadgets.

(These people aside, "no subculture has been so strong or exerted so much influence as the automobile subculture." As she explained in the chapter's conclusion:

> Air pollution problems may cause technical and mechanical modifications to be made in automobiles, and restrictions may be placed on when and where they may be driven, but the automobile as a symbol of aggression and sexual power will only be challenged when our society itself and our social structure are changed. [Rosenbaum, p. 1-26])

Representative Andrew Young (D-Ga.), an African-American who had emerged from the civil rights movement and was serving his first term in the House, began by saying, "I am so glad to see that there is at least something that comes from this administration that I can wholeheartedly say amen to and I was very pleased with your presentation . . . ." He continued:

> [I] would just like to say that our experience in Atlanta has been that not only does mass transit provide transportation but it really has provided an economical boom for the entire metropolitan area. When UMTA committed itself to a billion, when we together committed ourselves to $1,400,000,000 for a transportation system, what we found in the first year after that commitment was that there was almost $4 billion of private sector money committed to the central city area, and I can see this program as the basis of saving metropolitan America . . . . I think the viability of our cities pretty nearly revolves around our ability to solve the transportation problems.

He asked, "let me understand that you don't have any problem with Atlanta, say, subsidizing, providing an operating subsidy as part of its local share?" He explained that a sales tax was the basis for the subsidy. Herringer clarified that:

> No, the operating subsidy is separate, we require right now one-third local share on our capital grants. That is a straight local contribution to the capital cost of the project. Operating subsidy provided locally is separate and in addition to that.

Representative Young said he had not realized the distinction. He pointed out that he and his Atlanta constituents were concerned "that the opening of the trust fund might mean that there would be a tendency not to fund the UMTA Act to the full extent . . . ." Herringer reassured him by saying "that is one of the reasons why we are strongly pushing the extra $3 billion in contract authority to assume [sic] the cities that we are not considering this flexibility in the urban system fund as a substitute for the UMTA capital grant program." [*Urban Mass Transportation Assistance Act of 1973*, p. 107]

(The Metropolitan Atlanta Rapid Transportation Authority (MARTA) was developing a 48-mile rail transit system financed by a 1-percent sales tax. The referendum approving the sales tax increase was accepted by African-Americans in the city in return for a pledge to operate the system as a subsidized public service, like a police or fire department, and to keep fares low rather than on a pay-as-you-go basis. In February 1972, MARTA purchased the area's primary bus company, which served mostly African-Americans, and promptly reduced fares from 40 cents to 15 cents a ride. Ridership increased by 21 percent in the first year, during which the buses carried 11.5 million more passengers than in the previous year. This immediate impact of the decrease in fare caught the attention of transit supporters around the country. Construction of the MARTA rail system began in 1975, with the first segment opening on June 30, 1979. ["MARTA's Past and

Future," Metropolitan Atlanta Rapid Transportation Authority, http://www.itsmarta.com/marta-past-and-future.aspx]

(Voters in Fulton County, which includes Atlanta, and DeKalb County approved the referendum, but voters in Clayton and Gwinnett Counties turned it down in an apparent attempt to preserve their suburbs for white residents in an era when open housing laws were still controversial and school busing demands had helped fuel "white flight" out of Atlanta. The failure to extend MARTA into these suburban areas reduced its effectiveness as a solution to regional transportation problems. [Allen, Frederick, *Atlanta Rising: The Invention of an International City 1946-1996*, Longstreet Press, Inc., 1996, p. 224-226])

Representative John Joseph Moakley (D-Ma.), who was a lawyer, former State legislator, and member of the Boston City Council serving his first term in the House, said that Herringer's opposition to subsidies "bothers me just a little bit," as it had Representative Koch. Providing capital grants to build and improve urban mass transportation but not operating subsidies was "like putting a person in business and saying we are not going to give you any capital to operate with." He wondered if Herringer opposed operating subsidies because a bill authorizing them could not be approved. Herringer assured him that the practical political consideration was not a factor. The Nixon Administration opposed operating subsidies "because we just do not feel that that is a proper Federal role." He emphasized that he did not quarrel with State or local governments that decide to operate the systems with a deficit to keep fares low enough to attract more riders. "But what we are saying is the Federal Government is not the proper subsidizing organization for all of the reasons that I have mentioned."

As for the analogy offered by Representative Moakley, Herringer responded "that we don't give people the buses or the trains without being assured by them, as part of our capital grant guidelines system, that the funding is there to support the operations of that system for a 5- or 10-year period." The systems have assured UMTA that if a deficit occurs, they will be covered. [*Urban Mass Transportation Assistance Act of 1973*, p. 108-109]

Representative Tom S. Gettys (R-SC) asked Herringer if diverting Highway Trust Fund revenue to mass transportation was a "violation" of trust? Herringer replied, "I certainly support the administration position of flexibility in the urban systems portion of the highway trust fund." But, Representative Gettys asked, was there "any moral obligation for us to abide by what appears to be sort of a contract with the American people in the highway trust fund?" Herringer pointed out that highway user taxes existed prior to 1956 when the decision was made to dedicate them to the highway program. In recent years, "we have seen the fund gradually being expanded, the use of funds being expanded to include parking lots, exclusive bus lanes, and even one ferryboat has been purchased under the fund." He concluded that diversion would be seen "not as a violation of the fund, but as a natural extension of the evolution of the fund to meet the needs of today."

> Mr. Gettys. You feel that that is a proper approach to obtaining money for the mass transit conception rather than getting a new source of funds.
> Mr. Herringer. Well—
> Mr. Gettys. Just out of the general treasury, maybe.

> Mr. Herringer. Mr. Gettys, we are not, as I understand the provision, we are not getting additional funds for mass transportation. All we are doing is allowing the cities to decide whether they wish to use that portion, that 20 percent of the highway trust fund which is apportioned for use in urbanized areas for mass transportation or for highways.
> Mr. Gettys. Then, in other words, you are not giving more money or less money, it is going to be a local determination as to the use of the money.
> Mr. Herringer. That is correct. [*Urban Mass Transportation Assistance Act of 1973*, p. 110]

Representative Minish asked Herringer about a statement by Secretary Volpe in the 1972 National Transportation Needs report saying that the Department supported making revenue available to State and local governments "for general public purposes or for the general transportation purposes, including operating subsidies . . . ." Herringer pointed out that the statement was in reference to General Revenue Sharing, which could be used for operating subsidies or any other purpose at the discretion of State or local officials. He thought perhaps it also was referring to Special Revenue Sharing for Transportation, but that bill had not "progressed very far in Congress." Representative Minish was not satisfied with the answer, but said:

> It is kind of stretching it a little but I can't argued [sic] with what you want to say. Let me say this. You are the only one of 11 witnesses that appeared here yesterday who opposed it and you probably will be the last. [*Urban Mass Transportation Assistance Act of 1973*, p. 111]

Representative Garry Brown (R-Mi.) asked if the revenue from the Highway Trust Fund went entirely for capital improvements, not operating subsidies. Herringer agreed. Did the Federal Government once subsidize operational expenses of the airlines and still subsidized commuter airlines? Herringer confessed he was not an expert on all operating subsidies, but he believed that Representative Brown was correct. Was funding under the Urban Mass Transportation Act restricted to capital projects? "That I do know."

Admitting that he was "jumping around," Representative Brown turned to Special Revenue Sharing for Transportation:

> Mr. Brown. If you fold those all together, which are all capital moneys, how do you come out under special transportation revenue sharing with operating expenses?
> Mr. Herringer. I am not familiar with the specific provisions of the special transportation revenue sharing proposal.
> Mr. Brown. Let me ask you. Is the administration still considering the special revenue transportation package?
> Mr. Herringer. I don't think so. As I understand it, after we proposed it, it didn't really get very far in Congress and we have pursued other avenues since then.

After once again asking Herringer to confirm that he opposed Federal funds for operating subsidies, Representative Brown concluded his questioning. [*Urban Mass Transportation Assistance Act of 1973*, p. 111-112]

Representative Koch used his next turn to ask about the philosophy of whether the Federal Government should be involved in operating subsidies. He asked if that philosophy applied only to transit or was it a "general philosophical approach that you draw distinctions that operating subsidies are evil and capital subsidies are angelic?" Herringer would not phrase it that way, but said "that as a general philosophical tenet of this administration we believe in a minimum of interference by the Federal Government in local matters and operating subsidies of transit would require us to get involved in local matters therefore, we oppose operating subsidies."

Koch pointed out that the Federal Government provides subsidies to farms not to operate and for low-income housing. "Do you find a problem with that?" Herringer replied that sometimes, "perhaps subsidies are the only way to handle the problem."

Koch pursued this line of argument:

> It seems to me that the automobile owner gets a double subsidy, that is, the subsidy from the highway trust fund and the subsidy he receives at the end of the year by deducting the gasoline tax from his tax return and the interest paid on his automobile loan. Isn't that a subsidy that I as a nonautomobile-owning citizen of this country am in fact paying? Do you object to that?

Herringer replied that, "I certainly don't want to be put in the position of defending the automobile." He continued:

> I think that we have given the automobile a great deal of freedom in this country and it is about time we started rearranging our priorities. In terms of the specifics you just mentioned, I would have to think about it. The automobile owner is paying a tax once on his gasoline and he is deducting that tax as we all deduct taxes for real estate and other local taxes. So perhaps that is not a good example of a subsidy of the automobile owner.

Representative Koch's question time expired. [*Urban Mass Transportation Assistance Act of 1973*, p. 113-114]

Representative McKinney wanted to return to his idea of a temporary subsidy. "What if we were to have a 3-year subsidy program for new transit systems which would say that the Federal Government would pay 75 percent of the deficit the first year, 50 percent of the deficit the second year, 25 percent of the deficit the third year, and that is it." By then, he reasoned, "local enthusiasm" for the system would give it the "political clout" to have the local government provide the subsidy if still needed. Citing the example of Atlanta, Herringer responded that, "If more local areas would have the foresight and would understand . . . what mass transportation could bring to their area, they themselves would make it a priority."

Representative McKinney replied that Atlanta was "an enormous area," in contrast with his hometown of Bridgeport, Connecticut, which was just one town among many. The issue was not that simplistic because "you can't run the buses to the edge of Bridgeport and stop." That was, Herringer said, where the State role comes in. He cited the example of California, which "has passed an increase in the tax on gasoline which goes solely to supporting mass transportation." [*Urban Mass Transportation Assistance Act of 1973*, p. 114-115]

(On February 12, 1973, Representative Koch, age 48, had announced that he would seek the Democratic nomination for Mayor of New York City, with crime as the number one issue. At a news conference in the Hotel Biltmore, he declared, "Overriding all is the paramount problem of crime—crime on our streets, crime in our schools, crime within our government." He called for mandatory jail terms for those who committed violent crimes. "I believe that people who are convicted of violent crime have got to go to jail and if they happen to be drug addicts, you treat their addiction but you treat it in jail, not in neighborhood clinics from which 7,000 addicts are missing."

(His tough-on-crime tactics alienated his liberal supporters without gaining support from conservatives. On March 28, he announced he was abandoning the race, having had difficulty raising campaign funds. [Lynn, Frank, "Koch Enters Race for Mayor; Declares Crime is Main Issue," *The New York Times*, February 13, 1973; Carroll, Maurice, "Koch Abandons Mayoral Race, Citing Trouble in Raising Funds," *The New York Times*, March 29, 1973] City Comptroller Abraham D. Beame would win the nomination and general election, becoming Mayor on January 1, 1974.)

The Senate's Highway Safety Act of 1973

Senator Bentsen introduced the Highway Safety Act of 1973, S. 893, on February 19 "to continue the efforts of the Federal Government to reduce the continuing death and injury that takes place on our country's roads." He had decided to introduce the measure separately from the Federal-Aid Highway Act because "I believe that highway safety requires the separate and undivided attention of the Subcommittee on Roads and the Committee on Public Works, as well as the Senate." He was concerned that "matters of great importance" in the safety bill "could become obscured if they are part of a highway construction bill that becomes as controversial as it did last year."

The bill would authorize $500 million a year (FYs 1974-1975) from the Highway Trust Fund for highway safety, significantly more than the $289 million a year in the President's budget. "This use of trust fund revenues reflects my conviction that highway safety is an integral part of the total highway program and that its support from user revenues is fully justified and desirable." He added:

> The highway trust fund has facilitated the construction of the world's most advanced highway system, and it should be utilized to make this the world's safest highway system.

Senator Bentsen explained that the bill differed somewhat from the safety measures in the Federal-Aid Highway Act of 1972. He had reduced the number of categorical programs while still addressing "the essential activities" in broader authorizations. He highlighted several significant changes:

- For the highway safety programs under 23 U.S.C. 402, the bill authorized $150 million a year (FYs 1974-1975) for NHTSA and $85 million a year for FHWA. For highway safety research and development under 23 U.S.C. 403, the bill authorized $50 million a year for NHTSA and $15 million for FHWA. (For Section 402, the Federal-Aid Highway Act of 1970 had authorized $75 million (FY 1972) and $100 million (FY 1973) for NHTSA and $30 million a year for FHWA. For Section 403, the 1970 Act had authorized $70 million (FY 1973) and $115 million (FY 1974) for NHTSA and $10 million a year for FHWA).
- The bill authorized $10 million a year for the Secretary of Transportation to award in grants "to States which the Secretary determines have achieved above-average results in highway safety."
- It authorized $100 million a year for elimination of hazards at railroad-highway grade crossings. "The time," he said, "is long overdue to begin eliminating the thousands of grade crossings in our country." The Federal share would be two-thirds for projects on a Federal-aid system, one-third off the systems.
- Senator Bentsen continued the bridge reconstruction and replacement program, established by the Federal-Aid Highway Act of 1970, at $100 million a year. He expanded the program to include deficient bridges off the Federal-aid systems. The Federal share of projects on the Federal-aid system would be two-thirds, but one-third for off-system projects.
- The bill broadened the State-administered highway safety program to include Indian Tribes. "Highway safety is as serious a problem on Indian reservations as it is elsewhere, but existing statutes do not permit the same type of safety programs to be carried out on Indian reservations as are conducted by the States.
- Future highway safety standards would require States to prohibit motor vehicle operators from driving while under the influence of intoxicating liquors, narcotics, or drugs, and to provide effective enforcement and appropriate penalties that would constitute a meaningful deterrent.
- The Secretary's discretionary authority to suspend use of 10 percent of Federal-aid highway funds for States not implementing a highway safety program would become mandatory.
- The Secretary would be authorized to carry out safety research, including research into the effects of drugs on motor vehicle operators.

Senator Bentsen said the Highway Safety Act of 1973 was "a realistic bill, both as to program content and as to financing levels." [*Congressional Record, Senate*, February 19, 1973, p. S 2660-2663]

The Subcommittee on Transportation held hearings on the Highway Safety Act of 1973 on March 13 and 14. James E. Wilson, NHTSA's Acting Administrator, was the first witness. Wilson, who was NHTSA's Associate Administrator for Traffic Safety Programs, "heartily" supported the decision to authorize S. 893 entirely from the Highway Trust Fund. "We, too, believe that the cost of insuring the safe operation of highway transportation is properly considered an integral part of the cost of highway transportation."

Wilson summarized the thrust of S. 893 as being "to continue the existing programs under section 402 and 403 of the act and to provide significantly increased authorizations for those programs." Although the Department's proposal in 1972 had called for an authorization of $150 million for

Section 402 in FY 1974, he now recommended holding off on the increase at least 1 year in view of "the current limitations" of the Section 402 program:

The States had made progress, but "we lack any substantial certainty as to how to design effective countermeasures except for a few aspects of the highway safety problem." Target groups that contribute disproportionately to highway deaths and injuries had been identified, namely the young, elderly, drunken and "habitually or flagrantly negligent," but "we have not yet developed and validated ways of cost-effectively reducing the roles of these groups." He continued:

> It is one thing to provide the States with technical expertise, planning guidance, and seed money for the implementation of highway safety programs. It is quite another to provide substantial funds in the expectation of money alone making a significant impact upon the highway safety problem. The latter approach assumes the existence of a funding delivery system and a level of expert knowledge adequate to identify and concentrate efforts upon highly cost-effective countermeasures. It also assumes that the States have the will to take the tough measures necessary to reduce deaths and injuries.

Identifying cost-effective safety measures would "maximize the catalytic potential of the funds by promoting innovation and the establishment of institutionalized and specially-adapted capabilities for dealing effectively with the target groups." Providing too much funding before then would "perpetuate dependence upon Federal funding" and subsidize "improvident use of limited resources."

Wilson also questioned the need to change current requirements on penalties available to the Secretary:

> [The] Secretary's flexibility in securing State compliance should not be restricted. In most cases, direct negotiation and the suggestion of the possible necessity for invoking the penalty have been sufficient to persuade the States to take appropriate corrective measures.

He said the Department would submit legislative proposals for highway safety that would facilitate efforts by NHTSA's multidisciplinary crash investigation teams to encourage parties to provide information for research; prohibit the use of statements made to research teams and crash reports as evidence in court; and urge the States to adopt voluntarily laws requiring the use of safety belts. [*Highway Safety Act of 1973*, Hearings before the Subcommittee on Transportation, Committee on Public Works, United States Senate, 93rd Congress, 1st Session, Serial No. 93-H5, March 13 and 14, 1973, p. 26-31]

(In September 1969, Secretary Volpe selected Douglas W. Toms, director of the Washington State Department of Motor Vehicles, to serve as director of the National Highway Safety Bureau in FHWA. His arrival would be delayed because of illness in his family, but when the safety bureau left FHWA to become NHTSA in March 1970, Toms was its first Administrator. He stayed through President Nixon's first term, but did not depart until April 1, 1973. He told reporters that his resignation had been accepted in January, but that finding a replacement had proven difficult. "It's too hot a seat," he explained. Referring to Ralph Nader and auto safety groups, he said they "watch you like a hawk. There's no way that you can satisfy all the needs and demands of that diverse group and I can never recall a situation where everyone liked our final finding." ["Departing Traffic Safety Chief Says It's Hard to Find Successor in 'Hot Seat'," *The New York Times*, April 2, 1973]

(His successor, Dr. James B. Gregory, had worked for 21 years for Union Oil Company as a research chemist. He took the oath of office as Administrator on August 13, 1973. James E. Wilson was appointed Deputy Administrator. He took office in August 1973, but left NHTSA by the end of the year.

(Gregory, an advocate for requiring airbags in automobiles, announced his resignation unexpectedly in February 1976. Despite initial rumors that he had resigned because of plans to delay requiring installation of airbags in new automobiles, he insisted he had resigned for "strictly personal" reasons. "You get up one morning and you're worn out. You think maybe its time to lay this career to rest." He said he would remain in office until the President appointed a successor. On June 9, Secretary Coleman announced that he would postpone his decision on airbags until January 1977; in December 1976, after former Governor Jimmy Carter of Georgia defeated President Ford's election bid, Coleman deferred the decision to the new Administration while calling on the industry to install airbags voluntarily. [Henry, Diane, "U.S. Traffic Safety Chief Quits as a Decision on Air Bags Nears," *The New York Times*, February 27, 1976; Henry, Diane, "U.S. Delays Decision on Use of Auto Bags Till January," *The New York Times*, June 10, 1976; Holsendolph, Ernest, "Coleman Puts Off Air-Bag Ruling; Proposes a Limited Voluntary Plan," *The New York Times*, December 7, 1976])

Wilson was followed by Acting Administrator Bartelsmeyer who testified that while he agreed with the elimination of several safety programs that had been included in the 1972 legislation (Special Pavement Marking Program and the program to eliminate roadside obstacles), he did have some concerns. He favored broadening Federal programs through consolidation and letting States establish programs based on their own highway safety priorities. Funding separate programs for rail-highway crossing safety and bridge replacement "go fully in the opposite direction." He also objected to funding ($25 million) for purchase of pavement marking equipment. "We do not believe that the outcome of such a categorical approach would result in a major increase in safety."

He also said that expanding the bridge program to include bridges off the Federal-aid highway systems "would be a mistake." He explained that "the reason for establishing Federal-aid systems was to insure that funds are concentrated where the most traffic is carried and where the largest payoffs exist." With the Federal share increased to 70 percent, the proposed change "would make available a significant portion of the State funds for State roads not on any Federal-aid system." Off-system bridges can best be accommodated by State safety programs.

Highway safety programs, Bartelsmeyer said, were still in their formative stages. Much experience had been gained, but "during its first 6 years the program has operated at relatively low funding levels." He recommended against the funding increases in S. 893 until officials gained "a better understanding of the needs and priorities" for the safety program:

> In summary, we think it is important to continue the highway safety programs in their present form for at least 2 more years, during which we will be conducting an intensive evaluation of the present program.
>
> If, after this intensive evaluation, we determine that statutory changes are necessary, we will request legislative authority with respect to the highway safety program. [*Highway Safety Act of 1973*, p. 36-39]

John H. Reed, former Governor of Maine and now chairman of the National Transportation Safety Board (NTSB) agreed about avoiding categorical programs such as pavement marking, bridge safety, and grade crossing elimination. The NTSB supported improvement in these areas, but favored "the administration's approach of allowing the States maximum flexibility in selecting their own priorities." Further, separate funding for the grade crossing program was premature while FHWA and the Federal Railroad Administration (FRA) were conducting an inventory of all grade crossings.

Governor Reed also was concerned about establishing Federal standards in the areas of driving under the influence and law enforcement as a deterrent. "It is very difficult to obtain uniform deterrent effects in local courts by any form of Federal action." Allowing the States "the greatest possible flexibility in determining the emphasis they desire to place on different standards is preferable to singling out one or another standard, at the national level, for special emphasis." [*Highway Safety Act of 1973*, p. 46-47]

D. Grant Mickle said that HUFSAM favored the use of Highway Trust Fund revenue for only two-thirds of the Federal safety program, not 70 percent "since the benefits of the safety program are enjoyed by travelers on and off the Federal-aid systems." Instead of categorical programs for bridges and rail-highway grade crossings, HUFSAM favored "a more general safety emphasis program" that encouraged States to reconstruct and replace bridges, protect grade crossings, remove roadside obstacles, and undertake other safety work. Such projects off the Federal-aid systems should be financed out of the general Treasury. [*Highway Safety Act of 1973*, p. 63-65]

Max Sproles, executive director for highway-rail programs, Association of American Railroads, was concerned about funding levels for the rail-highway crossing elimination program. Sproles said that the country had 223,000 rail-highway crossings, only 22 percent of which have "train-activated protective devices." About half the crossings that needed improvement were off-system. He recommended, therefore, eliminating the two-third/one-third split to give the States "the opportunity to improve the most hazardous crossings based on their needs." [*Highway Safety Act of 1973*, p. 60]

The next witnesses were Dr. William Haddon, Jr., president of the Insurance Institute for Highway Safety, and the institute's vice president for communications, Ben Kelley. Dr. Haddon had been instrumental in securing passage of the National Traffic and Motor Vehicle Safety Act of 1966 and the Highway Safety Act of 1966. He also had served as the first Director of the National Traffic Safety Agency and the National Highway Safety Agency, both originally within BPR and FHWA before becoming the separate NHTSA. Ben Kelley was the former BPR official who wrote the critical *The Pavers and the Paved: The Real Cost of America's Highway Program*. Dr. Haddon had appointed Kelley vice president for communications in March 1969.

Rather than a lengthy statement, they presented a film called *Boobytrap!* In doing so, they emphasized that they were not talking about dangers on old highways with antique designs. They were talking about "built-in, manmade boobytraps" on modern highways—"the mess of boobytraps that has turned the sides of our roads into instruments of death and injury for thousands of car occupants each year," as Kelley explained in the film. He was referring to bridge piers, signposts and unyielding light poles, trees and rocks, steep embankments, ditches and drop-offs, and other fixed roadside objects. They represented, Dr. Haddon told the subcommittee, "a modern investment, modern insensitivity on the part of those responsible to the things that are killing and maiming people throughout this country and abroad . . . ."

The focus on roadside boobytraps had been highlighted in 1967 by Joseph Linko, a television repairman from the Bronx. In those days, repairs were commonly made in the homes. As Linko drove to his customers' homes from his shop on Third Avenue, he noticed obvious dangers that could easily have been avoided if highway engineers and maintenance crews had wanted to—guardrail ends that could spear vehicles, concrete sign stanchions and utility poles left exposed within a couple feet of roadways, rigid light poles—all placed along the newest highways in the area. Even when guardrails were placed along the roadsides, hazards were sometimes installed on the roadway side or before the guardrail instead of behind it. He took pictures of the boobytraps as part of a one-man safety crusade. After a while, he came to believe that (1) highway and traffic engineers did not know what they were doing and (2) if they did know, no one was paying attention to them.

On May 23, 1967, he had testified, along with his color slides, about highway boobytraps before Representative Blatnik's Special Subcommittee on the Federal-Aid Highway Program, Committee on Public Works. Linko's slides, straight-forward comments, and stories of disaster told the story in everyday terms, not those of the usual polished highway lobbyists.

Before the hearing he had examined the 65-mile Capital Beltway, which he found to be a study in deficiencies, as described in a July 1973 congressional report:

> The Subcommittee heard testimony and saw photographic evidence of such roadside hazards as unguarded steel I-beam sign supports anchored in concrete, exposed bridge piers, spear-like guardrail, guardrail lacking proper transition to bridge parapets; and gore areas with numerous post, pipe and concrete encumbrances. [The gore area is the triangle area at exits between the roadway and the exit ramp.] Some guardrail was placed along the highway shoulder in such a way that it actually would steer an errant vehicle into a fixed object, rather than divert it away. [*Highway Safety, Design and Operations (The Need for a Safer Driving Environment)*, Report of the Subcommittee on Investigations and Review to the Committee on Public Works, House of Representatives, 93rd Congress, 1st Session, Committee Print 93-7, July 1973, p. 1-3]

(Frank Turner, then the Director of Public Roads within the FHWA, had commented to the subcommittee in 1967 about how roadside hazards were included in modern highways:

> There is no simple answer to offer for the question you have asked as to why these roadside obstacles have been erected . . . . The principal cause is clearly that our previous judgment in designs dated 7 to 8 years ago did not anticipate the degree and frequency with which drivers would run off these new roads. It took some time to observe that a dismaying pattern of run-off-the-road accidents was occurring and an equally long time to develop the appropriate corrective measures and to get these into the stream of planning and construction. While some observed defects are still being included in recent construction, I believe that the focus of attention on these items by this Subcommittee and the Bureau has served to force the necessary and desired change. But change comes slowly, even with the impetus of such things as these hearings.

(On May 19, 1967, FHWA adopted *Highway Design and Operational Practices Related to Highway Safety* (known as "The Yellow Book" because of the color of its cover) prepared by AASHO's Traffic Safety Committee. In doing so, FHWA informed its engineers that, "It is expected the plans for projects on all high-speed highways yet to be advanced to contract will incorporate the features of added safety as are presented in the February 1967 report (the Yellow Book)." For completed Federal-aid highways, "each State highway department is asked to establish an active corrective program to apply the findings of the February 1967 report." [*Highway Safety, Design and Operations*, p. 10])

Six years later, the institute's film demonstrated that easily avoidable roadside boobytraps remained a common safety hazard. In addition to the film, they brought a scale replica of a Baltimore Beltway exit to Towson, Maryland, that had been featured in the film because it contained more than 100 boobytraps. Kelley said that FHWA estimated "that close to $1 billion would be required to remove the man-placed, man-designed, manmade hazards along the Interstate System." Beyond that, no one could estimate the cost because "no authority, whether State or Federal, has yet been required to carry out an inventory of the manmade and naturally grown obstacles along miles of primary and secondary and interstate highway roads."

Asked about FHWA progress in addressing the problem, Dr. Haddon replied, "Until recently, very little." Kelley added that recently, the Department of Transportation had required the State highway agencies to inventory obstacles in gore areas "with the idea of either removing them or putting up crash cushioning structures in front of them . . . but it has not yet gotten to the broader problem of what is happening on the miles between the gore areas, and what is happening on the many miles of noninterstate freeway."

The solution, Dr. Haddon said, was that "you have to go after this specifically with a specific mandate with the necessary funds and inventory, or they are just going to stay out there." [*Highway Safety Act of 1973*, p. 132-134]

(In 1972, Linko had returned to the Washington area and toured the Capital Beltway again. "A lot of the hazards were gone," reporter Hank Burchard said of the tour, "but a lot were still there, and he found that some new death traps had been added." For example, at the beltway interchange with State Route 450 (Defense Highway) in Maryland, a "guard rail still stood, like a battering ram, at the point where motorists must make split-second decisions at high speed." Linko and Burchard found pieces of a bronze-colored Corvette lying around the base of a steel lightpole that was only dented. Burchard said of Linko:

> What Linko does, basically, is nag, nag, nag . . . . He's been bugging people about highway safety for the best part of 10 years now. Linko says his specialty is stupidity, "the stupidity of engineers and construction crews who just don't think about what they're doing. They put up a guard rail. Then, 15 feet away, they put up a heavy steel signpost, so you have to knock down the signpost and kill yourself before you get to the guard rail that's supposed to protect you . . . ."
>
> Driving around the highways with Linko, you get an idea why he has been so successful in getting things changed. He talks loud, his tone is abrasive, and he talks long. It is very hard not to listen to Joe Linko. [Burchard, Hank, "Bronx Repairman Warns of Built-In Road Death Traps," *The Washington Post*, February 26, 1972]

(Administrator Turner had not appreciated Linko's implications. After Burchard's article appeared, Turner sent a letter to *The Post* assuring readers that, for FHWA, "there is no higher priority than highway safety." He had read Burchard's article "with dismay" and ordered a "prompt investigation" of the TV repairman's allegations. "As it turns out, the facts of the matter are quite different than portrayed by your reporter." Had he "bothered to check," he would have learned that the "downed steel light pole" (the base referred to in the article) was part of a safety upgrade to install a breakaway pole. The other location was the same:

> Maryland has a series of safety projects currently under way along its 44 miles of the Beltway. These include clearing gore areas, installing breakaway sign and light pole bases, adding guard rail to bridges and turning ends into cut slopes, construction of median barriers, and adjustment of drainage structures that constitute a fixed object hazard.

(Virginia was continuing to upgrade safety along its portion of the Capital Beltway. "Such misleading inaccuracies as contained in your Feb. 26 article do not contribute to this most important endeavor. Accurate reporting would help." [Turner, F. C., "A Further Look at Beltway 'Hazards,'" *The Washington Post*, March 30, 1972])

Haddon and Kelley were followed by Franklin M. Kreml, president of the Motor Vehicle Manufacturers Association (MVMA). He had been a leading figure in highway safety since his years as a police officer in Evanston, Illinois (1924-1935). He founded the Northwestern University Traffic Institute in 1936 (the institute was renamed the Northwestern University Center for Public Safety in 2000 with an expanded mission) and the Traffic Safety Division of the International Association of Chiefs of Police. During World War II, Kreml served as chief of the U.S. Army's Highway Division in the Mediterranean Theater and additional posts leading to the rank of Brigadier General. In addition to heading Northwestern University's Transportation Center and his stint with MVMA (1971-1975), General Kreml served as chairman of the Presidential Task Force on Highway Safety beginning in 1969 (the task force's October 1970 report was called *Mobility Without Mayhem*). In 1994, he was inducted into the Safety and Health Hall of Fame International.

He began by expressing disappointment that the Highway Safety Act and National Traffic and Motor Vehicle Safety Act, both adopted in 1966, had not resulted in the "real reductions in highway fatalities that we hoped would result." He explained:

> Instead, our annual highway death toll has continued to increase, despite the fact that millions of dollars have been added to the price paid by the car buyer because of the cost of such safety improvements. The fault, however, does not lie with the laws. It lies, instead, in the fact that their potential—the balanced approach to overall highway safety for which the legislation provided the foundation—has not been fully utilized.

Several things were needed to achieve the full potential of those laws:

"First, recognize that there are three critical elements of the highway safety problem: the vehicle, the driver, and the highway." The focus had been on vehicle safety and as a result, "we have not applied what we already know about driver and highway improvements and have not sufficiently extended our knowledge in these areas."

"Second, we need to undertake a great deal more research to understand and improve driver behavior and to improve highway design in terms compatible with driving and use patterns." Better guidelines for safe driving, adequate traffic control devices and signs "so both good and poor drivers are better able to avoid accidents," and research were essential.

"Third, we need to increase private sector participation in the national program." Following passage of the 1966 Acts, "many private agencies, organizations, and individuals, who had previously been active in the highway safety movement began to withdraw as the Federal Government assumed increased control." Kreml said, "The private sector—business, industry, the media, the public—must be involved in the highway safety movement."

"Fourth, and I would like to particularly emphasize this point . . . State and local officials must be active participants in the development and continuing review of Federal highway safety program standards." The Federal Government had a vital role to play, but State and local officials have "the legal power, the personnel, and the equipment to deal with it through programs for driver education and licensing, enforcement of laws governing vehicles in use, and the construction and maintenance of our roads and streets."

"Fifth, the funds appropriated for highway safety should be increased." The need for increased funding for State programs was "far in excess of the highest figure proposed" in any of the bills under consideration. In addition, he supported keeping categorical safety programs to a minimum "so that States can decide on the basis of local need how best to allocate the funds available to them."

As for current funding requirements, Kreml explained that current legislation gave the Secretary of Transportation the authority to withhold 10 percent of a State's Federal-aid highway funds if the State did not satisfy safety requirements. "This penalty has never been invoked and the realities of the Federal-State relationship suggest that it never will." As a more effective measure, he recommended incentive bonuses "to reward States for progress in implementing the program standards."

He concluded his presentation by saying of these steps:

> The American people, as they use the streets and highways of our country, are entitled to a much higher order of protection than they are getting today—protection which can be provided only through such a balanced effort.

Senator Bentsen began the question period by asking if the funding levels Kreml recommended were realistic in view of the Administration's position. "I can speak only as an advocate," Kreml replied, "not as an effective judge of political action," but he added, "I would suggest perhaps the committee has a responsibility to speak to the figures it believes are necessary."

Asked by Senator Bentsen about whether driver education programs were effective, Kreml said that "with some sadness, sir, I respond negatively . . . . I think that what is wrong with driver training is that it simply has not gone far enough." The programs he was familiar with "simply school the individual in the manipulation of the vehicle, not the control of the vehicle, particularly under emergency situations, or other difficult situations." He thought that training, licensing, supervision, and enforcement, together, could have a real impact on driver behavior:

> We hear some prophets of doom saying the human being is such a complicated, unpredictable, even whimsical mechanism, that it is foolish to try to control him. Yet, we have record after record of cities, counties, and States which through the application of effective control of traffic through law enforcement have reduced accidents and kept them down.
>
> I cannot be impressed, I cannot be anything, I am sorry to say, but impatient with those practitioners in our field who say that the driver is a hopeless proposition. It is the richest payoff area in my view in the middle and long run, assuming only we do effective work.

Senator Scott asked Kreml how long it might take to correct the many roadside boobytraps on the Nation's highways. Kreml replied:

> I think that this would, given the present programs, and the present rate of replacement, this would take on the order of 20 years. However, that should not be immediately interpreted as a statement of hopelessness, because it seems to me that if a sharper focus were to be taken on the accumulation of reliable data regarding the placement, the time, and the approximate cause of the accident, it would be possible to channel funds into those areas, and to those roads, and those particular places on the roads where we have a particularly hazardous situation. [*Highway Safety Act of 1973*, p. 134-141]

In considering the bill, the committee took only one roll call vote. On March 29, the committee rejected Senator Muskie's proposal to authorize $20 million in FY 1974 and $25 million in FY 1975 from the Highway Trust Fund in grants to States to establish and support inspection programs for motor vehicle emission control systems in areas requiring transportation controls to comply with air quality requirements. Only Senators Muskie and Richard C. "Dick" Clark (D-Ia.) supported the amendment, which was defeated 2-7. [*Highway Safety Act of 1973*, Report of the Committee on Public Works, United States Senate, to Accompany S. 893, 93rd Congress, 1st Session, Report No. 93-106, April 6, 1973, p. 17]

The committee voted unanimously to approve the bill, which included:

- Federal-aid safer roads system—The system included all public roads or segments thereof, whether on or off the Federal-aid systems, needing improvements to correct safety hazards, selected or designated by each State subject to approval by the Secretary of Transportation. A committee analysis explained that the hazards to be corrected fell within three major categories: "(1) projects to improve highway marking and signing; (2) to eliminate roadside obstacles; and (3) to eliminate hazards at railroad-highway grade crossings." The Federal share of project costs was 90 percent. This program was intended to correct roadside boobytraps.
- Bridge reconstruction and replacement—Authorized $100 million a year for FYs 1974 and 1975. The program was expanded to include deficient bridges off the Federal-aid systems.
- Bicycle safety—Added bicycle safety to the areas to be covered by highway safety standards and to required driver education programs. Since the Federal-Aid Highway Act of 1973, approved by the Senate on March 15, included new authority for construction of bicycle paths, the committee expanded the language in Title 23 encouraging development and promulgation of highway safety standards to include bicycle safety. The committee intended that the States implement driver education to reduce conflicts between motorists and bicyclists.
- Alcohol and other drugs—The committee dropped the provision requiring mandatory penalties for States not complying with the Federal alcohol safety standard, citing the complicated nature of the problem and the fact that most States were in compliance. The approved bill authorized the Secretary to continue research in this area.
- Indian reservations—Indian reservations would now be eligible for highway safety grants. The funds would be apportioned to the Secretary of the Interior, with 95 percent of the funds to be expended by Indian Tribes. The Federal share could be increased if necessary to assist a Tribe in meeting the non-Federal share. [*Highway Safety Act of 1973*, p. 13-15]

On April 6, Secretary Brinegar informed Senator Randolph of the Department's views on S. 893, the Highway Safety Act of 1973, as it approached a committee vote:

> The Committee has made some commendable modifications and additions to the existing Federal highway safety programs. While the thrust of these initiatives are laudable, we are concerned over the creation of a new "Federal-aid safer roads system", the provision for a Federal share of up to 90 percent for certain projects on this system, and the authorization of Federal funds for this new system and for the special bridge replacement program. We

> believe that the objectives of the Public Works Committee can be accomplished within existing funding for the Federal-aid highway systems and the levels in the Administration's proposed highway safety legislation (S. 1406).

To reduce expenditures, Secretary Brinegar recommended eliminating funds for the "Federal-aid safer roads system" and bridge replacement programs.

If the Federal-aid safer roads system survived, he suggested reducing the Federal share to 70 percent, the same as for other Federal-aid highway projects off the Interstate System.

The Department did not object to the use of Highway Trust Fund revenues for safety projects off the Federal-aid highway systems. Secretary Brinegar also supported the reduction in categorical safety programs to give States and communities greater flexibility in selecting safety projects.

He urged the committee to consider two provisions from the Administration's bill. Regarding the penalty on any State that did not implement a highway safety program, the Administration bill "would provide the missing incentive by enabling the State to recoup the withheld funds if timely correction action were taken by the State." He also advised the committee to include the provision that would "protect persons who voluntarily aid the efforts of Federal accident investigation teams" by barring the use of their statements as evidence. [*Highway Safety Act of 1973*, p. 19-20]

The Senate considered the legislation on April 12. Senator Bentsen explained why the committee had introduced a separate highway safety bill instead of combining it with the Federal-Aid Highway Act of 1973, as had been the case in 1972. The subject, he said, was important enough to demand consideration "apart from other matters which might detract from it." In highlighting its notable provisions, he began:

> Of primary importance is our belief that highway safety activities should be financed from the highway trust fund. This reflects the committee's conviction that safety is an integral part of the total highway program and that its support from user revenues is fully justified and desirable.

After several supportive statements and no amendments, the Senate approved the bill by voice vote.

Desperate in New York City

In 1973, officials in New York City and New York State were struggling with the cost of mass transportation systems, as they had for decades.

In the late 1940s, Governor Thomas E. Dewey had insisted that the subways operate on a self-sustaining, pay-as-you-go basis. As a result, the first fare increase, from 5 cents to 10 cents, went into effect in 1948 with the goal of ensuring the subways operated in the black. When the city turned the subways over to the new New York City Transit Authority in 1953, fares increased to 15 cents. The authority was supposed to cover all costs from the farebox, but it had failed to do so 13 out of 19 years despite fare increases in 1966 (to 20 cents) and 1970 (30 cents). Frank J. Prial of

The New York Times explained that the city "regularly shelled out thinly disguised subsidies that fool no one, but presumably honor the letter of the law."

On November 2, 1971, as mentioned earlier, voters statewide turned down Governor Rockefeller's $2.5 billion bond issue that would have raised $1.35 billion for mass transit and $1.15 billion for highways. Following the defeat, Governor Rockefeller said, "This is a reflection of the national mood . . . the people don't want to take on new taxes." The defeat was, he said, a vote for "belt-tightening."

Mayor Lindsay saw it differently. "The vote on the bond issue was a rebellion against concrete." With so much of the bond revenue earmarked for highways, city residents voted against the measure because they thought more should have been devoted to transit. Residents of other parts of the State, his reasoned, objected to bonds to keep the subway fare at 30 cents when they were paying more for bus fare.

Theodore Kheel, a key opponent of the bond plan, said, "The people saw through the flimsiness of the program," adding that the vote was a "repudiation of the highway trust fund." When the Governor challenged Kheel to come up with his own plan, as *The New York Times* explained, he suggested using city funds to hold the fare at 30 cents for a year:

> During that year, he said, there should be "a national campaign to open up the Federal Highway Trust Fund for transportation; legislation to force the Port of New York Authority to take a greater role in mass transit in the city, and new taxes on automobiles and their drivers aimed at easing the financial burden on mass transit. [Quote lacks a closing quotation mark in original.]

The defeat left State and city officials scrambling to find a way to keep the 30-cent fare. In the immediate aftermath of the vote, Governor Rockefeller planned to meet with Republican legislative leaders and was prepared to place "anything" city officials favored before the legislature. He added, "I personally don't see how it can be saved at 30 cents."

Mayor Lindsay, who thought that only the Republican-controlled State legislature could save the fare "if they really want to," asked his transit task force to find ways to finance the deficit without raising the fare. Possibilities included remnants of the plan developed on the assumption the city would receive $170 million from the bonds, to be supplemented with increased toll revenue from the Triborough Bridge and Tunnel Authority and loans from the city's sinking fund and the State. On November 8, 1971, Comptroller Beame presented an alternative plan to the task force. He suggested the city impose a "transit tax" on real estate transactions and businesses that benefit from public transportation to pay 40 percent of the transit fare. The task force, meeting at the Drake Hotel, was doubtful.

The Mayor, in the end, favored a plan proposed by Assemblyman Albert H. Blumenthal that would impose a statewide 10-percent income tax surcharge, with the revenue allocated to transit districts around the State. The tax would be deductible from Federal and possibly State income taxes. Whether the State legislature would approve the proposal was uncertain, but even if the plan were approved, the fare would "have to come to a minimum of 35 cents," Mayor Lindsay said on November 7.

Like Kheel, many officials looked to Washington for relief. In addition to his campaign to open the Highway Trust Fund, he called on the President's Federal Price Commission to prohibit the increases. Beame sent a telegram to President Nixon urging support to open the Highway Trust Fund to mass transit. Senator Javits announced support for that plan as well as his proposal to provide $200 million a year for transit subsidies. Representative Ryan and 18 other members of the city's congressional delegation introduced a bill to freeze mass transit and commuter fares at the present level until April 1973.

On December 6, 1971, a congressional delegation from New York City met with Secretary Volpe to discuss increased Federal-aid for the city's mass transit system. Representative Ryan said the delegation did not expect to receive additional funds, but wanted to demonstrate that, as the *Times* put it, "the Federal Government is not the transit cornucopia that many state and city officials have said it would be." Just 2 days earlier, for example, Governor Rockefeller had proposed a plan that would avoid a fare increase above 35 cents if the city received $100 million in Federal operating subsidies. As Representative Ryan knew, the Nixon Administration opposed such funding.

The city also was hoping to receive capital grant funds for construction projects such as the new Second Avenue Subway line that had exploded in cost (from $151 million in 1968 to $371 million in 1971). UMTA Administrator Villarreal pointed out that New York had submitted requests for $200 million more than the agency's $600 million budget in the current year. He added that no State could receive more than 12.5 percent a year of total funds. "New York ought to keep in mind that we have hundreds of requests from 50 states to consider. Over the years, the city's grants might add up $800-million, but I just don't see any possibility of the very large grants coming through in the near future."

What emerged was a hybrid plan that Mayor Lindsay and Governor Rockefeller approved, but that required a 5-cent fare increase to 35 cents. The city would borrow $100 million from the State, to be repaid over 5 years, and $100 million from its own sinking fund, and generate another $70 million from increased tolls on the Triborough Bridge and Tunnel Authority facilities. The plan also counted on smaller amounts of revenue from advertising on transit vehicles and franchises for hot dog stands.

A *New York Times* editorial on November 16 stated the problem:

> New York City's mass transit system hurtles toward financial disaster as fare-box revenues fall farther and farther behind operating costs. Union negotiators are pressing for pay increases far in excess of Federal guideposts. Even with a noninflationary settlement, prolonged neglect and accumulated deficits now require an estimated $440 million more in revenues over the next two years than the present thirty-cent fare will generate.

The editorial said that "Mr. Beame may well be right in believing that business and real estate interests would prefer a transit tax, deductible from Federal and perhaps state tax returns, to another fare increase." However, "we continue to believe that the emphasis should be placed on the automobile as the source of revenue to ease the transit crisis it has helped create." Saying that every fare increase had resulted in more automobile traffic, the *Times* favored the plan to increase Triborough Bridge and Tunnel Authority tolls and impose new tolls on the East River Bridges. Adopting the principle that "rubber should pay for rail," the editorial concluded:

> As New York City confronts the choice of higher transit fares or some form of new and additional taxation, there is good reason for city officials to select as their target the fume-spewing, air-fouling, street-clogging, noise-creating, grossly inefficient automobile. Indeed, this is an idea whose time came quite some time ago.

Mayor Lindsay estimated that the city needed to spend $5.3 billion for transit development in the 1970s, and $2.8 billion of that sum by 1975. The *Times*, describing the plan to visit Secretary Volpe, pointed out that New York City officials were hoping to unlock the Highway Trust Fund to help with these costs:

> Actually, New York officials have given themselves a fairly rigid timetable for unlocking the Federal coffers for mass transit. Both the Governor and the Mayor have described the plan to hold the fare at 35 cents as a stop-gap measure designed to provide "breathing space" in which to work out a permanent plan for financing mass transit here, presumably with some kind of Federal participation.

A Wall Street bond specialist, asked by the *Times* to describe the New York City Transit Authority's financing, said: "The Mad Hatter and Mr. Micawber, working together, could never dream up anything as strange."

Now, the *Times* said, the self-sustaining philosophy "has been discredited," in part by Atlanta's example. The fare reduction and sales tax subsidy in Atlanta were a stark contrast with talk in New York City that the fare would have to go up to 40 cents in 1973 and even higher in later years. "The only hope is some fundamental change in federal legislation that would tap the Highway Trust Fund or some other source for mass-transit operating subsidies." The *Times* added:

> Ridership on Transit Authority buses and subway has dwindled from a peak of 2.7 billion a year, just before the fare went from five cents to 10 cents, to a low of 1.65 billion in the year ended last June 30.

Transit officials expected a similar decrease after the 35-cent fare went into effect in 1972, but predicted that the "resistance factor" would lesson over time.

[All from *The New York Times*: Lynn, Frank, "State Transit Bond Issue is Voted Down Despite Rockefeller-Lindsay Campaign," November 3, 1971; Prial, Frank J., "Rockefeller and Lindsay Differ on Ways of Saving Transit Fare; Bond Loss Deepens Fiscal Crisis," November 4, 1971; Prial, Frank J., "City Hall Parley is Called on Fare," November 5, 1971; Lynn, Frank, "Everybody Was for the Bond Issue Except the People," November 7, 1971; Prial, Frank J., "City Delegation Due to See Volpe Today on Transit Aid," December 7, 1971; "Testing Transit Theories," November 16, 1971; Prial Frank J., "Financing of Transit Authority is Complex," December 28, 1971]

Fares increased to 35 cents on January 5, 1972, and ridership declined 2.5 percent the first month, although revenue was up 10 percent over the comparable period in 1971. The companion toll increase had resulted in a million fewer motorists using Triborough facilities, although they did not necessarily switch to the buses or subways. A spokesman for the Kinney Parking System said, "We were hit pretty hard by the toll increase. I don't know how the people are getting into the city, but they are not driving and parking in public garages." [Prial, Frank J. "Transit Riders Found to Have Dropped 2.5% After Rise," *The New York Times*, January 29, 1972]

Throughout 1972, State and local officials searched for a way to meet expenses without another fare increase. On June 10, 1972, the Governors' Special Commission on Financing of Mass Transportation issued a 90-page report. The commission, formed by the Governors of Connecticut, New Jersey, and New York, called for such changes as:

- A $25-a-person mass transportation tax on everyone who lives or works in the New York metropolitan area;
- A 100-percent Federal income tax credit on all local transportation taxes;
- That the States be allowed to spend Federal transportation aid on capital projects or debt service for capital projects;
- Creation of general transportation funds by the Federal and State governments to channel transportation taxes and revenues into transportation projects;
- An increase in the Federal share of capital projects to 90 percent;
- Establishment of a 25-cent toll on all free-water crossings into Manhattan; and
- Continuation of fares at a reasonable level even with large Federal subsidies to ensure that users of the service share in paying for it.

These changes, which relied heavily on modification of Federal laws, were "imperative," the report said, if mass transportation in the tri-State area were to be improved while being put on a sound financial footing. "It is essential for the Federal Government, now, to reverse the imbalance in transportation financing, to define new priorities, and to provide new sources of revenue for financing mass transportation services." If the proposed changes were adopted, "the region's mass-transportation problems can be solved while keeping fares within the reach of all the people." ["$25 Tristate Tax Urged on Transit," *The New York Times*, June 11, 1972]

The following week, Mayor Lindsay and the city's congressional delegation increased their efforts to secure Federal operating subsidies. Representative Emanuel Celler (D), chairman of the Judiciary Committee and the most senior member of the House, said he was "plumping" for help and was "gratified" that UMTA was about to approve $25 million for the Second Avenue Subway line and $65 million to buy 300 subway cars. The prospects for operating subsidies were dimmer. Although the Senate had approved $400 million in subsidies as proposed by Senator Javits in an amendment to the housing bill, its fate in the House was unknown while the Nixon Administration was opposed.

The city's Transportation Administrator, Constantine Sidamon-Eristoff said, "We're pressing everywhere we know how to bring the problem to the attention of the National Government." He said the city was urging conversion of the Highway Trust Fund to a Transportation Fund. The city, he said, had "exhausted" available city funds to keep the fare at 35 cents until March 31, 1973. While the State had not helped with operating subsidies, "the city has bailed out this system from which the state and whole metropolitan region benefit." ["City Looks Anew to U.S. for Aid in Rescuing Its Transit System," *The New York Times*, June 12, 1972]

In August 1971, Mayor Lindsay had switched his registration to the Democratic Party. At the time, tthe assumption was that he would run for President, but he was coy. "Whether this means I will run for President, I do not know," he said in a news conference. As the *Times* reported after the event, he was seen as a potential contender by Democratic Party officials around the country, but as for his prospects, their reactions "ranged from unabashed enthusiasm to outright hostility." [Tolchin, Martin, "Lindsay Switches to Democrats, Urges New National Leadship; as for Presidency: 'I Don't Know,'" *The New York Times*, August 12, 1971]

The speculation about a presidential bid proved correct. However, Mayor Lindsay's bid for the Democratic presidential nomination sputtered. As author Rick Perlstein explained, "He was still a media darling, a regular on Johnny Carson's *Tonight Show* [then originating in New York City]; dazzled by his charisma . . . [but] the media seemed not to be noticing that his New York was becoming the symbol for everything wearying and gross about the United States." [Perlstein, Rick, *Nixonland: The Rise of a President and the Fracturing of America*, Scribner, 2008, p. 611] Mayor Lindsay responded to those who despised New York City by saying he had confronted every one of the city's problem, even if he had not quite solved them.

As a Republican until August 1971, he had no constituency within the Democratic Party and lost his Republican funding sources. Despite adopting positions to the left of the eventual nominee, Senator McGovern, and portraying himself as a Washington outsider, Mayor Lindsay gathered only a little more than 196,000 votes during the primary season (a little over 1 percent of the total cast). He finished sixth in the Wisconsin primary on April 5, earning only 7 percent of the vote. Recognizing that the voters had spoken, he dropped out of the race. Presidential historian Theodore H. White summarized Mayor Lindsay's candidacy: "It may be said that rarely has so eloquent a spokesman for so profoundly important a cause presided over so blundering a political campaign." His impact on the Democratic National Convention in Miami, July 10-13, 1972, would be negligible and a harbinger of his long-term political decline. [Cannato, p. 515-521]

Theodore Kheel continued his campaign against the Port Authority of New York and New Jersey, which was restricted by a 1962 law from being involved in any mass transit projects other than the PATH commuter railroad linking Manhattan and New Jersey. Kheel had suggested a legislative change that Governor Rockefeller had approved on June 9, 1972, despite strong opposition from the financial community. However, Governor William T. Cahill of New Jersey, who previously supported the idea, indicated he would not sign a comparable bill because of concern about lawsuits from bondholders who had been assured that all revenue not needed for operation and maintenance would be devoted to retiring the bonds by 2007. "I am disappointed," Kheel said, "at the apparent reversal of Governor Cahill's supposed concern about getting the Port Authority involved in mass transportation." [Prial, Frank J., "Governor Presses for Mass Transit," *The New York Times*, June 10, 1972]

Kheel also had gone to court in an attempt to have the 1962 law declared illegal. In 1971, the U.S. District Court refused to hear the suit. The U.S. Court of Appeals upheld the lower court's ruling. On August 24, 1972, Kheel announced that he would take his case to the Supreme Court in a continuing effort to free as much as $2.5 billion of the Port Authority's borrowing power for mass transportation. He acknowledged that if the Supreme Court refused to hear his suit, he was "finished in the Federal courts." Whatever the outcome in the courts, Kheel had this to say about the New Jersey Governor: "After three years in office, Mr. Cahill's accomplishments with regard to the Port Authority add up to a big zero." [Prial, Frank J., "Governor Presses for Mass Transit," *The New York Times*, June 10, 1972; No byline, "Kheel's Mass Transit-Aid Suit taken to U.S. Supreme Court," *The New York Times*, August 25, 1972]

Governor Cahill, who had taken office on January 20, 1970, had been working to improve transit since taking office. In November 1972, he and Governor Rockefeller announced a "dramatic and significant breakthrough" to allow the Port Authority to participate in mass transportation capital improvements. The agreement covered rail links between midtown Manhattan and Newark and Kennedy International Airports, an extension of PATH, and direct rail service into Penn Station for commuters on the Erie-Lackawanna Railroad. The estimated cost was $650 million, but the plan was contingent on enactment of legislation nullifying the 1962 Port Authority covenant. The bill signed by Governor Rockefeller in June would not be sufficient.

Dr. Ronan, in a news conference, said the Federal contribution would cover up to two-thirds of the cost, but he hoped to see that increased to 80 percent so the Federal Government would pick up four-fifths of the bill. He insisted that the bi-State announcement would not be another in a series of "breakthroughs" that were ultimately unfulfilled. "These are not to be considered idle projections." Work on the Kennedy access line could start in 1973.

Kheel was skeptical. "The law clearly states that no Port Authority revenues can be used for mass transportation until the present bondholders are paid off—which won't happen until 2007." The projects were "off in the dim future." Having spent a year trying to have the 1962 law declared illegal, he said it was "crystal-clear," adding, "I don't see how they can get their hands on Port Authority money until it is declared unconstitutional in court." He acknowledged that such a finding could take years. Officials hoped to get around the restriction by limiting the agreement to bonds issued after 2007. [Prial, Frank J., "Governors Say Port Authority Plans $650-Million Mass-Transit Program," *The New York Times*, November 16, 1972]

In response to confusion about the proposal, Governor Rockefeller wrote to the *Times* on November 17 to clarify that the plan involved State and Federal money, but Port Authority funds as well:

> Federal funds are expected to provide some 60 per cent of the total cost. The Port Authority's fund will supply virtually all the remainder. State funds will be used only as contingencies, if necessary at times, to advance the projects. Accordingly, Port Authority revenues will be a principal source of funds for these projects.

> Port Authority bonds will not include the limitations of the so-called "statutory fund" as Governor Cahill and I are recommending legislation to eliminate this restriction on the Port Authority capacity to finance mass-transit improvements. [Rockefeller, Nelson A., "Tapping the Port Authority," *The New York Ti*mes, November 21, 1972]

Following action by the New Jersey State legislature, Governor Cahill approved the necessary legislation on December 28, 1972. The State's premise was that the 1962 law permitted the Port Authority to participate in passenger rail projects if they were self-supporting. (Kheel pointed out that the restriction had been put in the 1962 expressly because such projects are never self-supporting.)

On March 14, 1973, the same day the U.S. Senate approved the Muskie-Baker amendment opening the Highway Trust Fund to rail transit, the New York Senate approved two bills in support of the $650 million Port Authority mass transportation construction program. However, the State Assembly failed to approve the bills. Democrats had attempted to amend the bills, which they considered a "cave-in" to financing arrangements dictated by New Jersey to appease bondholders. They feared the measure would endanger the financing for mass transportation. [Farber, M. A., "2 Port Authority Mass-Transit Bills Pass in Senate but Stall in Assembly," *The New York Times*, March 15, 1973; and Kheel, Theodore W., "Jersey Catching Up," *The New York Times*, January 23, 1973]

Observers expected Assembly approval the following week, but the bill failed again on March 19.

That same day, *The New York Times* reported on a city-ordered study conducted by the Regional Plan Association, "a private, nonprofit group that aims to promote the coordinated development of the three-state metropolitan area." The study, released on Sunday, March 18, examined ways that transportation might be designed to help poor people. The ideas included:

- Extend 15 bus lines to connect low-income areas to manufacturing districts in New York City's five boroughs and industrial areas in New Jersey. The extensions would primarily help residents of the South Jamaica area of Queens, the Bushwick section of Brooklyn, and the East Tremont-South Bronx area.
- Free bus transfers at all bus intersections in the central parts of low-income areas, a total of 355 bus connections, with a goal of free transfers throughout the system.
- A 75-percent discount on train commuting from midnight to noon outbound from the city, and noon to midnight inbound.
- Revised subway construction plans to be more responsive to the needs of poorer residents.

In what *The Times* called "its most controversial section," the report also recommended that policies on automobiles "be tailored so that efforts to save the environment would not be made at the expense of low-income workers." The article continued:

> The report reasoned that workers' use of cars to get to jobs brought "substantial gains in travel time, to wider job choice and in income." It therefore proposed such measures as a subsidy for down-payments on small cars, a reduction in auto-insurance costs for low-

> income people, increased parking space in low-income areas and a re-evaluation of policies that have "led to a virtual moratorium on new expressway construction in the city."

The New York City Transportation Administration had initiated the study, with the U.S. Department of Housing and Urban Development providing $150,000 of the total cost of $197,000. The agency had received the report on August 1, 1972, but had delayed release while other agencies reviewed and debated its content. With the release, Administrator Sidamon-Eristoff provided preliminary comments on the report:

> Mr. Sidamon-Eristoff said some of the bus and train proposals might be adopted if the costs could be kept reasonable. But he suggested that most of the ideas for encouraging auto use, in this time of concern about pollution, were "not in the real world." He specifically opposed car subsidies, increased residential parking and expressway construction.

The city's Environmental Protection Administration had disassociated itself from the report months earlier, but a spokesman for the agency said, "There are things we simply cannot accept, mainly the exhortations for more expressways and encouraging use of cars by poor people." [Witkin, Richard, "More Bus Service is Urged to Help Poor Get to Jobs," *The New York Times*, March 19, 1973]

Traffic continued below expectations on Triborough facilities, down 8 percent in 1972 compared with 1971 since the toll increase went into effect on January 5, 1972. Revenue, however, was up. On April 2, 1973, the Triborough Bridge and Tunnel Authority turned over $74 million in surplus funds to the New York City Transit Authority, up from the expected $24-$50 million. The additional funds would help the authority address its expected deficit of $200 million. [Prial, Frank J., "74-Million Goes to Transit From Car-Commuter Tolls," *The New York Times*, April 2, 1973]

Governors Rockefeller and Cahill were in Manhattan on April 4 to dedicate the twin towers of the World Trade Center. Governor Rockefeller called the twin towers a "great marriage of utility and beauty." With State offices as the principal tenants of the South Tower, he said, "The old days of trudging from building to building are over." Governor Cahill called the World Trade Center "an industrial and trade United Nations."

U.S. Secretary of Labor Peter J. Brennan was to read a statement by the President, but refused to cross a picket line established by striking PATH workers who used the occasion for their cause because their employer, the Port Authority of New York and New Jersey, also owned the World Trade Center. James Kellogg III, chairman of the Port Authority, read the President's statement, which hailed the center as "a major factor for the expansion of the nation's international trade."

Theodore Kheel, "the persistent critic of the Port Authority," as the *Times* called him, had suggested the day before that the two Governors "propose at the dedication ceremonies that the World Trade Center be sold to private enterprise at the earliest possible date." The *Times* continued:

> He called the center "socialism at its worst" because it competed unfairly with private developers and urged that the money from its sale be used for mass-transit purposes.

When a reporter asked about Kheel's suggestion, Governor Rockefeller replied, "It gets him a headline." [Prial, Frank J., "Governors Dedicate Trade Center Here; World Role Is Cited," *The New York Times*, April 5, 1973]

On April 29, Mayor Lindsay announced a plan to reduce transit fares, which the MTA had predicted would hit 55 cents in 1974 unless new funding sources could be found. (He had announced on March 7, 1973, that he would not seek a third term as Mayor, but was undecided whether to run for Governor or the Senate in 1974.) The Mayor's plan would roll back bus and subways fares to 25 cents and cut rail commuter fares by 30 percent while providing for long-range financing of mass transit in the area. The plan, which called for creation of a regional governmental body to raise and disburse funds, relied on Federal grants and State matching funds. The Federal funds were projected to come from the Federal-Aid Highway Act of 1973, which had passed the Senate with the Emergency Commuter Relief Act. If the Federal funds did not materialize, the plan called for a payroll tax of one half of 1 percent. "The tax would be repealed when equivalent Federal subsidies were made available."

The Mayor pointed out that, "The current agreement to maintain the New York City transit fare at 35 cents expires on the first of January and a new labor contract must be negotiated with the transit workers by March 1, 1974." These dates created pressure for answers to the financing problems. A 55-cent fare would be "a killing blow to our economy and an outrage to every working family in the New York area." It would, he said, "drive more passengers out of the system, would increase traffic and air pollution, confront low- and moderate-income families with impossible daily travel costs and threaten the viability of the city's economic center."

He planned to submit legislation to the State legislature the following week. Asked to comment, Governor Rockefeller said, "this is the first we have heard of this. We can't comment until we have studied it." [Prial, Frank J., "Lindsay Suggests Plan for Transit to Reduce Fares," *The New York Times*, April 30, 1973]

Mayor Lindsay had said that to avoid "the darkest day in the economic history" of the area, officials "must put aside our petty parochialisms and face the menace which faces us all." Nevertheless, *The Journal of Commerce* pointed out the basic flaw in the proposal:

> Any such scheme devised on the assumption that Congress will enact the mass transit bill in a form that Mr. Nixon won't veto, that the requisite funds will be approved for this purpose by Washington and that Albany will cheerfully match them would strike us as resting on something decidedly less than "a firm and durable financing footing" . . . . Mr. Lindsay's scheme offers no real promise that new people will be drawn into the transit system; what it does guarantee is that people using [transit] now won't have to pay so much to use it. ["Cause Without Effect?" *The Journal of Commerce*, May 1, 1973]

The Christian Science Monitor also was skeptical about the proposal from Mayor Lindsay, whose term as Mayor would end in December:

> His timing is significant in that he is widely thought to have an eye on the 1974 Gubernatorial election when Gov. Nelson A. Rockefeller is expected to try for a fifth term. Mayor Lindsay's fare-reduction plan . . . is expected to win him many friends among the millions of New York City voters who ride the city's subways and buses.

However, the plan was facing "the inevitable uphill battle" in the State legislature while "city politicians are falling all over themselves to support the general idea of holding the line on fares." City Comptroller Beame, running for Mayor, "is somewhat miffed that Mayor Lindsay sneaked in before him with a transit-fare plan." He wanted to stabilize and possibly reduce the 35-cent fare. (Based on the Atlanta experience, Kheel wanted to reduce the fare to 15 cents as a way of increasing ridership.) [Winder, David, "Lindsay's Transit Plan Woos Voters," *The Christian Science Monitor*, May 9, 1973]

The legislature would not complete action on the two Port Authority bills until May 7. Governor Rockefeller, with Governor Cahill at his side, signed the legislation on May 10, putting into effect the breakthrough agreement that had been announced the previous November. One of the bills authorized the Port Authority to begin work on the rail link between Manhattan and Kennedy International Airport without waiting for preliminary design work on the companion rail link to Newark Airport. The second bill allowed for the PATH link from Pennsylvania Station in Manhattan to Plainfield, New Jersey, via Newark. The legislation also covered improvement of terminals and other facilities. At a joint news conference in the Park Lane Hotel, Governor Cahill called the legislation "really historic" because it demonstrated that "this entire metropolitan area really is a unit." [Fowler, Glenn, "Rockefeller Signs Mass-Transit Bills, Completing Bi-State Pact on Facilities," *The New York Times*, May 11, 1973]

On May 17, Dr. Ronan announced that a fare of 60 cents was virtually inevitable unless $300 million in subsidies could be found from city, State, and Federal sources. He said that in submitting a city budget proposal, Mayor Lindsay had omitted the annual $100 million subsidy for transit operating costs that the city had paid the previous 2 years:

> This $100-million amounted to about 8.3 cents for each subway and bus ride. Without it, fares would have been 45 cents since January, 1972. Meanwhile, inflation keeps pushing costs higher and ridership continues to decline. Even if the city continues to provide $100-million a year in transit aid, an additional $200-million annually will be needed to keep the fare at 35 cents.

Even with fares staying at 35 cents, ridership had declined and the city had lost a "disastrous" 252,000 jobs in the 3 years ending in December 1972.

As for the Lindsay plan, Dr. Ronan pointed out that "it really does not make that much difference where the money comes from," as he said the Atlanta plan illustrated. He was leading the fight in Congress, he said, to secure Federal-aid for operating subsidies. [Prial, Frank J., "Ronan Says Fare May Rise to 60C," *The New York Times*, May 18, 1973]

An editorial in *The New York Times* commented on Dr. Ronan's warning. The current "bailing-wire fiscal arrangements" had been "adopted in desperation two years ago." A fare increase to 60 cents "would impose extraordinary burdens on low-income workers, especially those living in two-fare zones, and risk crippling the city economy." Mayor Lindsay's plan, announced "belatedly" several weeks earlier, of a regional cooperative plan offered an option:

> A regional payroll tax is one alternative. Adjusting bridge and tunnel tolls to discourage the use of private automobiles—to make these vehicles begin to pay their way—would encourage better utilization of mass transit facilities and generate further revenues.

Further, cities across the Nation were facing similar problems:

> Efforts must be redoubled in the Congress to break open the Highway Trust Fund and to divert some of this available money to mass transit needs.

For now, though, the "time for deliberate discussion has almost run out, but not quite." The city, region, and State still had time "to develop a permanent transit subsidy scheme that will avoid recurring fare-rise crises and assure adequate levels of service." ["Fare Disaster," The New York Times, May 21, 1973]

Mayor Lindsay appointed a committee to press for his financing plan. At a City Hall news conference, the Mayor said his proposal had drawn little reaction from State legislators and Mayoral candidates. "The silence has been great," he said, but failure by the legislature to address the area's transit problems would be "an act of irresponsibility."

He also announced that Theodore Kheel would head the committee. Kheel endorsed the Mayor's plan, although he reserved judgment on a payroll tax as the most effective option for transit funding. In the absence of a plan, Kheel said, he agreed with the Mayor that the fare would go to 55 cents on January 1, 1974. Kheel added that he had also served on the committee to save the 20-cent fare. "I think I was on committees to save the 5-, 10-, and 15-cent fares, too." ["Mayor Picks Kheel to Head the Panel on Train-Fair Cuts," *The New York Times*, May 16, 1973]

The Watergate Controversy Gathers Steam

President Nixon turned 60 on January 9, 1973. He told wire service reporters that the key to staying young was "Never slow down." As President, he had many problems "but boredom is the least of them." [Associated Press, "Nixon, at 60, Gives Formula for Living: 'Never Slow Down,'" *The New York Times*, January 9, 1973] His birthday, a Tuesday, was a normal work day, with a small dinner party with family and friends to celebrate the occasion.

Even as he launched his counsellor plan to control domestic affairs, his National Security Advisor, Henry Kissinger, was in Paris trying to negotiate a peace pact with Le Duc Tho of the Hanoi Politboro. The jobless rate was at 5.2 percent, Congress was debating the war, and the President was considering budget cuts. On January 11, he ended mandatory wage-price controls he had imposed to control inflation.

On January 10, Judge John J. Sirica opened the trial on the Watergate burglars. According to prosecutors, the Committee to Reelect the President had paid the defendants to gather "intelligence" on opponents, including the break-in and bugging at the Watergate office of the Democratic National Committee. One of the burglars, E. Howard Hunt, quickly pleaded guilty to the six charges against him. Although he told the court he did not know whether "higher-ups" were involved, the government planned to call him before a grand jury for questioning. On January 15, four more of the burglars admitted their guilt, leaving only James W. McCord, Jr., and G. Gordon Liddy on trial.

A few days earlier, a *Times* profile had described the President as quiet, contemplative, and isolated, but bitter about what he considered unfair attacks on his decision to bomb population centers in North Vietnam over the Christmas season. On the eve of the Inauguration, the *Times* said of Vice President Agnew:

> In six short years, the Greek immigrant's son who once sold vegetables on a Baltimore street corner has become one of the most talked about politicians in the country, and on the eve of the President's second four years in office, it is Mr. Agnew who is talked about most as the man most likely to succeed Mr. Nixon as the Republican nominee.

Not everyone agreed with that assessment. Although he was "the object of unmitigated envy," observers also expressed "considerable doubt, substantial scorn, and no little compassion as well." They doubted his political skills and thought he was on top – but only for now. [Herbers, John, "Nixon at 60: Quiet and Contemplative," *The New York Times*, January 10, 1973; Wooten, James T., "Agnew is 'On Top' Now, But Faces a Hazy Future," *The New York Times*, January 20, 1973]

President Nixon was inaugurated for his second term on January 20, 1973. The Nation, he said in his Inaugural Address, was "on the threshold of a new era of peace." At home, "Government must learn to take less from people so that people can do more for themselves." He said:

> We have the chance today to do more than ever before in our history to make life better in America—to ensure better education, better health, better housing, better transportation, a cleaner environment—to restore respect for law, to make our communities more livable—and to ensure the God-given right of every American to full and equal opportunity.
>
> Because the range of our needs is so great, because the reach of our opportunities is so great, let us be bold in our determination to meet those needs in new ways.
>
> Just as building a structure of peace abroad has required turning away from old policies that have failed, so building a new era of progress at home requires turning away from old policies that have failed.
>
> Abroad, the shift from old policies to new has not been a retreat from our responsibilities, but a better way to peace.
>
> And at home, the shift from old policies to new will not be a retreat from our responsibilities, but a better way to progress.

Two days later, on January 22, President Johnson died of heart failure at his ranch in Johnson City, Texas, while the Supreme Court voted 7 to 2 to overrule all State laws that prohibit or restrict a woman's right to obtain an abortion during her first three months of pregnancy.

On January 26, in Judge Sirica's courtroom on January 26, Hugh W. Sloan, former treasurer of President Nixon's reelection committee, testified that campaign funds totaling $199,000 had been paid to Liddy with the approval of two top campaign officials, former Commerce Secretary Stans and former Attorney General Mitchell (January 21, 1969 – March 1, 1972).

A Vietnam pact was signed the next day and Defense Secretary Melvin R. Laird ended the military draft.

The White House fired Dwight L. Chapin, the President's former appointments secretary, on January 28. Newspaper disclosures identified him as the White House contact with Donald H. Segretti, who had led Republican "dirty tricks" efforts to disrupt Democratic primaries and harass candidates.

The jury in the Watergate trial convicted Liddy and McCord on January 30. The two were sent to jail pending a bail hearing. At the hearing on February 2, Judge Sirica expressed his view that a recently concluded criminal investigation had failed to get to the bottom of the Watergate crimes. He hoped that the pending congressional investigation would explore the crimes more deeply.

In the following days, additional revelations were published. A Haldeman aide, Gordon C. Stachan, was linked to Liddy and Segretti. Chapin acknowledged to the Federal Bureau of Investigation (FBI) that he had directed the President's personal attorney, Herbert W. Kalmbach, to pay Segretti. The U.S. prosecutor in the Watergate trial, Earl J. Silbert, announced he would open a grand jury to hear from the defendants. The government had been unable to develop evidence against anyone else, but would focus on Liddy during the hearings.

On March 12, the President invoked executive privilege in announcing that current and former members of his personal staff, including Chapin and counsel John W. Dean III, would not testify before congressional panels investigating Watergate. The Senate Judiciary Committee immediately challenged the announcement by calling Dean as a witness in the confirmation hearing of L. Patrick Gray III to become Director of the FBI. Questions had arisen about Gray's tenure as acting Director because he had provided FBI reports on the Watergate break-in to Dean.

On March 14, the same day the Senate approved the Muskie-Baker amendment, Dean stated he would not testify, but would respond to written questions. In the face of declining support in the Senate, Gray asked that his nomination be withdrawn, an action President Nixon announced on April 5.

On March 23, Judge Sirica imposed a sentence of not less than 6 years, 8 months and not more than 20 years in prison on Liddy and a sentence of 35 to 40 years on his codefendants. James McCord wrote to Judge Sirica claiming that he and his co-defendants had been under "political pressure to plead guilty and remain silent" to avoid testimony that might result in naming others involved in the incident. McCord asked to meet with the Judge in private because he feared retaliation if he revealed who was behind the break-in.

Within days, McCord had talked with investigators on Senator Ervin's Select Committee about previously unnamed White House conspirators, including Dean and Jeb Stuart Magruder, the reelection committee's deputy manager who was now Assistant Secretary of Commerce. While Hunt began appearing before a grand jury, McCord agreed to testify before the committee in secret, adding to the list of those involved: former Attorney General Mitchell; Charles Colson, former deputy counsel to the President; Haldeman; and Robert Mardian, former Assistant Attorney General.

Press secretary Ron Ziegler announced on March 30 that the White House was willing to compromise with Senate investigators on an informal basis in any way that does not violate the separation of powers. Aides were instructed to appear before the grand jury if summoned. The change in approach appeared to be a response to bipartisan congressional criticism that the White House appeared to be covering up high level involvement in the Watergate break-in. During an April 2 news conference, Senator Ervin rejected the offer of informal cooperation, saying that White House staff were not "nobility and royalty" who could avoid testifying.

On April 4, Senators Ervin and Baker of the investigating committee said that they had no evidence implicating President Nixon's aide, Haldeman, in Watergate.

An attorney for Colson announced on April 7 that he had passed a privately administered lie detector test confirming that he had no knowledge that his employee Hunt was going to break into the Watergate offices of the Democratic National Committee. [Lydon, Christopher, "Colson Reported Passing a Lie Test on Watergate," *The New York Times*, April 8, 1973]

In Augusta, Maine, on April 7, the chairman of the Republican National Committee, George H. W. Bush, addressed 250 Maine Republican leaders. He told reporters the wiretapping of Democratic National Headquarters at the Watergate was "grubby business" and "Mickey Mouse." Calling the decision behind the plan "amateurish," he said, "I don't think for a minute the President condoned it." He said that he and the President wanted to clear up the controversy as soon as possible and the best way to do that was through complete disclosure by all participants. ["A 'Grubby Business,'" *The New York Times*, April 8, 1973]

On April 17, President Nixon appeared before a hastily arranged news conference to make two announcements on the Watergate investigations. First, he believed the White House had reached agreement with the Ervin Committee on testimony by present and former aides. He said that the committee's ground rules allowed witnesses to testify in executive (secret) session if appropriate. This type of testimoney was mutually acceptable, but he reserved the right to invoke executive privilege during the course of questioning.

Second, he said that he had begun his own "intensive new inquiries into this whole matter" on March 21. In recent days, he said, he had reviewed the facts uncovered by his investigation as well as the progress of the Justice Department's investigation:

> I can report today that there have been major developments in the case concerning which it would be improper to be more specific now, except to say that real progress has been made in finding the truth.

He said that if any employees were indicted, he would suspend them and, if they were convicted, he would automatically discharge them. He also had expressed his view to the appropriate authorities that no one in his Administration, past or present, should be immune from prosecution. He added in closing that, "I condemn any attempts to cover up in this case, no matter who is involved."

The President took no questions. However, Ziegler informed the press that previous statements denying White House involvement were "inoperative." The President's announcement was perceived as a counteroffensive to reclaim the initiative and demonstrate that he was not involved in wrongdoing.

Senator Ervin had been driving home to Davidson, North Carolina, at the time of the President's announcement. The following day he said that he appreciated the President's offer of cooperation but reserved the right to determine whether a current or former White House aide could refuse to testify.

Attorney General Richard G. Kleindienst withdrew from involvement in Watergate-related matters on April 18. Congressional and White House sources were claiming that serious allegations had been made against Mitchell, Dean, Stans, Kalmbach, Magruder, and Strachan. Reports on April 19 indicated that former Attorney General Mitchell had sat in on meetings where plans for bugging the opposition were discussed, but rejected the plan. Dean, embattled amidst the growing allegations, issued a statement indicating that he would not be made a "scapegoat."

The swirl of Watergate events continued as Mitchell appeared before the Federal grand jury on April 20, reportedly stating he "would like to know" who kept pressing for spying after he turned it down. Reports indicated that prosecutors were seeking links between Haldeman and the break-in. Soon, rumors were spreading that Haldeman's role in the White House had been diminished as a staff shake-up appeared imminent.

On April 26, Gray was reported to have told friends he destroyed documents given to him by Ehrlichman and Dean after Dean said they "should never see the light of day." The same day, Magruder resigned from his post at the Commerce Department. He reportedly had told prosecutors that Dean and Mitchell had approved the break-in.

Each day brought new, often shocking developments. On April 27, Gray quit the FBI and the President named EPA Administrator Ruckelshaus as Acting Director. Haldeman and Ehrlichman were reportedly fighting efforts to force them out of the White House, John Dean was seeking immunity in return for his testimony, and a new development linked Watergate to the ongoing trial in Los Angeles of Daniel Ellsberg for leaking the Pentagon Papers he had helped prepare for the Rand Corporation. Judge William M. Byrne, Jr., told the courtroom that he had received a letter from Watergate prosecutor Silbert indicating that Liddy and Hunt had burglarized the office of

Ellsberg's psychiatrist, Dr. Lewis Fielding, in search of Ellsberg's medical files that they hoped could be used to discredit or at least embarrass him.

As April ended, President Nixon was reported to be in "virtual seclusion" at Camp David trying to decide how to put Watergate behind him, but continuing revelations would make that impossible. Haldeman and Ehrlichman, who normally accompanied the President to Camp David, had stayed in Washington amid a swirl of reports about developments within the White House. Dean was reportedly ready to testify under oath about their role in the coverup of the break-in. Haldeman and Ehrlichman were preparing to meet with Silbert to discuss actions.

On April 30, President Nixon returned to Washington to deliver a televised address in which he accepted responsibility for Watergate, but stated that he did not have prior knowledge of it. The wrongdoing was by his staff and reelection committee who had authorized the break-in in an effort to stop wrongdoing by the Democrats.

Dean, Ehrlichman, and Haldeman had resigned earlier in the day. Attorney General Kleindienst also resigned, saying that with friends and associates involved in the investigation, his impartiality was in doubt. The President chose Defense Secretary Elliot L. Richardson to become Attorney General. In addition, the President indicated that he was turning his internal investigation of the allegations over to Richardson. This shift would allow the President, he thought, to focus on important foreign and domestic matters.

Pressure was growing for appointment of a special prosecutor as evidence mounted that top aides had engaged in obstruction of justice and the circle of those involved continued to expand. The FBI released a report on May 1 in which Ehrlichman indicated that the break-in at Dr. Fielding's office had come about after he, at the President's direction, had ordered a secret investigation into the leak of the document. Hunt and Liddy were assigned the task, but Ehrlichman claimed he did not know they planned to break into Dr. Fielding's office.

Investigators had concluded by May 3 that the Committee to Reelect the President had employed Segretti to engage in a campaign of spying and dirty tricks to ensure a weak opponent for the President. Republicans worked to undermine other candidates during the primary season to ensure that Senator McGovern would win the nomination. For example, Segretti had conspired to undermine Senator Muskie, the presumed frontrunner, and stir dissent among the candidates and their campaign staffs. In one incident, Segretti sent a letter on the letterhead of Senator Muskie's campaign advising "Fellow Democrats" that they should be aware of "several facts." Perlstein summarized the false allegations:

> These included that Henry Jackson had sired an illegitimate daughter in high school and had twice been arrested for homosexual activity in Washington, D.C., and that Hubert Humphrey had been arrested for drunk driving in the company of a "known call girl" generously provided him by a lumber lobbyist.

Another tactic was a letter supposedly from the Muskie campaign to wealthy Democrats asking them not to contribute to his campaign; he preferred small donors, not "the usual fat cats." [Perlstein, p. 633]

On May 4, Judge Byrne released Hunt's testimony revealing that the White House had conceived the break-in at Dr. Fielding's office and that it had been accomplished with equipment from the Central Intelligence Agency. The effort, Hunt claimed, was directed by two White House aides, David Young and Egil Krogh, Jr., now the Under Secretary of Transportation. The effort had begun in August 1971 when Young, Krogh, Hunt, and Liddy met in the Old Executive Office Building to develop a strategy for investigating leaks. With Ehrlichman's approval, they agreed on the break-in at Dr. Fielding's office because they expected to find information they could use to undermine Ellsberg. The burglary took place on September 3, 1971, but they did not find the files they were seeking. Ehrlichman vetoed their plan to break into Ellsberg's home.

Information soon emerged that the President had attempted to prevent release of information about the break-in at Dr. Fielding's office. As recently as a week before the courtroom revelation, Ehrlichman had told Krogh that for national security reasons, the President did not want the information released. The President reversed himself at Richardson's insistence. Krogh had since acknowledged his involvement and resigned from the Department of Transportation.

On May 10, Mitchell and Stans were indicted for perjury, while the White House continued a restructuring necessitated by recent developments. One change was that the plan to control the domestic departments via counsellors was abolished, a move that was inevitable following the departure of Haldeman and especially Ehrlichman. This explicit change reflected a more subtle shift as the President's grand scheme of executive control of power in Washington was unraveling.

President Nixon informed the counsellors of the changes during a May 10 Cabinet meeting. Following the principle of de-centralization, he would restore authority to the Cabinet Secretaries for the operation of their departments as well as policy development, congressional liaison, and public relations. He wanted a lower profile for the White House, but assured the Secretaries that the door to the Oval Office would be open to them. The three counsellors were stunned, having had no warning of the change. [Lee, p. 188, 191]

Reporting the changes, *Engineering News-Record* commented:

> Transportation Secretary Claude Brinegar—crippled by the loss of under secretary Egil Krogh, who admitted a supervisory role as a former White House aide in the burglary of a safe in the Watergate-related Pentagon papers case—moves out of the shadow of James Lynn, still Housing and Urban Development (HUD) Secretary but no longer urban development counselor [sic]. Similarly, Interior Secretary Rogers Morton can now bypass former natural resources counselor Earl Butz and Labor Secretary Peter Brennan can be independent of human resources counselor Caspar Weinberger. Policy disputes will go more directly to Nixon. ["Watergate Fallout Slows Government Machinery," *Engineering News-Record*, May 17, 1973, p. 7]

Citing "improper government conduct," Judge Byrne dismissed the charges against Ellsberg and his codefendant, Anthony J. Russo, Jr. "The conduct of the Government had placed the case in such a posture that it precluded the fair, dispassionate resolution of these issues by a jury."

The Senate Select Committee on Presidential Campaign Activities began public hearings on May 17 with Senator Ervin in charge.

[This section is based on numerous articles appearing in *The New York Times* from January through May 18, 1973.]

Secretary Brinegar Makes His Case

Following Senate approval of S. 502 on March 15, the bill was referred to the House Committee on Public Works.

As noted earlier, Vice President Agnew was in Los Angeles on March 21 to address the international rapid transit seminar. In his discussion of the Administration's support for Highway Trust Fund diversion to mass transit construction, he mentioned the Senate's vote for such use:

> Only the concurrence of the House is necessary now to provide our states and localities with the flexibility they will need to achieve a truly balanced transportation system. ["Transit Commuters Wooed by Agnew," *Washington Star*, March 22, 1973]

The House Subcommittee on Transportation, with Representative Kluczynski as chairman, had begun hearings on the 1973 highway legislation on March 1, 6, and 7 with consideration of the Highway Safety Act of 1973, H.R. 2332, introduced by Representative Harsha on January 18. It included such measures as:

- Rail-Highway Crossings—Required the States to identify crossings in need of grade separation, relocation, or protective devices and authorized $150 million (FY 1974) and $225 million (FY 1975) for installation of safety devices on roads whether on or off the Federal-aid system.
- Bridge Reconstruction and Replacement—Authorized $225 million (FY 1974) and $450 million (FY 1975), with two-thirds from the Highway Trust Fund for on-system projects. The balance was to come from the general Treasury for off-system projects.
- Pavement Marking Program—Authorized $125 million a year to help States improve the pavement marking of all highways to provide greater vehicle and pedestrian safety.
- Projects for High-Hazard Locations--$100 million a year for projects to eliminate or reduce hazards at locations with a high accident experience or potential, with the same breakdown of Highway Trust Fund/general Treasury funding as for the bridge program.
- Program for the Elimination of Roadside Obstacles—Authorized $75 million a year to remove obstacles that may be hazardous to vehicles and pedestrians, including replacement of existing sign and light supports with supports designed to break away upon impact.
- Highway Safety Educational Program and Study--$1 million out of the Highway Trust Fund to study how to use the mass media to promote highway safety.

- Citizen Participation Study--$1 million out of the Highway Trust Fund for a study of ways to encourage greater citizen participation in highway safety programs.
- National Center for Statistical Analysis of Highway Operations--$5 million out of the Highway Trust Fund to study the feasibility of establishing the center.
- Pedestrian Safety Study--$5 million out of the Highway Trust Fund for a study of pedestrian safety.
- Incentives for Compliance with Highway Safety Standards--$10 million a year out of the Highway Trust Fund in incentive grants for States that made the most significant improvements in highway safety.
- Authorized the use of NHTSA safety research funds for grants to States, local agencies, institutions, or individuals to demonstrate the administrative adjudication of traffic infractions.

The bill also authorized:

- $200 million (FY 1974) and $300 million (FY 1975) out of the Highway Trust Fund for NHTSA to carry out its highway safety programs under 23 U.S.C. 402;
- $115 million a year out of the Highway Trust Fund for NHTSA to carry out its highway safety research and development under 23 U.S.C. 403;
- $35 million (FY 1974) and $45 million (FY 1975) out of the Highway Trust Fund for FHWA to carry out its highway safety programs under 23 U.S.C. 402; and
- $10 million a year out of the Highway Trust Fund for FHWA to carry out its highway safety research and development programs under 23 U.S.C. 307(a) and 403.

The bill also funded research on pavement marking and drug use and driver behavior. [*1973 Highway Legislation (Highway Safety)*, Hearings on H.R. 2332 before the Subcommittee on Transportation, Committee on Public Works, House of Representatives, 93rd Congress, 1st Session, Report 93-3, March 1, 6, and 7, 1973, p. 3-26]

Many of the same individuals and organizations testified before the House and Senate panels, offering similar views in both venues. These included HUFSAM's Mickle, the Insurance Institute for Highway Safety's Ben Kelley, ARBA's Hanson, and American Association of Railroads' Sproles. Again, too, NHTSA Acting Administrator Wilson and FHWA Acting Administrator Bartelsmeyer presented the Department's views.
On March 19, the Subcommittee on Transportation began hearings on the Federal-aid highway portion of the legislation. The subcommittee had not yet released a Federal-Aid Highway Act of 1973 bill, but Representative Kluczynski hoped the witnesses would help the subcommittee "cope with the questions presented in S. 502 which has passed the Senate, and also the administration bill, which I introduced at the request of the administration on March 5."

Because of the "emergency of the issue on mass transit," he said the subcommittee had invited witnesses from "the entire spectrum of the mass transit program," including operators, manufacturers, and unions. He added that the Committee on Public Works was "highly in favor of mass transit as it is for highways," including "the proper financing of these two complementary systems of transportation." The witnesses would help the subcommittee find "a proper solution to

the problem and not one which represents a hastily contrived and partial answer which will only promote further confusion." [*1973 Highway Legislation (Future Highway Needs)*, Hearings before the Subcommittee on Transportation, Committee on Public Works, U.S. House of Representatives, 93rd Congress, 1st Session, Report 93-5, March 19-23, 1973, p. 1]
Representative Harsha agreed that mass transit was a key consideration in 1973:

> I think it is fair to say that every member on this subcommittee, and probably on the full committee also, shares a genuine concern over the subject of mass transportation for our cities. Our differences with the pro mass transit proponents is more directed at funding rather than the need and recognition of the problem.

Representative Abzug said "we are on the threshold of realizing and acknowledging that one aspect of transportation—roads and highways—cannot be considered or dealt with in a vacuum, but that we must consider all of our basic forms of public transportation on a coordinated basis." On March 14, she had introduced the "Highways and Related Transportation Systems Improvement Act of 1973," H.R. 5573, which would permit all Highway Trust Fund money, except for Interstate funds, to be used for mass transit. Like the Kennedy-Weicker amendment, H.R. 5573 would make about $3 billion available for highway or mass transit uses. It also contained a pass-through of funds earmarked for urbanized areas to be made available to a metropolitan transportation agency.

She pointed out that the Administration bill "once again supported the concept of making Highway Trust Funds money available for mass transit purposes," adding, "I do hope this year they will really put some muscle behind the position." She also complimented Representative Kluczynski "for statesmanship by coming around to my way of thinking about the use of Highway Trust Fund money for mass transit." [*1973 Highway Legislation (Future Highway Needs)*, p. 3-4]

Representative Cleveland agreed that the "overriding issue is whether we will yield to pressures to divert funds from the Highway Trust Fund for urban rail transit." He was sure that mass transit advocates would invoke "considerations of balance, flexibility, fairness, State and local prerogatives, pollution, energy, and the like." He continued:

> But if the past is any guide, none of this rhetoric will justify invading the trust fund for two fundamental reasons: 1. The needs for highway-related improvements are so great, and anticipated user tax revenues so limited by comparison, that the trust fund will be overwhelmed by highway demands alone. 2. Whatever the need for transit, the case cannot be made for requiring those who contribute to the trust fund to foot the bill. I am not about to see the New Hampshire farmer help pay the commuting cost for the affluent New York suburbanite.

He pointed out that in 1972, Senator Williams had sponsored a bill to continue contract authority for the UMTA program for 3 years at $1 billion a year in general revenue, plus operating subsidies. "But this was opposed by those who sought to pry open the trust fund." He quoted Senator Williams' comment when the conference deadlocked:

> I . . . can only say that the Senate members of the conference who rejected this proposal in my judgment were sadly misguided. I would suggest soul searching on the question of whether the effort was to aid mass transit or to break up the trust fund.
>
> Sadly, it seems to be the majority of the Senate conferees chose the latter course.

Representative Cleveland was certain that the subcommittee would again "hear misinformed statements about the mythical huge surpluses in the trust funds, dangers of 'paving over America' or chopping up the country with superhighways." Comments such as these, he said, were focused on the Interstate System and ignored the needs on other highways, as well as the terrible toll of death and injuries.

For those fighting for highway improvement, Representative Cleveland said, nothing could be more frightening than the exchange in 1972 between former Representative Schwengel and Theodore Kheel of the Highway Action Coalition. Asked how much revenue New York needed, Kheel replied:

> I could not give you a precise figure. I think there is no limit, really, on our true needs. We have neglected mass transportation so extensively in the postwar years that the needs that we have are frightening.

As for serving the poor, Representative Cleveland pointed out that the Tri-State Regional Planning Commission described subway riders as New Yorkers whose family incomes were slightly above average, with the remaining subway trips by middle and upper-income suburbanites. The commission had said, "Subways are not primarily the vehicle of the poor; rather, the poor of the Region simply do not, or cannot, travel extensively." This description supported Representative Cleveland's point about subsidizing affluent subway riders.

He urged the subcommittee to look into "the entire matter of urban planning and development controls related to urban transit." In view of existing requirements for 3C metropolitan planning, much of the transit problem stemmed "from apparent failures of metropolitan areas to plan their own development in coordination with transportation improvements." Looking at the "urban environment in the fullest sense," he feared that one of two possibilities was likely to occur:

> (1) That development around subway facilities is allowed to become so dense as to render the facility obsolete, thereby generating demand for further costly improvements; and (2) that development is allowed to take place in disregard of the need for transportation, again generating demand for costly improvements.

Representative Cleveland pointed out that:

> There are comprehensive planning requirements imposed in connection with the highway program, and I understand that some 30 cities are not certified as meeting even the minimal requirements of establishing a planning process and planning agency.

This suggests that a review of planning is in order.

He cited the World Trade Center in New York City as an example. It was, he said, "expected to create a nightmare of congestion," and quoted Kheel as saying of the port authority, "This is going to be a great irony, that any agency created to solve our transportation problems winds up creating one of the worst traffic jams in history." In view of these words, Representative Cleveland said, "I see even greater irony in his attempts to use the trust fund to bail out New York. No wonder, again in his words, 'there is no limit, really, on our true needs.'"

He looked forward to a full discussion of the relationship between national policy objectives and locally formulated plans. Under NEPA, an EIS for an urban highway project must consider any adverse environmental impacts. "So I urge exploration of this field with the thought that any funding of urban mass transit be accompanied with a more meaningful and explicit 'impaction' statement." Then, and only then, could "a realistic determination be made as to the even partial justification for diversion of highway funds for mass transit." [*1973 Highway Legislation (Future Highway Needs)*, p. 29-32]

Secretary Brinegar, the first witness, was accompanied by Acting Administrator Bartelsmeyer, Administrator Herringer, Department General Counsel John Barnum, and Deputy Under Secretary Ted Lutz. The Secretary began by summarizing the failure of the Federal-Aid Highway Act of 1972 and the problem that failure caused for the Interstate program. Although the Federal-Aid Highway Act of 1970 had authorized Interstate Construction funds through FY 1976, FHWA did not have authority to apportion the FY 1974 Interstate funds to the States because Congress had not approved the most recent Interstate Cost Estimate. "We have done what we can administratively to alleviate this problem by providing additional flexibility in the use of available funds, but at this point there is nothing more the Department can do short of legislation."

He therefore endorsed Senator Baker's Senate Concurrent Resolution 6, which would permit the immediate apportionment of $1 billion in Interstate funds to the States. Approval of the resolution would allow the States to continue Interstate construction while Congress developed comprehensive highway and public transportation legislation.

In contrast to his testimony before the Senate Subcommittee on Transportation, Secretary Brinegar could discuss the Administration bill, H.R. 5138, specifically instead of its general principles. He began by focusing on the provision allowing the use of Federal-aid urban system funds for mass transit, including investments in rail transit. This was, he said, "a needed and rational response to the complex transportation problems that our cities face." If Congress did not give cities the flexibility to chose the best transportation solutions, "we run the risk of forcing them, simply because of the inflexibility of the allocation process, to make investments that may be 'second-best.'" He added:

> Rarely can a Nation afford the luxury of "second best" investments, but in today's inflationary times we especially cannot tolerate them.

He acknowledged the "hue and cry" over the proposal, the charges of "breaking a sacred trust" and "destroying the highway program." The rhetoric, Secretary Brinegar said, was unfortunate and the charges simply untrue:

> I doubt if anyone who has tried to move about in our major cities at rush hours or who has examined the data on urban air pollution can any longer doubt the need for a stepped-up attack on the urban transportation problem.
> Modern, federally supported highways have made our cities accessible, but too many cars and trucks trying to use these highways have, as a practical matter, made these cities almost inaccessible just at the times most of us most need the accessibility.
>
> And, as the highways and vehicles have increased in number in the past decade, public transit systems—reflecting declining ridership, increasing costs, and often institutional inflexibility—have themselves become less and less capable of offering attractive alternatives.

The Administration was addressing the problem three ways. First, the Administration proposed to continue UMTA programs for 3 additional years beyond FY 1974 at $1 billion a year from the general Treasury. Second, local officials had access to about $6 billion in General Revenue Sharing funds that could be used for any kind of transportation projects. Third, local officials would have flexibility in the use of Federal-aid urban system funds:

> These funds are not intended as a substitute for the UMTA capital program, which is especially needed to fund large-scale projects. Rather, they are aimed at the myriad of capital needs that every urban area has and can best develop its own program to solve.

As for whether the proposal could be called "breaking of the trust," Secretary Brinegar pointed out that it was, first, "a logical and moderate extension of the variety of uses that the highway taxes have been put to since they were assembled under a single umbrella in 1956 and, second, it maintains the equities of the relationship between who pays the taxes and who receives the benefits." The excise taxes in the Highway Trust Fund had previously contributed to the general Treasury; they had been earmarked in 1956 when the Interstate System was considered a high national priority. In fact, prior to 1956, Federal-aid highway funds came from the general Treasury. "Thus, on grounds of historic equity it is fair to conclude that a sizable amount of trust fund moneys could be legitimately used for transportation purposes that broadly benefit a large segment of the population."

Secretary Brinegar also pointed out the gradual broadening of the use of Highway Trust Fund revenues beyond the "sacred trust" philosophy of the Federal-Aid Highway Act of 1956:

> In 1962 trust fund payments were permitted to assist in housing relocation arising from Federal-aid highway construction.
>
> In the 1968 act three changes were made: (1) The fund was broadened to embrace what is called the TOPICS program: "traffic operations improvements to increase capacity and

> safety" in the cities. This program resulted in a redefinition of Federal-aid highways to include urban area street grids. (2) The uses of funds for relocation and replacement housing were further broadened. (3) States were permitted to acquire land adjacent to highway rights-of-way for construction of parking lots.
>
> The 1970 act expanded the uses of the funds into several new areas: (1) Funds were permitted to be used in urban areas for bus lanes, passenger loading facilities, bus shelters, and fringe and corridor parking to serve any type of public mass transportation. (2) Housing relocation assistance was broadened materially, with funds now authorized to construct replacement housing. (3) Highway safety program costs, which had previously come entirely from the general fund, were brought largely under the trust fund. (4) Financing of forest highways and public lands highways that are on a Federal-aid system were moved from the general fund to the trust fund. (5) The training of State and local highway department employees was financed from the trust fund. (6) A Federal-aid urban system—a grid embracing urban area main traffic arteries—was designated and brought under the trust fund. (7) Ferryboats were recognized as reasonable substitutes for Federal-aid highways in some cases and were permitted to be financed from the trust fund.

These changes "enabled us to deal flexibly and equitably with the Nation's evolving transportation needs." All that H.R. 5138 was seeking was "some more keeping up with the times."

Secretary Brinegar explained that while trying to expand the Highway Trust Fund, he did not advocate creation of a mass transit fund. As was the case with the Highway Trust Fund, a trust fund for mass transit would build "inflexibility into decisionmaking that cannot help but produce 'second-best' decisions." He added:

> Old-time "sugar-bowl" finance, where one bowl held the week's food money, one held the rent money, and so on, belongs in the past; it is not the solution to today's complex urban transportation problems. We do not want to create yet another sugar bowl, as we would through a new trust fund, but only permit a more reasonable use of the funds in the bowl that is already here.

He described the pass-through provision in H.R. 5138:

> This provision would earmark urban systems funds for each urbanized area larger than 400,000. It would make those funds directly available to the appropriate metropolitan agency where one exists or is created by the State or local government units. In the absence of such an agency, the funds would be held by the State for use in the designated urbanized areas.

The Department's proposal in 1972 had involved earmarking urban system funds for urbanized areas with populations of 50,000 or more. "We have concluded that earmarking funds is desirable only in the case of the larger areas." The proposal would affect 57 metropolitan areas with 400,000 or more residents.

He said the bill also modified the Interstate transfer and substitution provisions contained in the Senate version of the Federal-Aid Highway Act of 1972:

> First, as a general rule we do not believe that, if an Interstate segment is dropped, a new Interstate segment should be designated. If a State and locality wishes to delete a controversial Interstate segment from the system, and DOT agrees that this link is not essential to the national system, we propose that the State be given the option to use these funds on any other Federal-aid system, including the urban flexible fund.
>
> Second, we believe these funds should be used at the prevailing matching ratio. The Interstate System is funded on a 90-10 basis because of its national significance. When segments are withdrawn from that system and the funds made available for alternative projects, we believe that it is appropriate to change the Federal share to 70 percent, as will be the case for all non-Interstate projects as of July 1, 1973; with these changes we support this important amendment.

The Department supported a 3-year reauthorization because trying to stick to the traditional 2-year bill would mean Congress would have to resume consideration of a Federal-aid highway act in 1974. “We are confident that Congress will adopt meaningful reforms in the program this year and this will make it unnecessary to take up the renewal of the program twice in the 93d Congress.

H.R. 5138 consolidated programs to eliminate the proliferation of categorical grant programs. It provides “a simplified program of assistance . . . without imposing specific, narrow objectives to which local governments must adhere.” Therefore, the Administration opposed the “priority primary” proposal adopted by the House in 1972. “As we approach the 1980’s and the completion of the Interstate System, we must focus instead on trying to provide greater flexibility in our transportation programs, not less.”

Secretary Brinegar shared the concern of Congress and the States about unduly burdensome regulations. H.R. 5138 proposed a certification acceptance process that would shift responsibility to the State highway agencies for many procedures and requirements of Title 23. However, it would not cover environmental, relocation, or civil rights requirements:

> We therefore oppose legislation which would provide exemptions from these general Federal requirements for particular highway projects. We will, of course, work with States and localities to develop workable solutions to difficult transportation problems, but projects which cannot comply with the basic standards should not be undertaken.

Finally, he objected “most strenuously” to two provisions of S. 502 as approved by the Senate. First, he objected to the provision that limited the Administration’s ability to impound funds. “We believe that such authority is essential to the control of inflation and to the promotion of the economic vitality of the Nation, as well as prudent management of the program.” Second, he opposed the provision authorizing payment of $400 million a year in operating subsidies for mass transportation systems:

> We believe that administering such a subsidies program is the wrong thing for the Federal Government to do, and that this problem can be dealt with most effectively through local action. Neither the causes nor the solutions to the widely varying local transit operating problems are simple enough to be addressed by the proposed subsidy program.
>
> Pressures to work out proper local fares, routes, manpower levels, wage rates, traffic regulations, and land uses must be dealt with at the local level, where the real knowledge and responsibility exists. The proper Federal role is that of providing funds for mass transit capital grants, as I have described above, and providing general revenue-sharing funds for local uses in accordance with locally determined priorities. [*1973 Highway Legislation (Future Highway Needs)*, p. 33-40]

Representative Robert E. Jones, a Democrat who had represented his Alabama district since 1947, was the first to question Secretary Brinegar. "I think your statement is a great paradox; you are all for it, but administratively against it." The Secretary, Jones said, had talked about the importance of completing the Interstate System, and "yet we want to go into the trust fund, and, consequently . . . we will take other opportunities to further delay the Interstate System." The list of past diversions from highway projects had given the Secretary "cause to say that you would do that with other resources in the trust fund."

The Secretary pointed out that the Federal-aid highway systems already existed and he was simply proposing a change in its operation. The changes did not affect the Interstate System. "It is our intention to allocate funds to this program in a timely fashion, to see that it is completed upon its schedule, which we now believe is 1980." When Representative Jones expressed doubt about the date, Secretary Brinegar asked Bartelsmeyer to discuss Interstate completion:

> According to the needs that are remaining, we can complete the Interstate System by 1980. It will take some averaging of authorizations and funding levels in about the $3 billion range.
>
> The most funds that have ever been obligated in the Interstate program was in 1969, which was $3.44 billion; so the stretchout of about, I would say, 2 years—

Representative Jones interrupted to ask how long the schedule would have to be stretched out in view of the impoundment of $2.8 billion. After explaining that the figure was actually in the range of $2.3-$2.5 billion, Secretary Brinegar said that the impoundment was undertaken "to balance the short-term fiscal needs of the country." He added that "if we try to do too much too fast, we will end up doing things in a way that strains the Nation, and we are all hurt." He saw "reasonable completion of the system with the restraints now on it."

When Representative Jones expressed concern about the administrative time needed to advance projects to construction, exclusive of NEPA compliance, Secretary Brinegar mentioned the certification acceptance provision to cut red tape. He added:

> We certainly would like to speed it up, but I do have to note that, as to the Interstate System, the remaining pieces which are down to less than the last 10 percent are heavily concentrated in controversial areas, many in urban areas, where there are a great many public interests to be investigated, and these are always, as you near the end of a program, increasingly difficult to speed up.

On the subject of the $6 billion in General Revenue Sharing, Secretary Brinegar said, "it is too early to tell what is being done with this money," but it was available for transportation, including assistance with operating subsidies. Representative Jones said he did not know of any mass transit system that was profitable. Secretary Brinegar elaborated on the varied causes of losses:

> There are differences in local fare practices, differences in local employment practices, as to how they are staffed, differences in route structure; the causes of these losses are so divergent that we feel that the local areas have to decide themselves how much of this they can tolerate and how they are going to finance it. In fact, this is being done throughout the country.

Representative Jones thought "it would be incumbent upon us to address ourselves to that problem, rather than wait for some revenue-sharing proposal that might come along." Transit was "a laudable and good cause," but what he wanted to know was "how much we are going to expend, how much is going to be necessary from year to year, to accommodate the number of people that are going to make use of this." Secretary Brinegar replied:

> Sir, we certainly want to see and encourage modern and efficient local transit systems. We are trying to do that through the capital grant program, which I mentioned.
>
> But again, to come back to operating practice, that is a very difficult problem for the Federal Government to address. In some of the data I looked at in the Boston system, about 80 cents out of the dollar went to pay labor costs; and in other areas, 60 cents out of a dollar goes for labor costs.
>
> Now, should you say to Boston to lower the labor costs?

He believed that local governments can best decide operating details, just as States are responsible for 100 percent of highway maintenance costs.

Asked if the Federal Government should get involved in setting operating rules to ensure Federal investment is properly protected, Secretary Brinegar deferred to Herringer. He explained:

> We do have very detailed capital grant requirements, but we do not ever try to dictate the maintenance and operations practices of a mass transportation system . . . . In our capital grant program, we have criteria that a transit company must satisfy before it can get a capital grant, and that would include submission of a plan, projection of operating revenues and expenses, and assurances that the system will continue to operate.

Representative Jones wanted to discuss the contrast between highway maintenance and operating subsidies. Was not the maintenance requirement part of approval of a highway project? Secretary Brinegar replied that "we require the highways to be maintained, but we do not provide the money. If they are not maintained, then we would stop the money. Likewise, on our capital programs, we would require performance—" Representative Jones interrupted to ask what authority would the Department exercise to ensure proper maintenance of federally assisted mass transit operations? "The programs are still pretty new," the Secretary explained, with capital funds still going in, but the Department was reviewing programs such as BART "to make sure that the money is doing what it was represented to do . . . ." [*1973 Highway Legislation (Future Highway Needs)*, p. 40-47]

The next questions came from Representative Harsha, who began by asking Secretary Brinegar about the administrative measures the Department had taken to stretch out Interstate funds following the failure of legislation in 1972. At the Secretary's request, Bartelsmeyer responded:

> What we are talking about, Mr. Harsha, is that we permitted the States to use obligational authority that is allotted to them outside of the categories that were initially assigned to them.
>
> We have also worked out a method with respect to the Interstate, where those States who have obligational authority left, but who do not have authorization left, who have used up all of their authorization of apportionment, they come into what we call the ACI program—the advance construction Interstate program.

Next, Representative Harsha said he wanted to "dispel this myth about a so-called trust fund surplus." Was it not only a cash balance on any given date? Bartelsmeyer replied that, "There is no surplus when you consider that the fund has all the obligations that have been made against it to be honored, to be paid out."

Representative Harsha said he had seen a study that claimed that rail transportation "is the most expensive method of transporting people in contrast to buses and automobiles." The Secretary did not believe that was true in high-density urban areas. Many factors went into the ridership decline of transit, but in view of the traffic jams in our cities, "the automobile had not been put to the best usage. We have to look to other uses because the cities will become unmanageable."

Representative Harsha thought "we have to look at the better solutions, and do it in the most efficient and cheapest way we can, and rail rapid transit for the purpose of moving of people is not the cheapest way." Secretary Brinegar emphasized that for Federal-aid system funds, he believed that local officials can best "see how to allocate these priorities . . . and find the lowest costs." He offered to provide data demonstrating "that the rail systems do better over options in some cases than others," but Representative Harsha was dismissive. "I'm sure if you put your mind to it, you could come up with some figures to justify anything, Mr. Secretary."

This led to a discussion of how much Federal-aid highway funding would be available for mass transit. The Secretary explained that H.R. 5138 proposed authorizations of $1.1 billion for the urban system, with local officials determining whether to use the funding for highway or mass transit, including highway-oriented facilities. How many areas would use it for mass transit? "We don't know."

> Mr. Harsha. Now, you want $1 billion out of the Highway Trust Fund for mass transit; is that correct?
> Secretary Brinegar. No, sir.
> Mr. Harsha. What do you want?
> Secretary Brinegar. We want it to be placed in the hands of the State and local areas to decide how best to address their urban transportation problems. This will go for a number of uses to help solve local problems—highways, bus lanes, buses, parking systems.
> Mr. Harsha. Theoretically, couldn't it all be used for mass transit?
> Secretary Brinegar. Yes, sir.

Representative Harsha pointed out that the Department's own needs report identified $600 billion in needs over a 20-year period, with $300 billion identified as essential. Meanwhile, the Highway Trust Fund is only going to collect $125 billion over that period. "Therefore, we have one-half of the needed funds in the trust fund, if continued at the present level, to complete the essential highway needs of the country?"

Secretary Brinegar agreed, but pointed out that the Highway Trust Fund brought together existing taxes to build the Interstate System. "I see nothing in the legislative history or the debates that suggests this fund was to be held together forever to meet the needs of the country, no matter how defined." Representative Harsha said that according to that logic, "why couldn't you just as logically use these funds for construction of navigation dams on the rivers at some point in time?" The Secretary responded:

> Sir, the logic I tried to explain is that there comes a point when the right solution to a transportation problem is not just another mile of highways, but rather, something else . . . . The point is, if the right solution to a transportation problem involves more than just a highway, and the beneficiaries are those who are broadly supporting this highway system through their taxes, I think it is quite appropriate to bring them into it. We have done that with parking lots; we have done that with bus lanes; we have done it with housing relocation. We have broadened the concepts as the problems become more complex.

Did not they all apply to the Federal-aid system? Yes, Secretary Brinegar replied, and in the case of the Federal-aid urban system, it was created a few years ago, but "now we're saying the proper solution to the urban-aid system may in fact require a bit of flexibility to find a real solution, so that the congestion in the highways can be relieved and everyone can benefit."

In closing, Representative Harsha wanted to clarify that the highway program was not paving over the country. He pointed out that the needs report stated that 93 percent of highway construction was for improvement of existing facilities, and only 7 percent involved new highways. The Secretary agreed. Representative Harsha went on:

> Then we're not talking about paving the country with new highways. We're talking about making the present system, which in a great majority of the cases, outside of the Interstate, is totally inadequate and unsafe to use under the present conditions and traffic patterns. [*1973 Highway Legislation (Future Highway Needs)*, p. 47-53]

Representative Wright began his question period by referring to the provision in the Administration bill allowing termination of Interstate segments and use of remaining funds for other systems, as well as the history of impoundments. He asked, "there wouldn't be any way to complete that program by 1980, would there?" The Secretary replied, "I'm not sure about the impossible." That was the intention:

> Many of the segments in the urban areas I suspect will never be built and will be traded off. This may be, and should be done, if it's the right solution. This is what we hope to give local people the option to do.

Representative Wright pointed out that while projections of revenue going into the Highway Trust Fund have been reasonably accurate, the estimated cost of the Interstate System keeps going up. When Secretary Brinegar tried to explain that the Administration's fiscal restraints were attempting to reduce inflation, Representative Wright told him, "But you don't stop escalating the cost of building highways by impounding funds and waiting 2 or 3 years, because that just means that highways are going to cost that much more." The Secretary disagreed:

> If you are straining the resources of the builders beyond their ability to bid low cost projects, you, in fact, could accelerate it quite sharply.

He also pointed out that the unspent funds in the Highway Trust Fund draw interest. "Recently it is drawing interest at a more rapid rate than inflation." Moreover, accelerating construction would not necessarily solve the inflation problem by straining contractor resources.

Representative Wright, like Representative Harsha, wanted to discuss the 1972 needs report. It had calculated \$63.4 billion in urban public transportation needs through 1990, or \$3.5 billion a year; and \$569 billion for highways, or \$33 billion a year. "What I'm trying to do, Mr. Secretary, is to find the extent to which your proposals would meet the needs that your Department says exist." Although Secretary Brinegar agreed with the arithmetic, he did not agree with the conclusion. While needs may exist, many other factors affected how dollars are allocated, such as the energy situation or the pollution problem:

> The worst thing you can do with a plan like that is to say that that's it and take it so seriously you now build a 20-year program around it . . . . You should continue to do it in light of new knowledge each time you move along. I can hardly think of a program in this country that can be done for 20 years that, in fact, you can live with for 20 years. As you turn each corner you find a new set of assumptions facing you. It is a very fine way of keeping a program on track, of allocating your priorities 2 to 3 or 4 years ahead—but as you get more than about 5 years, it becomes very fuzzy. You can ruin countries and companies by

> planning like that, and certainly we plan to keep it up and sharpen it and bring in energy, the pollution—all of this has to be brought to it.

On that point, Representative Wright pointed out that the Federal-Aid Highway Act of 1970 opened the Highway Trust Fund to preferential bus lanes, fringe parking facilities, and highway safety. He asked how many parking facilities had been built. Bartelsmeyer said that one in New Jersey had opened, six had been programmed, and 11 were in the concept stage, while five States were working on parking facilities as a demonstration program. He explained, "you have to remember that it is the State highway departments who have this money under their control, and it is not the local areas who can decide that they want fringe area parking." More would be built if local officials made the determination.

Representative Wright asked about the number of preferential bus lanes in addition to the Shirley Highway lanes in northern Virginia. Bartelsmeyer cited one under construction in San Bernardino. "There are others underway." That is, Representative Wright said, what worried him about flexibility, namely that using the funds for one choice means not using them for another. "We don't want the cities to get the idea that they're going to get a whole lot more and then find out they don't have money enough for either highways or mass transit." He said the committee wanted to do what was necessary for highways and urban mass transit, "and we think this country can afford them both."

As for operating subsidies, Representative Wright said none of the systems were paying their way in the United States or Europe:

> But we find the average guy says, "Yes, build mass transit and so forth," and what he is really saying is, "Yes, get some of the rest of these guys off the roads so there will be more room for my car."

The question, he said, "is, if we give it to you, will you spend it?"

Secretary Brinegar replied that the Department would do its best to spend the funds as directed. But as for operating subsidies, he did not think that was a proper role for the Federal Government. "I would have to say further that I would recommend that the President veto a bill that had operating subsidies in it." [*1973 Highway Legislation (Future Highway Needs)*, p. 53-60]

Secretary Brinegar's statement and question period had gone well beyond the scheduled time, but the subcommittee decided to continue, with Representative Cleveland taking the next turn. He commended the Secretary on "a persuasive statement. You haven't persuaded me, but it is a persuasive statement." Regarding the inflexibility of trust funds, he pointed out that the Department also administered the Airport and Airways Trust Fund. Did he plan to abolish that fund? No, the Secretary did not.

Representative Cleveland stated that Congress had used the trust fund concept "in a good many attempts to meet problems." Now, in view of the great needs documented in the Department's 1972 report and the toll of death on highways as discussed in the recent hearings on the Highway

Safety Act, "you're suggesting that we divert it." He added that, "you haven't given us any hard factual reasons why we should divert it, except simply that there's a pileup in the cities, there's traffic problems, which of course we all recognize."

Secretary Brinegar denied using the word "divert." H.R. 5138 was proposing permissive alternative uses. "We feel the dollars should be allocated with priority uses and should be allocated in a way that the decisions could be made on the basis of local knowledge to solve the problems."

Representative Cleveland said that for most Americans, "mass transit still is the wheeled vehicle." It was odd, he thought, that in the name of mass transit, the Administration was proposing to ("I say 'divert,' you say 'flexibility'") to "subvert the best ongoing program we have for the mass transit needs of most Americans." Secretary Brinegar said he defined the term broadly to include highway-oriented mass transit, but "mass transit rail uses are an alternative that I think we can't turn our back on."

The Representative said he was not very sympathetic to rail mass transit when he reads, as he did in *The Wall Street Journal* on March 20, 1972, about the World Trade Center, the largest office building in the world. The article quoted Kheel's comment about the irony of an agency formed to solve transportation problems creating one of the worst traffic jams in history. It also summarized critics as saying, in essence, that "the already-teeming streets will teem even more." Representative Cleveland also cited an article in *The New York Times* on April 13, 1972, about a plan that Mayor Lindsay and David Rockefeller, chairman of Chase Manhattan Bank, had announced the day before "for a long-range $1.2-billion development of apartments and offices that would rise on platforms above the East River, bordering the financial district of lower Manhattan."

Representative Cleveland told Secretary Brinegar:

> Now you're asking a New Hampshire driver to take his gasoline tax and send it down there so they can build these buildings, with no thought by anybody as to how the people are going to get in and out of there. You're proposing seriously that we take the Highway Trust Fund money to support that type of situation? To me it's unbelievable; it is not fair.

The Secretary pointed out that Highway Trust Fund revenues were not transported from New Hampshire to New York City. Allocations over the years had "fairly well balanced the rural and urban sources of funds against the rural and urban uses." This response did not satisfy Representative Cleveland:

> Mr. Secretary, will you at least agree with me, that if we're going to spend Federal money—forget whether it's New Hampshire or California money or whatever—if we're going to spend Federal money to assist urban mass transit, there has to be some consideration of what they're going to do in those cities, how they're going to get people in and out of building complexes like the monstrosities I've alluded to.

The Secretary agreed that cities "need a rational transportation plan."

(Financing for the Manhattan Landing East River project that Representative Cleveland mentioned, collapsed during the city's mid-1970s fiscal crisis and the project was never built.)

Representative Abzug interrupted to point out that 150 million people, or 73.5 percent of all Americans, live in urban areas. "I might agree with you that we don't need some of that luxury building that is taking place in New York, but that is not an argument against mass transit for the millions of people who live in New York and other urban areas throughout the country, who have no way of making a livelihood unless they have mass transit facilities far beyond what we have now."

Representative Cleveland pointed out that New York was losing population to the suburbs, as reflected in the loss of a congressional seat following the 1970 census:

> What are you going to do with mass transit, making it easier for the people left in Manhattan to get out and live in the suburbs? Then they use these systems to go back and forth between the suburbs and the downtown financial markets—

Representative Abzug replied that "what is being discussed is an integrated system wherein there is a commitment of funds to people who live in the urban and suburban areas who do need mass transit facilities." New York City was far from "a ghost town" and that "we are toiling and struggling and desperately need some assistance for mass transit" for urban and suburban residents, as in every urban area. [*1973 Highway Legislation (Future Highway Needs)*, p. 60-67]

She had used the balance of Representative Cleveland's time.

Representative Roe of New Jersey began his questions by saying he was "reappraising my thinking, on a couple of bases." First, he discussed General Revenue Sharing, "the biggest boondoggle I think that has ever been forced upon this country." What did the Secretary mean when he said that flexibility in transportation could be based partly on revenue sharing when the Executive Branch was canceling "everything else out."

Secretary Brinegar explained that, "Revenue sharing was an effort to provide funds that will encourage local decisionmakers to determine their best use." He also disputed the claim that other programs were being cancelled.
Representative Roe said that everyone coming before the committee "tells us that part of the funding necessary is going to come from revenue sharing, and I don't want the people in my State to be misled that revenue sharing is going to solve the mass transit problem. It is not." State and local officials, he said, have "100 other things that they have to fund." He wanted to make clear that "by no means is the so-called flexibility of revenue sharing . . . going to solve the mass transit problem."

Describing New Jersey as "the most urban State in the Nation," Representative Roe said he was concerned about the creation of metropolitan transportation agencies for urban areas of 400,000. "I don't want some pseudo-agency, politically machinated—call it a transportation agency—to have control over my cities. No way . . . ." With all the talk of flexibility, he said he did not "support the point of view where one community would be pitted against the other for the meager funds that are going to be available."

The Secretary disputed the characterization of metropolitan transportation agencies, and offered to submit a written response for the record. He clarified that Washington was not going to dictate the characteristics of the metropolitan transportation agencies:

> The Administration's proposal permits a metropolitan agency to be established by the State, permits an agency to be developed by a combination of local governments, or in the case where there is no agency, the funds earmarked for an area would remain with the State for use in that specific urbanized area. The metropolitan agency thus established will be as responsible for local transportation requirements as the State and local governments who are empowered to create it decide it should be. Furthermore, the existence of a metropolitan agency does not in any way circumvent the provisions of Title 23 which require public officials of urbanized areas to be consulted regarding any highway project within their area.

Representative Roe said he wanted to explode the myth "that there is all kinds of money sitting on the shelf waiting to accommodate the mass transit needs, that the members of this committee are holding these funds back and that we're only interested in highways." In view of the extensive documented needs for highways and transit, "It is wrong to tell the people of America that we are going to solve the mass transit problem or come to grips with it at all on a billion dollars a year." [*1973 Highway Legislation (Future Highway Needs)*, p. 67-70]

The next questioner was Representative Clausen, whose district was in the northwest corner of California, far from the State's urbanized areas. He asked about the potential for declining revenue levels in the Highway Trust Fund in view of exclusive bus lanes taking thousands of cars off the roads. He wanted to know "what we are going to have in the way of substitute revenues to make up for the losses into the Highway Trust Fund?" At present, Secretary Brinegar replied, the exclusive lanes and other alternatives to the automobile were not affecting revenues, which were up, "partly because gasoline consumption has gone up so sharply due to the air-pollution equipment on the cars." He recognized, however, that gasoline supplies were being squeezed and that could affect gas tax revenue. "We think there are adequate funds to do the priority projects that are in front of us, and that's what we're trying to propose."

Representative Clausen said that by promoting highway-related public transportation, the committee had already addressed "the greatest opportunity for flexibility." What was needed for urban areas was a third trust fund "for the purposes of permitting the individual again to have flexibility and in deciding which mode of transportation he himself chooses to support, consistent with his own desires and, of course, the other congestion matter you have referred to." Secretary Brinegar repeated his concern about new trust funds leading to "too many 'we've got to find something to do with it' kind of solutions."

Next, Representative Clausen turned to impoundments. "I can't imagine anyone depriving us of the ability to move forward and develop safer highways . . . ." That was not, the Secretary explained, the point. "We're just trying to make intelligent trade-off decisions." The dollars would be spent when doing so was best for the economy.

Representative Clausen said he was willing to set a higher priority on developing adequate mass transportation systems, "but not at the sacrifice of slowing down on our commitment to make the highways safer, and in the urban areas, more functional." Secretary Brineger pointed out that more mass transit funding was coming from the general Treasury. The goal of the flexible urban system funding was not to build subways with Highway Trust Fund revenues but to "provide some flexibility for the local tradeoffs in these small things that are properly needed in the cities." [*1973 Highway Legislation (Future Highway Needs)*, p. 71-73]

Representative Ray Roberts (D-Tx.) thanked Secretary Brinegar for acknowledging that air-pollution devices were causing automobiles to use more gasoline than in the past. As a result, "we have caused a shortage with reference to refining capacities." He then asked the Secretary to define the Highway Trust Fund. The Secretary said he would not have called it a trust fund; it was a special fund or earmarked fund. "It was a way of bringing an umbrella over these agreed-upon purposes," in this case to improve transportation. Referring to the Social Security Trust Fund, Representative Roberts asked if in breaking open the Highway Trust Fund, "aren't you setting the precedent to break the next one?" The Secretary said, "I fail to see the connection." [*1973 Highway Legislation (Future Highway Needs)*, p. 74]

By this point in the hearing, the Representatives were being kept to a short time limit with the option of submitting questions to the Secretary for the record. Representative Hammerschmidt used his time to point out that as a donor State, Arkansas was contributing 7 percent more to the Highway Trust Fund than it was getting back. "As I read the bill, I fear the suggested allocation to urban areas—and I speak particularly of the 1 billion urban dollars suggested in the bill—creates or compounds the inequity that I feel already exists." He said the bill was asking "a State like Arkansas—49th in the Nation's per capita income—to further subsidize the urban areas."

The Secretary noted that the donor-donee relationship came about in the Federal-Aid Highway Act of 1956 as a way of creating a national Interstate System spanning low-population States. "Certainly it is not our intention to bias or unbias in the future urban versus rural."

In that case, Representative Hammerschmidt asked, was the Secretary saying that "if after serious study we decided in fact there is inequity and offered amendments thereto, it is possible you might support it"? The Secretary said he would "have to look at the inequities pretty broadly." [*1973 Highway Legislation (Future Highway Needs)*, p. 74-75]

Representative Gerald E. Studds (D-Ma.), who had served in President Kennedy's White House (1962-1963) and as a legislative aide to Senator Harrison Williams (1964), was the next questioner. He was serving his first term representing the 12th district on Cape Cod. He said of his district:

> Our commuting folks coming into Boston are sitting on that wretched expressway, polluting the air, and their own temperaments, by the time they get to work and by the time they get home. We have, as you know, extended the mass transit facilities south of Boston to a place

> where there is no parking, so it does no good whatever for the bulk of the commuting population.

Turning to the needs report, he continued:

> The question I'm getting at . . . the last 6 years we have been spending at a decreasing rate on railroads, minus 0.2 percent; on transit, minus 2.3 percent. And when I look at the projection of needs through 1990 and read the total report of transportation needs estimated for all modes, it amounts to $670 billion, of which some 84 percent is for highways.
>
> I wonder if you could share with me whether or not that strikes you as further irrationality?

Secretary Brinegar replied that the question was a broad one. "What I am talking to today is a small and, hopefully, good beginning, to bring some flexibility into part of the decisionmaking process." The congested highways in Representative Studds' district may have been built because of the allocation procedures that said "spend it or lose it."

Continuing on the theme of irrationality, Representative Studds responded to the earlier comment about declining passengers on mass transit systems. "That may have something to do with the fact we haven't got any trains left."

Turning to the issue of impoundment, he noted the Secretary's comment about Congress limiting the President's authority to control the rate of expenditure under the highway program. "It may be old fashioned, but I used to think that was the job of Congress, to have to say what will be done, and how, with the people's money." Secretary Brinegar explained that Congress authorized programs, but the rate of expenditures, "balancing off the abilities of the country, the abilities of the States to move ahead rationally," required Executive Branch management. [*1973 Highway Legislation (Future Highway Needs)*, p. 76-77]

Representative Abzug was the next questioner. She said that the Secretary was being inconsistent in supporting mass transit but not operating subsidies. Funds from UMTA could be used to fund construction of transit facilities, but she asked, "Where can we find a way to support the program that you project? How are we going to run these facilities?"

Secretary Brinegar summarized his view:

> Ms. Abzug, I cannot answer it simply because there is no simple answer. What I have been trying to indicate is that the wrong place is the Federal Government, as has been proposed by Senator Williams. We have no way of deciding, in my mind, which of the 500 transit systems are deserving of which kinds of allocations that have been proposed . . . .
>
> Two or three years ago the Nation's operating transit systems were losing $200 million; this year they're losing $500 or $600 million. They could be losing a billion unless the discipline and the management at the local level says this is the way it should be run, and this is where they should be financed.

> This is too big an issue to bring into this highway bill. I'm not saying I have a solution as to how it is done, but it has to be worked out at the local level, whether they are going to have to tax the people locally, or whether they will have to take it out of another source . . . . It's somewhat like the fire and police service. If, in fact, one area wants more or less, they do find ways to do it.

Representative Abzug also questioned the way the pass-through provision in the Administration bill, H.R. 5138, would operate. "It seems to me that, too, is inconsistent with the goal, in the sense that the areas which most need to be able to allocate the funds right now would be held back from doing so pending the establishment of an appropriate metropolitan agency, and would continue to be left at the mercy of a State which had not up to now fulfilled these needs." She wondered if he would consider the provision in her bill, H.R. 5573, that would permit areas over 250,000 population to expend funds on a proportionate basis until the metropolitan agency is established "so that we begin to be able to use these now and channel them into the areas which have the greatest need."

Secretary Brinegar explained that under H.R. 5138, Federal-aid urban system funds would not be withheld pending creation of a metropolitan transportation agency. If such an agency did not exist, the State would have to expend funds earmarked for a specific urbanized area in that area. Further, "the urban systems routes and projects must be designed by the appropriate local officials of an urbanized area whether or not a metropolitan agency existed."

Would it not, Representative Abug asked, be more appropriate "if we could set up a method whereby the Interstate funds remain where they are and all other systems are put together, with all the non-Interstate being available for balanced transportation programs?" The Secretary said that idea "goes too far, and we believe the proper trade-off decisions are in the urban areas." Urban and rural funds should be kept distinct. Representative Abzug thought that making rural funds available for highways or transit would simply allow for balanced transportation in rural areas. Secretary Brinegar answered that his bill contained the flexibility for rural areas to buy buses and provide highway-related transit facilities, but creating a rural fund that was entirely flexible would be too much.

After receiving an assurance from the Secretary that funds transferred from an Interstate segment would remain in the jurisdiction where the withdrawn Interstate was to have been built, Representative Abzug concluded her questions. [*1973 Highway Legislation (Future Highway Needs)*, p. 78-80]

The final questioner was Representative Dale Milford (D-Tx), a native of Big Tussle who was a television meteorologist in Waco before winning election to the House in November 1972. He asked for confirmation that all the revenue going into the Highway Trust Fund came from highway users, not transit riders. The Secretary confirmed that statement. When the Highway Trust Fund was conceived, Representative Milford stated, "we essentially told the American motorist that the fund was being originated solely that the user would pay the cost of the roads and the operation of the roads." Secretary Brinegar explained, again, his reading of the legislative history that these taxes, previously going into the general Treasury, were simply earmarked for highways. "So there wasn't a promise made that 'you payers of gasoline will just see this money going to highways.'"

The Representative said that, "We did not tell the American motorist, though, that we were levying a tax on him to buy buses or to run railroads." The Secretary pointed out that while the funds were not being used to run railroads, they were being used to buy buses and for other highway-oriented mass transit facilities. "As the concepts and the problems have evolved, the uses have evolved." In some urban areas, "it might be necessary to go a bit further and include rails. This will benefit broadly the people who are paying in and using the highways."

Representative Milford pointed out that the seven changes in usage Secretary Brinegar listed in his statement all involved the motor vehicle or the motorist. The Secretary agreed that, "Up until now, until we got the ferryboats, at least, it all related very closely to the highways." The ferryboats, Representative Milford suggested, probably carried automobiles. Perhaps, the Secretary said, but that was not the test. "I think the test is: Does it help the transportation needs and broadly benefit the people who are both paying and using it." In Representative Milford's view, that was a violation of the trust and purposes of the Highway Trust Fund.

He returned to the issue of declining mass transit use, suggesting "that one of the main reasons why people will not use mass transit is because of the inconvenience." The Secretary, suggesting that the decline was partly because of "the changing shape of the cities, the changing service offered by the transit systems," said it was "a trend that has to be addressed and reversed."

What, the Representative asked, was the Department doing to "develop more modern means of mass transit?" He suggested, "For example, modern computer technology, coupled with the development of the induction motors which now make it possible to economically operate people-moving systems, entirely pollution free, over existing roadways in metropolitan areas." Herringer responded that UMTA had an extensive program "in research development demonstrations of new innovative systems, including 'people movers,' personnel [sic] rapid transit systems."

That exchange concluded Secretary Brinegar's testimony before the Subcommittee on Transportation at 1 p.m., an hour later than expected. [*1973 Highway Legislation (Future Highway Needs)*, p. 81-82]

Representative Clausen submitted questions to Secretary Brinegar for written responses. Asked about total urban mass transit needs, the secretary explained that the 1972 National Transportation Report estimated a demand of $63 billion for the years 1970-1990. That was, however, a rough estimate in view of "the dramatic decline" in transit use beginning in the 1940s. Cities were only now beginning to plan for transit use. "Until current planning and analysis which adequately considers the role of transit has been further developed, it will be very difficult to predict with confidence the demand for capital investment in urban mass transportation facilities and equipment." He could not estimate how much of those needs local officials would try to meet from the Highway Trust Fund if allowed to do so.

Representative Clausen had asked what assurances the Secretary could provide "that ever increasing amounts of Highway Trust Fund monies would not be diverted to non-highway purposes"? The Secretary disagreed with the premise of the question. "I do not concede that the [flexibility] we recommend for the urban system is a diversion to non-highway purposes." The proposed flexibility was limited to the urban system in a few cities and would not affect the Interstate System.

Why had transit ridership declined? "The primary cause for the ridership decline has been the overwhelming switch to use of the private automobile as a means of transportation." The outward spread of cities had undercut transit efficiency. As ridership declined, investment in maintenance and upgrading facilities also declined, making transit a less attractive alternative to the automobile. Meanwhile, operating costs continued to increase dramatically. "This, combined with the loss of revenues already caused by reduced ridership, has compelled fare increases which have further discouraged persons from using transit."

Is America's love affair with the automobile ending? Secretary Brinegar referred to "ample evidence" that people would willingly "surrender" their automobile if adequate public transit were available. Urban commuters do not "choose" the automobile; "this choice is forced upon them by the lack of adequate transit service." Flexibility in the use of urban system funds would allow local officials to address the imbalance:

> The requirements of the Clean Air Act and recognition of our energy problems may well compel reduced reliance on private cars, at least in cities, and it is important that mass transportation be in place to fill the obvious commuter need.

Would the pass-through provision undermine the Federal-State partnership of the Federal-aid highway program? No, because the Administration bill would require that the metropolitan agency would be established by either a State agency or a local agency under State law. This requirement would reserve a major role for the State.

Representative Clausen's final question was: "Are you prepared to assure the Committee that further declines and funding for the Federal-aid highway program will not take place in the future?" Secretary Brinegar could not give a clear answer. At present, the highway program enjoyed a high priority "within a budget constrained by the need to control inflation without increasing taxes." He could not predict future funding levels that would undoubtedly reflect the state of the economy. [*1973 Highway Legislation (Future Highway Needs)*, p. 90-92]

In covering the Secretary's testimony, Bruce Winters of *The Baltimore Sun* said that House consideration of the bill began "with mass transit advocates more sanguine than in past years over eventual inclusion of substantial sums for rail and bus commuter facilities." Winters said that one reason for optimism was Secretary Brinegar's support for permitting local governments "for the first time" to use Highway Trust Fund revenue for mass transit in urban areas. Another reason was Representative Kluczynski's reversal, under "prodding" from Mayor Daley, in favor of flexibility.

These positive factors did not mean the Committee on Public Works would approve using Federal-aid highway funds for rail-transit. An unnamed individual described as one of the House's transit strategists told Winters that advocates of diversion expected to lose in the subcommittee and full committee:

> He expressed greater confidence, however, over the prospect of engineering the bill through the Rules Committee so that it comes before the whole House in a parliamentary condition that would make passage of the transit rider easier than last year. Once on the House floor, the transit strategists believe they can carry the bill to use trust fund money. [Winters, Bruce, "House Unit to Open Debate on $18.2 Billion Highway Bill," *The Baltimore Sun*, March 20, 1973]

More Voices

As testimony continued on March 19-23, many familiar individuals and groups presented their views to the Subcommittee on Transportation.

Representative Glenn Anderson, who followed Secretary Brinegar, explained that as a State official, including 8 years as Lieutenant Governor, before his election to the House of Representatives in 1968, "I have probably been involved in highway background development and work in the State of California as much as perhaps any other elected public official." He understood the value of highways, especially in rural areas, but having lived in Los Angeles his entire life, he also knew the problems associated with highways:

> We have seen the strips of concrete rip out homes and separate entire communities like the Great Wall of China.
>
> We have witnessed the deterioration of our air—caused primarily by the pollution-belching automobiles chugging along on our freeways which have more of a semblance to parking lots during the rush hour.
>
> We have seen the impending energy crisis which faces our country, due in large part to the inefficient practices we have allowed to occur.

He did not want to end highway construction, but believed that State and local officials "should be permitted to select the modes of transportation that they feel are best suited to their particular situation, taking into consideration the needs of the people, the environmental considerations and the demands for energy."

He cited the conclusion of a 1971 study in Los Angeles, conducted with FHWA, that despite the city's extensive freeway system, "mobility in the Los Angeles area has not improved since 1965." He added, "And this congestion cannot be relieved by more and more freeways. Studies have shown that new urban freeways merely encourage additional traffic."

A greater reliance on the automobile "would only compound our problems—especially with the environment." This statement was illustrated by EPA's proposed transportation controls for the area. He was convinced that area residents were willing to make some adjustments in the style of living to curb air pollution, but "we cannot require a 82-percent cutback of automobile usage without providing an efficient and economical alternative."

The energy situation was another factor in the Representative's thinking. Although the country imported 25 percent of its oil, the American Petroleum Council estimated that imports would increase to 58 percent by 1985. The country "will be even more dependent on the oil-rich, but politically volatile, Middle East to run our factories, heat our homes, and fuel our cars." One alternative was "a more rational use of oil," as reflected in a shift of urban transportation to mass transit.

He agreed with the argument that the taxes presently collected in the Highway Trust Fund had previously been used in the general Treasury for nonhighway purposes. Further, "the trust fund has been so changed to meet other needs that it is difficult to argue that mass transit is not highway-related." He continued:

> In short, the Highway Trust Fund was created to meet our transportation needs by taxing the people of the United States. I contend that spending a portion of that money for mass transit would certainly help meet that need by eliminating a part of the highway congestion, by reducing auto pollution, and by helping to alleviate our energy crisis.

He supported allowing Federal-aid urban system funds to be used for highway alternatives, including rail transportation. He also supported allowing the Secretary of Transportation to allocate up to 10 percent of annual Highway Trust Fund revenues to help cities with serious pollution problems that are forced to curtail automobile use. "In summary, we should strike a balance in our transportation program by permitting State and local officials the flexibility needed to meet the special requirements of the particular area."

When Representative Harsha's turn for questioning came up, he said he did not have any questions for Representative Anderson, but did want to make a point about Republican questioning of Secretary Brinegar earlier that day:

> It was suggested that the minority was attacking the Secretary of Transportation this morning. I want to make it perfectly clear that that was absolutely not the intent of the minority. The minority was trying to point out to the Secretary the fallacy of his thinking . . . . The executive has the idea that it is not only to administer the laws but to write them as well. And I, as a member of the minority, have no intention of abdicating my authority to write the laws.
>
> Also we were merely trying to point out to the Secretary that there was absolutely no congressional input in the administration's point of view this morning. We hardly agreed with it, obviously, I am sure to every one here [sic]. Finally, I don't believe, even though the administration is of my party, that I have any obligation to lay down and play dead with a proposal or a policy that I absolutely do not believe in.
>
> That was the point of my interrogation, not to attack the Secretary.

Representative Anderson, who said he had watched the proceedings for 2 and a half hours, said he had been impressed by "the way the committee handled themselves . . . and I was equally impressed with the way the Secretary handled answering the members of the committee." [*1973 Highway Legislation (Future Highway Needs)*, p. 83-90]

B. R. Stokes, general manager of the Bay Area Rapid Transit District, followed Representative Anderson. He introduced himself to the subcommittee by explaining that he also was serving a 3-year term as a special consultant to the U.S. Secretary of Transportation as a member of the Urban Transportation Advisory Council, and had been chairman of the council's Steering Committee since March 1971. He also had been a consultant with the U.S. Department of Housing and Urban Development and Governor Reagan's California Task Force on Transportation.

BART, he explained, had been designed as a 75-mile system "to suit the geography and reinforce the linear settlement patterns of the three counties" in the transit district:

> BART is designed as the vital trunkline component of the total public transportation service which is taking shape in the Bay Area. In an era when realities of traffic congestion, central city decay, air pollution, and the need for energy conservation are widely recognized, BART is even more important in the minds of Bay Area citizens now than when first conceived.

In September 1972, BART had opened with an initial 28-mile, 12-station stretch between Fremont and Oakland. An 11-mile extension between Oakland and Richmond had opened in January 1973. The system had experienced service delays and reliability problems related to its automatic train control system, as well as an accident in October when a train ran through the Fremont Terminal Station into a sand pile buffer, with no serious injuries. BART had been "greeted with an overwhelming enthusiasm," despite critical commentary around the country.

At present, BART was operating only on weekdays, and only 14 hours a day instead of the projected 20 hours at peak service. Given the limited experience, "it is far too soon to judge our record," but ridership had been "very close to our projections."

The estimated cost of BART was originally $1 billion, but was now $1.5 billion. The bulk of the revenue for capital costs came from a $792 million general obligation bond issue, supported by property taxes and authorized by referendum in 1962. The referendum also triggered the use of $180 million in toll revenue from the San Francisco-Oakland Bay Bridge for construction of the tunnel connecting East Bay and West bay, as well as the sale of revenue bonds for the purchase of rolling stock—bringing the total to the estimated $1 billion cost.

Stokes discussed the financing of the new system to explain its relatively high fares:

> Other than a small property taxing capability of 5 cents per $100 of assessed valuation for administrative purposes, BART has no assured source of funds with which to meet operating costs other than fare box revenue. The legislation which established BART,

> contemplated that the capital cost should essentially be paid from general tax revenue but the operating costs should be paid from fares.
>
> This means that BART has had to set relatively high fares in order to cover anticipated costs . . . . Combined BART and feeder bus fares are in fact probably higher than low income segments of the population can reasonably afford.

Despite the fare, "BART's early experience proves that people will pay for high quality transportation."

Based on current projections, "our total expected source of funds would be sufficient if costs could be held to our target estimates." Estimates of operating costs had been taken into account when the fares were set, but inflation and increased employment needs, "such as having to provide our own policing services," had adversely affected expenses. The system was experiencing higher maintenance costs than expected. In addition, "we face labor negotiations in which labor arbitrator decisions have already placed us in an adverse bargaining position." The impact on BART's wage and benefit structure "could be severe." The system also was "experiencing public policy pressures which seek to reduce fares for public transportation or at least hold them at present levels."

Stokes tried to put BART in the context of changes in transportation philosophy:

> BART was conceived in an era when it was felt that transit would have to compete with the automobile in terms of comfort, convenience and out of pocket operating expenses to make transit riders out of motorists. Highway building programs in most urban areas were still proceeding with optimism and resolve at the time, in the belief that more highways and more cars were the answer to America's urban transportation requirements in all but a few of its densest cities. The potentially damaging side effects of our dependence on the private auto for urban mobility were barely beginning to be noticed in terms of continually increasing congestion, declining air quality, housing and business dislocation, and faltering local transit finances. But now they are widely recognized, and even a specter of petroleum energy shortages threatens continued dependence on the automobile for most trips in urban areas. The era that we are fast approaching is more likely to be one in which automobile usage will have to be viewed as complementary with rail and bus transit rather than competitive. Future urban transportation policies which fail to recognize this altered perspective may fail to use either transit or automobiles as effectively as they might. Perceptions of how, when, and where the automobile should be appropriately used are changing, and recognition of its social costs are evolving to a new appreciation of the comparative advantages of transit in many urban situations.
>
> In this changing environment of urban transportation policy, the role of transit may become substantially enhanced. Rail systems such as BART, performing reasonably well now in terms of patronage, revenue and costs, may be called on to carry a greatly increased burden of regional traffic. If the economic and practical dictates of air quality maintenance or energy conservation are added to those of congestion avoidance and social equity in urban

> transportation policy considerations in future years, the inducement to greatly increased patronage may cause BART to exceed present financial expectations.

BART, however, was "but one component of an overall strategy of providing for urban transportation in a manner compatible with high levels of both mobility and environmental quality." The strategy developed by the multimodal Metropolitan Transportation Commission (MTC) included high quality bus service for feeder purposes, private automobiles on highways, and it all "must operate as a whole, not as a series of disconnected policies" for rail transit or highways and streets or buses. Implementing this strategy had called for financial sacrifice when highway construction was not involved:

> Such locally willed choices should not be thwarted nor punished by the financial distortions of national or state programs favoring a single mode. If large urban areas are to choose what is truly best for themselves in the context of transportation and related public policies, they require a pass-through of Federal funds to their own control uncommitted as to modal preference. Such funds could then be used interchangeably to provide for the expanded bus feeder and local services that would enhance both local mobility and overall operations of regional transit; for new highway construction and operating controls that would improve the functioning of street and freeway systems; and for the construction or extension of rail transit systems to shape and serve highly developed areas. And each in the proportions judged necessary to get the job of urban transportation done most compatibly with other competing local values.

Stokes endorsed the provisions in the Senate and Administration bills that permitted the use of Highway Trust Fund revenue for rail transit at local option. [*1973 Highway Legislation (Future Highway Needs)*, p. 92-102]

During the questioning, Representative Roe pointed out that despite the revenue sources available to BART, it would still need subsidies from some other source. Stokes agreed, attributing the additional expenditures to "the added services that society has asked us to provide." Given BART's limited experience, he could only estimate the additional costs roughly at perhaps 10 percent ($3-4 million).

Representative Wright asked if local officials had been able to document a decrease in automobile use since BART opened. Stokes said experience was too limited, but he pointed out that about 4,000 automobiles park in the system's lots each day. "These are 4,000 automobiles that are not on some freeway and out on some street." For now, then, the impact on congestion was based only on subjective observation:

> I will say this, that the only major freeway that we now parallel is the Nimitz Freeway, which runs north and south in Alameda County. I would say, strictly subjectively—and I can't back this up in any way, shape, or form—that since we have been operating, last September, the occurrences of major tieups on the Nimitz due to normal congestion and this sort of thing have been reduced by, I would say, 150 percent.

He predicted that when BART was at full service, it would carry about 60 percent of peak-hour trips to and from work. The trains would carry the equivalent of seven lanes of traffic on the San Francisco-Oakland Bay Bridge.

Regarding the flexibility Stokes mentioned, Representative Wright asked if the source of the flexible funding made a difference. When Stokes said, “Not really,” Representative Wright pointed out that, “The trust fund is not the only place you can get the money from.” He asked if Stokes was simply looking for money for mass transit, not trying to stop highway construction. Stokes said that “only a damned fool” would try to stop highway building. “We have incorporated to a very new degree the use of the automobile to use our system, the building of parking lots at all our stations for an initial capacity of 20,000 automobiles.” He anticipated that 50 percent of passengers would access the stations in their automobiles when BART was fully opened.

Representative Harsha asked, “Will the farebox be self-supporting?” Stokes could promise only that it would be “next year,” but labor negotiations might alter costs beyond projections. “What this does to our wage rates, what inflation does to us, I really can’t predict.”

Representative Harsha asked if Stokes thought that asking the taxpayers of the Bay Area who paid for BART to allow their highway user taxes to support construction of similar systems elsewhere was fair. Stokes pointed out that based on local votes, Bay Area taxpayers were paying about 80 percent of the costs in the form of a sales tax, bridge tolls, and property taxes:

> And I would like to turn the question around. Do you think it is fair that the people of San Francisco, for instance, have been paying gasoline taxes for the past 10 years and have turned down $350 million in highway projects because the people of San Francisco don’t want highway projects—and not get any benefit out of those taxes they are paying?

Rather than answer, Representative Harsha repeated his point about the fairness of asking Bay Area taxpayers to support rail systems in other areas that did not vote to support it themselves. “Yes, sir,” Stokes replied,” we were a little bit ahead of the game,” but he returned to his point:

> And again I would just ask you, is it fair that the people of San Francisco who have said time and time again no more freeways, because of their little 49-square mile area, is it fair for them to continue to pay gasoline taxes and to get no benefit in any kind of transportation in that area.

Representative Harsha replied, “They certainly won’t get any benefit if the highway user fund is used for the construction of rail systems all throughout the country.” He added that the problem was that the lack of resources outside the Interstate System resulted in inadequate highways:

> Mr. Stokes. All I can say, Mr. Harsha, is that there are going to be very few more additional freeways built in the bay area.
> Mr. Harsha. I am not talking about building more freeways. I am talking about improving those that are already constructed.

> Mr. Stokes: What I am saying is that the people of the bay area have very clearly, unmistakably opted for improved public transportation and expanding public transportation. What we are talking about here today is their flexible use of the money that might come to them through this small portion of the highway fund, to be able to use those funds on a flexible basis, if they so desire.

Representative Harsha concluded his questions by repeating his point that, "I just don't think it fair to those people to take their money and to construct a similar system in New York or Chicago." The people in those other cities "should assume the burden that the people in San Francisco have." Representative Jones pointed out that his State of Alabama did not have even 1 foot of rail transit service. Stokes suggested that might change in the next 10 years. "We have a whole new arsenal of technology in public transportation, not just high-capacity carriers which we have in the bay area but things between buses and, which some of your great cities might find desirable, might find useful, particularly if the energy crunch becomes that much more critical and the use of automobiles, God forbid, does somehow become artificially restricted."

Representative Clausen said the committee "does not want to be put into position of being for highways at the expense of the rail mass transit, or any other form of mass transit." The question was how to pay for both to develop a balanced transportation network on a national scale. He believed that "if we are going to, in effect, rob or raid the Highway Trust Fund" for rail mass transit, funding would be inadequate for both modes:

> Much comment was made when the Secretary was here, that it was a question of having sugar bowls, and I sincerely believe, and I will advocate this as long as I am involved, that I believe we sincerely need to expand on other methods of finance, up to and including the possibility of a third trust fund, so that the airport-airways, the mass transit and the highway financial requirements can be met with these three positive methods of finance.

Stokes said he believed the idea of a Mass Transit Trust Fund "would really beg the question." Flexible use of Federal-aid urban system funds was a start, but funding categories or "sugar bowls" as Secretary Brinegar had called them, have "all sorts of ills from a philosophical basis." He explained:

> I think if we could put our transportation dollars into a single pot, and let the local areas opt for their own needs, weighing one mode against the urban values, then decide what is important for that particular area.

Representative Jones took exception to this comment. "Is there anything wrong in using funds for transportation purposes without going into the trust funds? Why is it you have got to go to the trust fund?" Revenue from the Highway Trust Fund already was inadequate for needs. The focus should be on building national assets rather than on "these continuous, fractious, collateral arguments."

Representative Clausen clarified his point:

> It is obvious that we are not going to have enough money to meet the highway requirements, let alone dipping into the trust funds [sic] to meet mass transit requirements and, you are going to cut back on the use of the automobile, you are going to cut back on the dollar input to the trust fund that you are going to be dependent upon for both of these and that is why I suggest we not divvy up a restricted pie now. We need to move into the direction of what is a required sugar bowl or pie to meet both of these goals. That is my point.

Representative Clausen added that, "we do not want to mislead the American public into thinking that we are going to meet the leadtime requirements by divvying up a divided pie," but Representative Jones responded that they were "squandering our time talking about whether we are going to get in the trust fund, what we are going to get out of the trust fund." He added, "We are a nation in motion" and asked "why can we not just make whatever necessary and prudent requirements to take out of the general fund what is necessary to transport that number of people?"

Stokes said he did not consider the debate a squandering of time. He said he had flown all night to participate in the hearing "because of the importance that is assigned by the Nation's transit operators to increased funding, to do many of the things that have been so long neglected." The fact that BART was the first new rail transit system in 20 years "is a terrible indictment of what we have been doing in this country."

Representative Jones agreed such things were needed, but said, "If we fret over the mechanics of it, then we will be lost in a dismal swamp of indecision."

The next questioner was Representative Abzug who wanted to clarify the voters' role in approving the bond issue in 1962 for construction of BART. Stokes pointed out that the vote was helped by the fact that it occurred "when the property base was lowest." Representative Abzug asked, "Do you think they would support this kind of financing in 1973?" he replied, "No, ma'am. Absolutely not."

In that case, Representative Abzug asked, could the system be extended without the local option from Highway Trust Fund revenue. Stokes replied, "That is my point 100 percent. That is why I am here." He clarified his point:

> I am not arguing for a railroad, Ms. Abzug. Let me make this very clear. The choice of the kind of bucket you carry people in is the simplest choice once you have established what the problem is and how many people are to be carried in what period of time. I am not arguing for rail. There will be buses and systems of other types which your legislation has made possible, but the choice of what you carry the people in is the simplest choice there is, once you find out what the problem is . . . .
>
> I am favoring highway funds for that local system to make that choice. If San Francisco says, as they have in the last 4 years, "We do not want any more freeways," we have to do it on some other basis so they then will not be penalized. They will have some benefit of the money that they themselves have paid into this fund.

Representative Yvonne Brathwaite Burke (D-Ca.) concluded the questioning by asking if BART had any plans to reduce fares. Stokes explained that the State legislature had directed the MTC to study the feasibility of free fares in the Bay Area. This was, he said, "a fine goal to work toward, once society accepts the premise that the funds for the operations and for the increased patronage that will certainly result, comes from some source other than the transit system itself." [*1973 Highway Legislation (Future Highway Needs)*, p. 113-131]

(BART, which had been heavily promoted in the 1950s by downtown business interests in San Francisco, would expand to 104 miles with 44 stations serving 5 lines. The original system described by Stokes would be completed at a cost of $1.6 billion. BART has not been able to pay operating costs from ticket receipts. One of the hopes, as expressed during Stokes' testimony, was that BART would reduce congestion by providing an alternative to the automobile. In a book on urban public investment, Alan Altshuler (the former Massachusetts Secretary of Transportation) and David Luberoff summarized the outcome.

> Only about one-third of those using San Francisco's new BART system, for example, had previously driven, and they were replaced on parallel highways within months by motorists who had previously been deterred by congestion. [Altshuler, Alan, and Luberoff, David, *Mega-Projects: The Changing Politics of Urban Public Investment*, Brookings Institution Press, 2003, p. 194]

(San Francisco had been one of the earliest cities to reject freeways. By the late 1930's, city officials were considering an extensive network of limited-access roads totaling nearly 70 miles. The plan included the Embarcadero Freeway from the San Francisco-Oakland Bay Bridge (U.S. 40/50) to the north end of the Embarcadero where a connecting freeway would carry traffic using the Golden Gate Bridge (U.S. 101). After World War II, the city launched a comprehensive origin-and-destination traffic survey, conducted in cooperation with BPR's ongoing traffic studies to select locations for Interstates in metropolitan areas around the country.

(In 1951, after public hearings and debate, the city adopted the Trafficways Plan of limited access roads, including an elevated freeway from the 1st Street ramp off the San Francisco-Oakland Bay Bridge along the Embarcadero. Criticism of the Embarcadero Freeway began because the elevated structure would obstruct the historic Ferry Building, then undergoing renovations, prevent construction of a park near the building, and block the view of San Francisco Bay.

(According to historian Herbert Marshall Goodwin, Jr.'s study of California's freeway system, the opposition grew in November 1955 when the *San Francisco Chronicle* "began a concerted attack on the Division of Highways in general and the Embarcadero Freeway in particular." [Goodwin, Jr., Herbert Marshall, *California's Growing Freeway System*, University of California, Ph.D Thesis, 1969, University Microfilms International edition, part 2, p. 425]

(Opposition continued, but with city support, the Division of Highways began construction of the elevated Embarcadero Freeway in May 1955. The opening of the initial section in February 1959 intensified the debate. Goodwin summarized the opposition:

> Outraged by the construction of the double-deck freeway, which many San Franciscans regarded as a monstrosity, many of the city's residents, fearing that the proposed freeway through their area of town would be equally as ugly, began organizing opposition to all freeways planned for the city. Much of the opposition emanated from San Franciscans living within the corridors where the Western or Panhandle Park freeways were to be constructed." [Goodwin, p. 438-439]

(On January 27, 1959, the Board of Supervisors of the City and County of San Francisco met to discuss the proposed Western Freeway (I-80) through the Sunset District. With over 160 freeway opponents cheering, the board adopted a resolution opposing construction of the remaining freeways in the San Francisco Master Plan, including the remainder of the Embarcadero Freeway and its link to the Golden Gate Bridge. As justification for ending 15 miles of freeway construction, the resolution cited "the demolition of homes, the destruction of residential areas, the forced uprooting and relocation of individuals, families and business enterprises" as well as the loss of property from the tax rolls.

(The resolution was one of the most dramatic moves in the early urban freeway battles. Plans to build the Embarcadero Freeway link to the Golden Gate Bridge came to an end and construction of other freeways in the Bay Area ground to a halt. Stokes was referring to the blocked Interstate segments in saying that the city was giving up hundreds of millions of dollars in Federal-aid highway funds that it could not use for other transportation options.

(After sustaining damage in the Loma Prieta Earthquake in October 1989, the Embarcadero Freeway was torn down, to great civic joy, when repairs proved impractical. Demolition began on February 27, 1991.)

Mayor John B. Orr, Jr., of Metropolitan Dade County, Florida, represented the National League of Cities and the United States Conference of Mayors. In a prepared statement, Mayor Orr said:

> We have consistently supported . . . adequate Federal funding for comprehensive transportation systems in cities, including Federal support for highways, rail transportation and bus transportation. In addition, we have called for operating assistance for public transportation.

The unparalleled success of the Federal-aid highway program had resulted "in distortions and inequities in the funding for urban mass transportation program." Now, Mayor Orr said, "is the time to refocus our efforts toward developing a more balanced transportation system, responsive to the needs of the nation's cities." The question was not highways or transit, but where the decisionmaking authority should be.

Cities had not, he said, received their fair share of Highway Trust Fund revenues. In addition, the failure of local transit systems "is due largely to Federal transportation policies," particularly the emphasis on the Interstate System. Only Federal remedies could reverse the decline.

The two organizations favored flexible use of Federal-aid urban system funds. "However, we believe that the Urban Mass Transportation Assistance Act must continue to remain the primary source of funding for urban mass transit programs." They had not taken a position on establishing a Mass Transit Trust Fund. While such a fund might be desirable, experience with impoundment of highway funds called that assumption into question. The source of revenue was another concern:

> Public transportation systems are operating at substantial deficits now, and it is unrealistic to assume they will be able to operate solely from the fare box in the future. That is why we have repeatedly called for Federal operating assistance. Mass transit then cannot be expected to contribute user fees into a trust fund, as is the case with highway users.
>
> At this time, we cannot approve or disapprove the creation of such a third trust fund, or of a single ground transportation trust fund. Many serious questions regarding the source of funds, allocation, intergovernmental relations, and the relationship to UMTA must be raised and answered, as well as the very practical one of the time frame involved in creating such a new trust fund.

One option was adding a penny to the gas tax for transit, but this option "would continue to perpetuate the constraints upon local governments having full flexibility in the use of their transportation funds." Whatever the source of funds, "Cities must be able to develop their own priorities and plan for programs that will meet their own needs."

As for the Interstate System:

> We do support prompt completion of the Interstate System. However, we expect that funds will become available in increasing amounts to meet both urban and non-urban transportation needs as the Interstate program achieves its objectives and is completed. Any creation of a new Federal-aid system [priority primary] would further delay meeting long over-due commitments to our urban areas.

(In oral testimony, he said, "Our Interstate 95 from the Dade County line to downtown Miami has been accurately described as the longest parking lot in Florida, and you are not moving people. Unless we develop in these areas, the capacity to move people in some other manner, the highway users are not going to be able to use the highways, and the person living in rural Dade County who needs to get his crops to market and needs to get himself to the city, who needs, from time to time, to get up and see the Dolphins play, has to have a highway over which he can move, and we simply do not have enough space to build sufficient highways to move the people if they are going to travel in an automobile one at a time." [*1973 Highway Legislation (Future Highway Needs)*, p. 132-134])

Representative Howard, a member of the Committee on Public Works but not the subcommittee, followed Mayor Orr. "Briefly, gentlemen, I want to suggest that the Federal-Aid Highway Act of 1973, put a massive infusion of Federal aid into the field of mass transportation." He had, he said, introduced the Emergency Commuter Relief Act of 1973, which had been referred to the Committee on Banking and Currency. He was testifying before the subcommittee to urge the members to include the bill in the Federal-Aid Highway Act of 1973.

He recalled his disappointment when the 1972 legislation failed due to lack of a quorum on the final day of the 92nd Congress, not because the Conference Report did not reflect the will of the House or Senate:

> What I am suggesting is that we authorize a minimum expenditure of $3.8 billion for mass transportation in the legislation this subcommittee is considering today. Mass transportation has not been given the priority it deserves, and as a result of this, the problem has now reached the critical stage.

A portion of the funds, $800 million, would be available for operating expenses over a 2-year period on a matching ratio of two-thirds Federal, one-third local. The balance would be available for capital grants with a Federal share of 90 percent. "This, as the distinguished members of this subcommittee know, is identical to the way we have allocated funds for the highly successful Interstate Highway System."

He cited his own State of New Jersey, where "commuters are subjected to the worst conditions imaginable." He continued:

> Trains are late, many are dirty, and commuters are faced with the daily problem of not knowing when they will arrive at work in the morning or at home in the evening. Consequently, many persons use their automobiles instead, further crowding our already jammed highways, and also further polluting our air . . . .
>
> If we provide clean trains which operate on schedule, I am convinced that many more persons will use this type of transportation rather than using their automobiles.

Representative Howard emphasized his support for completing the Interstate System, which he said was already saving 6,400 lives each year:

> I do not feel that we should jeopardize the completion of this system. I feel that mass transportation has enough of a priority that it can stand on its own feet and needs not a token amount of money which will not cure the problem, but an amount of money that will serve the purposes and the needs of the urban and suburban citizens of this country, and so I urge that we do what we did last year, in the conference committee, and what the other body did in its bill just last week, and adequately provide for surface transportation for all of the people of the country.

His colleagues did not have any questions although Representative Clausen said he would like to "associate myself" with Representative Howard's remarks. [*1973 Highway Legislation (Future Highway Needs)*, p. 154-156]

Manuel Carballo, First Deputy, Transportation Administrator, and Commissioner of Highways of New York City also testified on March 19. He opened with a brief statement emphasizing that when resources were limited, as they were, "that is when the municipalities should have the most voice in determining that their needs in the area of transportation, air pollution, congestion, and other factors require them to spend most of their resources in one mode or another, even to the detriment of the mode which, under wealthier circumstances, they might wish to pursue as well." Flexibility and local determination were required "if the cities and local municipalities are going to meet the needs, and in no way should that flexibility be diminished."

His written statement, submitted for the record, explained that the 16-year-old Highway Trust Fund had been successful in creating the Interstate System:

> But the Highway Trust Fund program has also known failure as well; not in what it failed to accomplish, but in what it failed to attempt.

The Highway Trust Fund was, by definition, "one of imbalance and distortion." The fine highways it helped build were congested with too much traffic and pollution because the Highway Trust Fund ignored the needs of mass transit. Cities suffered the congestion and pollution without the means to address them because, he said, "Cities have neither received their rightful share of the huge investment of Federal transportation dollars, nor have they had discretion in the use of the funds they did receive to allow local choice on local need."

As the Senate had done the previous week and as reflected in the Administration bill, the time had come "to bring our transportation policy into balance." The problem was complex and the answers not easy, but the "one fundamental and logical solution that all previous attempts and arguments at balancing our transportation policy—of establishing an interrelated and intermodal transportation plan—lead to, and that is the establishment of a general transportation trust fund and not just a highway trust fund." He did not consider this concept "a revolutionary idea." It was simply logical, "the next step to take in the natural developmental process that began sixteen years ago." The hallmark of such a fund would be the flexibility localities would have in the use of the revenues.

The city of New York, he said, supported the Senate bill approved the previous week. He cited particularly the pass-through of Federal-aid urban funds to municipalities of 400,000 or more and the flexibility to use the revenue for rail transit. These measures were "absolutely essential for a rational, balanced transportation approach and the viability of our cities." His one disagreement with the Senate bill was that it defined urban areas as those with populations of 5,000 or more. This definition, Carballo said, "seriously dilutes the urban system funds available for the truly urban areas." He recommended a minimum population of 50,000.

The use of Federal-aid urban system funds for the purchase or improvement of rail facilities was the most significant aspect of the Senate bill. "The exclusion of rail transit uses severely discriminates against our large metropolitan areas, discourages the transportation of passengers within urban areas by rail, perpetuates the imbalance of our national transportation approach, fails to consider pollution and economic problems, and unduly limits the very purpose of the bill."

He generally supported the Administration bill, except for "one major flaw," namely that it did not guarantee pass-through to cities of 400,000 or more. The Senate bill was preferable in this regard, but neither bill proposed sufficient funds for the Federal-aid urban system. At the proposed levels, "even access to urban system funds—in addition to UMTA appropriation—will not suffice." [sic] Even the $3 billion in capital grants and $800 million for operating subsidies in the Senate bill would not be sufficient. He called for a funding level of $1.5 billion for the urban transportation system.

During the limited question period, only Representatives Abzug and Harsha addressed Carballo. Representative Abzug referred to the discussion of where the money for mass transit should come from and the belief by some members of the committee that it should not come from the Highway Trust Fund. She acknowledged the importance of completing the Interstate System, but said that for other needs, State and local governments could best determine their needs. She asked Carballo why he favored the use of Highway Trust Fund revenue for mass transit, why direct pass-through to major municipalities was important, and why UMTA funding was not sufficient.

Carballo explained that New York was a donor State that received only 81 cents for every dollar contributed to the Highway Trust Fund. New York City received an even smaller share of its contribution. When revenue was insufficient for needs, any additional funding was welcome.

Further, opposition to the Interstate System was growing in the city and State, resulting in the loss of funds allocated "for the lower [sic] Manhattan Expressway, or the Cross Brooklyn Expressway, to the rest of the State, or indeed, for other parts of the country." Those funds could have been used for other streets, such as Broadway, Linden Boulevard, and other boulevards that were in need of improvement. He added that "the general climate of opinion with regard to how the Highway Trust Fund has been administered . . . often colors the judgment of many of the people in my State with regard to the use of Highway Trust Funds in general, urban system or not."

He added that highway and transit users were not two different sets of people. In the city, 40 percent of subway users also drive cars. "Our situation is trying to meet a balanced demand for transportation through the city, and in order to meet a balanced demand, we need flexibility in the trust fund, and in all other possible fund sources in order to try to meet our needs."

The Senate, Carballo said, had correctly directed the pass-through to municipalities rather than to "urbanized" areas. Allowing the States to control the pass-through was also a mistake because "the State is as distant from the problems of our neighborhoods and communities as are some elements of the Federal Government."

Representative Harsha began by commenting on a section of Carballo's statement indicating that the city needed $2.3 billion through FY 1977, or $600 million a year, and $132 million for urban highway needs. Since none of the bills under consideration would provide all that funding, would the city use its flexible Federal-aid urban system funds for mass transit if the Senate prevailed? Carballo said he would favor using the bulk of the revenue for mass transit, but the decision would be made through the city's budgetary process by the City Council and Mayor Lindsay.

Since the city already had insufficient funds for its urban system highway needs, Representative Harsha asked if diverting revenue to mass transit would increase the shortfall. Carballo explained that the city had made a mass investment of tax revenue in its subway system, as had Chicago, Boston, and other cities. Still, New York City had neglected continued investment in the subway system "and it is my judgment that the priority should be in the upgrading of mass transit resources." Revenue would still be insufficient, but with the completion of the Interstate System, more revenue would become available for mass transit and urban street needs.

Representative Harsha pointed out that the Interstate System would not be completed until 1980 at the earliest, leaving the city with a shortfall during that period. Carballo replied that, "we have had a shortfall for the last 40 years, going back to the depression [sic] in every urban need." Given the flexibility to determine its own needs, the city "can choose between one mode and another in the way that most meets out local needs." The city's judgment might differ from that of other urban and rural areas, but that is why "if we are to give any meaning to the principle of home rule or to the principle of flexibility, then we must allow a municipality to make its own judgment."

That was, Representative Harsha said, his point. Flexibility would lead to even greater shortfalls, thus both transit and urban highways would suffer. Carballo expected that in balancing the city's transportation needs, no responsible official "would urge that every cent available under the urban system be used for mass transit." With more revenue, the funds would be split among the modes in a ratio decided by local officials.

Representative Harsha commented, "There is no point in arguing the point with you." Instead, he asked how much General Revenue Sharing funding was being used for transportation. Carballo explained the arrangement the city and State had made where the State advanced funds to help with mass transit and welfare, but the city agreed to use its General Revenue Sharing to reimburse the State for the advanced funds. "Well, in this rather indirect and complicated manner, $100 million for 2 years would be used as part of an overall program which included increased tolls on tolled bridges to keep the fare from rising above 35 cents from its previous level of 30 cents." Approximately $50 million a year for 2 years in General Revenue Sharing was used to subsidize fares. With that, Representative Harsha concluded his questions. [*1973 Highway Legislation (Future Highway Needs)*, p, 195-204]

Secretary of Transportation Hughes of Maryland was the final witness on the first day of the hearings. He represented at least 17 of the 20 States that had departments of transportation. He summarized a policy statement they had agreed on several weeks earlier as saying that they were primarily interested in two things: "simplicity and flexibility." They were divided on flexible use of Federal-aid urban system funds: "almost unanimous for highway related public transit, and 11 to 6 for extending it to rail."

They were unanimous, however, regarding the pass-through provision in the Senate bill. The chief officers of the State departments "feel that the States should be the responsible agency for coordinating transportation within their respective States and urban communities." Using Maryland as an example, Secretary Hughes said the pass-through in the Senate bill "would be chaotic in Maryland, and this may be because of our setup in Maryland where we have a unified department of transportation, a unified transportation trust fund, and we have flexible use of transportation funds." The State faced $1 billion in Interstate funds that could not be used because of controversies. It was “somewhat ludicrous” if those funds ended up in the urban system for the city of Baltimore “alone to use for their—if the rail and if the bus transportation . . . .”

Representative Roe interrupted to say that based on his experience as an official in State government, talk of “self-determination” left “a very nebulous point in my mind when we talk about ‘a local unit.’” It was, he said, “utterly ludicrous” to talk of dividing a State into regional transportation authorities or agencies and then “you were to plow money back into those particular separate units, if they were not coordinated, one could be doing one thing on the mass transit system for buses or for railroads, and there would be no coordinated rationale to get a job resolved.”

Cities such as Baltimore had “more advanced specific problems.” Representative Roe asked, “Can we treat those cities the same as we would treat smaller communities within other States?” Should not regional problems be coordinated at the State level? Secretary Hughes agreed, saying, “we feel that with that kind of responsibility, a direct passthrough [sic] in our instance would be very detrimental.”

Representative Abzug asked Secretary Hughes to clarify his views on the pass-through provision. He explained that the funds should be passed through to “those who have the responsibility for developing the programs and providing the service.” Passing the revenue to a regional coordinating group “would not be good.” He added, “It should be to a governmental unit; people who are elected and responsible for providing the service.” In Maryland, he said, passing the funds to the city of Baltimore “would be bad” because the city was not responsible for public transportation. The mass transit project to add rapid rail transit to a northwest freeway that is under construction in Baltimore was to be financed one-third from the State’s transportation trust fund and two-thirds UMTA.

Representative Roe asked if adding general Treasury revenue to the Highway Trust Fund for purposes of pass-through would make sense. Secretary Hughes agreed that the Highway Trust Fund needs an influx of general revenue that could be used flexibly. Representative Roe said, “So, in effect, wherever that money comes from, the flexibility is the key point here?” Secretary Hughes replied, “Exactly.”

In closing, Representative Roe asked about the cost of transit needs:

> I have heard here today, and from what I hear from my own State, even though they are talking about $1 billion, it is just a pinch of snuff, speaking relatively, to get at the mass transit situation, if it is divided over 50 States.

Secretary Hughes could not estimate nationwide needs. Baltimore’s rail transit system, planned for 28 miles, with the first two legs of the projected six legs just getting underway, carried an estimated cost of $1 billion.

Representative Roe summarized:

> In other words, if the cities are in such terrible condition as has been described . . . it could take 50 years to build the mass transit system. Then we are, in my judgment, whistling in the dark, because unless we are really willing to make a large Federal involvement of funds quickly we are kidding ourselves. We have to put the money to replacing deteriorating stock in the bus lines, and this sort of revitalization and capital improvements programming.
>
> What I am getting at, the battle to be fought could be very misleading to the people of this country.

Secretary Hughes agreed that additional funding would be needed to "make it meaningful." He concluded, "No two ways about that. And this means an additional influx of funds from the Highway Trust Funds." [sic] Representative Roe added, "Wherever it comes from," and Secretary Hughes agreed, "Yes, sir. Wherever it comes from." [*1973 Highway Legislation (Future Highway Needs)*, p. 208-214

(According to a contemporary article in *The Baltimore Sun*, 326 of Maryland's 358 miles of Interstate highways had been built, with "the most expensive—and most controversial sections" remaining on the drawing board. Some of the controversial mileage was in the Washington suburbs (extensions of I-95 and I-70S (I-270) between the District of Columbia and the Capital Beltway). The bulk of the cost, however, was in Baltimore where Mayor Schaefer was committed to what was known as the "3-A system." It included extension of I-70N (I-70) from the Baltimore Beltway through Leakin Park to intersect with I-95 near Washington Boulevard; a highway in the Franklin-Mulberry corridor (I-170) on the western side of the city; the eastern portion of I-95 under Fort McHenry to connect with the John F. Kennedy Memorial Toll Road; and extension of I-83/Jones Falls Expressway to connect with I-95.

(Mayor Schaefer's spokesman said, "He's committed to a 3-A system and that's the way he wants it to stand." Secretary Hughes' spokesman said that if given the option to transfer the Interstate funds, he would do so only "if and when it's demonstrated that currently planned highways can't be built." Nevertheless, the Highway Action Coalition's Kramer praised Secretary Hughes for lobbying Maryland's Senators to allow a transfer of Interstate funds to rail transit. Kramer added that Governor Mandel also had been "very helpful" in pushing the idea and suggested that, as the article explained, he "could be very influential in swinging needed votes in the House, where the Maryland delegation, for instance, is split down the middle on the issue."

(The first two legs of the transit system Secretary Hughes mentioned were planned with Charles Center in downtown Baltimore as the hub. One leg would link downtown to Owings Mills in Baltimore County while the other would reach Friendship International Airport (now BWI). "The first shovel of dirt for the proposed rail transit system is scheduled to be turned in the fall of 1974, with mid-1980 as the 'optimistic' deadline for finishing the first 28 miles." [Hill, Frederick B., "Funds for 3-A Road Could Go to Mass Transit," *The Baltimore Sun*, March 18, 1973])

(That schedule proved to be overly optimistic. Maryland's General Assembly did not approve the State matching funds until 1976 and then only after a struggle that included an 8-day filibuster in the State Senate. The funds covered only an 8-mile segment on the Owings Mill line from Charles

Center to Reisterstown Road Plaza, a popular enclosed shopping mall near the city's Pikesville neighborhood. The segment opened on November 21, 1983, at a cost of $767 million. Secretary Hughes, by then the Governor of Maryland (January 1979 to January 1987), participated in the ribbon-cutting ceremony at the Charles Center station and briefly operated the train.

(The 6-mile extension to Owings Mills opened in July 1987 at a cost of $255 million. It was primarily a surface rail line that, as Secretary Hughes had stated in his testimony, was located in the median of the Northwest Expressway (designated I-795 in 1978) from the Baltimore Beltway to its terminus. Plans for the Northwest Expressway inside the beltway, with Metro in the right-of-way, were scrapped because of citizen opposition. Inside the city, the Metro was extended from Charles Center to Johns Hopkins Hospital. With its completion in 1995, the total cost of the single Baltimore Metro line was $1.392 billion.
(The remaining legs of the planned Baltimore Metro remain unbuilt. However, Governor Schaefer (1987-1995), the former Baltimore Mayor, initiated construction of a light rail line mainly in the former right-of-way of interurban streetcar and commuter rail lines to run from Timonium in Baltimore County, past the new Orioles Park at Camden Yards, to BWI. The single-track Central Light Rail Line from Timonium to Glen Burnie in Anne Arundel County, 22.5-miles with at-grade crossings, opened in April 1992 as the Orioles began playing in their new stadium. Spurs were added in 1997, including light rail service to the BWI terminal on December 6. [Scott Kozol's Roads to the Future at http://roadstothefuture.com/main.html] Most of the Central Light Rail Line was subsequently double-tracked. The Metro Subway line and the Central Light Rail Line do not share a station. A two-block walk separates the Charles Center Metro station from the light rail line, which is one block from the Lexington Market Metro station.]

(Baltimore's 3-A Interstate network was not completed. On September 3, 1981, at the joint request of Governor Hughes and Mayor Schaefer, FHWA and UMTA approved withdrawal of the 3.3-mile section of I-70 from just inside the Baltimore Beltway at Security Boulevard to planned I-170. The extension of I-83 to I-95 was withdrawn on September 29, 1983, along with I-595, which included the former I-170 Franklin-Mulberry corridor and the remnants of the I-70 link to I-95).

The Hearings Continue

The hearing resumed on Tuesday, March 20, with several Members of Congress presenting their views to the subcommittee. Representative Patsy Mink (D-Hi.), who had joined the House in 1965 as the first minority woman to serve in that body, began by explaining Hawaii's unique geographic conditions, including a population on seven islands linked mainly by air. "If you want to travel from Honolulu to the next largest city of Hilo on Hawaii Island, you cannot simply get in your car and drive there." In fairness to the State's unique situation, she recommended that Congress "permit Hawaii's allotment of Federal highway funds to be used, should the State choose for an inter-island ferry system providing truly good transportation within the entire State of Hawaii for the first time."

She explained that the Federal-Aid Highway Act of 1970 had opened the Highway Trust Fund to ferryboats, but prohibited the use of funds for operation in foreign or international waters. Representative Mink explained that, "Our waters between all our islands are international waters."

She urged the subcommittee to adopt a provision included in S. 502 that would except Alaska and Hawaii from this restriction. She complimented Senator Inouye for securing the provision that would allow Federal-aid highway funds to be used not only for construction of ferry boats but dock facilities and all needed appurtenances. [*1973 Highway Legislation (Future Highway Needs)*, p. 215-217]

Representative David Towell (R-Nv.), a real estate broker who would serve only his present term in Congress before losing his relection bid, was next. He urged the subcommittee to include Elko, Nevada, in the railroad relocation demonstration program. The Southern Pacific and Western Railroad Companies ran 40 trains daily through the city's business district of 17 rail-highway crossings. Elko had developed a relocation plan and gained the support of all parties, including the railroads, the State highway department, FHWA, and the FRA. The Senate bill, S.502, included Elko, and he encouraged the subcommittee to include the city in its bill. [*1973 Highway Legislation (Future Highway Needs)*, p. 217-223]

Representative Lawrence Coughlin (R-Pa.), whose congressional district was in the Philadelphia area, complimented the Committee on Public Works for its work in 1956 in addressing "one of the major requirements of our society by perhaps the most important milestone in American transportation history, and that was the creation of the Interstate System." He continued:

> Now, in 1973, we are presented with another opportunity to respond to the needs of our citizens . . . . I speak specifically of permitting the urban municipalities the option—the freedom, if you will—to decide for themselves where it is most necessary to commit their share of urban system money.

He encouraged the subcommittee to incorporate Representative Anderson's bill embodying the principles of the Muskie-Baker amendment:

> To me, this is not an issue of highways versus mass transit. I recognize the importance of highways to rural areas, and to urban areas as well. In particular, I applaud the actions that have been taken by this subcommittee in the past to expand the uses of the Highway Trust Fund to include construction of fringe parking facilities and improvement of traffic control systems.
>
> Yet, in some communities, like my own, an additional expansion of the uses of the Highway Trust Fund would benefit both the motorists and the overall quality of transportation.

Of the rush hour traffic jam, Representative Coughlin said:

> It is a subject of jokes by the Nation's comedians, but it is not a joke when one considers the countless man-hours wasted; it is not a joke when one considers the enormous waste of energy, particularly at a time when we are confronted by an energy crisis of yet undetermined proportions, and it is not a joke if we look at the byproduct of air pollution.

He recalled EPA Administrator Ruckelshaus' testimony before the Senate Committee on Public Works that at least 26 metropolitan areas, including Philadelphia and Pittsburgh, would need to reduce traffic to comply with the air quality standards of the Clean Air Amendments of 1970. The deterioration of mass transit systems coincided with the dominance of the automobile. "The deterioration of public ground transit has come, really, from a lack of providing the funding which comes anywhere close to equaling that of the highway program." For every 60 cents invested in highways, only 5 cents went to public transit or intercity rail:

> I am very well aware of the reluctance of members of Congress to enact legislation which would in any way endanger the fine features of the highway program; yet, in allowing the States the flexibility to use urban funds for a mass transit program, I do not believe, in all honesty and candor, that we would be compromising the interests of those who need highways.

He urged that State and local officials be allowed discretion "in using those tax dollars as they see fit."

Representative Roberts engaged Representative Coughlin in a pointed dialogue following on whether the use of Federal-aid urban funds for mass transit would affect the highway program:

> Mr. Roberts. Is the gentleman aware that the Highway Trust Fund, as obligated, would not pay out until 1990 at the present obligation?
> Mr. Coughlin. The funds that are designated, as I understand it, as urban system funds, are not all obligated.
> Mr. Roberts. If you take the total Highway Trust Fund and apply it to the obligated funds, it would take until 1990 approximately to pay off what we have already scheduled. Now what I am trying to get at is, does it make any difference to you whether you bust the trust fund? Let's just lay it on the table; do you want to bust the trust fund, or do you want the money?
> Mr. Coughlin. What I am interested in seeing is taking that portion of the trust fund—
> Mr. Roberts. You want to bust the trust fund?
> Mr. Coughlin [continuing] . . . that is designated as urban system funds and allowing those to be used.
> Mr. Roberts. You want to bust the trust fund in paying it out of other funds. Now, we have already allocated a tremendous amount of money to assist with these programs, but this would not satisfy you. You want to take it out of the trust fund?
> Mr. Coughlin. That portion of the trust fund that is designated as urban system funds.
> Mr. Roberts. The trust fund was set up as a Highway Trust Fund. If you make a will and leave the trust to your children, you don't think we should have the flexibility of destroying it?
> Mr. Coughlin. I would like to look upon the Highway Trust Fund as a transportation trust fund.
> Mr. Roberts. It isn't. It is a Highway Trust Fund; it is not a transportation trust fund. So it stays, you see. We are trying to provide the money, and I am trying to see if this will satisfy. If you just say no, you just want to bust the trust fund, that is the only answer I need.
> Mr. Coughlin. To the extent that is designated for urban areas, yes, sir.

Mr. Roberts. I have no further questions.

Representative Clausen said that Representative Roberts had "put his finger on the essential issue at hand, and . . . then you responded by stating that you thought this was a transportation trust fund." He pointed out that "the law, as written, does not describe it as a transportation trust fund. It is a Highway Trust Fund." He cited an effort to prevent FAA administrative funds from being taken out of the Airport and Airways Trust Fund. When Representative Coughlin said he had supported the effort, Representative Clausen said:

> Then this is precisely what we are attempting to accomplish. Some of us believe in not diverting funds from the Highway Trust Fund. Rather, our approach is to move in the direction of creating an additional finance vehicle so that you can have that balanced transportation system, because it is clearly evident from your testimony . . . that you want the Highway Trust Fund to pick up the deficits. You point out that some 60 cents has been invested in highways; the reason for this is that they set up a positive method of finance where the users pay for the development of that highway system, recognized as the best in the world.

Representative Clausen was committed "to general fund capital outlay to meet the mass transit requirements."

Representative Coughlin responded that all he was saying was that "our share, whatever is allocated to us for the purposes of transportation, should be allowed to be used for the purposes of public ground transportation, and not be limited to just building highways we may not need." Pennsylvania would receive about $62 million in Federal-aid urban system funds, which "could be a significant contribution to the urban area transportation systems." Why, he asked, should the State's urban areas not be able to "decide whether they want to use it for highways or concrete or other forms of transportation?"

Representative Clausen said he had no problem with flexibility "if it is going to improve the highway system," but diverting funds to mass transit would have the effect of "drying out the one fund that we have depended upon."

Representative Roberts interjected that Representative Coughlin seemed to be saying that since Philadelphia had all the roads it needed, he didn't care what happened in other areas that still needed roads. "Surely you wouldn't want to change the trust fund arrangement now simply because you've got all the highways you need." He added, "I just want to make this point so your statement won't be clouded by this inference." Representative Coughlin thanked Representative Roberts for the clarification.

Later, while Representative Gene Snyder (R-Ky.) was questioning Representative Coughlin about the scope of a transportation trust fund, Representative Clausen interrupted to read the provision in the Highway Revenue Act of 1956 (Title II of the Federal-Aid Highway Act of 1956) stating "Amounts in the Trust Fund shall be available and provided by appropriation acts for making expenditures . . . under the Federal Aid Road Act approved July 11, 1916 and supplemented, which are attributable to Federally-aided highways, including those portions of general administrative expenses of Bureau of Public Roads payable from such appropriations." He said that by this language, the Highway Trust Fund revenues were confined to highways:

> In other words, if we were to channel all of the funds into the hands of the major metropolitan areas, I can assure you there would be no funds ultimately left to meet the highway requirements in other sections of the country where the bulk of the accidents are occurring.

Representative E. J. "Bud" Shuster (R-Pa.), who had made a fortune with his own computer business and was serving his first term in Congress, suggested that while Philadelphia may have all the roads it needs, "in other parts of Pennsylvania we are not so fortunate, and indeed, I would ask him if he feels that the rural highway system in Pennsylvania is acceptable?" Representative Coughlin did not dispute the claim, but pointed out he was talking only about the Federal-aid urban system funds. Representative Shuster pointed out that many rural roads were in poor condition and that the chance of being killed in a crash on these rural roads was greater than in urban areas. "I feel it is in the best interests of this Nation to get everything we can, do everything we can, to protect the Highway Trust Fund so we can have an adequate highway system, and I would enlist [Coughlin's] support in helping rural America get what urban America already has." [*1973 Highway Legislation (Future Highway Needs)*, p. 223-237]

Representative Shuster's comment concluded Representative Coughlin's appearance before the subcommittee.

He was followed by Representative Bingham, the long-time transit advocate from New York City. He recalled that he had last appeared before the Committee on Public Works in 1968, when he had said that without a balanced transportation system, "Our cities cannot continue to be the shopping, cultural and profession centers they are today if they are inaccessible." A rapid transit system combined with a freeway system was critical to an ideal urban transportation plan, but he had pointed out in 1968 that "the nature of present Federal transportation aid is such as to predetermine that every community will best be served by a basic reliance on highways." At a time when mass transportation service should be improving, it was instead "deteriorating at a frightening pace," with the Federal Government "largely to blame." Again, in 1968, he reminded the subcommittee, he had said:

> What must be done in order to provide for an integrated transportation service is to correct the gross inequities which exist between the funds available for highways and those available for rapid transit.

Representative Bingham pointed out that those words actually dated to a statement he issued jointly with Senator Tydings in 1965. As noted, they had introduced a bill to permit State and local officials to use Highway Trust Fund revenue for mass transportation purposes as appropriate to solve their transportation problem. He had, he said, reintroduced that bill in every Congress and was introducing a similar bill on this day "to make all Highway Trust Fund moneys available for mass transit at local option, save those funds earmarked for completion of the Interstate Highway System." The bill was similar to the Kennedy-Weicker amendment from 1972.

To create a more balanced system, however, Representative Bingham favored a general surface transportation trust fund based on Highway Trust Fund revenues and general Treasury revenues. He was also introducing a bill on this day—one he also had introduced in the previous Congress—to create such a trust fund. The reasons such a bill was needed in 1973 were the same as in 1965:

> The reasons for encouraging mass transit in relation to highways are the same as they have long been. Air pollution—much of it from cars—had reached crisis proportion. With a deadline for compliance with air quality standards set by the Clean Air Act of 1970 now only 2 years away, and auto manufacturers pleading for exemptions, 67 cities still exceed Clean Air Act standards.

Further, the social and financial costs of highways in cities were far higher than mass transit. "Highways divide communities, gobble up scarce housing units, and steal property from city tax rolls to a far greater extent than mass transit systems."

He also cited the "so-called energy crisis," pointing out that:

> It is estimated that if the use of automobiles in urban areas were reduced just 25 percent, the saving of scarce petroleum would be a staggering 1 million barrels a day—the full capacity of the proposed Trans-Alaska Pipeline.

He was introducing a bill "with the expectation that it will again be referred to the Committee on Ways and Means." He did not say so, but the implication was that it would die there, as his previous bill had.

He did not favor creation of a Mass Transit Trust Fund, which he considered "a risky and inadequate solution." Revenue for such a trust fund would have to come mainly from the general Treasury. Competition for that revenue from other interests meant that "there is little likelihood that sufficient funds could be allocated to make such a trust fund effective." Such a trust fund also would limit officials to one solution that would "reduce the flexibility that is needed to create balanced transportation systems."

He also objected to the separate trust fund because it would leave the Highway Trust Fund untouched. As a result, "cities and States would continue to be seduced into building and improving roadways just because the money would be there, roadways that add more to local social, fiscal and environmental problems than they eliminate."

He emphasized that his bill would not require a single penny to be spent on mass transit or impact completion of the Interstate System:

> It would simply end the "use it or lose it" policy that has forced Governors and mayors and county executives to build and spend on roads regardless of the need for bus or rail mass transit.

Such a change, he said, did not involve a "violation of public trust," as some argued. He pointed out that six of the eight taxes channeling revenue into the Highway Trust Fund existed before 1956, when they were earmarked for the Interstate System. "That network is now 80 percent complete and 98 percent under construction, and there is no reason the Congress can not now choose to redeploy those funds to meet needs and conditions which have emerged since 1956."

He opposed the priority primary routes, which he considered an extension of the Interstate System. The new 10,000-mile network was not "justified in view of our other transportation needs and limited resources."

He concluded his opening comments by acknowledging that he had been repeating the theme for 8 years that States and cities should be permitted choice in the use of Highway Trust Fund revenues to develop balanced transportation systems:

> There have been times in the past when that notion was dismissed as almost an absurdity, but I think there has been a great change in the attitude of many people toward this idea, and I hope that in this year of 1973 it is an idea whose time has come, and I hope the committee will view it favorably.

Representative Wright began the questioning by asking if Representative Bingham agreed that additional revenue, beyond the Highway Trust Fund, would be needed to address mass transit needs. Representative Bingham agreed but pointed out that the Ways and Means Committee would have to address additional revenue. What the Committee on Public Works could do is open the Highway Trust Fund for mass transit purposes.

Representative Snyder objected to Representative Bingham's comments opposing priority primary routes. He pointed out that in Kentucky, "if you want to go from Ashland to Covington or Alexandria, or such as that, you just can't hardly get there, unless you want to take pony express." Mass transit would not solve the problem, and that is why the priority primary routes were needed. Representative Bingham said that he did not object to the construction of rural roads. "My whole thrust is that it should be the people in Kentucky who should decide what you need from this trust fund, and not the people here in Washington."

Representative Snyder pointed out that the 1972 bill had provided that priority primary routes would be developed to standards developed by the State highway departments and the Secretary of Transportation, not necessarily to Interstate standards. Bingham's response was that surely the committee in 1972 was essentially talking about an extension of the Interstate System, not roads for light traffic.

Following this doubtful questioning, Representative Abzug provided a more favorable response. After complimenting Representative Bingham and pointing out that the Senate had adopted his proposal, she asked him to discuss "the dependence that we have in areas like New York, and it is duplicated in other urban areas, of working people to actually go to work in a subway system, for example, which desperately needs to be extended and which needs funding . . . ." Representative Bingham agreed that in a district such as his, most people commute by mass transit, even though many of them own cars and pay highway taxes, "but as far as their essential transportation needs are concerned, they can't use the car."

Where, Representative Abzug asked, would decisionmaking rest under Representative Bingham's bill. He said that his bill left decisionmaking where it was, whether with the State or urban area, but "extends the area, the competence of those decisionmaking bodies, to the point where they can use the funds for mass transit purposes."

What about Senator Williams' amendment including $3 billion for UMTA and $800 million for operating subsidies? He supported the bill but questioned whether the Committee on Public Works had jurisdiction. His bill proposed only that highway funds could be used for mass transit capital projects, although he supported Federal participation in operating subsidies.

Representative Wright pointed out that, "Whether or not this committee has rightful jurisdiction over that subject, we have had it thrust upon us in the conference committee by the Senate last year, and again this year." He added, however, that Secretary Brinegar had indicated that President Nixon would veto any bill that authorized Federal funds for operating subsidies. Still, some help was needed for operating subsidies if people were to be motivated to leave their automobiles home:

> What would be your reaction to some kind of an arrangement where there would be an inducement to a State, perhaps in the nature of a credit on their highway program, if they had their own option to provide for operating subsidies in their own State?

Operating subsidies, Representative Bingham replied, were critical because most mass transit systems were experiencing deficits. New York City was experiencing "a very severe financial stringency" and needs help with operating deficits that he thought should come from the State and Federal Governments. "So that is why, in principle, I am for the operating subsidy idea. But I hate to see that get mixed up with the question of whether the Highway Trust Fund should be opened up for mass transit capital needs."

Representative Wright asked if his objective was to find money for mass transit "or do you want to stop the highway program?" Representative Bingham replied:

> Primarily I want money for mass transit. I think the highway program has been operated in a wasteful way at times, and in a way that is not conducive to good environment. I have seen wasteful use of the Interstate System moneys out in New Mexico, particularly where an Interstate road was being built parallel to a four-lane highway between Santa Fe and Albuquerque, but to stop such waste isn't my primary purpose.
>
> If we had unlimited resources, we could be arguing about whether these highways are good or bad; the point is that we have built a system of highways that are often only marginally

> desirable, when we should have been using the fund more usefully . . . . As I said, "use it or lose it" has been the philosophy; if you didn't use that money for highways you were going to lose it, so officials are presented with that kind of a temptation; they tend to spend the money.

Representative Wright said he agreed that more should be done for mass transit, but "I don't think it is necessary in order to advance the cause of mass transit that one attack the highway program as though it were a boondoggle or unnecessary thing." Representative Bingham said:

> All I am saying, and all we have been saying for 8 years now, is that the decision of what is the most important transportation need, what is the most critical transportation need, should be a decision to be made locally and not here in Washington by dint of rigid doctrine.

Representative Abzug continued her question period by saying that some areas, such as San Francisco, had rejected Interstate highways and built transit systems, such as BART, with their own financial resources. She added, "I think the Highway Trust Fund is a trust for all people and for all kinds of transportation. I'm going to do everything that I can to see that it is."

Representative Wright ended the question period by explaining that although highway user taxes were collected prior to 1956, as Representative Bingham had stated, "these particular taxes were yielding something less than a billion dollars annually, and last year, they yielded in excess of $5,700 million." The Highway Trust Fund was created to support the entire Federal-aid highway program, not just the Interstate System. "In other words, it wouldn't be accurate to conclude that in the absence of the trust fund 90 percent of that money would go into general revenue."

Representative Abzug summarized her perspective:

> These taxes are general taxes, general revenues. It has been suggested by some that they belong to the highways, are only for the use of the highways, and therefore cannot be made available for general transportation. You don't agree with that, do you, Mr. Bingham?

He did not, and that concluded his testimony. [*1973 Highway Legislation (Future Highway Needs)*, p. 237-248]

Representative St. Germain testified in support of an amendment he introduced that would cut off Federal funds to any State or local government that allowed its transit authority to transport children to and from school in competition with private school bus operators. He asked, "isn't it illogical for the Congress to put private operators out of business, these independent small business men who are willing and able to transport our schoolchildren for a reasonable fee, without any subsidy." If they went out of business, the burden would fall on mass transit systems that were already "looking for more moneys for subsidies or capital grants and for operating subsidies."

Representative St. Germain had incorporated the amendment into the housing bill that had failed in 1972. In 1973, the Urban Mass Transportation Subcommittee of the House Banking and Currency Committee was holding hearings on possibly adding the 1972 mass transit provision to new legislation. However, Representative St. Germain asked the Subcommittee on Transportation to also include his school bus amendment in the section on "Public Mass Transportation" of the Federal-Aid Highway Act of 1973. [*1973 Highway Legislation (Future Highway Needs)*, p. 248-254]

Representative Joe D. Waggonner, Jr. (D-La.) addressed the committee in support of the proposed priority primary system, particularly a 323-mile north-south route in Louisiana that would run from I-410 in New Orleans to Shreveport. It had been included in the 1972 bill. "It is my fervent hope that the committee will again include the provision regarding the priority primary system in the bill which it reports out of committee this year."

He also endorsed a proposal from the 1972 bill that would allow Federal-aid participation in toll road construction on a 70-to-30 basis. "Lack of adequate funding and the relatively high cost of highway construction in certain parts of Louisiana have precluded a concerted effort to upgrade a north-south route in Louisiana." Such a highway could be built within 5 years with Federal support:

> The way in which this program would work is that the States would issue toll road bonds for the entire cost of the construction. Then, as sections of the highway were completed, tolls would be collected to pay on the State's 30-percent share and on the interest on the Federal Government's 70-percent share. As soon as the Federal Government share has been paid to the State, tolls could no longer be collected and the highway would convert into a free highway.
>
> Since the Federal Government pays its share of highway funds in installments, it would, in turn, give the State a period of years to pay for its share of construction costs before the highway converted to the free road system.

Louisiana had been fighting for a north-south highway, preferably on the Interstate System, for many years, as Representative Waggonner explained:

> I might add that since I came to Congress in 1961, I have been working to obtain authorization for a north-south route in Louisiana. I remember in 1965 [sic, 1968] when the Interstate System was being discussed at that time, we were able to obtain tentative approval for including the north-south segment within the Interstate System.
>
> At the 11th hour, that section of Interstate highway was given to our neighboring State of Texas . . . . So, you can see, this is something that I have been working on for some time.

Representative Waggonner also opposed diversion of Highway Trust Fund revenue to mass transit systems:

> The main argument of the antihighway people is the alleged harmful effects to individuals and society as a whole of a continued dependence on the automobile. Their quick and easy cure-all suggests that we just quit building and modernizing our highway systems and by so

> doing this will somehow force people and their goods to immediately transfer to mass transit. This simplistic solution of doing nothing except transferring all, or any part, of the highway funds to mass transit is not the answer either for now or the future.
>
> It completely overlooks the question of moving freight; and it also overlooks the question of how you are going to provide for those utility, public and business services which depend entirely on the highway and street network.
>
> The truth is, it is a relatively small group of taxpayers who actually benefit by mass transit. Even if a nationwide mass transit [sic] were built overnight, it would affect only about 2 percent of the overall problem . . . . I do not think that we should severely cripple a proven highway program before completion to hopefully satisfy those who are dedicated to building a doubtful and costly transportation system that at best could assist only 2 percent of the total problem . . . . I agree that we must find a solution to the problem, but it must be a solution that meets the test of overall effectiveness, cost-benefit scrutiny and public acceptability by the majority of our citizens.

In response to friendly questioning from Representative John B. Breaux (D-La.), an attorney who had joined Congress in September 1972 after winning a special election, Representative Waggonner explained that he preferred a north-south toll road to a priority primary toll-free route because the toll road could be built faster. On either of the State's east-west routes (I-10 and I-20), a motorist would have to drive 186 miles west to Dallas to I-45 or roughly the same distance east to I-55 in Jackson, Mississippi, to find a north-south Interstate linking the two routes:

> There are only three States that do not have major north-south routes, and Louisiana is one of them. There is a void that needs filling.

(The other States are Nebraska and Nevada; I-49 now provides the north-south link in Louisiana.)

Representative Clausen observed that most of the subcommittee members who favored diversion of Highway Trust Fund revenues to mass transit "are not here to listen to the other side." He asked Representative Waggonner about the source of the statement that a nationwide mass transit system would affect only about 2 percent of the overall problem. Representative Waggonner replied:

> I think the figure is an entirely accurate one. It comes from a man that I have nothing but respect for, Mr. Francis C. Turner, who used to be the Federal Highway Administrator. He is a man who I found was easy to follow as far as highways are concerned. He is a practical, competent man. And those figures have been developed through their association—the Association of Road Builders—and from other transportation statistics.
>
> We don't have that many people riding mass transit, for example. We just had one go broke and the Government take it over right here in this area.

> And if you would believe what they have to say, we are still not doing enough, even though the Government is putting literally hundreds of millions and eventually billions of dollars into the mass transit system, in addition to what we have done in the Interstate program.

(On January 14, 1973, the Washington Metropolitan Area Transit Authority (WMATA) purchased the privately owned D.C. Transit, Inc., which served the District and Montgomery County, Maryland, and another bus company serving Virginia. Zachary M. Schrag, in his history of Metro, referred to the owner of D.C. Transit as the "infamous transit baron O. Roy Chalk." Schrag wrote, "Many in Washington speculated that his true interest in D.C. Transit lay in selling off its valuable real estate: streetcar barns that could be converted to offices, shops, and even apartment buildings." The usual mix of declining ridership, increased fares, and deteriorating service undermined the company's finances. When Chalk tried to negotiate for a higher sale price, WMATA condemned his companies and took them over. In this way, WMATA, which would build and operate the Metro subway, became operator of all public transit in the Washington area. [Schrag, Zachary M., *The Great Society Subway: A History of the Washington Metro*, The Johns Hopkins University Press, 2006, p. 175-176])

Representative Studds, who was one of the pro-diversion subcommittee members cited by Representative Clausen, had arrived at the hearing. He had no questions, but responded in this way to Representative Clausen's comments:

> I apologize for missing most of your presentation, Mr. Congressman. I have been trying to read it here.
>
> As you know, I do not concur in most of your proposals. Some of us are enjoying our temporary allegiance with the administration, the phenomenon which has us all somewhat puzzled.
>
> But it is sort of fun. I have a great deal of respect for you, sir.
>
> And John [Breaux] and I here certainly have an agreement. Congressman Moakley from Boston is going to testify tomorrow and if I can serve as an interpreter for Mr. Breaux, he can wade through those things and be very helpful in this case.

Representative Cleveland concluded the short question period by wondering how "a man of your stature, statesmanship, and power could have lost that Interstate . . . . Representative Waggonner responded, "Well, there was a man by the name of Lyndon Johnson, who was President of the United States at the time." To laughter, Representative Cleveland said, "I am glad you said that. I was going to allude to it. As I recall, it went into the district of man named Mr. [George H.] Mahon, who is chairman of the Appropriations Committee, so you shouldn't feel too badly." Waggonner said he understood, "but it sure looks like a sore thumb running out there from nowhere to nowhere as far as the Interstate System is concerned." [*1973 Highway Legislation (Future Highway Needs)*, p. 255-261]

(This dialogue concerned the 1,500-mile extension of the Interstate System authorized by the Federal-Aid Highway Act of 1968. On December 13, 1968, Secretary Boyd approved the additions, including 125-mile I-27 in Texas from Amarillo to Lubbock (the "sore thumb" mentioned by Representative Waggonner). The final section (from 19th to 54th Street in Lubbock) was dedicated with a ceremony on September 3, 1992, at the 34th Street overpass. Louisiana received approval of the 30-mile south beltline, I-410, most of which would be withdrawn under the Howard-Cramer substitution provision in January 1977.)

ARBA's Dan Hanson was the next witness, again accompanied by Peltier, Burgess, Johnson, and Cone. Peltier, ARBA's president, told the subcommittee that ARBA's main objective "is to advocate and support those actions necessary for a modern, safe, and soundly managed transportation program in these United States." The country must address needs in other modes of transportation, but "must not overlook the basic need to maintain and modernize the system which, in terms of vehicle miles, accounts for 99 percent of all movements" in the country. He explained that percentagewise, the Department of Transportation's 1972 needs study documented that "the needs were shown to be about 87 percent in the highway field, 9 percent in the urban transportation field, and 4 percent in the airport field." Funding for all modes was clearly below needs.

The 1956 commitment to the Highway Trust Fund had resulted in construction of the Interstate System, but "we have lagged in the modernization of the older but very heavily traveled primary and secondary roads . . . . This is one facet of the transportation program which deserves immediate increased support from the Highway Trust Fund."

He agreed that mass transit, as well as highways, needed additional funding:

> It seems appropriate therefore to seek some reliable source of funding for the urban public transportation program, again, using the mechanism of a trust fund in order to provide for the collection and earmarking of the money.
>
> The simple fact is that we need substantially higher commitments of Federal-aid than are available—for both highways and urban public transportation. It is also a fact that we are working under a severe budgetary limitation, set by the Office of Management and Budget. This pretty much puts both highways and urban public transportation in the same category. This is what the move to divert funds for urban public transportation from the Highway Trust Fund is really all about. The urban public transportation program—when you get right down to it—is being charged budgetwise up to the Highway Trust Fund.
>
> This is what is actually happening. About $1 billion per year of Highway Trust Fund revenue is being impounded by the executive branch of the Federal Government. At the same time, the Federal Government is expending about $1 billion per year—from the general fund—for urban mass transit capital grants. The short-term cure is obviously to prevent impoundment and to prevent diversion. This will help both programs. However, in the long run, the problem is never going to be solved until we lift the current budgetary ceiling on highway-urban public transportation. [*1973 Highway Legislation (Future Highway Needs)*, p. 263-264]

Burgess recalled that in 1972, the Committee on Public Works had proposed to decrease funding for the Interstate System while increasing authorizations for the Federal-aid primary, secondary, and urban systems, partly in recognition of the likelihood that Interstate construction would proceed at a slower rate in its final years. ARBA recommended retaining the prior authorization level of $4 billion a year for the Interstates:

> There are numerous obstacles to early completion of this 42,500 mile system, but the lack of Federal-aid highway funds should not be one of those obstacles.

Impoundment was one of those obstacles. Although Congress had authorized $4 billion for the current fiscal year, the president had budgeted only $2.6 billion or 65 percent of the total authorization:

> We feel very strongly that the practice of impounding Highway Trust Fund moneys must be abandoned. Congress has already provided that the level of authorizations must be kept within the capability of the trust fund. This problem is covered by the Byrd amendment to the 1956 Highway Act, which provides that apportionments may not be made in amounts which would result in a Highway Trust Fund deficit.

ARBA supported the existing Federal-aid categories because they “give needed structure and substance” to the program, but recommended that the States be given the flexibility to transfer 100 percent of funds, instead of 20 percent as at present, among categories. The flexibility should be “within, but not between, rural and urban highway systems.” [*1973 Highway Legislation (Future Highway Needs)*, p. 265-266]

Johnson explained that since highway needs exceeded the capacity of the Highway Trust Fund, “some dividing lines must be drawn.” Other transportation problems, he said, “are better solved with other funding, including State and local tax revenues, general revenue-sharing funds, and other Federal-aid programs. ARBA was comfortable with the use of Highway Trust Fund revenue for highway-related transit, such as exclusive bus lanes, without the economic and engineering surveys called for in the Federal-Aid Highway Act of 1972. However, ARBA supported the UMTA grant program at a level of $1 billion year for transit programs:

> This program should be used to assist urbanized areas and smaller communities in the purchases of buses, rail cars and facilities for rail transit, as required in each locality. We do not believe that this should be a responsibility of the Highway Trust Fund.

Johnson said that ARBA recognized that operating subsidies were one of transit’s most pressing needs, but “we feel that operating subsidies are not an appropriate application of Federal-aid funds.”

He also expressed ARBA’s concern about the pass-through provision in S. 502, which would alter the well-established Federal-State partnership under the Federal-aid highway program:

> The difficulties of establishing "suitably equipped and organized" metropolitan transportation agencies are immense. If we are to maintain the same level of professional competence which the program now enjoys, "pass-through" will require greatly increased staffing in both local and Federal highway agencies. In our opinion, the potential benefits are simply not worth the additional staffing requirements and other necessary add-on functions. [*1973 Highway Legislation (Future Highway Needs)*, p.266-268]

Cone supported the Certification Acceptance provision of the 1972 House bill, which extended procedures of the Secondary Road Plan to all Federal-aid projects except those on the Interstate System:

> This is not a revolutionary plan. It has been used for secondary road projects for 19 years . . . . We also realize that adoption of the Certification Acceptance plan will not altogether cure the problem of redtape [sic]. We recognize some paperwork will always be necessary, particularly to insure compliance with regulations pertaining to protection of the environment, equal employment opportunity and occupational safety.

It must not be an excuse to curtail public involvement. "We understand that Certification Acceptance will provide a State with the opportunity to be more innovative in arranging public hearings and other public communications. This is what is really needed."

He also recommended additional funding to expand the training programs for workers authorized in the Federal-Aid Highway Act of 1970. Modern highway construction has "created an increasing demand for skilled workers." Models for successful training programs had been developed, but such programs would have to be scaled back without additional funding in the range of $10 million a year instead of $5 million as authorized in the 1970 Act. [*1973 Highway Legislation (Future Highway Needs)*, p. 268-270]

During the question period, Representative Wright asked about the statement that the highway system accounts for 89 percent of all movements of people in the United States. He said he knew the percentage was high, but not that high. Peltier explained that the percentage related to vehicle miles and was taken from the national transportation statistics report put out in 1970.

Representative Abzug pointed out that these figures "all came from people involved in the business of building highways." She thought they overstated the situation, especially regarding highway needs compared to the needs of urban transit:

> I wish also to make the point on this that there are various other, numerous overriding considerations which weigh heavily in making highway investment decisions, which are not [in] any way reflected in these statistics—effects on the economy, land use, tax base, recreational opportunities, transportation needs of the poor and the disadvantaged, social impact on communities, neighborhoods, air and noise pollution, and other esthetic and ecological and environmental effects.

Moreover, the repeated discussion of highway versus transit needs "is not going to take away from the problem that there has been no commitment of funds that are needed to deal with the problem of the 70 percent of the people who are in urban areas, who merely want to have the option to determine whether or not their tax money should go into one form of transit or another."

Representative Wright said that Representative Abzug might be right, but the Department's reports are "the best source of information we have." All he wanted to say was that neither highway nor transit needs were being fully met, "and there just flat isn't enough money in the Highway Trust Fund to do either one, let alone both." He wanted to do something about urban mass transit, but "we sure as heck can't expect to do them both out of that Highway Trust Fund."

He asked the ARBA panel about operating subsidies. If subsidies were the most pressing problem, how should they be handled? Johnson replied that they should be handled as in the Federal-aid airport, highway, and transit programs, which provide assistance for capital improvements, but leave maintenance and operating assistance to the State or local governments.
Representative Wright asked for the panel's comments on an alternative ("I am just thinking out loud here"):

> If we are not going to provide money for operating deficits out of the Federal contribution . . . would it be an acceptable solution, or even partial solution, to permit a State, at its option, if it desired to do so, to utilize perhaps up to one-fourth of its 30-percent matching money within its State for operating subsidies?

Johnson, not certain what Representative Wright meant, asked if he meant that "instead of the State actually putting up the 30 percent [State share], it would actually be, say, 22½ percent, and the State would take the other 7½ percent, or one quarter." Wright confirmed his understanding and added, "it would get the full credit for matching funds and still be eligible for the Federal share of the highway dollar."

Representative Roe compared the situation with operating subsidies to toll roads:

> Is there anything so different from the point of the Federal Government providing, as has been recommended in the Senate, a guarantee of part of the funding for toll roads over a period of time, which is obviously based on the point of view of providing an input at a given period, so that the State can start to build, collect the tolls, and pay it off.
>
> Is that any different, side by side, than the point of doing this same type of programing for mass transit? Unless we make a substantive investment in mass transit, we can't get the riders on there to generate the income from the farebox to pay the bill.
>
> So there has got to be some hiatus in between, and some help in between.

When Representative Harsha took his turn, he thanked "Mr. Hanson and that awesome array of talent you brought there, for an excellent statement." He asked if ARBA had any other reasons for opposing Federal funding for transit operating subsidies. "Does it tend to discourage efficiency and good management?" Peltier agreed that it could lead to "a real problem of accountability" because of the difficulty of accounting for the funds:

> But you also have the problem of declaring or determining what is efficient and what isn't. And if you have a subsidy coming from the Federal Government, I think the tendency is not to be quite as aware of those things that should be improved.

Representative Abzug said she was interested in the discussion of flexibility that ARBA had endorsed, including the 100-percent flexibility to shift funds among categories. Referring to the Kennedy-Weicker and Abzug bills, she pointed out that they provided flexibility for non-Interstate funds so that rural and urban officials can decide how to use the Federal-aid funds. "Do you agree with those provisions?"

Hanson replied that they "go far beyond what we are discussing here at the moment." He emphasized that ARBA was talking about flexibility to shift funds among the Federal-aid primary, secondary, urban, urban extensions, TOPICS, and other programs.

But, Representative Abzug argued, all these bills would leave the Interstate System alone:

> [We] allow an option, a flexibility, if you will, with respect to the other systems, so that those funds can be used as the locality feels its needs can best be met. Then you wouldn't have to sit around worrying about whether you can get a few dollars from A, B, C and D.

She acknowledged ARBA's fear of impoundment, which she said was illegal and perhaps unconstitutional. She acknowledged that enough money was not available for all needs:

> I have a problem of not understanding this issue, as to how you can object to whatever the money is that we do have, that we make it available in a more practicable way and in a more meaningful way to localities to determine what it is that suits the needs of their area, which is essentially what the issue is that we are fighting about.
>
> I agree with Mr. Wright and with you, there isn't enough money. But whatever money there is, should we not be able to utilize it flexibly? Is that not fair?

Johnson said he would like to comment without wishing to argue with her. (She said, "Well, you should, this is your chance.") He recognized her reservations about the needs studies and acknowledged that every State may believe they do not accurately reflect its needs. "But, as far as I know, it is the best thing we have." He continued:

> I could be wrong, but the study is on a national basis. I realize that cities have problems, no question about them [sic], and they need relief, no question about that. At the same time, I dare say, there are thousands of communities in this country with no means of transportation except highways.

> And if the inadequate highway funds, which really percentagewise meet the needs less than the funds available for any other mode, were diverted, then you are further hurting the poorest financed mode, as I understand it.

Although the bills Representative Abzug cited excepted the Interstate System from flexibility, Johnson referred to the Interstate transfer mechanism that would allow a metropolitan area that decided not to build a segment to use the Interstate funds for any other purpose within that area.

Representative Abzug summarized her view:

> All we are saying is that whatever these systems are, they should be put together for the locality to determine, which would maximize the amount of money that is available for their needs, how they should be expended . . . . We are not seeking to do anything but seek the flexibility that I think would give the State the option to use the funds in a way that would be most helpful, given the limitation of the funds, generally, OK?

The Interstate System, she said, was a separate Federal responsibility:

> But from the other point of view, it seems to me that we should agree to these funds being made available to areas which want to use them for whatever purposes they determine.

Representative Clausen, in his turn, raised the topic of a Mass Transit Trust Fund. "What would be the source of revenue?" The government already was committed to funding capital construction of mass transit systems, but the question was how to pay for operation, maintenance, and administration.

ARBA asked for and received permission to submit a response in writing. The statement submitted for the record said that after studying the question, ARBA had not identified any method "as the clear-cut superior to other methods." Equity suggested that an Urban Public Transportation Trust Fund be financed by a tax related "as directly as possible to the benefits derived from such a system." Since the benefits are widely diffused among residents and business organizations, a surtax on corporate and individual income taxes might be considered. General Treasury revenue might be a source for the trust fund "if proper safeguards could be established to ensure continuity in funding" that would avoid the "stop-and-go" financing that was why trust funds were favored.

Another option was to increase the gas tax with the new revenue going into the Urban Public Transportation Trust Fund. The idea was that the new revenue would benefit highway users by relieving congestion. ARBA considered "the equities" of this proposal "somewhat dubious," the "principal disadvantage" being:

> [It] would amount to further Federal drain on a tax source which traditionally has been the principal source of funding for road programs at the State level. Gas tax increases are under consideration in several States, and a majority of States will probably need to increase gas taxes within the next few years.

A tax on titles on all vehicles, including transit vehicles, might be "more logical" even though most of the revenue would come from highway vehicles.

A tax on energy also had been suggested as a way of relating energy consumption to the amount of tax burden. "To the extent that transit is conservative in the use of energy, transit would enjoy a tax advantage."

Finally, the benefit of mass transit is primarily related to localities:

> The national interest in local transit lines is, simply, a recognition that the problem is too often too great to be solved with local taxes. No solution is more rational than a solution through local tax effort; however, it fails to be a workable solution, generally speaking, because local tax resources are insufficient. An alternative, therefore, would be to increase general Federal assistance for local governments, leaving it to local governments to decide priorities.

ARBA's statement concluded with the offer to testify in greater detail before the House Ways and Means Committee if it wished to explore the mechanics of an Urban Public Transportation Trust Fund.

Representative Roe said he wanted to follow up on Representative Clausen's comments. "In trying to get at the problem of mass transit without the emotion of attempting to solve it out of the same pot, there are two things I think ought to be in the records." First, in building the Interstate System on a 90-10 Federal-State matching ratio, the Federal Government was making "an enormous investment toward a national goal under a national commitment." For UMTA capital projects, by contrast, the State share was one-third or one-half. "The only reason I bring this into the discussion now is not to be acrimonious, but to lay the two things side by side in reality." The question was not whether to break the Highway Trust Fund. "The fact remains that the Federal Government is not putting a side-by-side parallel program in mass transit in any of its programming at this point."

Hanson said that in ARBA's view, the three modes (urban public transportation, airports, and highways) should be funded at the same matching ratio. In response to a question from Representative Roe, Peltier said ARBA would support legislation that provided equal programming for mass transit, whether from a Mass Transit Trust Fund or general revenues.

Representative Studds was the last to question the ARBA panel. He stressed that he was not against roads "and I don't think anybody is, since we have succeeded in paving over a remarkable percentage of my district and our State." But he asked ARBA to put on the legislative hat of those "who have a responsibility to look at the entire picture." He said that the finding that 87 percent of needs from 1970 to 1990 were highway related, while only 9 percent were urban public transportation and 4 percent airport "gives us some reason to question in the most general terms the rationality of our approach." He rejected the idea that the world was divided among highway users and mass transit users. "I think that is a false dichotomy. We are all both or mixtures thereof." Thanks to actions by Congress, the mass transit choice was decreasing. "We have gradually over the years lessened the options that are available to people by the method which we have chosen to apportion the money that we have."

In the end, the Federal Government did not have the funding to meet all needs by 1990 in the range of $680 billion. If not, "we will have to make some tough decisions as to what we are going to do with what we do have." He had to question the rationality of apportioning the available revenue so that over 80 percent went to highways.

Hanson began by pointing out that ARBA members built highways, but also transit systems and airport facilities. He continued:

> I don't think any of us sitting here suggest in their wildest dreams that 100 percent of those needs can be met by the year 1990. What we did say, I believe, is the fact that those needs, when compared with all kinds of potential revenues that are on the horizon, fall grossly short of even approaching the 40-percent level.
>
> And we would certainly agree with you wholeheartedly that as we go down that road from 1973 to 1975 and to 1978, which is a 5-year plan instead of a 20-year plan, that priorities in all of those needs have to be met.

Representative Studds concluded the question period for ARBA by promising a fight:

> You must know that the bill as it is now written is highly controversial. Now, I don't want to argue that Massachusetts is typical—heaven forbid. But, as you know, we have some history of insurrection in our State. And I think we will have another one if we try to build any more highways in Metropolitan Boston

He said that among legislators, many thought they had a "real and serious responsibility to look at the overall picture and to address ourselves to how that mix will occur." [*1973 Highway Legislation (Future Highway Needs)*, p. 271-286]

A delegation from Indiana appeared before the subcommittee to object to diversion of Highway Trust Fund revenue to mass transit. Richard A. Boehning, who had become chairman of the Indiana State Highway Commission only 11 weeks earlier, began by saying:

> To set the tone of my remarks, I will first advise you of the fact that the State of Indiana is the No. 1 donor State with the lowest rate of return of funds from the Federal Highway Trust Fund than any State in the Nation. Hoosier motorists now contribute twice as much money in Federal motor fuel taxes into the Federal Highway Trust Fund than is returned to Indiana for the improvement and construction of highways. Any diversion of these funds would worsen the situation by draining even more motor fuel revenues away from Indiana . . . .
>
> Indiana is running into numerous traffic hazards and roadblocks in the financing of new highway construction. Quite frankly, we are looking at a very grim picture. Literally every future highway project in the State of Indiana is in jeopardy.

> We have been out of Federal funds for primary and secondary road construction since January 1, 1973. Yet 95 percent of the Hoosier highway deaths are off of the Interstate System.
>
> We in Indiana are opposed to any diversion of Federal Highway Trust Funds to nonhighway related transportation in the new legislation.
>
> We have taken this position because the need for new and improved highways in Indiana and the Nation are great and the present combined Federal-State highway financing falls short of meeting these needs . . . .
>
> If highway funds are diverted to the favor of the big city commuters, thereby drastically reducing our ability to finance highway improvements, how rapidly will the highway death toll have to soar before Congress will respond and return these funds to their intended purpose?
>
> I do not doubt the sincerity of those in Congress and the administration who are advocating Highway Trust Funds for mass transit. I simply don't think the motorist should have to pay for it.

(Later as a result of committee comments about recent data, Boehning conceded that Indiana was not the number one donor State at the time. He had been using 1969 data. For 1972, Indiana had received 60 cents for every dollar it contributed to the Highway Trust Fund, and had received 77 cents per dollar since the start of the Highway Trust Fund in 1956. "We are not the No. 1 donor State apparently at the present time, a position which we most happily relinquish. [Laughter.]"

Why, he asked, should a trucker in Indiana or any other State have to "pay for the cost of the big city dweller to get to work?" Diversion advocates were claiming that highway needs are declining while mass transit needs are far greater:

> But, at the same time, they are saying "Hoosier motorists, please continue to drive your car because we need the funds from the road use taxes to pay for these other things like a new $5 billion finger of the New York Subway System, or the $8 billion Bay Area Transit System in San Francisco.

He cited a questionnaire that Representative John Myers sent to his constituents, more than 15,000 of whom said they opposed diversion.

The question should not be whether to raid the Highway Trust Fund, but how to meet air, rail, highway, and water transportation needs over the next 30 years. In thinking about that, Boehning suggested three basic points. First, complete the Interstate System:

> Some advocates of mass transit are proposing diversion of funds because the Interstate program is nearly complete. This just isn't true. We are just about as nearly complete with the Interstate System as we were near to peace in Vietnam for so many years.

It might be completed in 1978, but given current legislative proposals, completion probably would be pushed into the 1980s. "I am seriously beginning to wonder if projects such as this will ever become functional and if Congress will ever fund this system to its completion."

Second, he recommended that Congress repeal the 4-cent a gallon gasoline tax "or establish an 85-percent floor as a minimum rate of return for any State on Federal highway funds." If the Federal tax were repealed, giving States the option of increasing their own tax by an equal amount, "I guarantee that you would see home rule at its very best." Projects funded solely with State funds can be completed in half the time of Federal-aid projects. "We could then seriously go about the business of meeting our transportation needs, the transportation needs of Hoosiers, and without constant interruption and redirection which we have experienced recently at the Federal level which only jeopardized continuity in planning." He continued:

> I believe that Congress must be honest, truthful, and fair with the American motorist if it no longer intends to use his highway dollars for highway improvements. Please don't try to fool him at the gasoline pump into thinking that his highway user taxes are going to highway uses.

If highways were no longer the answer, then Congress should back off and leave the gas tax to the States so they can continue adequately funded highway program. If the program is instead going to continue, each State should get a minimum percentage of return on its contribution to the Highway Trust Fund. He added:

> I am new to this fight over the use of highway funds. It all seems so senseless. We all recognize the transportation needs of America, but rather than working together toward a solution, it appears as though everyone is at each other's throat.

Finally, he suggested "that Congress call a timeout in this transportation financing ball game and give very serious thought to a total review of this Nation's transportation needs, studying new as well as existing modes, make a determination as to where Federal responsibility exists and where it does not, then respond accordingly, deliberately, and establish a fair, equitable means of financing the total overall transportation program." [*1973 Highway Legislation (Future Highway Needs)*, p. 286-295]

For the record, he submitted a March 19 letter from Governor Otis R. Bowen (R) to Chairman Kluczynski. Governor Bowen, a medical doctor who had served in the Indiana House of Representatives since 1956 before winning election as Governor in 1972, urged completion of the Interstate System as soon as possible, development of an apportionment formula "that would reduce the present inequities from heavy 'donor' states," and prevent diversion of Highway Trust Funds to other modes "until a transportation plan exists that considers all appropriate sources of revenue," He also called for a review of the Federal role "by identifying programs that are national in significance." If this review resulted in a reduced Federal role, "then Federal taxes should be reduced." He also recommended reducing the Federal gas tax if the Federal Government "continues to underappropriate and the administration continues to underrelease the Highway Trust

Fund," so that the States could "impose an added gas tax at their level to provide for some of their great needs."

State Representative Stephen L. Ferguson, Chairman of the Committee on Roads and Transportation, spoke briefly in support of Boehning's statement. After citing Indiana's donor status, he suggested a variation of revenue sharing as a solution:

> I believe there should be a floor placed under the amount each State receives in relation to its contribution. I would suggest that 75 percent of the money collected in each State be returned to the State in the form of revenue sharing and the remaining 25 percent be allocated among the States on a formula that would be reasonably equitable and that would reflect each State's contribution to a nationwide system of roads and streets which should be the true measure of any Federal program.

He was concerned about the Interstate withdrawal proposal:

> We would like to emphatically state our opposition to a proposal to permit States to use their Interstate allocations for projects which make no contribution to the Interstate System . . . . It is our position that if a State or urban area has made the decision to delay or not to build a portion of the Interstate, and if such deletion doesn't destroy the concept of an interconnected system of Interstate highways, this mileage and its estimated cost should be removed from the distribution formula.

As a State legislator, he also was concerned about the pass-through concept where Federal-aid urban system funds would go "to some unspecified unit of local government." He pointed out the potential problem in northwest Indiana adjacent to the Chicago urban area. "If part of Indiana's highway funds is going to be allocated to Chicago for regional transportation purposes, will we have any assurance that some of it will be spent on the Indiana side of the State line?" If Indiana officials did not agree with how the money was to be used, "do I contact a regional plan commission or the mayor of the biggest city or a transportation authority or who?" [*1973 Highway Legislation (Future Highway Needs)*, p. 296-297]

During the question period, Representative Roe commented:

> What truly is needed in America is the point that both of you have suggested—render unto Caesar that which is Caesar's and render unto God that which is God's—if we want to build our transportation system and we need highways, fine.
>
> If somebody else needs mass transit and the support of that mass transit system, well, let's give them that, too.
>
> There should not be a confrontation of nitpicking as to who gets what . . . . The issue is whether the 435 Members of Congress are going to stand toe-to-toe and say, we are not going to fight with each other, what we are going to do is to do the right thing and provide a decent transportation system and put our money where our mouth is.

Representative Studds concurred but said:

> You again tend to draw the distinction between the motorist and whoever the heck the rest of the people are. I would like to point out that there are a good many involuntary motorists in the country who, if they had any choice at all, would not choose to drive on those roads that are not very safe in a lot of places, as you know.

Representative Abzug asked, "Do you suggest, for example, that when we have taxes on liquor that we have to build liquor stores with them?" Boehning responded that the taxes were imposed on highway users to build highways. His point, he said, "is this, if you want to change the theory, then do away with the tax and start all over again and tax everyone equally, equitably, as Congress see fit."

Representative Abzug said that the revenue earmarked for the Highway Trust Fund had previously gone into the general Treasury:

> We can, if we wish to, in this Congress, under this very act, under this very so-called trust fund, which is nothing more than earmarked funds—use it for relocation, we have already used it for transit in connection with buses, bus lanes and even ferryboats. There really is nothing sacred about these funds.
>
> And Congress can decide that these funds are available for other things . . . . We both have our problems. But I do think that we would all benefit, no matter what our position is, if we didn't regard any part of our revenues as sacrosanct.

The funds "belong to the people." The problem facing the country was transportation, not highways versus transit. The time had come to update the program since 1956 to "use our resources, which are vast, and our energies, which are vast, in a way which will satisfy the needs of all the people." Some ways that transportation was conducted "are not as useful as they were before." All she was saying was, "Let each locality decide." [*1973 Highway Legislation (Future Highway Needs)*, p. 300-304]

Charles A. Webb, president of the National Association of Motor Bus Owners (NAMBO), testified on behalf of intercity motor bus transportation operators. The association supported the funding mechanism established to build the Interstate System "in an orderly manner, toll-free, and without tapping general funds required for other important programs." NAMBO supported the integrity of the Highway Trust Fund:

> We are opposed to the use of Highway Trust Fund monies for the purchase of equipment or to underwrite the deficits of rail or bus transit systems. We see no reason, for example, why taxes paid by the trucking industry or the bus industry for the use of highways should be diverted for the construction of subways or to underwrite the operating losses of bus or rail transit.

NAMBO favored mass transit, and would support Federal operating subsidies if "efficiency can be preserved," but not by diverting revenue from the Highway Trust Fund. "We believe the pressing needs of urban mass transit should be met from general revenues or by creation of a Federal Urban Mass Transportation Trust Fund." However, if Congress decided to divert Highway Trust Fund revenues for these purposes, "the intercity bus industry would be entitled to a reduction in its special highway taxes."

In addition, if Highway Trust Fund revenues were authorized for the purchase of transit buses, the funds should also be available for construction of passenger terminals that could serve local and intercity bus passengers. [*1973 Highway Legislation (Future Highway Needs)*, p. 309]

Later in the session, Helen Leavitt of *Superhighway-Superhoax* and the *Rational Transportation Newsletter* appeared before the committee with Yale Rabin, planner and urban specialist with the National Coalition on the Transportation Crisis. The coalition, formed in 1968, consisted of 30 citizen groups from 30 cities who were concerned about the condition of the country's transportation systems.

Rabin explained that as an urban planner, much of his work concerned "the impact of public programs on low-income and minority groups." The decentralization of metropolitan areas over the past 25 years "opened new opportunities for improved housing, employment, and schools for millions of predominantly white Americans, while restricting both the range of opportunities and the quality of life for black and other minority-group Americans who are being relegated in steadily increasing numbers to a growing dependence on the diminishing resources of the central cities."

The result threatened "to perpetuate the burdens and disadvantages which a long history of racial discrimination has produced." Many urban concerns, accordingly, were a result of "the nature of these metropolitan changes." He continued:

> The polarization is increasing and has resulted, and continues to result, in reduced access for inner-city minorities, to growing employment opportunities in the suburbs.
>
> This reduced access is caused by both the dispersed locations of jobs in relation to black central city concentrations, and the dependence for access to those jobs on automobile ownership. These, in turn, derive from the transportation policies and programs of the Federal Government, and in particular the expenditure of billions of dollars for metropolitan area highways which have exerted a major influence on metropolitan dispersal, and have undermined existing public transportation systems, resulting in reduced services and increased fares.

State highway departments played a major role in this redistribution of population:

> Decisions by Government transportation agencies at the Federal and State levels which determine and approve the locations of highways and their points of access have been and continue to be made without regard to their impact on the redistribution of housing and

> employment opportunities, or on the comprehensively planned development of metropolitan areas.
>
> In implementing these highway programs, agencies of Government have, by providing new or improved access, created billions of dollars in new land values, enriching landowners and developers, and adding substantially to the tax revenues, and consequently, the amenities of countless suburban municipalities; but these same federal and State transportation agencies have failed to take any steps to protect equal access to benefits such as housing and employment, benefits made possible through the expenditure of enormous sums of Federal funds.

Federal-aid acts from 1962 through 1970 "contained language expressing the strong concern of Congress over the integration of transportation with the comprehensively planned development of urban areas, the coordination of highways with other forms of transportation, and the effect of highways on the future development of metropolitan areas." However, these concerns had not "in any way affected the single-minded determination of State highway departments, with the approval of the Bureau of Public Roads, to build roads whether or not they correspond to the plans developed by the municipalities through which they passed."

He cited January 1969 regulations requiring public hearings on highway proposals to "include consideration of some 23 possible effects of highways, including social, economic, and environmental impacts." He continued:

> After 4 years of operation under these new regulations, there is no record of a single instance in which the Department of Transportation, on its own initiative, rejected a highway project proposed by a State highway department because of that project's adverse social, economic, or environmental impact. Only in cases where affected citizens have challenged proposals in the courts have such projects been halted, and these instances have been relatively rare.

One reason for this situation was "the absence in the regulations of any standards by which social and economic impacts are to be considered." He suggested standards providing that a transportation proposal must not reduce the mobility of low-income groups, reduce access between centers of low- and moderate-income housing and centers of employment, or undermine any element of an existing public transportation system. "New transportation system elements should complement, not duplicate, elements of existing transportation systems."

Leavitt began by pointin out that just last week, the Senate had voted 77 to 5 to allow Highway Trust Fund revenues to be used for fixed rail facilities in urban areas. Contrary to dire predictions, she said, "there was no general or even specific uprising or rebellion among the gasoline taxpaying citizens of this country as a result of that Senate action." On behalf of the coalition, she urged the House to follow the Senate's lead.

She also addressed "a myth" that the Highway Trust Fund had never financed anything but road construction:

> A cursory look at the administration's unified budget for 1974 reveals that Highway Trust Fund receipts will total $5.749 billion. Outlays will total $4.7 billion, leaving a $1 billion surplus. This surplus, along with the other Federal trust fund surpluses, will simply be applied to the budget deficit. In other words, Highway Trust Fund money is now helping finance space, defense, and other Federal programs.
>
> Between 1971 and 1974, the surplus balance from the Highway Trust Fund alone increased almost 90 percent from $3.6 billion to $6.7 billion. Over one-quarter of the $505 billion public debt is money borrowed from trust funds established for specific purposes, such as the highway program. Indeed, Highway Trust Fund taxes are treated as any other tax collected, and simply applied to deficits accrued from other programs.

Fixed-rail systems had been excluded from the use of Highway Trust Fund revenue "on grounds that they are too expensive and not necessary when busways can easily be installed." Recent studies, she said, revealed that fixed-rail systems and exclusive busways "cost the same amount, that is, to construct and operate." She introduced an article that she had written with her husband, William Leavitt, describing studies that compared the cost of the Shirley Highway bus lanes with the Lindenwold commuter transit rail line from New Jersey to Philadelphia:

> It costs just about the same amount to construct and operate an exclusive busway as it does to build and run a transit train system, according to two independent studies presented at the Highway Research Board Conference held in Washington in January . . . . The authors [of one of the studies] conclude that with respect to impact on traffic congestion and parking in the central business district, Lindenwold is considerably better, although the impact of Shirley Busway is also very significant. On feeder sections Shirley creates less congestion . . . . The lower reliability of Shirley, including interrupted schedules due to traffic delays, vehicle breakdown or weather, causes lost work hours and customer dissatisfaction. Lindenwold scored better on reliability.

The Leavitt article concluded:

> The authors conclude that both types of service indicate that there is a large latent demand for public transit. "It is absurd that these new systems which have attracted so many riders do not have the funds to provide adequate capacities while numerous parking facilities in centers of both cities are heavily subsidized," they said.
>
> "It is also a paradox that both systems are basically individual projects rather than parts of major modern transit networks. This clearly shows the need for creation of a much better defined urban transportation policy (including transit, highways, parking, etc.) than our cities now have . . . the bizarre technical and operational deficiencies of systems like Lindenwold and Shirley indicate that our industry has fallen behind modern transit in other countries and requires more attention."

In view of this conclusion, the approved Senate measure would best serve taxpayers, especially in view of EPA's estimate that $13.8 billion would be needed "for capital expenditures on public transportation improvements by 1980" to meet air quality standards in Chicago, Denver, Los Angeles, New York, San Francisco, and Washington. Leavitt added that, "this estimate does not include the additional projects each of these cities must plan and implement to meet their clean air deadlines."

She also recommended "that the Interstate System be declared completed, since much of the remaining unbuilt mileage is in urban areas and because that money is needed for alternative forms of transportation, which even citizens in sylvan settings such as western Massachusetts and Vermont are demanding."

That concluded her intended comments, but she added that she had sat through ARBA's 2 hours of testimony and wanted to comment on the observation that the Interstate System "is so very, very safe." The most recent FHWA data, she said, showed that the Interstate System "kills one person for every 4 miles of roads." Representative Roberts interrupted to point out, "You forget how many people are riding on them." She responded:

> That's the Russian roulette theory. The fact is that for every 4 miles of urban Interstate that is built, a person will die. You are comparing the number of times you take your chance on this system. Well, I am merely pointing out to you what the statistics reveal.

By this measure, "the rural system ends up being the safest per mile construction with the number of people who are killed." The fact is that a certain number of people will be killed on the roads every year. "I'm tired of hearing about how safe the system is and how we keep building more and more, but we will be more safely delivered."

When she concluded, Representative Roberts thanked her for her concise statement. "While we disagree with you, we are delighted to have you." He asked whether she and Rabin wanted the Highway Trust Fund or the dollars. "I don't understand what difference it makes if you get the dollars" for public transit. Rabin replied:

> The trust fund, by its very existence, generates the construction of a highway system whose needs are measured completely outside the particular context of total transportation needs. Those needs, as has been pointed out by Congresswoman Abzug before, are measured by State highway departments or by the Bureau of Public Roads—I was amused to hear someone earlier cite Mr. Frank Turner as the source of the figure that only 2 percent of the transportation in this country would be affected, or the demand for transportation would be covered by public transportation funds.
>
> I would commend to you people an in-house document which was prepared by the staff of BART, in which they very carefully discuss the way in which the trust fund not only provides a tremendous impetus for the construction of roads, but has spawned an entire bureaucracy and a transportation planning set of theories which makes it almost impossible to accurately measure the need for, or the demand for, mass transportation.

> Now, until we reach a point where there is no restriction, that is, it would even be unreasonable to pass a bill which says the trust fund should be allocated in the following proportions, so much for roads, so much for rail. The only reasonable way in which it can be done is to acknowledge that whatever the area, whether it be Indiana, or Metropolitan New York City, that area should have the unhindered opportunity to examine its needs in the most objective way possible and . . . allocate whatever funds are available for transportation. Let's face it, in 1956 Congress was wrong, and Congress can correct that –"

Representative Roberts again interrupted, this time to say sarcastically:

> At the last session, in effect, there was a transfer of $300 million in one city, so they could use it for another purpose, and you have convinced me completely that I'm all wrong and I'll fight it on the floor of the House if I have to do this. So I really appreciate your being here.

Representative Abzug asked Rabin if he thought the Senate had adequately addressed the need to integrate transportation with land-use and metropolitan planning. No, he said. To date, transportation facilities had become "ends in themselves" that determine development and growth:

> It is not the function of transportation systems to direct development and direct control of that development from local governments. It is the function of transportation systems to serve, plan, coordinate orderly development, whether that development be of rural Indiana or Arkansas, or any one of the great metropolitan areas around the country. What we have is just the reverse. We have had the systems planned which have been the "tail that wags the dog." This has to be stopped if an orderly planning process is to be established.

Representative Abzug mentioned the Senate bill, the Administration bill, the Kennedy-Weicker amendment, and the bills she and Representative Glenn Anderson had introduced. She asked if Rabin thought these bills moved in the direction we should be going. He agreed. "It absolutely does."

Leavitt agreed. "I would like to see this committee begin to look at more comprehensive transportation planning." That is not possible when the Federal share for highways is 90-10 (Interstate) or 70-30 (other highways) compared with 50 percent for transit:

> The problems grow worse; the city planners sit down and wring their hands and tell me there is nothing they could do because the funding is not there.
>
> Let's face it. If this committee in 1956 had decided that the trust fund taxes would go for the purchase of bananas, we would all be eating bananas today, and the banana association would be here telling us why . . . we need more bananas because everybody is eating bananas. And don't tell me, "Yes, we have no bananas." [Laughter] [*1973 Highway Legislation (Future Highway Needs)*, p. 321-330]

With the hearing stretching into the evening, a AAA delegation headed by J. B. Creal appeared before the subcommittee. Creal recalled that AAA had testified before the subcommittee on March 23, 1972, and would confine his comments to "a few key areas which seem particularly relevant" in view of Senate approval of S. 502. He began:

> Mr. Chairman, we strenuously protest the use of Highway Trust Fund money for financing the construction of rapid rail transit systems or the purchase of public transportation rolling stock. These are not expenses "which are attributable to Federal-aid highways," as required under Section 209 of the Highway Revenue Act of 1956, which established the Highway Trust Fund. Use of the Highway Trust Fund for such public transportation purposes goes far beyond the intent of those who developed the highway program in 1956, and worked so diligently to provide a fair and equitable method of financing its huge cost.

AAA supported the Urban Mass Transportation Act of 1970, which authorized general Treasury revenue for urban mass transit. The provision of S. 502 that extended contract authority to $6.1 billion should be amended "to include a comprehensive study of public transportation needs and appropriate levels of Federal involvement." The information gathered during a comprehensive study "could then be used to determine an appropriate level of Federal assistance commensurate with the Federal interest."

Creal pointed out that, "There are hundreds of thousands of miles of roads, originally built as farm-to-market roads, now serving the function of urban arterials" that were deficient. "These roads have narrow lane widths, poor sight distances, narrow or nonexistent shoulders, which are lined with roadside boobytraps consisting of telephone poles, signposts, mail boxes, and other lethal impact areas. In view of this "national disgrace," AAA believed that "we must assign every available dollar in the Highway Trust Fund, beyond that required for completion of the Interstate System, to correct this condition."

At present, he said, public transit programs were supported by general Treasury revenue via UMTA and General Revenue Sharing. Adding a third source, namely the Highway Trust Fund, "not only places an additional financial burden on the highway user, but is both unreasonable and unnecessary in view of the funds already available under existing law."

Creal also responded to those who say that such a shift is justified to "reduce air pollution caused by motor vehicles and to provide mobility for the old, the young, and the very poor." He said:

> The 1972 National Transportation Report indicates, on page 222, that major shifts in funds from highways to transit would improve transit but would result in increased highway fatalities with very little change in air pollution. Thus, the justification for diverting highway funds to transit improvements in the name of clean air is, by the Department's own report, without foundation.
>
> The question of whether transit provides for the mobility requirements of the old, the young, and the poor is addressed in another Department of Transportation report, "Economic Characteristics of the Public Transportation Industry." That report states on page 4.67:

> There is no evidence that higher proportions of low income households or higher percentages of youth or senior citizens imply a higher demand for bus transit.

> A table on page 4.68 of this report shows that as the percentage of households with incomes under $3,000 increases, the demand for bus transit decreases. Significant decreases in the demand for bus transit occurs [sic] as the percentage of population 18 years of age and under increases, and as the percentage of households where the head of the household is 65 years or over increases. This data would seem to indicate that the justification for assigning more financial resources to transit so as to fulfill the alleged mobility requirements of such groups seems unfounded.

The highway user already was financing exclusive or preferential bus lanes, parking lots to service bus or rail passengers, and loading areas and shelters. "We believe it is unfair for the highway user now to be asked to pay for the construction of subway systems and rolling stock for public transit."

Creal also objected to provisions of S. 502 that authorized the use of Highway Trust Fund revenues for equestrian trails and bicycle and pedestrian paths; national forest fire control facilities; shuttle buses for National Forests; municipal parking lot bonds; and aid for construction of toll roads. "We do not believe the American public wants highway user taxes used for purposes other than providing a first-class highway system." This view was supported by the results of a national survey conducted for AAA by Benson and Benson, Inc., in which 64 percent of respondents favored restricting gas tax money to highway construction and only 26 percent favored the use of gas tax money to subsidize public mass transit. Member groups had conducted polls as well with similar results.

Indeed, it was time to get back to basics:

> The Highway Trust Fund was established to provide the Federal share of the cost of building our primary, secondary, and urban highways, not just the Interstate System.
>
> AAA believes that highway user taxes should be used exclusively for highway programs, as promised by the Congress when the Highway Trust Fund was established. If they are not to be used for such purposes, we question the continuation of this tax.

AAA also was greatly concerned about Section 111 of S. 502 "whereby a State may shift Interstate routes without regard to existing mileage limitations." If the new route costs less than the old route, the balance of funds would be shifted to the Federal-aid urban system where, under Section 131 of S. 502, they could be used to finance public transit. Creal recommended retaining the original mileage and needs formula concept that ensures each State's share of Interstate fund is based on the remaining cost to complete its Interstate mileage:

> AAA believes that if a State decides not to build a segment of the agreed upon system, then the cost of the entire Interstate System should be reduced and that State's proportionate share of the cost of the system be adjusted to pay for only those segments which are actually constructed.

Altering this concept "will ultimately affect the whole financing structure of the Interstate System and jeopardize its orderly completion."

On that point, AAA recommended increasing Interstate funding to $4 billion a year instead of the $3.25 billion authorized by S. 502. The tendency to reduce authorizations in recent years "has brought about a condition whereby the costs of completion of the Interstate System, as reflected in the last three cost estimates, is [sic] outstripping the expenditures permitted to be made for completion of this system." The country was, in short, "losing ground."

AAA favored a 3-year authorization, as in S. 502, to avoid consideration of another reauthorization bill in 1974. In addition, Congress should reduce the number of categorical programs. "We believe that a large number of specifically authorized programs unnecessarily impede the individual highway departments." A functional realignment of roads to ensure they are placed in the proper functional class and the appropriate Federal-aid system will reduce the need for fund transfers among the programs.

In addition, AAA supported the priority primary concept that would ensure highway user tax revenue was put to work "on those roads where the traffic needs are the greatest." Singling out a 10,000-mile system of such highways "should bring maximum return on the dollars invested."

Finally, Creal briefly referred to the statement by Rabin regarding the surplus in the Highway Trust Fund. "I think you gentlemen know that this is simply not the case." [*1973 Highway Legislation (Future Highway Needs)*, p. 330-337]

Representative Studds commented that as a member of AAA, he was a little disappointed in the use of a portion of his $18 dues. He agreed that the original purpose of the Highway Trust Fund was highway construction, not public transportation purposes, but "I don't think that's the point." He explained:

> I suspect the 13th amendment abolishing slavery went far beyond the intentions of the men who wrote the Constitution. But I think times change, and heaven help us if our institutions and our laws aren't prepared to change.

He referred sarcastically to the 1972 National Transportation Report as "my favorite report." He asked if Creal and his companions believe the report's statement that total highway needs through 1990 exceed urban public transportation needs by 10 to 1. Charles N. Brady, director of AAA's Highway Department, pointed out that the report was prepared by "a group of professional people who have made similar reports for 30 years." We had substantial needs in 1956, and those needs still had not been met. Brady asked, "Are you asking whether we doubt the capabilities of these people that made these needs studies, is that your question?"

Representative Studds pointed out that the report claimed that through 1990, urban public transportation would account for 9 percent of transportation needs, with highways accounting for 87 percent. "Now, do you really believe that is a rational assessment of the transportation needs of this Nation?" Brady responded that the current mix of traffic was 92 percent in passenger cars, 6 percent in buses, and 2 percent in rail. "I don't think people are going to change that much in the next 15 years."

Why, Representative Studds asked, had the mix changed so much in the past 20 years. Brady replied:

> They have changed that much because they have become more affluent, and they have moved out of the cities into suburban areas. They have individual homes rather than three-story walkups these days, or four-story walkups that their parents had. They have a little more room in the suburbs and I don't think you're going to get them to move into more congested living or working conditions.

Representative Studds asked why suburban commuters had moved so dramatically from rail transportation to driving to work. Creal responded, "I think Americans are in love with their freedom of mobility, and when they're able to afford it, that's what they want to do." This statement resulted in the following dialogue:

> Mr. Studds. Do you think it might have anything to do with the fact that all the trains have disappeared?
> Mr. Creal. Possibly. But I think it might also work the other way. The trains may have disappeared because they didn't really want to ride them.
> Mr. Brady. I think the locations of their jobs have changed, and the types of things they do with their leisure time. They have more leisure time and they travel more and have more recreational pursuits than they had in previous years. All these factors enter in. As a matter of fact, the home-to-work trip now is less than a third of the total trips that an individual makes.
> Mr. Studd. It's also a nightmare.

Representative Roe pointed out the congestion in New Jersey and asked the witnesses' help in finding a solution. "Can we just double up the cars on top of each other on the highways?"

Creal pointed out that AAA was not opposed to urban mass transit and conceded that in some cases, mass transit, whether bus or rail, was needed. "But we think there are many areas where that solution is being brought up as the solution of a problem when it is not."

What then, Representative Roe asked, is going to solve the problem?

Creal suggested going back to the beginning, with decisions on land use:

> I don't think a builder would build a building on a speculation basis with no elevators and no hallways, because he would have forgotten that people have to get up and down and go sideways in that building. But seemingly we build buildings, communities, offices and stores, and so forth, without any thought to how people are to get there and get away from there. I think this is part of the total problem.

> Transportation is considered after the fact. They build a building that will hold a thousand people and they say the problem is with the automobile because it's choking the streets. But that isn't what chokes the streets; it's the fact they put in another thousand people who have to get to one place that has caused the problem.

Representative Studds wanted to go back to his "favorite report." He asked the AAA representatives to not misunderstand "my hostility." After all, he paid his dues, owned a car, and drove it a lot. His hostility, he said, "is to the contention that highways really do compose [sic] 87 percent of our future transportation needs." He said:

> Again and again you cite in here the national transportation report. I don't think you mean to state, but certainly your testimony would lead one to believe, that cars are no more contributors to pollution than public transportation is.
>
> I think you say that to shift funds from highways to transit would result in increased highway fatalities with very little change in air pollution, and you nail that down by saying that's the Department's own report.
>
> Well, I'm beginning to wonder how much we can rely on that report.

He also questioned reliance on the other report cited, *Economic Characteristics of the Public Transportation Industry*, that found no evidence that low-income households, young people, and senior citizens have a higher demand for transit:

> I don't know whether you have talked to any senior citizens or low-income householders or youth, but that just runs in the face of all rationality, reason, and experience. I mean, do you know senior citizens who tend to drive their own cars increasingly as they get older?

Creal did not want to debate the accuracy of the Department's reports. "I am citing them because that's the best available information we have." Representative Studds said he would like to meet representatives of the young, poor, and elderly who supposedly rely less on mass transit "as they get poorer."

Representative Studds also objected to Creal's statement that asking highway users to pay for subways and rolling stock was unfair. He had objected "all along to this single categorization of the highway user—we're all highway users." But many highway users would use public transportation if it were available:

> We have a struggling bus system which has threatened to disintegrate altogether because it can't meet its costs, like most of the urban systems in the country. Or say, the poor resident of Cape Cod who can't even move in the summer because of the cars, and we can't even find out whether we have lost the railroad rights-of-way.
>
> I'm just submitting to you that it does not strike me as very rational.

As the question period ended, Representative Studds told the AAA delegation:

> Let me just say again that I'm not going to resign from your organization. I am delighted to be a member, and I'm very happy with my car. I wish I didn't have to spend as much time in it as I do. Everyone I know, and almost everyone I represent—I think I speak reasonably in their behalf—can question the rationality of this 87 percent figure.

He again asked if AAA believed it. Creal responded that, "For lack of better data from another reliable source, I think we have to say 'Yes.'" Representative Studds concluded, "OK, thank you." [*1973 Highway Legislation (Future Highway Needs)*, p. 337-341]
The final witness on March 20 was James E. Collis, chairman of Transportation Priorities Alliance of Fairfax County, Northern Virginia. He recalled that in the 19th century, Fairfax County was linked to Washington by three trolley lines that travelled to and from Washington in less than an hour at a cost of 10 cents:

> Today, traveling from Fairfax County to Washington, D.C., can take over an hour. It is an expensive and nerve-wracking experience for both the traveler and for the unfortunate resident who happens to live near the roadway.

The problem was that transportation "has become too heavily committed to the automobile." He explained that, "If there ever was a classic example of the law of diminishing returns, it is the automobile as a medium of urban transportation." Instead of improving transportation, it becomes "more cumbersome, more congested, and more of an environmental and economic millstone around our necks."

The automobile-based transportation system was inefficient, took up large amounts of space, wasted energy, was more expensive than other systems, caused 85 percent of air pollution, had a terrible safety record, and excluded millions of Americans who did not own automobiles:

> We are here today to ask for change and progress. We ask that in future planning for transportation in the cities that urban mass transit be considered as the primary means for moving people . . . . We believe that Congress should discourage further automobile-oriented development in urban areas in order to help reduce the number of automobiles entering our cities.

A substantial portion of Highway Trust Fund revenue came from people who had no choice but to use their automobiles. They would "gain immeasurably by improved public transportation." Congress should not hesitate to use Highway Trust Fund revenue to provide even more support for urban mass transit than it had provided for highways for the past 2 decades.

He specifically urged Congress to block construction of I-66 inside the Capital Beltway. If built to relieve congestion, it would quickly be filled with cars from new developments encouraged by its construction. "Then, instead of facing some 30 miles of congested highways as is now the case, the long-range I-66 commuter will be faced with 50 miles of snail's pace driving." He added that similar situations must exist all over the country, "and we urge the Congress to grant these cities the relief they so urgently need."

Representative Harsha began the question period by asking what the Transportation Priorities Alliance was. Collis said it consisted of citizens who had banded together to oppose I-66 within the Capital Beltway, but had taken on a broader mission. Representative Harsha asked how many members were in the group. "We really don't have a membership," Collis replied, but added that the alliance had a mailing list of about 200 people. So, Representative Harsha asked, "does it consist of you and someone else?" Collis conceded "We are not an army."

And who, Representative Harsha wanted to know, elected Collis chairman. Collis explained, "I was not actually elected." The governing council had asked him to lead the alliance. What, Harsha asked, was the governing council?. "A group active in the organization." It had 10 or 15 members, sometimes 20. Are they elected? No, Collis replied, they are people who chose to take an active interest and participate in this type of work."

Representative Harsha asked where Collis lived and worked. He lived on Kirkland Street in Falls Church and worked in Suitland, Maryland. How did he get to work? "By car." That concluded Representative Harsha's comments.

Representative Studds asked Collis how he would like to get to work. "I'm looking forward to Metro with great anticipation." Did he use the bus? He used it when he could, but it was impractical for getting to and from work. In fact, he had driven to work in Suitland and then into the city for the hearing. He had been there all day. Representative Studds complimented him for his statement and his patience.

The day's hearing was concluded by Representative Roberts, who told Collis:

> I just want to say that I disagree with you basically, but you have a very good statement and it's a good one to wind up on. I don't believe we could have stood some of these others at this late hour of the day.

The hearing concluded at 6:40 p.m. [*1973 Highway Legislation (Future Highway Needs)*, p. 341-345]

Protesting the AAA Position

The controversy over the Oyster Bay-Rye bridge took another turn on March 16 when the Department of the Interior informed the MTA that proposed access roads to the bridge were incompatible with use of a 3,100-acre wildlife refuge. The town of Oyster Bay had deeded the refuge to the Interior Department in 1968 as part of the plan to block the bridge.

On March 20, Commissioner Schuler told the Long Island Association of Commerce and Industry that he did not think the Interior Department's decision would kill the bridge. The Department of Transportation could determine under Section 4(f) that no feasible and prudent alternative existed for the approach roads other than the taking of refuge land. In that case, Schuler thought, the Interior Department would change its view by weighing "the social and economic concerns along with the environmental ones."

FHWA denied that the Secretary of Transportation could overrule the Interior Department. The Interior Department owned the land and would have to agree to the use or certify that the use was not "inconsistent with the purposes for which such land has been reserved."

Over the weekend, a spokesman for Governor Rockefeller indicated he was considering an appeal to the White House to persuade the Interior Department to reverse its position. Other options were under consideration. [Bender, Judith, "There's Hope for Bridge Yet: NY Aide," *Newsday*, March 21, 1973]

The Christian Science Monitor used the battle over the gas tax in Michigan to illustrate how the battle at the Federal level could "turn into a bitter legislative and judicial battle." The Senate's approval of the use of Federal-aid urban funding for mass transit systems was "only a minor step toward actual use of these funds for other than highway building and repair." A similar measure might "squeak through the House Public Works Committee, where the chief counsel opposes such diversion of funds," but opposition at the State level remained strong.

For 2 years, Republican Governor William G. Milliken had been fighting for a limited mass transit gas tax against a coalition of business and political interests who wanted gasoline tax revenue restricted to road construction:

> The Milliken plan, introduced in early 1971, called for adding 2 cents per gallon to the 7-cent state gas tax. Three-fourths of this added amount would join the 7 cents going to highway construction. The remaining one-fourth, one-half cent per gallon, would go to support all forms of mass transit.

The newspaper recalled that the proposal had attracted national attention in April 1971 when auto industry executives announced their qualified support. "By qualified, it was found to mean, the carmakers backed highway-oriented mass transit only." They favored exclusive bus lanes, bus purchases, and construction of shelters. The concession by Henry Ford II that the funds might also be used for experimental mass transit system was qualified by the restriction that operating systems could not be built unless they rolled on highways.

"These concessions were generous," the article stated, compared with the views of representatives of the trucking, petroleum, and construction industries. Despite their opposition, the bill passed the State House of Representatives, a step seen by supporters as leading to victory. "Such was not the case."

In the State Senate, the bill was assigned to "the hostile Highway Committee," whose chairman delayed a hearing for 7 months. "When hearings were finally held, supporters had a choice of traveling to one of three out-of-the-way communities to present their views. Two of the hearing sites were in extreme northern Michigan, and one of these in the upper peninsula."

With the hearings held, Governor Milliken had to "agree to a number of strangling compromises" to get the bill to the Senate floor. "In final form, the mass-transit portion of the tax could go only to bus systems, except for a small percentage permitted for the study of other type systems." Further, the funds would not be grants, but loans that would not be available after July 1, 1975, barring additional action by the legislature. The bill also called for a referendum on limiting the amount of the gas tax going to mass transit to one-eighteenth of the total charge per gallon. It also prohibited use of the funds for bus systems that provide buses for inter-district integration of public schools. (A Michigan judge ruled the school amendment unconstitutional.)

Around the same time, the Michigan Americanism Council launched a petition drive for a referendum on repealing the entire mass transit gas tax:

> The two referendums, combined with the technically unresolved busing issue threatened to keep the mass-transit gas-tax pot boiling in Michigan for another two years. Fueling the battle are the state offices of representatives of such national lobbies as the Highway Users Federation, construction and petroleum lobbies, and in particular the American Automobile Association. [Wargo, James, "Battles Still Loom Over Road-Fund Diversion," *The Christian Science Monitor*, March 21, 1973]

As noted earlier, Vice President Agnew had been in Los Angeles on March 21, where he told a rapid transit seminar that, "We should give the same advantages to people who use mass transit as we give to people who drive." He suggested "fringe benefits," such as in Denver, where a bank buys bus tokens and sells them at half-price to employees. He supported the President's proposal to divert some Federal-aid highway funds to mass transit, a plan that was incorporated in the approved Senate bill:

> Only the concurrence of the House is necessary now to provide our states and localities with the flexibility they will need to achieve a truly balanced transportation system. ["Transit Commuters Wooed by Agnew," *The Washington Star*, March 22, 1973]

On March 28, a small group picketed the Automobile Club of Maryland's headquarters at 1401 Mount Royal Avenue in Baltimore to protest AAA's position on the use of Highway Trust Fund revenue for urban rapid transit. Marsha D. Caplan, co-chairman of the Better Air Coalition, said, "We want to make people aware of the need to open up the trust fund, and get money for urban mass transit." She also was co-chairman of the "Coalition to Bust the Highway Trust" and informed reporters that members of the Maryland Environmental Trust, the Sierra Club, the United Steelworkers of American, as well as conservation, anti-expressway, and other groups were participating. She accused AAA of advocating an anti-diversion policy "without polling its members."

Inside the headquarters, the reporter found that workers "seemed bemused by the demonstrators," while others "took little notice." According to William U. Bass, Jr., the Automobile Club of Maryland's vice president, this was the first protest the club had experienced. "We are not against mass transit," he said. "Our position is that [the money to pay for rapid transit] should come out of a general fund."

Reporter James Dilts of *The Baltimore Sun* summarized S. 502 as well as Creal's testimony before the House Public Works Committee on March 20. Dilts cited the survey Creal had described during his testimony, but added:

> Nevertheless dissident groups of AAA members in three of the most populous states—California, New Jersey and Michigan—have challenged the leadership of the local organizations and their philosophy of transportation priorities.

The Automobile Club of Maryland had conducted a survey a year earlier that found that 92 percent of 9,000 respondents opposed the use of highway user taxes for rapid transit facilities. A poll of the club's 111,000 members "produced nearly identical results" according to a club spokesman.

Dilts also quoted an article from the club's magazine, *The Maryland Motorist*:

> Over the past 30 years, the American public has chosen a low-density living pattern which has brought about a dispersed pattern of trip making. There are organized interests at work today creating the impression that the American public no longer wants or needs the highways necessary to maintain this life style.

To combat these interests, the magazine urged readers to write their congressional representatives and ask them to maintain the integrity of the Highway Trust Fund. [Dilts, James D., "Group Pickets AAA on Road Fund Stand," *The Baltimore Sun*, March 29, 1973]

Massachusetts Makes the Case

On Wednesday, March 21, 1973, Representative Kluczynski presided when the subcommittee resumed its hearings at 10:03 a.m. in room 2167 of the Rayburn House Office Building. The first two witnesses were from Massachusetts.

Representative Moakley began by saying:

> Mr. Chairman, 6 months ago to this day this committee voted against allowing cities like Boston to choose how best to spend its share of Highway Trust Fund money. That same day, September 21, 1972, as a candidate in Massachusetts' Ninth Congressional District, I pledged that if elected to Congress my first priority would be to try to change your mind.
>
> Of course, I am prejudiced.
>
> If you allow cities like Boston to decide for themselves how best to spend its share of the Highway Trust Fund, no other congressional district in the United States would be as immediately and totally benefited as my own.

He said he was not only prejudiced but desperate:

> With all due respect, regardless of your decision, the odds are great that no more highways will ever be built in Boston. One good lawyer could keep away the cement trucks from Boston for at least 15 years.
>
> All the roadbuilders in America would not stand a chance against one Boston lawyer clad in the armor of the Department of Transportation Act, the National Environmental Policy Act, and the Clean Air Act.

To describe the "Boston-wide epidemic of carsickness" would imply that the subcommittee faced "the false premise that your choice is between highways or no highways . . . [or] between rail transit or highways." He continued:

> Your choice is simply whether to allow cities like Boston to spend funds already earmarked for its use alone on the transportation mix best suited to meet its particular transportation needs.
>
> To allow Boston that choice, you do not have to lift a single dime from the Interstate highway pot nor do you have to commit a single dollar to rail transit.

Granted, he said, Boston would spend the funds on rail transit, as will "16 other American cities. And all for good reasons"

He summarized the arguments against flexibility:

> Mr. Chairman, some think it irresponsible to allow cities a rail transit option. They say that all the money that could conceivably be authorized by this Congress for rail transit for the next 3 years would barely pay for 1 rail transit system, let alone 17. In fact, they argue, due to any likely urban system fund distribution formula and the varying nonrail transit needs of those cities likely to be eligible for such funding, allowing cities a rail transit choice offers them a false and empty promise.
>
> I disagree. Give Boston a rail transit option and we will build rail transit. Capital grants from the urban mass transportation fund and Massachusetts share [sic] of the urban systems part of the Highway Trust Fund will supplement State and local money. And rail transit will be built in Boston.
>
> What's more, give Boston a rail transit option, and the 1970 Clean Air Act standards will be met by 1985 instead of 2001.

He pointed out that 67 cities were having trouble meeting EPA's clean air standards. Even if they had a rail transit option, many could not meet EPA's deadlines. "But with rail transit, many of America's worst-polluted cities, Boston among them, could show compliance and meet the standards, if not the deadlines." He added that by providing needed flexibility, members of the subcommittee who voted for the Clean Air Act "could take pride in the fact that not only did you vote for clean air but you went the extra mile to make clean air possible."

He concluded by saying, "Transportation in 1973 means more than simply roads." That's all, he said, "anybody is really trying to say."

In the short question period, Representative Robert P. Hanrahan (R-Il.), a former teacher, administrator, and guidance counselor who represented the Chicago area's southern suburbs in Cook County during his only term in Congress, asked how road needs would be met if diversion of Highway Trust Fund revenue took automobiles and their highway user tax revenue off the roads. Representative Moakley replied that "we have got to attack first things first." He explained:

> First of all, I think we have to take the automobiles off the road because we know that automobiles use up one-fifth of all our energy and I have never heard of anybody tearing down a highway to build a house, but they do it conversely. They tear down many homes to build highways, and I think if we have less need for the highways, we will need less funds to keep them in repair. [*1973 Highway Legislation (Future Highway Needs)*, p. 350-352]

Representative Moakley was followed by Governor Sargent, who was representing his State and the National Governors' Conference, which he served as chairman of its Committee on Transportation of Commerce and Technology. He said that the Governors must "daily confront the problems which necessitate a new approach to meeting the transportation needs of some of our metropolitan regions." The governors had "concluded that the Federal Highway Act must be broadened . . . to give each State substantial flexibility to meet its own transportation needs, in its own way."

Starting in 1956, the country had "channeled tens of billions of dollars into road construction, and we successfully created a superb highway network." It was "one of the wonders of our age." The country could take "enormous pride" in its accomplishments, but "must also recognize the lessons of the past 17 years." Those lessons were:

> In those years we have learned that expressways are not always the answer; that they sometimes cause more harm than benefit . . . . So long as highways ran between urban areas, all was well; but then these massive expressways began to march into the heart of our cities. They began to tear up neighborhoods and uproot families, and they brought with them the commuter [who was] lured away from buses and from trains. Transit has been caught in an endless cycle of patronage losses, fare increases, service cuts, and still further patronage losses. And what we have got has been, I think, the ultimate irony.
>
> Despite major expressway construction, the daily crush of commuters now slows traffic to a crawl, particularly at peak hours. Yet with our transit systems as they are, the frustrated driver can see no alternative but to join that crush day after day. So we are left with the inescapable conclusion; highways alone are not the answer to our transportation problem.

The Governors, therefore, had voted for flexibility. On their behalf, he endorsed the flexible use of Federal-aid urban system funds. "This is as it should be."

He also discussed the Interstate transfer issue:

> The administration, the Senate, and the House in its action last year, have all recognized that certain controversial Interstate highway segments cannot and probably should not ever be built. At the same time, it is recognized that the States in which these roads were to be built, still have extensive transportation problems.

The bills under consideration addressed the problem in different ways. The Administration bill "would provide the greatest flexibility" by allowing the State to transfer the funds from a controversial Interstate segment to any project eligible in the State for Federal-aid urban system funds. The Senate bill would limit use of the funds to urban system projects in the same urban area. This option was, Governor Sargent said, "an extremely good one." In 1972, the House bill allowed the use of Interstate funds for alternative Interstate projects. While that was "a genuine step forward," he pointed out that the transportation problem the Interstate System was intended to address was still present. While the 1972 House version would be "far better than nothing," he urged the subcommittee to adopt the Administration or Senate approach.

Governor Sargent said the Governors also supported rural bus service, which was ineligible for UMTA funds because it was not urban. "I do not think this makes sense. Whether via the Transit Aid or the Highway Act, the Federal Government should help rural bus service."

He discussed special bus lanes, as supported by the Administration and the Senate bill. He urged expansion of the concept to allow special roads for trucks and emergency vehicles. He illustrated the idea by describing his proposal for a special-purpose roadway between downtown Boston and Logan International Airport restricted to buses, trucks, and emergency vehicles. "It would serve a desperately congested corridor that simply has no room for another six- or eight-lane highway." It would help relieve congestion by taking these vehicles off the parallel general-purpose highway and encouraging motorists to take the bus to use the airport.

These proposals, in the view of the National Governors' Conference, were steps in the right direction. He had to take exception, however, to the Administration's proposal to pass Federal-aid urban system funds through the States to metropolitan areas. He agreed that metropolitan area officials should be involved in transportation planning, but the proposal "raises some serious questions." He continued:

> The States have a substantial capacity to conduct such planning. With very rare exceptions, the urban areas do not . . . . Now, the demand for participation is as strong in Massachusetts as any that you will find anywhere, but I think there is no demand for passthrough [sic]. Instead, there is a general recognition that strong executive leadership is needed along with participation and that only the State can provide it at the metropolitan scale.

He concluded by saying his main theme was flexibility:

> The needs of Montana are certainly different from Massachusetts. The day has long passed when we can build enough highways to handle all potential automobile demand in the great cities of America, where population density is high, where new highways would have to

> plow through neighborhoods and parks, and where air pollution is a major problem. We must turn to other means than expressways to meet our needs.

He quoted the opening sentence from Charles Dickens' 1859 novel *A Tale of Two Cities*: "It was the best of times, it was the worst of times." The same, he said, "can reasonably be said about our present transportation system." The United States has "the finest and most expensive highway network the world has ever seen," but "we are now choking our urban areas, we are paving through neighborhoods, displacing families and businesses, destroying parks and wetlands, fouling the air." The irony, he said, "is that we did not really intend it this way. It is an oversight." He said:

> We began with the image in our minds of highways sweeping across the countryside, between our cities. We acquired, as well, a host of new problems and controversies within our cities. It is time to correct this oversight. [*1973 Highway Legislation (Future Highway Needs)*, p. 352-356]

Representative Clausen began the questioning by asking if Governor Sargent's views fully expressed the views of the National Governors' Conference. Governor Sargent responded:

> Back a few years ago, when it was first suggested that there should be flexibility in terms of the use of the Highway Trust Fund, the Governors were very apprehensive about this. They felt that this would deprive Governors in rural areas of funds that they were entitled to.
>
> Once it was clearly understood by all of the Governors that what we were really seeking was flexibility within the States, so that Montana, for example, could use its funds in its own way and Massachusetts could use its funds in its own way, the feeling of the Governors shifted to support of flexibility.
>
> Now, I am not speaking for every Governor, but I can say that the Governors' Conference endorsed the concept of flexibility. Some of the details of the various proposals that are before you, they have not gone into, but they have supported vigorously the concept of flexibility.

When Representative Clausen pointed out that Governor Reagan had a different point of view, Governor Sargent acknowledged that he and Governor Reagan "have not always agreed on everything," but he could state that the National Governors' Conference voted to support flexibility.

(In later testimony, James A. Moe, California's Director of Public Works and Director-designate of the California Department of Transportation, would introduce a recent letter from Governor Reagan to President Nixon expressing concerns about the Federal Government's response to changes in transportation emphasis:

> At no time in history has government had such an opportunity as it now has to fulfill its proper role in resolving the transportation issues of the Nation.

> We view with concern some of the trends in national transportation legislation. Two major concerns result from recent highway legislative proposals. First, the increase in the number of Federal highway programs; and, secondly, the direct involvement of the Federal Government in these programs to pass through Federal funds directly to local government seriously disrupts and unbalances the distribution of transportation funds within our State.

(He had three recommendations. First, Governor Reagan recommended completing the Interstate System as soon as possible by maintaining a funding level of $4 billion a year, with deadlines for completion. Second, he recommended retaining the State as the recipient of Federal-aid highway funds because only the State had the capacity to discern local and metropolitan goals and allocate resources accordingly. Third, he opposed diversion of Highway Trust Fund revenue to other modes in all the forms under consideration, including the Muskie-Baker amendment for flexibility in the use of Federal-aid urban system funds, Interstate substitution, transit operating costs, purchase of bus or rail equipment, or rail capital expenditures.

(He would not object to creation of a third trust fund to augment State and local financing for the heavy initial investment in rail transit systems. Governor Reagan also endorsed elements of Secretary Brinegar's bill, S. 967, namely the consolidation of Federal-aid programs into three categories (Interstate, urban, and rural) and State-level certification acceptance to reduce red tape. [*1973 Highway Legislation (Future Highway Needs)*, p. 443])

Representative Clausen said he and the other members of the subcommittee agreed on the need for flexibility, "but it is a question of the extent of flexibility and this is going to be based upon how far the money is going to go, particularly when you consider the amount of funds that are already committed and ready for a claim by a given area, a given State . . . ." He wanted to know if Governor Sargent's statements represent the official position of the National Governors' Conference. Governor Sargent replied, "At their meeting in Puerto Rico the Governors, by majority vote—I do not remember the exact numbers—voted to support the concept of flexibility in the use of Highway Trust Funds." He added that the flexibility encompassed rail transit.

Regarding the pass-through provision, Representative Clausen asked if Governor Sargent's views were prevalent among the Governors. Governor Sargent said it was:

> Our feeling is that there has got to be at the State level strong executive responsibility. It is also possible in virtually every State to have relatively sophisticated planning so you can have an overall plan. As I pointed out in my testimony, if each community is planning itself without reference to neighboring communities, you cannot truly have a transportation network.

He was certain, he said, that he spoke for every Governor on this subject.

Representative Clausen concluded his question period with a long explanation of his views. First, he explained the different perspectives on flexibility. The central issue, he said, was that needs in the big cities differed from those at the county and statewide level. Unlike city and county officials, the Governors represented all communities, large and small, and so were concerned that if a large percentage of limited transportation dollars went to rail transit, "there will not be any moneys left to complete the Interstate Highway System, which is the most important objective of having created the Highway Trust Fund."

He had "stated unequivocably that I would commit whatever is realistic out of the general fund for the rail mass transit in the metropolitan areas" and would support a trust fund for the operation, maintenance, and administration of the system in support of a balanced transportation system. However, in view of the "tremendous backlog" of road needs, he said:

> We do not believe that we should touch the Highway Trust Fund for other than highway related purposes, and the flexibility initiative we took, moving in the direction of preferential lanes for buses, for trucks, so as to make them safer, more compatible in these urban areas, and I think some of the major cities can do something about rescheduling trucks into the major metropolitan areas, as they are doing in San Francisco.

Trucks, he suggested, should be banned in metropolitan areas during peak periods, but he supported "the combination of the Highway Trust Fund, doing its level best to complete the best possible, the most efficient, the safest highway system, the airport airways system, and the trust fund committed toward the completion of that, and then, subsequently, this third area of funding, and I think this is where the Ways and Means Committee is going to have to work with us."

He added an explanation of the change in the subcommittee's name:

> One of the reasons that we moved in the direction of establishing a Transportation Subcommittee is because we found ourselves thrust into mass transit without the benefit of testimony simply because of the difference in parliamentary procedure between the House and the Senate.
>
> The Senate does not have the germaneness rule so they hung title 2 [on mass transit] on the legislation last year and here we went into conference without the benefit of any of these hearings.
>
> Well, I think it would be wise if we had jurisdiction over both, then we could move forward with the coordination of the highway and the mass transit systems . . . .

He shared these thoughts with Governor Sargent, he said, because "you come from the State that seems to be the principal advocate of taking . . . funds away from the Highway Trust Fund, where there is a clearly demonstrated need" for road projects. Massachusetts needed to accelerate improvement of its primary and secondary roads, "just to make them safe." However, "if we dry that one fund up, we will find ourselves in difficulty in being able to meet the finance requirements" for the primary and secondary systems. The answer was "not to go down that road," but to retain the Highway Trust Fund for highways while simultaneously increasing "the funds that we know are going to be needed and develop the kinds of positive systems of finance, along with other philosophies that have already proven themselves to be successful."

Representative LaMar Baker (R-Tn.), a businessman who had served in the State legislature before winning election to the House in 1970, asked about the responsibility for selecting projects. Governor Sargent stated that the Governors, rather than metropolitan areas, "are better equipped with planning resources" to administer the funds. "The Governor is the person who is primarily responsible for the transportation needs of his entire State." Passing the funds through to the cities would result in "fragmentation rather than an effective overall plan." He was not looking for a set-aside for transit, but for the option to decide the best mix of highway and transit projects.

Representative Harsha asked if Governor Sargent had charged "that the Federal Government is forcing a portion of the Interstate Highway System on your State that you do not want." The Governor said he had not made such a charge, but "we would like to have the opportunity in our State, where we have found that clearly we should not continue with plans that were prepared some 20 or 25 years ago, to use those funds for other transportation efforts in that metropolitan area."

Why, Representative Harsha wanted to know, should Massachusetts "be privileged" to use its Interstate funds for other highways or mass transit projects when the other States cannot do it? Governor Sargent responded that he was requesting that all the States have this same flexibility in the use of funds provided for Interstate highways they did not wish to build.

Representative Harsha said he was confused since the only flexibility he was talking about involved Federal-aid urban system funds. Governor Sargent pointed out the Interstate transfer provisions in the Senate bill and the Administration's proposal.

Representative Clausen interrupted to point out that in the House, the only Interstate transfer mechanism under consideration involved mileage, not the use of the funds for other purposes. The committee's position "was to complete the Interstate Highway System as much as possible, and if they do not want it in San Francisco, we transferred it to Los Angeles, to meet the situation there."

Acknowledging that proposals existed to use Interstate funds for other purposes, Representative Harsha returned to his main concern, namely the charge that the Federal Government was forcing Massachusetts to build Interstate highways it did not want. That charge, he said, "does not hold water, because the location of that Interstate System was selected by the State Highway Department of the State of Massachusetts," which had applied for the routes. Governor Sargent said that Representative Harsha was correct, but added:

> Now, back a great many years ago there was a highway network set out for the Greater Boston area, including an innerbelt, and so on. It was proposed by the State, proposed by the State department of public works. It was essentially approved by the appropriate Federal authorities, and now it has become apparent that those plans that were prepared 25 years ago would be ruinous in the area, so we want to revise the plans. But I have never charged that the Federal Government was forcing us to build the highways. We do have, of course, the 90-percent Federal share hanging out there as an inducement.

After again asking Governor Sargent to agree that the State of Massachusetts had proposed the Interstate highways the Governor now objected to, Representative Harsha yielded to Representative

Roe, who wanted to express his concerns about the pass-through concept. Noting Secretary Hughes' testimony earlier on behalf of State transportation officials, Representative Roe said:

> The thing that would frighten the committee a little bit—it does me, anyway—and I am not in favor of a 400,000-population regional agency having sole jurisdiction. I think that is a farce. I think there has to be some tighter control, but would that not lead, in part, to a State administration maybe favoring a particular area, even though the needs of the people may not be greatest there? I am thinking of mass transit, particularly.

Governor Sargent said that Governors had to consider all parts of the State, not just metropolitan or rural areas. "I think he has at his disposal more personnel to direct an overall plan than any particular city would have. I think that he should be held accountable."

Representative Roe was concerned that if it were "only a question of the 'raiding of highway funds' for so-called flexibility," the funds available from the Federal-aid system would be inadequate "to really do the job that has to be done in mass transit." Governor Sargent said, "Ideally, if the UMTA fund could be increased by tremendous amounts, this would be fine, but I think, also, that flexibility in use of the Highway Trust Fund should be there."

As Representative Roe's question period came to an end, he explained that he hoped the Governors, at their next conference, would say that "to 'raid' the Highway Trust Fund, in effect, and I do not mean that unkindly, or to try to borrow from Peter to pay Paul, is not the answer to the mass transit problem." What Congress really needed is for the Governors to say "Cut out the nonsense. We need your help now to buck us up to get a mass transit bill through with adequate substance to do the job."

Representative Wilmer D. Mizell (R-NC) was next. The former major league pitcher (1949-1963, with a break for military service) known as "Vinegar Bend" Mizell after his hometown in Alabama asked for an estimate of transit needs in Massachusetts. When Governor Sargent replied "in excess of $1.5 billion," Representative Mizell asked where the Governor thought the revenue would come from. The Governor explained that the State was "taking advantage of every dollar that we can get from UMTA, and the State is providing most of the matching requirement." In addition, he would like the flexibility to transfer some Highway Trust Funds to transit. "We do not want to steal from any other State . . . but we would like to have total flexibility for the use of whatever funds that could be made available to our own State."

Representative Mizell pointed out that while he did not have the exact figure, the amount of flexible funding under S. 502 was well below the figure Massachusetts needed. Because Congress had been involved in funding the Metro subway system in the Washington area, he knew that the original estimate had more than doubled.

With Representative Mizell's consent, Representative Clausen again interrupted to make a point that he said had not yet been addressed. If transit managed to reduce the number of automobiles coming into the city, "they are cutting down substantially the amount of dollars in the trust fund that we are going to be dependent upon for the flexibility you desire, and our argument is that we have to have some sort of financial system to finance either highway or rail." That, he said, "is the key." Governor Sargent replied that, "We need more total funding for transportation, but I do not believe we should encourage people to commute by automobile so as to maximize highway user tax collections."

Representative Mizell pointed out that even if all the Highway Trust Funds were devoted to mass transit, "it would not get the job done." Talking about getting this money for transit makes for a great speech in the big cities, but the total would be "a drop in the bucket." By contrast, the Interstate System was not just for the people of New York City or Boston, but for people throughout the country. "I think it is an injustice to funnel them into a metropolitan area for mass transit systems, especially in view of the missing links that we still have in our Interstate System." Did the Governor agree that the Congress had an obligation to complete the missing links?

Governor Sargent agreed that the Interstate System was "one of the greatest things that we have ever done in this country, but "we have gotten into messes where we have tried to run into and through the Nation's large, densely populated cities." He continued:

> For example, I know that we would not implement the plans of 20 years ago calling for eight-lane highways right in the city of Boston. I think we should be able to spend the money that is due to Massachusetts, to be able to use it in a different fashion.

Representative Mizell concluded by agreeing with Representative Roe that the Governor "really should recognize the fact that these trust funds are not going to solve the mass transit problems." He urged the Governors to take a hard look at how those needs could be met "rather than just taking a token amount of money out of the trust fund and saying, 'We are going to build urban mass transit systems.'"

Representative Hanrahan asked how the Governor would feel if mass transit funds were made available with the flexibility to use them for highways. Governor Sargent said he would like to have as much flexibility as possible, whether for highways or mass transit funding. Would he, Representative Hanrahan asked, use mass transit funds for an expressway in the Boston area if it were needed? Yes, the Governor replied, if that were a primary need.

Regarding controversial Interstates, Representative Hanrahan said that everyone agreed certain routes should not be built. He asked the Governor to identify routes that should not be built. Governor Sargent cited an example from Boston:

> We have plans that were prepared some 20 to 35 years ago for an inner belt that would circle inner Boston, pass through Cambridge, et cetera. I have stopped that highway. I do not think it should be built. It would tear apart and ruin some of the finest sections of the metropolitan area. We would like to have these funds for other transportation purposes within the metropolitan area, and without that metropolitan area throughout the State.

With his testimony concluded, Governor Sargent thanked the members of the subcommittee and said, "I cannot think of a more important committee than the committee before which I am appearing." [*1973 Highway Legislation (Future Highway Needs)*, p. 356-367]

More Views

Governor Sargent was followed by a D. Grant Mickle and his HUFSAM associates. He pointed out that, "The vast majority of American people rely upon automobiles for their transportation and will continue to do so for the rest of the century." He added that changes in society made roads even more important:

> Many of our road needs are being created because America's urban revolution is really a suburban revolution. City dwellers are spreading out . . . . Employment is dispersing, too. Former "bedroom" communities are becoming employment centers, as well. More residents of Westchester County in New York are employed in the county than work outside it. The same is true of Orange County on Los Angeles' rim. The pattern is national. In less than 10 years, more people will be working in suburbs than in central cities. More than half will go daily from suburban homes to suburban jobs . . . .
>
> Increasingly, transportation must enable people, goods and services to move quickly in many directions over large areas. This is the more true because of the growing amount of nonwork travel. One out of five trips each day has a work purpose . . . .
>
> Between now and 1990, the population in our urbanized areas will increase by 60 million. Peak-hour accommodation of people commuting in and out of the central city will continue to be a vast and important need. But a still bigger need is the development of arteries to accommodate circumferential trips.
>
> Land use, economic development, and life styles demand mobility and clearly dictate a continued reliance on private vehicles, public highway transit, and the movement of goods by truck.
>
> Contrary to current cliches, the arteries that accommodate traffic do not generate that traffic. Hospitals do not create sick people, pipes do not create water, schools do not create children, and adequate highways do not create traffic. Traffic is created by people's need to move about. In less than 20 years, there will be 50 million more people moving about on our streets and roads.

He did not believe "a massive new highway construction program" was needed, but rather an emphasis on restoration of the most important urban and rural roads. Completion of the Interstate System "as rapidly as feasible" was also essential.

He cited a 1971 poll by Opinion Research Corp:

> A majority approves the present pace of new highway construction. Among people who do not approve, more than half believe the pace is too slow . . . . People vote with their actions as well as through opinion polls and by the ballot box. Even where other modes of transportation are readily available, two out of three workers get to their jobs by auto. This is true at the bottom of the economic ladder, as well as of those at the top.

Mickle agreed with a statement by Carmack Cochran of the American Transit Association that transit needs are independent of highway needs. "It is imperative," Cochran said, "that any dialog does not develop into solely a narrow 'more-transit-means-less-highways' viewpoint. Transit's overall needs bear little direct relationship to the present funded level of the highway program." Mickle pointed out that the 1972 National Transportation Report estimated total transit capital needs at $63 billion (including $50 billion for rail transit) and $593 billion for highways through 1990. "But even if all transit needs are met, the study shows that the percentage of transit use will drop." He explained:

> Recent experience bears this out, as well. The 16-mile Montreal Subway System, built to take care of the crowds expected for Canada's 1967 Expo, had not increased the percentage of transit use. Some bus passengers have shifted to subway. But the rate of auto use had continued.

HUFSAM agreed that transit and highways needed better support, but "the answer does not lie in robbing Peter to pay Paul."

Mickle also addressed the value of highway investment. He pointed out that the President's Office of Science and Technology had cited the Interstate System "as being among our most cost-effective safety measures." Interstate highways were making cities more accessible than ever. "Despite our understandable impatience with congestion—getting in and out of the center of most cities actually is measurably faster than it was 10 or more years ago." In San Diego, for example, "average peak-hour speeds have changed from 18 miles per hour in 1955 to 40 miles per hour today."

Automobile registrations were increasing rapidly, Mickle said, adding that, "Even so, the Environmental Protection Agency announced this month that air pollution is declining." President Nixon had said as much in his environmental State of the Union message ("day by day our air is getting cleaner"). "Some of the credit undoubtedly goes to the modern, high standard highways that reduce stop-and-go driving—the kind that produces most pollution."

HUFSAM emphasized its support for the Highway Trust Fund and the highway user taxes that made it possible:

> When related to highway use, these taxes are fair. However, if viewed simply as sales taxes or luxury taxes, and diverted to purposes unrelated to highway use, they would be highly regressive. The handyman who must drive a car considerable distances to his jobs should not be taxed more heavily than the executive who travels only from townhouse to office—unless the tax is used to make driving safer and more efficient.

Mickle emphasized that the concept of the Interstate System was "that the total system, as designated, is in the interest of the Nation's welfare." Deletions and substitute routes "should be held to a minimum":

> Some deletions undoubtedly will occur and we believe current deadlines for final indication of intention to complete or abandon Interstate projects should remain in force. We strongly recommend that any cost savings resulting from substitution of system sections be applied to accelerate Interstate completion nationwide.

Transit was vitally important, but it should have its own funds independent of highway funds:

> If highway funds were to become available for transit, it is likely that other funds would be withdrawn or inadequately supplemented with a resultant loss to both highways and transit. All ground transportationwould suffer. We do not believe transit and highways should be in competition for dollars at Federal, State, or local level [sic].

He recommended a congressional needs study for transit and that needs should be based on federally determined standards. "The lack of guidelines hampered determination of transit needs in the recent DOT transportation study." Mickle continued:

> We also believe current constraints on the use of urban highway funds on such transit aids as bus lanes, traffic control devices, et cetera, should be removed. We urge, however, that the current language with respect to this be strengthened to require the Secretary of Transportation to take into account all possible planning considerations, and that he be assured of the full use by mass transit systems of any such project and the continued operation of and maintenance for a reasonable time of any equipment provided for.

The goal of the highway program "should be to provide quality service and its accomplishments should be measured by safety and congestion-free standards, not simply by the number of new miles constructed. In rural areas, congestion relief might require "new or wider lanes, intersection improvements, and added passing opportunities." In urban areas, "peak-hour congestion calls for a new dimension in highway monitoring and operational control," such as instrumentation for continuous surveillance, preferential lanes, and carpooling. In suburban areas, "arterial highway capacity should be planned and developed ahead of intensive land development."

HUFSAM recommended a functional reclassification of the Nation's roads as the basis for realignment of the Federal-aid highway systems. Federal-State matching shares should be adjusted to reflect the relative importance of the systems. The Interstate program would retain the 90-10 matching ratio, while the ratio of 75-25 would apply to urban and rural principal arterials; 50-50 for urban and rural minor arterials; and 30-70 for rural major collectors. The States should have flexibility in the use of the Federal funds, but "the graduated matching ratio would encourage use of funds on the most important roads."

To reduce red tape, HUFSAM recommended eliminating project-by-project review by the FHWA. "Rather, the role of the Federal Government should be to review and approve the States' long-range plans and annual work programs." Although environmental and other requirements were necessary, "the total effect is delay and inefficiency." HUFSAM recommended that Congress call for a study of how to streamline project development while protecting the public's interest in these laudable goals.

As the suggestion on red tape implied, the States had gained "competency in highway matters," but so had many metropolitan areas. HUFSAM recommended three steps to increase the metropolitan role in planning and implementation:

1. Encouraging development of single metropolitan area transportation planning agencies to coordinate highway, transit, and land use planning.
2. In support of a real commitment to metropolitan planning, we propose that—whenever there are significant changes in community plans—it should be possible to suspend temporarily certain federally aided construction programs affected, until these changes can be assessed and adjustments made.
3. Rather than automatic allocation—so-called passthrough [sic]—to urban areas on a population basis, as has been proposed by some, we suggest that the States be required to develop allocation plans, in cooperation with local authorities, to the satisfaction of the Secretary of Transportation.

These steps "should give the metropolitan areas the emphasis and freedom they seek, while maintaining equity."

At the same time, Mickle's statement emphasized that equity would not be served by the use of highway funds for transit:

> We would point out further that the so-called "flexibility" this would achieve is a delusion since it only goes one way. There has been no thought of opening Urban Mass Transit Administration funds to highways.

Finally, HUFSAM was in favor of updating the outdoor advertising and junkyard control provisions of the Highway Beautification Act of 1965. However, the Highway Beautification Commission established by the Federal-Aid Highway Act of 1970, which called for a report in 1 year, had still not reported its findings and recommendations. HUFSAM called on Congress to secure this report as early as possible in order to consider its recommendations before making any changes to highway beautification laws. [*1973 Highway Legislation (Future Highway Needs)*, p. 368-376]

As might be expected, much of the questioning of the HUFSAM team was supportive.

How long would it take to complete the Interstate System? "We would think that with the proper application of the total trust fund money collected, the Interstate highway program could be completely funded by 1980."

Should mass transit funding come from general funds or a new source of taxes? "We think the needs for both transits [sic] and highways are so great that they both cannot be supported from the trust fund, and as the Congressman from New Jersey stated earlier, we should not be robbing Peter to pay Paul, to provide the transit funding."

Do you agree with EPA that within 5 years, most cars on the road will have to be 100-horsepower units? "I do not know . . . other than to say that decisions of that kind are generally made in the marketplace . . . ." HUFSAM's Peter Koltnow added, "There might be a long range effect, but we have over 100 million vehicles on the road now, and we only add about 10 percent new vehicles a year."

What about a trust fund for transit? "I would like to say that we certainly support that point of view, and . . . I have suggested that a special study be authorized by this Congress to look into the subject in much greater depth than it has been looked into in the past."

Would HUFSAM agree that all the funds authorized for the Federal-aid urban system are needed for highways? "I certainly would agree."

Would HUFSAM support continued funding of highway beautification programs from the general Treasury as under past legislation, rather than from the Highway Trust Fund? "Yes, you are correct," although Highway Trust Fund revenues could be used for landscaping within the highway right-of-way.

Representative Roe engaged HUFSAM in a dialogue about the pass-through concept, citing the example of two counties in New Jersey (Bergen and Passaic) adjacent to New York City that would each qualify for pass-through funds. "Surely it would be ludicrous," he said, to have separate county transportation agencies receiving funds and planning projects that also affect New York City. Koltnow replied:

> We have testified to the point that there is no automatic passthrough [sic] provision that will serve the needs of a typical complex urbanized area. History has shown that the relationship between the States and the metropolitan areas in highway matters has a requirement for a planning group. In the future, areas that have shown that they can plan cooperatively and competently, and handle funds could, through the relationship with Governors, and others, become implementation agencies rather than just planning agencies, which they are now.

Representative Roe said he was trying to "blow open" the myth behind the provision in S. 502. If the two New Jersey counties proceeded without State oversight, they and New York City could go in different directions and "there is not going to be any coordination." Mickle replied, "I agree wholeheartedly." [*1973 Highway Legislation (Future Highway Needs)*, p. 376-382

The HUFSAM testimony completed the morning session, which ended a little after noon. The Subcommittee on Transportation resumed the hearing at 2 p.m. Most of the witnesses were pro-transit or at least not interested in traditional highway construction. For example, the first witness was Representative George E. Danielson (D-Ca.), a lawyer, former Assistant U.S. Attorney, and State legislator who had won election to the House in 1970 from a district based in Los Angeles County. He recommended that the Federal-Aid Highway Act of 1973 call for a "study of the relationship of car size to many of our current transportation, pollution, and fuel resource problems." He had introduced House Joint Resolution 301 for that purpose:

> The study I propose would describe and define the relationship between automobile size, on the one hand and, on the other, the need for additional highway construction, the frequency of highway repairs, the lack of adequate parking in urban areas, motor fuel consumption, which is directly related to our critical fuel shortage, and, of course, the pollution of the air. The need for such a study is urgent, and I do not use the term "urgent" lightly . . . .
>
> As we continue to allocate federally collected revenues to highway uses we should have enough hard facts on the subject so that we can make sound judgments as to whether we are using our resources as wisely as possible, or whether we should make changes in our policies with respect to the size of motor vehicles. [*1973 Highway Legislation (Future Highway Needs)*, p. 383]

Representative Wendell Wyatt (R-Or.) made a brief statement urging the subcommittee to ensure that the Federal-Aid Highway Act of 1973 not interfere with Oregon's initiatives under the Highway Beautification Act of 1965. In July 1972, he said, the Oregon Travel Information Council had erected the country's first logo information board. (A logo sign is erected on the highway right-of-way and contains the logos of companies, such as restaurants, gas stations, and camp sights, serving motorists at the next interchange.) An agreement with the Oregon Outdoor Advertising Association to enter into binding arbitration on just compensation prompted Representative Wyatt to tell the subcommittee, "it is anticipated that Oregon will remove all billboards from Interstate and primary highways by end of this year, 1973." [*1973 Highway Legislation (Future Highway Needs)*, p. 388-389]

A delegation from Cleveland testified in support of using Highway Trust Funds for public transit systems. The Cleveland Transit System (CTS) operated 700 route miles of buses serving 45 communities and 3 counties, as well as a single 90-mile rapid rail line. The delegation began by presenting a statement from Mayor Ralph J. Perk, who was not present. He said that 32 percent of Cleveland's 750,000 residents did not own a car, while 48 percent of the elderly lacked a car. "It seems to me that we have a clear moral obligation to improve the mobility of these people." For this reason, "I favor the use of Highway Trust Funds for public transit to allow us to develop a more balanced transportation system in the Cleveland region." The present restriction on the use of the funds was having "a distorting effect on local transportation decisions." He continued:

> At present, a transportation problem in Cleveland must be solved by a choice between a highway solution at 5 percent cost to local taxpayers, or a transit solution at 100 percent local expense.

A more flexible approach would "help restore the fiscal vitality of the Cleveland Transit System as well as improving our City's own initiatives in transportation planning and development."

Stella G. White, a member of the Cleveland Transit Board, informed the subcommittee of the "grave crises eroding urban transportation nationally, and Cleveland Transit in particular." She said:

> CTS was established 31 years ago. It is the largest transit system serving an urban area in the United States which has sustained itself by operating solely out of the farebox. It has never been subsidized . . . . The economic law of diminishing returns has overtaken urban transportation in America and new methods of financial transfusions are needed. As repugnant as it is to a transit board, we have in the past 2 years reduced service some 27 percent, laid off staff, and this month increased the basic fare to 50 cents.
>
> Raising fares and cutting service are self-defeating measures. We had one other alternative—close down the system.

Testimony later clarified that Ms. White was referring only to operating costs; CTS had received $22 million in UMTA capital grants. Representative Stanton, who had introduced the panel, said:

> It is not that we have not tried to solve the problem at the local level. We really have. We have made a conscious effort to go forward with the program to meet the needs of the community at the local level. I had even proposed a tax at the local level to subsidize the operation at the local level because I feel strongly about a public transportation system.

Although Cleveland was ideal for rail transit, "What we really need is capital dollars and a tax base to subsidize the operation." He was sure that with the help of Congress in coming years, "we are going to cross this hurdle in Cleveland and solve our transportation problems."

Ms. White endorsed Representative Glenn Anderson's version of the Muskie-Baker amendment, H.R. 101. Representative Anderson thanked her for the support of the bill, adding, "I might point out that we chose H.R. 101 to number our proposal because Highway 101 traverses our State of California from the north to south." He pointed out that the city of Los Angeles paid more into the Highway Trust Fund than it received under the Federal-aid highway program. He said that in view of their statement about supporting the system from the farebox, "I did not want them to feel badly that they had received some grants in the past . . . ." [*1973 Highway Legislation (Future Highway Needs)*, p. 390-396]

The next witness, Dr. Ronan, again represented the Institute for Rapid Transit, the MTA, and the Port Authority of New York and New Jersey. (As discussed earlier, he had appeared before Chairman Minish's new urban mass transit subcommittee in the morning.) Dr. Ronan stressed that his organizations were not opposed to the passenger automobile or the use of buses. They were "not in any way part of an antihighway effort" and in fact supported Federal-aid for highway improvements.

He began by addressing the use of Federal-aid urban system funds for public mass transportation systems "other than on rails." If S. 502 had retained this "discriminatory provision intact, it would have had the impact of discouraging the transportation of passengers within urban areas by rail."

He did not believe such an outcome "would be in the national interest for a variety of reasons, including among others economics, air pollution control and the need to conserve energy." He was pleased that instead, S. 502 incorporated the Muskie-Baker amendment. His organizations believed that flexible use of Federal-aid urban system funds "should be expanded to include all modes of urban public transportation." If the discriminatory provision were retained, many cities would opt for highway development. "Unfortunately, this has been the history of the last 20 years or so because funds for rail system improvements and expansion projects were not available from Federal sources."

Further, such a restriction was inconsistent "with the more progressive and more modern thinking regarding the use of urban transportation rights-of-way," such as combining highways and rail on exclusive right-of-way in the highway median. He added:

> The private automobile certainly has its place in the urban scene. To meet the present and future needs of our citizens, public transportation improvement projects must be coordinated with the use of the automobile through the provision of park-and-ride, kiss-and-ride, and other intermodal arrangements. In today's picture of urban life, this is required to insure an effective public transportation system for the entire spectrum of the population.

Next, he addressed the pass-through concept:

> We urge that the act's definition of areawide metropolitan transportation agencies should be broad enough to permit funds to be made available directly to governmental bodies that have been duly authorized to construct and operate urban public transportation services even though they do not have the power to engage in highway construction.

The Secretary of Transportation should be allowed to approve funding for any projects that he has found were part of a coordinated regional transportation plan.

Finally, Dr. Ronan addressed "the financial crises involving the operations and maintenance of our urban bus and rail systems." Despite heroic efforts to finance operations from the farebox, they "cannot be met by user charges (i.e., passenger revenues)." During 1972, the Nation's urban transit systems experienced a total operating deficit of $513 million:

> This is a burden that should not continue to be met alone by the States and their local communities. Neither should we continue to resort to such short term palliatives as service reductions, deferred maintenance and fare increases. History teaches us that these expedients actually deprive those who most desperately need public transit of service and continue the downward spiral in ridership that has had such an impact on traffic congestion, environmental pollution and energy consumption.

He added that, "We are convinced that the Federal Government can and should play a role in helping stabilize transit finances." To do so, the Federal Government had several options, including "per passenger grants, aid for right-of-way maintenance and funds for maintenance, repair, and rehabilitation of equipment." Dr. Ronan said his organizations were greatly encouraged by the widespread support for the Senate bill, S. 502, and the bill introduced by Representative Minish, H.R. 5424, because they were "indicative of a national awareness that the Federal interest is well served by their intent." The important thing, he said, was "to authorize such a program and fund it now so that we can preserve our existing transit systems as the base upon which to build new and improved ones." [*1973 Highway Legislation (Future Highway Needs)*, p. 397-401]

Representative Harsha commented on Dr. Ronan's objections to the restriction of Federal-aid urban system funds to highway-oriented mass transit. Harsha pointed out that revenue coming into the Highway Trust Fund was insufficient for all highway and transit needs. Dr. Ronan agreed, but said that in looking at total needs, "one has to look also at what is the reality—in terms of scheduling, the leadtime necessary, and what are the priorities—in terms of need in order to meet the transportation needs." Looked at that way, total needs become more managable. "If one looks at the totality and then says, 'Let's look at the amount of money involved,' he sort of throws up his hands" at the impossibility of meeting all needs.

Representative Harsha asked if Dr. Ronan wanted the flexibility to use Federal-aid urban funds to pay the operating deficit for transit systems. Dr. Ronan said that he wanted the funds for capital purposes only:

> We believe that, certainly, the spirit and intent of the highway program was to build capital improvements and not to pay operating and maintenance costs of either highways or rail rapid transit systems, or, for that matter, bus systems. What we are urging here is just the modest option to allow some of the urban system funds to be used either for highways or for mass transportation purposes, whichever is preferable from the local viewpoint.

Would subsidizing operating expenses, Representative Harsha asked, "put a premium on inefficient operation, or at least discourage or lessen the incentive for efficient operation?" Dr. Ronan thought the reverse would be true. "I would say now, with some years of experience in this, that the need to justify the expenditure of public funds for a transit system imposes upon its managers the need of make sure [sic] that there are programs to produce reliability, efficiency, and economy in the operation." He added that the New York subway system, despite "all its vicissitudes" was "a much more efficient and reliable system than when we picked it up 5 years ago."

Representative Harsha asked why the system had to be subsidized if it was so much more efficient. Dr. Ronan explained:

> Because of a social determination and a political determination that the fare in New York City should not be so high as to discourage ridership and that the labor pool that is within the New York metropolitan area should be made as available as possible to employers in the region. With the 35-cent fare, we do have a tremendous labor pool living on the subway system [sic] available to serve the business and industrial community of New York.
>
> This policy also serves to provide a means of low-cost transportation to those who could ill afford to pay a higher fare.

> Actually, the subway and bus fare, if the transit system were to carry its full cost of operation, maintenance, and amortization, would be well over 75 cents. This would be a prohibitive cost for most people and so we think the community very definitely benefits from the present arrangement.

Even at 75 cents, Representative Harsha wanted to know, wouldn't the fare be cheaper than driving a car? "Actually," Dr. Ronan replied, "for everyone to drive a car in New York would be an impossibility." Further, the total cost, not only to the individual but to society in the form of pollution and amount of land needed for highways "makes the concept of having most of our residents drive to and from work an almost unthinkable proposition."

Representative Harsha pointed out that the 1972 National Transportation Report claimed that while diverting highway revenue to transit might increase ridership, it would not make any appreciable dent in pollution while increasing the number of highway crashes and fatalities. He asked if Dr. Ronan agreed with that analysis. He did not. Measured per passenger, the automobile is a far worse polluter than a bus. As for rail rapid transit, it does consume energy as well, but electric power plants "can be built, and, indeed, have been built, which have very minimal air pollution effects." Problems such as where to build such plants could be solved, but the plants were becoming increasingly efficient, whether they are powered by nuclear or fossil fuel. [*1973 Highway Legislation (Future Highway Needs)*, p. 403-405]

Representative Wright, the next questioner, cited several grants totaling $150 million in the last 3 years, for rail lines such as the New Haven Railroad serving New York City. "And yet, you feel that this amount has not really been adequate for you to keep up with the growing demand."

Dr. Ronan replied:

> No; it actually is not, Mr. Wright, and to that I should add, to complete the picture, you would have to add some $40 million for the New Haven Railroad modernization which would bring it, roughly, to the $200 million I mentioned earlier.
>
> Our problem is we have an enormous job to modernize and to extend our public transportation system. For some 30 years in New York City, virtually nothing was done to improve the subway system or add any lines . . . . We have all that distance to make up, plus the requirement to extend and improve the system to meet future needs.

Representative Wright pointed out that every transit system operated at a deficit "and unless we can see some phenomenal scientific breakthrough, I do not know that we should realistically anticipate anything other than that." And yet, he added, the Secretary of Transportation threatened a veto if legislation reached President Nixon's desk with Federal funds authorized for subsidies. As an alternative to the plan the President might veto, he suggested the funding plan he had discussed earlier that would give States the option to use up to one-fourth of their matching funds for Federal-aid highway projects to assist with operating deficits.

Dr. Ronan suggested that such a plan would be "fraught with certain perils, very frankly." Moreover, he emphasized that he and the organizations he represented were not asking the Federal Government to meet the operating deficits of all transit authorities:

> Mr. Wright, what we are urging is that the Federal Government pick up a share of the cost of operations and maintenance; that it do this under the definable formula and on an accountable basis as a Federal contribution toward a service, as it has done in other areas; and that this is essential for the financial well-being of the Nation's transit systems.

He recognized that opponents used such phrases as "a never-ending gap" or "rathole," but he did not think those characterizations were appropriate. A program based on a fixed formula, such as per-passenger-carried basis, would be workable.

Did Dr. Ronan, then, not agree with Representative Wright's funding idea? Dr. Ronan said he had "been groping for" an alternative to "what I would call the deficit approach." He wanted a fixed way for the Federal Government to contribute "to the maintenance of rights-of-ways, which will assist the Nation's transit systems—small and large—in improving service and avoiding fare increases." To do so, the discussion would have to shift from "what I understand to be not only a fiscally difficult problem, but an emotionally charged problem in a sense; namely, picking up deficits."

Since additional funding was needed, Representative Wright asked if Dr. Ronan minded if the source was not the Highway Trust Fund?

> Dr. Ronan. No. We would be very happy with money, Mr. Wright. I would say, however, one other thing here. We are concerned that, while the urban system situation remains in status quo, there is a very strong pressure of communities to use the highway's money [sic].
> Mr. Wright. If we were to arrange some system whereby a city, at its option, might use all or part of those urban funds, so long as it did not disaccommodate the traffic flow, giving it that flexibility and that option, would you quarrel with us if it did not perchance come from the Highway Trust Fund?
> Dr. Ronan. No. We would not because we are interested in the achievement of our objective here. Not the frustration of it which, I repeat is one of our concerns with the Highway Trust Fund as it has existed. [*1973 Highway Legislation (Future Highway Needs)*, p. 406-410]

Representative Roe, who had worked with Dr. Ronan on metropolitan area transportation programs in the New Jersey/New York area over the years, focused his questions on a few "terribly important" points. He began by saying:

> What bothers me, and what I have been stressing all through the hearings is, if we were to get everything that would be available to the State of New York and New Jersey under the criteria and formula established, it would be meager at best as it relates to the dollar volume that is needed . . . .

He recalled the testimony by BART's Stokes, who had said that BART expected farebox revenues to match operating expenses this year, but if the system experienced a deficit in future years, Stokes could not say how they would be covered. "If we are to deal in mass transit, we have to have a parallel program for substantive national funding, and national commitment has to be made to provide the funds in the first place." He thought S. 502 was "seriously defective in its rigidity" by changing the regional criteria from 50,000 population to 400,000 for "the establishment of some new nebulous local transportation agency" that would administer urban transit funds. Using New York City (population: 7.5 million) and northern New Jersey (population: 3.4 million) as an example, he said it was "absolutely ludicrous" to divide the area among regional transportation authorities based on populations of 400,000 or more.

Dr. Ronan responded that what bothered his New York organizations was "what appears to us to be a failure to recognize that there are indeed agencies, both planning and operating, that can be the recipients of these funds," such as the Tri-State Regional Planning Commission. It is, he said, established and "its judgments are accepted."

Representative Roe pointed out that in earlier testimony, the Governors of Maryland and Massashusetts had said they would not operate the mass transit program if each State had a host of small regional agencies as part of the Federal partnership. Dr. Ronan replied that, "Frankly, we are moving nationwide toward either the State being the vehicle or a State-created and State-accepted regional agency that could receive the funds, being set up specifically to meet the transportation needs of an area through a coordinated areawide system using all appropriate modes."

The next point Representative Roe wanted to make was that the issue was not simply how to pay the estimated $600 million deficit for transit and suburban rails each year:

> Now, why is it so difficult for people to understand this point, that it is not the question of providing railroads for passengers alone, as important as that is, but the total economy of New Jersey and New York . . . and getting freight, goods, and materials, in and out of areas and the economic viability of the region is dependent upon those rails.

When Dr. Ronan agreed with the point, Representative Roe continued:

> When we are literally trying to take from Peter to pay Paul, the source of the Federal assistance funds and particularly the utilization of the Highway Trust Fund for mass transit being discussed here today is a nebulous point compared to the order of magnitude of the funds needed.

Opening the Highway Trust Fund for mass transit would not come close to addressing the problem.

Dr. Ronan said that New York City could absorb every UMTA dollar it could get, but was primarily dependent on State and local funding sources. He added, however:

> There is a strong attraction to us in, let us say, $1 billion highway moneys, which are locked up because we are not building certain arterial highways and we need all the money we can

> get for urban public transportation projects. We are not going to be building the Lower Manhattan Expressway. That is out. The Cross-Brooklyn is gone. And others will not be built, at least this is my best judgment of it . . . . Therefore, at this juncture, instead of saying to us, "You must take it as highways or nothing;" give us optional use of the same amount of money. We will be able to complete our priority highway projects and continue the redevelopment of our transit system.

Finally, Representative Roe asked for Dr. Ronan's opinion of the Federal Government taking over the mass transit program as a national policy. Dr. Ronan pointed out that several European countries, including France, Germany, Britain, and the Soviet Union, had made a national commitment to urban mass transportation. "I would say, however, that in terms of the planning and the program of these, and the operation, I would hate to see the Federal Government endeavor to, in a monolithic way, take control of the systems and try to direct them. That would be mayhem . . . and an utter catastrophe." [*1973 Highway Legislation (Future Highway Needs)*, p. 411-416]

Representative Glenn Anderson recalled Dr. Ronan's comment that he was seeking funds that would be available regularly, as would be the case if the source was Federal-aid urban system funding:

> If you have to get each year or every 2 years out of the general fund, you would be bucking every other pressure in the Congress whether it be housing or education or poverty, or whatever the problem would be. You would have to fight that each time, together with other things, such as impoundments, so you would want something that you could depend upon coming in on a regular basis.

Dr. Ronan agreed, in part because of the long leadtime for construction. "One has to be assured of the availability of such funds in advance of committing a project." That would be possible, he said, if regularly authorized Federal-aid urban system funds could be used flexibly.

Representative Anderson and Dr. Ronan engaged in a brief colloquy to make the point that whether urban system funds can or cannot be used flexibly does not change the amount of Highway Trust Funds available. As Representative Anderson put it, "If we do not get the flexibility, it will be spent. If we do get the flexibility and the same amount will be spent, is that not true?" Dr. Ronan agreed, saying he simply wanted the local community to have an option on how the funds were spent. [*1973 Highway Legislation (Future Highway Needs)*, p. 417-418]

Representative Abzug picked up the questioning by recalling Representative Wright's interest in helping find funds for transit. One way to help, she suggested, would be to consolidate highway funding into three essential systems: Interstate, urban, and rural. The Interstate funds would be used as at present, the localities would determine how to use the rural and urban funds. She asked Dr. Ronan's opinion.

He agreed, saying that he did not want to interfere with the Interstate System. When people spoke of the Highway Trust Fund as something of a "moral commitment," he said, he really thought they were talking about building the Interstate System and, later, the urban arterials. "These were addons, and were not really contemplated in the original program authorization. He did not think that Representative Abzug's proposal "runs counter at all to the idea that this is a fund, in trust, for the creation of an intercity road system." In fact, he said, he thought her idea might enhance the original concept "by making it more viable."

(Contrary to Dr. Ronan's statement, the urban Interstates had always been part of the program advanced in the Federal-Aid Highway Act of 1956.)

Representative Abzug also asked for Dr. Ronan's opinion on "a direct passthrough [sic] of an equitable per capita share to cities of over 250,000 population, pending a determination as to which authority, if none is set up or if one is set up, will be responsible for planning and developing an integrated system." Dr. Ronan emphasized reliance on established institutional arrangements where they existed to ensure the funds go to an agency that will carry out an agreed-upon plan. The pass-through should recognize "some very important facts of life, namely, ownership arrangements and leases, because the subways we operate are owned by the city." Well-established arrangements exist in most major metropolitan areas, and ignoring them to create new mechanisms "is to create chaos." He added, "I think this is very important. Chaos will retard progress." He said he did not want to use the money "to draw organization charts. We want to get this money into action." [*1973 Highway Legislation (Future Highway Needs)*, p. 419-420]

Representative Roberts took the final question slot. Citing Dr. Ronan's comment about complying with the "agreed-upon plan," Representative Roberts said, "This is exactly what the Federal Government had" with the Interstate System. "We had an agreed-upon plan with the States and with the cities, and a contract therefor." Any transfer of this contract would constitute "paying out a premium to a city for a violation of a contract made." He said "this is incontrovertible and I think this is one of the reasons we object to the reallocation of those particular funds." He wanted to know if Dr. Ronan agreed that "if you take those funds that were allocated on the basis of the contract, on the basis of a plan approved by the city, by the State, and by the Federal Government, then you are paying the man to break a contract and in one case I was one of those people who sponsored it, $300 million to one city."

Dr. Ronan agreed that the country had an obligation to complete the Interstate System, but he thought that "within the terms of any trust which we may have assumed, certainly we have flexibility." Citing the estimated $1 billion in unbuildable expressways, he said the urban arterials "are not going to meet the needs which, a few years ago, some people thought they would." This is, he said, what he was addressing:

> And it does no violation, in all honesty, and I searched my conscience on it, to the concept in carrying forward the Interstate System [if] we use the money that would have been spent on abandoned urban arterials for transit.

The Interstate System was "a magnificent concept, well carried through" that has left its "imprinit on the national economy." Now, however, mass transportation needed "the same type of congressional backing and emphasis."

Representative Roberts yielded time to Representative Abzug for one last question. She agreed with Dr. Ronan that Congress had "broadened the trust fund several times—by changes in 1962, we permitted it to assist housing relocation from Federal-aid highway construction, and in 1968 we did the TOPICS program, which involved traffic operations and safety; we used funds in this area for relocation, replacement housing, and further broadened that." She mentioned construction of parking lots, bus shelters, bus lanes, and passenger loading facilities. Just as Congress had broadened the concept as needs arose, "I do not think that it is at all in the nature of breaching a contract" to allow flexibility in the use of Federal-aid highway funds for rail transit. Representative Roberts disagreed, saying that "in none of the cases you indicated was there a contract involved, and there is a contract on the trust fund," but Dr. Ronan's testimony was at an end. [*1973 Highway Legislation (Future Highway Needs)*, p. 420-422]

Carmack Cochran and other representatives of the American Transit Association took Dr. Ronan's place. Unlike Dr. Ronan, they would take an aggressive approach on Federal operating subsidies. Cochran cited advances such as the opening of BART, construction of rail lines in Atlanta and Miami, and the January opening of the first stage of the El Monte-Los Angeles Express Busway ("Local decisionmakers in the Los Angeles area opted for the busway which is the first major busway project underway through the authority granted in section 142 of the Federal-Aid Highway Act").

(The El Monte Busway, built on a narrow strip (13 feet, 6 inches) of I-10 right-of-way (San Bernardino Freeway) from I-605 (San Gabriel River Freeway) in El Monte to I-710 (Long Beach Freeway), opened for bus-only service on January 29, 1973. At speeds up to 70 m.p.h. and a fare of 70 cents, the buses cut trip time by about a third along the initial 7 miles. The planned busway was completed in 1974, with a 1-mile extension to Union Station added in 1989. [Hebert, Ray, "Buses Begin Freeway Runs in Special Lanes," *The Los Angeles Times*, January 30, 1973; and Turnbull, Katherine F., *Effects of Changing HOV Lane Occupancy Requirements: El Monte Busway Case Study*, Texas Transportation Institute, published by FHWA in 2002, p. 2])

Nevertheless, "the transit crisis remains." Now was "the time to reassess, to reevaluate, and to reorder priorities," beginning with "the guaranteed financial stability of urban transportation." With State and local governments strained to the limit, Cochran said that the Federal Government was "the only source having the resources capable of solving the problem." Even as transit expands around the country, "the debate on operating assistance continues, and is now going into its third year." He said that the only thing the debate thus far had proved was that "there is an unlimited capacity on the part of the money spenders to think up new reasons for not making good on a broad commitment to transit."

By now, "all the old arguments against such a program been shot full of holes." First was the argument that subsidies were not needed and then the ledgers were opened. Next was the argument that operating subsidies would not work, but the 150 cities functioning with State or local operating subsidies weighed in. Then came the call for studies and they were conducted ("needs and feasibility are no longer an issue"). Another "critical plateau" was the argument that subsidies would not prevent the decline of transit by bringing in more riders, an argument that was refuted daily around the country, and even just outside Washington on the heavily subsidized Shirley Highway exclusive bus lane experiment.

(A recent analysis by the U.S. Department of Transportation had concluded that the Shirley Highway express bus lanes had reduced automobile traffic on the adjacent full-service lanes by 3,140 vehicles daily, but was not profitable during its first year of service (July 1971-June 1972) based on fares of up to 80 cents a ride. The study found that the express buses were profitable during peak periods, but lost money the rest of the day when 10 buses carried only 63 passengers an hour. The project lost $17,000 in the last six months of 1971. Although the reduction in automobiles saved 1,700 tons of pollution, travel times for automobiles on the Shirley Highway were unchanged, possibly because of construction underway to widen the highway to eight lanes, according to the study. ["Shirley Bus Plan Cuts Traffic, Loses Money," *The Washington Star-News*, February 23, 1973])

The most recent objection was that local officials could use General Revenue Sharing to alleviate the problem. Of 1,000 transit systems surveyed by the association, only 5 had used General Revenue Sharing for transit operations (Detroit, Little Rock, New York, Terre Haute, and Wichita). Only 25 percent of publicly owned transit systems had the option to use General Revenue Sharing since they were based in a city agency. The other 75 percent were independent public authorities supported from their own revenue sources from State, county, or city budgets as well as fares. "Our survey shows that such governments are opting for other eligible programs."

Cochran continued:

> The important point is that an operating subsidy is not a stop-gap measure to prop up financial deficits. It is not a case of pouring public funds down a rathole. It can indeed breed incentives, improve service, lower fares and reduce the number of automobiles congesting our streets and polluting our air.
>
> The key is the infusion of operating funds.

State and local governments had reached their financial limits. "To raise property taxes any further in most areas is to invite municipal economic chaos—or, at the very least, unemployment for incumbent elected officials." What was needed was a Federal program "to assist the cities in continuing present service innovations and to provide the incentive to other cities to institute public transit programs."

He cited the 1972 National Transportation Report stating that the Department of Transportation "supports making [revenue sharing] funds available to State and local governments for general public purposes, including operating subsidies, so that a State or local government could determine locally how the funds would be used." In view of that statement, Cochran favored "an allocation of operating assistance funds to the States, with appropriate passthrough [sic] to local bodies, based upon a formula including the factor of population, revenue passengers, and vehicle miles." The Secretary of Transportation should be able to apply 25 percent of the fund "to promote incentives and worthwhile experiments and demonstrations."

Details could be worked out, but the "important ingredient now is time." He said, "let us not get hung up on how it is to be done," because delay risked rising costs, increased fares, and fewer riders. "Fares across the country are breaking the 50-cent barrier and the reaction of the riding public is predictable."

Stanley H. Gates, Jr., the association president, praised the Urban Mass Transportation Assistance Act of 1970, which he called "the opening salvo in the battle to restore balance to urban transportation." The automobile had once been "a technological talisman signifying pride, prosperity and individuality" but now it was "a vehicle of suffocation—not only in terms of air, but in terms of our precious urban land, taking more and more for parking and rights-of-way." As each urban freeway opened, more people took to their cars, "with the general prosperity covering the added cost" even as transit experienced fewer riders, less revenue, and higher fares.

In the 3 years since passage of the 1970 Act, several important lessons had been learned:

> First, that when the Federal Government undertakes a multiyear multibillion dollar matching grant program, it has an incredible effect on the planning and financial decisions of local governments.
> Second, that when such Federal intent is spelled out, there are serious local repercussions if the necessary funding of such intent is not forthcoming.
> Third, that if mass transit is going to play catchup ball with highways, it had better have the benefit of the same ground rules . . . .
> Fourth, that action on behalf of mass transit was initiated in the nick of time.

One problem with the legislation was the conservative release of UMTA funding even as grant requests piled up, and President Nixon's budget continued that problem.

To equalize the programs, Gates said his association favored an 80-20 Federal-State matching ratio to establish equity among highway and transit projects. He chose 80 percent as an average among the 90 percent for Interstates and 70 percent of other Federal-aid highways. "It is logical and equitable that transit projects be funded on the same basis." Further, the Federal Government should fund the planning process at 100 percent.
As for the comment about the "nick of time," Gates said:

> The urban highway decision which had compacted into a short space of time was threatening to secure irrevocable dominance of the private automobile—to the detriment of everyone—highway builder, local leader, commuter, transit dependent, transit official, and planner.
>
> The awareness of the importance of conservation of urban land and air gave a big push to the proponents of a viable transit system for every urban area.
>
> Now it is a question of not whether to do the job, but rather, how completely we make good on our promise to give it all it requires to do it right.

These problems were happening in every State and every city. Chicago, Detroit, and Cleveland were "in serious trouble." Unless something happened, public transportation would stop in St. Louis on April 1. He concluded:

> We speak to you all as an industry to tell you that whatever I say, or whatever my colleagues say, every transit operator in any State in the Union would simply say ditto, and we would be talking about the simplest thing.

(The Bi-State Development Agency (called Metro beginning in 2003) was established in 1949 through an interstate compact between Missouri and Illinois to provide a regional outlook not tied to any one municipality, county or State. In 1963, Bi-State issued $26.5 million in bonds to purchase the St. Louis area's 15 private transit operators. To pay off the bonds and cover expenses, Bi-State raised fares (from 25 cents in 1963 to 46 cents [sic] in 1973) and cut route mileage by nearly half, resulting in a loss of nearly a third of its riders. State, county, and local jurisdictions had not arranged for operating subsidies. Yielding to public pressures, Bi-State announced in 1971 that it would not raise fares or cut service any further. This plan, which *The Washington Post* called "a financial kamikaze course," resulted in a threat of bankruptcy in 1972 that was averted only after a $1.2 million emergency appropriation from Missouri.

(By early 1973, Bi-State was in default on interest payments on the original bond issue and was threatening to shut down on June 30 unless it received $903,000 in emergency payments, with a portion of that amount to cover the overdue bond payments. At the time of Gates' testimony, negotiations were underway on a formula payment agreement for rescue by the two States, the city of St. Louis, St. Louis County, and 76 suburban municipalities. Elmer W. Belew, Bi-State's executive director, offered a warning. "Come July, we will be back in the same fix unless we get additional money over and above the $903,000 that we need right now." Bi-State would need $13.9 million in subsidies in the fiscal year beginning in July and $21 million in the next year.

(In *The Washington Post*'s words, Belew believed that, "After the deterioration of the last decade, Bi-State is at a point where it must either make a strong recovery or die out." The *Post* drew the conclusion: "Mass transit cannot support itself out of the farebox; through their tax dollars, the non-using public must be taken along for the ride." [Wilson, Andrew, "St. Louis Struggles to Save Buses," *The Washington Post*, April 1, 1973])

SEPTA Chairman McConnon was the final association witness. He applauded Section 142 ("Public Transportation") of Title 23, United States Code, and continuation of highway-oriented projects such as the El Monte-Los Angeles Busway. However, he recommended expanding it to include the purchase of buses and rail equipment as well as the construction of highway-oriented mass transit facilities. To do otherwise would be discriminatory:

> The exclusion of a rail option would serve to maintain the unacceptable status quo that forces State and local governments to opt for highways—just to get Federal funding to solve some of their problems . . . . So whether the answer to a particular locality's needs is buses, rail or other fixed guideway systems, we believe the question of which mode would better

> serve a given metropolitan area should be left up to the locale—instead of being predetermined by Federal statute.

He said the National League of Cities estimated that 50 percent of the revenue generated for the Highway Trust Fund came from cities. In 1972, when the Senate's version of the Federal-Aid Highway Act allowed the use of urban system funds for highways or bus or rail transit, the association had conducted a survey. The results indicated that the bulk of the funds would be used on urban streets. "At best, $25 million would have become available for transit purposes" out of the $800 million authorized. He recommended that the Administration's proposal for funding the Federal-aid urban system at $1.1 billion in FY 1974 be increased to $1.5 billion.

McConnon endorsed the Administration's version of the pass-through concept. "We recommend that funds be distributed to the States on the basis of their urbanized area population. Allocations within the States should be made on the same basis." The association opposed restricting the pass-through to areas of over 400,000 population:

> We urge that each urbanized area have an entity certified by the Governor that is (A) capable of developing an areawide transportation plan, (B) predominantly composed of local elected officials from units of general purpose local governments within the urbanized area, and (C) capable of implementing or assuring implementation of the areawide transportation plan through one or more implementing agencies.

He also suggested a change in the apportionment formula. "An allocation formula that makes sense for the highway program, then, is not necessarily appropriate for transit." He recommended a formula based on passenger or vehicles miles.

The association, McConnon explained, also endorsed the concept of allowing funds for unwanted urban Interstates to be used for transit. "Indeed, if we are to be realistic, the only way meaningful amounts of highway funds could be made available for transit aid would be through this source." Redesignating the funds within the urban area of the Interstate mileage and their transfer to the Federal-aid urban system, with local prerogatives to choose highway or transit alternatives, including rail, was the best approach. When local officials decide to use the funds for transit, the projects should be subject to UMTA requirements.

He finished by saying:

> In conclusion, we believe that the action the Congress will take this year on several proposals affecting urban transportation will cap an 8-year effort to revitalize mass transit—or at the very least, to preserve it as a viable alternative to the overdependence on the private automobile as the primary means of urban mobility.
>
> For the sake of balancing our urban transportation systems between highways and transit, it is fortunate that these financial considerations come when the Interstate Highway System moves toward the final planning stages.

> It is fortunate, because we are being forced to consider both needs together, and the riding public can only benefit by having funds and policy debated in such an atmosphere.
>
> It is imperative, however, that any dialog does not develop into solely a narrow more-transit-means-less-highways viewpoint.
>
> Transit's overall needs bear little direct relationship to the present funding levels of the highway program.
> These needs can be met only with sufficient funds to support all transit operations, improve and extend existing bus and rail systems, and help build the several new rail systems now being proposed by local areas. [*1973 Highway Legislation (Future Highway Needs)*, p. 422-432]

During the questioning, Representative Harsha asked the panel to clarify the association's position on the population limitation for pass-through funding. McConnon said, "we would not propose that it be limited simply to that particular number of people." The nature of the area should be taken into consideration. For example, he was based in Philadelphia, with a population of 2 million, but it was adjacent to two counties with populations over 400,000. "I think an arbitrary limitation, strictly speaking, to 400,000 leaves an inoperable condition in areas such as that."

In a colloquy with Representative Roe, Cochran said that as an advocate of private enterprise, he had come to public funding as essential for transit only reluctantly but as he put it, "you have to accept the facts of life." The basic fact was the transition from private to public transit systems. He pointed out that in 44 of the 50 largest cities, "the transit systems are operated as public operations." As for the remaining six, they would be public by the end of the year.

Like the transition or not, the goal "must be to get people to use mass transit." Congress had authorized grants through UMTA for capital projects:

> But you can have the finest bus that money can produce, you can make it the most luxurious in its appointments and it will not excel the attractiveness of the automobile because the automobile is a very fine instrument.
>
> Now, so we have to go further than have capital grants. We have got to do something to attract people other than to give them a vehicle or facilities that correspond maybe with what they already have in their automobile.
>
> We have to have exclusive bus lanes. I think that is going to have to come for speed, and then we have to give them economy and attractiveness and that means reduced fares.
>
> Now, if we can do that and get more people back on the bus, maybe we can stop, not only stop it [the decline in passengers], but we can build back to where we were. But we have to have money to do that, and whether it is a new line, an old line serving the area, the revenues must be supplemented because today, at this moment, whether it is a public

> operation or a privately owned operation, the revenue from the farebox will not support the system.
>
> That means we have to have the subsidy now.

Representative Burke asked if Congress should anticipate that no matter how large the system or how many riders it carries, "we are going to have to put some operational money in." Cochran explained that until the attractiveness of transit, compared with the automobile, diverts sufficient riders, transit systems had two alternatives:

> One is to enact a law that you cannot drive an auto on certain streets. That is deplorable to us now. We want to stay away from that.
>
> The other thing to do is what I am talking about. We have the capital grants program, and that gives us money with which to make our plans. They will all be public, no private involved.
>
> If we can make the fare attractive and make the service attractive, and then the municipalities and the governmental agencies, I think must accept this responsibility that we have to have speed of operation . . . .
>
> Then I think we could see a reversal of this thing, and it eventually could become self-supporting. At least I would like to think that. And I believe that would be so. [*1973 Highway Legislation (Future Highway Needs)*, p. 433-438]

Later that afternoon, James A. Moe, California's Director of Public Works since 1968 and Director-designate of the California Department of Transportation, took his place at the witness table. The 36-year old had strongly advocated creation of a Department of Transportation, but would serve as its first Director only until the end of the year. He wanted to discuss "three elements of overriding interest and importance" based on Governor Reagan's letter to President Nixon (cited earlier). To set the context for the Governor's concerns, Moe said:

> California is changing its transportation emphasis toward a balanced system. We are creating a State department of transportation with multimodal responsibilities in transportation systems planning and in resource allocation, effective July 1. We have added gasoline sales to our sales tax, thus providing over $140 million annually for local transportation purposes including transit, effective 8 months ago. Our gasoline gallonage tax revenue, which is shared on a nearly 50-50 basis with local government, can be used for bus transit lanes and bicycle facilities.

He cited such advances as BART, the El Monte Busway, the use of ramp metering to improve traffic flow on Los Angeles freeways, and operational programs to increase vehicle occupancy. He added:

> As a leading State in highway development we have pioneered in many areas of engineering, maintenance, safety, right-of-way acquisition, displacement of peoples and businesses, and environmental concerns.

All that being said, Governor Reagan's concerns addressed a simple question: "What is the proper Federal transportation response to these changing times?"

First, Governor Reagan strongly supported completing the Interstate System, but when it was done, Congress should rethink the Federal role. Moe said that if redefining the post-Interstate role of the Federal Government reduced national revenue needs, "then the Federal gas tax should be reduced. This will allow the States the flexibility of increasing their own revenues from this source." As a donor State to the Highway Trust Fund, California was supportive of this approach because it would increase the revenue the State would retain for its own needs.

Second, Governor Reagan opposed the pass-through of funds to local governments, a practice that Moe said "seriously disrupts and unbalances the distribution of the multimodal transportation funds within our State." The State, with its ability to administer funds, was in the best position "to discern from local and metropolitan areas their goals and directions and allocate available Federal and State resources accordingly."

Third, the Governor opposed the diversion of Highway Trust Fund revenues to other modes, including the Muskie-Baker amendment for Federal-aid urban system funds, Interstate substitution, transit operation costs, bus or rail equipment purchases, or rail transit capital expenditures:

> Should Congress choose to involve the Federal Government in transit programs to a greater extent, then we strongly recommend an adequate program financed, as in the past, from general fund revenue.
>
> We would not have any argument if that should develop into a third trust fund for that purpose.

Based on these three concerns, California supported two key elements of Secretary Brinegar's bill, S. 967:

(1) The consolidation of the Federal-aid highway program into three categories—Interstate, urban, and rural; and
(2) Recognition of demonstrated State competence by providing a certification process which will eliminate much project level redtape [sic].

Moe concluded his remarks by saying:

> In summary, the significance of our remarks relate [sic] to the need for a total reassessment of Federal involvement in transportation before existing programs are redirected and new programs are undertaken.

> Specifically, between now and the next Federal Highway Act, 2 years hence, that is, 1975, the Federal role in transportation should be reassessed and those systems of truly national significance identified.
>
> In making this reassessment, we believe the desirability of reducing Federal transportation taxes should be pursued, so that the States might have increased freedom to augment their own user taxes to finance multimodal programs of local-regional levels unique to the varying local and regional needs within each State. [*1973 Highway Legislation (Future Highway Needs)*, p. 442-444]

Representative Glenn Anderson began the question period by pointing out that implying a reduction in highway needs might result in a lower Federal gax tax was misleading. "I do not think any of us are going to see a reduction in the needs of the money." Moe explained that if the Federal role were redefined as suggested by Governor Reagan following completion of the Interstate System, "then the Federal taxation should be reduced allowing the States then to meet their needs more capably, more responsibly and closer to the people they serve, and have the freedom to increase their State level of taxes, if necessary to do that."

Is California taking this position simply because it is a donor State, Representative Anderson asked. Moe admitted the State's donor status was a factor, but not a key factor:

> The key reason is, we felt in 1956, when the Interstate System was devised and Congress decided to develop a special trust fund for its purpose and to increase the Federal gasoline tax in order to fund that program, that they made a commitment to the people to construct this system . . . .
>
> What we are suggesting is that it be completed as quickly as possible, that it be funded at least as it has been in recent years, completed as early as possible and then say to the people: We have done the job, we have collected the taxes to do it, and we are reducing that tax to the present Interstate level.

He explained that he was suggesting a functional classification of all roads to determine which level of government should be responsible for improving them. Then the Federal role would be defined, and tax levels reduced accordingly.

Given the $60 billion in projected transit needs through 1990, Representative Anderson asked how Moe could suggest getting the funds from the general Treasury "when every year since I have been in Congress we have been deficit in spending of over roughly $25- billion a year, and that at this present time, with the increasing unemployment and the poverty hitting us, we are going to have increased demand on the general fund revenues, particularly since the phasing out of the Vietnam war." In short, how could transit "compete with these four emotional issues?"

When Moe simply repeated that California opposed the use of Highway Trust Fund for transit, which should be funded from the general Treasury, Representative Anderson asked if Moe was suggesting increased Federal deficits. Moe replied, "I am not suggesting the level of funding be increased at this time. What I am suggesting is that if Congress determines [to] increase the funding level, that it be done from the general fund."

Representative Cleveland saw a contradiction in Moe's testimony. The State supported Secretary Brinegar's proposal to consolidate Federal-aid highway funding categories, but Representative Cleveland pointed out that the proposal was in the context of flexible use of the funds. He asked Moe to explain how California could support consolidation, but not flexibility.

Moe said he did not support "flexible use of the urban system fund," but did support consolidation of categories. He summarized the growth of programs from four at the time of the Federal-Aid Highway Act of 1956 through 1966. The Federal-Aid Highway Act of 1968, he said, increased the number to 8, while the 1970 Act increased the total to 15. The Federal-Aid Highway Act of 1972, had it become law, would have increased the total to 35 separate programs. "We strongly feel the proliferation into more and more subdivisions of the Federal highway program are constraining to the States and provide them less flexibility to meet their own individual State problems."

In response to a question from Representative Abzug, Moe explained that the State's opposition to the Muskie-Baker amendment on flexible use of Federal-aid urban system funds at local option was based on the Interstate substitution provision in S. 502:

> But this allows a substitution from an Interstate route that cannot be completed into an urban system fund or an urban system, and then with the "flexibility" the State would have in using that urban fund for rail transit along with bus transit in effect means that Interstate dollars would be going into rail systems in some parts of the country. This is what we have grave difficulty with.

Representative Burke asked if Moe thought Californians really wanted more highway construction or preferred use of highway dollars for other transportation options. Moe said that he was visited by groups of citizens every month pleading for advancement of their highway project, but added that "in some areas there are those who do not want freeways and would prefer to have alternatives." He continued:

> This frustration in California, as you are aware, was the main reason that we pursued legislation in 1971 that brought about the requirement for the development of regional multimodal transportation plans by 1975, and incorporated in those, working from the ground up, the development of a State transportation plan which is to be submitted to the State legislature by January 1976.

This approach, Moe said, would allow the legislature to decide how to allocate funds.

Representative Clausen, referring to the El Monte Busway, asked if such projects were not the quickest way to relieve congestion, namely by using existing right-of-way for exclusive transit service. Yes, Moe agreed. "Any scheme or method that will package more people into a single vehicle is going to help the congestion problem." Just getting two or three people per automobile would “make a tremendous difference.” [*1973 Highway Legislation (Future Highway Needs)*, p. 442-449]

A panel of union representatives appeared before the subcommittee. Jack Curran of the Laborers’ International Union of North America said the panelists were there partly to increase jobs for union members. “But our concern includes the quality of their lives, and goes beyond on-the-job expectations.” After describing the beneficial role of highways, he recognized that the Nation “has a readily apparent dual challenge in the transportation field, readily apparent to all of us who hail from or have visited major urban areas.” Although unions strongly supported a Federal role in transit, they opposed the use of Highway Trust Fund revenues for that purpose, offering two reasons:

(1) The use of Highway Trust Fund moneys for mass transit would weaken the effort to fulfill our Nation’s highway needs, which are still great.
(2) The program would fail to provide adequate funding for mass transit.

> To place upon the Highway Trust Fund the burden to finance both highways and mass transit would, we feel, do both programs a great disservice.

Curran said that the unions supported measures such as Senator Williams’ proposal to provide general Treasury funds for operating subsidies and increased capital grants, but diverting highway revenues was not acceptable:

> We urge Congress to seek new sources of funding for mass transit, and to explore the establishment of a separate trust fund, modeled on the Highway Trust Fund, to be used solely for the development of mass transit systems.
>
> A separate trust fund could provide the substantial resources needed, while remaining free of the ups and downs of the annual appropriations process. Local governments would be encouraged to undertake the long-range planning necessary to build and improve major transit facilities . . . .
>
> Few doubt today the widespread and urgent need to put mass transit systems on a more sound and serviceable footing. We urge the members of this subcommittee to make the same kind of commitment to mass transportation in the 1970’s as you gave to the highways in the 1950’s, so that more balanced transportation systems can be developed to better service the public. [*1973 Highway Legislation (Future Highway Needs)*, p. 459-462]

Curran said that the panel’s ideas for financing a Mass Transit Trust Fund “might cause the raising of some eyebrows, but we have considered proposing an extra tax on gasoline, on tires, and the other taxable items that are supporting the Highway Trust Fund.” Acknowledging that this might not be the best approach, he recommended that Congress hold hearings on financing. The key for transit, as for highways, was to have an adequate, continuing flow of revenue that would provide the basis for planning systems.

In response to a question from Eepresentative Clausen, Curran summarized his views in support of a mass transit trust fund. He had suggested funding possibilities, but admitted, “I am sure there are other people who have ideas about financing and adding to a mass transit fund.” Hearings on the topic would be useful in identifying a sufficient revenue source:

> We oppose going beyond that because there just is not enough money in the Highway Trust Fund. In order to complete the Federal-aid highway program which has been a successful program and includes not only Interstate highways but the ABC roads, the primary, secondary, and urban road systems, we cannot dip into the Highway Trust Fund for other uses without serious [sic] violating the true purpose for which this fund was set up.

Representative Abzug was confused by his testimony because it suggested “that if there were a mix or a local option for funds other than Interstate, that somehow or other that means there would be less money for Interstate. That is not so.” Allowing each area to decide how to use the money “does not result in taking away any money.” Curran responded that his broader point was that “there is just not enough money in the Highway Trust Fund to provide for the adequate funding of two programs.”

Representative Abzug said she was surprised that the union supported “a separate fund that starts from nowhere, at a time when we are having impoundment and cutbacks come out of the general revenues.” How could a new trust fund emerge “when the priorities are not in that direction and not supported by those who have the most power; namely, the administration?” Curran suggested that the fund start with the revenue already authorized for the UMTA program.

J. C. Turner of the International Union of Operating Engineers, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), added that given a need of $28-$34 billion for rail rapid transit by 1980, the Muskie-Baker amendment was talking about an amount, $800 million, that “is not really going to do a great deal for rail rapid transit.” Instead of setting “the sights very low,” Congress should consider putting a much larger amount in a Mass Transit Trust Fund that could secure revenues from a variety of sources, including the highway user taxes Curran had mentioned.

Representative Abzug asked, “You really think we could pass that here and not have it vetoed?” She said the time had come to simply let local officials decide how to use the funds they receive. “What is wrong with that?” She asked the union representatives to think about that because, “I just think it is not practical to propose a new trust fund.” [*1973 Highway Legislation (Future Highway Needs)*, p. 463-465]

The next witness was Donald Spaid of the American Institute of Planners and its National Transportation Task Force. He said the 3-C metropolitan planning provision of the Federal-Aid Highway Act of 1962 was “an important threshold of organization for comprehensive urban planning.” Now, in the 1970s, a major task was “to build upon this organizational framework of transportation planning, and develop in each metropolitan area the capacity to translate the principles of enlightened transportation planning, programming, and joint development into the types of local projects that urban communities actually seek.”

To create a balanced transportation system, "planners and governments at all levels need to be provided with a choice of programs and funding." Restricting funds by mode with a more favorable matching ratio "just naturally distorts the choices made locally." Because of this "forced imbalance," the institute "has been advocating the development of a 'common fund' for urban transportation assistance." The current imbalance in funding and matching ratio for highways and transit "has complicated and often frustrated the locally controlled process of comprehensive planning for urban development." For urban areas, this imbalance was one reason for the failure of the Interstate System.

Spaid strongly endorsed the flexibility provisions of S. 502 and urged the House to adopt them because "if we do not provide a funding flexibility we will again be limiting the type of transportation systems that are developed and in turn the growth patterns of the Nation." He also endorsed the provisions of S. 502 that increased funding set aside for planning and the pass-through provision for metropolitan areas.

The Interstate substitution provision of S. 502 was a "key concept," he said, because "areas with contested Interstates have a tremendous need for increased traffic capacity as evidenced by the decision to locate an Interstate there in the first place." He cited FHWA figures identifying "37 segments of the Interstate System which may not be built; 459.8 miles at an estimated cost of $5.35 billion." He said:

> These cities presently face a difficult dilemma; halting an unwanted urban Interstate segment versus rejecting a large Federal grant. Section 111 of S. 502 provides the desperately needed alternative for balanced transportation systems.

The institute was "adamantly opposed" to exemptions for Federal-aid projects, such as San Antonio's North Expressway, from environmental statutes. Granting even a single exception would increase pressure to exempt additional projects. [*1973 Highway Legislation (Future Highway Needs)*, p. 468-473]

Robert M. Kennan, Jr., counsel for the National Wildlife Federation, appeared after Spaid completed his testimony. Kennan called the Federal-aid highway program "this Nation's largest and most expensive continuing public works project" and summarized the result:

> It has encouraged us to consummate our love affair with the automobile. Its offspring include mobility, more diverse productivity, energy depletion, pollution, injury, and death.

He cited the telling statistics: 10,000 new drivers secure licenses and a net total of 10,000 automobiles are added to the highways every day; approximately 117.6 million motor vehicles use 100 billion gallons of gasoline; and 54,700 people died on the highways in 1971, with estimates for 1972 in the 58,000 range. Gas-powered automobiles "contributed 50 percent of the hydrocarbons, 70 percent of the carbon monoxide, and 30 percent of the nitrogen oxide emitted into the air." They took up precious space for parking, disrupted neighborhoods, destroyed community cohesion, and tended to "dominate the fabric and character of our cities." He asked:

> Is this really the kind of urban life we wish to bequeath our children and grandchildren?

Kennan said the Highway Trust Fund was "the principal reason why we appear to be caught up in this vortex of more cars, more concrete arteries, more disruption, and more pollution." He urged the committee to make the maximum amount of Highway Trust Fund revenue available to finance all modes of transportation in urban areas. "When planners and politicians are freed from the constraints currently imposed by the trust fund, urban transportation decisions will be made on their merits."

He opposed the priority primary concept because it would "perpetuate the single-purpose Highway Trust Fund and make it impossible to place the need for these 10,000 miles of highways in proper perspective."

He also discussed the "crazy quilt" of public lands programs (Forest Highways, Public Lands Highways, Parkways, and forest, public lands, and park roads and trails). Traffic congestion was becoming an increasing problem on public lands:

> "Driving for pleasure," which may have been a legitimate form of recreation 10 years ago, is largely an anachronism today. Many more people can enjoy and find refreshment in our scenic and natural areas if they are separated from their automobiles.

He asked the subcommittee to redefine the purpose of the "National Scenic Highway System Study" proposed by Section 145 of the 1972 conference bill to embrace all modes of transportation," not just highways The subcommittee also should consider whether to replace the existing public lands programs with a multimodal public lands transportation program.

Kennan said he deplored the proposal to exempt the North Expressway from environmental laws. "It would be a shameful precedent for similar action elsewhere in the country." As an example, he cited the provision in the failed 1972 Act that would have withdrawn the authority of the courts to issue orders that would impede construction of the Three Sisters Bridge between Washington, D.C., and Arlington, Virginia. He said of this provision and others affecting District highway controversies (to be discussed separately):

> It would be contrary to principles of proper planning and public participation in vitally important transportation decisions for this committee to attempt to compel the construction of any remnant of that antiquated system. [*1973 Highway Legislation (Future Highway Needs)*, p. 480-483]

The final witnesses of the day were John Lagomarcino and Barry Tindall of the National Recreation and Park Association. In a formal statement, Lagomarcino acknowledged the "inestimable economic and social benefit" of the highway transportation network. He added that this "heavily subsidized system . . . has impacted heavily on certain elements of the nation's physical and social environment, particularly in urban and near-urban areas." He added:

> Further, it is now critical, we believe, that our traditional approach to moving people, goods and services—particularly the automobile and truck—be re-examined in the context of changing physical and social conditions of the nation. Concurrent with this re-examination of total transportation needs must be action to utilize all existing sources of funding, including the Highway Trust Fund, and a commitment to broaden the base of financial support necessary for a total transportation program.

He cited the importance of Section 4(f) and NEPA, but said they "clearly require only the rational approach to physical and social planning that the citizens of this nation have demanded and expect." The problem was that "NEPA does not require that a project be stopped if the impact is adverse. Section 4(f) does not sacrosanctly preserve."

The association, Lagomarcino said, opposed the provision in S. 502 that would terminate the contractual relationship between the State of Texas and FHWA with regard to San Antonio's North Expressway. He discussed the project's development at length, but said:

> Such legislation would be a dangerous precedent with serious national ramifications. Congress will have begun the task of undercutting, on a case-by-case basis, its own environmental safeguards. Will the Congress attempt to substitute its judgement [sic] for that of the Department of Transportation and the federal courts in an individual case.

He objected to the provisions on the Three Sisters Bridge and freeways in the District of Columbia as well.

He also commented on sections of Secretary Brinegar's bill, H.R. 5138. Section 128 ("Bicycle Transportation, Pedestrian Walkways and Equestrian Trails") was intended to encourage multiple uses of highway and other rights-of-way, but was "permissive in nature and would not require the States to encourage and plan for such multiple use." The growing significance of bicycles as transportation, particularly in urban areas "suggests the *consideration* of this and related forms of transportation should be mandatory rather than permissive."

Lagomarcino discussed two related provisions. Section 137 ("National Scenic Highway System Study") called for the Secretary to "determine the feasibility of establishing a national system of scenic highways," with $250,000 to be provided from the Highway Trust Fund for the study. He pointed out that in 1966, the Department of Commerce (then home to BPR) had released a report on this same subject, *A Proposed Program for Roads & Parkways*, for President Johnson's Council on Recreation and National Beauty. It proposed a 54,511-mile network with 20 percent or almost 11,000 miles on new location. He said of the report:

> That we are a nation of "restless and roving citizens" is cited as apparent rationale for such a program. Economic and other social benefits are also noted. The report states that "driving for pleasure" is the nation's *most important* outdoor recreation activity (italics supplied).
>
> We have serious reservations about the rationale for such a program and disagree completely with the statement of relative importance of "driving for pleasure."

He recommended changing the title of the section to "Recreation Resource Accessibility Study" to examine the "total problem of receation area access for all users." He said of the proposed study that, "Rather than a study limited simply to the *feasibility* of a scenic highway system (which is undoubtedly feasible), we suggest that it also focus sharply on the *desirability* of such a program." To illustrate the need for such a study, he quoted a passage from pioneer environmentalist Aldo Leopold's 1949 book *A Sand County Almanac* that ended:

> It is the expansion of transport without a corresponding growth of perception that threatens us with qualitative bankruptcy of the recreational process. Recreational development is a job not of building roads into lovely country, but of building receptivity into the still unlovely human mind. [Leopold, Also, *A Sand County Almanac*, Oxford University Press, p. 175-177)

The related provision, Section 148 ("Development of a Prototype of a National Scenic and Recreational Highway Program"), authorized Federal-aid highway funds for the location and construction of the "Great River Road" along the Mississippi River. It also authorized a National Scenic and Recreational Highway Program. Lagomarcino commented that Section 137 asked for a study of a program that Section 148 authorized. Such a program, he said, "is premature" and he opposed its enactment.

Tindall said of the two related provisions that at the very least, "it seems to us that this was a 'cart before the horse' approach." That was why reorientation of the Section 137 study was important. "We could then come up with some answers about perhaps such things as mass transit, wheeled and otherwise . . . ." [*1973 Highway Legislation (Future Highway Needs)*, p. 492-499]

Due to the late hour, Representative Roe concluded the day's testimony with introduction of the association's proposals. The hearing adjourned at 7:45 p.m., to be continued the next day.

A Significant Crossroads in the History of Transportation

When the hearings resumed on March 22 at 10:03 a.m., Representative Koch was the first witness. He said that since coming to Congress in January 1969, he had appeared before the Committee on Public Works each year in support of funding for mass transit. "And I think," he said, "in all honesty, that the year for mass transit has finally arrived." He was convinced of a "change not only in the country, but also in the philosophy of this distinguished committee and other Members of the House toward the need for mass transit."

He continued, "We are at a significant crossroads in the history of our nation's transportation program, and I am here to urge the Committee to respond affirmatively in opening the Highway Trust Fund to mass transit uses." The transportation modes were "so closely related that it is no longer feasible to treat each separately." The decline in mass transit was affecting transit users, but also motorists who experienced growing congestion as a result.

In New York City, as elsewhere, "fundamental changes" would have to take place in transportation patterns if the city were to meet the stringent auto emission standards of the 1970 Clean Air

Amendments. "This means that New York City will require considerable financial assistance from the federal government for rapid transit construction and improvement so that mass transit offers a more acceptable alternative to the automobile." Unless more people switch to mass transit, the city might have to impose restrictions on automobiles in the central city. Citing the Los Angeles area, he said that providing viable mass transit facilities was preferable to rationing gasoline.

He recognized that for many years, commuters had little choice but to use automobiles instead of mass transit. To address the imbalance, Congress must give State and local officials the flexibility to choose the best alternative, be it transit or highways.

He addressed the view often expressed by highway interests that the revenue in the Highway Trust Fund was held in "trust" for highway users. "I would submit that there is nothing more sacred about collecting taxes on gasoline than on cigarettes or liquor, the proceeds from which go into the General Treasury." He also pointed out that most of the taxes were not earmarked for highway development until 1956. "There is no transgression committed in the Congress broadening the list of eligible expenditures to better accommodate today's transportation needs. He favored creation of a National Transportation Trust Fund for all modes of transportation, as reflected in legislation he had introduced.

Representative Koch was concerned about the provision in S. 502 that changed terms in the apportionment formula for the Federal-aid urban system. By changing "urbanized" to "urban," S. 502 expanded the recipients to include urban places with over 5,000 in population, instead of those with a population of 50,000 or more, thus cutting New York City's share of the funds from $70 million to $45 million. "I would submit that $850 million is little enough, out of a $6 billion budget, to be allocated to urban areas and should not be further diluted by the inclusion of what really are small towns." He also favored the flexible use of funding from the "urban extensions" category as well as the Federal-aid urban system category for highways or mass transit at local option.

In addition, he discussed his bill, The Bicycle Transportation Act of 1973 (H.R. 692). Bicycles should "be treated as an equal and integral part of a balanced transportation system." H.R. 692 was intended "to afford those who choose the bicycle as their prime mode of transportation or recreation a safe and unmolested journey from point of origin to destination." This goal could not be achieved "if the cyclist is forced to share the same roadway as the auto." The provisions of S. 502, in his view, "should be treated as a beginning."

The 1972 version of H.R. 692 had been included in the Senate version of the Federal-Aid Highway Act of 1972, but not the House version. The House committee appeared ready to adopt the measure until an amendment was added that "was very misleading since although it affirmed the committee's desire to have bicycle lanes and to provide moneys for bicycles, the moneys were to come out of the general treasury funds, not the Highway Trust Fund." This would subject the provision to the priority determinations of the budget process, "and I know those moneys would never be forthcoming." The bill also assigned responsibility to the Department of the Interior instead of the Department of Transportation "so as to remove any real oversight on the part of this committee."

In 1973, he urged the committee to adopt his proposal to improve bicycle transportation. The authorization, only $10 million a year, was "a very small amount" in comparison with the overall omnibus measure.

During the brief question period, Representative Robert H. Zion (R-In.), a businessman associated with Mead, Johnson & Co., said he saw a problem. "A lot of folks think that this 'sacred' trust fund is a huge sack with billions of dollars setting [sic] somewhere that has been impounded, and there it is, all this money, we ought to use it for subways or bicycle paths, beautification, or for something or other." It was, he acknowledged, "a lot of dough" equal to about $5.4 billion. But it had to be compared with unpaid obligations of $7.6 billion. "In other words, there is no money in the trust fund," which he called "a bunch of IOU's." That, he said, "is the problem."

Representative Koch said the issue "goes to the heart of the problem," but he could not agree with Representative Zion's conclusions:

> [Those] are obligations which are incurred as a result of contracts entered into where payment is deferred over considerable periods of time. Therefore, $7 billion outstanding will not be paid out of the $5 billion currently in the Highway Trust Fund, but will be paid over a particular period of time. And I want to emphasize that each year the Highway Trust Fund collects $6 billion.

The $10 million a year he sought for his bicycle program could easily be accommodated.

Finally, he approved of the inclusion in S. 502 of $3 billion in UMTA funds for capital grants, but recognized that operating subsidies remained controversial. To those who argue that automobiles were not subsidized, Representative Koch pointed out that "in fact the federal government *is* subsidizing automobile ownership and operation to the tune of $1.4 billion a year." Leaving aside funding for the highway program, he calculated the amount by adding tax deductions related to automobile ownership and operation. "These are deductions taken on an individual's tax return for interest on auto loans, state and local sales taxes on automobiles, and state and local gasoline taxes." [*1973 Highway Legislation (Future Highway Needs)*, p. 501-506, emphasis in original]

(On February 28, Representative Koch had attended the first annual Bicycle Symposium sponsored by the National Park Service. It was held at the Marriott Twin Bridges Motor Hotel near National Airport in northern Virginia. With 14 lanes of traffic just outside the hotel, few of the 250 attendees arrived by bicycle. *The Washington Post*'s Robert Mott, who spotted only nine bicycles in the bike rack, was told by one participant, "if you came here by bike, you know that you just can't get there from here." This acceptance of reality came despite Mott's characterization of the participants as "bicycle fanatics."

(Ira Hutchison of National Capital Parks told participants about the "sense of satisfaction and even righteousness" he saw among bicyclists. (Mott observed, "That turned out to be an understatement.") With 13 million bicycles sold in the United States in 1972 (compared with 2.4 million automobiles) and an estimated 85 million bicyclists, "the mood was clearly confident, and the meeting had the air of a collective pep talk." The participants even exhibited "a trace of sympathy for misguided motorists." One speaker said, "Since bicyclists are oppressed people, they must remember to cycle with courtesy and not with the same arrogance that many motorists display."

(Representative Koch talked about the bill he had introduced to give State and local officials the flexibility to use Highway Trust Fund revenue for bike lanes, shelters, parking facilities, and traffic control devices. Marie Birnbaum, representing the Department of Transportation, said the Department had supported similar bills and had now introduced a bill that would increase Federal funding for bicycling. She said that to be effective, a bicycle network "must be areawide and must have continuity," the characteristic that was missing for the bicyclists attending the conference at the Marriott Twin Bridges Motor Hotel. [Mott, Robert, "250 Cyclists Wheel, Deal at 1st Bike Symposium," *The Washington Post*, March 1, 1973])

Representative Shuster, a member of the subcommittee, requested time that he used for a statement contradicting Representative Koch's statements on the Highway Trust Fund. He began, "I come before you this morning to implore the committee to preserve the Highway Trust Fund for the purpose for which it was created." He acknowledged the "crying need for mass transit in the big cities of America," but "diverting the Highway Trust Fund is not the proper solution to the mass transit problem."

He pointed out that highway needs totaled $600 million through 1990, with $300 million identified as absolutely essential:

> Yet, in that same period, the Highway Trust Fund is going to generate only $125 billion. Where will the balance of $175 billion for just the essential work come from? I don't know. But diverting money from an already inadequate trust fund is not a logical solution.

This was not, he said, a case of yet another underfunded program. "The Highway Trust Fund represents the hope of rural America, of small town America, to grow and prosper."

Citing the importance of improved highways to fewer deaths and injuries, Representative Shuster concluded:

> The Highway Trust Fund is already badly overburdened. To open it for another use will only compound the problem. It will open us to the justifiable criticism of "robbing Peter to pay Paul" as well as the opprobrium of breaking faith with the people by diverting their tax dollars for a use not intended.

During a brief question period, Representative Zion said, "I could not agree with anybody more." He asked about the expenditure of $50 million a year for billboard control, with some advocates saying up to $1 billion a year was needed. He asked Representative Shuster if this money could be better spent on highway safety. Representative Shuster said that "we all want to beautify America," but he thought we should "put things in their proper perspective." On that basis, "it would be unconscionable for us to spend that kind of money on a beautification program when we could be spending it on a program to stay alive." [*1973 Highway Legislation (Future Highway Needs)*, p. 507-509]

Representative Harold Froehlich (R-Wi.), a one-term Member of Congress making his first appearance before the subcommittee, proposed extension of the deadline, July 1, 1973, for States to provide schedules for completing Interstate segments during the period of availability of Interstate funds. He explained the housing issue that was delaying completion of the social and environmental reviews of the Saukville-to-Milwaukee segment of I-57:

> It is thus impossible for the State to fulfill the procedures necessary to designate the Saukville-to-Milwaukee segment of I-57 by July 1, 1973, without callously disregarding social problems, breaching commitments to local officials, and stirring up a hornet's nest of intense local opposition.

The alternative was for the State to submit "a contrived, flimsy, dishonest schedule to the Secretary, which, in my opinion, could be easily rejected, or simply forfeit our claim to $150 million in highway funds."

Even if a perfect schedule could be submitted, it would not meet the statutory requirement for completing construction within the period of availability of Interstate funds, presently authorized through June 30, 1976. Wisconsin did not expect to complete I-57 until 1980. "As a result, Wisconsin cannot safely submit its plan to the Secretary until such time as the Congress extends the period for completion of the Interstate System to 1980.

Representative Froehlich continued:

> Wisconsin has not dragged its feet in attempting to claim our share of the 1,500 additional miles of Interstate that were authorized in 1968. On the contrary, we have tried to move forward with a sense of social responsibility, to minimize the effects of "the Federal bulldozer." [*1973 Highway Legislation (Future Highway Needs)*, p. 510-511]

(As noted when Senator Nelson raised the issue on the Senate floor, I-57 was renumbered I-43 in 1974.)

Representative Bob Wilson (R-Ca.), who had first won election to the House in 1952, began his testimony by saying:

> I don't want to shock you this early in the morning, but I am here not asking for any money or for any diversion of the funds of the Highway Trust Fund.

Instead, he was appearing before the subcommittee in support legislation he had introduced initially in 1969 to designate the Interstate System as the "Eisenhower Interstate Highway System." He would support the provision of S. 502 designating a transcontinental "Dwight D. Eisenhower Highway," but "I really believe the whole network . . . should be named after our great late

President." His brief written statement referred to "a great Federal program and the great man who inaugurated it," continuing:

> The program to which I refer is the Federal Aid Highway Act of 1956; the man, Ike Eisenhower. The creation of the Federal Highway Trust Fund was, undoubtedly, the most important development in highway financing in the history of this nation.
> The bold adventure that became our highway system involved delicate negotiation, good-faith compromise, and a vision of an American [sic] fully united and interconnected. Geographic isolation and natural barriers were overcome to promote the accessibility of all America and all Americans.
>
> The precedent of the Interstate Highway System cannot be forgotten during the coming decades when the United States comes to deal with the crisis in urban transportation and the impending crisis in airport congestion. President Eisenhower, and the Congress of that time, provided us with a blueprint for productive Federal-State cooperation for mutual benefit and advancement.

In informal comments, he recalled:

> I remember visiting General Eisenhower in Palm Springs the winter after he retired as President. I drove from Los Angeles through the busy city clear up to Palm Springs, some 90 miles, in an hour and fifteen minutes. I remarked at the time that I knew a few years before it would have taken me about 3 hours to make that same drive. It was only because of the highway fund and the highway system that this fast transit was possible.

The former President, Representative Wilson said, "deserves to be honored in having this highway named after him."

Representative "Bizz" Johnson, also from California, and Representative Wilson compared their experiences on the Interstate System. Johnson recalled his cross-country trips to Washington since coming to the House in 1959 on a "very fine Interstate route" that allows the trip to be made "in a minimum of time":

> It is much different than the old highway known as U.S. 40 or trying to follow the old Lincoln Highway back in the twenties. In the minimal amount of time, you could leave Washington going to California now in about a 3-day trip. It is a pretty good drive. But you have to go that part of Interstate 80 through the State of Kansas which is a very good piece of real estate to travel over. The speed limit there is 80 miles an hour, and you make up some time.

Representative Wilson recalled his drives from California to Washington after winning election in 1952. Before the Interstates, "about the fastest possible time to cross the United States in those days was 7 or 8 days and now you can make it in 3 or 4 days."

They agreed that completing the Interstate System as soon as possible should be the first priority. [*1973 Highway Legislation (Future Highway Needs)*, p. 512-514]

After these brief appearances by Members of Congress, EPA Administrator Ruckelshaus took his place before the subcommittee. He explained that in 1970, Congress amended the Clean Air Act to mandate attainment of national ambient air quality standards to protect public health by mid-1977 at the latest. Traditional air pollution control measures, such as vehicle emission standards and stringent stationary source regulations, could help, but most metropolitan areas, including 8 or the 10 largest, would need transportation control measures as well. He listed common measures: "improvements in mass transit, auto free zones, parking surcharges, staggered work hours, conversion of fleet vehicles to gaseous fuels, and retrofitting older vehicles."

None of the major metropolitan areas "approach the severity of the problems faced in the south coast air basin of California." Under court order, EPA had proposed regulations that would require extensive changes in the area's transportation system and way of life, but in all of the areas, "motor vehicle travel must be curtailed." He continued:

> This comes at a time when intracommunity motor vehicle usage is increasing and continued urban growth is occurring, particularly in those areas already experiencing the greatest problems. Curtailment of motor vehicle travel will only be possible if adequate alternative modes of transportation are made available. Mass transit programs moving people where they want to go fast and in an inexpensive fashion can provide the incentive to reduce private motor vehicle travel.

Ruckelshaus strongly endorsed the Administration's proposal to "allow local communities great flexibility in planning and delivering comprehensive transportation systems through the use of Highway Trust Fund moneys." He endorsed the Muskie-Baker amendment to allow the use of Federal-aid urban system funds as well as the provisions of S. 502 that increased UMTA funding. He was, he said, "under no illusion that simply by providing the option of increased funding for mass transit, community motor vehicle pollution problems will be solved." Measures were still needed to reduce the use of private automobiles. "Clearly, an integrated approach of providing better mass transit service coupled with a regulatory and/or economic disincentive mechanism will be needed in many communities."

He added that reducing air pollution was "only one aspect of the challenge of a balanced transportation system." He explained:

> Even if we could eliminate all vehicle emissions, we would still be faced with a host of transportation related problems, noise, waste of fuel resources, congestion, unemployment and underemployment, and physical alienation . . . .
>
> With sufficient incentives and flexible funding, we could provide buses and commuter trains that are fast, safe, reliable, and convenient. Mass transit as a part of a sensible long-term solution to communities' modern transportation needs must be included as a major element in the design of more efficient cities.

Highways would still be needed, but a "balanced urban transportation system will only evolve if decisionmakers at the local level have a choice between various modes of transportation to serve their citizens' needs." [*1973 Highway Legislation (Future Highway Needs)*, p. 515-517]

After these brief introductory comments, Ruckelshaus took questions. Representative Cleveland questioned the assertion that increased use of mass transit, coupled with a decrease in automobile usage would relieve the air pollution problem. He cited the 1972 National Transportation Report:

> On page 222 of that report, they make it quite clear that major shifts in funds from highways to transit in these large urban areas would significantly increase transit ridership and reduce transit travel time with comparable reductions in highway speeds and in the number of residential business dislocations and land taken. Fatalities, however, would increase as a result of the increase in the proportion of highway travel on arterial streets and increased amount of transit service. And then they go on to say there would be very little change in air pollution.
>
> The people who wrote this report are suggesting that if you switch from automobile to buses, you have still got a pollution problem. Obviously, if you switch to electrified rail transit you have to produce the electricity somewhere, and if you do it with coal or oil you are right back where you started.

He said that EPA was suggesting one thing, namely improved air quality, while the Department of Transportation was suggesting another, namely no improvement.

Ruckelshaus did not see any contradiction:

> I am not for a minute implying that simply by providing these funds for mass transit or by use of more mass transit systems that all of the pollution problems in a given metropolitan area are going to be over.

In some cases, as Representative Cleveland suggested, shifting people from highways to transit "may be substituting one kind of pollution for another."

What he was suggesting was that in a place like Los Angeles, "where the problem is hydrocarbons, automobiles account for 85 percent of the emissions of this pollution in that area." For example, diesel buses, if reasonably well used as substitutes for the automobile, could help make a difference in hydrocarbons. "In every instance, the option of going to rail or bus may not be the best option in terms of air pollution, but we are trying to broaden their options so they will not be put . . . ."

Representative Cleveland interrupted to ask a question based on comments from his constituents in Vermont. They were concerned that emissions requirements would increase the cost of an automobile even though they rarely, if ever, drove their vehicles in Boston or New York City. They asked, "Why is it necessary to have these standards uniform throughout the country" when the problem is primarily in urban areas.

Ruckelshaus replied that, "I refuse to take the full blame for the Clean Air Act of 1970 . . . . There are extremely stringent requirements put into the act, written in the act by Congress, and also stringent deadlines." He added that hearings were underway on whether the automobile companies should be given an extension to meet the 1975 standards. "I am trying to come to a conclusion under court order again as to whether they should be given a 1-year extension of time."

EPA had considered a two-car approach of "an essentially clean car in the urban area and the other for rural areas," but encountered "tremendous problems with such a strategy." For example, the automobile companies reported that restricting rural dealerships from selling to people living in urban areas would be difficult. Despite administrative concerns, EPA was continuing to explore the idea and would recommend it to Congress if it appeared to be in the public interest.

Representative Cleveland's final question concerned the cost of removing air pollutants. Removing some or most was in the public interest, but he wondered if in trying to remove the last 5 or 10 percent of pollutants, "we may be getting ourselves into a situation where economically and practically it is just not feasible." Ruckelshaus agreed that cost had to be compared with benefits:

> Based on the best information we can get, it is going to take standards as stringent as have been set on automobiles or motor vehicle emissions in order to achieve acceptable levels of air quality in many metropolitan areas of this country, Los Angeles being only the most obvious.
>
> So while we are putting considerable pressure, both economic and psychological, on the automotive industry, I frankly believe that pressure is justified in terms of public health and also is probably the only way we are ever going to get action in the production of a cleaner engine. [*1973 Highway Legislation (Future Highway Needs)*, p. 518-520]

The next questioner, Representative Johnson, recalled that the Los Angeles area had an efficient mass transit system, both rail and streetcars, as well as a bus operation, a few years back "and they eliminated all of it, you might way." He asked Ruckelshaus why the transit system was eliminated. He thought that in the 1930's, city officials decided to give highways the right-of-way. "So most of the system that existed there in the 1920's and 1930's, which was one of the most complete in the world at that time, has now been paved over." Ruckelshaus added that, "There was nothing evil about it . . . . They had no idea in the 1920s and 1930s of the impact of the automobile."

Representative Johnson pointed out that he had met with Los Angeles authorities recently and they expected that developing a new transit system would take a long time. "I doubt whether it will ever come in time to meet your deadline." (Ruckelshaus interrupted, saying "I have never for a minute questioned that.") The transit officials were concerned about getting enough people to use the new system. "The reason they eliminated it in the first place was that nobody used it. It was a losing proposition." The same thing happened, Representative Johnson said, in the Bay Area:

> We had good rail transportation on the peninsula. We had good electric car transportation from the East Bay to San Francisco and throughout the East Bay. We eliminated those; even with the construction of the San Francisco Bay Bridge, we provided for a rail crossing,

> and they operated it. The only reason they discontinued was because there was no business [sic]. It was a losing proposition.

A rail line from San Jose to San Francisco was still in operation, but “there are very few people riding it.” He worried that BART would not be able to attract enough riders to reduce the use of the automobile. “Now . . . it is going to take an awful lot of time [and] I doubt whether the amount of diversion that has been asked for will ever be complete.” Citing such EPA proposals as gas rationing, he asked Ruckelshaus, “I would like you to give me a general idea how we are going to do all of this?”

Ruckelshaus said he did not mean to suggest that the “relatively simple” legislative changes under consideration would solve the complex problems facing the country’s metropolitan areas, “particularly the problems as complicated and severe as they are in . . . Los Angeles.” Under the Clean Air Amendments of 1970, the Los Angeles area had to meet the ambient air quality standards and even after retrofitting, setting up an inspection program, and other measures, vehicle miles traveled would still have to be reduced by 80 percent:

> Now, I do not know how to do that, frankly, but the court ordered me to do it [issue a plan] by January 15 or I would be in contempt of court. So we were dealing with my freedom. At that point I can get very serious about it.
>
> What we tried to do, in the case of Los Angeles, was to get the people of that community, particularly the State and local officials to focus on the magnitude of the problem. And I think it is a 20- to 25-year problem to solve it effectively and to come up with some overall plans, not separate plans for highways and another plan for rail transportation and another for bus transportation, but an overall comprehensive plan for transportation that would take into account all of the problems that exist in that basin, including the severe air pollution problem.

He could not say how to get people to use mass transit, but thought that regulatory measures, as well as incentives such as mass transit, would be needed.

Representative Johnson said “we have a very definite obligation in perfecting the Interstate System.” Although improving mass transit was a real problem, it could be well taken care of “if they will allocate or appropriate sufficient funds from the general fund to get the studies underway and to find out exactly what they are going to do. He added, though, “I think the moneys that are accruing in the trust fund at the present time are badly needed to continue and complete the Interstate System.”

Ruckelshaus responded that he understood that under predicted funding levels, all Interstate funds would be obligated by 1980 and the Interstates completed by 1982. Turning to the Federal-aid urban system, however, he said “it is important that local officials not be faced with a choice of either building highways because that money is available . . . or doing nothing because he will lose these moneys . . . .” Some areas might conceivably want to build more highways, but “I would like to be able to look at the choices available without being asked [to go] in one direction or another because of the availability of funds. [*1973 Highway Legislation (Future Highway Needs)*, p. 520-523]

Representative Abzug had tried unsuccessfully to ask a question during Representative Cleveland's time. Now, she tried again, but Representative Kluczynski denied her request and turned to Representative Zion for the next question period.

He was concerned about energy shortages, "particularly when the OPIC [sic] nations can blackmail us." If an oil shortage occurred, would the emphasis on reducing auto emissions increase the need for gasoline. For the record, Ruckelshaus submitted an EPA study, *Fuel Economy and Emission Control* (Office of Air and Water Programs, Mobile Source Pollution Control Program, EPA), that concluded:

> The average fuel economy loss due to emission controls for 1968-1973 vehicles is less than 8%. This penalty is approximately equal to the penalty associated with the use of convenience devices such as air conditioning or automatic transmissions. Despite the many statements regarding the loss in fuel economy due to meeting the 1975/1976 standards, no significant trend has yet developed in the data available to EPA.

Ruckelshaus suggested that, "If you are really interested as you ought to be in conserving fuel, it seems to me we have to look at those things in the automobile that cause excessive use of fuel." In addition to air conditioning and automatic transmission, he mentioned the weight of the vehicle, which averages from 2,000 to 5,000 pounds.

Representative Zion began to ask a question about the diversion of Highway Trust Fund revenues for other purposes before the Interstate System was completed (we are, he said "roughly four-fifths finished, with half the cost yet to be spent"), but Representative Abzug pointed out that he had already exceeded his 5-minute time limit. [*1973 Highway Legislation (Future Highway Needs)*, p. 523-533]

Representative Abzug would have to wait because Representative Roe was next. He was concerned about the effort to regulate a solution to the problem of air pollution:

> The point I am trying to make is why is it that the administration, and why is it, in fact, that the Congress will not make a national transportation commitment. You cannot solve the air pollution problem unless we do something on mass transit in this country. I think it is unfortunate that the media, the press, the spokesmen for the administration are coming down on a point of view that there is going to be some great magic and Hosannah, Hosannah, Hosanna, again we solve the problems of America by speeches, providing "flexibility" in the urban areas through the so-called special revenue-sharing funds . . . .
>
> I know there is a strong debate amongst the members on this issue, but I think it is a fraud on the American people. It is more razzle-dazzle, here we go.

Now was the time to come together and say the way to solve this problem of air pollution was to develop “a comprehensive mass transit system” to give Ruckelshaus and State and local officials the tools they need. “Does it not really seem that the time is overdue for the Nation to make this kind of a national commitment to mass transit and to a balanced integrated transportation system?” Ruckelshaus agreed that what was needed was “a balanced transportation system that provides for safe, convenient, inexpensive transportation to the people of this country.” Mass transit may not be the answer to everyone’s problems, but local officials ought to have more flexibility in deciding how to use the available resources.

Representative Roe, running out of time, quickly referred to the debate over operating subsidies. “The minute you mention subsidy everybody runs and hides. But everybody testified to the point that they cannot carry the system alone.” It would take 20 years to create a viable system. “Are we going to choke to death in the interim?” So many factors that make America great depended on a productive transportation system, but “everybody is running for paste and glue and fighting the fact that we have got to deal with this issue.” His time was up before Ruckelshaus could respond. [*1973 Highway Legislation (Future Highway Needs)*, p. 534-535]

Representative Clausen, who observed that preferential bus lanes were seen as a major part of the solution, wanted to know what progress was being made on the engines of buses to reduce pollution? Ruckelshaus acknowledged that “buses are thought to be big pollutants because you can see emissions from the back of the buses and smell their odors.” However, “the diesel engine which power [sic] those buses is not nearly as polluting as the emissions from engines with hydrocarbons.” That was why diesel-powered buses would be useful in the Los Angeles area. “Tremendous strides” had been made in producing cleaner buses.

Referring to the study showing that emissions devices had about a 7 percent penalty in gas use, Representative Roberts said, “The automobile dealers tell us it is 30 to 40 percent.” Ruckelshaus replied, “That is categorically false.”

They compared notes on their own vehicles. Roberts had two identical cars, even to the color, but the one without an emission device got 15 miles per gallon while the one with such a device got only 8½ miles per gallon. Ruckelshaus said he had a hybrid car that had a little switch that he pulled to use propane or gasoline. EPA was suggesting use of such vehicles in Los Angeles and a few other areas, but for now, “I can tell you when you run out of gas it is hard to find a propane station.” [*1973 Highway Legislation (Future Highway Needs)*, p. 536-537]

Representative Kluczynsi recognized Representative Abzug for her 5-minute question period and, perhaps by way of apologizing for not recognizing her previously, gave her 2 extra minutes. She replied, “I appreciate all the chivalry.”

She asked if EPA had figured out, on a per-passenger-mile basis, how the private car, bus, and rail create air pollution. He submitted a table for the record, but told her, “It is clear that the bus and automobile are the biggest cause of air pollution.”

She wanted to clarify that contrary to the implication of some of the questions thus far, none of the bills under consideration would divert any Highway Trust Fund revenues from completion of the Interstate System. "We are really talking about a local option which has nothing to do with the Interstate fund, but rather with the rural and urban funds."

Further, she said ideas such as people having two cars, one clean and one unclean, or driving around New Hampshire polluting the air, but not the people of New York City, were interesting:

> I think as highways go on and as time goes on, we will be very effective in polluting not only New York but New Hampshire as well. And I think that all of us should join together in seeking to find a way in which we can really bring the whole issue of transit to a point where we pollute nobody . . . .
>
> Those who are concerned with various industries, such as the automobile industry, the highway industry and related byproducts and so on, are going to have to realize . . . that we may have to be much more intent upon actually banning automobile travel in certain areas if we are to relieve our citizens in certain metropolitan areas from the serious health hazards which are created.

She was pleased that Ruckelshaus had mentioned auto-free zones as one option. She asked if he agreed that Congress should pass legislation to give local officials in heavily polluted cities "some kind of basis to deal with the problem," as reflected in S. 502 and the Administration bill.

He started to reply ("I would like to have the maximum") but she continued, saying that some members of the committee thought "we can get enough relief from the Mass Transit Act." If the bill contained operating subsidies, she asked, what would he recommend regarding that bill? She probably meant to ask if he would recommend a presidential veto, but her question was unclear as she rushed toward her time limit. He responded:

> I think we ought to be looking at all the subsidies given by Government to various modes of transportation and try to even those out. [*1973 Highway Legislation (Future Highway Needs)*, p. 537-541]

When Representative Anderson's turn came, he wanted to respond to Representative Johnson's comments about the Los Angeles street car system. In contrast to Representative Johnson's favorable comments, Representative Anderson wanted Ruckleshaus to know, "It was not good." His father commuted daily by streetcar and by the time it reached Los Angeles, "it was crowded, people hanging on the backs and sides and it was hot. By the time they got to where some of the people got off, it became windy and damp." He attributed his father's death at 52 to a bronchial condition "attributed directly to this daily ride on that 'good' Los Angeles streetcar." He continued:

> It was not a good system. We people talk about the "good old days." They were not good old days. They stopped at every corner. You traveled 40 miles to get there. People got cars to get across that area. It was a miserable system.

Ruckelshaus, who had not lived in Los Angeles at the time, said, "I do understand that it was a bad system." By contrast, modern systems, such as one he had seen in Mexico City, could be safe and efficient. Cities have a relatively short time to meet air quality standards. "Now the time frame in Los Angeles, 1977, is an absolute deadline, ambient standards have to be achieved by then and our plan had to focus on reducing the vehicle traffic by 80 percent in the manner suggested." Representative Anderson asked how much would pollution be reduced if the Los Angeles area could reduce automobile traffic by 25 percent. Ruckelshaus replied, "It would be reduced considerably," but did not continue when time ran out.

Representative Burke explained that when EPA proposed drastic measures such as gas rationing for the Los Angeles area, many of her constituents asked her, "Now what are they doing as far as [asking] the automobile manufacturers to come up with something" to reduce pollution. She asked about EPA's efforts with the industry.

Ruckelshaus acknowledged that during the 8 days of hearings on the proposal, the attitude often was, "Why do you not get Detroit to do something about it?" He explained that the Clean Air Amendments of 1970 set strict standards, resulting in the proposal for the Los Angeles area. He also had set interim standards to reduce hydrocarbons from automobiles on sale at the time. Hearings were underway to determine whether to grant a 1-year extension to the industry. "If we grant the extension, then, under the law, we could set an interim standard somewhat higher than the 1973 standard." He added that, "If by 1985 every car met the 90-percent reduction in hydrocarbons, as mandated by the 1975 standard, you would still have to reduce the amount of travel in Los Angeles."

He said that given a choice between two kinds of standards, Congress elected to go with performance standards instead of design standards:

> It says any car produced after 1975 has to have reduced . . . its hydrocarbons emissions 90 percent over allowable emissions in 1970. They could have set a design standard and said you use this kind of technology in the automobiles. We have no authority to dictate technology. The only authority I have is to determine whether the technology as it now exists can be mass produced by 1975 so as to achieve the performance standards set by Congress.

Representative Burke also asked about the high price of unleaded gasoline, despite predictions that it could be produced at reasonable costs. Ruckelshaus said that under the EPA standard, every gasoline station must have at least one brand of lead-free gasoline by mid-1974. EPA was considering whether to eliminate lead in gasoline entirely.

When Representative Burke said that people would not buy unleaded gasoline if the price was too high, Ruckelshaus pointed out that EPA had also issued regulations so that new cars would require lead-free gasoline and "the nozzles on the gasoline pump will not fit into the tank unless they have a lead-free gasoline pump." He explained:

> That is the only way to do it. People are not going to voluntarily buy lead-free gasoline for whatever reason because they know an individual car cannot have that much effect on the atmosphere. It takes governmental regulation to insure that if lead is a health problem that lead-free gasoline is made available and used. You cannot do it voluntarily. People will not buy lead-free gasoline. [*1973 Highway Legislation (Future Highway Needs)*, p. 541-544]

Representative Burke's questions concluded Administrator Ruckelshaus' testimony as the morning session ended.

(When asked about the elimination of the Los Angeles rail and streetcar network, Ruckelshaus had said, "There was not anything evil about it." The area's rail and streetcar lines had been in decline for years. As Dr. Scott L. Bottles' book on Los Angeles and the automobile explained, the industry's struggles "began immediately following World War I when the high fixed costs associated with rampant overcapitalization forced many railways into receivership." As automobile ownership increased, ridership declined while the Depression took an additional toll on the industry:

> Only World War II with its rubber and gasoline shortages saved the companies. Although ridership and profits improved dramatically during the war years, the recovery proved temporary. Income and patronage once again fell following the return to normalcy. Angelenos went back to using their cars, while traction executives found themselves stuck with even older and more antiquated equipment.

(As in many urban areas, residents of the Los Angeles area did not view the transit companies "as virtuous, responsible public utilities trying to provide a public service." Dr. Bottles described public attitudes:

> People in Los Angeles during the first three decades of the century constantly complained about the quality of rail transit. From their point of view the railways sought to benefit at the public's expense. In seeking to operate their business profitably, railway officials, in the minds of many citizens, deliberately ran too few cars, refused to build necessary crosstown lines or tracks into lightly populated areas, ignored the safety of the public, and bribed elected officials for favors. Frustrated by inadequate and inefficient service, Angelenos turned to the automobile manufacturers to supply them with an alternative means of transport.

(Public attitudes did not improve over the years as the growth of automobile traffic put pressure on the transit companies to remove the fixed rail lines that blocked traffic and could not serve shifting population centers. It also reduced company revenues, resulting in reduced service on aging, inefficient vehicles. By the 1950s, area residents were relieved by the gradual demise of the companies. Author Robert C. Post, an expert on the area's rail lines, described the gradual decline of the Red Car interurban streetcars:

> The last trolleys ran from Los Angeles to Venice and Santa Monica in 1950, to Pasadena, Arcadia, and Glendora in ’51, to Van Nuys in ’52, to Hollywood and Beverly Hills in ’54, to Glendale and Burbank in ’55, to Wilmington and San Pedro and Bellflower in ’58.
>
> Or, rather, the lines remained in service, but management switched the mode from steel wheel to rubber tire on public roadway.

(The last Red Car line, between Los Angeles and Long Beach, ended service in 1961, followed 2 years later by city streetcars.

(Recalling the experience, Los Angeles area residents were slow to accept plans for a modern transit network. [Bottles, Scott L., *Los Angeles and The Automobile: The Making of The Modern City*, University of California Press, 1987, p, 4, 241-242; Post, Robert C., “The Myth Behind the Streetcar Revival,” *American Heritage*, May/June 1998, p. 96, 98])

When the hearings resumed in the afternoon at 2, Chairman Mahon of the Committee on Appropriations was at the witness table. He told the committee that he wanted to address a “narrow angle” of the fiscal situation:

> We are trying to get better control of fiscal affairs in the Nation.
>
> We are trying to create a better image for Congress, and, of course, we constantly struggled toward doing a better job.

He was concerned about the Williams amendment, the Emergency Commuter Relief Act, that the Senate had adopted in S. 502. “This amendment adds $800 million in Federal funds contract authority over a 2-year period to initiate a subsidy program for mass transit.” He did not want to address the merits of operating subsidies. His concern was with the “granting of contract authority as opposed to authorization for appropriation.”

He described the issue as part of the ongoing struggle with the Executive Branch over congressional control of the budget:

> Of the $288 billion budget authority requested this year, $173 billion, or about 60 percent, will be handled in appropriation bills.
>
> The other authority will become available through permanent appropriations such as trust funds and interest payments on the debt, authority to spend debt receipts, and through contract authority.
>
> Uncontrollability of the budget is one of the principal reasons why Congress continues to lose its grip on the purse strings.

He urged the members “to seriously consider providing authorization for its annual appropriations to fund this program—if the committee in its wisdom decides to accept the Senate amendment.”

He added that, "there is nothing unique about the nature of the program that requires contract authority as a financing mechanism." He did not think that eliminating contract authority would harm the program. [*1973 Highway Legislation (Future Highway Needs)*, p. 545-546]

(As discussed earlier, contract authority permits programs to obligate authorized funds in advance of appropriations. For a program involving projects that take multiple years to complete, contract authority is critical. The Post Office Appropriation Act for 1923 had initiated contract authority for the Federal-aid highway program and it remains a key feature of the program. Among the impacts was to give State highway officials reason to do preparatory work on projects that would not go to construction until a following year. [*America's Highways 1776-1976*, p. 206] That is why Representative Mahon had pointed out that "there is nothing unique about the nature of the [subsidy] program" that would justify contract authority as a financing mechanism, since operating subsidies involved single-year expenditures rather than long-term planning. Transit advocates favored contract authority because it minimized the prospect of losing in the House and Senate Appropriations Committee what they had gained in the authorizing committee.)

The next panel to appear before the subcommittee was from AASHO, headed by president Airis. He was accompanied by Maine's David Stevens and Executive Director Henrik Stafseth. Their testimony restated the views expressed during their testimony in February before Senator Bentsen's subcommittee. Their views included:

- The Interstate System should be funded at $4 billion a year until completion.
- AASHO suggested $1 billion a year for the Federal-aid urban system, with TOPICS included rather than as a separate program.
- For Interstate sections that cannot be built, "it may be desirable to construct such sections on a different location in order to provide for a connected system of Interstate highways." The cost of substitute sections should be limited to the cost of the unbuilt section.
- The deadline should be extended to July 1, 1977, for establishing a schedule of expenditure to complete Interstate segments.
- AASHO opposed increased Interstate mileage at least until the current mileage is completed.
- AASHO also opposed discretionary distribution of funds, "preferring to see fixed factor formulas developed for such distribution."
- A 70-30 Federal-State matching ratio was desirable, "in order that the accumulating Highway Trust Fund balances can be recycled into their intended purpose . . . ."
- They recommended consolidated safety categories because "the creation of additional categories of funding presents very real difficulties in the administration of a program."
- AASHO supported a third trust fund for urban mass transportation to be funded from sources other than the Highway Trust Fund. "Until such time as a separate trust fund to satisfy these needs is created, the approach taken in title III of last year's compromise bill with funding for transit needs coming from the general fund would appear to be a very desirable provision."
- Critical highway needs through 1990 totaled $300 billion, or $20 billion a year. "In keeping with historic trends in financing, the Federal involvement should probably continue to be in the magnitude of one-third of the capital improvement, or $6.7 billion per year."

- AASHO opposed the pass-through provision for bypassing State governments in distribution of Federal-aid funds. “The flow of funds should be in a direct Federal-State and State-local relationship, in order to insure comprehensive and coordinated planning and implementation to allow the financial resources at all levels of government to be mutually reinforcing, and to identify and pursue common goals and objectives.”
- States should have the authority to transfer up to 50 percent of funds among categories, up from the present 20 percent.
- All Highway Trust Funds should be devoted to highways. “In other words, there should be no diversion.” AASHO opposed “flexibility” that would allow Highway Trust Fund revenues to be used for other modes.
- Project opponents filing lawsuits should be required to post a bond to show sincerity of purpose and responsibility of action.

Stevens said, “the image of the highway builder, and the matter of building highways over the world so to speak, and to cover the countryside with asphalt we believe is not warranted.” AASHO had been a leader in advocating eligibility for highway-oriented transit activities. Now it was supporting a third trust fund for transit that would cover rail transit. In short, “we do see all of the needs, even in those States that have highly urbanized areas.” [*1973 Highway Legislation (Future Highway Needs)*, p. 548-558]

Representative Cleveland asked if AASHO could suggest revenue sources for a Mass Transit Trust Fund. Stevens said that AASHO would support the use of any revenue not currently going into the Highway Trust Fund:

> Mr. Cleveland. Am I to gether [sic] that if you were to increase the gas tax, not the present tax, but an increase, could go into it?
> Mr. Stevens. The way our policy statement is written and agreed to, yes.
> Mr. Cleveland. Do you have a personal opinion on that?
> Mr. Stevens. I guess I would like to relate the actual position first, if I may, please. The way our policy statement is written, an increase in the Federal gas tax earmarked for a third trust fund would be within the realm of that, that is correct.
> Mr. Cleveland. Does not AASHO also believe that the present source of trust fund is inadequate to the highway needs of this country?
> Mr. Stevens. AASHO, of course, would like to see additional moneys go into the Highway Trust Fund.

If Congress decided to finance public transportation projects out of the Highway Trust Fund, Representative Cleveland asked if the State highway agencies had the capability to administer the projects or should they be turned over to local officials. Stevens said AASHO’s position was that all revenue in the Highway Trust Fund should be the responsibility of the State highway agencies. Airis added that the State highway agencies had demonstrated their capability through development of highway-oriented transit projects:

> I would have to talk as Director of Highways and Traffic here in the District of Columbia, and you have all heard about the Shirley Highway express bus project, and it was not the environmentalists, not some of the other groups now interested in the project, but it was the

> two highway departments, the one from the District, the one from Virginia, and WMATC [Washington Metropolitan Area Transit Commission] chairman, with the assistance of Mr. Frank Turner who is in the audience who sat down and put that project together.

When Representative Cleveland pointed out that the State highway agencies were being cast as opposed to urban mass transit, Airis replied, "It is entirely untrue." Representative Cleveland told him:

> You don't have to make that point to this committee. This committee is not against mass transit. The only thing we are against is having a Highway Trust Fund not doing the job it should do. [*1973 Highway Legislation (Future Highway Needs)*, p. 558-560]

Representative Abzug, the next questioner, responded, "I just want to make the point, nobody will steal the money from the Highway Trust Fund. We are going to appropriate it or not. I wish I could steal some, frankly." Referring to the transportation needs estimates, she asked:

> If we continue to have the Highway Trust Fund money available for highway purposes in our urban areas, are we not saying, "Build the $10 billion worth of highways, whether you want them or not, but you will have to scrounge around elsewhere if you want $63 billion for mass transportation?"

Airis said that with needs in both categories, "if anyone attempts to fund both needs out of the single trust fund, neither one will be satisfied."

The Congresswoman's response suggested growing frustration:

> We are saying, "You can have your funds, just give us a little bit of leeway and flexibility so we can decide that it might be a little healthier for us, it might improve the capacity of the people to go to work to make a living, if they had a decent subway, that it might eliminate the confusion, and all of these others [sic] things, if we had a different mode in building in our part of the system, the urban system, a different mode of transportation than just an urban highway."
>
> That is all we are saying, and when we talk about this trust fund, to hear you people come in here, day after day, and suggest to us that we have to have these highways, even though these highways are choking us and killing us, and killing business, I might add, and ultimately you are going to kill the business you are in if you keep this up, we are going to have to ban automobiles from all kinds of major arteries, we are going to have all kinds of restrictions like that, and in the end you are going to kill the whole golden goose.
>
> It is therefore time to share a little bit, give us a little piece of our own, give us a little control over our own money, and I think it is wrong for you to continue to suggest we should not have it.

Airis referred to the needs documented by the Department of Transportation and said, "my point is that if there is a definite need for the upgrading of highways to take care of safety among other things, it should be done, and it should not be turned into something else which should stand on its own feet."

Frustrated by this non-answer, Representative Abzug wanted to know why AASHO was suggesting that local officials should not be able to determine the best use of the funds. Airis replied, "Well, Madam, the trust fund was initiated and evolved for a particular purpose, and it is the position of the organization that I am representing here today that it should be used for that particular purpose."

His response did not satisfy Representative Abzug, who pointed out that most of the tax revenue going into the Highway Trust Fund had formerly gone into the general Treasury and that the revenue was now being used for many activities beyond highway construction:

> We have done lots of things besides feeding the gasoline and automobile and concrete industry and I think we can do whatever we want in this Congress to appropriate funds that belong to the taxpayer and put them to the need [sic] of the taxpayer.
>
> That is not a good argument. It is very unimpressive, and it is not valid.

When Airis pointed out that all the other uses she had mentioned were highway-related, she replied, "They are all transportation or other related." She continued:

> You even say you should find some money someplace else. You want us to set up a brandnew [sic] trust fund, at a time when we just had a big cutback in the proposed budget.
>
> Where are we going to get these funds from? We are not asking for anything new. We want to use the funds that are there in a way that we in the local areas have determined to be necessary for our living, for our going forward in life.

Airis replied that he agreed in general, but not in specifics with Representative Abzug's statement. She replied, "I am not surprised."

She said, "I suppose you don't like a passthrough to the cities." She thought AASHO was inconsistent in wanting States to make decisions but not wanting local governments to do so as well. "There is an inconsistency in your planning of flexibility in one case, and your desire not to have flexibility in another case."

Although her time had ended, Representative Abzug could not let this opportunity to speak directly to AASHO pass:

> I would like to conclude by saying that I think those representing the highways and the highway officials, as you all do, should come to realize that this is one country, that everybody has many different needs, and that we have to be able to share our problems and deal with each other. Otherwise you are forcing the people who are most deprived and who

> contribute the most to these highways in terms of taxes to take drastic steps which in the end will make it impossible to have any highways.
>
> I will have to ultimately say, "Let's declare the Interstate System completed," because if you are not willing to allow us any leeway, in desperate needs we have in transportation, desperate needs, we have to fight pollution, to fight Congress, desperate needs to put people in the position where they can go to work, then we will have to take drastic steps in our localities, so these highways may not get built.
>
> That is all. No further questions. [*1973 Highway Legislation (Future Highway Needs)*, p. 561-563]

The next witness, General Kreml of the MVMA, said his association "supports the concept of a balanced approach to provide for the movement of people, goods, and transportation services throughout our Nation." Highways alone could not serve the country's growing population, but since highway needs far exceeded revenue, the Highway Trust Fund should be restricted to addressing those needs.

Transit needs should be financed from the general Treasury at increased levels as provided for in S. 502. "In our view, such funding for public transportation from the general fund, combined with adequate funding for highways from the Highway Trust Fund, represents a balanced Federal commitment for personal and public transportation."

Kreml said MVMA rejected choosing between highways and public transportation or the idea that "many would have us believe that a dramatic change is in order, and that such change would produce vastly improved social and economic environments." To address air pollution, traffic congestion, and crashes, new regulations and standards were being imposed even as the car-traveling public "is being told that they either 'should' or 'must' be diverted from auto to transit use—that additional construction of new rail transit facilities will bring about these hoped for changes."

He said that urban expressways had reduced point-to-point travel times and reduced traffic on local roads where buses picked up and discharged passengers, thus improving bus travel time. Experience with fixed rail systems contradicted the widespread assumption that they would reduce highway traffic. "Those who do shift are generally car-pool riders or former users of other modes of public transportation—buses or street cars. Consequently, reliance on rail transit alone will do little to relieve motor vehicle congestion—what will, is a balanced approach to highway and public transportation improvements."

Rising incomes and a desire for more space fueled a continued migration from cities to suburbs:

> These shifts have had a profound effect on transportation requirements. Travel patterns have become increasingly diverse—many dispersed origins to many dispersed destinations.

> Thus, only a balanced transportation system, using flexible transportation modes as fully as possible, can meet such dispersing travel demands.

Fixed rail systems, Kreml said, were "limited by their technology to serving a few concentrated points of origin and destination." The lines now being built or extended would "serve primarily to aid the well-to-do suburban residents who work or shop downtown." He added:

> Çontrary to much popular belief, these systems will not serve those suburban or central city dwellers who work or shop anywhere but downtown, since they are not adapted to the needs of an increasingly dispersed urban population.

They would do little for the young, the aged, and the handicapped who were often cited by transit advocates as beneficiaries. The lines would do little to provide access to suburban industrial plants that were supposedly the destination of the inner city poor seeking jobs.

The public, he said, was becoming increasingly aware of the limitations of transit:

> They have come to realize that such systems cannot provide the door-to-door service, privacy, comfort, schedule flexibility, and the capacity to carry goods and people concurrently which motor vehicles afford.
>
> As a result, not only do few commuters switch to rail transit when given the opportunity, but more and more people are buying and using motor vehicles because highway transportation—by auto, truck, or bus—facilitates the types of trips people desire and those that are necessary to provide services, move goods and to carry out other daily activities.

To address the changing urban/suburban environment, Kreml recommended a research and development program to concentrate on the innovative, advanced concepts and systems, regardless of mode. Funding should come proportionately from the Highway Trust Fund, UMTA, and other programs relating to single modes.

MVMA had studied the history of transportation finance. Although highway users supported the Highway Trust Fund, "there is no way to apply the user-charge principle to urban transit without taxing those least able to pay." That is why public transportation programs should be financed from the general Treasury. However, the factors that made the Federal-aid highway program successful should be applied to public transportation. Those factors, Kreml said, were:

(a) Clear and understandable statements of goals and objectives;
(b) Assured long-term funding to achieve its goals and objectives;
(c) Development of an effective Federal-State partnership which encourages a high level of competence and cooperation among the Federal and State agencies involved.

Based on these factors, MVMA had adopted a policy supporting two basic concepts:

(1) The use of general funds for needed development of mass transportation systems; and

(2) The soundness of the user-charge earmarking principle and continuation of the Highway Trust Fund for highway pruposes, broadened to include sound highway-related programs.

On that basis, MVMA supported appropriate funding for the Interstate System, rural and urban programs, and broadened use of the Highway Trust Fund for highway-oriented public transportation, as well as public transportation expenditures at appropriate levels from the general Treasury. MVMA opposed the provisions of S. 502 and the Administration's bill that would allow the use of Highway Trust Fund revenues for public transportation.

The organization also opposed dollar-for-dollar substitution of Interstate allocations to the Federal-aid urban system. "We believe the integrity of the Interstate System should be retained."

MVMA also was concerned about the developinig trend of allocating funds directly to urban areas. It favored development of metropolitan transportation planning units to work with appropriate State and local officials, but the Federal-State partnership should be retained. "MVMA suggests that moneys should continue to flow through the appropriate State agency in order that this relationship be preserved." [*1973 Highway Legislation (Future Highway Needs)*, p. 564-569]

Representative Cleveland agreed with Kreml's statement about rail transit systems primarily serving well-to-do suburban residents who work downtown, but wondered if he could provide supporting information for the assertion. Kreml submitted a response for the record indicating that "there are significant differences in the use of public transportation for travel to and from work, by the poor and well-to-do—particularly their use of commuter trains and subways." The response continued:

> While the use of auto and truck modes by various income groups closely parallels the income distribution for all workers, the pattern of commuter train and subway usage is vastly different. This travel mode is used by a very small percentage of low income workers; a higher than average percentage of middle income workers (those whose incomes fall between $5,000 and $7,500); and, a much higher percentage of the upper income family workers ($15,000 or more). Only 7.4% of workers who use commuter trains and subways fall in the under $5,000 income class, whereas, 16.0% of all workers, 11.8% of auto and truck commuters, and 32.7% of bus and street car commuters, fall in that class.
>
> Based on these data, it is apparent that upper income groups are the principal users of rail transit for commuting to and from work—not the poor. Consequently, the use of Highway Trust Fund revenues for rail transit will not benefit low income groups. Their prime need appears to be improved highway facilities—for bus, street car, and private automobile travel.

Representative Cleveland asked if MVMA had any thoughts on whether the developers of projects such as the World Trade Center in downtown Manhattan should be required to produce impact statements. Given the size of the development, which Representative Cleveland said would be half again as big as the Pentagon, "there ought to be some type of transportation impact statement . . . ."

Kreml replied:

> Only to say the obvious: That many of the problems which we now as a people look to transportation technology to deal with . . . have been made virtually impossible to solve because of deficiencies in urban planning, urban zoning, and the enforcement of zoning. The technology of transportation is no magical or messianic-type solution which somehow can compensate for human failure, or overbuilding, or population, for example, and New York has no corner on this, of course.
>
> I think in many areas—and to some degree in every section of the country, some of our people are being led down a garden path by suggestions that these problems, which are fundamentally social and economic problems of municipal governmental administrations, are going to be resolved by mass transportation. It just is not so. [*1973 Highway Legislation (Future Highway Needs)*, p. 571-573]

After Representative Wright and Kreml discussed how ramp metering on freeways would operate to reduce congestion [p. 573-575], Representative Abzug asked if Kreml would agree that making more funds available for mass transit would reduce congestion as well. "It might be a more direct way," she said, "and less complicated than the meter reading; do you think that would help?" Kreml regretted that he must answer "no," a response he considered "tragic." Proponents of mass transit "have nothing but the very highest motivations," but "we have got off on a fairly typical American fixation on an overly simplistic solution for a very complex problem."
Comparing the public transportation needs of America's diverse cities, from New York City and San Francisco, with their large populations and social mores, to Miami, Little Rock, or Madison, Wisconsin, "there is no quick and simple answer as to what they require, except we all know that they need some mix of the various forms of transportation and technologies which are now available, plus some modes that we don't yet have, apparently." He anticipated "shattering disappointment" if "we persist in the belief that somehow we must find a solution now and it must be found in some form that can be quickly financed and brought into being." He feared that the attempt would not provide real relief, the taxes and penalties will be regressive and fall on those least able to pay, and what relief is provided will be mainly for the upper middle class. He cited Detroit's proposal for a 25-mile subway link to Pontiac at a cost of $35 million a mile. The black leadership in the city had stopped it because it would benefit primarily residents of Bloomfield Hills and other suburbs, not the minority population.

Representative Abzug agreed about the need to plan an integrated and balanced system. That was why she favored making Highway Trust Fund revenues available for local officials, such as those in Detroit, to decide on the best options for meeting their unique needs. "My question," she said, "is simply that you don't seem to care anything at all about anything except what will help an automobile to travel around." He categorically denied her statement, which reflected "a complete misunderstanding" of his testimony. Automobiles were not the entire solution, but neither was public transportation the "one simple, simplistic answer." He added, "As a matter of fact, this is just about the antithesis of what is needed by the transportation-deprived people . . . ."

She responded that in trying to create a balanced transportation system, Kreml's answer was to look to the general Treasury for mass transit. She pointed out that the President had impounded funds, was proposing a cutback in the budget, and "therefore we have to try to get funds for that purpose out of the existing funds, and one of them is the Highway Trust Fund, and you oppose that." She was not done with her question, but Kreml asked if he could respond to her point. She agreed, and he said:

> We oppose it on the ground that, of the transportation-denied people in the major cities today, virtually all of them are people who are dependent upon the automobile. They are using 7- to 13-year-old automobiles, but that transportation is the difference between work and food, and no work and relief.

Until the country was ready to provide the transportation these people really need, "let's not do the regressive thing in trying to help these people." It was precisely this kind of issue, he said, that prompted him to leave "very delightful, enjoyable, and rewarding work at Northwestern University" to join MVMA 18 months ago. "I was so appalled at the direction in which our National and State policies were taking us."

Representative Abzug asked if he supported the automakers' request for a 1-year delay in enforcing the 1975 antipollution standards. He responded that none of the auto manufacturers had the technical capacity to produce the equipment to meet the 1975 standards, in spite of the fact that the industry had spent $2 billion trying to find a means of doing so.

Considering how many people's health would be affected by auto pollution, Representative Abzug considered it "ludicrous" that the industry could not find a solution with that kind of money. "Maybe we ought to stop building some highways for a while and find some money to do the improvement for these automobiles." With that, her question period was at an end. [*1973 Highway Legislation (Future Highway Needs)*, p. 576-579]

Kreml's testimony ended in a dialogue with Representative L. A. "Skip" Bafalis (R-Fl.), an investment banker and State legislator serving the first of five House terms. He said that as he watched people involved in public transportation, "I find in many cases, people are not qualified to develop systems." He worried that taking money from the Highway Trust Fund might result in "spending hundreds of millions of dollars which we will find in a few years have not been properly spent."

Criteria were available for measuring transportation demand, Kreml replied, and they "must be conscientiously applied" in developing plans and allocating money. Transportation planning had improved in recent years, but, "yes, mistakes can be made." He explained:

> Where transportation planning has failed in the main, in my view, it was either in incompetent hands, and this has happened frequently, I fear, or on the other hand, and this has not been at all recognized generally throughout the Nation, transportation has been called on, in effect, to deal with problems that are not susceptible to correction by improved transportation alone—and one of these is the problem of overpopulation. New York is a

> good example of this, particularly midtown Manhattan, where you have a very serious problem of overpopulation. We just don't have any transportation technology that can accommodate this.

Representative Bafalis asked Kreml if he thought State government was capable of developing transportation systems without Federal controls. Kreml replied:

> No, I don't. I am sorry to say that I have said that in my testimony. I think the State-Federal relationship is extremely important in going back as far as the first Federal-aid program. I think this was one of the great successes of our Nation and this Congress that that program was so well planned, so well conceived, so well developed, so devoid of scandal, and the public got so much return for their money. I am talking about a time that is ancient history, but this is a good example, and think it has persisted almost without exception in the present-day relationship. [*1973 Highway Legislation (Future Highway Needs)*, p. 583-584]

The next witness, John J. Sheehan of the United Steelworkers of America, favored the use of Highway Trust Fund revenues for mass transit. "The Highway Trust Fund program has now reached a state in its implementation where it is causing distortions and imbalances to develop in a time of rapidly changing transportation needs." With over a million members, over half of whom live in metropolitan areas, the union recognized "that a more effective use of the work force depends upon an efficient means of transporting workers to their jobs."

The union supported mass transit aid, but the UMTA program "has not been developed to a scale anywhere near equal to the needs . . . ." A more integrated financing method was needed. The union supported the Senate's decision to adopt the Muskie-Baker amendment opening Federal-aid urban system funds for mass transit. "The urban highway money can make an important contribution toward financing a balanced urban transportation system, but it cannot be expected to carry the full load." It will not be a panacea, but will be a very important step.

The Highway Trust Fund, with what Secretary Brinegar had called its "use it or lose it syndrome," restricted the ability to consider the full range of transit options, including fixed rail. Even if the Muskie-Baker amendment resulted in most of the funding being used for highways, officials "should not be forced, or trapped, into that decision if people could better be served by using funds for exclusive bus lanes, new buses, rail cars, or constructing a subway system."

As a union representative, Sheehan also encouraged the subcommittee to extend the labor protection under section 13(c) of the Urban Mass Transportation Act to transit projects developed with Federal-aid urban system funds.

He also commented on whether such broad use was fair to the highway users who financed the Highway Trust Fund. Since half of the revenue came from urban areas, Sheehan said "it seems to me that equity would demand that these large donors be given flexibility in their use of the funds." Many of these motorists would prefer commuting by mass transit if it were a reasonable alternative:

> Is it equitable to force these drivers to continue to pay into a system which further buries in concrete the chances for development of more desirable alternatives?
>
> I think not.

Further, as BART's Stokes had pointed out, San Francisco area residents paid into the Highway Trust Fund but did not want the expressways it would finance. "They did not use it, so they lost it." This was, Sheehan said, "a tremendously difficult decision to make and one with which cities should not have to be confronted."

In short, "the real point to be made here is that we cannot talk about urban transportation in terms of only one mode at a time—the various forms have to be integrated because their functions and their benefits are intertwined." He added that from the standpoint of equity, "it seems only reasonable that auto-use taxation should be available to help remedy this auto-caused problem."

He did not favor creation of a Mass Transit Trust Fund, which would result in a repeat of the "use it or lose it" syndrome, only for transit instead of highways. "Built-in shutters around specific grant programs prevent coordination with other related aid programs." Instead of pushing "individual forms of transportation, irrespective of one another," he said that the goal "should simply be the development of balanced, integrated transportation."

In closing, Sheehan said the union's recommendations would not affect the Interstate or rural highway programs. He added:

> A definite relationship can be seen between the emphasis we have placed on the automobile, the decline of urban mass transit systems, and the congestion and pollution which plagues our cities . . . . Certainly one of the indirect, unintentional, but negative, results of the current highway program has been the influence it has had in developing the "automobile culture." Government policy must begin now to create the atmosphere—and practical opportunity—for a more realistic public acceptance of mass transportation. By challenging the exclusiveness of the Highway Trust Fund's expenditures, you will be helping to end the myth of the exclusiveness of our transportation remedies. [*1973 Highway Legislation (Future Highway Needs)*, p. 584-590]

The question period was brief. Representative Clausen asked if Sheehan was in favor of applying the same flexibility to UMTA funds so they could be used for highway projects. He replied, "yes, we should not have just the UMTA, and then have the Highway Trust Fund." The UMTA program was established as separate from the Federal-aid highway program "and, therefore, it has its own limited purposes. It probably should not be so limited."

Representative Abzug commended the United Steelworkers of America for "recognizing that we are dealing with a very far-reaching social issue." She said:

> The majority of the people in this country desperately need legislation which will open up the fund, to local planning, in an integrated and balanced system, as well as sustaining some of the mass transit systems that we have.

She asked Sheehan for the union's views on the need for a maintenance or operating fund from the Highway Trust Fund and/or UMTA for public mass transit systems. He replied that the union had not addressed the issue, preferring to focus on the need to "get on with the job of coordinating the transit system and not be trapped by the restrictions in the fund, and that is about as far as we went." [*1973 Highway Legislation (Future Highway Needs)*, p. 590-592]
Cynthia Wilson of the National Audubon Society began her testimony by opposing the S. 502 provision allowing San Antonio's North Expressway to proceed without complying with Federal requirements. Aside from the concern about the impact on Brackenridge-Olmos Basin Parklands, she was concerned about the precedent:

> To vote to allow one State to wriggle out of compliance with both section 4(f) and NEPA is a vote against both of those landmark statutes and will be viewed as just that by the people. Congress can, if it wishes, overturn judicial decisions, but in doing so Congress seems to be saying, "We really didn't mean it when we voted to protect public parks; that was all rhetoric . . . ." One exception will beget another: and this committee could become bogged down in a myriad of requests from different parts of the country.

She cited congressional efforts to force the District of Columbia and Virginia to build the Three Sisters Bridge as "a horse of the same color." She said:

> Further, the bridge is the keystone to the freeway system which includes the ill-conceived south leg—which would desecrate the Lincoln Memorial, Tidal Basin, and the whole monumental park area. Is nothing sacred?

The language in the Federal-Aid Highway Act of 1972 "not only deprived the citizens of the District of Columbia and Virginia of judicial review, it also would have set a precedent of depriving all citizens of judicial review in highway cases." She urged Congress to stop intervening in these disputes.

The society also opposed the "misguided proposal" for a "second generation Interstate System." Wilson supported road improvement for safety, "but deliberately making them bigger just to make them bigger is merely inviting more traffic." The "10,000-mile fiasco" had not been studied and did not deserve study. "It is simply a make-work proposal that will compound present problems, including the so-called energy crisis." She added that bringing 10,000 miles of primary highways up to Interstate standards would mean "that a vast amount of land will be paved, homes and businesses bulldozed, and parklands devastated."

Instead, she said, "The time is past due for mass transit—our cities are choked with cars, our land has become one vast highway and parking lot, and the air is not fit to breathe." She favored the Muskie-Baker amendment:

> Although the amount of funds is modest compared to the needs, it was an important step in the right direction.

She also objected to "the false argument" that revenue from highway users must be used for highway improvements:

> Every citizen who drives contributes to that trust fund and should have a say in how it is spent. Most citizens would like to be able to have the opportunity to choose how they get to work. Many drive because they have no viable alternative.
> We think the highway industry is biting its nose to spite its face by opposing the use of Highway Trust Funds for mass transit.

She told the subcommittee that we must "remove our blinders and change course," adding:

> Our urban areas are caught in a vicious cycle. As we pave over more and more of our cities for roads and parking lots, they become undesirable places to live. People move further into the suburbs, then more commuter highways are built for them to drive into the city to work. The time has come to change directions . . . .

Few members of the subcommittee were present for this testimony. Representative Wright was not present at the start and had missed Wilson's comments about the North Expressway. He told her that proponents and opponents were trying to "find some mutually amicable resolution of this problem" that would relieve Congress of the responsibility. Both sides had filed testimony for the record, "feeling that conversation [during the hearing] may exacerbate rather than relieve the problem." Wilson said she thought that a local solution was the best solution of all. [*1973 Highway Legislation (Future Highway Needs)*, p. 606-609]

Emilia L. Govan, chairperson of the Arlington Coalition of Transportation, submitted testimony in opposition to construction of I-66 inside the Capital Beltway. Her statement supported the use of Highway Trust Fund revenue for mass transit at the local option; the use of Interstate and urban system funds for all types of transportation, including capital and operating costs of mass transit and the pass-through of federal-aid funds to local jurisdictions in metropolitan areas. She opposed any provision that would overturn a court order requiring compliance with Federal law, including the provision in S. 502 on the North Expressway in San Antonio and the measure in the 1972 House bill on the Three Sisters Bridge. [*1973 Highway Legislation (Future Highway Needs)*, p. 609-614]

Frank Bennack of the *San Antonio Light* testified on behalf of citizens who were "enormously frustrated" by the delays in construction of the North Expressway. They believed that "Congress never intended to entrap us with a partially completed project that stands as an expensive, and deteriorating monument to waste while snarled traffic causes thousands to lose time from families, jobs, and recreation." He urged the House to adopt a provision identical to Section 147 of S. 502 as introduced by Senators Bentsen and Tower. Again, few subcommittee members were present and no questions were asked. [*1973 Highway Legislation (Future Highway Needs)*, p. 646-660]

Commissioner Schuler of the New York State Department of Transportation also testified during the afternoon session. He outlined the locally oriented policy and planning committees established in New York (Niagara Frontier, Capital Distrct, Herkimer and Oneida County, and the metropolitan areas of Rochester, Syracuse, and Binghamton). Based on experience with this arrangement, Schuler said that the main principle is that "the successful accomplishment of coordinated transportation programs requires that the financial resources of all levels of government—Federal, State, and local—be mutually reinforcing in pursuit of common goals and objectives."

The State was in the best position to coordinate, plan, and implement:

> In our view, the automatic passthrough [sic] and earmark provisions of S.502 for urban system funds would deny the central role of the State and upset the carefully programmed response we and local policy and planning committees have been able to develop to meet urban area needs.

The population-based earmarking of Federal-aid urban system would distort the distribution of funds among the State's metropolitan areas.

Schuler endorsed the Muskie-Baker amendment and the use of Federal-aid urban funds for fixed rail capital projects at local option. While most States are progressive and responsive to urban needs, he warned that if the pass-through and earmark provisions are enacted, some States may not be willing to "continue to provide matching State funds for urban highway programs in which they are denied their central role."

After citing the familiar disadvantages of the automobile and benefits of mass transportation, Schuler said:

> I suggest we are past the time when we can divorce highway or auto travel from public transportation. We must use these modes in a harmonious balance to serve our travel needs.
>
> To the extent that the motorist receives benefits in reduced congestion, cleaner air, lower operating and accident costs through the diversion of commuters to public transportation—benefits which can be considerable if not all readily measurable—the use of Highway Trust Fund money for such purposes is justifiable.

In other matters, he endorsed reducing the number of categorical grant programs, saying it "seems a little strange" that the States must "pursue compartmentalized, special programs without exercising their capacity to match needs and resources in flexible funding programs." He also endorsed the provision of S. 502 permitting States to relocate Interstate segments based on cost rather than mileage, with unexpended funds to be used as Federal-aid urban system funds. He recommended extension of the deadlines for submission of schedules for completing the Interstate System.

In closing, he said:

> I am not a transit advocate, nor am I a highway advocate. I am attempting to be identified as being protransportation. Therefore, what I am asking for from this committee is that you provide us the funding for transportation solutions, for transportation is the mission of our Department. [*1973 Highway Legislation (Future Highway Needs)*, p. 660-664]

Representative Clausen asked Schuler to confirm that in New York, the State provided the matching share for Federal-aid highway projects. Would the State continue to provide the matching share for projects developed under the pass-through provision? Schuler said that if the the pass-through and earmarking provisions for Federal-aid system funds were enacted, "I would have an extremely difficult time in obtaining the necessary funds from our State legislature to match funds passing directly through to a municipality. He could not be certain, of course, but he estimated that local areas would have to provide the matching funds.

As with a few other witnesses favoring flexibility, Representative Clausen asked if Schuler would support the use of UMTA funds for highways at local option. Schuler said that, yes, he would support the option because "we would really like to have today total flexibility for all transportation funds coming to the State." [*1973 Highway Legislation (Future Highway Needs)*, p. 665-666]

In response to a request from Representative Abzug to clarify his position on local option, Schuler explained that the pass-through and earmark provisions defeated the flexibility "to implement a statewide master plan by using the money where the needs are." As an example, he cited the West Side Highway in New York City where community groups are on the project board so their requests can be weighed and incorporated in the project if appropriate. Former Federal Highway Administrator Bridwell was a consultant on the project and helped direct the planning mechanism. "I think, however, the direct passthrough [sic] would destroy that local planning mechanism that we already have in place since the State would be taken out of the picture."

Representative Abzug asked if New York City received all its Federal-aid urban system funds. Schuler replied no, the city had not received its reasonable share because "the administration of the city refused to accept the transportation facilities, the highways, that we would want to have put in place." The city had approached its delegation in the State legislature and insisted the routes be removed.

Her point was that aside from the Interstates, she did not think it "so absolutely necessary" for State highway agencies "to have the final say" on city streets. The city did not like the State's plans, so the city did not get its funds. "Why cannot there be a direct passthrough [sic]?" She thought the city was "entitled to a little home rule, and that is what the provision of passthrough [sic] means."

In defense of the State's actions, Schuler pointed out that while the city did not get its intended $23 million in Federal-aid urban funds, it did get $17 million in State-funded projects during the past season. As for home rule, he said, "there is not a thing that can be done in the city of New York, as you know, without a certificate [from the] board of estimate signed by the mayor."

In addition, Schuler referred to Representative Cleveland's comments about the World Trade Center during the Kreml testimony. Schuler pointed out that the State had invested $800 million of

State funds in the city's public transportation system and expected to invest another $8.1 billion in State funds over the next 20 years. "You weigh that investment against concern about the highway program from the standpoint of the total transportation investment being made in New York City." That investment level, he said, was why flexibility in the use of Federal funds was important. "Earmarking would deny us the opportunity we need to build the system." [*1973 Highway Legislation (Future Highway Needs)*, p. 666-671]

(Former Administrator Bridwell was a private consultant based in Columbia, Maryland. With his firm, Systems Design Concepts, Inc., Bridwell was associated with projects around the country, including the review of Interstate projects in Boston, transportation needs in Portland, and as noted, Westway. He also was a key advisor on creating the Maryland Department of Transportation. In 1981, Governor Harry S. Hughes selected Bridwell to be Secretary. Several Administrators have had prior experience in State highway or transportation agencies, but Bridwell is the only Administrator to head a State transportation department after leaving office. In May 1984, Bridwell left his position and returned to the private sector.)

The next witness, Linda M. Billings of the Sierra Club, began by summarizing her organization's overall goal:

> We think that the goal this legislation should strive for is to achieve a balance between providing modes of transportation to supply competing transportation demands and restoration and preservation of environmental quality.

The keys to achieving this goal were to work within existing environmental protections, not erode them with piecemeal exceptions; allow flexibility in planning for a wide variety of transportation modes, "each with equal proportions of Federal funding"; and making highway planning part of transportation and land use planning, rather than simply planning new "schemes for highway projects."

To break out of "the destructive circle" of problems caused by the highway and automobile, "Federal-aid highway legislation should provide incentives for the creation of an institutional framework which encourages balanced transportation planning." She supported pass-through to regional agencies that could plan and implement transit and highway projects. "We need to encourage the development of governmental capability for resolution of problems close to these problems rather than in a sometimes distant State capital."

Billings endorsed the Muskie-Baker amendment and the use of Federal-aid urban system funds for highways or mass transit, including bus and rail, at local option. She said that, "If the Highway Trust Fund is to survive, it must adapt."

She was particularly concerned about the proposed 10,000-mile priority primary routes included in the 1972 bill. "I would urge the committee to join with those concerned with land use, resource [sic], recreational planning and the like before you embark upon any new road building programs." Billings added that "the most distressing new development in the highways legislation of the last Congress and this year's Senate bill are the provisions injecting Congress into local highway controversies . . . ." The provisions on the San Antonio North Expressway, I-66 in northern Virginia, the Three Sisters Bridge, and I-93 through Franconia Notch State Park in New Hampshire were "particularly objectionable because they in effect deny equal protection under the law; a practice which is unconstitutional." Further, congressional involvement was unnecessary because "the controversies will be resolved according to the procedures already set forth in current laws, which this committee, in particular, has had a hand in shaping." If Congress is willing to spend so much time deciding on the routes of a few miles of controversial highway projects, more will follow "and the numbers will get out of hand unless you act now to put a halt to all of this." [*1973 Highway Legislation (Future Highway Needs)*, p. 671-675]

John Kramer of the Highway Action Coalition was the next witness. With few members of the subcommittee in attendance, Representative Frank M. Clark (D-Pa.), a former police officer who had won election to the House in 1954, was chairing the hearing. He interrupted Kramer during his opening statement, saying, "We have got several more witnesses, and one of them has to catch an airplane." He allowed Kramer's statement to be printed in the record as if it had been read in full.

Kramer began by saying that the future of the Highway Trust Fund was "the central issue to be dealt with by the 1973 Federal-Aid Highway Act." The financial plight of mass and intercity transit systems gave this issue special urgency. He said that 268 transit systems had halted service since establishment of the Highway Trust Fund in 1956, "leaving millions of Americans with little or no access to public transportation of any kind." Most of the remaining systems were expensive to ride "and decrepit in service and operation." Grants under the UMTA program were vital, but essential transit needs remain unmet:

> Only massive Federal aid will prevent many more transit systems from disappearing—much less assure quality service to the rider at a reasonable cost.

He considered it unlikely, however, that Federal support from the general Treasury would exceed $1 billion a year at a time when the estimated cost of restoring mass transit to minimally acceptable stands by 1980 was between $28 and $34 billion. At the same time, for every $1 spent under the UMTA program, nearly $30 dollars was spent under FHWA's program. In fact, FHWA's program consumed over 60 percent of the total Federal transportation budget compared with "mass transit's meager 6 percent." Counting State and local highway expenditures, the total came to $21.9 billion in 1972, "more than the total Federal, State, and local government expenditures on housing, urban renewal, parks, recreation, sanitation, and police and fire protection combined."

Kramer urged increased support for mass transit, whether from general revenue "or alternatively, support from an additional earmarked 1 or 2 cents of the Federal gas tax." At this time, "we must begin now to shift our national transportation spending priorities away from yet more highway construction toward needed public transportation facilities and services." This shift, in turn, "will require making at least some Highway Trust Fund revenues available for public transportation."

The Highway Trust Fund, Kramer explained, had distorted local transportation priorities, prompting officials to build highways, whether needed or not, because the funding was available:

> Indeed, it was true even in those densely populated areas in which the construction of yet more highways would not only aggravate the problems of congestion, but would also cause great economic, social, and environmental damage.
>
> Further, not only have local and State officials had little investment choice, but they have also been under very substantial pressure to use all the available highway money for fear that their community or State would lose the jobs, income, and other benefits generated by these Federal grants.

Local decisionmakers must no longer be "locked into an unresponsive structure" that is "dictated by the rigid framework of existing Federal grant programs." The coalition supported increased flexibility in determining the best mix of ground transportation modes. For the same reason, the coalition did not support creation of a Mass Transit Trust Fund that would be just as inflexible:

> We believe that pending the creation of a ground transportation trust fund, that it is far preferable to support highway and mass transit programs out of the existing trust fund and, where needed, out of general revenues.

The coalition "wholeheartedly" endorsed the Muskie-Baker amendment adopted by the Senate in S. 502:

> In summary, the principal consequence of the so-called Muskie-Baker amendment to the Senate bill was not to take money away from any highway project that ought to be built—rather it was to permit cities and States to substitute needed public transportation alternatives for highways that ought not to be built.

Kramer endorsed the pass-through and earmarking provisions of S. 502 so that Federal-aid urban funds would be allocated proportionally among urbanized areas and, in the case of the largest cities, "made directly available to governmental bodies capable of implementing the program."

Kramer also "enthusiastically" endorsed the Interstate transfer/substitution provision of S. 502, with only the recommendation that the Federal-State matching ratio for non-Interstate projects be changed to 90-10 "so as not to unduly prejudice local transportation decisions in favor of an otherwise unwanted Interstate project." He cited FHWA's estimate that 37 Interstate segments (459.8 miles) at an estimated cost of $5.25 billion (based on the 1970 Interstate Cost Estimate) were "subject to intense controversy." Some of the routes would cause "great environmental, social, and economic damage" while others, planned 20 years ago, were simply out-of-date:

> These areas do, however, have a tremendous need for increased traffic capacity as evidenced by the decision to locate the contested Interstate segment in the area in the first place. But eight-lane, limited access super highways, particularly through residential neighborhoods, parks, or historic areas, is [sic] not the only way to provide needed mobility.

He was struck by the congruence of cities with controversial Interstate segments and "major, pressing rail transit needs." This congruence reflected the need for better transportation planning.

To date, metropolitan planning "has been an empty exercise" because good planning "cannot develop in the absence of authority over investment decisionmaking." Because of the imbalance of funding, most areas could not look at the urban transportation program as a whole or see that "highways and mass transit are inextricably interrelated and that neither can function effectively without the other.

He also urged reconsideration of Federal hearing requirements. One reason highways proved so controversial was that citizens heard about them at the "corridor hearing" stage when the highway had already been decided on, leaving citizens with little input into the transportation planning process. He pointed out that the problem was illustrated by the fact that the hearing requirement was in Title 23 ("Highways") instead of Title 49 ("Transportation") of the United States Code:

> They are highway hearings and not transportation hearings . . . . Hearings should be required before the decision is made about whether people are going to drive their cars or ride some form of public transportation.

The Highway Action Coalition, therefore, endorsed the provisions of S. 502 that called for annual transportation hearings and called on the Secretary to issue guidelines to assure maximum citizen participation in the transportation planning process.

Kramer was concerned about proposals to hamper citizen access to the courts. Federal environmental safeguards "must be retained and vigorously enforced," even if that means citizens must go to court to do so. He objected to the Senate's action in voting to exempt San Antonio's North Expressway from Federal requirements and the House action in 1972 to require construction of the Three Sisters Bridge:

> We understand that efforts may be made to similarly exempt the Overton Park Expressway in Memphis, Tenn., Interstate Route 66 in Arlington, Va., and I-93 through Franconia Notch, N.H., from the environmental protection statutes.
>
> We strongly urge that these efforts be resisted and that Congress refrain from legislating on individual highway disputes.

He also urged Congress to adopt measures to deal with automobile-caused air pollution problems and consumption of scarce petroleum. "Lacking a decent mass transit alternative to the automobile, millions of us will be facing a gruesome choice: Our cars—or our air." Mobility is critical, but as Ruckelshaus had said, "breathable air is no option." Kramer endorsed provisions in S. 502 that provided emergency assistance to cities having difficulty meeting ambient air quality standards and that prohibited new highway construction that would cause pollution levels to exceed Federal limits.

In view of the pending energy crisis, Kramer pointed out that automobiles were "energy gluttons." He was convinced that a transportation system was possible that provided "essential mobility for all our people, gives us breathable air, and conserves our scarce petroleum resources." In short, he said, "we could once again make our cities pleasant places in which to live."

He wanted to address a point that was not in his prepared statement. He had repeatedly heard many expressions of concern during the hearing about diverting Highway Trust Fund revenues from highways at a time when the Department of Transportation's own study had identified $600 billion in highway needs over 20 years. (Representative Clark interrupted him at this point and allowed him to supplement his statement for the transcript as if read; the remainder of his statement was not read before the few subcommittee members in attendance.)

Kramer agreed with Secretary Brinegar that the statistic was not being accurately framed. He said that, "for the purpose of this report, the term 'needs' is in no way synonymous with the 'requirements.'" Secretary Volpe, Kramer said, "used to call it the 'Transportation Wants Report.'" The total referred only to the estimate of bringing all roads up to a uniform level of service, whether the projects are justified, and without consideration of alternatives such as transit. (He used the West Side Highway project in New York City as an example. With its $200 million per mile estimate, he said the project was far in excess of the city's proposed Second Avenue subway.)

The needs report was misleading in another sense, since not all the reported needs are a Federal responsibility:

> When local roads are dropped from this estimate, the cost for the "needs" is reduced to $400 billion.
>
> Further, when roads cannot be economically justified, in the report's own terms, that is, roads for which the "costs" exceed the expected "benefits"—the "needs" as submitted are reduced to $100 billion.
>
> Furthermore, 85 percent of these "justified" highway investments are located in urbanized areas of over 50,000 population, where the question of alternative transportation modes comes into play.

Kramer considered the more useful information in the report to be the data compiled for 1974 through 1978 "on needed capital investments developed using alternative criteria relating to funding levels and Federal controls." This analysis showed some shift away from highways. In short, the $600 billion in "needs" for highways through 1990 was a weak argument in support of restricting the Highway Trust Fund to highway projects and highway-related transit.

Only Representatives Clausen and Cleveland had questions for Kramer. Representative Clausen asked his usual question about whether the Highway Action Coalition would support the use of UMTA transit funds for highways. Kramer said yes, which is all Representative Clausen wanted, but Kramer added that current law did not permit it and that such flexibility could best be achieved with a single surface transportation trust fund.

Representative Cleveland was particularly concerned about the reference to I-93 through Franconia Notch in his State of New Hampshire. Was Kramer fully informed on the subject? "Reasonably." Had he been there? No, but he had talked to residents. Had he talked to State highway officials and seen their plan and their markup of how they planned to put the highway through the sensitive area?

He had seen the markup but had not talked to State officials. Had he been on the ground for a view of the situation or talked to the people who live there "as I have for 20 years"? No, he had not.

Having made his point, Representative Cleveland said he did not understand Kramer's reduction of highway needs to $100 billion. Kramer summarized his explanation. Representative Cleveland wanted to be on the record as objecting to the statement that these needs are not economically justified. He said, "we have had weeks, months, years of testimony before this committee that some of these needs are to improve these roads so we will not kill 55,000 people every year on our highways." Bridges needed work, he said, and death traps to be eliminated. "I am surprised that an environmentalist, as yourself, falls back on economic justification as an excuse for us to turn our backs on needs that we have found in highway safety, in moving people from place to place."

Kramer replied, "Quite to the contrary." He was using FHWA's own criteria in assessing the needs. "We have no differences whatsoever in that regard with this committee."

In addition, Representative Cleveland asked Kramer to send responses to a series of questions about the nature of the Highway Action Coalition, such as the source of money for its operation. Kramer replied that the coalition, which was formed in 1971, supported its operations from small contributions, typically between $5 and $15:

> For calendar year 1972 the Coalition's total budget was only $20,000, of which 75 percent came from small individual contributions. As a result the three full-time staff members of the Coalitions [sic] are paid only subsistence salaries and the organization depends heavily on volunteer assistance.

In response to another question, Kramer said the group did not have corporate or individual members, but sent its newsletter, *The Concrete Opposition*, to about 3,500 people. He said the coalition's mission, accomplished through methods such as testimony before Congress and public outreach, was to promote needed public transportation facilities and services as part of a reordering of national transportation spending priorities. [*1973 Highway Legislation (Future Highway Needs)*, p. 684-695]

The remaining four witnesses rushed through their statements and left with little or no questioning by the subcommittee.

Ralph B. Hirsch, Associate Professor of Urban Planning at Drexel University, testified on behalf of the Philadelphia Bicycle Coalition. The coalition had been formed in 1971 to promote the use of the bicycle as a mode of urban transportation. Professor Hirsch said:

> I believe that the bicycle, inherently nonpolluting, cheap, and fast over short distances, can make an important contribution to the solution of those problems of congestion and pollution.

He endorsed Section 123 ("Bicycle Transportation, Pedestrian Walkways, and Equestrian Trails") in Secretary Brinegar's bill (H.R. 5138). It authorized the use of Federal-aid highway funds for the acquisition or construction of separate or preferential bicycle lanes, pedestrian walkways, and equestrian trails on or in conjunction with highway and other rights-of-way. Such projects would be deemed Federal-aid highway projects subject to the applicable Federal-State matching share. Except for maintenance or emergency purposes, motorized vehicles would be prohibited on the paths, trails, or walkways.

Hirsch said that a provision such as Section 123 was needed if the bicycle was going to achieve its potential. The provision, however, would be improved if the Federal share were increased to 90 percent because "the local response would be greatly enhanced, I am sure."

He was encouraged by the growing acceptance of the bicycle by transportation planners, but the key question was whether the public would use the bicycle for more than recreation. The coalition, in cooperation with Drexel University, had conducted a survey for EPA on this subject in Philadelphia's central business district. Most of those surveyed said they were in downtown to work (77 percent), and 32 percent owned a bicycle, with ownership decreasing based on age (younger responders more likely to own a bicycle). Of those owning a bicycle, 29 percent said they were likely to commute by bicycle if safe lanes and secure parking were available (again, the percentage decreased with age). For nonowners, 17 percent responded positively to the same question:

> Our findings therefore suggest a rather high proportion of motorists who are ready to switch to the bicycle mode if the proper provisions are made . . . .
>
> In other cities, depending on climate and terrain, the proportion of bicycle users will very [sic], but I believe that the public is ready for a large-scale return to this "humane and efficient machine," as the British engineer S. S. Wilson calls it in his fine piece in the March 1973, "Scientific American."

If such a transformation occurred, bicyclists would be the first beneficiaries. They would be healthier and save on commuting costs. But urban centers that are being forced to reevaluate their total transportation systems because of the Clean Air Amendments of 1970 also would benefit. "The bicycle can help to reduce air pollution at a cost significantly lower than that of most other transportation strategies that have been proposed." Of course, the bicycle also could help preserve our dwindling energy resources.

Representative Cleveland asked if Hirsch had any comments on States such as New Hampshire where the climate was suitable for bicycling only 6 or 7 months a year. The prohibition on motorized traffic on bicycle trails, Representative Cleveland said, had been put in place to keep motorcycles off them, but he wondered about use during the winter by "another group of outdoor enthusiasts, and these are people with snowmobiles." He said he realized that the snowmobile "is persona non grata in some areas," but he thought it made little sense to prohibit snowmobilists from using a bicycle path covered in snow.

Hirsch declined to offer a position, saying that he was primarily testifying on the use of the bicycle for transportation rather than recreation. [*1973 Highway Legislation (Future Highway Needs)*, p. 696-698]

(S. S. Wilson's *Scientific American* article, "Bicycle Technology," described the technical evolution of the bicycle. The phrase Hirsch cited was from the summary of the article included below the title rather than the article: "This humane and efficient machine played a central role in the evolution of the ball bearing, the pneumatic tire, tubular construction and the automobile and the airplane." The article began:

> We tend to take the bicycle too much for granted, forgetting the important role it played in the evolution of modern technology. The first machine to be mass-produced for personal transportation, the bicycle figured prominently in the early development of the automobile. Thus in addition to its own considerable direct impact on society the bicycle was indirectly responsible for substantial social and economic changes. A remarkably efficient machine both structurally and mechanically, the bicycle continues to offer distinct advantages as a means of personal transportation, in both developed and underdeveloped countries.

(As the introductory sentence indicated, Wilson also elaborated on the bicycle's role in the history of the automobile, airplane, pneumatic tires, and tubular construction.

(After discussing the unique interaction of this "apparently simple device" and the human physique, Wilson said:

> Since the bicycle makes little demand on material or energy resources, contributes little to pollution, makes a positive contribution to health and causes little death or injury, it can be regarded as the most benevolent of machines.

(In the closing section of the article, Wilson said that worldwide, bicycles "play a role far more significant than that of the automobile." He explained:

> China with its 800 million inhabitants relies heavily on the bicycle for the transport of people and goods. So do the countries of Southeast Asia and Africa. Even the U.S.S.R, with only about 1.5 million automobiles, has an annual production of 4.5 million bicycles. Europe and North America are therefore in a minority in relying so heavily on the automobile. The true cost of doing so is becoming increasingly evident, not only in the consumption of resources but also in pollution and other undesirable effects on urban life.

(The bicycle offered the overdeveloped world "a real alternative to the automobile, if we are prepared to recognize and grasp the opportunities by planning our living and working environment in such a way as to induce the use of these humane machines." He recommended facilities to induce motorists to switch modes: "cycleways to reduce the danger to cyclists of automobile traffic, bicycle parking stations, facilities for the transportation of bicycles by rail and bus, and public bicycles for 'park and pedal' service." Circumstances were occurring that called for "a reappraisal of the hypertrophic role the automobile plays in Western life." One was "the undoubted diminution of fossil-fuel resources and the accompanying increase in fuel prices," while another was "the sheer inequity in per capita energy consumption between automobile-using and non-automobile-using countries." He added:

> In these days of universal communication such a situation will appear more and more inequitable and a source of resentment. It is inconceivable that 800 million Chinese will ever become consumers of energy on the per capita scale of 200 million Americans, and the end result must be a gradual reduction of energy consumption in the U.S. To this end the bicycle can play a significant part and thereby become a great leveler.

(Wilson concluded his article, "If one were to give a short prescription for dealing rationally with the world's problems of development, transportation, health and the efficient use of resources, one could do worse than the simple formula: Cycle and recycle." [Wilson, S. S., "Bicycle Technology, *Scientific American*, March 1973, p. 81-91])

John Hall of the National Forest Products Association testified in support of continuing $170 million a year for national forest development roads and trails, as was the case in the Federal-Aid Highway Act developed without approval in 1972. "Road access is vital to national forest resource management activities," he said. An authorization of $170 million "is a small investment to enhance future resource developments and fulfill the many demands placed on the national forest resources." [*1973 Highway Legislation (Future Highway Needs)*, p. 699-700]

Mrs. W. L. Lyons Brown of The Garden Club of America testified on several issues. First, she recommended eliminating all outdoor advertisements from the Intersate and primary highways. She thought that "legislators, outdoor advertising companies, and industry as well as owners of land along the highways should work toward this goal," not just for beautification but for safety. "Any billboards [sic] create hazards to driving on superhighways at super-speeds."

She also objected to provisions in the 1972 bill and S. 502 that would weaken the Highway Beautification Act of 1965 by providing a 2-year moratorium on removal of commercial directional signs. "Under the masquerade of being in the interest of the traveling public, this [moratorium] would have brought to a halt the implementation of billboard removal" under the 1965 Act:

> After 7 years of waiting, Federal funding had finally been achieved. Secretary Volpe forced all States to comply with the threat of a 10-percent penalty of highway funds. All States except South Dakota had complied for qualification and by October 1972, 50,000 of the 800,000 signs, made illegal by the act as they were within the 660-foot limit, were down. Now, by March 1, 101,000 signs have been taken down.

Given the "wide national aversion by the American public to the proliferation of signs on the highways," she considered it "unthinkable to now impose any change to slow down or stop the removal program." As the members of the subcommittee well knew, she said, only a lack of a quorum prevented this delay from taking place. "A bolt of lightning" could not have been more effective at giving Congress a second chance to kill the proposed moratorium.

At the same time, she favored modifying the provision permitting billboards beyond 660 feet from the edge of a federally supported highway to prohibit all billboards visible from the highway. "The reason is to prevent outdoor advertisers from the further affront of the jumbo signs that are circumventing the law" just beyond the 660-foot limit.

Mrs. Brown also was concerned about highway plantings. Highway engineers were not always the best judge in selecting "suitable native and hardy plant material." She suggested that "a separate contract should be made for the planting and maintenance apart from that of construction, and that some authoritative local advisers should approve the final choices of landscaping."

Finally, The Garden Club of America opposed the amendment on the North Expressway in San Antonio. "We feel this would create disastrous precedent for the many current freeway disputes and would bring you more problems in every State." [*1973 Highway Legislation (Future Highway Needs)*, p. 702-708]

The day's final witness, NARC's Frank Francois, was not present. NARC Executive Director Richard Hartman read Francois' brief statement. In it, Francois endorsed many provisions of S. 502, including increased funding for urban and rural Federal-aid systems, transfer of Interstate mileage within a State on a dollar-for-dollar basis, the Muskie-Baker amendment, Federal-aid for bicycle facilities, the rural highway public transportation demonstration program, and the prohibition of any highway program that is inconsistent with the Secretary's guidelines for attaining air quality standards and any implementation plans approved by EPA for air quality control regions:

> These are significant improvements. They will provide states, regions and local governments the flexibility and added resources to cope more adequately with their serious transportation problems.

Francois was concerned about the provision in Section 126 ("Availability of Urban System Funds") of S. 502. It made Federal-aid urban system funds available to any urbanized area of 400,000 or more population on an earmarked and pass-through basis if the Secretary found that the municipalities within the area have sufficient authority and capability under State law to develop and implement projects. NARC supported the principle of designating metropolitan transportation agencies because assigning sole authority to the State must end "if transportation planning and programming is to reach its potential for guiding orderly regional growth." He continued:

> Unfortunately, Section 126 would not facilitate better areawide transportation decisions in our large metropolitan areas. The earmarking and expenditure of urban system funds by large municipalities could reduce existing cooperative planning efforts at the metropolitan level. Instead of encouraging a program of projects to be mutually arrived at within the context of the local governments [sic] own regional council, urban system projects would be annually developed by the state and central city. Their only constraint is that the projects would have to be consistent with the Section 134 [of Title 23] planning process. And this is not enough; it would only simply compound the problems with the present system. Plans would be produced, but others would determine the phasing of their implementation.

> The National Association's position is twofold. Either return to the original concept in S. 502 and authorize the development of program [of] projects and location of urban system funds by metropolitan agencies in urbanized areas of 250,000 or more, or require that the Section 134 planning process must generate an annual program of projects which determines the use of the urban funds in the large metropolitan areas.

He also urged the subcommittee to require State highway agencies to involve the nearly 400 rural regional councils in transportation decisions affecting the Federal-aid primary and secondary systems. [*1973 Highway Legislation (Future Highway Needs)*, p. 710-712]

Without questions for Hartman, the committee recessed at 8 p.m.

Concluding the House Hearings

On Friday, March 23, the Subcommittee on Transportation opened the final day of hearings at 10 a.m., with Representative Harold Johnson presiding. The first witness, Louis R. Lundgren, represented the American Institute of Architects. He focused on four major points, beginning with program consolidation. The institute favored consolidation, but recommended combining it with "a major overhaul of state and local public mechanisms which have been used in our less-than-successful attempts to control and shape growth." Highways can help in controlling metropolitan growth, but Lundren asked, "Who here can honestly say that states and local governments have made good use of highways as one of the greatest catalysts for controlling growth?" Replacing categorical aid with block grants or revenue sharing, "without incentives for metropolitan government reform, . . . will only further entrench existing institutions which are not structured to cope well with the problems of growth and change."

Second, the institute supported the pass-through provision of S. 502 to make Federal-aid urban system funds available to metropolitan transportation authorities.

With the Interstate System nearing completion, the institute offered its long-range proposal for "building the public infrastructure, including roads, in a way that would tend to alleviate many of the institutional problems and result in a more human environment." The idea was a Community Development Fund that would replace all special funding programs for transportation and community development. It would be a funding source for all forms of transportation as well infrastructure (utilities, facilities to support social services, as well as other public works.) As Lundgren noted, the institute had testified before the House Committee on Government Operations in support of the Department of Community Development, which would provide the financial linkages needed for the Community Development Fund.

(Secretary Lynn, after becoming Counsellor for Community Development, began working on a new bill to create a Department of Community Development. He and his staff coordinated with OMB to determine which elements under Lynn's jurisdiction would be included in the new department, while they tried to find out if Representative Holifield could be counted on for support as in 1972. Secretary Lynn's staff began discussions with the Department of Transportation regarding coordination. As Professor Lee explained in *Nixon's Super-Secretaries*:

> But before the principals (Lynn and Transportation Secretary Brinegar) met to sanction the plans, staff would need to clear the path with lower-level meetings. At first, they assumed they would start with Undersecretary Egil "Bud" Krogh Jr., but they ultimately decided to work with Theodore Lutz, the deputy undersecretary.
>
> Plans for introducing DCD at the end of April (or whenever Representative Holifield decided) melted away in the policy chaos of Watergate. By the time the counsellorships were abolished on May 10, the bill had not yet been introduced. It never was. [Lee, p. 145-146]

(Krogh, by then, had been caught in the chaos of Watergate.)

Third, the institute endorsed the use of Highway Trust Fund revenue for mass transit, including rail transit, as provided for in S. 502. Too much reliance on the Interstate System for inter- and intra-city transportation was not only inconsistent with the Interstate System mission, but inefficient. "If the nation is to meet increasing transportation demands in metropolitan areas, all modes of transportation must function together and be supported in a coordinated manner."

The institute also encouraged the subcommittee to include the Interstate transfer mechanism from S. 502 "to allow state and local officials to use the funds involved to meet other pressing transportation needs in lieu of the disputed Interstate mileage."

Finally, Lundgren recalled that the institute had testified in 1972 about "a concerted attack . . . on the beautification program." The type of on-again, off-again implementation that would result from a moratorium "would stop the beautification program dead in its tracks . . . [and] will hardly encourage the states to persist in their billboard removal efforts." He also objected to allowing directional advertising on billboards that would otherwise be in nonconformance with the Highway Beautification Act of 1965. Instead of removing 800,000 current nonconforming signs, this exemption "would add as many as 500,000 new signs, for a grand total of 1.2 million billboards along our nation's Interstate and primary roads." He recommended the use of Department of Transportation approved Logo signs to provide information to travelers.

Further, the institute supported provisions of S. 502 that converted the 660-foot billboard restriction to a "visual corridor" that would exclude the jumbo signs being erected beyond 660 feet, as well as the provision allowing Highway Trust Fund revenues to be used to pay just compensation for sign removal:

> Highway Trust Fund financing of the beautification program is consistent with our view that this money be used for a wide range of transportation activities and need not be restricted to the construction of highways.

Representatives Clausen and Wright, who were on the Highway Beautification Commission, wanted to discuss Lundgren's testimony on the subject. Representative Clausen said the commission's interim recommendations included the moratorium. During hearings, the commission found that everyone agreed on the need for directional signing ("if you could have heard some of the stories during the testimony, it is the small—shall we call them 'mom and pop' type of business enterprises that are almost entirely dependent upon some form of direction in order to be located"), but was seeking an "environmentally acceptable" alternative "that will tend to blend into the landscape, and yet, at the same time, serve what appears to be a very important requirement" of businesses dependent on motorist traffic.

Lundgren's associate, Michael Barker (administrator for environment and design), said that "there are graphic systems available that can be incorporated in the actual design of the roadscape." He started to explain that the problem was not mom-and-pop advertising but the large chains advertising their products, but Representative Wright interrupted to say the 1972 House bill did not include a moratorium. Barker tried to say it was not clear, but Representative Wright replied, "It was clear to anybody who read the bill."

He asked if Barker objected "to a 2-year moratorium on directional signs that give public information, when we haven't got any other sources? Do you object to that? Do you want to remove what little information they have before you supply it by some other means?" Barker replied, "What is really needed is a legislative mandate to develop alternative means to provide necessary information to the traveling public."

Clearly angry, Representative Wright asked if Barker was familiar with the responses of the motoring public on the subject. When Barker said he was not, Wright continued:

> For your information, the Commission last year conducted two national surveys, because we thought, after all, it was more important to the public, for whom presumably we are building and beautifying these highways, that their needs be accommodated. These are the people who depend upon our highways.
>
> For your information these motorists indicated very, very clearly, in two separate polls, that they need this kind of directional information—not what kind of cigar is best, not what kind of soft drink is best.

Barker explained that he was simply suggesting that roadside graphics would be better than allowing "the exploitation of a public investment—highways—in the name of conveying information." Integrated graphics were better than allowing outdoor advertising to "impinge upon the public sensibility in terms of the quality of the environment that the public paid for."

This response appeared to annoy Representative Clausen:

> This is the reason I asked the question [about the surveys]. You people are professionals in the field and you can't answer some of Mr. Wright's questions. You make statements that you are struggling with this thing. There are many people who are saying maybe we should just stop the whole beautification program, simply because we can't find common agreement. We're asking professionals like yourself to give us some solutions.

Barker offered to provide some possible solutions, but Representative Wright said he didn't think he'd be able to understand architectural drawings. He was still upset by the claim that the 1972 bill included a moratorium:

> I don't think I could read [an architectural drawing] very well. But I do think I can read law, and your allegations are incorrect, in your interpretation of what we wrote into the law . . . . We didn't say that in the law, and it couldn't be so interpreted in my judgment, or in the judgment of those of us who drafted the law, and whose business it is to draft laws—

Barker, not recognizing that he would be better off agreeing, indicated that his interpretation was based on consultation with several environmental lawyers and other groups interested in the beautification program. Wright replied that the 1972 House bill was not directed at advertising by national brands, so that point was "a little bit farfetched."

During a discussion of just compensation, Barker again referred to "public investment," prompting Representative Clausen to interrupt because he thought the phrase was used with a negative connotation. He explained that the Highway Trust Fund had generated economic growth for entrepreneurs around the country. "So the interpretation you put on this thing, I think, should be on the positive side rather than on the negative side."

Still not able to back down, Barker suggested that "some of the unearned increments from public investments accruing to private property owners adjacent to public facilities be recaptured," consistent with the concept of just compensation in the Highway Beautification Act. Representative Clausen asked what Barker's father did for a living. He owned a restaurant in Bakersfield, California, with street access. This response prompted Representative Wright to ask if Barker thought it would be fair for the government to take a shopping center without compensation because the owner had received the equivalent of full value through amortization. Barker equivocated, prompting Representative Wright to conclude that "the small guy" put his money into it, not the government.

Throughout the week of hearings, this exchange was one of the most acrimonious with any witness. Representative Wright concluded by saying, "We didn't intend to be unkind in some of the things we suggested." However, he and Representative Clausen, as members of the commission, "have wrestled with this thing for years, have found it a little bit distressing that certain broad statements have been made." Barker replied, "As we see the signs come down along the roadsides, we'll think of you two." [*1973 Highway Legislation (Future Highway Needs)*, p. 715-740]

Later that morning, Harrison Lewis, counsel to the Outdoor Advertising Association of America (OAAA), testified on behalf of the trade association of the standardized outdoor advertising medium. He began by saying, "First of all, we would like to point out that the OAAA has supported the Highway Beautification Act from its inception, and continues to support the act and its reasonable implementation by the States." He continued:

> We would be the first to admit that the act is not perfect and that the act should be amended or rewritten in its entirety at some appropriate time.

This was not that time, however. First, the Highway Beautification Commission had not submitted its final report; Congress had extended the deadline to December 31, 1973. (As noted earlier, the final report, *The Priority of Quality*, would be submitted on that date.) Further, two court cases were pending, *State of South Dakota v. Volpe* and *State of Vermont v. Volpe*, that might lead to congressional action.
Finally, change was not urgently needed, even in the case of the jumbo signs being placed beyond the 660 foot limit but still visible from the roadway. He believed that "most of the giant boards which are going to be erected have already been erected and that there will be no great increase in these boards until near the end of the removal program." In any event, the States had the authority to extend the 660-foot limit if they wished to cover the jumbo signs. He thought that a letter from the Secretary of Transportation reminding the States of their authority to do so "would probably be as effective as amending the Federal law."

That was why amendments of the 1965 Act were not needed at this time:

> The "band-aid" treatment of making changes every time there is a highway bill creates havoc in the States. Every time the Federal act is amended, the State legislatures must amend their State law. This is often a very traumatic experience. The control of outdoor advertising is a highly emotional subject in every State.

The question of tourist-oriented directional signs also was not urgent. "The Secretary has placed the lowest priority [on] removal of these signs and it will be several years before they come down."

Moreover, the Federal-Aid Highway Act was not a good vehicle for changes to the Highway Beautification Act. "Highway beautification is such a relatively small item in relation to the rest of the bill that it cannot receive proper attention and hearings." If that happened, "inadequate attention may be given to the beautification provisions and unwise decisions made."

Following Lewis's brief informal statement, no one had questions for him. [*1973 Highway Legislation (Future Highway Needs)*, p. 781-783]

In case Congress decided to proceed despite the lack of urgency and the chance of unwise decisions, OAAA provided a detailed statement concerning possible amendments. It was 24 pages long counting exhibits. The statement emphasized "that it is inappropriate and premature to amend the Highway Beautification Act in the 1973 Highway Act," but if changes were going to occur, OAAA had several suggestions.

Moratorium on directional signs—Inclusion of a 2-year moratorium in the 1972 legislation "triggered publicity that completely misinterpreted the letter and purpose" of the provision. The Senate had not included the moratorium in S. 502 and such a moratorium was not needed because an FHWA Notice dated April 16, 1971 ("Guidelines for Outdoor Advertising Control—Highway Beautification Act of 1965") had placed the lowest priority on removal of such signs. As a result, a moratorium was not needed and would "generate considerable criticism of the program as it did last year."

Support for extension of 660-foot control limit—OAAA supported the extension of controls beyond 660 feet to eliminate jumbo signs that outdoor advertisers had placed beyond the legal limit to continue advertising to motorists. The support was conditioned on payment of compensation for any signs removed as a result of the extension.
Compensation—The Highway Beautification Act of 1965 provided for compensation for lawfully erected signs (those erected lawfully under State law prior to enactment of the 1965 Act), but OAAA thought the statutory language left "ambiguities, deficiencies and inequities" in practice. The problem arose especially for signs lawfully erected after enactment of the 1965 Act but before January 1, 1968, when Federal funds became available for compensation, with implementation further delayed by a moratorium imposed by the Secretary of Transportation until 1971. "We support and urge the adoption of the amendment in the House passed bill of last year which recognizes and corrects the inequities and legal problems" regarding these signs.
Directional signs within the rights-of-way of the primary system—OAAA "is vigorously opposed to the use of advertising signs maintained by the states on the right-of-way in lieu of private signs on private property." This was a reference to Logo signs that provide road users with business identification and directional information for services, often located near interchanges, and for eligible attractions. In OAAA's view, "this activity constitutes an unwarranted and unnecessary invasion by the state and Federal Government into the realm of private enterprise." OAAA did not consider Logo signs on Interstate highways as being "in direct competition with the standardized structures" its members erected. It opposed them because they excluded local businesses that did not have a distinctive sign or trademark suitable for a Logo sign or could not meet State standards for signage (such as hours open and days of service). Logo signs also constituted a safety hazard along the roadside. OAAA did not recommend an amendment, but if Congress decided to amend the 1965 Act, the provision in the 1972 House bill should be adopted. (Under that provision, the Secretary may, in consultation with the States, allow directional signs on the right-of-way of the primary system, which included the Interstates, provided that such signs were not erected in urban or suburban areas in lieu of permitted billboards or where such information is available from such billboards.)
Federal-aid urban system—"The OAAA believes that the specific extension of the Beautification Act to the urban system should be accomplished and that this position is consistent with our original support of the Beautification Act." (In his statement, Lewis said that on March 14, 1973, Acting Administrator Bartelsmeyer had exempted the entire Federal-aid urban system from the requirements of the Highway Beautification Act. Previously, on March 22, 1972, Administrator Turner had exempted the urban system except those portions that were formerly on the Federal-aid primary system. "These appear to be arbitrary and unwarranted determinations, without foundation in fact.")
Scenic roads—"We support the application of the Beautification Act to any such road or system which may be created by Congress . . . ."

OAAA's statement concluded by again pointing out that "it is neither appropriate nor necessary to make any amendments to the Highway Beautification Act at this time." [*1973 Highway Legislation (Future Highway Needs)*, p. 757-766, plus exhibits through p. 781]

Carol Parker of Friends of the Earth was the final witness in the morning session. She said:

> When the statistics on the effects of highways on the environment are examined, it is not difficult to understand the ongoing campaign to reorder transportation priorities for a more balanced transportation system.

After discussing deficiencies such as urban air pollution, traffic noise, and depletion of energy resources, Parker observed that nevertheless, America's "dependence on the automobile is increasing," leaving the country on "a very precarious course." She continued:

> Friends of the Earth urges a reordering of the transportation system from the present overreliance on the energy-extravagant automobile to other more efficient modes of transportation.

Congress could help achieve a more balanced transportation system by approving legislation "allowing Highway Trust Fund money to be spent for bus and rail mass transit, as well as highways." Local officials must have the option to choose the best mix of modes to meet the unique needs in their areas:

> The money available from general funds does not come close to meeting the heavy demands for rail and bus public transportation. If planners are to give proper attention to the combination of transportation modes, their consideration of bus and rail mass transit must be more than an academic exercise.

As part of this initiative, local governments should be able to shift money from controversial highway segments to other modes that might better meet their needs. The Interstate matching ratio of 90-10 should apply to substitute projects "so that alternatives have an equal economic value."

Parker recognized that diverting Highway Trust Fund revenue to mass transit would be a major battle, but the fight should not overshadow a continuing threat to environmental protection safeguards. Friends of the Earth opposed the "disastrous provision" that would exempt San Antonio's North Expressway from NEPA and Section 4(f). It would set "an extremely dangerous precedent for further circumvention of the law." Advocates of the exemption claimed it would not set a precedent, but advocates of the Three Sisters Bridge also were seeking an exemption, and exemptions might be sought for I-40 through Overton Park, I-93 through Franconia Notch State Park, and I-66 in Arlington. "And this could only be the beginning."

During the brief question period, Representative Cleveland asked Parker the same questions he had asked Kramer. Has she ever been to Franconia Notch? Yes, she had. Had she talked to State highway engineers about the plans? No, she was hiking at the time. "In other words, your information on Franconia Notch . . . is not information you got personally?" She said she was referring to Senator Cotton's attempts to exempt the highway. Since I-93 was a four-lane Interstate leading to Franconia Notch, did she think it would be logical to have just two lanes through the park? She thought a number of alternatives, such as running I-93 to the northwest or tunneling, were available that would be less environmentally destructive. [*1973 Highway Legislation (Future Highway Needs)*, p. 783-787]

When the afternoon session began at 2:05, again with Representative Johnson presiding, Democratic Governor Milton J. Shapp of Pennsylvania (1971-1979) was the first witness. He began by saying he would not use his time "to review the urban condition which is further degraded by the traffic that daily chokes our cities and their suburbs with automobiles that crawl toward their destinations." He would not recount the "losses in money, time, human energy, our oil supplies, environmental decay, and the health of citizens who must breathe the resulting befouled air . . . ." They represented "a tragic and needless waste," but he would not go into them since they had been "recited in the media, on the lecture platforms, and in the halls of the Congress almost ad infinitum." Instead, he said:

> While I do not intend to again recite this litany of horror, I cannot stress too greatly, though, that we are now in a race against the clock. There is no question in my mind that the answer to the urban condition, in part, lies in the development of mass transit on a massive scale.
>
> The problem is national . . . and it must be solved on the basis of high national priority.

The Senate had "moved constructively" by opening Federal-aid urban system funds to mass transit, including rail systems, and authorizing $400 million a year for 2 years to offset operating losses. Governor Shapp estimated these changes would help Pennsylvania by as much as $32 million, but he did not come before the subcommittee as a supplicant State unwilling to help itself. The State was providing $42 million to meet mass transit operating deficits and $13.5 million to subsidize senior citizen fares. The State also was paying $60 million for a long-range program of capital improvements.

The result was that Philadelphia ranked second in mass transit use, behind only New York City, and Pittsburgh ranked fifth. "Our mass transit, nevertheless, leaves much to be desired, and we want to improve it." The State would do its share, "but we need Federal help to solve a problem that is national in scope and which affects the economic and physical well-being of the entire Nation."

He estimated that each mass transit trip cost workers 50 cents, while the cost to those who use automobiles for their work trips "is estimated to be three times as great," or about $125 million annually." He continued:

> Mass transit is the intelligent answer to traffic blight—a blight that becomes worse with the development of every new highway that connects our cities together. We need those highways, but there will be no balance unless they are complemented by a mass transit system that provides efficient and comfortable transportation for our urban millions.
>
> The problem begins with the gasoline-powered vehicle, and there is every reason to use the money arising from the use of the automobile to help to finance alternative transportation so that we need not ban the auto from our cities as a final desperate measure.

He urged Congress to adopt several ideas. The matching ratio for mass transit capital projects should be the same as for the Interstate System, 90-10. Some States could not provide the full match of one-third for mass transit (often split among State and local governments). Changing the ratio to 90-10 "would be just as important for mass transit as it was for the Interstate Highway System."

He rejected "invading the Highway Trust Fund," saying:

> If we have $6 billion a year coming in from taxes on automobiles, it would seem to me that we have a self-revolving fund here at the present time that could be used in order to help not just the highway system but also a major scale investment in mass transit.

One of the country's advantages was the presence of many major companies, such as Boeing, that had devoted their production lines to equipment such as helicopters for the Vietnam War but could now gear up to manufacture mass transit cars. "There is no reason why the skill of the Boeing engineers and the skill of their production people and their facilities could not be put to use to build mass transit equipment for our cities" if the market grows.

His final point involved the railroad system and mass transit. An inefficient transportation system, including the railroad system, increased the cost of every product manufactured in the United States. At the worker level, the same was true of the added time and cost resulting from those same inefficiencies:

> So if we have an efficient mass transit system, then we can lower the cost to our people for getting to and from work. With an efficient transportation, we can cut down some of the cost of our products that are now due to our high transportation costs, and I think we'll find the United States would be a much more efficient country, be much more productive, and be able to compete more in the world markets. [*1973 Highway Legislation (Future Highway Needs)*, p. 787-790]

In response to a question from Representative Johnson, Governor Shapp said Philadelphia had received UMTA funds, but their use was caught up in "a political squabble going on as to whether it would be wiser to build a tunnel to connect the Pennsy and Reading Railroads downtown, or to use the money that's allocated for rolling stock for SEPTA. Unfortunately, these political squabbles have resulted in a reduction in the amount of money that has been available for capital use." He continued:

> However, Philadelphia has just spent considerable money. We just purchased the year before last a whole new fleet of railroad cars that will be augmenting the present system, and they have just purchased a whole new fleet of buses that have just started to come in.

He hoped the tunnel dispute would be settled soon, but said, "we are getting Federal funds in Philadelphia for expansion—I should say modernization—of the fleet of equipment that is in use."

As an example of a potential capital project, Governor Shapp pointed out that the Philadelphia area had many abandoned railroad tracks. "It would be possible, with the proper financing—and the plans have been drawn—it would be possible to put a [rail] ring around Philadelphia . . . to utilize some of the abandoned freight tracks of the railroads, to make a ring around the city which would give us a much more efficient, more modern, and I think a speedier way of getting around the city."

During a discussion of whether rail mass transit systems or passenger rail could be profitable, Representative Johnson said, "Maybe one or two of the routes—from Washington to New York, or New York to Boston—are probably paying their way, but that's about it, I think." Governor Shapp said that when Federal operation of passenger rail was under discussion, he had predicted it would lose money. "I don't wish to be vulgar up here, but I said it started out as Railpax and became Amtrak, and it is soon to become Exlax. And that's just about what has happened with Amtrak." He explained:

> You see, you can't put in charge of a railroad, as you have here, people who for the last 30 or 40 years have been saying passenger service can't work in the United States and expect in a couple of years time to have it working.

He thought that, "If you give people train service that is modern, high-speed, efficient, and on schedules that suit the people, people will go back to trains." He added, "This has been the experience throughout the world."

Representative Robert Jones was skeptical about the profitability of passenger rail or metropolitan mass transit systems. Governor Shapp cited the Philadelphia-to-New York Metroliner and the Trans-European Express, but as for mass transit, he said:

> I'm not so certain the commuter services are going to be profitable in the sense that—at least for a long, long time—that you're going to get any subway or bus line operating as a private business and showing a profit in your major cities. That's the reason we subsidize at a State level, and it is the reason I say there should be some subsidizing from the Federal level on operating costs.

Profits had to be calculated not by dollars-and-cents but on the basis of "total social profit."

Representative Jones asked about the use of revenue sharing for operating subsidies. When Governor Shapp did not embrace the idea, Representative Jones said, "So that leaves the Congress to apply itself to subsidies, such as you have revenue sharing available for." Governor Shapp said the problem was that revenue sharing was not really available. He cited comments by Vice President Agnew to the National Governors' Conference in January 1971 that revenue sharing would be in addition to funding for existing programs:

> What has happened is that we're getting the revenue sharing, but the programs for our senior citizens, for job training, job placement, day care centers, all the rest of it, have been so slashed that we have less money to operate with in our States today than we had before.
>
> So revenue sharing has not turned out to be any additional money, but it has been a scramble. Since these programs have been slashed, it has been a scramble in the States even to maintain some of the necessary programs.

The dialogue continued:

> Mr. Jones. So you don't think revenue sharing would be an answer to your transportation problems?
> Governor Shapp. No, sir. I think revenue sharing has turned out to be something that is going to be very detrimental the way it is being applied at the present time. I might say this was the general feeling of most of the Governors who attended the Governors' conference.
> Mr. Jones. You mean you're disappointed in revenue sharing?
> Governor Shapp. Very much so.

Representative Clausen pointed out that Pennsylvania was not unique. The attitude seemed to be: "We don't care where we get the money, as long as we get it, but they always want somebody else to raise the money for them." Governor Shapp started to talk about the separate levels of government, but Representative Clausen cut him off. "You don't have to waste your time. I have given speeches on it myself."

Instead, he referred to Governor Shapp's testimony about the cost to workers of transit versus using their automobiles. Why don't the people use mass transit and apply the savings to build a mass transit system? Governor Shapp tried to explain that the State's constitution required a balanced budget, but Representative Clausen interrupted to ask why the State does not establish its own highway trust fund. The Governor said the State's constitution prohibited such a fund, although the State had established a Transportation Assistance Authority to issue bonds for mass transit capital expenditures.

Representative Clausen asked for Governor Shapp's reaction to a quote from a future witness who was going to say:

> Philadelphia's Lindenwold Line [to Lindenwold, New Jersey], with its comfortable rail cars cruising at 60 miles an hour between stations where ample parking is provided, was heralded as providing the alternative that would lure downtown commuters from their cars. Instead, auto traffic on the three highway bridges connected [sic] Philadelphia to southern New Jersey has increased.

Governor Shapp replied that while bridge traffic had increased, "so has the transportation on the Lindenwold Line." In fact, the line was being extended at a cost of $32 million to attract "even more people."

When Representative Wright's turn came, he began by confirming that Governor Shapp was not saying his State no longer needed money for highways. The Governor replied that the State did need money for highways, especially after the June 1972 devastation of Hurricane Agnes, which washed out many highways and bridges:

> We still have a need for a highway system. But what is happening is, you build more and more highways across your States, you get more and more traffic funneling into your cities.

> The things I'm talking about fundamentally here are the needs to move people in and around our major cities.

Representative Wright asked the Governor to explain the subtraction that accompanied General Revenue Sharing. Pennsylvania received about $100 million in General Revenue Sharing, but cutoffs to other programs cost the State some $350 million. Representative Wright asked:

> Can't you see what's getting ready to happen, Governor? You fellows have the same play you bought [sic] last time, coming up here asking for part of this highway money for mass transit, and you think that's going to be in addition to something else? Can't you see it coming? You're going to wind up in the same boat you're in now. You're not going to have enough money for either highways or mass transit. Yet somebody has euchred you and other Governors into taking the position that the only place you can get this money for your mass transit is out of the highway money.

Governor Shapp denied saying that the Highway Trust Fund was the only source. He had suggested that extra funding for mass transit be made available on the same basis as highway funds. Referring to the $6 billion in revenue going into the Highway Trust Fund, he thought that the States would be getting less than half of that back for transportation needs (he did not explain why). "So we may be euchred into getting less, but I think that's the wrong policy."

"I really fear for you," Representative Wright said. "I fear that the Governors are going to come to some consensus that we take this mass transit money out of our highway money and then wind up with not enough for either one." He continued:

> Now, what I'm saying is, I think some [of] you, in your zeal to find the means of providing for your undeniable needs for public transportation, are allowing yourselves to be put into a position where you are accepting an elusive hope. There just isn't going to be enough money in this fund to do the things you seem to think…

Governor Shapp pointed out that because of environmental impact problems, the cities were not going to be able to build all their Interstates. ("We can't even at the present time figure out a way to finish I-95, which is about three-fourths finished.") At the same time, abandoned rail tracks "could be joined together into a mass transit system." Given that Interstates were arterials for through traffic as well as urban highways, "you need the mass transit system more in our cities than ever . . . because people coming on through get clogged up with the local traffic."

As for operating subsidies, Representative Wright said that he and other members of the Public Works Committee had traveled to Europe in December 1972 and found that all of the systems have to be subsidized. At the same time, Secretary Brinegar had said he would recommend a veto if the Federal-Aid Highway Act of 1973 included operating subsidies. Governor Shapp hoped that would turn out to not be the case because "I think what you're doing is raising the cost of the American people far beyond what you would appropriate for the system." Representative Wright replied, "I'm just looking at it from the art of the possible." A veto would not benefit anybody. [*1973 Highway Legislation (Future Highway Needs)*, p. 790-801]

Governor Shapp was followed by Nello L. Teer, Jr., president of AGC. Teer began by emphasizing that members of AGC "build both highways and mass transit systems. Therefore, we do not have any bias in favor of either of these programs." Nevertheless, the "proper use of the scarce resources of public funds" to meet community needs was of great concern to AGC members. "While we are the builders of America, we are concerned about building it right."

AGC opposed using Highway Trust Fund revenue for "any program not highway related." By collecting the funds from highway users for highway purposes, "the general fund has been spared the burden of a large and expensive construction program, and those citizens who do not directly use the highways have not been called upon to help pay of [sic] them." In view of estimated highway needs, diverting money from highways to mass transportation "does not solve either problem; it only guarantees that both systems will be even more inadequately financed than they are at present." Attempting to fund both modes out of the Highway Trust Fund would be "fiscal folly." Although AGC "strongly supports" adequate funding for mass transportation, current projections of transit needs "are really only estimates." Congress should conduct extensive hearings to determine "the actual needs and actual costs of mass transportation similar to those that were held before the highway program was begun in 1956."

Further, AGC disputed the notion that mass transit would be "cheaper than if we spent the same dollars for street and highway improvement." Teer said:

> Competent studies conclude just the opposite, that rail transit is not cheaper transportation; in fact, it is about the highest cost of any mode, and two to three times as costly per trip as by a bus system or an auto system which makes use of car pooling.

Exclusive bus lanes and carpooling were, according to HUFSAM's studies, among the least expensive forms of mass transit.

"We feel that mass transit has yet to demonstrate that it can achieve all the wonders predicted by some proponents in relieving the congestion on our roads and in moving people quickly and efficiently." He cited several examples:

- Montreal launched its $214 million metro system in 1966 "with much fanfare" in time for the 1967 International and Universal Exposition or Expo 67 (April 27 to October 29). It was expected to reverse "the 14-year downward trend in transit patronage," but after the newness wore off, "mass transit in Montreal today attracts fewer passengers than it did prior to the opening of metro."
- As Representative Clausen had indicated, Teer cited the Lindenwold Line for not luring commuters from their cars as measured by the increased traffic on the three highway bridges across the Delaware River.
- The original BART line was serving about half the expected passengers. "Consultants for the San Francisco system expect BART to carry only 6 percent of the persons entering and leaving downtown San Francisco in 1985, which includes a 36-percent increase in the number of present bus riders." Despite the expansion of BART service, these experts expect downtown traffic to increase by 40 percent. "In essence, the percentage of persons

> coming downtown by transit as compared to the percentage by personal motor vehicle will remain fairly constant.

The projected benefits of mass transit "are based on motorists switching to transit and reducing the demand on freeways." Experience shows the need for "careful study and thoughtful evaluation of mass transit proposals." Teer continued:

> We suggest that the Department of Transportation give much more consideration and study to utilization of the express bus reserved lane, more car pooling, staggered office hours, and similar solutions—and less attention to such unproven proposals as automated rail and subway systems, dial-a-bus, monorail, and other "pie in the sky" ideas, even though our association members would be the builder beneficiaries of all such schemes . . . .
>
> Improve bus service through better scheduling, make better use of existing technology, and add innovative steps such as those introduced in other cities. Rather than tearing down to start anew, we should use an evolutionary process that, in a series of steps, builds our present and planned highways and streets to their full utilization.

Safety was a concern. For example, thousands of unsafe bridges were among the $600 billion worth of projected highway needs:

> The identifiable cost of critically deficient bridges alone, a very minor part of this total highway needs listing, is about the same as the amount of money being presently suggested for diversion from the Highway Trust Fund for mass transit. Can we afford to leave the unsafe and inadequate bridges, by the thousands, in our highway system because we diverted the money raised to improve them into rail transit? I, for one, and the many public-minded businessmen whom I represent, say emphatically no.

Public officials and communities seeking assistance for mass transportation "have not fully explored the consequences of their proposals" to divert Highway Trust Fund revenue and should consider "alternatives available to provide a more effective and economical solution." As an example, Teer cited Atlanta, which adopted a general sales tax to support its bus and rail transit system, while reducing fares to 15 cents. "More self-help and local contributions before asking the rest of the country to contribute to solving their local problems would seem to us to be in order."

Teer recognized that mass transit could not operate solely out of the farebox and must have a guaranteed source of income. For that reason, "We firmly believe that a mass transit trust fund is the best answer to mass transit funding needs, just as the highway and airways trust funds have been in those areas." But one thing was certain. "Taking funds from a successful, well-run system to give to a new system would damage both systems."

Teer said that AGC supported rapid completion of the Interstate System at the current funding level of $4 billion a year. Although inflation of labor rates, materials, and equipment have added to the rising cost of completion, "we believe the principal cause of recent cost increases in the highway construction industry is the very action which the administration says will curb inflation—highway cutbacks." The AGC supported congressional efforts to secure the release of impounded funds.

The AGC opposed the pass-through provision, which "would destroy the highly efficient Federal-State relationship that had existed for 40 years before the Federal-Aid Highway Act of 1956 was enacted." Allowing Mayors and City Councils to decide which projects to develop would not only undermine the planning and coordination of State highway and transportation departments, but "would invite local politics to dominate transportation planning to the inevitable detriment of both highways and mass transit." States had already adopted standard operating procedures to include local officials in the planning of local transportation projects.

Current Federal-aid highway law included "too many narrow categories." The funds could be used more effectively in a general pot without categorical restrictions.

When Teer completed his statement, Representative Johnson thanked him and added, "The committee is light—it's Friday afternoon—and they are throughout the United States as of now, [and] there are so few of us left here." The few remaining committee members did not have any questions for him. [*1973 Highway Legislation (Future Highway Needs)*, p. 801-807, 814]

A panel representing the American Public Works Association (APWA) was next. APWA's president, Erwin F. Hensch, could not be present, but a member of the board, John J. Roark of the North Central Texas Council of Goverments, read the statement.

In view of environmental considerations and the impending fuel shortage, Hensch pointed out that the 1972 National Transportation Report had characterized many of the needs as "low-cost and noncapital techniques for improving the efficiency of existing highways and streets." He said:

> We believe that the Federal-Aid Highway Act of 1973 should include financial incentives to make low-cost, high-benefit improvements of this type that make more effective use of existing facilities while recognizing the total needs of the community.

Total transportation needs greatly exceed available funding:

> Therefore, we recommend the appropriation of additional funds through the existing urban mass transportation program, or through a separate transit trust fund, to finance buses and fixed-rail systems so it will not be necessary to reduce the funds urgently needed to improve street and highway systems in urban areas.

Rail transit may be appropriate in large urban areas, but "buses provide the greatest return on investments in mass transportation for small and medium size urban areas." In larger urban areas, APWA did not believe capital investment would be best used for passenger-only fixed rail systems. "They should also be employed for the movement of goods both before and after consumption." Further, separate routes and exclusive lanes for buses have been "a significant step forward for mass transportation." APWA recommended continued funding for these activities from the Highway Trust Fund.

At the same time:

> We feel that a case could be made for increasing the Federal gasoline and/or automobile excise taxes for the purpose of improvement of public transportation systems. Increases in Federal gasoline taxes may result in fewer vehicle miles of travel, less traffic congestion, and less air pollution, while conserving energy.

The one negative was that an increase in Federal highway user taxes might have an adverse impact on States that might wish to raise State taxes on highway users.

Hensch said he understood the Administration's desire to control inflation through impoundment, but "we feel that Federal budget decisions should recognize the difference between capital investments and consumable expenditures." For public works, capital investments do not adversely affect the economy "and would, in fact, stimulate the economy. Therefore, it is our opinion that the impoundment of funds is not necessary."

In addition to urging completion of the Interstate System as soon as possible at $4 billion a year, the APWA supported the pass-through principle in general, but was concerned that it was untested. Congress should authorize a test of the concept on a limited scale before adopting it for wide application.

Flexibility in selecting urban transportation programs was essential:

> Therefore, we support the transfer of Interstate mileage and the substitution of alternate segments so long as the modified routes provide adequate linkages with the remainder of the system.

When Hensch's statement was done, Roark added a thought:

> We subscribe to the administration's plan of moving more people rather than moving more vehicles on our streets and highways, and recommend that performance statements be developed to describe the desired results of the Administration's objectives.

Any proposal must satisfy performance criteria, as in this example:

> After all of the alternatives available have been considered, the proposed project should be the least detrimental to the environment, it should result in the conservation of fuel, it would require the least total cost, it would reduce the investment requirements, it would provide for speedy implementation, and it would be the most flexible with respect to long term which may be subject to change.

Members of the subcommittee had no questions, but Richard C. Peet, the committee's associate Republican counsel, asked what type of financial incentives the APWA had in mind to encourage low-cost, high benefit improvements. Roark pointed out that the 1972 needs study had identified carpooling and other low-capital or even noncost improvements that could address many of the needs. Cities that were pursuing such activities should receive some sort of financial reward "in order that the other cities might join them." Substantial rewards were appropriate, but beyond them, "I think the professional recognition of these cities that take aggressive action should be forthcoming."

In response to a question from Clyde Woodle of the committee staff, Roark said the APWA supported the provision in S. 502 to transfer Interstate funds to the Federal-aid urban system for use on eligible highway-oriented activities, but not for acquisition of buses or rolling stock for rails or the construction of rail lines. [*1973 Highway Legislation (Future Highway Needs)*, p. 814-819]

Robert E. Gallamore of Common Cause took his place at the witness table. Common Cause, he said, "is a national citizens' organization of over 200,000 members in every State of the Union." It had a range of interests, but in the field of urban transportation, its basic concern "stems from the imbalance of Federal transportation spending on highways versus mass transit." The fund balance had improved in recent years, "but mass transit remains insufficiently funded in our view."

Common Cause, Gallamore said, applauded the Nixon Administration's efforts to broaden the use of Highway Trust Fund revenues:

> One of our central objectives in broadening the trust fund is to increase local option over the spending of Federal funds for transportation . . . . Making the trust fund available for public transit would be the first step in reorienting the Nation from its dependence on new highway construction and automobile commuting in urban areas.

Despite the negative consequences of automobile use, "local officials are not free at present to choose the form of transportation that makes the most sense for their city."

Flexibility was the key issue as the Committee on Public Works developed the new highway bill, but another matter was "of the greatest importance," and that was the way the House of Representatives would frame the debate:

> Twice in the last 6 months the Senate has voted, in open and recorded sessions, to broaden the Highway Trust Fund. The House has yet to allow a clear vote to be taken on that key issue. The Nation, we believe, is entitled to a straight vote by the House on the merits of opening the trust fund, and we believe this committee has an obligation to facilitate that vote.
>
> Parliamentary procedures should not be used as a device to prevent a vote on the merits of broadening the trust fund.

In other matters, Common Cause rejected the contention that highway user charges must forever be used only for highways, calling the idea "logically insupportable." He explained:

> Individual motorists do not vote to build more highways simply because they must buy gasoline for their automobiles. They may never use the new highways, they may prefer to

> travel by bus or rail if those options are available, or they may be better off if other motorists were induced to travel by another mode . . . . There is and should be no inviolable "trust" between motorists and road construction.

The Highway Trust Fund was created for the purpose of building the Interstate System, but has been used for other purposes from the start. This was not "a moral issue involved here, for there is no single public group with which a specific contract to build an unchangeable Interstate Highway System was signed." Moreover, some groups of highway users benefit from the Highway Trust Fund at the expense of others:

> Large long-haul trucks and rush-hour commuters are two examples. They do not pay their full way. They are subsidized by other motorists, general taxpayers, and neighbors who must hear them and breathe their exhausts or move out of the way of their new roads.

Federal fuel taxes were, Gallamore said, "more appropriately considered as a general sales tax," since that is what they were when they were initiated in 1932. "Another way of looking at fuel taxes is as sumptuary taxes on a perceived social-evil—in this case, motor vehicle exhausts." Further, he thought that fuel taxes would be a good place to start if the country wanted to impose comprehensive emissions or effluent taxes:

> Therefore, we do not object to the idea of increasing fuel taxes if that is absolutely necessary to pay for alternative forms of urban transportation, but we do object to the contention that existing fuel tax revenues could not be expended for the same purpose. In fact, we go farther and suggest that one reason so many plainly unwarranted highways have been built is that the funds were available and the ethos was that they had to be used or lost in building new highways.

He acknowledged that the rural and ex-urban portions of the Interstate System were superbly designed for freight and passenger traffic. "No other transport network in the world is their equal." He continued:

> But somewhere along the line somebody got the idea that new inner-city highways should be built the same way as these rural freightways. They could be bored right through the centers of cities, with almost the same clearances, land requirements, and speed limits. It hasn't worked. Most of these beautiful freeways wind up like every other road during rush hour: clogged with stop-and-go traffic.

The proposed priority primary system, Gallamore said, "also misses the mark." With improved transportation decisionmaking and an end to the use-it-or-lose-it rule, "it is entirely possible that we can reduce the share of total Government revenues going to the transportation sector and still improve freight and passenger mobility, both rural and urban.

He had three final points on eliminating obstacles to local initiative and responsibility. First, the Federal-State matching formulas for highways and transit should be the same to prevent different contribution levels from dictating choice. Second, the procedures for proposing urban freeways "are more self-fulfilling prophecy than rational transportation planning" and would remain so as long as Highway Trust Fund revenues may be used only for highways. Common Cause supported the Interstate withdrawal and transfer mechanism in S. 502 that would allow unneeded Interstate Construction funds to be transferred to the Federal-aid urban system for use at local option. With that proviso, Common Cause favored completion of the Interstate System.

Third, Common Cause recommended improved citizen participation in the transportation planning process. Gallamore encouraged the subcommittee to include the S. 502 provision on this subject in its bill and to provide oversight of its implementation.

In conclusion, Gallamore said that the Interstate System was an appropriate response to the gap in highway needs 20 years earlier:

> But the view from 1973 is distinctly different. A basic system is already substantially in place. Additions to it, new highways, must be weighed, we believe, on their own merits and on a link-by-link basis. Other alternatives should be considered, and the funding must be flexible.
>
> The concept of a single-mode trust fund, whether for highways, airways, or rail transit, is hopelessly outmoded. Transportation opportunities should be viewed regionally and by function, that is, by final purpose of the movement, rather than by what kind of equipment gets the object from one place to another.
>
> Broadening the Highway Trust Fund is a necessary step from the point of view of overall national priorities, and a proper way to provide the substantially larger sums for urban mass transit which we believe to be in the best interest of the general public. [*1973 Highway Legislation (Future Highway Needs)*, p. 819-823]

During the brief question period, Representative Cleveland asked Gallamore about his reference to unwarranted urban and suburban highway projects that had been built. The Congressman was aware of the projects that were on hold pending resolution of controversy, but he had never seen a list of unwarranted projects that were built.

> Mr. Cleveland. Your statement is very plain, very clear. It says it also lists those that have been built—
> Mr. Gallamore. I think that's right. Some of them have been built over objections—
> Mr. Cleveland. Which are plainly unwarranted. That's the list I would like to have.
> Mr. Gallamore. I don't have such a list.
> Mr. Cleveland. What did you base that statement on?
> Mr. Gallamore. I think that is an opinion, which I would state and urge you to consider.
> Mr. Cleveland. Unsubstantiated rhetoric, that's what I consider it. You don't have a list. You can't tell us what they are. But yet here you say there are so many, implying quite a few, "plainly unwarranted urban and suburban highway projects."

After Gallamore offered to provide a list of such projects for the record, Representative Cleveland said the fact that numerous highway projects are being held up by controversy "disproves the point you're trying to make here, that those are just being built willy-nilly. I want the highways that have been built that are plainly unwarranted."

In subsequently submitting the list for the record, Gallamore explained:

> Defining a given highway as "unwarranted" is subject to individual interpretation, so I wish to make known the criteria I have applied in preparing the list that follows. Some or all of the factors may have been present, but no one condition was in every case necessary or sufficient. The final list is illustrative, and based on a balancing of these factors with others such as increased mobility, connection of the highway with others in a network, safety, etc. The criteria: Was the highway inordinately disruptive of neighborhoods? Were relocation problems fairly resolved? Was parkland taken, adversely impacted, or threatened by connecting highways? Did the highway substantially aggravate air pollution problems? Was the highway overbuilt? Did it take too much land? Was it excessively costly? Should it have been a mass transit corridor instead or did it render existing mass transit less effective?

SOME "UNWARRANTED" URBAN AND SUBURBAN HIGHWAYS
Highway/City/Comments

I-81, Baltimore
Park impacts, mass transit alternative

I-95, Baltimore-Washington
Overbuilt in terms of land taking

I-93, Boston
"The "$100,000,000 white elephant";
closed to traffic because of impact on local streets

I-93 Central Artery, Boston
Waterfront impact, enormous cost, mass transit alternatives

Calumet Expressway, Chicago
Competition with toll road

Eisenhower Expressway, Chicago
Enormous cost, mass transit alternative, air pollution

Cross-country highway, Cincinnati
Poorly planned, access problems

I-84, I-291, Hartford-Manchester area
Land-taking problems, environmental impact

Full system overbuilt, Houston
Inadequate consideration of mass transit alternatives, air pollution problems. System should have been built on a smaller scale.

Los Angeles
Classic case of an area that tried to build highways to overcome congestion and is finding it impossible. Enormous cost and inadequate attention to mass transit.

I-40, Memphis
Built up to Overton Park area
I-94, Milwaukee
Environmental and community impacts—via other highways now in dispute

I-40, Nashville
Relocation problems

State Route 21, Newark
Passaic to Newark traffic; downtown congestion problems, mass transit alternatives

I-278 System, New York-New Jersey
Land-use problems, air pollution, enormous cost, mass transit alternatives

Long Island Expressway, New York City area
"World's longest parking lot."
Enormous cost, mass transit alternatives

Bruckner Expressway, New York City area
Cost, mass transit alternatives, community and traffic impacts

I-95, Philadelphia
Relocation problems, mass transit alternatives

System, Phoenix
Overreliance on auto in view of air pollution problems.

Embarcadero Freeway, San Francisco
One of the classic examples. Construction began then stopped.

I-295, Southern New Jersey
Competition with paralleling toll road

I-95 System (portions built); I-66 portions, E Street Expressway
Washington, DC
Community impact, air pollution, adverse impact on national monuments, mass transit alternative

Theodore Roosevelt Bridge [I-66], Washington, DC
Above, plus taking of park land

Gallamore provided the additional comment:

> I have not included rural highways many of which, while not unwarranted per se, are nevertheless overbuilt. Some rural states were so hard pressed to meet the matching requirements for building their Interstates (even with 90-10 funding), that they have not been able to keep up with highway maintenance and necessary improvements to local roads. Finally, I have not included roads built with revenue bonds backed by tolls even though these highways may have an Interstate designation. An example of an unwarranted toll road, in my opinion, is the Masschusetts Turnpike Extension into Boston. [*1973 Highway Legislation (Future Highway Needs)*, p. 828-831]

Representative Cleveland said he wanted to make sure the hearing record included support for continuation and expansion of the economic growth center highway program. He inserted a statement into the record for that purpose. The goal of program was to demonstrate the role of highways in promoting desirable development of natural resources, revitalizing rural economies, enhancing and dispersing industrial growth, encouraging more balanced population patterns, reversing migratory trends from rural and small communities to urban areas, and improving living conditions.

He said he had long recognized the potential of highways to spur development. "Anticipation of nonmetropolitan highways needs, in fact, has strengthened my opposition to diversion of trust fund resources to urban mass transit." He explained:

> The traditional approach of giving priority in improving transportation capacity where currently most needed almost inevitably reinforces the trend toward urban concentration. Those corridors most in need are those already heavily traveled on the basis of existing development. Increase capacity and you generate further development in the same areas and again load up the facility.

The economic growth center program shifted economic activity to where population might otherwise be "channeled in the interests of broader economic and social objectives."

To reverse the "metropolitanization in this country," the growth center concept should be expanded to "harness larger forces" that would "exert leverage on the massive forces of the private economy." Transportation was one of the basic tools:

> If I read correctly the message of these hearings, there is considerable pressure for increasing federal assistance to urban mass transit, through diversion of highway trust fund monies or otherwise.
>
> Yet the resulting temporary improvement in urban transportation capacity which might result would merely serve to generate increased concentration and congestion in our cities. For every car rider diverted to rapid rail, another would take his place on the highways. Absent some transportation stimulus for development elsewhere, we will be in the position of continuing government reinforcement of this destructive cycle.
>
> If we are truly interested in reducing urban congestion, we should be talking not about diverting highway funds, but diverting population increase to less-congested areas of the country. Growth center highways represent an alternative to the continuing problems we otherwise will confront. [*1973 Highway Legislation (Future Highway Needs)*, p, 833-834]

E. R. "Mike" Foley, president of the International Bridge, Tunnel, and Turnpike Association (IBTTA), was the next witness. Foley was chief engineer of the Division of Bay Toll Crossings, California Department of Public Works. IBTTA, he said, was concerned about a provision in the 1972 House and Senate bills that called for the Secretary of Transportation to study existing Federal statutes and regulations governing toll bridges over navigable waters to determine "what action can and should be taken to assure just and reasonable tolls nationwide."

The Senate had included the measure in S. 502 as Section 147 ("Study of Toll Bridge Authority"), but it should not be included in the final bill "since provisions of existing Federal and State law are adequate and proper within the regulatory framework and procedures established to assure that just and reasonable tolls will be charged." Foley noted that "no persuasive arguments have been advanced as to why this study should be undertaken." The issue had not been raised during House or Senate hearings.

The Senate Committee on Public Works had modified the provision since 1972 by removing the reference to "uniform" toll rates. "While the principle of applying a uniform system of tolls may sound appealing, it must be realized that arriving at fair and reasonable tolls for each individual structure is a unique determination, based on numerous factors and considerations, many of which are local in nature." He continued:

> Stating other considerations in their broadest terms, there will be unique decisions made regarding the local and regional need for the bridge, its potential impact on the area's economy and quality of life, the financing cost and debt retirement schedules, the actual construction cost of the bridge, the location of approaches and highway system connectors, and the level of operating services required in the public interest at each specific location.

Further, such an effort overlooked the role of toll authorities in providing balanced transportation in urban areas. "These local developments have already affected bridge toll rates and have long since rendered both futile and obsolete any academic concept of a uniform system of tolls." Foley also considered the study of a method of bridge toll regulation to be inconsistent with the intent of a bill that also proposed to give local officials greater flexibility in meeting local needs. "There is an increasing number of urban areas in which resources from toll facilities are being applied to extend, support, and otherwise assure the public of the availability of the best transportation service."

With increasing demands for funds, including from the Highway Trust Fund, Foley said:

> It is therefore more imperative now than ever that the option of toll revenue financing be retained by States and cities in its present form in order to support and make available needed transportation facilities and services which otherwise might not be possible. [*1973 Highway Legislation (Future Highway Needs)*, p. 835-838]

John Auerbach, executive director of the Bicycle Institute of America, appeared before the subcommittee only to submit a statement for later consideration. In view of the time constraints on a Friday afternoon, Representative Johnson thanked him and put the statement in the record.

The institute supported Section 132 of S. 502 on bicycle transportation, pedestrian walkways, and equestrian trails. He commended Representative Koch and others who recognized the changes in the bicycle industry and the use of bicycles in recent years. This resurgence was not a "flash in the pan." Auerbach asked where we are going to put the "hundreds of thousands of urban commuter cyclists, who use their bikes daily for quick, efficient, and pollution-free short haul transportation," the "hundreds of thousands of physical fitness enthusiasts," the "millions of parents and children who cycle just for fun," or "the growing millions of ecology-minded adults who see cycling as their personal contribution to a healthier environment, or a lessening of the energy crisis"? If Congress does not protect "their legitimate needs right now, we are going to put them in jeopardy."

He emphasized that the "so-called 'bicycle lobby'" is not a small special interest group seeking a narrowly-defined privilege. "It is 100 million people—half of America, half . . . of your constituency demanding a legitimate share of the nation's road space." Many States already were recognizing this need by providing bicycle lanes on newly constructed facilities. "There is a great legislative ferment for bicycles in state capitols [sic] across the country." The "wave of the future" was clear:

> Highway building funds are no longer conceived to have the narrow purpose of satisfying automotive needs alone. They are no longer so conceived by 24 of our states, or by the people, and I respectfully submit that they should no longer be so conceived by the Congress of the United States . . . . Bicycles simply must be included in all federal highway planning so that matching funds can be made available to the states, who cannot carry the burden alone.

To do so would not require new taxes:

> It is only necessary to recognize the fact that bicycles are here to stay; they are a fact of life in America . . . and they are an increasingly important factor on the nation's roads and highways . . . . If we ignore them, they will not go away. If we bury our heads in the sand, we will not solve our problems, but will only create new ones. [*1973 Highway Legislation (Future Highway Needs)*, p. 839-841]

Dr. Leslie Logan, president of Arlingtonians for the Preservation of the Potomac Palisades, was the next witness. He explained that his 20-year old organization, which represented 8,000 residents of northern Virginia, had been "plaintiffs in several successful legal actions which have had among their purposes the preservation of the Potomac Palisades and the stemming of widespread freeway and bridge construction in the irreplaceable Potomac River Gorge." (The Potomac Palisades is located in the District of Columbia along the Potomac River.)

Dr. Logan contended that "the so-called Highway Trust Fund should be relaxed from its present stringent limitations on three principal grounds." He continued:

> First, there is a grave need for this relaxation to meet the varied needs of the people, most particularly those too young to drive, the aged, the physically handicapped and the poor. Second, there are sound administrative and public interest reasons for this relaxation in order to give State and local governments the "freedom of choice" needed to develop the transportation system most responsive to their individual needs. Third and finally, I maintain that balanced coordinated transportation can best be attained, together with the conservation of our natural resources and the diminution of deaths by automobile accidents if these comprehensive transportation systems under the guidance of State and local governments are encouraged by the assistance of funds derived from the so-called Highway Trust Fund.

As for "the so-called Highway Trust Fund," he said that a "vast misconception has grown up to the effect that somehow this fund is a sacred trust and must in law and good conscience be used only to construct more and bigger highways." He added, "this is a completely false notion." As proof he cited Secretary Brinegar's testimony before the Senate Subcommittee on Transportation that many of the taxes now earmarked for the Highway Trust Fund had previously been credited to the general Treasury.

He also cited a comment by former Secretary Volpe who said after 15 years of experience with the Highway Trust Fund, "On the whole, the transportation which has evolved, both consciously and unconsciously, represents an uneven fabric ill-suited to today's needs, and is, itself a major contributor to the problems facing transportation today." Dr. Logan recalled that Secretary Volpe had been the first Federal Highway Administrator in 1956.

Just as President Nixon had called for changing the use of the Highway Trust Fund, Dr. Logan said that doing so "would be a giant step" in a constructive direction.

Finally, he regretted that Representative Kluczynski was not present, but Arlingtonians for the Preservation of the Potomac Palisades had a message for him:

> Mr. Kluczynski, we appreciate your leadership in solving these crucial problems and we heartily endorse the position you announced on February 21. [*1973 Highway Legislation (Future Highway Needs)*, p. 841-845]

Representative Johnson assured Dr. Logan that the message would be delivered to Representative Kluczynski, then invited Mrs. Elizabeth Horvath of the Washington Metropolitan Area Citizens Transportation Coalition to present her organization's testimony. Her organization had formed in 1970 to support "a sophisticated and well-organized transportation system that will be multimodal, safe, dependable." She said:

> We note that hardly a day goes by that we are not subjected to the scare tactics of the automobile and oil interests constantly warning us of the energy crisis in our country. But the shocking fact is that our present system of transportation is excessively wasteful.

The coalition favored increased bus service, commuter rail from Virginia and Maryland into the District of Columbia, and planning and construction of hiking and biking trails. It opposed the increase of parking facilities in the District because they take land that could be better used and turn it into "an inducement to further use of the private automobile." In short, "Federal funding of urban mass transit systems is essential to meet the transportation needs of today and tomorrow." [*1973 Highway Legislation (Future Highway Needs)*, p. 849-852]

Professor Hilton Gets Attention

Members of the subcommittee had displayed limited, sometimes only polite interest in the testimony on this final afternoon of hearings, but that would change with the next witness, Professor Hilton of the University of California at Los Angeles. He had written a monograph for the American Enterprise Institute (AEI) on the UMTA aid program. It had not yet been published, but he asked for the opportunity to let the subcommittee know of his conclusions. He stressed that the views he expressed were his, not necessarily those of AEI.

(AEI, usually described today as a conservative think tank, billed itself at the time as "a publicly supported, nonpartisan research and educational organization." It was founded in 1943 as the American Enterprise Association, but had changed its name and focus in 1962. It concentrated on producing scholarly monographs on issues to help decisionmakers as they decided how to create national policy.)

Professor Hilton's summary of his monograph was comparatively brief. He explained that throughout the history of UMTA, "the principal purpose of the program has been the proliferation in major cities of rail systems of the general character of the Bay Area Rapid Transit . . . ." He said:

> Such systems are being promoted in hopes of generating external benefits of three sorts: reduction in traffic congestion; reduction in atmospheric pollution; and increase in mobility of the poor, the young, the aged, and other groups.

Although BART was too new for conclusions to be drawn about its success, experience in Chicago, Boston, Cleveland, and elsewhere provided enough information "to draw valid inferences on the effect of this form of investment."

UMTA, for example, financed a CTA rapid transit line in the median of Chicago's Dan Ryan Expressway. The line opened in 1969 at a cost of $43.6 million. By 1972, the line "was handling 108,600 passengers per day, of whom only 8 percent reported themselves as former drivers . . . ." Most had shifted from buses or other lines. Meanwhile, vehicle counts on the Dan Ryan Expressway continued to rise. "The average daily vehicle count rose to 144,100 in 1971 and 159,000 in 1972, demonstrating that at best the rail line diverted the equivalent of about one year's secular [long term] growth of traffic on the freeway in which it ran."
As he had said during his appearance on "The Advocates," experience elsewhere was similar. The Skokie Swift rapid transit line in Chicago and the MBTA's Quincy extension in Boston took an estimated 900 to 1,000 vehicles per day off the parallel freeways which average over 100,000 per day. With such volumes, "the diversion of under 1,000 is imperceptible, relative to the daily variance." Extension of the Cleveland Transit System's rapid transit line to Hopkins Airport in 1969 handled about 1.4 million passengers in its first year "and was thought to have reduced patronage of airport limousines by 46.6 percent, of taxicabs by 26.0 percent, and private automobiles by 8.2 percent." Peak hour traffic on parallel I-71 declined about 10 percent. "The rapid transit line, however, declined in ridership from the beginning, sinking from 1.4 million in 1969 to 886,000 in 1971."

He continued:

> It should be apparent that facilities which have this small ability to divert drivers cannot provide relief from traffic congestion or significant reduction in atmospheric pollution. Similarly, they merely replace the most heavily-utilized bus lines in an area, and thus provide no new trips. Consequently, they do not add to the mobility of the groups thought disadvantaged with respect to present transportation.

The new lines typically served traffic to and from downtown, "a trip which the urban poor are able to make on existing transit lines." The trip from an urban residential area to a suburban factory or service employment was much more difficult:

> Partly because inflexible facilities which provide mainly a trip downtown are poorly suited to the demands of the present generation of the urban poor, every American rapid transit system individually has declined secularly. Rapid transit systems as an industry have lost about a third of their ridership since 1929. The principal force in this decline has been a tendency to substitute automobile travel for public transit as consumer incomes increase. The automobile has made possible a more diffused urban pattern, but almost all other forces at work on cities are also for diffusion.

The conclusion of Professor Hilton's statement was a striking contrast to those offered by other witnesses:

> The present popularity of rapid transit lines is inevitably short-lived. The demand is a political one, as distinct from a market demand. The political pressure for building of such systems arises from a desire to relieve the congestion of vehicles attempting to enter and leave central business districts in rush hours, but this congestion is merely an example of queueing as a result of non-price rationing of roads. That is to say, the excise [tax] on gasoline through which we pay for the use of roads does not serve the function of a price of rationing the existing supply. The excise is low enough relative to the total cost of operating an automobile that drivers act almost as if the roads were free to them. This results in use of automobiles for trips into central business districts, for which buses have their comparative advantage, and the queueing phenomenon which is only too familiar. Instead, users of roads should be charged by a metering device, so that they would have to pay higher fees per mile for rush-hour trips into central business districts than for other trips. Similarly, pollution from motor vehicles is the consequence of the government's failure to engage in price rationing of air, which is to say, to institute taxation of pollution.

By supporting the construction of rail transit lines, Congress was helping to build facilities that "are incapable of producing the benefits which are sought of them." He predicted:

> The rapid transit movement will probably have spent itself by the late 1970's, and such funds as are being put into rail systems currently will be looked upon retrospectively as waste. The proposal at hand is worse than simply waste, for it threatens to divert into rail systems, which can only decline, funds which could alternatively be spent for beltways, which unmix traffic going around cities from that which is going downtown, and serve the rapidly growing trips between suburbs. Congress should direct public policy toward building of such circumferential facilities, and toward development of variable user charges for roads and taxation of noxious emissions, if it seeks to deal with the actual problem with which the nation is faced in this area. [*1973 Highway Legislation (Future Highway Needs)*, p. 853-855]

These excerpts were from his written statement. As he presented an informal version, Representative Clausen interrupted his discussion of the rail line in the median of the Dan Ryan Expressway to ask, "Are you saying, then, if the systems were provided, based upon the studies of established transit systems, that the people in those areas do not use them?" Profession Hilton replied:

> Yes, the evidence is quite unambiguous, as I have endeavored to point out in this testimony. The experience is very consistent between the systems, that they can take off the roads approximately the number of vehicles as the Bureau of Public Roads estimated in 1968, that 1 to 2 years secular growth will put on to the roads.

He added that based on experience with the systems built under the UMTA program, "that's an overstatement" because rapid transit systems "typically take off less than a year's secular growth." Based on experience, "the ability of a facility of this character to divert vehicles is trivial compared with the forces for growth in traffic." He summarized the experience in Chicago, Boston, and Cleveland:

> This is actually consistent with what we know about the behavior of travelers with respect to automobiles and to mass transit. As people go to successively higher incomes, they tend to increase their consumption of services related to the automobile more than proportionately to the increase in income. They tend to respond to increases in income by either approximately staying constant in their demands for urban public transportation, or more frequently, having an absolute diminution in the use of it, and tending to substitute the automobile for it.

The diffusion of the urban pattern, which reduced the need for trips to and from the central business district, made radial fixed rail lines less responsive to needs. In Chicago, for example, about 11 percent of all trips in 1960 were to the Loop, with the total declining to 8 percent in the early 1970s, and projected to reach 5 percent in 1980:

> What this means is that whatever reshuffling one can do on the trips into the central business district is unlikely to have a very great impact on the overall transportation demands of a metropolitan area. Given the facts that rail transit systems can provide almost nothing but the trip into and out of the central business district, they can in a literal sense provide only a diminishing portion of a diminishing percentage of trips in a metropolitan area.

Every rapid rail system in the country had been in decline by 1959. For example, the Broad Street subway, the principal north-south line in Philadelphia, had lost 62 percent of its ridership since World War II. Representative Clausen interrupted to ask why. Professor Hilton replied:

> For several reasons: Because of a decline in the concentration of economic activity in downtown Philadelphia, mainly because the areas which it serves have become part of the Philadelphia ghetto. The ghetto residents work, amuse themselves, and shop in the central business districts less than their predecessors in urban areas did. They have a demand for extremely diffused transportation. They tend to work in factories or service employments widely over the map, and they tend to shop and amuse themselves in their own neighborhoods, where their predecessors did these things in the central business district.

(At this point, the transcript indicates that a “Miss Loveless” in the audience began to ask a question (“Did the city income tax—“) but was stopped by Representative Johnson who said that only the witness could speak. Mrs. Barbara May Loveless of Washington would be the final witness.)

Getting back to his informal narrative about the gradual decline of rapid transit systems, Professor Hilton said:

> Consequently, if you facilitate investment in this form of transit, you will be investing in a declining industry, in facilities which can only decline over time, and which accordingly are incapable of providing the external benefits which are being sought.

Proponents, he said, justify rail systems "almost exclusively on the basis of the external benefits which it is hoped that they can provide, which is to say, reduction in traffic congestion and atmospheric pollution, plus increase in mobility by low-income groups." If it could provide these benefits, "New York would be freer of these problems than other cities" since at least 82 percent of rapid transit passengers nationwide were in the New York City area. "I hardly need tell you that New York has more of these problems rather than less."

In short, the present movement for rapid rail transit would soon be looked upon as "unsuccessful, misguided, and purely wasteful." If the tax on gasoline reflected the social cost of roads, including their cost in air pollution; road use was rationed in the center city through metering; and the present urban transit monopolities were replaced by a system of owner-operated jitneys, today's "insoluble problems could be dealt with effectively and the waste of the character I have been discussing could be avoided."

Representative Cleveland began the questioning by informing Professor Hilton that his message was "falling on very receptive ears, unfortunately I might say." Professor Hilton agreed it was unfortunate because "I'm a great believer in the adversary proceeding [and] it would be more effective if it were falling on hostile ears." Representative Cleveland agreed and wished more members of the subcommittee were present.

He asked if he understood Professor Hilton to be saying that the current interest in "jazzing up urban mass transit, particularly rail transit, comes as a political response" to congestion. "Yes," Professor Hilton replied. Representative Cleveland speculated that "like all political responses, it has to be well publicized, aided, and abetted by opinion molders," many of whom "are caught in these traffic-congested areas." If someone gives these commentators or TV announcers "an idea there's a solution to the problem, they're going to put the heat on to see the solution is brought about."

Professor Hilton agreed that this summary was "a very common situation." For example, the failure to price runways based on hours of use resulted in the political call for more airports. "Here it gives rise to a political demand either for freeways paralleling existing ones out of cities, or for rail transit." Both would be a waste, but they are presented as alternative solutions.

Representative Cleveland asked if pricing vehicle use to reduce congestion was technically possible. Professor Hilton referred to Columbia University's Professor Wiliam Vickery who "says that there are 15 technologically feasible ways, of which he recommends a meter on the vehicle actuated from impulses coming from a wire imbedded in the street, with the number of impulses varying on the basis of the social cost of driving."

Recalling the discussion during the 1972 hearings about the traffic impacts of the World Trade Center in downtown Manhattan and the massive Manhattan Landing development on a platform in the East River, Representative Cleveland said, "The more money we throw in there trying to solve the transportation problem, the bigger and bigger they're building their buildings, and the more people they're drawing in." He asked for Professor Hilton's opinion about requiring developers to conduct a transportation impact statement "and to explain to somebody's satisfaction how you're going to get people in and out of the area?" Alternatively, "do you just build it and then go running down to Washington saying, 'We need more'?"

Professor Hilton responded that in Los Angeles, impact statements were required. "One has to show that one is providing parking facilities for a specified percentage of the people who are expected to use them." He continued:

> The comment I will mainly make about what you said is that the existence of a rapid transit system is an incentive to build high rise buildings like that. On the one hand, the rapid transit is already there, and on the other hand, it is usually in very bad shape financially and such buildings will generate a demand for transit . . . . If a high rise building is built in the city, one can't reasonably expect more than 15 percent of the people using it to use rail transit, if that's available. The other 85 percent will use buses, automobiles, sidewalks—just to say use the roads.

That was why he believed that if a rail rapid transit system induced construction of high-rise buildings, it "makes a negative contribution to problems of congestion and pollution, rather than a positive one."

Representative Cleveland pointed out that other witnesses cited poor people without cars as one of the reasons for building rail rapid transit, while others had testified that "these proposals are for affluent suburbanites, to get them from their hideaways in the hills down into the financial markets where they make a lot of money and then go home at night." Professor Hilton replied:

> I think what you have said is perfectly correct, that these facilities do, in general, carry people from high-income suburban areas. The urban poor . . . simply don't want to go downtown to the extent to which their predecessors did.

Systems such as BART and the Metro system under construction in the Washington area "are almost certainly regressive expenditures" serving high-income passengers:

> Jobs in the central business district come to be concentrated among the higher educational levels, partly because the retailing function of the central business district declines. The clerical jobs in central business districts decline as the people who do them are replaced by computers. What is left in the central business district is . . . the financial community and central offices of certain other types of businesses, such as oil companies, for example. Thus, the trip tends to reduce in numbers who are making it, but it tends to be more concentrated in high-income and educational levels. You run into the problem that the rail systems provide almost exclusively the trip downtown, but the trip downtown is taken by people who are in successively higher income brackets, and they manifest a tendency to turn away from it toward the automobile as their incomes go up.

In that case, Representative Cleveland asked, is it "a fair inference" that claims by proponents that rail lines can be justified by helping the poor cannot be substantiated? Professor Hilton said that the inference was "perfectly true," adding that, "Even existing urban bus systems very imperfectly serve the needs of the urban poor" because they "tend to generate sufficient traffic density to justify lines only on trips into the central business district, which are declining in number." As he had said earlier, employment opportunities for the urban poor are mainly in suburban areas:

> The most unsuccessful series of projects which the Urban Mass Transportation Administration has undertaken—and this is an Administration which has produced almost nothing but failures, almost nothing it has done has succeeded, with the exception of express bus service on freeways—the most unsuccessful category of projects was running reverse commutation trips from urban poverty areas to suburban factories and other places of employment. The series of projects was so unsuccessful that the General Accounting Office studied it and concluded that it was . . . not worth continuing, and that continuing it would be a subsidy of operation which would be beyond the statutory authority of the Administration . . . .
>
> Unfortunately, or fortunately, as the case may be, the urban poor's demands for transportation are so diffused that essentially only the automobile, or a jitney system, which would be automobiles and buses operated by owner-operators, can serve their needs.

Representative Cleveland said he found the professor's testimony "quite alarming" because it implied that not only should Congress not divert funds from the Highway Trust Fund to mass transit "but it sounds to me as if you're questioning whether we should put any money into it." Professor Hilton replied that "saying I question it is an understatement." He considered it "an inappropriate activity of the Government." He opposed the idea of a Mass Transit Trust Fund because "the Federal Government simply should not be in a position of furthering such systems." He continued:

> They are being furthered, much as the supersonic transport was, by an industry for which the private sector of the economy doesn't develop a demand which will consume their output. I would argue the Federal Government shouldn't facilitate this in any fashion, and further, that it shouldn't try to perpetuate urban transit systems in their present economic organization.

As the decline of rail lines, streetcars, and buses demonstrated, "this industry is failing the market test," a point Professor Hilton illustrated by saying:

> When the UMTA program was established in the early 1960's . . . the industry produced about 8 billion rides, and it is now down to about 5.5 billion. So the Federal Government has not, to date, been able to arrest this decline. I think one can predict with perfect confidence that it will not be able to do this.

Representative Clausen told Professor Hilton, "I am absolutely amazed at your ability to articulate your point of view." It was too bad that "those people who need to hear this kind of testimony are not present today to hear it." He mentioned Representatives Abzug and Studds, as well as Secretary Brinegar, as examples of people who should hear Professor Hilton's testimony, and challenge it in an adversarial situation at a time when "we are at the crossroads of having to make a major decision." He asked Professor Hilton about Dr. Logan's earlier statement about lifting the "stringent limitations now shackling the Highway Trust Fund" to help the young, poor, and elderly who do not have cars.

Professor Hilton agreed that Dr. Logan had identified "a very real problem," but "the nature of urban transit systems in the cities is such as not to serve the transportation requirements of these people." He had already explained the linear nature of rail lines serving central business districts:

> The groups which have been mentioned there are very largely groups which don't go downtown very much. The young are going to high schools; the elderly are going to shop or to see their relatives; the urban poor, as I have pointed out, are going a very wide variety of routes to get to work . . . . Buses meet their needs, somewhat, and they are preferable because they adapt to light population density areas better than rail transit does. They are slower than rail transit, but most of the people in the groups you mentioned have a lower evaluation of time than the people who make the trips from the suburbs into the central business districts, so it is less of a handicap.

These groups, he said, were primarily off-peak users of transit and they often were scared away by the fear of crime.

Asked to explain the jitney system, he said:

> By "jitney" system I mean a mixture of the functions of a taxicab and bus, and a delivery vehicle also, which could effectively be produced by ending restrictions on entry into the taxicab industry, and also by liquidating the urban transit monopolies. Something such as the Chicago Transit Authority should be liquidated and its buses sold off individually to anyone who wants to own them, and then those buses should be operated without restriction as to route or fare . . . . This would provide an infinity of trips around the metropolitan area, because many people would certify their own vehicles and carry passengers only between home and work.

He added that as another witness had stated, carpools were "the cheapest available method" of urban transportation, although getting people together in a carpool was an obstacle. "People tend to resist things which restrict their freedom in the trip home from work." He cited UMTA's "series of disastrous experiences" with subscription bus programs, including one in Flint, Michigan. People used the subscription bus in the morning because they wanted to get to work on time, but on the way home "they didn't want to be tied to a schedule, which results also in car pools declining as the members of a car poor get into successively higher incomes."

Representative Clausen asked about Professor Hilton's discussion of monopolies and he replied:

> That's right. We are stuck with basically an organization of transit which the streetcar created, which has been perpetuated for no good reason, and which is failing the market test: so as I said it becomes successively more unprofitable.

> The losses of the transit industry increase essentially exponentially. They almost double each year. They will be so great that I can assure you, whatever you may do this time, by the 1980's the Federal Government will not be willing either to invest or to bear the operating losses of this industry.

With time running out, Representative Clausen asked for Professor Hilton's views on the pending legislation. Should Congress leave the Highway Trust Fund intact to complete a safe highway system or divert funds to mass transit? Professor Hilton replied:

> In the first place, under no circumstances would I put money into mass transit. It is essentially pure waste.
>
> The trust fund, as it's presently constituted, I think can't be defended either—and I don't want to be here in the position of defending it. Mr. Gallamore's statement with respect to the vicious circle aspect of it essentially is correct. I don't agree with all his statement, but his statement that you have a tax for the use of roads which really doesn't discourage anybody from using the roads, so the public uses the roads, essentially, as if they were free. But, then, these funds are channeled into building more roads, and this creates more funds, and I think this essentially is correct. But it is not a situation which can be defended.
>
> What you ought to do is move toward variable-user charges, toward a comprehensive system of charging for the use of all roads on the basis of the social cost of using the roads at any given hour. This is something which only the Government can do.
>
> Roads are quite properly in the public sector because there is no way in which a private person can collect a fee. Rapid transit will be in the public sector, if at all, only because it is failing the market test and hasn't been economic for investment by the private sector since the panic of 1907. I think this dichotomy ought to be recognized.
>
> What you ought to do is move toward what only the Government can do, price roads properly, institute taxation of noxious emissions, or alternatively, taxation of vehicles on the basis of their polluting characteristics, per year or per mile driven, which would be much simpler, and then use what suasion the Government has to try to get cities to legalize jitney operations. This has the incidental advantage of being a much cheaper course of action.

In closing the session with Professor Hilton, Representative Johnson admitted he had wondered about BART's prospects, but thought it was too soon to know what would happen. Professor Hilton assured him, "Unfortunately, I think the failure of it can be rather accurately predicted." He continued:

> Even more unfortunately, there is no place one could put a rapid transit system in the country which would be as favorable geographically as BART. It has one thing working very strongly for it, which the Lindenwold Line has also, that it parallels a bridge crossing with a toll, which is a discouragement to the use of the automobile.

As Representative Johnson began to thank Professor Hilton for his testimony, Representative Clausen interrupted to ask one more question. Since Professor Hilton lived in the Los Angeles area (Palo Alto), which has "the worst environmental situation in the United States because of the atmospheric conditions and so forth," Representative Clausen asked what he would do about the area's environmental situation? The Professor responded:

> Taxation of noxious emissions, which would give the economy an incentive to come up with less polluting vehicles.
>
> However, I would point out that Los Angeles does not have the worst output of noxious emissions. New York has a much worse output. That city, as I said, has 82.3 percent of the rapid transit passengers. If New York had Los Angeles' atmospheric properties, it would be literally lethal; it would kill people, the concentration of pollutants is so great.
>
> Thus, rapid transit is not a solution to that problem, either.

This exchange concluded Professor Hilton's testimony. [*1973 Highway Legislation (Future Highway Needs)*, p. 856-869]

(On April 12, Representative Cleveland presented excerpts of Professor Hilton's statement in extended remarks for the *Congressional Record*. Representative Cleveland began:

> Mr. Speaker, a curious paradox has developed concerning diversion of highway trust funds to urban rail transit. While diversion has lost support in Public Works Committee compared with last year, it seems to be gaining support among Members at large.
>
> I believe I know why. The Transportation Subcommittee held a full week of hearings in late March and produced a wealth of testimony in support of preserving the trust fund. True, there was also the routine rhetoric about congestion, pollution, and the problems of the urban poor, but these arguments were decisively refuted.
>
> At the same time, Members have been deluged by appeals to bust the trust, apparently generated by misleading coverage of the issue by the national media, which largely ignored the House hearings.

(Given this misinformation, Representative Cleveland wanted to bring Professor Hilton's "provocative testimony" to his colleagues' attention. After listing several of Professor Hilton's rebuttals of the usual arguments in support of mass transit, Representative Cleveland said:

> I do not agree with Professor Hilton's policy recommendations in all respects. He does not support the trust fund, but he more strongly opposes diversion. In fact, he opposes any form of Federal subsidies for urban rail transit.
>
> For those who regard trust fund defenders as antitransit, I reiterate my support for urban mass transit from general revenues or a separate trust fund. ["Highway Trust Fund:

Thought-Provoking Presentation," *Congressional Record-House*, April 12, 1973, p. 12223-12225]

(In June 1974, the American Enterprise Institute for Public Policy Research published Professor Hilton's monograph, *Federal Transit Subsidies: The Urban Mass Transportation Assistance Program*, as #17 in its series of Evaluative Studies. Although Professor Hilton was an early critic of the UMTA program, he was not alone, if more pessimistic, among academics studying the issue. In March 1974, Professor Smerk completed *Urban Mass Transportation: A Dozen Years of Federal Policy* (Indiana University Press, 1974). Professor Smerk, cited previously for his 1991 book on the Federal role in mass transportation, discussed "What Went Right and What Went Wrong" in Chapter Five of the 1974 book. "There is little doubt that the federal mass transportation programs have had solid accomplishments," the chapter stated, but acknowledged that "at any one point in time, progress may appear to be slow or nonexistent." Under "The Shortcomings of the Federal Program," the chapter included the subheads:

> The Continuing Decline in Ridership and Other Disasters
> The Information Gap
> Little Uptake of New Ideas
> Transit as a Shaper of Urban Development
> The Marketing Gap and the Hardware Panacea
> The Matter of Image
> Lack of Coordination and Integration of Transit
> Management Upgrading
> Local Fragmentation
> The Need for a Showcase.

(Chapter Six, "Why Do Problems Persist?" began by stating, "It is very difficult to carry through a program of improvements to urban mass transportation that will be reflected in rising patronage and increased usefulness of mass transportation service to more U.S. citizens." The paragraph continued by discussing the billions of dollars invested in highways and the promotion and purchase of automobiles. "There is no doubt that the auto provides a high standard of service, a standard that is very difficult for mass transportation to compete with under most circumstances." Professor Smerk continued:

> Moreover, a rising standard of living and dispersed pattern of population distribution—a pattern difficult to service with conventional mass transportation—have made the private car not only obtainable by a majority of U.S. citizens but also necessary for mobility.
>
> At the outset, it must be understood that the job of making mass transportation a relevant service to an increasing number of travelers is extremely hard to achieve in the present situation.

(Like Professor Hilton, Professor Smerk acknowledged that the subscription bus service in Flint "had dismal results" and was "a total disaster" showcased by "the howling emptiness of the buses."

(The chapter concluded on an upbeat note. "Considering the difficulties, it is, indeed, amazing that the federal mass transportation programs have seen even the modest success so far enjoyed." [Smerk, 1974, p. 203 and p. 234 on Flint, p. 218 on what went wrong, p. 249 and p. 265 on persistence of problems])

The three remaining witnesses presented their testimony with little interaction by the members of the subcommittee. Frederick Tyler of the National Student Lobby supported the use of Federal-aid urban system funds for rail transit and Representative Koch's bill to fund bicycle path construction. "More and more people, especially students, are using bicycles as a means of travel because of the inexpense [sic], nonpolluting aspects, and enjoyabiliy of the ride in fair weather." Tyler was pleased to see that Representative Wright was a cosponsor of the Koch bill, which was "a fine instrument to begin to allow extended use of this remarkable vehicle." He recommended that Congress call for a study of the engineering of bicycle paths to ensure they are designed for safe use, especially in urban areas and along primary roads. He also recommended that "no legislation place restrictions on the location of bikeways and that the funds for the projects come from the Highway Trust Fund." [*1973 Highway Legislation (Future Highway Needs)*, p.869-870]

Thomas (Tommy) Hale Boggs, Jr., counsel for the International Snowmobile Industry Association, was the next witness. His father was the late Representative Hale Boggs, who had added the Highway Trust Fund to the Federal-Aid Highway Act of 1956. As Representative Clausen noted, Representative Boggs' wife, Corrine C. (Lindy) Boggs, the witness's mother, had won a special election on March 20, 1973, to fill the vacancy created by her husband's death. He joked, "She might be a member of this committee. I think we have one spot on here," to which Boggs responded, "I had better hurry up and testify before—[Laughter]."

The snowmobile association, Boggs told the subcommittee, enthusiastically supported Section 132 of S. 502 for the construction of bicycle paths, walkways, and equestrian trails. The multiple uses of road rights-of-way and access to national recreational resources that were presently underutilized would be encouraged by the provision, which could be improved in several ways. First, Section 132 expressly excluded snowmobiles from these taxpayer-funded trails:

> Aside from the inherently discriminatory aspects of such a provision, we believe that it will (1) fly in the face of the Highway Act's policy of achieving an equitable distribution of highway funding burdens and (2) impose inherent limitations on the usefulness of lands within rights-of-way as a national recreational resource.

Boggs pointed out that snowmobilers pay taxes on the gas used in their vehicles so they do contribute to the Highway Trust Fund. "One of the long standing complaints of users of off-road recreational vehicles is that the substantial fuel taxes they pay every year are used—not for the funding of recreational vehicle facilities—but for the construction of roadways which, in some instances, they are forbidden even to cross." If Section 132 became law with its restriction on snowmobiles, "it will be even more difficult to explain why Highway Trust Fund monies can fund trails for hikers, bikers and horsemen, who pay no fuel taxes, but not for snowmobilers, who pay substantial fuel taxes but receive little benefit."

What made this injustice more frustrating was that in northern States, snow would make hiking and biking trails impassible except by the one vehicle prohibited to use them. "The spectacle of these trails sitting unused when millions of snowmobilers are searching for places to enjoy their sport and when snowmobilers are being killed due to the lack of safe places to cross over roads is not one which we would care to see."

On behalf of the association, Boggs recommended three changes in Section 132. First, the blanket prohibition "should be eliminated in favor of a provision granting to the cognizant state or local agencies the right to plan and utilize the trail facilities in such a manner as to achieve the maximum recreational benefits for their publics." Second, a portion of the Highway Trust Fund calculated to equal the amount contributed by motorized off-road vehicles should be set aside "for the financing of off-road vehicle trails, crossing areas and related facilities on unutilized portions of highway rights-of-way."

Third, as an alternative to the second recommendation, Section 132 could be modified so that as with gax tax revenue from recreational boats, an amount equivalent to the contribution of off-road vehicles to the Highway Trust Fund should be credited to the trust fund established under the Land and Water Conservation Fund Act of 1965 so that snowmobilers' gas tax revenue "might be of more direct benefit to snowmobile recreation." He pointed out that his firm also represented the boating industry and was familiar with how the contributions from recreational vehicles were calculated. He "would recommend the same treatment for offroad [sic] vehicle fuels which are not now included under the present Highway Act."

Representative Clausen acknowledged the issue Boggs had raised and asked for his thoughts on whether bicycle trails should be financed from the Highway Trust Fund or the general Treasury. Boggs favored using the Highway Trust Fund if Section 132 were modified to permit use of trails by snowmobiles at State option, but otherwise would prefer the gas tax revenue be included in the Land and Water Conservation Fund.

Representative Cleveland commented that "it does seem odd" that the Senate provision specifically excluded motorized vehicles:

> They are bicycle paths, of course, but you can't bicycle on them at the time your people would be using them. That is in the winter where there is snow. So I think the committee is going to have a problem in the language, because if during the summer, when the bicycles are out, I suppose if they wouldn't want motorcycles threading their way in and out between the bicycles—at least I assume that was the genesis of this language in the Senate.

Representative Clausen observed that he could understand that bicyclists might not want motorcycles using the trails, but Representative Cleveland pointed out that "the snowmobile people are standing in a slightly different situation here." Boggs commented, "There is probably no real environmental impact of any consequence with snowmobile use as there would be with other types of vehicles, because you have impacted snow that's being used."

> Mr. Cleveland. Some of my constituents feel they are very detrimental to the environment and constitute noise pollution.
> Mr. Boggs. I mean—by the environment, I mean the impact on trails, not those who are listening to the vehicle. [*1973 Highway Legislation (Future Highway Needs)*, p. 870-876]

(Upon joining Congress on March 20, 1973, Representative Lindy Boggs became a member of the House Committee on Banking and Currency. She would serve in the House until January 3, 1991, after deciding not to seek reelection.

(In 1966, Tommy Boggs joined a lobbying and law firm established in 1962 by James R. Patton, Jr. The firm changed its name in 1973 to Patton, Boggs, and Blow, citing its three senior partners, and is now known as Patton Boggs LLC.)

Following Boggs, Representative Johnson gave Mrs. Loveless, who had interrupted Professor Hilton, an opportunity to make a brief comment. She began:

> My only comment that is appropriate at this point should be an apology. I was so excited over the man's testimony—it happened to coincide with what I felt—and I must have forgotten for a moment that there was a more appropriate way to bring out my point.

Representative Johnson joked, "You woke the Chairman [himself]. He was asleep at that time," prompting laughter according to the transcript.

Asked who she represented, Mrs. Loveless said she was representing herself when she spoke up:

> The comment that I made for the record at that time was why did the dispersion occur on the use of rail transit in Philadelphia. I am not in a position to say conclusively that as a result of the city income tax being imposed [in 1939] on the people who work in the city of Philadelphia, if this caused them to not work there. I don't know, I haven't done any studies at all.
>
> I just wanted to mention it, incidentally, that this tax was imposed—a city income tax was imposed in Philadelphia and that was the point I wanted to make. I don't know if it's causal, but it did happen.

Representative Johnson replied, "Very good, Mrs. Loveless. We are glad to have you explain what your emotions were at that time. [Laughter.]" [*1973 Highway Legislation (Future Highway Needs)*, p. 876]

Before adjourning the subcommittee at 5:50 p.m., Representative Johnson entered a statement for the record. Early passage of the legislation was "extremely important for the continued progress toward meeting the nation's transportation needs, maintaining the economy, and reducing fatalities and accidents on our highways." Prompt completion of the Interstate System on the basis of current deadlines at a level of $4 billion a year was "an item of major and immediate interest." He explained:

> The Highway Trust Fund was designed to provide sufficient revenues for the construction of an adequate national highway system. It seems only right that the Interstate System should be completed before any additional use is made of the Highway Trust funds.

Until then, a comprehensive reassessment should be made of Federal transportation funding and programming. "It is important that we resist further expansion of programs until this study can be made."

In the meantime, "Flexibility in meeting the national transportation needs can be accomplished best by reducing Federal funding and program involvement, thereby permitting states to address their individual state and local transportation concerns directly." Federal programs should be consolidated into three categories, Interstate, urban, and rural. With many States, including his own California, creating departments of transportation, funds should continue to be funneled through the States. "By passing funds through directly to the cities, regional and statewide plans are occasionally disrupted."

If the comprehensive review indicated that "the Department of Transportation should play a diminished part, then the consequent Federal taxes should likewise be reduced." At present, "the current inequity" inherent in the donor-donee relationship should be corrected by quaranteeing each State a minimum return of 85 percent of its contribution to the Highway Trust Fund. He illustrated the problem by pointing out that California, the largest contributor to the Highway Trust Fund, received only a 67.1 rate of return.

Representative Johnson hoped that in the future, "a single basic matching ratio should be established for all Federal programs so that priorities do not become distorted because of the percent of Federal financial participation in the program." He thought that a 70-30 ratio would be satisfactory to all parties.

He wholeheartedly supported mass transit, but "it is my strong belief" that funds for it should come from the general Treasury, not the Highway Trust Fund. Highway needs were so immense that they required "all available funds from the Highway Trust Fund."

He opposed impoundment, but said that if it continued, "it seems only fair to me that our Federal highway taxes should be reduced if the Administration continues to withhold any portion of these funds, or when the Congress refuses to appropriate funds at or near the authorized levels."

Finally, he endorsed maintaining a funding level of $170 million for forest roads "The proposal to reduce the authorization to $75 million would significantly restrain a valuable and promising program which has demonstrated is [sic] worth to the nation." [*1973 Highway Legislation (Future Highway Needs)*, p. 876-878]

Elsewhere on March 19-23

While the House Subcommittee on Transportation held its weeklong hearing, transportation issues continued to evolve elsewhere. Some of the week's events have been cited earlier, such as Vice

President Agnew's speech in Los Angeles predicting that the automobile could turn into a "monster" if cities became too dependent on it; UMTA Administrator Herringer's testimony opposing Federal operating subsidies; the New York Assembly, for the second week in a row, lacked the votes for Governor Rockefeller's $650-million bi-State transit package; In other news:

Governor Shapp had mentioned problems on I-95 in Philadelphia. Efforts to complete I-95 through Philadelphia in time for the Bicentennial celebration in 1976 were hindered by a dispute between Mayor Frank Rizzo and Secretary of Transportation Jacob G. Kassab over a sludge removal contract that was needed for construction of the I-95 link to the new Girard Point Bridge, a double-decked cantilevel bridge that would carry the Interstate across the Schuylkill River:

> The state wants a contract awarded to move 400 million gallons of sludge to an Army Corps of Engineers spoils site in the Ft. Mifflin area. The Rizzo Administration, Kassab said, wants to move the sludge to Chester County farmlands.

The city refused to issue a permit to the American Dredging Company to move the sludge to a lagoon near the fort. Mayor Rizzo said the proposal to move the sludge from one lagoon to another lagoon was "totally unacceptable." During a press conference on March 20, he threatened to ask for a grand jury investigation unless the Secretary agreed to the Mayor's plan to dispose of the sludge on a Chester County farm owned by the King Ranch. The fear was that Delaware Bay could be endangered by the State's plan to dispose of the sludge on an Army Corps of Engineers spoils site in the Fort Mifflin area. Mayor Rizzo's refusal to issue city permits for the sludge removal was holding up the I-95 project, while Secretary Kassab said he would "do all in my power to consummate" the contract. ["Rizzo to Seek Jury Probe of Delays in Linking Girard Point Span, I-95," *Philadelphia Bulletin*, March 20, 1973]

At the EPA hearing on whether technology existed for the automobile industry to meet 1975 air quality standards, American Honda Motor Company said it could do what Detroit said it could not. Honda would have "no problem" producing 500,000 Civics in 1975 that met U.S. standards without using the trouble-prone catalytic converter. The vehicles would use a regular piston engine with two combustion chambers for each cylinder instead of the usual one (known as a "compound vortex controlled combustion engine"). All major U.S. automakers had told EPA the previous week that they were trying to meet the standards with a catalytic converter, but had experienced repeated test failures. Without an extension of the deadline, U.S. automakers faced a "business catastrophe." [Fialka, John, "Honda Has a Better Idea," *Washington Star-News*, March 20, 1973]

John McBee, FHWA's Division Engineer in West Virginia, announced that he could not approve additional contracts for the Appalachian Development Highway System route between Charleston and Danville because the Kanawha Regional Traffic and Arterial Study Committee refused to say whether the State's plan to build the route via Marmet, instead of Davis Creek, was in compliance with the area's transportation plan. Highway Commissioner William S. Ritchie warned that $100 million in construction contracts could be delayed by the impasse. McBee took no position. "That is a local matter that will have to be resolved on a local level." ["Appalachian Highway Dispute May Cripple County's Plans," *Charleston Gazaette*, March 22, 1973]

On March 23, Under Secretary of Transportation Krogh was in Chicago to speak before the Chicago Association of Commerce and Industry's transportation committee. At a press conference in the Palmer House, he discussed the Administration's pass-through provision for Federal-aid urban system funds:

> It is essential that it be passed by the end of April. If our proposal is accepted and passed, Chicago will receive nearly $59 million directly. I would like to point out, however, you would first be required to establish a suitable metropolitan transportation agency to make local regional transportation decisions.

He indicated that a six-county transportation district that was under consideration would meet Federal requirements. The goal, he explained, was flexibility. "These federal funds would be used for such urban transportation projects as highways, bus lines, parking lots, or the purchase of buses or capital investments in rail transit." He cautioned that the funds would be retricted to capital improvements and could not be used for operating subsidies. Krogh also praised Chicago's Representative Kluczynski for switching his position on the use of Highway Trust Funds for mass transit. [Wolfe, Sheila, "Road Funds Tied to Area Transit Unit," *Chicago Tribune*, March 24, 1973]

In Spokane, "The State Highway Department took a harder line this week against late protesting environmentalists in the continuing controversy over projected U.S. Interstate Highway 82." The department's district engineer, Thomas Gray, said I-82 would not be routed along Rattlesnake Ridge, but would follow the valley floor as determined after public hearings over the past 2 years. "The Parker to Prosser corridor has been fixed. You don't drop back and go over that decision once made." The State would lose funds for the route if the final schedule could not be certified to FHWA by July 1. ["Route of Interstate 82 Decided by Department," *Spokane Spokesman-Review*, March 23, 1973]

Meanwhile, on March 21, the Stop I-57 Environmental Alliance filed suit in Federal Court in Madison, Wisconsin, to block I-57 between Milwaukee and Green Bay (from the Saukville interchange north of Milwaukee to Bellevue south of Green Bay). The suit, filed on behalf of farmers who claimed I-57 would be detrimental to their livelihoods, sought to prevent any further action on the route, including approval of the final environmental impact statement by the Council on Environmental Quality. ["I-57 Project Runs Into Roadblock," *Milwaukee Journal*, March 22, 1973]

On Thursday, March 22, Wisconsin highway officials released the 600-page final environmental impact statement for the 80-mile segment of I-57 between Milwaukee and Green Bay. After controversy erupted in 1971 over the proposal to locate I-57 in the State Route 57 corridor, Governor Patrick Lucey had asked the State to consider following the U.S. 141 corridor. The new statement proposed that by following U.S. 141, I-57 would not affect historic sites, parks, conservation areas, or key wildlife habitats. ["I-57 Plan Supported by Report," *Milwaukee Journal*, March 23, 1973]

An editorial in *The Wall Street Journal* on March 22 titled "Detroit's Feet to the Fire" began:

> If the auto industry wins a year's extension in meeting the 1975 emissions standards, environmentalists would view the decision as a calamity. They would see it as a symbolic setback to their cause, one they will predict will lead to an unraveling of the government's efforts.
>
> But at this point a year's grace granted Detroit by the Environmental Protection Agency would neither have a significant impact on the environment nor relieve pressure on the industry to produce both cleaner and more efficient vehicles. In fact, by insisting on their symbolic victory, the environmentalists risk substantive defeat.

In interpreting the "technological feasibility" of meeting the standards, Administrator Ruckelshaus "is not going to do anything that would close down the auto industry." The editorial encouraged him to approve the 1-year extension because, contrary to conventional wisdom, the extension would "plunge the automakers deeper into this contest, recognizing that the public will not stand for anything less than a total demonstration of good faith on their part." It concluded, "Having had its feet to the fire and toasted to a turn, Detroit now has its mind wonderfully concentrated on the problem at hand whether it likes it or not." ["Detroit's Feet to the Fire," *The Wall Street Journal*, March 22, 1973]

The same day the editorial appeared, Mayor Lindsay was in Washington testifying during the EPA hearings on the requested extension. He warned that an extension of the deadline could result in a private car ban and gas rationing for commercial vehicles in midtown Manhattan. The standards, he said, were "concerned with public health," not in sparsely populated areas, but in areas such as New York City where emissions "endangered public health." The *Times* summarized the consequence of a delay:

> For midtown New York, where most mileage is from current models, a year's suspension of the 1975 standards and a continuation of 1974 standards, Mr. Lindsay said, would mean "a reduction of only 20 per cent in carbon monoxide (in the atmosphere) from 1970 levels," but enforcement of the 1975 standards would mean a 52 per cent reduction. "It is undeniable, then," Mr. Lindsay said, "that the public health depends heavily on timely compliance . . . with the 1975 emission standards."
>
> When Mr. Ruskelsaus said he found these figures "startling," Mayor Lindsay reminded him of the special situation in midtown New York. Taxicabs, he said, are responsible for 40 to 45 per cent of the emissions and about half the cabs are replaced each year.

Mayor Lindsay told the EPA hearing that New York's transportation plan, to be submitted in mid April, was based on the assumption that the automobile companies would he held to the 1975 standard. He expected the plan to require all current vehicles to be fitted with the most advanced exhaust emission control systems, eliminate the sale of leaded gasoline, and require inspection of all cars once a year. Whether the standards were extended or not, "the cost to the city and its residents will nonetheless run into billions of dollars," but if EPA approved the extension, "the consequences . . . . could destroy our economy." [Kenworthy, E. A., "Lindsay Links Economy to 1975 Emission Rules," *The New York Times*, March 22, 1973]

(When Governor Rockefeller submitted the plan on April 17, the *Times* said it included such features as "a selective ban on midtown taxi cruising, drastically reduced midtown parking, staggered work hours and days, tolls on all East River and Harlem River bridges, after-hours deliveries to stores and factories and the installation of fume-control devices only on heavy-duty trucks." The plan included retrofit of existing passenger cars with fume-control devices, but the Governor said he would not enforce this part of the plan because "the reliability of the catalytic mufflers now contemplated for use is highly questionable, as is the capacity to produce and install these mufflers within the needed time frame." He added that the cost "poses serious social questions as well" because most of the cars needing the devices were owned "by those least able to afford expensive modification to their automobiles." [Bird, David, "Governor Offers a Clean-Air Plan," *The New York Times*, April 18, 1973])

On March 22, *The Washington Post*'s editorial cartoonist Herblock addressed the U.S. auto industry's efforts to meet the EPA standards. Smiling Japanese automakers stood by their cars, labeled Honda and Mazda, while a chubby bald man, labeled "U.S. Auto Industry Anti-Pollution Efforts," demonstrated his emissions control plan by holding (a) a tea strainer on (b) the exhaust. He asked the Japanese executives, "Open the Hood and Look Inside? You think I'm a Mechanical Genius or Something?" [Herblock, *The Washington Post*, March 22, 1973]

State highway officials in Alabama would have to reroute I-59 to save a concrete bridge across Five Mile Creek near Bessemer just 100 yards off U.S. 11. The bridge, which convict labor built in 1915, had been accepted for the National Register of Historic Places. James Walker of the West Jefferson County Historical Society explained that all the materials in the bridge had been made locally. "The bridge is significant because there is no other place that all the ingredients for the manufacture of steel and concrete can be found in one location." Following the listing in the National Register, Walker had received a letter from Highway Department Director Ray Bass indicating the Interstate would be rerouted to preserve the structure.

A news account of the decision explained that, "The bridge had originally been scheduled to be torn down because it is not adequate to handle projected traffic loads when the interstate is completed. An access road was scheduled for the area of the bridge . . . and the bridge was too small for the road." Walker said the historical society planned to build a picnic area near the bridge. [Gray, John, "I-59 Access Road Rerouted to Save Bridge," *Birminghan Post-Herald*, March 20, 1973]

According to an editorial in *The Rutland Herald* in Vermont, Senator Muskie had spoken at Wellesley College "the other day." He said one way to dislodge urban commuters from their automobiles would be to make mass transit free. This approach was the reverse of the proposal some cities were considering of using taxes and tolls to make automobile use prohibitively expensive. The editorial concluded, "Muskie is probably aware it will take more than the offer of a free ride to get many Americans to leave their cars at home as long as they have a dollar for gasoline and there's fifty square feet of bare highway. Americans love parades, even the bumper to bumper variety." ["Free Mass Transit?" *Rutland Herald*, March 22, 1973]

An editorial in *The Minneapolis Spokesman* tried to identify a middle ground for the Twin City's Interstates between "the extreme opponents of any more highways at all, and the even more unreasonable stances of the big-highway lobby." First, the Interstates already started should be completed. "The most urgent" were I-35E from downtown St. Paul to the southern junction with I-35W; I-35W from Trunk Highway 280 to I-94; and I-494 between Trunk Highways 5 and 100.

As for the Interstate segments not underway, the debate over the routing of the northwestward link of two segments of I-94 was timely. Citizens could not understand why it had to parallel U.S. 12 instead of occupying the right-of-way of the existing highway. "Highway engineers can, as we all know too well, be pigheaded and arbitrary about their decisions." They should "understand that if they reject reasonable proposals and ignore reasonable objections, they may face costly litigation." But in the case of highways underway, "the community should support them, as it is in the community's self-interest to do." ["A Middle Ground on Highway Issues," *Minneapolis Spokesman*, March 22, 1973]

While the Committee Drafts the House Bill

On March 1, 6, and 7, 1973, the Subcommittee on Transportation of the House Committee on Public Works held hearings on *1973 Highway Legislation (Highway Safety)*. Many of the witnesses also testified before the subcommittee's hearings on Future Highway Needs, but one who hadn't was William L. Sacks of the Highway Safety Foundation, an independent nonprofit research organization. Sacks, testifying on March 1, began by "imparting some of the basic social and economic philosophy that is inherent in your legislation." He said:

> The first thing we have to admit and realize is that traffic accidents and their consequences are byproducts. They are a secondary result of a highway transportation system whose purpose is the service of mobility.

Taxpayers had received great benefits for their investment in the highway transportation system:

> Thus, when we look at the annual costs of traffic accidents, measured in over 60,000 lives, over 3,800,000 injuries and extensive property damage that, all taken together in crudest terms, drain our human material, energy and time resources of $46 billion per year, we have to be shocked but not surprised. Most of all, we must be realists when we discuss those investments required to curtail this carnage.

He took no comfort in the slight dip in fatalities or the fatality rate, which he attributed mainly to a dip in employment. With employment increasing, so would traffic deaths.

He added:

> One of the unfortunate aspects of sitting here and testifying today is that in 1970, at hearings before this very committee, many of the same points were brought out. And yet we come today and reference essentially the same factors, the absence of lines, the spear guardrails, or the unprotected railroad crossings, the hazardous locations created by [worn out, dilapidated] stop signs . . . . Things are not much different. I think what we have seen is a

> lack of movement toward achieving the goals of which we had a pretty common understanding 2 years ago.

He recommended "spreading of the investment, putting the investment, not at one point in space, but all over, in lots of small amounts at thousands and tens of thousands of locations."

Too much focus had been placed on the driver:

> To date, highway safety has been pretty much a one-way street. The driver has been asked to "toe the mark," be a good boy, behave, act rationally. He is not told how to do this, but he is told it's his responsibility.
>
> This act can begin to make highway safety a two-way street of "give and take." And I think we all know that when we give we are most apt to receive. We create a two-way communication that says: "I'm doing my part, now you go ahead and do your part.

In short, the government should say, by its actions, that: "Your life isn't worth a $25 stop sign." [*1973 Highway Legislation (Highway Safety)*, Hearings Before the Subcommittee on Transportation of the Committee on Public Works, House of Representatives, 93rd Congress, 1st Session, Report No. 93-3, p. 51-60]

On March 26, Representatives Blatnik and Harsha joined Sacks on a 2-hour bus tour of Washington area highway hazards. Thomas Crosby, a *Washington Star-News* staff writer accompanying the tour, described the scene:

> Will Sacks was talking nonstop and his voice became excited yesterday as he looked out the bus windows and described Washington area highway hazards during an inspection tour for two veteran congressmen.
>
> Sacks . . . pointed out dangers seldom noticed by the average driver—faulty guardrails, poor pavement markings and drainage ditches that will flip a misguided car.
>
> He showed the congressmen a railroad-crossing sign totally obscured by a bush near Jones Mill and Jones Bridge Roads; faded yellow median lines and erroneous traffic signs along Cloppers Road in Montgomery County and artistic but unsafe stone guardrails along George Washington Parkway in Virginia.

Sacks said the people who designed roads and roadsides needed better education. At present, he told the two Congressmen and reporters on the bus, "You can find better guidelines in a good cookbook than in a highway standards manual."

Representative Blatnik told a reporter, "It's hard as hell to make people aware" of the need for highway safety. "What bothers me the most is we repeat the same old mistakes (in building highways and installing traffic signs) over and over again." He thought that "a major lack of communication" existed among engineers about what was needed to improve highway safety.

Representative Harsha, predicting 80,000 fatalities a year by 1980, said, "There is a great inertia in getting these things done." He was, however, optimistic that his Highway Safety Act would be approved and that it would help reduce the deadly toll. [Crosby, Thomas, "Congressmen Given a Look," *Washington Star-News*, March 27, 1973]

While the Committee on Public Works developed its Federal-Aid Highway Act of 1973, *Engineering News-Record* reported that, "The dispute between President Nixon and the Democratic-controlled Congress over spending levels and priorities appears headed for a showdown." The Nixon Administration wanted to hold funding levels down to fight inflation as it implemented phase 3 of the New Economic Policy the President had announced on August 15, 1971. He ended the phase 2 wage-and-price stabilization program by lifting the mandatory program and setting a voluntary limit of 1 percent on the average increase in prices each company could make without government approval.

The lifting of mandatory controls unleased pent up demand for wage and price increases. On March 6, the Cost of Living Council reimposed mandatory controls on the 23 biggest oil companies covering crude oil, gasoline, heating oil and other refinery products, excluding natural gas. [Cowan, Edward, "Oil and Gasoline Prices Put Under Control Again; Farm Curbs Also Weighed," *The New York Times*, March 7, 1973]

With the President trying to hold down deficits, congressional views on what, if anything, to do varied. Representative Ford, the Republican leader, predicted vetoes. "It's a presidential responsibility to see that funds are not spent wastefully, and there are historical precedents to justify the President's actions." The House Majority Whip, Representative John J. McFall (D-Ca.), countered that the Administration was trying to depict the President as riding herd on the wild-eyed spenders in Congress. "The real issue here is whether one man shall rule or whether our system of balanced powers shall continue."

Senator Ervin was developing legislation that would force President Nixon to release $12 billion in impounded funds and require congressional approval for any future impoundments lasting more than 60 days. Other Democrats were considering a counter-budget to revamp spending priorities while staying within the Administration's $268-billion ceiling. "A long-term solution has been introduced by Sen. William Brock (R-Tenn.) in a bill (S.40) that would provide Congress with an integrated budget procedure that would rationally limit spending and set national priorities."

Another option was to attach provisions the President opposed to bills he needed and would not want to veto. For example, the Senate's version of the Federal-Aid Highway Act of 1973 included anti-impoundment language that could result in a veto. The Administration supported many of the bill's provisions, but the article pointed out that the construction industry opposed some provisions, particularly the Muskie-Baker amendment. As the House prepared to release its bill, "the outcome of the trust fund diversion issue is still too close to call." Other highway legislation, including Representative Harsha's Highway Safety Act and the version introduced by Senator Bentsen faced "tough sledding in view of the Administration's attempts to reduce categorical grant-type programs." Both bills, the article stated, "will probably also be opposed by the Administration."

The article listed "legistion that bears watching," including:

- Impoundment (S.3) –A challenge to the President's impoundment practices, it would require him to commit some $12 billion in impoundments within 60 days or receive congressional approval for continued impoundment.
- Land use control (S.268, S.294)—Similar to 1972 proposals, these would provide aid to states to develop land use programs with possible sanctions against those that fail to adopt guidelines.
- Energy policy and conservation (S.70, S.419)—Top priority measures to develop a national energy policy through research and long-range planning for energy use.
- Metric conversion (S.100, H.R. 1234)—The Senate version would make metric the only legal system, with total conversion within 10 years, while the House measure makes conversion mandatory for government but voluntary for private industry..
- Airport development (S.38, H.R. 2695)—A veto prone measure that has passed the Senate and would boost the federal share of airport development from 50% to 75% for all but the country's largest airports.
- Highways (S.502)—An $18 billion, three-year measure that opens the Highway Trust Fund for public transit and prohibits the Administration from impounding highway funds, heads for a major battle on the House floor.

Other legislation listed as part of the battle between the Administration and Congress included bills on flood control, converting space and defense technology to domestic uses, ending restrictive work rules and building codes to increase productivity in Federal housing programs, increased flexibility for private pensions, limiting export of softwood lumber and timber while investigating spiraling lumber and plywood prices, and demonstration projects on solid waste disposal and recycling. ["Spending Disputes Dominate Congress' Legislative List," *Engineering News-Record*, March 29, 1973, p. 8-9]

(Economic historian John Steele Gordon said of the New Economic Policy:

> On August 15, 1971, President Nixon acted decisively, if not necessarily wisely, to solve the increasing economic problems that confronted the country . . . . Within two years they were abandoned, and inflation, now unchecked by any link to gold, continued unabated around the globe. As a result, interest rates soared as lenders demanded protection against the rapidly falling value of the dollar and other currencies . . . . Meanwhile, the American trade balance continued to deteriorate. [Gordon, John Steele, *An Empire of Wealth: The Epic History of American Economic Power*, HarperCollins, 2004, p. 384-386])

The Senate Public Works Committee approved Senator Bentsen's Highway Safety Act of 1973 on March 29. It authorized $935 million over 2 years, mostly from the Highway Trust Fund. As noted earlier, the funds would help States eliminate railroad-highway grade crossings, improve signs, correct hazardous locations, and replace deficient bridges. For the first time, the bill would allow the funds to be used on State roads that were not included in a Federal-aid highway system. ["Highway Safety Funding Clears Senate Committee," *The Wall Street Journal*, March 30, 1973]

That same day, the House Banking Subcommittee on Urban Mass Transportation voted to authorize $800 million over 2 years in general Treasury funds for mass transit operating subsidies with a one-third local matching requirement. The measure also increased capital grant aid from $3.1 billion to $6.1 billion, but with an 80-20 matching formula instead of the current one-third local match or the Administration's recommended 70-30 ratio. ["House Banking Unit Votes $800 Million Mass-Transit Funds," *The Wall Street Journal*, March 30, 1973]

Representative Mario Biaggi (D-NY), a former policeman who was elected to the House in November 1968 to represent the Bronx, had introduced the measure as a parallel to the Senate bill. This measure, he said, was "imperative" because mass transit had reached "crisis level" in many cities. Highway projects were "creating many more problems than they solve" and were the main reason for air pollution. The time had come to change priorities. "Over the long-run, mass transit costs will turn out to be significantly lower than those required to perpetuate highway construction and maintenance." If the best points of highways and mass transit were treated as complementary, he said, a unified and efficient transportation system would be possible. ["Mass Transit Funds Urged," *The Journal of Commerce*," April 3, 1973]

Elsewhere on Capitol Hill, Senator Hart of Michigan, who had voted for the Clean Air Amendments of 1970, held a news conference to announce that he supported reevaluation of the tough emission standards for 1975 model year automobiles. He had "a hunch that the public health and economy might be better served by a more flexible time-frame." Applying cost-benefit considerations to the standards, he said, would not help because "no one knows" how to calculate the value of the health benefits. Although he had voted for the legislation, he now said, "I've always been uncomfortable with the idea that Congress is competent to fix federal standards." Lower cost options, such as parking restrictions in heavily populated areas, might be more productive.

Senator Hart told reporters that he had not discussed his new views with auto industry executives in his home State. They had, he told reporters, been "dragging their feet" on emissions control and said their own "myopia" was responsible for the "crisis we find ourselves in today." He added:

> It might be justifiably said that had the auto companies in 1970 been more highly thought of in regard to fairness, integrity and consumer concern, the Clean Air Act may have passed in a more moderate form.

He also had not discussed his revised position with Senator Muskie, one of the legislation's strongest backers.

Senator Muskie agreed with Senator Hart about the myopia of the auto industry, but not reevaluation of the standards. In a speech to the Environmental Writers Association he said that in view of the industry's poor management and stalling tactics, Congress might have to dictate how clean-air engines should be designed:

> The harsh truth is that German and Japanese auto companies apparently have developed more new control technology and have contributed more to the protection of America's

> health than have General Motors, Chrysler and Ford. Apparently, American auto companies have decided to substitute politics for engineering, and public relations for technological progress.

The industry's call for a 1-year extension of the 1975 model-year deadline demonstrated that Congress had made a mistake in expecting the automakers to solve their own problems:

> In light of this reluctance, Congress must consider what alternative engine systems are available, what their possibilities and limitations are, and how much it would cost. In this connection the Congress would have to consider imposing standards of engine design, performance and fuel economy, and we will need to examine the arguments for improving the competitive structure of the industry. [United Press International, "Hart Urges 2d Look at Auto Rules," *The Washington Post*, March 30, 1973]

On March 30, *The Washington Post* published reporter Peter Braestrup's inside look at how Representative Wright, "chief House foe of administration-backed proposals to tap the federal highway trust fund for mass transit," was promoting an alternative "consensus" measure to accomplish his goal:

> His aim is to split the "Bust-the-Trust" coalition, which includes Transportation Department lobbyists, environmentalists, big-city mayors, and the money-starved transit industry.

Representative Wright began by targeting the "closely-divided" House Rules Committee, which would have to clear a vote on a "bust-the-trust" amendment before the Public Works Committee's bill reached the House floor:

> In letters to Rules Committee members, Wright in effect said that they need not clear a bust-the-trust amendment since Wright's alternative package would take care of urban rail and bus transit needs without touching any of the $6-billion-a-year federal highway money.

He planned to push his "consensus" bill when the Public Works Committee met the following week to draft the bill. It would include, according to Braestrup:

- A new 10,000-mile "junior interstate" system to succeed the present $3 billion a year, 41,500-mile [sic] interstate expressway program, now 80 per cent complete.
- "Permissive substitution" by states of mass transit facilities for federally-subsidized urban highways, but with the transit costs paid out of congressional appropriations, not the highway fund.
- Another $1 billion a year, as approved by the Senate (and the administration) for purchase of buses and subway facilities—also out of general revenues.
- No counterpart to the Senate-approved plan under which federal funds could be shifted from disputed interstate segments to build urban roads or transit.

The Administration was promoting flexibility in the use of urban dollars from the Highway Trust Fund as part of its campaign to keep down overall Federal outlays. Its supporters argued that Representative Wright was promising transit supporters "more than he could deliver."

Braestrup noted that on March 13, the Senate, had approved "flexible" use of $850 million in Federal-aid urban system funds. "But in the House, 'pro-highway' sentiment—and lobbying—is stronger." Backed by industry lobbyists, Representatives such as Wright and Ford believed that non-highway uses of the Highway Trust Fund revenue would jeopardize Federal-aid highway programs. They anticipated that Representative Wright's bill would prevail and that the Committee on Public Works would not adopt "bust-the-trust" measures such as those in the Senate bill, S. 502.

Supporters of diversion, such as Representative John Anderson, planned to offer a Senate-style "bust-the-trust" amendment on the House floor but first they would have to get it past the Rules Committee:

> "We expect to lose in committe [sic] and hope to win on the floor" said John Kramer, chief lobbyist for the environmentalist Highway Action Coalition, which has teamed up with the administration, Common Cause, several unions (including the Auto Workers and Teamsters), the rail transit industry, big-city mayors, and some governors . . . . Right now, according to Capitol Hill sources, Kramer, Transportation Secretary Claude Brinegar and their allies are at least 25 House votes short of "Busting the trust" in a floor battle, partly because of tardy lobbying by the White House. [Braestrup, Peter, "Highway Trust Backer Pushes Alternate Plan," *The Washington Post*, March 30, 1973]

Braestrup did not say so, but the Administration was working on a variety of fronts at the time. On March 25, Democrats and Republicans on the Congressional Joint Economic Committee had agreed unanimously with the President's proposal to limit spending in FY 1974 to $268 billion, although Democrats on the panel suggested that "Congress should make major reallocations [within] the Administration's proposed expenditure total." They also recommended more stringent wage-price controls. Their suggestion was reinforced by a Department of Agriculture report that a "market basket" of foods cost a typical family 2.5 percent more in February than in January. The biggest increases were in beef, pork, poultry, and fresh vegetables.

The Administration moved to curb the skyrocketing cost of new housing by increasing the timber supply from National Forests and seeking a voluntary agreement with Japan to hold down its purchase of American timber. [Dale, Edwin L., Jr., "Joint Unit Backs Spending Ceiling Sought by Nixon," *The New York Times*, March 25, 1973; Robbins, William, "Farm Food Prices Up 2.5% in Month," *The New York Times*, March 26, 1973; Associated Press, "U.S. Acts to Curb Cost of Housing," *The New York Times*, March 27, 1973]

On March 26, *CBS Evening News*, with Roger Mudd substituting for anchor Walter Cronkite, included a segment on the future of the Highway Trust Fund. After an introduction, the segment stated:

> In 1956, Congress set up the highway trust fund to finance what was to become the biggest public works project in American history; the 42,500-mile $80 billion interstate highway system. The fund operated entirely outside the regular federal revenue structure. Instead, it was financed by special automobile user taxes—on tires, trucking tonnage and particularly by a tax on gasoline, which is now up to 4 cents a gallon. With the passage of time, construction costs went up, but fund revenues kept up with them. And now the interstate highway system is in large part completed.
>
> But in the meantime, we've come to regard new highways as a mixed blessing. They're very big with truckers and tourists, but they also glut our major metropolitan areas with traffic congestion and air pollution.

The segment asked "whether we're to continue blindly going on building more highways as usual, or whether the growing problem of congestion and pollution, and now impending gasoline shortages as well, have finally gotten through to us." [Quoted in *Congressional Record-House*, April 18, 1973, p. 13114]

On March 27, President Nixon vetoed the $2.6 billion Vocational Rehabilitation Bill, saying:

> This bill is one of several now before the Congress which mask bad legislation beneath alluring labels. Their supporters would have the American public believe that each of these bills would further an important social cause, but they neglect to warn the public that the cumulative effect of a Congressional spending spree would be a massive assault upon the pocketbooks of millions of men and women in this country. They also fail to warn us that simply throwing money at problems does not solve anything; it only creates poor legislation which frequently misses the target.

George Meany, president of the AFL-CIO, urged Congress on March 28 to roll prices back to December levels to ensure labor's cooperation in President Nixon's phase 3 wage-price stabilization effort. "Testifying before the House Banking Committee, Mr. Meany was indignant about rising food prices but carefully stopped short of saying he would withdraw his support for Phase 3, as he did for Phase 2 a year ago." [Cowan, Edward, "Meany Proposes a Price Rollback to Late '72 Level," *The New York Times*, March 29, 1973]

On March 29, consumer and women's groups called for a boycott of meat the following week. [Lissner, Will, "Consumers Rally for Meat Boycott," *The New York Times*, March 30, 1973]

That evening, President Nixon addressed the American people on the Vietnam War and domestic issues:

> For the first time in 12 years, no American military forces are in Vietnam. All of our American POW's are on their way home. The 17 million people of South Vietnam have the right to choose their own government without outside interference, and because of our program of Vietnamization, they have the strength to defend that right. We have prevented the imposition of a Communist government by force on South Vietnam.

Turning to domestic issues, he said:

> Tonight I ask your support in another battle. But we can be thankful this is not a battle in war abroad, but a battle we must win if we are to build a new prosperity without war and without inflation at home.
>
> What I refer to is the battle of the budget--not just the battle over the Federal budget, but even more important, the battle of your budget, the family budget of every home in America.
>
> One of the most terrible costs of war is inflation. The cost of living has skyrocketed during and after every war America has been engaged in. We recognized this danger 4 years ago. We have taken strong action to deal with it. As a result of our policies, we have cut the rate of inflation in half from the high point it reached in 1969 and 1970. And today, our rate of inflation in the United States is the lowest of that of any industrial nation in the world.
>
> But these positive statistics are small comfort to a family trying to make both ends meet.

To help, he was imposing price ceilings on beef, pork, and lamb effective immediately. [Cowan, Edward, "Nixon Sets Meat Price Ceilings at Both Wholesale and Retail; Asserts Costs 'Should Go Down,'" *The New York Times*, March 30, 1973]

The President's action was met with skepticism, as reflected in a series of *Times* articles on Saturday, March 31. The opening paragraphs read:

> Members of Congress from both parties and spokesmen for the meat packers and supermarkets voiced disapproval today of the ceilings on meat prices announced last night by President Nixon in a reversal of policy. Critics contended either that the ceiling was too limited to stop inflation or that it would cause new shortages of meat. [Cowan, Edward, "Meat Price Curb Evokes Criticism from Congress," *The New York Times*, March 31, 1973]
>
> In the midst of widespread confusion in the meat industry today, packers, wholesalers and livestock feeders said they expected President Nixon's new ceiling on beef and pork to keep supermarket prices at their current high levels and do nothing to bring them down in the future. They said that if prices of live cattle and hogs, which are not controlled by the President's order of last night, rose any further, they expected shortages of popular cuts and slowdowns in packing plant production. Some industry observers said they believed the ceiling would become a floor. [King, Seth S., "Processors Doubt Prices Will Fall," *The New York Times*, March 31, 1971]
>
> "He's freezing prices while they are at all-time high levels." "Stabilization is not enough. Prices are too high now." "He should have done this long ago." "I'm not buying. I'm just looking at the prices and laughing." Their reactions varied. Their tones ranged from open anger to quiet resolve. But on the front lines of inflation—in the redolent aisles of the nation's supermarkets—housewives and shoppers said with striking uniformity yesterday that they were not satisfied with President Nixon's imposition of price ceilings on meat.

> [McFadden, Robert D., "Few Shoppers are Pleased by the Meat Price Ceilings," *The New York Times*, March 31, 1972]

Millions of homes had received the April 1973 issue of *Reader's Digest*, which contained Ann Dear's article, "We Should Open Up the Highway Trust Fund Now." Dear began by describing how a change in the bus schedule had stranded a widow in Knoxville and how a Philadelphia student supporting a wife and child had to pay 7 percent of his income to get from his suburban home to the city. These stories illustrated the deteriorating service and high fares that forced 268 mass-transportation companies out of existence since 1954, with 20 more "teetering on the brink of bankruptcy." Surviving companies had sustained deficits of a half-billion dollars in 1972 alone. The number of vehicles had declined by 25,000 since 1950 while passenger rides were down by 10 billion over that period:

> "These passengers aren't lost," says the American Transit Association. "Most are riding in from suburbia, one to a car, and sitting bumper-to-bumper on the most magnificent highways money can buy."

The alternatives to this scenario, Dear wrote, were clear. "We can continue to be plagued by ever-increasing traffic jams, or we can create efficient public transportation—modern subway and bus systems, high-speed commuter trains—to move millions of workers to jobs and assist the one quarter of our population too poor, too old or too handicapped to own a car." She quoted former Secretary Volpe as saying that unless we turned to mass transit, we may see "our urban-circulatory systems strangled by traffic and choked by smog, rendering even our great highways useless . . . ."

The problem was the Highway Trust Fund. She cited Kelley's *The Pavers and the Paved* as explaining that when a new highway opened, it increased traffic, which put more money into the Highway Trust Fund to build more highways. He said, "The self-perpetuating circularity of the process may appall economists and transportation planners, but it delights industries dependent on highway construction for profits." The result was investment in the past 5 years of a "lopsided" $10 billion in urban highways and only $1.1 billion for public transportation.

Cities were left with a difficult choice, as illustrated in San Francisco. When the city decided not to extend the double-decked Embaradero Freeway "and spoil their picturesque waterfront" in 1964, the city lost $270 million in Highway Trust Fund money. Now it would like to use that money for BART, "exactly the kind of transportation flexibility that countless other cities desperately need."

In 1972, the Cooper-Muskie amendment to allow flexible use of Federal-aid urban system funds "was soon under severe attack" by HUFSAM, with its 50 staffers and $3 million-a-year budget, and TRIP, which launched a $500,000 public-relations campaign in support of the Highway Trust Fund. "When Mobil Oil Corporation, in a notable split with the highway lobby, called for improved mass transit and even Trust Fund abolition, TRIP urged industry groups to protest these ads."

The Highway Action Coalition, Dear said, had fought back. "Largely because of HAC's efforts," the Cooper-Muskie amendment passed the Senate in 1972 before battle shifted to the House "where the highway lobby is traditionally far stronger. As many as 50 full-time highway lobbyists swarmed through the House office buildings." The Committee for Action, a contractors' organization, contributed $150,300 to more than 60 political candidates "and donations also flowed from truckers' groups."

Meanwhile, "HAC fought back with only 12 volunteer lobbyists and funds so low its staff of three had gone unpaid for two months." The League of Women Voters, Common Cause, and the American Public Health Association were among the groups that the Highway Action Coalition brought into the fight:

> No one was more persuasive than Transportation Secretary Volpe, ironically the nation's first highway administrator in 1956, who tirelessly telephoned and buttonholed Congressmen. Soon the ranks of public-transportation supporters in the House swelled to 200. But a series of parliamentary maneuvers engineered by the highway interests kept the issue of opening up the Trust Fund from coming to a vote.

After the conference committee "wrangled to an unsatisfactory compromise," Dear wrote, the legislation died on a quorum call.

Now, as "opposing forces clash on the same battleground this year," Dear had suggestions for what readers could do:

> If we want an end to traffic jams, poor bus service and antiquated rail systems, we can:
>
>> Try to make certain that our local officials direct their planning to *balanced* transportation needs—and not to highways alone. (Maryland is now the only state with a trust fund under which all transportation-related taxes can be used for various transportation modes on a needs basis.)
>>
>> Write to the Highway Action Coalition, 1346 Connecticut Ave., N.W., Washington, D.C. 20036, to learn how your community can work for balanced transportation.
>>
>> Tell your Senator and Congressman that now is the time to let the Highway Trust Fund be used for public transportation. As Secretary Volpe said during last year's legislative battle: "This isn't a raid on the highway fund—it's a ray of hope for better mobility for all Americans." [Dear, Ann, "We Should Open Up the Highway Trust Fund <u>Now</u>," *Reader's Digest*, April 1973, p. 191, emphasis in original]

(Other articles in the issue included "TV Violence IS Harmful," "Time to Get Tough with Terrorists!" "What You Should Know About Your Automobile Dealer," "Henry Kissinger: Peacemaker," "Survey: How Women Really Feel About the 'New Feminism,'" "The San Andreas Fault: California's Earthquake Laboratory," "Cooking to Cut Calories," "Why the Soviet Union Can't Feed Itself," "Where Have All the Fathers Gone," "The Sinister Warlord Behind Asia's Drug Traffic," "We're Running Out of Gas – Needlessly," "Is America Saying No to Growth?" "Yugoslavia: Time Bomb in Europe," and "Beating Those Blue-Collar Blues.")

As the House Public Works Committee completed work on its bill, other voices continued to worry about the outcome. An editorial in *The Los Angeles Times* described the Muskie-Baker amendment as "a modest proposal" that was "being fought tooth and nail by the highway lobby—the politically potent coalition of builders, material suppliers, oil companies and others who have a valuable vested interest in road construction." Through their efforts, the Highway Trust Fund "has come to be regarded . . . as something sacred and indivisible, not to be shared even in the smallest way, not to be diverted regardless of compelling need." The House committee was expected to defeat the amendment, which meant "this essential measure can be rescued only if it is adopted by a vote on the House floor." With energy shortages looming, it was "not simply desirable but urgent [to support] a comprehensive program to develop urban mass transit systems as alternatives to the automobile." The Muskie-Baker amendment was "an essential start in that development. It must not be allowed to fail in the House." ["Will the Highway Lobby Get Its Way?" *The Los Angeles Times*, April 3, 1973]

In *The New York Times*, columnist Tom Wicker again turned to the subject. He began by saying, "New or renewed rail transit is an idea whose time has come, despite the highway lobby's propaganda." He cited BART; the Lindenwold Line from south New Jersey to Philadelphia that began in 1969 "and now carries 42,000 riders daily, 40 per cent of whom are former automobile commuters"; plans for subways or rail lines in Atlanta, Baltimore, Buffalo, Miami, and Washington; the CTA's updated electrified rail line to Skokie; and Governor Sargent's decision to halt construction of urban superhighways in favor of transit:

> And rail transit does not require all that space for eight or 16 lanes of concrete, huge cloverleafs, and acres of downtown parking. Above all, rail transit can bring communities full cycle to the solution of a problem described as follows by Gov. Francis Sargent of Massachusetts:
>
>> "We found that we had defeated our own purpose, and that we have been caught in a vicious cycle. More cars meant more highways, which meant more traffic jams, more traffic jams meant the need for more highways, which meant more traffic jams—and the need for superhighways. The result today? Miles and miles of bumper-to-bumper traffic, creeping along hopelessly crowded highways. The side effect? Billions of dollars spent, more and more cities torn apart, more and more families uprooted and displaced. Worst of all—failure to solve the problem that started it all: how best to get from one place to another."

Nothing, Wicker said, "in the murky world of public affairs seems clearer than that at least part of the massive Highway Trust Fund ought to be made available to communities that prefer new or renewed rail transit to more superhighways." The Senate and the Nixon Administration supported the Muskie-Baker amendment in 1973 as they did the Cooper-Muskie amendment in 1972, and the need is apparent:

> Yet, when the House debates the matter later this month, it may well reject the idea; last year, it did not even vote on it. That is primarily because the highway lobby has pictured

> this limited step as the beginning of the end for highway construction and has succeeded in rallying representatives of rural states and areas against it.

The key was Speaker of the House Albert, who had "effectively sided" with the highway lobby in 1972 in the Rules Committee finding that the amendment was not germane. "But in this session, reforms have increased Mr. Albert's potential strength, and personnel changes have given him more power over the vital Rules Committee than any Speaker has had in years." His support could help clear the parliamentary difficulties to bringing the amendment to the floor for a vote. "With that stroke, the Speaker could gain new standing among the urban members who have been the least impressed with his leadership." [Wicker, Tom,"Two Tracks vs. Eight Lanes," *The New York Times*, April 3, 1973]

On April 3, the Senate sustained President Nixon's veto of the vocational aid act by 60 to 36. The vote, 4 short of the number needed to override the veto, meant that House action would not be needed. The bill was dead. The *Times* described Senate Majority Leader Mansfield as being "obviously thunderstruck" by the vote. "The President's in the driver's seat—at least for the time being." [Hunter, Marjorie, "Senate Sustains Nixon Fund Veto by a Margin of 4," *The New York Times*, April 4, 1973]

As mentioned earlier, Governors Rockefeller and Cahill dedicated the $700-million twin towers of the World Trade Center on April 4. A statement from President Nixon was read predicting that the twin towers would be "a major factor in the expansion of the nation's international trade." [Prial, Frank J., "Governors Dedicated Trade Center Here; World Role is Cited," *The New York Times*, April 5, 1973]

The House Committee's Federal-Aid Highway Act of 1973

On April 3, the House Public Works Committee began an unusual 3 days of public votes to complete its Federal-Aid Highway Act of 1973. In its most critical vote the first day, the committee voted 29 to 8 to defeat Representative Glenn Anderson's version of the Muskie-Baker amendment. The committee preferred Representative Wright's consensus measure to allow up to $700 million to be used for mass transit, with the transit funds to come from the general Treasury rather than the Highway Trust Fund.

The next day, an account in *The Wall Street Journal* explained:

> Pro-highway forces in the House, who yesterday blocked the transit amendment, have proposed instead that cities be allowed to substitute mass transit systems for highways, but pay for them out of general revenues rather than the trust fund. They hope this provision will be enough to persuade the Rules Committee that a floor vote on the fund-busting amendment isn't needed to aid transit systems.

On April 4, the committee rejected, 27 to 8, an effort to repeal the Highway Beautification Act of 1965, but also rejected by voice vote a proposal to eliminate the 2-year moratorium on removal of billboards from the bill.

The following day, the House Committee on Public Works reported out a 3-year $18 billion Federal-Aid Highway Act of 1973.

Proponents of the Anderson amendment called the Wright substitute a "Rube Goldberg contraption" and Representative Anderson called the measure "a sham, designed to pay lip-service to mass transit, while continuing to construct more and more highways in areas desperately needing alternatives to the automobile." He planned to introduce the amendment when the bill reached the House floor, subject to a ruling by the Rules Committee that the measure is germane. Representative John Anderson, the senior Republican on the Rules Committee, said the committee was evenly divided, with one member, Representative Clawson, in doubt.

The vote was expected in a week. *The Washington Post* summarized the situation:

> The Illinois Republican said getting such a rule depends on the leadership and the administration, which supports the trust-busting amendment. He said the Speaker is remaining "neutral" in the fight, which allows the trust-busters to try to change the vote of two of the Speaker's men on the Rules Committee, Rep. Gillis Long (D-La.) and Rep. Clem McSpadden (D-Okla.).
>
> Asked what he would like the President to do, the Illinois Republican said, "I would hope the White House would do what they did last year when they had Secretary of Transportation (John) Volpe personally call many Republican members of the House."

John Kramer said backers were about 16 votes short of passing the provision on the House floor. Others thought the deficit was as high as 40 votes. He was concerned by reports that the Rules Committee decision might be delayed until after the Easter recess because the delay might cause a loss of momentum.

In *The New York Times*, reporter David Rosenbaum estimated the measure was 15 to 40 votes short of floor passage, with Republican Leader Ford one of its strongest opponents. Although the Rules Committee was evenly divided, supporters were "hoping that the House Democratic leadership will exert enough pressure on the committee to win favorable action this year." Representative Wright's consensus measure "was most likely a futile gesture" because the President would "almost certainly not make the money available from the general treasury." Rosenbaum added:

> The Public Works Committee spent three days writing the bill in public session. It was the first times in years, perhaps ever, that the committee has voted on the provisions of a major piece of legislation in public.

The committee had adopted Representative Abzug's amendment prohibiting the President from impounding UMTA funds, but rejected her amendments, taken from the Senate bill, to provide funds for mass transit operating subsidies and the pass-through proposal for providing funds to 32 large cities for expenditure rather than by the State highway agencies. [Russell, Mary, "$18 Billion Highways Bill Approved by House Group," *The Washington Post*, April 6, 1973; Rosenbaum, David E., "Road Bill Bars Mass Transit Use," *The New York Times*, April 6, 1973]

Title I of the committee's bill was the Federal-Aid Highway Act of 1973. Its many provisions included:

- Authorized an additional $8 billion for construction of the Interstate System. The bill approved use of the 1972 estimate to apportion the funds. The time for completing the Interstate System was extended to June 30, 1979.
- Authorized separate amounts for rural and urban portions of the Federal-aid primary and secondary systems: $700 million for the rural primary; $400 million for rural secondary; $400 million for urban primary and secondary extensions; and $700 million for the Federal-aid urban system. Authorizations included $150 million for economic growth center development highways, $33 million for Forest Highways, and $16 million for Public Lands Highways.
- Established a policy that following completion of the Interstate System, increased emphasis would be placed on acceleration of other Federal-aid systems to bring them up to standards and increase their safety to the maximum possible no later than 1990.
- Encouraged the Secretary of Transportation and agencies within the Department to make drastic reductions in paperwork and interagency decision procedures.
- Expanded certification acceptance procedures that would allow the Secretary to accept a certification from a State highway agency that it would comply with State requirements for project development on all Federal-aid systems, except the Interstate System, to satisfy the provisions of Title 23 and that final decisions would be in the best overall public interest. Projects were to be inspected upon completion and the Secretary may rescind his approval of certification if necessary.
- When toll roads included in the Interstate System end toll collection, Interstate construction funds could be used for construction, reconstruction, or improvement of the roads.
- Modified the Highway Beautification Act to extend outdoor advertising controls beyond the present 660-foot limitation from the edge of the highway right-of-way to cover signs visible from the main traveled way that were "erected with the purpose of their message being read from such main traveled way." According to the Committee's report, the goal was to "prevent the mushrooming of giant billboards which are now being erected beyond the 660 foot limit to circumvent the intention of the Beautification Act." Beyond 660 feet, permitted signs would be those containing directional information, official signs, and notices of specific interest to motorists, such as those advertising rest stops, campgrounds, food service, gas and automobile service, lodging, natural wonders, and scenic and historic attractions. Only three such signs per mile were to be permitted. Signs not in conformity with State law were to be removed no later than 5 years after they become nonconforming. Extended the Secretary's authority to provide standards for Logo signs to the primary system as well as the Interstate System.
- Federal-aid system funds could be used for highway public transportation purposes, including exclusive bus lanes, traffic control devices, and passenger loading areas and facilities. When sufficient right-of-way was available, it could be used to accommodate rail or other nonhighway public mass transit programs as long as it did not impair highway safety or potential highway expansion. Interstate construction funds could be used for construction of exclusive or preferential bus, truck, and emergency vehicle routes.

- In distributing Federal-aid urban system funds, States shall apportion amounts to incorporated municipalities over 400,000 population based on the ratio of that population to all urbanized areas in the State.
- If local officials wanted to use Federal-aid urban system funds for fixed rail facilities or purchase of passenger equipment, including rolling stock for mass transit, the Secretary could approve the activity as a contractual obligation for payment from the general Treasury. The equivalent amount of urban funds would be returned to the Highway Trust Fund.
- Routes and schedules for public mass transportation systems financed under the Act would be set in accordance with the metropolitan planning process. The Secretary was prohibited from approving any project unless he was assured that the mass transit system would have adequate ridership to fully use the proposed project. The funds could not be used for school buses. Further, the funds must be supplementary to and not in substitution for funds under the Urban Mass Transportation Act.
- Any highway not on the Interstate System may be designated an economic growth center development highway. The program would now be a permanent program rather than a demonstration project.
- Added Section 145 ("Federal-State Relationship") to Title 23 to specify that the authorization of Federal funds or their availability for expenditure shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. "The provisions of this chapter provide for a federally assisted State program."
- Federal-aid system funds could be used to construct, in conjunction with Federal-aid projects, separate or preferential bicycle lanes, bicycle traffic control devices, shelters, and parking facilities to serve bicycles and bicyclists. Funds authorized for Forest Highways, forest and public lands development roads and trails, parkways, Indian reservations, and Public Lands Highways could be used for constructing bicycle routes in conjunction with such trails, roads, highways, or parkways. No motorized vehicles would be permitted on the trails except for maintenance purposes and, when snow conditions permit, snowmobiles.
- Authorized $100 million a year for special highways connected to the Interstate System in portions of urbanized areas with high traffic density. Federal share not to exceed 90 percent.
- Authorized $300 million a year, FYs 1974-1976, for carrying out the priority primary route program. The Secretary would select 10,000 miles of high traffic sections of the primary system for priority of improvement. A report to Congress on route selection and their estimated cost would be due on or before July 1, 1974.
- Authorized $58,670,000 to reconstruct the Alaska Highway from the Alaska border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction to the south Alaska border.
- Authorized $20 million a year from the Highway Trust Fund for construction of Federal-aid system segments of the Great River Road along the Mississippi River, as well as $10 million a year from the general Treasury for portions on Federal lands.
- New Hampshire would be permitted to repay all Federal-aid funds paid on account of certain sections of Route 101 prior to the collection of tolls. The funds would remain available for other projects in New Hampshire. All restrictions on toll collection would be ended following repayment.

- States that had constructed or acquired toll bridges on the primary system and ended toll collection may use primary funds on it.
- The Secretary would report to Congress by July 1, 1974, on a study of existing laws and regulations governing toll bridges over navigable waters to determine what action could and should be taken to assure just and reasonable tolls nationwide.
- The Secretary also would report to Congress on a full and complete investigation to determine the feasibility of a national system of scenic highways linking and making accessible recreational, historical, scientific, and other similar areas of scenic interest and importance.
- Required the Secretary to withhold further action on I-287 between Montville and Mahwah, New Jersey, and the Corporation Freeway in Winston-Salem, North Carolina, until corridor hearings were held.
- Amended the Howard-Cramer Interstate substitution provision by eliminating the 200-mile limitation to supplement substitute Interstates; additional mileage for substitute routes would be open-ended. Further, the Secretary was to give "preference, along with due regard for interstate highway type needs on a nationwide basis," to routes in States in which other routes were or hereafter are withdrawn and extension of routes which terminate within cites served by a single Interstate route, to provide traffic service entirely through such cities.
- Upon the joint request of a Governor and the local governments concerned, the Secretary may withdraw approval of an Interstate route if it is not essential to completion of a connection system and the State does not plan to construct a toll road in the corridor. The mileage was to be made available for designation in another State. If responsible local officials prefer a public mass transit project involving fixed rail or purchase of rolling stock, the Secretary may approve it as a contractual obligation for use of general Treasury funds. Any such project would be subject to assurances that the public mass transportation systems would have adequate capability to fully utilize the proposed project.
- Authorized $75 million for a report evaluating the public mass transportation portion of the 1972 National Transportation Report.
- Authorized Federal assistance for construction of ferry boats operating in international waters among the islands in Hawaii and from Alaska to the State of Washington.
- Directed the Secretary to expedite action on the environmental impact statements for a highway bridge project at the Raritan River on State Highway 18 in New Jersey and I-66 in Arlington and Fairfax Counties, Virginia.

Title II was the Highway Safety Act of 1973. It authorized funds out of the Highway Trust Fund for the FHWA and NHTSA safety programs and for eliminating hazards at rail-highway crossings. Funds for bridge reconstruction and replacement would come from the Highway Trust Fund for projects on the Federal-aid systema and from the general Treasury for projects off the systems. It also authorized:

- Pavement Marking Demonstration Program
- Pavement Marking Research and Demonstration Program
- Drug Use and Driver Behavior Highway Safety Research
- Projects for high-hazard locations

- Program for the elimination of roadside obstacles
- Highway safety education programming and study
- Citizen participation study
- Feasibility study—National Center for Statistical Analysis of Highway Operations
- Pedestrian safety study
- Manpower training and demonstration programs
- Incentives for compliance with highway safety programs
- Highway safety research and development
- National highway safety advisory committee
- Underpass demonstration project in Anoka, Minnesota
- Highway safety needs study
- Driver education and evaluation program
- Curb ramps for the handicapped
- Rail-highway crossings demonstration project on 10 rail-highway projects in 10 specified cities.

Title III was the Urban Mass Transportation Act. It increased the Federal share of UMTA capital grant projects to 80 percent and increased contract authority from $3.1 billion to $6.1 billion. It also provided that no funds authorized under the Urban Mass Transportation Act of 1964, as amended, shall be impounded or withheld from obligation.

The legislation also included Title IV ("Prohibition of Discrimination on the Basis of Sex") and Title V ("Inapplicability of Time Requirements").

One thing missing from the bill was the provision relieving San Antonio's North Expressway from its status as a Federal-aid highway project. If the Senate provision did not become law, the House provision adding Section 145 ("Federal-State Relationship") to Title 23 may have bolstered Texas' legal argument in court. It would have allowed expressway proponents to argue that the State, not FHWA or the courts, had the sovereign right to determine which projects are federally financed. However, the legislative history is unclear on the intent behind this provision.

In releasing the Federal-Aid Highway Act of 1973, the committee described growing highway needs and the importance of mass transit, but explained why it rejected bust-the-trust proposals:

> Proposals that have been made to stop highway construction and to use the Highway Trust Fund for mass transit do not provide an acceptable answer to the urban areas' needs for transportation of persons, goods, and services. We must continue to provide our urban areas with the modern system of highways and streets that are their very lifelines—because in all of our major urban areas, due to economic, geographic, and populations [sic] reasons, highways will continue into the foreseeable future to serve as the principal means of transportation for people, and the sole means of transportation for most or all goods and service functions.

The committee had increased funding for the Federal-aid urban system "while at the same time liberalizing the criteria for providing public mass transportation facilities, such as special bus lanes, traffic control devices, passenger loading areas, shelters, and parking facilities, all from the apportioned highway funds." It added:

> The Committee recognizes that bus mass transit is now, and will undoubtedly in the future continue to be, the major part of all mass transit (it is ¾ at present), and because of its operational flexibility is eminently suitable for utilizing the vast capital investment represented by the nation's highways and streets. A healthy urban transit program can only be achieved in concert with a healthy urban highway program . . . .
>
> By inducing some persons to leave their autos at home during rush hours, transit buses can make an enormous contribution to relieving urban "rush-hour" traffic congestion. However, while we must give this part of the highway program increasing support, the highway program must continue to play the predominant role even though it is recognized that by itself it cannot possibly solve all of our urban transportation needs. That is why the Committee has reported a bill which authorizes a program designed to assist both types of transportation needs.

The highway portion of the bill would "bring substantial relief to urban congestion problems" and reduce air pollution and petroleum energy requirements by allowing traffic to move freely without stop-and-go and prolonged idling that waste gas and increase emissions. "Conversely, stopping the highway program will only serve to increase and intensify these and other problems for the cities." [*Federal-Aid Highway Act of 1973*, Report of the Committee on Public Works, House of Representatives to Accompany S. 502, 93rd Congress, 1st Session, House Report No. 93-118, April 10, 1973, p. 4-5]

The committee's report included additional views by 13 members on impounding of funds authorized for the UMTA capital grant program. They said the provision was unnecessary because the committee's authorization for UMTA was identifical to the Administration's budgetary requests. In other words, they said, "there is absolutely no need for this type of anti-impoundment prohibition." This provision, if approved, "may well turn out to be the straw that broke the camel's back." By throwing down the gauntlet in this way, "we may find that we have sacrificed the game to make a point." They meant that after all the committee's hard word, this provision alone may provoke a veto. "Is the gain worth the risk? We submit not!" [*Federal-Aid*, Rpt. 93-118, p. 107]

Representative Studds offered additional views on the transfer of Interstate funds, with the concurrence of Representatives Abzug, Burke, Grover, and Glenn Anderson. The success of the Interstate System, Representative Studds wrote, "has blinded some of us to the need for continued expansion of alternative forms of urban mass transportation such as improved rail, subway and bus systems." He continued:

> It is a false dichotomy to say the public is divided into highway users and mass transit users, because in the majority of cases there is no available alternative means of transportation to the private automobile.

Highways will "continue to be vitally important to our future growth," but stronger emphasis must be placed on mass transit, "the stepchild of transportation, which must be made at least a co-equal partner in our future development."

Many urban Interstates were planned 20 years ago, but cities often were unwilling to give up on the money and the jobs the money would bring "regardless of whether or not the project is the best answer to the locality's particular transportation needs, and regardless of the environmental and social implications of the project." He had introduced an amendment that would allow the funds for a deleted Interstate segment to be used for other highway and transportation needs in the urbanized area where the deleted segment was located:

> My amendment recognizes that affected urban areas do have a tremendous need for increased transportation capacity, as evidenced by the decision to locate the contested Interstate segment in that area in the first place. But eight-lane, limited access super-highways (particularly through residential neighborhoods, parks, or historic areas) are not the only way to provide needed mobility. In many instances, as in Massachusetts, better mass transit, whether bus or rail or improved local road systems, is certainly more appropriate. Giving local and state officials the option of using these Interstate funds to satisfy other transportation needs *in lieu of* the disputed segment, therefore, is a logical and necessary step.

Representative Studds recalled Governor Sargent's testimony that he had decided not to build $1 billion worth of Interstate highways in Boston, but pointed out that "the transportation needs that those expressways were intended to meet still remain." The House's job was "to create the mechanisms whereby these transportation needs can be met in a manner compatible with community preferences and fiscal responsibility." He continued:

> Regrettably, the Committee bill does not meet these requirements. The Committee bill would require us to take an additional amount of dollars from the nation's treasury equal to those expressway dollars not used for Interstate Highway construction in metropolitan areas . . . . Accordingly, if the House passes the Committee bill as is, we would be appropriating another $5 billion for transit purposes to match the $5 billion in Interstate funds that would be returned to the Trust Fund. Not only is such a proposal unfair and inequitable to those states such as Massachusetts from which revenues were raised, but this creates several problems that this House must recognize.

First, could the Congress authorize a Cabinet Secretary to obligate "from general revenues under an open-ended authority without specific action by our appropriations committees"? Given the budget battles, "I believe fiscal integrity requires that such funds be appropriated in specific amounts, instead of in such a haphazard open-ended fashion." Second, the measure would add to red tape by requiring the States to transfer the funds back to the Highway Trust Fund and then seek general revenues in an equal amount. Third, "I see no purpose in setting up a situation that practically demands back-door impoundment of funds." Since the returned highway funds would be used elsewhere, "it is most likely that the President would instruct the Secretary, in order to maintain his spending ceiling, to issue no such approvals." The measure would, therefore, effectively impound the funds rather than make them available for alternative transportation purposes.

He and his cosigners preferred a measure that would allow each urban area to use the Interstate funds from the Highway Trust Fund "to meet its legitimate transportation needs . . . consistent with the overall national need," whether for the Interstate highway or alternatives. [*Federal-Aid*, Rpt. 93-118, p. 108-110]

Representatives Studds also wrote in opposition to priority primary routes, again with the concurrence of Representatives Abzug, Burke, and Grover. The bill set initial funding at $900 million for 3 years "but clearly implied is a future commitment far in excess of this sum." He believed the measure should be deleted:

> Every single mile of highway on this newly designated system is currently eligible for Federal assistance. The only thing that this provision accomplishes is that it ties the hands of the states by requiring the construction of this new system rather than permitting them to select projects in accordance with their own transportation priorities.

The Interstate System had been authorized "after a great deal of study and at a time when this nation was sorely in need of a high level highway network." By contrast, the priority primary system had not received extensive review or evaluation. The 1968 Highway Needs Report had mentioned a "Federal-aid intermediate system," but it did not contain "any justification on economic or social grounds" for the idea. It recommended studies of the concept but they had not been undertaken.

Representative Studds and his cosigners opposed the system:

> What is now needed is added flexibility in our transportation programs so that the diverse problems faced at the state and local level can be resolved in the manner most suited to local needs and priorities. This new program, however, would move in the opposite direction . . . . What is now required is sufficient latitude to meet the different needs found in different states. [Instead, this] new program would require construction of a designated 10,000 mile system. It is unwarranted and should be eliminated from the proposed legislation. [*Federal-Aid*, Rpt. 93-118, p. 111-112]

Representative Abzug, with the concurrence of Representatives Studds and Burke, provided additional views on operating subsidies for mass transportation. By including $3 billion in the bill for capital grants and loans under the UMTA program, the committee had partially recognized the great need for urban mass transit. To meet those needs, operating subsidies were "essential." Receipts from the fare box could not support public transportation; local governments already were providing over $400 million in local taxes for the purpose each year. Even Senator Randolph, she said, recognized that "the most acute transit need is operating subsidies."
Fairness was one reason for Federal operating subsidies:

> Presently, we provide an operating subsidy to automobiles of $1,400,000,000 annually in the form of tax deductions for auto sales taxes, State and local gasoline taxes, and interest

> on auto loans. Surely we can afford to balance this somewhat by providing some subsidy for mass transit operations as well.

The subsidies would come from the general Treasury, not the Highway Trust Fund, and would be available in rural and urban areas for bus as well as rail operations. "It would provide much-needed support and would, in the long run, aid automobile and truck users as well as those using mass transit." [*Federal-Aid*, Rpt. 93-118, p. 120]

Representative Abzug, again with the concurrence of Representatives Studds, Burke, and Glenn Anderson, also provided supplemental views on the availability of Federal-aid urban system funds. The Federal-Aid Highway Act of 1970 had established the system "to best serve the goals and objectives of the community as determined by the responsible local officials," but "existing law does not carry out that laudable intent." Present law made all the funds available to the State highway agency, did not require apportionment among the State's urbanized municipalities on a fair basis, and gave local officials "only a consultative role in determining how the funds shall be spent in their areas."

She was pleased that the bill included her amendment to "earmark" Federal-aid urban system funds for municipalities over 400,000 population. "This should prevent situations such as that in the State of New York, where the City of New York has not received one penny of urban system funds in the last two fiscal years." (In response to a question from Representative Abzug during the committee's hearings, Commissioner Schuler had acknowledged that the city had not received its reasonable share of urban system funding because "the administration of the city refused to accept the transportation facilities, the highways, that we would want to have put in place.") Under the bill, "decision-making rests solely in the hands of State highway officials." She had proposed the pass-through measure, under which "the 32 cities of the United States with over 400,000 population would receive their share of urban system funds directly from the State's urban system apportionment if they have sufficient authority to develop and implement projects on the system." This amendment would give officials of larger cities a guarantee of "actual control over the funds proportionally attributable to them."

Her measure would not affect the Interstate, primary, secondary, or urban extensions, "nor would it alter the relationship between State and local officials with regard to those systems." Instead, it would satisfy the intent of the Federal-aid urban system, while ensuring State officials a continuing role in decisionmaking through the planning process. [*Federal-Aid*, Rpt. 93-118, p. 121-122]

Representatives Grover, Abzug, Studds, Stanton, and Burke offered minority views in support of Representative Glenn Anderson's amendment embodying the Muskie-Baker amendment. "Presently, urban areas can only use urban system funds for highway and related construction projects." The Anderson amendment "merely permits the urban areas to use their funds in a manner they feel will solve their transportation needs." Many areas would continue to use Federal-aid urban system funds for highways, while others may use all the funds for rail transit systems or a combination of modes.

The amendment did not break faith with highway users. Mass transit would benefit highway users "by increasing the usefulness of highways by attracting commuters off those roads." The "sanctity that surrounds the Trust Fund" was already diminished by the use of its funds for ferry boats, housing for displaced residents, and other nonhighway purposes. In any event, many of the taxes had been in effect before 1956 and were deposited in the general Treasury for governmental purposes:

> Finally, it should be abundantly clear that our amendment is not anti-highway, nor is it anti-rural America. It simply gives urban officials the option of using the highway funds they presently receive to build or purchase a mass transit system, as well as construct highways. [*Federal-Aid*, Rpt. 93-118, p. 123-125]

The House Rules Committee Acts

For transit advocates and environmental organizations, the next critical action was the House Rules Committee decision on whether the House would be able to vote on Representative Glenn Anderson's amendment on the use of Federal-aid urban system funds. *Times* reporter David Rosenbaum found that despite the 1972 ruling that the measure was not germane, pro-transit forces were optimistic:

> The House Rules Committee is under new leadership this year, and the new majority leader, Representative Thomas P. O'Neill Jr. of Massachusetts, is, to quote one highway lobbyist, "a mass transit freak."
>
> Thus, the transit advocates are convinced they can get their proposal to the House floor for a vote this year. Whether they can win there is another question.

The vote was, by all accounts, going to be close but "the smart money is favoring the highway forces." If the House did not adopt the Anderson amendment, the issue would go to conference with the Senate – "a conference that is likely to be one of the most fractious of the year." Rosenbaum continued:

> Asked how he thought the bill would come out in the end, a key Senator replied: "I'll tell you this. There's no compromise way out. The conference will take weeks—no, make that months. I just don't know what will happen." [Rosenbaum, David, "Highway Funds Spur New Fight," *The New York Times*, April 8, 1973]

A *Times* editorial began, "The Democratic leadership of the House of Representatives is about to meet a severe test." Referring to the Rules Committee's 1972 decision on the amendment, the editorial said, "There is a strong possibility that the same sort of maneuvering will be tried this year." When Representative Glenn Anderson tries, as he did in 1972, to secure a floor vote on his amendment, "It will be up to the Speaker [Carl Albert], through his influence on the Rules Committee, to permit or prevent a floor debate on this amendment."

The test for Speaker Albert and his Democratic leadership team was two-fold. First, with President Nixon "already committed to the relief of the big cities' transit riders, a Democratic Congress can hardly afford to offer them another helping of parliamentary dodges." Second, "and even more far-reaching," the Democratic leadership's actions would show whether they take their congressional reforms "seriously enough to allow the House to debate a matter of great substance." The editorial concluded:

> The least that should be expected of the Speaker, whatever his own view, is that he will throw his political weight on the side of simple fairness: the right of the people's representatives to vote on a matter of such obvious importance as the uses of the Highway Trust Fund. ["Test for Speaker Albert," *The New York Times*, April 12, 1973]

Engineering News-Record agreed that a House floor vote would be close, with highway supporters in the lead. Diversion advocates acknowledged they were 15 to 30 votes short:

> A spokesman for one major highway user group confirmed reports that the Department of Transportation push for diversion under new Secretary Claude S. Brinegar lacks the punch provided last year by his predecessor, John A. Volpe. Nevertheless, transit advocates appear committed to a battle. "The $3-billion transit appropriation doesn't mean a damned thing," says one, "because the Administration would never spend it." ["House Committee Bars Road Fund Division," *Engineering News-Record*, April 12, 1973, p. 36]

On April 12, the House Rules Committee rejected, 6 to 8, a motion by Representative David T. Martin (R-Ne.) permitting points of order that would have blocked a vote on the Anderson amendment. Had the committee accepted Representative Martin's motion, Representative Glenn Anderson could have introduced his amendment on the House floor but it would have been ruled not germane to the bill without a vote. According to an account in *The Washington Post*:

> The expected fight in Rules Committee dissolved when Speaker Carl Albert moved from a position of "neutrality" to support for allowing the Anderson amendment to go to the floor for a vote. [Representative] Wright said, "I think in general (Albert) feels as I do, but I think he would take the position that this is an issue that ought to be decided on the floor."

Representative John Anderson called the vote "a critical breakthrough . . . for the millions of Americans who ride bus and rail systems each day. For the first time we will have a straight up or down vote on mass transit." The account continued:

> But he warned mass transit supporters "the main battle is still to be fought on the floor of the House. The highway lobby is enormously powerful and they will be working assiduously to defeat us."
>
> John Anderson called "the continued strong support of the Administration . . . pivotal" and asked supporters of mass transit to contact rural area congressmen and "explain to them that this is no raid on roads. We are not taking funds from inter-state highways or from

> programs to build and improve rural and secondary roads." [Russell, Mary, "Highway Fund Amendment Will Go to Floor of House," *The Washington Post*, April 13, 1973]

With consideration on the House floor nearing, media speculation about the fate of the Anderson amendment intensified. A *Los Angeles Times* editorial pointed out that, "All indications are that the vote will be close." The highway lobby was vigorously opposing the amendment. "If the lobby once more prevails, then hopes across the nation for a chance to develop adequate public transportation facilities will once more be thwarted." Readers did not have to look far for proof of the need. "The inadequacy of public transportation in Southern California, and the traffic congestion that is a concomitant, is a daily proof of the need for the money that the Anderson amendment would help provide."

The outcome, the editorial suggested, might turn on the votes of the California delegation. "That makes it all the more difficult to understand the opposition to the measure by some area congressmen." It explained:

> In this group are Jerry L. Pettis (R-Loma Linda), James C. Corman (D-Van Nuys), John H. Rousselot (R-San Marino) and Victor V. Veysey (R-Brawley). Leaning toward opposition are Clair Burgener (R-Rancho Santa Fe), Del Clawson (R-Downey) and Carlos Moorhead (R-Glendale). The voting inclinations of these men on the Anderson amendment cannot be said to represent their constituents' needs. If the amendment is to pass, and the interests of Southern California are to be served, some will have to change their minds by voting time on the House floor. ["Vital Votes on the Highway Fund," *The Los Angeles Times*, April 16, 1973]

According to *Engineering News-Record*, transit advocates were bolstered by the Rules Committee's vote. They "claim they are close to victory in their fight to open up the Highway Trust Fund for public transit." The vote had been a "a dramatic turning point for transit force who just last week felt they lacked 15 to 30 House votes" to pass the amendment. Representative Glenn Anderson called the vote "a major victory" but cautioned that "the main battle remains on the floor of the House."

John Kramer said that "last minute lobbying was apparently responsible for the Rules Committee decision." He explained:

> "We've been picking up steam all week . . . . And now we have the votes." Kramer's optimism seemed to be borne out by the tight-lipped gloom pervading the pro-highway camp. A spokesman for the Highway Users Federations [sic] said, "We have nothing to say."

Although the House was scheduled to begin considering the Federal-Aid Highway Act of 1973 on Tuesday, April 17, no one could be certain the vote would come before Congress began its 10-day Easter recess on Friday, April 20:

> "I wouldn't mind if we carry it over," says Richard Cook, who is directing the White House lobbying on behalf of the diversion amendment. "Time works for us now." But Cook cautions that "the victory in Rules has been exaggerated. It's going to be very, very close on the floor. I wouldn't bet either way right now, but the best arguments are on the side of those who favor breaking up the trust fund."
>
> According to Cook, the White House will begin applying political pressure on undecided Congressmen just before the floor vote. ["Transit Forces Expect House to Tap Road Fund," *Engineering News-Record*, April 19, 1973, p. 15]

On April 17, the day House consideration of the Federal-Aid Highway Act was to begin, Secretary Brinegar issued a statement in support of flexibility in the use of Highway Trust Funds for the Federal-aid urban system. Representative Anderson had offered "a much-needed amendment" and "if it is fully understood it will receive the needed support for passage." This flexibility was essential because "today in many urban areas additional highways may be low on the transportation priority list." The Anderson amendment gave cities "an option that must come if we are to achieve a balanced transportation system."

The Secretary emphasized that the Anderson amendment did not affect the Interstate System or rural highways. It would not affect the amount of urban system funding or "require anyone to spend one cent on public transportation. It simply offers a choice." He explained:

> The Federal Government requires States and metropolitan regions to engage in comprehensive transportation planning in line with local needs. We must now loosen the strings somewhat to allow them flexibility in carrying out those plans. We must get away from trying to decide in Washington just how each State should apply the capital funds it receives.

The Anderson amendment would provide real flexibility while helping "to achieve a balanced transportation system without any increase in President Nixon's budget proposals." He urged the House to adopt the measure that was already in the Senate bill.

Whatever the outcome, an editorial in *The Washington Post* said, "the cause of flexibility in urban transportation has already had an impact in the House." The first sign of change was the Public Works Committee's vote. "The committee rejected the Anderson amendment, 29-8, but did approve a measure fashioned primarily by Rep. Jim Wright (D-Texas) which comes remarkably close to serving the same goals." In adopting Wright's proposal, the committee "has thus accepted for the first time the concept that cities should have the flexibility to devote a given quantity of federal aid to rail transit instead of roads." The Wright provision was "a serious attempt to help the traffic-choked big cities without diverting money from the highway trust fund to projects which don't use roads." The measure, however, was flawed:

> Aside from the administrative intricacies involved, the committee approach has only one big flaw—but that appears to be a fatal one: there is no guarantee that the mass transit aid from general revenues would really be available. The contract authority could all too easily be

> withheld, limited or stretched out by either the executive branch or the appropriations committees; this has already happened to the existing program of mass transit grants. Given the current state of the budget, the committee bill could thus enable cities to not build roads, but give them little help in building anything else.
>
> In contrast . . . the Anderson amendment is simple and sure. It would avoid the fiscal pitfalls and administrative snarls, by authorizing another use of trust-fund monies which—as the recent appellate court decision underscored—are virtually immune from impoundment. This feature should make the Anderson amendment especially appealing to advocates of fiscal sanity and bureaucratic sense.

The vote by the Rules Committee, "pushed by Speaker Carl Albert, has paved the way for a direct, up-or-down vote on the Anderson amendment." The committee's decision gave the House a chance to "consider the alternatives squarely on their merits." If they do, they will approve "the Anderson amendment as a timely and useful reform." ["Getting the Highway Fund on the Right Tracks," *The Washington Post*, April 17, 1973]

The *Washington Star-News* also endorsed the Anderson amendment:

> With the nation facing a fuel shortage, on top of its auto-exhaust pollution troubles, about everyone in Congress is speaking kindly of mass transit these days. But this week we'll see how deep the commitment goes, for the House will vote [on] a Senate-approved proposal to make just a small portion of the highway trust fund available for financing urban bus and rail transit systems.
>
> We hope the House, which refused to concur with the Senate last year on a similar plan, will give its assent this time around.

Many House members, especially from rural districts, would have a hard time voting for the amendment:

> There is a powerful core of resistance to using the highway trust money—derived from levies on road-users—for non-highway purposes. But the times demand it. The trust fund is incredibly opulent, while the problems of swelling auto use inflict ever-larger social costs that cannot be alleviated simply by building more highways with every last penny of highway revenues.

The Highway Trust Fund "has a partial obligation to other concerns," such as air pollution caused by cars and the "fossil-fuel shortage, which must be remedied in large degree by mass transit." In view of "the astonishing dimensions of the country's energy problem," House members should bear in mind the advantages of the bus over the car. "And a great many auto commuters would gladly switch to public transit if adequate service were available." Indeed, if rural areas experience gasoline shortages, "it will be due in some measure to the lack of sufficient mass transit, which forces millions of urbanites to rely excessively on automobiles."

Urban areas needed flexibility "to use a portion of their regular federal highway funds to help finance mass transit, and cover its operating losses in some cases." The editorial concluded:

> To achieve this, the House will have to approve amendments that are contrary to the wishes of its Public Works Committee, and in line with the Senate's approach. We hope a majority in the House can summon the foresight and determination to do that. ["The House's Transit Test," *The Washington Star-News*, April 18, 1973]

With House debate about to begin, rifts in the transit community were threatening the outcome. According to *The Wall Street Journal*, Boston, New York City, and Chicago were among the big cities supporting the Anderson amendment, but "there's little lobbying by interests in Atlanta and some other cities." In some circles, transit people were actively opposed:

> "Our coalition is in shambles" over the issue, a transit lobbyist moans. The split in transit ranks is a major reason why prospects for cracking open the trust fund this year are regarded as slim.

Potential beneficiaries publicly supported the Anderson amendment, but their actions were mixed:

> The Institute for Rapid Transit, a rail-system group, is pushing hard for the fund raid. But while the American Transit Association, whose membership includes most U.S. bus and rail systems, is pushing on an official basis, its members are split in terms of vigorous lobbying on Capitol Hill.
>
> The big-city U.S. Conference of Mayors is much stronger in support of diversion than the affiliated National League of Cities, whose members include many smaller cities with big road needs. And even the cochairmen of the Conference's transportation committee don't agree—Chicago Mayor Richard J. Daley wants the trust fund opened, but Mayor [John] Briggs [of Phoenix] doesn't.
>
> Washington lobbyists for these groups, and for the National Governors' Conference, which is on record as supporting the trust fund diversion, are lukewarm. "They'll make the phone calls, but it's obvious it isn't a priority," says a lobbyist for an environmentalist group.

The reason for the split was that some transit systems wanted operating subsidies more than capital funds. "While the operators of such systems admit that their capital requirements are huge, they argue that their needs for operating funds are more imminent, and they can't depend on states to keep giving them the subsidies they need."

Allen S. Harden, chairman of the Metropolitan Atlanta Rapid Transit Authority, had said in a letter to the Georgia Department of Transportation that the Highway Trust Fund was not "the best or most reliable source" of transit funding. "MARTA isn't advocating nor is it lobbying for the opening of the highway trust fund to finance urban mass transit projects." Harden's letter provided ammunition for Representative Ronald B. "Bo" Ginn (D-Ga.), a member of the Public Works Committee serving his first term, in opposing the Anderson amendment. The *Journal* added, "A transit lobbyist says that Baltimore and Los Angeles people have elected to 'play it cool' on the trust fund issue, rather than pressing Congressmen to back it."

Some transit interests thought "little is to be gained and much lost from cracking the fund." While the amounts involved were relatively small, "balking city and transit officials believe the diversion plan would mean they couldn't bring further pressure for increased federal general-revenue sharing." They also feared that State rather than local officials would decide how the funds would be used. "And they feel that transit interests would lose out often."

Further, transit interests "aren't keen on challenging the defenders of the trust fund." One urban-interest lobbyist said, "We're going to have to work with these highway guys for a long time. Why should we alienate them, especially in a hopeless cause?" A head-count in the House showed the measure was trailing. [Karr, Albert R., "Chances of Diverting Highway Trust Funds Periled by a Split in Mass-Transit Ranks," *The Wall Street Journal*, April 17, 1973]

Robert Cahn, the journalist who had served on the Council on Environmental Quality, was more optimistic, seeing the coming fight as at least unpredictable. It was a "modern-day David and Goliath confrontation" pitting the HUFSAM Goliath against the Davids in the Highway Action Coalition. HUFSAM was "a well-oiled propaganda machine" that could draw on lobbying support from its powerful member organizations. "Many of these supporters also operate independently to pass out campaign contributions to members of Congress from both parties." Cahn made a point that was rarely made:

> This 20th century Goliath is not a bad guy—just big and powerful. He insists his cause is just because it isn't fair to shift taxes collected from auto or truck users for highway building to some other cause. But his propaganda sometimes confuses the issue and makes it appear as if rural roads and all road building would be slowed by the David forces.

The Highway Action Coalition, the David in this clash, was backed by environmental and other groups, but:

> It scrapes together each day's operating funds from $5 and $10 checks. It operates with a staff of 8½ workers and total budget of about $22,000 a year . . . . Armed only with their propaganda and the dedicated enthusiasm of youth, Mr. Kramer and Miss [Linda] Katz have patiently trod the halls of congressional office buildings and executive offices.

Their goal was to open the Highway Trust Fund for transit:

> Mr. Kramer and Miss Katz and their helpers have had amazing success. They converted former Secretary of Transportation John A. Volpe, a former federal highway administrator, from a doubter to a vigorous trust-busting booster. Last year, he spent many hours seeking congressional votes. Mr. Volpe brought President Nixon into the fold.

The Senate "was turned around" and the idea was "finally making inroads on the House." Cahn described the coalition's campaign:

> Amid boxes and crates in their "field" headquarters—a friendly congressman's tiny supply room—Mr. Kramer and Miss Katz plan strategy for the next move in the campaign. At this writing they have just succeeded in getting a group of 38 Democratic and Republican members of Congress to form a bipartisan committee to seek votes from uncommitted colleagues. The White House lobbyists are beginning to stir.

In this battle between David and Goliath, reality had to be acknowledged:

> But even if they lose this battle, the Highway Action Coalition and their supporters will continue the fight.
>
> And yesterday's gloom, when the "head count" in the House was 25 short of victory, now is brightening. [Cahn, Robert, "Playing 'Davids' to the Highways' 'Goliath,'" *The Christian Science Monitor*, April 18, 1973]

New York was especially concerned about the pending legislation. Theodore Kheel, the coalition's chairman, was interviewed by journalist Gabe Pressman on New York City's WNEW about the future of the city's transit system. He predicted that subway and bus fares would have to increase to 60 cents in 1974. The $200-million subsidy from the city and State would be exhausted while the MTA would be negotiating a new contract with the Transportation Workers Union. "It will take $400 million for the ensuing two years to keep the fare at the 35-cent level and that money just isn't available." He added, "There is nothing on the scene that I know of that will prevent the fare from going up by 25 cents, or possibly more, by the first of the year." Mayor Lindsay had appealed to Governor Rockefeller regarding the same concerns.

A spokesman for Dr. Ronan, the authority's chairman, responded to Kheel's comments:

> Dr. Ronan has been campaigning actively to get Federal funds for mass-transit operations. He is hopeful that he will be successful. We have no present plans for a fare increase. ["A Transit Fare Rise to 60 Cents During '74 is Foreseen by Kheel," *The New York Times*, April 16, 1973]

For his part, Governor Rockefeller had not abandoned his vision of a bridge across Long Island Sound between Oyster Bay and Rye despite opposition from the Department of the Interior. Talking informally with reporters, he was asked if the bridge would be built. "Yep," he replied. Given Interior Department opposition, how could that be? "That's up to me. You'll find out as the scenario unfolds." [Madden, Richard L., "Governor Says U.S. Opposition Won't Stop L.I. Sound Bridge," *The New York Times*, April 7, 1973]

In an extension of remarks on April 17, Representative John Paul Hammerschmidt introduced into the record a positive article about highways. The article "is timely and highly germane to the current debate on the 1973 Federal-Aid Highway Act." He endorsed the article's "conclusion that the highway program must be continued and our present uses of the network substantially improved."

The article, "Mass Transit: Rail or Bus?" was by former Federal Highway Administrator Frank Turner and appeared in *American Road Builder*, ARBA's magazine. It consisted of excerpts from Turner's recent talk to the Road Gang. Remarks to the Road Gang are usually off-the-record, but that rule had been waived for Turner's talk, "one of his first since retiring last June as Federal Highway Administrator."

Turner began:

> Recent newspaper articles seem to have attempted to bring on a fight between the so-called "highway lobby"—classified as the "bad guys"—and the "good guys," classified as environmentalists, the Highway Action Coalition, Big City Mayors, and the "public." If there is such a thing as a "highway lobby" it is in my opinion the vast majority of the public which daily uses and is dependent upon an effective highway transportation system for virtually every part of its very existence.
>
> I may have been under a mistaken impression for many years, because we in public service always thought that as public officials, we were representing the "public," and I mean all of the public, and not just one or another special interest group whether for or against highways as a large general question or a particular stretch of road from point "A" to point "B."
>
> However, a number of individuals and groups, by self-appointment, have decided that only they represent the public. One might properly ask: who appointed them protectors and by what qualifications and training are they to be adjudged of more competence and devotion to the overall public interest than those who have dedicated their whole lives to trying to improve the lot of their fellowman [sic]? I will stack up my own service and devotion to the public interest against any and all of these self-chosen "public ombudsmen."

This was not a time for name-calling or a fight about how to decide major questions, "especially the highway program which is so vital to our country, its present, its future, and generations, yet unborn." However, one side "offers simplistic solutions contrived by critics whose only training is from reading the accounts of some erstwhile prophet of doom and whose knowledge of the subject (highways) is derived from having skimmed a few articles and books by others who have done equally shallow research and study." Those who advocate for highways must always base their arguments on "facts—and nothing but facts, and objective analysis of those facts."

The critics' main argument was "the alleged harmful effects to individuals in our society of a continued dependence on the automobile, particularly in our urban areas . . . ."

> Their quick and easy cure-all suggests that we just quit building and modernizing our highway systems and by so doing this will somehow force people and their goods movements to immediately, and with certainty, transfer itself to mass transit, which usually means, in their terms, a fixed rail network feeding into and out of the central business district (CBD).

This "simplistic solution" overlooked freight movement as well as utility, public, and business services that depended on the highway and street network. Moreover, the "assumed *benefit*" during rush hour "would turn out to be of *negligible* amount." During rush hour, which was all the critics cared about, if rail transit "by some magic" suddenly appeared in our cities and ran on time with complete safety, "you would have affected *only about two percent* of the problem." Turner continued:

> I don't believe it's good business to severely cripple a proven highway program to hopefully satisfy those who are dedicated to building a doubtful and costly transportation system that at best could assist only two percent of the problem.
>
> *That's* why I am opposed to diverting highway monies to mass transit activity and "busting the highway trust" in order to provide the revenues for that kind of solution. It simply won't work.

Without doubt, daily commuters deserved "a fair, reasonable and workable solution," one which was "readily available" since "it revolves around the use of buses as the major mass transit movers." Better use of the street network was the key. Significant increases in the bus fleet and carpooling, encouraged by limiting CBD parking to carpools, would work. A network of mini-buses carrying 10-12 people that could be rented for commuting was another way to reduce single-occupant vehicles during rush hour. The Shirley Highway exclusive bus lanes demonstrated another option. "I believe the public would accept car pooling, and other innovations of the kind I have suggested, over other proposed costly and less efficient solutions, if the facts were made known to them."

Turner added:

> Why do I so strongly favor a highway type solution to the problem? Because in my analysis of all the facts, I can come to no other conclusion. Also, I am confident others will do the same if they will but go through the same exercise and put into the equation all of the facts that those of us in the highway planning operations have been doing for many years.
>
> The highway program must be continued and the way we use the resulting highway network must be substantially improved. Diversion of resources needed for the highway program to other partial or "no solution" schemes will only waste our inadequate resources.

In the 92nd Congress, he said, "the Administration committed itself completely to 'busting the highway trust.'" Their failure in the 92nd Congress had only strengthened their determination to do it in the 93rd Congress. "I sincerely hope that the effort will fail again because it simply is not the best approach." In the major cities that presently have rail systems, "common sense requires that consideration be given to their continued operation—at least until or unless something better and less costly is found." Federal funds were available from UMTA for the seven rail transit cities. For most other cities, however, "rail networks cannot effectively nor economically compete with bus mass transit and at the same time meet the changing character of our cities—especially the trending away from dense center city core areas which were typical of the past century."

A solution for urban congestion was needed, Turner concluded:

> But it must be a solution that meets the test of overall effectiveness, cost-benefit scrutiny, and public acceptability by the majority. Also it must be fundable, be possible of being made available quickly, while providing a maximum of flexibility to meet the unknown and variable needs of the future.
>
> We cannot allow the crusading emotionalism of any individual group—on either side of the issue—to force upon the American public an unwise course of action just simply to win an argument. [Extension of Remarks, *Congressional Digest-House*, April 17, 1973, p. 12831-12833, reprinting Turner, Francis C., "Mass Transit: Rail or Bus?" *American Road Builder*, January-February 1973, p. 6-11]

Appeal on Impoundment

In August 1972, the U.S. District Court had ruled in favor of the State of Missouri in its suit against then-Secretary Volpe and OMB Director Casper W. Weinberger for impoundment of Federal-aid highway funds. The Justice Department had appealed the ruling.

In a 2-1 decision on April 2, 1973, a three-judge panel of the U.S. Court of Appeals, 8th Circuit, ruled that the case should have been mooted in August 1972 because 4 days before the June 19 hearing, Secretary Volpe had informed Missouri that it would be entitled to obligate all the funds originally apportioned for FY 1972. As a result, nothing remained for Secretary Brinegar to do to correct the harm claimed by plaintiffs.

At the same time, in view of the Secretary's admission that further controls would be imposed as deemed necessary, the Appeals Court found that the basis for declaratory and injunctive relief remained in place because:

> [The] provisions of Federal-Aid Highway Act do not expressly or impliedly authorize Secretary of Transportation to withhold authority from states to obligate apportionment of highway trust funds for reasons related to prevention or control of inflation, and that defendants would be enjoined from withholding authority from Missouri to obligate its apportioned funds.

Judge Donald P. Lay, writing for the majority, summarized the government's argument in support of withholdings:

> The essential theses upon which the Secretary defends his authority . . . turns on three arguments: (1) that appropriations acts are permissive in nature and do not provide a specific mandate that the funds authorized to be apportioned must be expended; (2) that there exists no vested right by the states in the appropriated funds until such time that the Secretary gives his approval; and (3) that the [sense of Congress] language of Section 101(c) [of 23 U.S.C.] is precatory [a wish or advisory suggestion that does not have the force of a

demand or a request that must be obeyed] and although expressing Congress' "desire" and "policy" that highway funds not be impounded, the terms of the statute are not mandatory.

We find these arguments unavailing.

Regarding the lack of a mandate to expend funds, the Appeals Courts found that while a general appropriations act "may be viewed as not providing a specific mandate . . . this does not *a fortiori* endow the Secretary with the authority to use unfettered discretion as to when and how the monies may be used." (*A fortiori* is a form of argument that because one fact exists, another fact that is included in it or analogous to it and is less improbable, unusual, or surprising must also exist.) As for the discretionary nature of the Secretary's project approvals under 23 U.S.C. 106(a), the court found that "we fail to see that this provides a basis for finding that the Secretary has lawful discretion to *withhold his approval* of projects for reasons not contemplated within the Act."

Even if the Justice Department were correct in arguing that the sense of Congress provision in Section 101(c), as provided for in Section 107 of the Federal-Aid Highway Act of 1970, was not binding, it was beside the point. "The fundamental issue is whether the Secretary possesses direct or implied authority to exercise contract controls for the reasons advanced here." Having already concluded that the Secretary did not have such authority, the Appeals Court found that Section 101(c) "merely *corroborates* what . . . the statute as a whole already provided—that apportioned funds are not to be withheld from obligation for purposes totally unrelated to the highway program."

The ruling also dismissed the Secretary's observation regarding the significance of the decision by Congress to adopt a sense of Congress provision rather simply passing a law prohibiting the Secretary from withholding obligation authority. "We deem this argument another straw in the wind" since "there is no way of ascertaining why these various bills [providing a statutory prohibition] were not enacted." The legislative history behind the failure to pass these bills "is of no assistance in construing" the intent of the Federal-aid law. [479 F.2d 1099]

On April 25 the Justice Department said it would appeal to the full Circuit Court for reconsideration of the three-judge panel's conclusions. ["U.S. To Appeal Decision Limiting Impoundments," *The Washington Star-News*, April 25, 1973]

The Justice Department recognized that the Missouri case was only the first major test of impoundment authority in the struggle between President Nixon and Congress, but others were pending. In February, a suit had been filed in Federal district court to block impoundment of $300 million from the Rural Environmental Assistance Program of the Department of Agriculture and the Federally Assisted Code Enforcement Program of the Department of Housing and Urban Development. Representative George E. Brown, Jr. (D-Ca.) had filed a class action lawsuit seeking an order requiring the EPA to allocate all the money due to his State under the Federal Water Pollution Control Amendments of 1972.

On May 10, 1973, Georgia asked the U.S. Supreme Court to order the Department of Transportation, EPA, and OMB to stop impounding funds for highways, education, and pollution control. FHWA officials expected additional suits in Kansas and South Carolina.

That same month, Judge Oliver Gasch ruled in a New York suit that EPA must allocate the full $18 billion authorized by Congress in the 1972 water act instead of only $5 billion under the impoundment. Because this funding (unlike highway funding) was subject to a subsequent appropriations act and a grant application, Judge Gasch added that, "If EPA doesn't approve grants, then it doesn't have to spend any money . . . . It is clear . . . that allotment is not tantamount to expenditure or even commitment of the funds."

Gasch's ruling prompted *Engineering News-Record* to suggest that the "dam holding federal spending . . . may be cracking under a flood of anti-impoundment action." In addition to recent court rulings, the magazine noted that "the Senate passed a bill sponsored by Sen. Sam Ervin, Jr., (D-N.C.) prohibiting the President from impounding appropriated funds." A comparable bill, introduced by Appropriations Committee Chairman Mahon, was under consideration in the House Rules Committee. ["Court and Congress Act to Stop Impoundments," *Engineering News-Record*, May 17, 1973, p. 35]

On May 18, 1973, the full 8th Circuit U.S. Court of Appeals denied the Justice Department's request for a rehearing. Initially, the Justice Department said it would appeal the ruling to the Supreme Court, but decided in August not to do so. With challenges continuing, the Nixon Administration intended to continue fighting for its authority to impound funds. One "high FHWA official" told reporters that, "We'll fight it out in another circuit, and when we get a good decision we'll be prepared to go all the way to the Supreme Court."

Knowledge of FHWA's intention tempered any elation the States felt regarding the decision not to appeal the Missouri ruling. As an ARBA spokesman said, "every state that wants to go this route will have to file a separate suit against the government." ["Highway Impoundment," *Engineering News-Record*, August 23, 1973, p. 15]

Dilemmas at a Time of Decision

In April 1973, the House Committee on Public Works released *Urban Transportation: Dilemmas at a Time of Decision*, a 44-page staff report of the Subcommittee on Investigations and Review, which Representative Wright chaired. The introduction explained:

> It is an understatement to declare that there is uncertainty about the most prudent course for the Nation to pursue in improving urban transportation . . . . Urban transportation is caught up in the whirlpool of the Nation's apparently shifting values and aspirations. There is no straightforward and obvious way to answer the question of how the public is best served.

The values and aspirations included the "public's clear preference for the freedom and privacy of the personal automobile," concern about the environment, the emerging energy crisis, population distribution, land use policies, and the transportation needs of the young, elderly, and handicapped.

Trying to plot a precise course "may be a foreboding task" that the staff would not undertake, but they did not want to suggest "that the momentum of the past should necessarily constitute an outline for the future. Still, there may be some clues" that the staff hoped to identify. [*Urban*

Transportation: Dilemmas at a Time of Decision, Staff Report, Subcommittee on Investigations and Review, Committee on Public Works, U.S. House of Representatives, 93rd Congress, 1st Session, Committee Print 93-6, April 1973, p. 1]

The first section of the report, on "The Decline of Public Transit," began:

> Most arguments about the various modes of urban transportation have been rendered academic by the relentless preference of the public for one mode—the private automobile. The preference has been expressed at the expense of the four major modes of urban public transit—bus, subway and surface rail, trolley coach, and, to a lesser extent, the commuter train.

The evidence for this statement was easily found in the 1972 National Transportation Report, which documented that almost 94 percent of all urban passenger miles of travel took place in a private automobile. [*Urban Transportation*, p. 1]

Declining revenue for transit had taken its toll:

> The ATA [American Transit Association] reports there were 261 fewer privately owned transit systems on December 31, 1971, than on the same date in 1959. Increasingly, the communities served by deficit-plagued private operators have had to buy them out rather than face a total loss of service . . . . Public transit is, in fact, becoming a service provided by the local community with revenues derived not only from the fare box, but from a variety of taxes and subsidies. [*Urban Transportation*, p. 2]

Even as public bus service experienced economic problems, Federal, State, and local officials were "emphasizing bus transportation as a more efficient way of utilizing limited street and highway capacity." The Shirley Highway reversible-lane express bus project was one example. [*Urban Transportation*, p. 3]

The increasing public ownership of mass transit prompted local officials to search for revenue to supplement fare receipts:

> Sources of transit aid in the Nation are varied and include a cigarette tax in Massachusetts, higher gas and electric rates in New Orleans, a 1 percent sales tax in Atlanta, a special property tax in Toledo, dedicated parking meter revenues in Baton Rouge, and a payroll tax in Portland. Additionally, there are sales and other general taxes in several cities, tax relief or rebates to public operators in at least 15 States, and reimbursement to public operators for discounted fares for school children and senior citizens. The State of California recently added a 5 percent sales tax to gasoline, with the revenue to be distributed to cities and counties mainly to meet public transit needs.

The report asked: "can the public be expected in any sense to opt away from urban use of the private automobile and back into the buses, subways, and street cars ridden with such regularity in the 1940's and 1950's?" As long as people had "free choice and the absence of external constraints, the prognosis is not a favorable one." Although increasing congestion was the country's likely future, some "constraints or limitations" were developing that might curb the public's preference for the private automobile. The restraints could be loosely grouped as:

> (1) congestion and hence delay for motorists, (2) the costs to the individual of driving a private vehicle, (3) public policy, and (4) to an as yet unmeasurable extent, possible changing individual values.

The report quoted C. Kenneth Orski of the Organization for Economic Cooperation and Development as offering some hope:

> Some of the romance is out of our affair with the motor car. For the first time we are on the threshold of conceding that perhaps there are limits to how far we should allow the auto to encroach on our lives. [*Urban Transportation*, p. 7-8]

The staff acknowledged that accomplishing the needed changes would be a "monumental" job:

> Urban transportation problems have resulted because of a complex and interactive set of forces associated with increased authomobile ownership, dispersal of residential and employment locations, freeway construction, escalation of public transit fares, and the lack of innovation in the transit industry to adjust to these changes. [Despite energy, environmental, and other factors] transportation planners see little to interrupt the basic forces that have created present urban transportation conditions. [*Urban Transportation*, p. 9]

With the number of vehicles per family increasing, congestion in central business districts slowing buses as well as private automobiles, and the growth of suburban living, mass transit faced a challenge in attracting riders, especially beyond the morning and evening peak periods. Professor Irving Kristol of New York University, according to the report, predicted that the decline of the core city was likely to continue: ". . . whatever turn events take, there is one eventuality that is too utopian to expect in the 20 years or so ahead of us. This is the revival of the central city as the nucleus of American urban civilization." If Professor Kristol proved to be correct, the impact on mass transit would be significant:

> This poses a dilemma for any public transportation system that relies on high capacity hauled over fixed routes into a CBD. Historically, rail systems generally have required a highly concentrated city center to serve, as recognized in a recent Department of Transportation review of rail and bus transit operations . . . .

The study identified factors that were "considered conducive to rail rapid transit," such as:

> High central-city density.
> Large downtown employment.
> Intensely developed central business district.
> Linear urban development with high density corridors.

> Existing corridors of high volume surface transit usage providing a built-in demand for rapid transit.

The staff did not want its finding to be construed "as demonstrating the nonfeasibility of CBD-oriented mass transit systems." The problem was that about 50 percent of daily riders used mass transit during peak commuting periods "when streets and freeways often are choked with traffic." This fact suggested that "the only conceivable way congestion in some areas can be controlled is to get commuters into higher occupancy buses, subway and commuter trains, and even car pools." [*Urban Transportation*, p. 10-11]

Still, some positive trends existed. For example, young people, including young adults, "appear to be opting toward motorcycles, motorbikes and bicycles to a degree unprecedented in recent years." Americans had purchased 13 million bicycles in 1972, with about half of them bought by persons 15 years and older (up from 20 percent just 5 years earlier). "While a good share of bicycle popularity clearly is related to recreation, there has been an increase in bicycle commuting reported in a number of cities and particularly on college campuses." [*Urban Transportation*, p. 12-13]

Further, some traditional highway supporters seemed to understand the need for change, as reflected in comments by Mobil Oil Company and Henry Ford II, as cited earlier.

Still, if people were to be persuaded to leave their private automobiles, "a significant part of the inducement under present conditions seems to be some calculated preference in time saving balanced in favor of public transportation." Public officials were "acting accordingly" by "rationing" road space by providing exclusive lanes for buses and carpools, applying "peak period pricing or congestion pricing" for parking in heavily congested areas, and trying to end free parking in central business districts and government office buildings. "All programs to save time (eliminate congestion) are successful only to the extent that some price is paid or some transfer or trade-off effected."

The highway had become the issue:

> But as we enter an era in which the highway itself is becoming an object of public opprobrium in some of our big cities, it is important to remember that congestion is not new. Serious congestion preceded the massive Interstate and urban highway construction programs which began on a large scale in the late 1950's.
>
> At the time the Interstate program was authorized in 1956, the Nation was trying to cram some 63 million motor vehicles onto a total road system designed to handle only about half that many. To single out subsequent urban highway construction as the cause of congestion is thus to comment without the benefit of hindsight.

The report stated that, "It can be argued very persuasively that without the highway construction the Nation has undertaken in recent years that we would today be bogged down in urban congestion of an unimaginable scale."

Ultimately, individuals make their choice among urban transportation modes "based on a combination of factors relating to speed, comfort, convenience, and perceived economic costs." Although the "interplay of forces within the free market" made the private automobile the dominant urban choice, some commentators claimed the choice "has been aided by a series of hidden subsidies and transfers and that perceived economic costs do not reflect true economic costs." [*Urban Transportation*, p. 15-17]

Among the true economic costs were the energy shortage and environmental impacts, including air pollution. The EPA's proposals for traffic control measures were an example of efforts to alter the factors of the free market:

> Nowhere has the staff encountered any measure of optimism that the contemplated plans will accomplish what they hope to accomplish. There is an underlying question of what weight the public gives to cleaner air if it must be achieved at the expense of individual mobility and convenience. [*Urban Transportation*, p. 22]

The staff found that State and local officials had many options, but warned against "the pitfalls inherent in any approach that is too doctrinaire or rigid." State and local communities "appear to be in the best position to create the meaningful modal and land use programs required in the real world." [*Urban Transportation*, p. 23]

To what extent, therefore, should the Federal Government "participate in a broad range of programs and on what basis should Federal aid be granted?" Should aid be provided in categorical programs by mode, as at present, or in a single transportation fund or single urban fund as Secretary Volpe had proposed in 1972? The Highway Trust Fund was at the core of these questions:

> Do the best interests of the motorist who pays gasoline and other user taxes into the trust fund lie solely with the use of that fund for highway construction and safety? In the broad context in which the citizen must judge his overall welfare can it truly be said that the highway user would be better served by the application of at least a share of those moneys to other urban transportation issues?
>
> . . . . The issues involved are not only ones of economic self interest and the historical preference of the urban traveler. They are philosophical and moral as well, and intertwined with fundamental questions of what a democratic society wants for itself.

The moral argument "persistently raised in the Congress" was that the "inviolability of the trust for highway purposes" was a matter of "keeping faith with the taxpayers whose revenues comprise the fund." Because this view was "so clearly a matter of conscience for so many," the only way to resolve it was through "free and open debate in which the Congress examines the basic premise of the fund in light of the economic, environmental, and social realities of the mid 1970's." The question about the 1956 law, the staff said, was not about the original purpose of the Highway Trust Fund "but whether that law should be changed."

Even if the Highway Trust Fund continued to generate predicted revenues despite the environmental, political, and social forces working against automobile use, "the trust fund does not emerge as an adequate source for all such transportation investment." The report continued:

> The basic issue is really to what extent and in what direction the Congress at this time wishes to influence the course of urban transportation development. Diversion of Highway Trust Fund moneys to urban transit or other urban transportation uses would appear to have more symbolic than real meaning—given the staggering dimensions of all funds that may ultimately be needed. The impact of wise expenditures, however, cannot be minimized.

Public opinion on the choices Congress makes was a matter only of conjecture. "The staff can only wonder how fully the public really understands the underlying issues and trade-offs that are involved." [*Urban Transportation*, p. 30-34]

The emergence in recent years "of a new kind of serious thinking about urban transportation" had generated ideas for reducing congestion, inducing people to embrace mass transit instead of their private automobiles, and "merging the various modes into balanced systems that best serve a metropolitan area." Still, the staff found "caution at all levels about promising success for any of the approaches or programs now advocated." There were "many cross-currents, many imponderables." The modern affluent society had "a momentum of its own" that would not be easy to turn around. "We are experiencing an accelerating tempo of social change amid passionate advocacy of new national objectives." In this context, unresolved questions "abound" and dilemmas can be found "at every turn."

On the final page of the report, the staff warned that "there is no such thing as a free ride." It continued:

> More and more the elected official is placed in the position of having to compromise one objective to achieve another, to weigh one set of values against another. Some of the trade-offs are chilling and harsh. Major decisions are bound to antagonize large and vocal segments of the populace.

The public had its views, as did technicians, scholars, government administrators, and special interest groups, on how to "unravel complex issues." However, "ultimately the task is one of the Congress and other elected bodies weighing all empirical data against the backdrop of the Nation's values, goals and aspirations and exercising judgment to determine what best serves the people."

With "many hazards and uncertainties" ahead, the staff suggested "there is no better time to confront the issues than the present." [*Urban Transportation*, p. 43-44]

The U.S. House of Representatives was about to do just that.

The House Debate

Although EPA had announced on Wednesday, April 11, that it would grant the automobile industry a 1-year delay in meeting the 1975 deadline for producing non-polluting vehicles, the Clean Air Amendments of 1970 called on the States to meet ambient air quality standards regardless of what the Big 4 automakers did. April 15 remained the deadline for State submission of detailed transportation control plans to EPA for reducing air pollution. According to a survey reported by *The New York Times* on Sunday, April 15:

> Most of the nation's big cities, including New York, appear unlikely to be able to meet prescribed Federal standards for clean air by the deadline of May 31, 1975.
>
> Thirty-eight cities in 21 states and the District of Columbia face a special problem because of heavy automobile traffic. Even if all the other sources of air pollution are brought into conformity with the standards—and it is by no means certain that this will happen—these cities will be left with excesses of two pollutants generated by automobiles . . . . But checks with those cities by The New York Times showed that only a few of the problem areas were prepared to submit "transportation control plans" that appear to meet the standards.
>
> Even if Detroit could produce nonpolluting cars by the original deadline, the effect in these big cities would be slight because only new cars would be properly equipped. The older models, making up 90 per cent of the auto population, would still be spewing out unacceptable amounts of carbon monoxide and oxidants. [Hill, Gladwin, "Most Big Cities Fail on '75 Clean Air Deadline," *The New York Times*, April 15, 1973]

Business Week concurred with the *Times* assessment that the States were finding "the job horribly complex." The magazine explained:

> The problem, in a nutshell, is what to do about the automobile, a major source of urban air pollution. The answer, underlined in public hearings on the plans across the country, is that the days of free-wheeling car use in many American cities are numbered. Some restrictions are inevitable no matter how fast the automobile industry is able to produce nearly pollution-free cars.

Pittsburgh's plan was typical. It called for regular inspection of auto emission systems, special express bus systems to reduce central business district traffic, and limits on the number of cars on days when air pollution threatened to exceed Federal standards:

> In some states, even stricter measures are envisioned. In Colorado, the state health department may recommend gasoline rationing for Denver. "If we have to meet the standards by 1975," says Gerald Wood, air pollution control director for the Colorado Health Dept., "that's the only way we can do it." The problem in Denver is that automobile engines literally "burn dirtier" at the city's mile-high altitude . . . .

> Some idea of what those controls will probably be like is told by the weighty documents going to EPA this week:
>
> - Regular inspection of all car and truck exhaust systems is a staple of plans for New York, Chicago, Philadelphia, and Pittsburgh. By June, 1974, for example, all cars registered in Chicago will be required to meet certain emission standards.
> - "Retrofitting of old cars with catalytic converters to reduce pollutant levels in exhaust emissions is another basic approach. In New York City, Environmental Protection Administrator Herbert Ellish estimates that 5-million vehicles will have to be retrofitted, at an average cost of $200 a car.
> - Higher inner-city parking fees and elimination of many parking spaces are virtually certain. Chicago's plan, for example, calls for eliminating 3,000 parking spaces on city streets.
> - Upgrading of mass transit facilities, including reservation of freeway lanes for express bus service and improvement of rail transit systems, is another almost universal formula.

The magazine cautioned:

> But nightmare solutions like banning traffic completely from central cities are not likely to come about. Many states are submitting plans to the EPA that theoretically would produce the mandated air pollution reductions by 1975. At the same time, most states will ask for two-year extensions to meet the standards. Says one EPA official: "Chances are good that the Congress will wait until all the transportation plans are in before deciding whether to extend the deadline."

Still, transportation controls, the magazine said, "are inevitable," quoting Administrator Ruckelshaus: "Even by 1985, approximately 10 U.S. cities will continue to require controls on transportation and vehicle use."

How to finance these measures was unclear. Ellish said, "Financing methods are not part of New York's plan. But as it stands now, the combined public and private costs for implementing our plan will probably exceed $2-billion." ["The Urban Drive to Restrict the Auto," *Business Week*, April 14, 1973]

On April 16, Senator Muskie opened a 3-day hearing in what the *Times* called "a counterattack today against the auto industry's effort to win a reduction in the auto emissions standards set by the 1970 clean air act." Senator Muskie, chairman of the Subcommittee on Air and Water Pollution of the Committee on Public Works, said:

> In most cases the industry argues that they cannot produce and guarantee cars which comply with auto emission standards set forth in the law, and they argue that even if they could, those standards are not necessary [to protect public health]. I want to know why not. I want to know what the industry has done in the past three years. I want to know what commitment the auto industry is willing to make to the American people.

Senator Randolph warned against seeing EPA's 1-year extension "as setting the stage for weakening the clean air act." He criticized the Big Four for not "seriously exploring" alternative technologies such as those employed in other countries. As examples, he cited the diesel engine that Mercedes Benz had developed and Honda's stratified charge engine.

Senator Muskie was particularly upset about a Chrysler Corporation advertisement in the March 13 issue of *The New York Times*:

> It said that Congress, in setting such stringent standards, had "acted on the assumption" that "motor vehicles were a real threat to health." Mr. Muskie said that Congress had not acted on any assumption of its own because it was not made up of scientists and doctors but that it had followed the advice of the United States Public Health Service.

He said Secretary of Health, Education and Welfare Robert F. Finch and Dr. Lee A. Dubridge, the President's Science Advisor, had proposed the standards for 1975 model cars during a White House meeting with auto industry executives on November 20, 1969.

The *Times* speculated that the industry would not receive a sympathetic reaction from the subcommittee:

> The support given Mr. Muskie by the subcommittee members present indicated that the industry would probably have a hard time persuading Congress to lower the standards for carbon monoxide and hydrocarbons. However, Congress would probably be amenable to lowering the 1976 standards for nitrogen oxides. The environmental agency believes that this standard is unnecessarily high for health protection. [Kenworthy, E. W., "Muskie Defends Car Fume Rules," *The New York Times*, April 18, 1973]

As Members of the House of Representatives opened *The Washington Post* on the morning that debate began on the Federal-Aid Highway Act of 1973, they could read about Mayor Walter E. Washington's "tough anti-pollution plan" for the District of Columbia to meet the 1975 standards:

> The proposal approved by Mayor Washington yesterday . . . calls for a regional expenditure of $52 million on 1,300 new buses, the opening of exclusive bus lanes on a number of city streets, the establishment of a computer-controlled car pooling system for the region, the reciprocal enforcement of parking ticket violations through metropolitan Washington, a program of annual automobile inspections and a requirement that cars manufactured between 1968 and 1975 be outfitted with special anti-pollution devices.
>
> The District's plan is based on a reduction of 25 per cent in the number of commuters driving into the city by car. The effort to reduce automobile commuting is certain to be the most controversial aspect of the plan adopted by the mayor.

The District's plans also included such measures as:

- A ban of commuter on-street parking in downtown. "Details of how the ban on commuter street parking would be accomplished are not spelled out. The plan allows—but does not require—the imposition of a parking tax on commuters who use commercial lots."
- Truck deliveries would be prohibited during peak periods.
- Elimination "to the extent feasible" of free parking for federal employees and employees of private companies as well as a restriction on the construction of additional parking spaces of private interests.
- The District's highway department also was studying a plan to restrict on-street parking in residential neighborhoods to residents of those neighborhoods.

The District had been working with officials in Maryland and Virginia on a joint plan. Just a few days earlier, a regional committee working out the proposal had backed off two controversial elements—a surcharge on commuter parking and a ban on daytime truck deliveries. The committee had adopted these proposals in December 1972, but they drew strong opposition from business interests. Instead, the regional committee recommended that each jurisdiction pursue its own solutions.

Mayor Washington's plan, which required City Council approval, was undercut by Maryland Governor Mandel's decision to ask EPA to allow the Maryland suburbs to delay their implement anti-pollution policies until 1977. According to Thomas M. Downs, administrative assistant to Lt. Governor Blair Lee III, Administrator Ruckelshaus's decision to delay the automakers' deadline was the reason. His decision threw the State's plans "all out of whack," he said. "It knocked us out of the ballgame."

The regional committee's plan also had been set back a week earlier when Virginia Governor Lynwood Holton asked EPA to delay until 1977 the retrofitting of 1968-1974 cars and a proposal that gas stations install equipment on pumps to prevent gas from escaping into the air. The Governor doubted that the technology was available for either purpose. Governor Mandel, as the *Post* noted, "went much further toward scuttling the regional effort yesterday [April 16] by seeking a delay not only on the installation of antipollution devices but also on imposing restraints on automobile commuting and on requiring annual inspections." [Scharfenberg, Kirk, "Weaker Air Rules Proposed," *The Washington Post*, April 12, 1973; Scharfenberg, Kirk, "Mayor Asks Clean Air Plan," *The Washington Post*, April 17, 1973]

Representative Ray J. Madden (D-In.), a lawyer from Gary, Indiana, who had entered the House in 1943 and was serving his first term as chairman of the Rules Committee, began the debate on the Federal-Aid Highway Act of 1973 by introducing House Resolution 356, which set the rules of the debate. The resolution allowed 2 hours for the debate, with the result that the *Congressional Record* of the debate is expanded with extended remarks not delivered on the House floor. Representative Madden, for example, inserted his explanation of the resolution in the record and yielded his time. In these remarks, he explained:

> The powerful lobbies who have been pressuring Members of Congress to ignore the deplorable and congested traffic congestion of our metropolitan cities are ignoring the urban taxpayers of this Nation who have contributed billions to the highway trust fund.

> The homeowners and citizens of the urban areas are overburdened with property taxation, sales taxes, license taxes—city, county, and State, and so forth. They should not be denied the opportunity to share in this multibillion-dollar highway trust fund to which they have contributed and over the years been denied any returns for their local communities.
>
> Every metropolitan city in the United States is undergoing similar bumper-to-bumper truck and automobile congestion and with insufficient funds to even initiate a program of curtailing this devastating problem of traffic congestion.

In describing the approved rules of debate he concluded:

> It should also be in order to consider without the intervention of any point of order as an amendment to section 123 of the committee amendment in the nature of a substitute the text of the proposed amendment as set forth on pages 125 and 126 of the minority views accompanying House Report No. 93-118.

This was a reference to Representative Glenn Anderson's amendment based on the Muskie-Baker amendment.

Representative Madden yielded time to Representative James H. Quillen (R-Tn.), a newspaper publisher who had entered the House in 1963 and served on the Rules Committee. He summarized the Rules Committee's resolution, including the reference to the Anderson amendment. Representative Quillen added, "I am opposed to this amendment for several reasons." He cited the backlog of highway needs, noting that the Highway Trust Fund did not have enough revenue to meet them. Diverting the funds to transit would mean "even less money remaining in the trust fund for highway purposes." He said, however, "I have no objection of [sic] the rule—the matter should be fully debated and the diversion amendment defeated." [*Congressional Record-House*, April 17, 1973, p. 2850-2851]

The Rules Committee resolution was approved by voice vote.

Representative Wright then introduced S. 502. Although it retained the Senate bill number, the Committee on Public Works had substituted its own bill for the Senate version. Representative Wright described S. 502 as "one of the big bills to come before the Congress this year" because of the Nation's dependence on roads:

> We have tried to bring to the House a bill that recognizes the imperatives of highway construction and the imperatives of the cities of the United States both for highway construction and for development of rapid mass-transit programs.

Considerable progress had been made since 1956 on the Interstate System. "We have demonstrated, for example, that modern, well-engineered highways definitely do save lives." The problem, he said, was that the country had "only barely been able to keep pace with the fantastic growth in numbers of automotive vehicles in the United States." That number, he said, had grown from 63 million in 1956 to 113 in 1973. With a population of 200 million people, "This means there is more than one automobile for every two persons, man, woman, or child."

The bill should be completed expeditiously:

> Many of the States have been frustrated in the orderly construction of their highway program by the inability of the House and the Senate to make an agreement until the final day of the last session of the last Congress.

He summarized the highway and mass transit provisions of the bill. Regarding Federal-aid urban system funds, he pointed out that the difference between the Senate and House bills was that the Senate bill used Highway Trust Fund revenues for rail mass transit while the House bill proposed to provide general Treasury revenues. He mentioned the Anderson amendment that would change the House bill to be consistent with the Senate version. "It seems clear to me that actually we do more for both highway and urban mass-transit in the committee bill than would be done under the amendment which will be offered by the gentleman from California." Representative Wright also referred to the House provision on Interstate substitution, which took mass transit substitute funding from the general Treasury.

The Public Works Committee had "striven to provide a workable means to help cities to convert these daily automobile commuters into users of their mass transit systems." The highway funds, regardless of highway system, could be used for express bus lanes, fringe parking for people using transit, and local public transit in highway median strips without charge for the land. The bill also authorized $75 million for "a long-needed national study of mass transit needs, including methods of financing, fare structures, and possible means of operating subsidization."

In short, "the lion's share of this bill" was directed at cities. The preponderance of remaining Interstate work and one-half of other Federal-aid system funding would be used in cities. Counting other programs, "it is clear that approximately two-thirds of all the moneys coming out of the trust fund under the committee bill will go to the urban areas of the Nation." To that, the bill added general Treasury funds for transit. "I do not see how by any stretch of the imagination anybody could conclude that this committee had not been more than amply fair with the cities of this land."

Although Representative Wright intended to discuss highway safety next, Representative John Anderson asked him to yield time. When Wright agreed, Representative Anderson said:

> I rise to my feet because the gentleman just expressed a belief that surely no one could believe that the great Committee on Public Works of the House could be less than fair with the cities of this country because of the mass transit provisions he has just described.
>
> I wonder if the gentleman really wants this House to believe that we are doing the same thing for the cities of this country if we give them advance obligational authority or contract authority subject to appropriations from the general fund of the U.S. Treasury, if doing that constitutes the same thing as telling them that the $700 million which is available here and now—

The yielded time expired and Representative Abzug made a point of order that a quorum was not present. Before a count could be taken, Representative Wright proposed to close the day's debate, and that was agreed to. [*Congressional Record-House*, April 17, 1973, p. 2851-2852]

The introduction of the Public Works Committee's version of S. 502 took about 15 minutes.

When debate resumed on April 18, Representative Harsha took the floor. He was granted permission to extend his remarks in the record.

He began by discussing Federal-aid urban system funding. He said that even Representative Glenn Anderson and proponents of his amendment admitted that not all of the $700 million authorized in the bill for the system would be used for mass transit. No one knew how much would be. Whatever amount it turned out to be would not be sufficient to meet mass transit needs. Since not enough urban system funding was available to resolve urban highway or rail transit needs, he said that obviously "there must be something else behind this desire to open the highway trust fund for mass transit."

To answer this puzzle, he referred to the Administration's Transportation Revenue Sharing Act of 1971, which would have taken $2 billion a year out of the Highway Trust Fund for any transportation activity, including operation and maintenance of mass transit systems. "In other words behind the scenes the plan is to divert the highway trust fund money not only for construction of mass transit facilities but to use it for subsidizing transit fares and operating and maintenance costs." The funds "could even be used to finance the development of the SST." The goal, as reflected in the Department's 1972 National Transportation Report, was to divert Highway Trust Fund revenue to operating subsidies. That was, he said, "the ultimate effort" behind the Anderson amendment and the Administration's support for it:

> Needless to say, an effort to subsidize mass transit operating and maintenance costs would be a never-ending one which would surely and quickly take all of the funds, and more, in the highway trust fund.

To back up his point, he quoted Professor Hilton's testimony that the popularity of mass transit would be short lived, that the demand for it was primarily political rather than market-based, that rail mass transit would not relieve the problems of the poor, young, or aged, and that in retrospect, funds used for rail transit would be considered a waste.

Further, the Nation's railroads were in trouble, as symbolized by the collapse of the Penn Central, itself a 1968 merger of the failing Pennsylvania Railroad and the New York Central Railroad. The Penn Central's plan to abandon 800 miles of track and plans of other companies to abandon 5,000 miles of their track would throw "an inordinate burden on our already overburdened highway system and leaves the highway system as the sole source or method of moving goods and services." At a time when everyone was concerned about inflation, especially in the cost of food, the scarcity of transportation options would increase the cost of goods. "The food prices will continue to climb."

He had another reason to oppose the Anderson amendment:

> It makes little sense to me to spend a large portion of funds, diverted from highway improvements, and jeopardize the mobility of 95 percent of the traveling public for the benefit of 5 percent . . . . When you jeopardize the movement of goods and services into and out of a community you jeopardize as well the community services, such as ambulances, police, emergency vehicles, et cetera, both in the central business district and the entire metropolitan area. This, Mr. Chairman, does not seem to be a prudent investment.
>
> Mr. Chairman, word has reached me that spokesmen for the administration have been contacting Members of Congress, suggesting that diversion of highway trust fund moneys will have no impact on the Federal-aid highway program. They argue, I am told, that the diversion which would be authorized by the so-called Anderson amendment would apply only to cities; that only $700 million of the $6 billion annual revenues of the highway trust fund would be involved; and that diversion would in no way reduce authorizations for other highway programs.
>
> I take issue with this view.

He pointed out that the1972 report estimated that $600 billion would be required to meet essential highway needs by 1990, while the Highway Trust Fund would take in only $135 billion during that period, "a sum less than half of the amount needed to finance even the essential needs set forth in the report."

He also rebutted a "second fallacious argument made by mass transit proponents," namely that "there is a surplus of money in the highway trust fund which is just sitting there doing nothing and which could be fruitfully utilized by the cities for mass transit purposes." He explained that at the close of fiscal year 1973 (June 30, 1973), the balance would be $5.4 billion:

> Arrayed against this, will be unpaid obligations in the amount of $7.7 billion. The cash balance in the highway trust fund would undoubtedly be less and the obligations more if the $2.6 billion of funds presently impounded by the administration had been released. What this means is this: If the highway program were to be closed out tomorrow, there would not be enough money to liquidate obligations already incurred, let alone finance other programs.

He concluded from these remarks that "it does not take a mathematician to see that any diversion of trust fund moneys for nonhighway purposes will further aggravate an already difficult situation." He added that, "In the long run, as surely as night follows day, the pressure will increase for yet more money to be diverted to the cities for both mass transit and for their diversion-starved highway programs." Eventually the funds would have to come from rural highway programs, possibly even the Interstate program since "there is only one trust fund available and its revenues are limited."

He then turned to Title II of S. 502, the Highway Safety Act of 1973. Pointing out the Nation's reputation for responding to a crisis, he said:

> The great American plague is here and threatening to brutally annihilate over 56,000 men, women, and children this year alone. The plague I am talking about will kill 1,000 people on our Nation's highways this week. And not only will it kill, but it will maim as well, without regard to age or position in society.

He quoted former Arizona Governor Howard Pyle, who was president of the National Safety Council:

> If we continue this present rate of highway deaths during the remainder of this decade about 600,000 persons will lose their lives, over 20 million will be seriously injured and the economic waste will approach 200 billion dollars.

The action program in Title II was aimed particularly at the two-lane rural roads that were "underdesigned for the traffic they now carry." The evidence of the Interstate System showed that well-designed highways did make a difference. He quoted William L. Sacks of the Highway Safety Foundation as explaining why the Interstate highways were so safe:

> The answer is not complex. On the Interstate System the driver is essentially relieved of making and executing all decisions with respect to pedestrians, crossroad traffic, signals, opposite direction passing and midblock points of access and egress. His decisions with respect to passing, destination recognition, roadway entrance and departure, closeness of adjacent vehicles, etc. are all greatly simplified. For the most part, superior pavement markings are found on the Interstate System, not only between the lanes but along the edges. At-grade railroad crossings are essentially non-existent. Although many mistakes were made, the higher design standards with respect to curves and hills, lane widths and shoulder widths, eliminated many potentially hazardous locations.

Representative Harsha estimated that if the provisions of the Highway Safety Act of 1973 were enacted, "there is wide agreement that the number of lives saved will be substantial," as much as 8,000 to 10,000 lives annually. His remarks concluded:

> Ladies and gentlemen, knowing these facts, you must act affirmatively on this legislation. We cannot let 20,000 Americans die because of our reluctance to act—and act now. [*Congressional Record-House*, April 18, 1973, p. 13097-13099]

Representative Mizell, again in extended remarks, supported S. 502 and denounced efforts to divert Highway Trust Fund revenues:

> Again this year, just as last year and in the last several years, efforts are being made to stage a massive raid on this trust fund . . . . The leaders of this trustbusting effort have as their goal a reallocation of this fund to finance urban mass transit systems as well as highway construction, but the effect of this dilution of resources would be to make impossible the adequate financing of either the highways or the rapid transit systems.

If successful, the Muskie-Baker amendment and its House companion, the Anderson amendment, would allow $2.5 billion in Highway Trust Fund revenues to be used for mass transit systems over the next 3 years. This proposal is "most distressing" because Congress was "literally the keepers of a public trust, which we as a body assumed 17 years ago with the creation of this fund." He explained:

> The foundation of that trust was that we would employ highway user taxes to benefit highway users, by constructing a system of Interstate highways that would—and has-greatly improved America's transportation capabilities.

The Federal-Aid Highway Act of 1973 would "expand this work to include construction of 10,000 miles of primary roads to connect with the Interstate network and make it more easily accessible from more places."

Certainly more needed to be done for mass transit despite the funding made available through the Urban Mass Transportation Act of 1964. S. 502 added $3 billion "to help meet our responsibilities and our goals for mass transit." He added:

> Raiding the trust fund for additional revenues will not provide the solution to the mass transit problem. It will not significantly improve mass transit systems in America's major cities; there is not enough money in the fund to do that. But it would significantly impair the highway construction and maintenance effort we have already begun and which we seek to expand.

He urged his colleagues to "protect the highway trust fund, to keep it intact, and to keep faith with the millions of Americans who have paid the highway user taxes that have sustained this fund." He concluded:

> There can surely be a peaceful coexistence of mass transit systems and highway systems without jeopardizing the efforts we are making with the current legislation to provide adequately for both.
>
> This, my colleagues must agree, is the most responsible and realistic course for us to follow. [*Congressional Record-House*, April 18, 1973, p. 13099]

Representative Clausen, in his extended remarks, addressed what he called "a total lack of understanding of what we need in the way of a balanced national transportation system." He did not need to extol the virtues of the Interstate System, he said, but to eliminate the financing mechanism that made it possible "would destroy the concept and bring about a serious reduction in our transportation capability." Further, "our long-run economic potential would be severely reduced at a time when we can least afford it."

He refused to accept the view that supporters of the Highway Trust Fund were unsympathetic to the need for mass transit, including rail transit. However, he pointed out "all the very narrow limits of the benefits from rail mass transit." It would benefit only the largest of metropolitan areas. It carried only people, primarily commuters, and did nothing to move freight and other utility, public, and business services that were "absolutely essential" to urban life. Recognizing these limits, he supported taking funding for rail mass transit systems from general Treasury revenue:

> This approach preserves the integrity of the highway trust fund while recognizing the need our major cities have for financial assistance when they make the decision to go ahead with a rail transit system.
>
> Actually, in my judgment this approach does not go far enough. I have suggested a third trust fund for urban area transportation systems to complement the existing highway and airports and airways trust funds.

Diverting Highway Trust Fund revenue would be "totally irresponsible" in view of the documented "staggering backlog of highway needs" through 1990 compared with estimated highway user tax revenue:

> I can assure every Member of this body that funds diverted for rail mass transit will not reduce in the least the ultimate highway needs we are going to have to fulfill.

After discussing provisions that would benefit northern California, he said he favored "transportation systems that are coordinated, integrated, and balanced to bring about a more balanced population pattern in America." He discussed his concept of "reverse migration" that the Federal Government could foster "through the establishment of a program of fiscal and institutional decentralization and the revenue allocation formula revisions that will make it possible." With 70 percent of the population living on only 2 percent of the land, congestion is inevitable, as are "poverty, crime, drugs, youth rebellion, ecological abuses." The solution, he said, was "the decentralization of our growing population . . . and industry to achieve a better balance of both population and resources." Dispersal "could prove to be the geography of our survival." [*Congressional Record-House*, April 18, 1973, p. 13099-13102]

After Representative Clausen concluded, Representative Cleveland addressed the House in extended remarks. He regretted, he said, that the record of the committee's week of hearings had not yet been printed and was not available to the Members of the House. He was particularly impressed by Professor Hilton's testimony and, as noted earlier, had made it available to his colleagues by inserting extensive excerpts in the record on April 12.

Supporters of the Anderson amendment would make "forceful arguments in favor of rapid transit, invoking considerations of balance, flexibility, fairness, State and local prerogatives, pollution, energy and the like." However, "if the past is any guide, none of this rhetoric will justify invading the trust fund for two fundamental reasons." First, highway needs far exceeded revenue projections for the Highway Trust Fund. Second, whatever the transit needs may be, highway users should not "foot the bill." He said, "I am not about to see the New Hampshire farmer help pay the commuting cost for the affluent New York suburbanite."

He quoted Senator Harrison Williams who had acknowledged during the 1972 debate that:

> I understand and agree that the Highway Trust Fund is not large enough to include the extensive needs of all rail systems. The problem can only be dealt with by increasing the contract authority, under the Urban Mass Transportation Act.

Representative Cleveland pointed out that Senator Williams had sponsored a measure in 1972 to use general Treasury funds to increase UMTA funding and provide operating subsidies. "But this was opposed by those who sought to pry open the trust fund." When the House-Senate conference rejected the idea, Senator Williams had described his Senate colleagues as "sadly misguided," adding:

> I would suggest soul searching on the question of whether the effort was to aid mass transit or to break up the trust fund. Sadly, it seems to me the majority of the Senate conferees chose the latter course.

To emphasize this point, Representative Cleveland quoted Senator Weicker's comment, "Let us clear this highway trust fund off the highway and get America moving again." As this comment suggested, "we again will hear misinformed statements about the mythical huge surpluses in the trust fund, dangers of 'paving over America' or chopping up the country with superhighways." This view ignored overall highway needs, including the need to improve existing highways and increase highway safety.

As for transit needs, Representative Cleveland quoted the exchange in 1972 between Representative Schwengel and Theodore Kheel of the Highway Action Coalition. Asked how much New York City needed for its transit systems, Kheel had replied he could not provide a precise figure, but "I think there is no limit, really, on our true needs." Mass transportation had been neglected since World War II, Kheel said, to such an extent that "the needs that we have are frightening." Representative Cleveland added, "They certainly are frightening to those of us fighting to preserve the funding for highways." He cited estimates by Governor Rockefeller's Special Commission on the Financing of Mass Transportation, which found that the the tri-State metropolitan area had "run up to $13.6 billion for operating deficits and $7.3 billion for capital improvements through 1985."

As for the argument that rail transit benefited the poor, the aged, and the infirm, he cited information about the New York subway system and the new system in Atlanta, concluding:

> Thus our urban transit systems, or one of our oldest and one of our newest, benefit the affluent. It is not fair to the highway users who pay their money into the trust fund with the understanding the money is to build safer, more attractive and better roads, along with safety and highway-related transit facilities, to shoulder this cost.

The problem was the failure of metropolitan areas to plan transportation systems for their development. One possibility was that development around subway stations would overwhelm the facility's benefits, "thereby generating demand for further costly improvements." Development also took place without regard to the availability of transportation equal to the added demand. For example:

> In New York City, the World Trade Center is expected to create a nightmare of congestion, according to a March 20, 1972, article in the Wall Street Journal entitled: "Critics Say World Trade Center Will Complicate Mass-Transit, Pedestrian Snarls in Manhattan."
>
> According to the article, Mr. Theodore Kheel said of the Port Authority which is developing the Trade Center:
>
>> This is going to be a great irony, that any agency created to solve our transportation problems winds up creating one of the worst traffic jams in history.
>
> I see even greater irony in his attempts to use the trust fund to bail out New York. No wonder, again in his words, "there is no limit, really, on our true needs."

The Federal Government should not dictate local development patterns, but "we have a right and a responsibility to [ensure] that local plans meet national policy objectives and that those locally formulated plans are followed." For that reason, he had urged exploring the idea "that any funding of urban mass transit be accompanied with a more meaningful and explicit 'impaction' statement, a position supported by testimony at our hearings." He was confident that "such an inquiry will support the case that diversion is not justified."

In support of his position, Representative Cleveland offered the following evidence:

> The Highway Users Federation has calculated that for the average commuter trip to the central business district—10 miles in our major metropolitan areas—the economic cost of the automobile trip with average occupancy is two-thirds to three-quarters that of rail transit. This drops dramatically with increased car occupancy. Bus costs, with facilities supported partially by the trust fund, are half those of rail because "buses share highway capital, maintenance and operating costs with automobiles and trucks."

He concluded that abandoning the "trust" concept behind the Highway Trust Fund "would represent a tragically misinformed step backward." The inevitable massive diversion to rail transit that would result, he said, "would shortchange our accumulated need for primary, secondary, and highway safety improvements without appreciably benefiting the urban commuter." [*Congressional Record-House*, April 18, 1973, p. 13102-13104]

Representative Hammerschmidt began his extended remarks by summarizing the experience in 1972 when the legislation was lost on the last day of the 92nd Congress. He said, "we convened the 93d Congress strongly committed to discharging our responsibility in this priority item of unfinished business." S-502, as amended by the Committee on Public Works, "strikes a balance in allocating revenues to various programs and projects designed to fulfill congressional responsibility toward keeping a growing country on the move." Because highways would continue to serve as the principal means of transportation for years to come, it was "in the best interests of the entire Nation that we further advance our modern system of highways."

He said that the day before, he had placed former Administrator Turner's Road Gang speech in the record to help his colleagues gain "a fuller understanding of this complex matter."

S. 502, Representative Hammerschmidt said, is "a well-balanced and comprehensive program for advancing national transportation." He urged its approval. [*Congressional Record-House*, April 18, 1973, p.13104-13105]

Representative Broyhill of Virginia opposed diversion of Highway Trust Fund revenues:

> Therefore, diverting the proceeds of a user tax to the construction of facilities which do not provide benefits to the users that correspond to the proportionate use which they make of them would undermine the very foundation of the user tax-trust fund concept.
>
> Such diversion also would involve the credibility of government, in a very real sense. Unless we keep faith with those who pay the user taxes, it will be extremely difficult for us in the future to justify the imposition of other user taxes for special purposes which might seem appropriate at the time.
>
> In short, if we tell a large segment of the American people that we are going to use specific taxes which are imposed on them for specific purposes—and we establish a trust fund to do so—then we should live up to that bargain.
>
> I submit that it would be dishonorable to do otherwise. [*Congressional Record-House*, April 18, 1973, p. 13106]

His comments were followed by short statements on provisions of S. 502. Representative Stanford E. Parris (R-Va.) endorsed Section 145 of S. 502, which directed the Secretary of Transportation to complete the environmental impact statement for I-66 inside the Capital Beltway. Despite the great need for this highway, the final miles of I-66 had been delayed for 17 years. "Balanced transportation for the National Capital area is going to require a thorough mix of modern urban highways and adequate and economical rapid transit for commuters and visitors alike." Completion of I-66 would be an important addition to the Interstate System. He was pleased that the Senate had included a similar measure in its version of S. 502 and he urged his colleagues to retain the provision in the House version. [*Congressional Record-House*, April 18, 1973, p. 13106]

Representative Howard supported the provision providing for constructon of exclusive or preferential bicycle paths. Given the tremendous increase in bicycle use, "we will begin to rely more and more on those means of transportation which use 'people-power' as their primary energy source." He acknowledged "the tremendous work" on this subject by Representative Koch, who had demonstrated "foresightedness in supporting this environmentally progressive legislation. "I think it is appropriate to recognize his energy and determination [by] accepting this amendment today." [*Congressional Record-House*, April 18, 1973, p. 13106]

Representative Chalmers P. Wylie (R-Oh.), a former local and State official from Columbus who had initially won election to the House in 1966, was the first to speak in support of the Anderson amendment. It was, he said, "an amendment whose time has arrived." It would provide the flexibility to State and local officials "that I feel is essential, but it does so in a way that does not jeopardize the Interstate program nor the rural highway programs." He addressed the main issue:

> In supporting this amendment, I do not believe that I can be accused of breaking any trust with citizens who pay gasoline taxes. Payment of gas tax can in no way be viewed as a vote for more highways. After all, you only have the opportunity to vote when confronted with a choice, and for most Americans, given the inadequacy of existing mass transit, their only choice of transportation is the automobile. Enactment of the Anderson amendment will help insure that taxes that are paid into the highway trust fund are used effectively, and frankly that is far more important than just insuring that more and more highways get built. [*Congressional Record-House*, April 18, 1973, p. 13106-13107]

Representative Barrett, who represented Philadelphia, supported S. 502, commending the Public Works Committee for including provisions that increased assistance for urban areas. "The most glaring defect in the bill, I believe, is the absence of the so-called Anderson amendment, or as it was called in the Senate, the Muskie-Baker amendment." It would help address the country's "greatest transportation need at this time." When the Interstate System was completed, the Highway Trust Fund "should provide the revenue for all modes of transportation."

Urban areas needed the flexibility afforded by the Anderson amendment:

> They could devote [urban system funds] totally to highway related needs or could commit part of it for urban mass transportation, such as subways or buses or could, in fact, use all of it for urban mass transportation needs.
>
> As I stated earlier, I believe this is a first step, using the great amount of the massive funds in the Federal highway trust fund for our total transportation needs.

Although he supported S. 502, he regretted that the Public Works Committee had addressed mass transportation, which he pointed out fell within the jurisdiction on the Committee on Banking and Currency, which he chaired. "I understand the situation with which the Committee on Public Works found itself, particularly since the Senate had approved amendments to the Mass Transportation Act as part of the highway bill." Still, the committee should have yielded to the Committee on Banking and Currency:

> The Committee on Banking and Currency has reported to the House H.R. 6452, the Urban Mass Transportation Assistance Act of 1973, which goes further than the provisions of title III of the bill presently under consideration. I would hope that the House will shortly consider this bill also.

He said he had examined European mass transit systems in November 1972, finding that the European countries supported mass transit with capital grants and operating subsidies:

> No such commitment exists here. But, I believe, that the action we take on this bill, if it is to include the Anderson amendment, and the action the House will take later on H.R. 6452,

> the Urban Mass Transportation Assistance Act of 1973, will begin to totally commit our Federal Government to providing the needed assistance for urban mass transportation. [*Congressional Record-House*, April 18, 1973, p. 13107]

Representative Shuster, in his extended remarks, wanted to clarify what was under consideration:

> Some people would have us believe that the main reason for the highway program is to feed the insatiable appetite of a munificent malevolent monster known as the highway lobby which seeks to pave over America. I think this represents a grave misunderstanding.

He was referring to the documented highway needs in comparison with estimated income:

> So here we come to the first misconception: Rather than being the rich bag of money ripe to be tapped for other purposes, the fund does not even contain enough money to finance our highway system's most critical needs.

Another misconception involved who needed highways. Some people thought only rural people needed them:

> That may be true for some of the 40 largest cities with populations over 400,000, although I doubt it, but what about the 200 smaller urban areas who badly need highways. The transportation needs study tells us that of the $600 billion projected needs, fully $240 billion are located in urban areas.
>
> The report also gives another insight into who needs highways. For the Nation, 93 percent of all passenger-miles traveled were traveled in highway vehicles—automobiles and buses. In urban areas, contrary to what you might think, that figure rises to 98 percent. Even in our largest cities, where bus and rail mass transit is available, mass transit still accounts for only 5 percent. Who needs highways? The cities do.

What, he asked, is the urgency to spend this money for highways? He pointed out that in 10 years of fighting in southeast Asia, U.S. forces suffered 45,000 combat-related deaths while in 1 year, the Nation experienced 56,000 deaths on its highways. "The tragedy of all this is 50 percent of those lives can be saved" by improved highways:

> We have a huge highway system literally boobytrapped with dangerous hazards, rail crossings, unsafe bridges, poor pavement markings, excessively narrow lanes, rigid and bulky roadside obstacles just waiting for their next victims to stray off the roads. These must be eliminated. But that takes money, a lot of it. We need every penny we can muster to make our highways safe, because in reality, it is not pavement we are buying; it is human lives. [*Congressional Record-House*, April 18, 1973, p. 13107-13108]

As a result of a parliamentary inquiry by Representative Abzug, the Chairman of the House Committee of the Whole (the parliamentary nature of the House in debate) explained that the House was in general debate and that Representative Wright had used only 15 minutes of his 1 hour of debate and that Representative Harsha also had not used any of his 1 hour of general debate. This discussion indicated that virtually all the statements delivered thus far were entered into the record rather than delivered. [*Congressional Record-House*, April 18, 1973, p. p. 13108]

Representative Blatnik introduced the Federal-Aid Highway of 1973, calling it "one of the finest pieces of transportation legislation that the Public Works Committee has ever reported for this body's consideration." Speaking of the highway and mass transit programs, he said:

> There is no question in anyone's mind that there is a need for both programs. There is no question in anyone's mind that these programs must be properly funded and carried out. The committee—always a strong advocate and supporter of a comprehensive national transportation planning program—has had the unique opportunity to consider both of these programs side by side. It has reached the conclusion that they can and will work together; that they are an integral part of the future transportation development of this Nation . . . .
>
> Step by step, over the years, we have found ways to implement and enlarge upon the development of our transportation program for this Nation. This bill is another giant step in that direction
>
> It is not a be all or an end all, but it is a way by which our transportation needs can be met for the present, and it lays the groundwork for future planning for our cities greater development of both our highway and mass transit programs. [*Congressional Record-House*, April 18, 1973, p. p. 13108]

After introducing the committee's summary of the bill, he yielded time to Representative Kluczynski, who called the legislation "the most comprehensive transportation measure ever brought out of the Committee on Public Works." [*Congressional Record-House*, April 18, 1973, p. p. 13110]

Representative Wright yielded time to Representative Harold Johnson. He praised the Interstate System, which he said had "proved its worth in lives saved and in accidents prevented." It also had been "the basis in many areas of the Nation for economic growth and development of those areas." He called it "one of the great national highways in the history of the world and its effectiveness increases with each day of use." He recalled that the Federal-Aid Highway Act of 1956 had 1972 for completion of the Interstate System:

> Due to circumstances beyond the control of any individual or group, such as rising inflationary costs and executive impoundment, that date has come and gone. We now, in this legislation, hope to give the final impramatur [sic] to the completion of the system.

He praised S. 502 for turning attention to other systems and road needs, including special urban high density routes connecting to the Interstate System. The committee, he said, "has covered the spectrum of all anticipated future highway needs." Indeed, S. 502 "takes us from the remotest rural section to the heart of our great metropolitan areas." [*Congressional Record-House*, April 18, 1973, p. 13110]

Members followed with brief statements in support of aspects of S. 502, followed by Representative Cleveland, who was upset by "the misleading coverage accorded the real issue before us today which we have gotten from the national media." He referred particularly to the "paradox" of support for the use of Highway Trust Fund revenue for urban rail transit. In 1972, the Senate had voted, 48 to 26 to divert the funds. In 1973, the Senate voted 49 to 44 in support of the Muskie-Baker amendment. Referring to the increase in nays, he said:

> However, at the same time we have this dramatic proof that people who are exposed to the facts are increasingly against diversion, but at the same time that is going on, there seems to be increasing support for diversion. I believe misleading press coverage is the explanation.

He supported free speech and protection of the press from harassment and intimidation:

> We in the Committee on Public Works had an open markup session. I was disappointed, however, because although there was good press coverage of our markup session on the highway bill that we are discussing now, there was almost a total lack, almost a total lack, of press coverage of full hearings wherein we developed the facts, the facts that undergirded much of what we were doing in the markup session.

His specific target was the *CBS Evening News* broadcast of March 26, anchored by Roger Mudd. Representative Cleveland called it "a one-sided account of the dispute" and said, "I filed a protest last Friday seeking correction under the fairness doctrine." He also had written to CBS, and its local affiliate, WTOP. Although WTOP had offered him airtime to rebut the CBS report, he had not been satisfied by the response from CBS. His letter to Gordon Manning, Senior Vice President for CBS News, had said:

> Material compliance with the fairness doctrine would in my judgment dictate action on your part prior to House action now scheduled for Tuesday . . . .

He particularly wanted to remind Manning of the paradox of the declining Senate support for diversion reflected in the 1972 and 1973 votes on essentially the same amendment. He also took exception to statements that he considered "dead wrong" or that constituted "the omission of substantial material fact." For example, he said:

> Continuing, your report stated: "But in the meantime, we've come to regard new highways as a mixed blessing. They're very big with truckers and tourists, but they also glut our major metropolitan areas with traffic congestion and air pollution."
>
> Comment: This appears to suggest that the future uses of the trust fund are to consist solely or mainly of *new* highway construction. (Later the report talked of "whether we're to continue blindly going on building more highways as usual, or whether the growing problem of congestion and pollution, and now impending gasoline shortages as well, have finally gotten through to us.") This utterly ignored the other eligible needs of the federal-aid system, including the reconstruction, widening and relocation of existing roads, and a wide range of other needs such as highway safety, urban traffic improvements and facilities in

> support of bus transportation. Thus the omission of substantial material fact represented misleading reportage.

Further, he told Manning that the Committee on Public Works' hearings, "which you apparently ignored," included testimony that rail transit would not substantially relieve congestion:

> Rather, the riders for new or expanded rail mass transit lines come largely from competing bus lines. The normal growth in traffic more than offsets any diversion from cars to rail in our metropolitan areas. Moreover, the same hearings produced testimony to the effect that the existence of a rail transit facility reinforces pressures for urban concentration in high-density development, generating demands for even more transportation of all modes, of which only a small proportion is met by rail transit. In short, it can serve to worsen congestion.

The CBS report, further, cited the Nixon Administration as favoring trust-busting, but contained "no mention" of the Administration's needs report showing $600 billion in needs through 1990 compared with estimated revenue of $135 billion during that period.

In conclusion, the fairness doctrine called for:

> At minimum, a good-faith effort to set the record straight in terms of the broadcast in question would include a correction concerning the purpose for which the trust fund was established, a balanced enumeration of currently eligible uses, citation of the degree of demands on the trust fund in relation to anticipated revenues, an indication that there is contrary evidence concerning the diversion potential of rail transit, the implications of transit for increased urban congestion, and the relation of pollution to that congestion, and the potential for alleviation represented by buses.

He pointed out the additional paradox that support for diversion was declining among members of the Committee on Public Works, who had the advantage of knowledge gained through hearings over the years, "while support seems to be growing among House Members at large . . . who do not enjoy the advantage of the knowledge I have gainied from 10 years of service on the Committee." They may well "be swayed by press reports or constituent views in turn reflecting those news reports." He said:

> In view of the proportion of the public deriving its entire ration of news from the electronic media, I look for correction by CBS which is—as your promotional copy has it—"Where the listeners are."

His letter to Manning concluded by pointing out, "I do not register this complaint lightly. At the same time, I do not intend to remain silent in the fact [sic] of any journalistic selling of the subways." [*Congressional Record-House*, April 18, 1973, p. 13113-13114]

Having yielded "as much time as he may consume" to earlier speakers, Representative Wright yielded "5 minutes to the gentlewoman from New York." Representative Abzug said that the 16-

year old Highway Trust Fund had some successes, such as the Interstate System, "but it has also known some failures." It was, "by definition, when one considers modern-day transportation, one of imbalance and distortion." It had addressed "one major transportation problem" while it "created and aggravated others." Balance must be restored:

> While it is not easy to solve this very complex problem, there is one fundamental and logical step toward a solution establishing an interrelated, intermodal transportation plan. That can begin with our looking upon the highway trust fund as a general transportation fund. It is not a revolutionary idea, but it is a logical one.
>
> As a matter of fact, I think it is the next step to take in the natural developmental process that began 16 years ago.

The amendment to be offered by Representative Glenn Anderson addressed the "major point of difference" by permitting urban area officials "to ask the State officials who control those funds to permit them to buy mass transit equipment instead of building roads." This option would not affect funding for rural roads or the urban extension funds, which would still be reserved exclusively for highways.

At this point, her 5 minutes ran out, but Representative Wright yielded 5 additional minutes.

She emphasized that the Anderson amendment would not affect the amount of funding any State received:

> All that it changes is the uses to which these funds may be put. If, as the provision provides, there is $700 million now being proposed for a flexible use, it is the same $700 million which these very same urban systems are presently entitled to. It is their share of the highway trust fund. It is not anybody else's share, and it does not take any money from anybody else.

She disputed the claim that because the funds came from an account in the Treasury known as the Highway Trust Fund they should not be used for any purpose other than the construction of roads. She pointed out that most of the taxes had been in existence long before 1956, with revenue applied to general government purposes. Further, the funds were now being used for diverse purposes such as housing relocation, ferry boats, land acquisition for parking lots, and the training of State and local highway employees. "The fact is that the trust fund is presently being used—and properly so—for various aspects of our Nation's transportation needs." The Anderson amendment "is entirely consistent with this existing policy."

She did not agree that Representative Wright's substitute was "every bit as good as the Anderson amendment." She recalled that while the Rules Committee was considering S. 502, Representative Morgan F. Murphy (D-Il.) said of the Wright substitute, "You are offering us a piece of pie that will never be baked." (Representative Murphy was a lawyer from Chicago serving his second term as a member of the Rules Committee.) She explained:

> We are all aware of the administration's budget cutbacks, and Congress itself has recently taken steps in the direction of imposing an overall budget ceiling. In the face of those facts, it is folly to think that an additional $700 million from general funds is going to be made available by the Department of Transportation.
>
> As for the much-touted "contract authority," it is of no help if the DOT refuses to enter into contracts altogether. Finally, the anti-impounding provision of existing highway law, which was the subject of the recent decision in the Missouri State Highway Commission case, applied only to money available "for expenditure upon any Federal-aid—highway—system." Under the terms of the Wright proposal, an alternative mass transit project is not a part of any of the Federal-aid systems. In short, the promise of the Wright proposal, well intentioned though it may be, is entirely illusory. If it is enacted into law, I do not expect that our urban areas will ever see one penny of that alternative money. [*Congressional Record-House*, April 18, 1973, p. 13115-13116]

Representative Glenn Anderson began formal debate on his amendment. After praising the hard work of members of the Public Works Committee on the bill, he said:

> With the inclusion of the amendment which I intend to offer this act, I believe, will become landmark legislation, but without that amendment the bill will fail. It will fail a very important part of America, the urban centers, where most of our people live and work.

He described the pending amendment as "very simple," affecting only Federal-aid urban system funds. To counter "the many rumors that are afloat," he wanted to say what the amendment would not do. It would not affect the Interstate System. It would not affect the Federal-aid primary or secondary systems. No State would get less Federal-aid highway funds if the amendment passed, nor would any State or county be required to spend a single penny for mass transit. He continued:

> [Some] may even contend that the amendment breaks faith with the user when the [trust] fund was established in 1956. I contend, however, that mass transit will benefit the user by increasing the usefulness of our highways, by attracting the commuters off those roads.
>
> I know of what I speak, because I have an area where during the time when people go to work in the morning and come home in the evening, our freeways and our interstate systems are all but worthless; no one can get anywhere on them.
>
> I want to get those marginal commuters, the one-to-a-car drivers—we call them the one-to-a-car syndrome—we want to get them, if possible, into mass transit, so people going to and from other areas can get across the city.

As for the "sanctity" of the Highway Trust Fund, he expanded on Representative Abzug's list:

> I want to say that the sanctity of the trust fund has been somewhat diminished when we recognize that trust fund moneys have been used to purchase ferryboats, construct homes, move businesses displaced by highway programs, build police barracks, purchase

> ambulances, salvage archeological sites in conjunction with highway projects, purchase automobiles for driver training, pay the salaries of clerks in traffic courts, and purchase computer time for traffic courts and, of course, two-thirds of the entire highway safety program is paid from the trust fund.
>
> Mr. Chairman, when one considers these wide varieties of uses of highway trust fund moneys, none of us are affected by my proposals, but when one thinks of those, then I am sure it makes my amendment most appropriate, since my amendment makes the highways and transportation systems most workable for the highway user.

It would save energy and reduce pollution. It would increase the usability of land instead of taking land off the tax rolls.

He was skeptical that general Treasury revenue would be available for substitution as proposed by Representative Wright. He said, "you know and I know there is not any money lying around in the general fund." He explained:

> If my amendment is not adopted and even if the President signs the order, do you think the Secretary of Transportation would be allowed to approve any contract authority for mass transit and thereby force either more deficit spending, new additional taxes, or a fund cut in necessary programs?

He took exception to the frequent references to $600 billion in highway needs through 1990. One third of that amount was for locally funded roads off the Federal-aid systems. Only about $100 billion in needs "are truly justifiable, and 85 percent of this is located in the urban areas of 50,000 or more population where transit might be preferable to building yet more highways."

He said he could "go on and on," but with his time limited, he concluded:

> I know you have been getting loads of letters. Almost every day I get letters from various radio and television stations that have endorsed my program. You have seen in the last 2 or 3 days where the two main Washington papers, the Washington Evening Star and the Washington Post, both endorsed the position, and the Los Angeles Times and the New York Times and labor pretty widely supported it. [*Congressional Record-House*, April 18, 1973, p. 13117-13118]

Representative Annunzio of Chicago spoke in favor the amendment, beginning:

> During my many years in the Congress [beginning in 1965 at the start of the 89th Congress] I have always believed that one day we would reach the brink of disaster in the urban areas of America as far as the mass transit problem is concerned. Today that brink has been reached.
>
> The problem is greater than it has ever been because of the mass production of automobiles. Already approximately 94 percent of all travel in urbanized areas is by automobile. Our cities, States, and main thoroughfares are jammed, bumper to bumper. Our cities, as a

> result, are severely polluted, and if you are caught in bumper-to-bumper traffic, you can actually see the smog and feel the irritation in your eyes and your lungs.

The problems, including fuel shortages, would only get worse as the urban population doubled in just a few decades:

> The problem of moving people and goods around and through our urban areas is already critical. Unless we make provisions to meet and solve the urban transportation snarl, it will grow progressively worse.

True, highway users paid the taxes credited to the Highway Trust Fund:

> But it is these same taxpayers who want fast and efficient transportation to and from work, less crowded highways and freeways, less traffic, less congestion, and less air pollution. We can resolve the problem by giving the commuter a choice—an efficient mass transit system as well as an efficient highway system . . . . We would be taking a long step forward toward resolving our transportation problem, which affects every American, by passing the Anderson amendment . . . .
>
> Mr. Chairman, I feel priorities have changed in transportation since the enactment of the highway trust fund in 1956. History shows us that if transportation is to be viable, it has to adjust to the times; and I cannot stress too strongly that the time for a new start is now.

Although the United States had "the finest highway system in the world," the time had come to build "an equally fine mass transit system." He concluded:

> We have the know-how, we have the technology, we have the resources, and we must demonstrate to the American people today that we have the will and the desire to resolve this problem and the way we can resolve this problem is to support the Anderson amendment . . . . [*Congressional Record-House*, April 18, 1973, p. 13118-13119]

Representative Clausen, who was orchestrating the debate, took his time to counter the argument of "my good friend from the southern part of my own State of California. He pointed out that supporters of the Anderson amendment "make light of the 'sanctity' of the highway trust fund, asserting that it has already been breached, and, therefore, it may be further breached for rail mass transit purposes without violating any trust. He recalled some of the items cited in this argument, such as ferryboats and archaeological salvage:

> To begin with, all of the uses cited are highway related. That is an important point. Comptroller General's decisions, as well as decisions of the legal counsel of the Department of Transportation, have carefully defined over the years what kinds of expenditures may be made under the authority of the Highway Revenue Act of 1956. It has consistently been held that the language of the act that they must be "attributable to Federal-aid highways," not "related to" or "provide benefits" to Federal-aid highways, means what it says.

> The fact that expenditures are attributable to transportation is not enough. They must be attributable to highways on the Federal-aid system.

Buses, he pointed out, are highway vehicles and "are taxed as contributors to the highway trust fund." Rail transit is neither highway oriented nor a contributor to the fund.

In setting up programs, Congress does not allow funds to be switched among them, say between the Departments of Defense and Health, Education, and Welfare. If the Anderson amendment, which proposed just such a switch, were approved, "Think of the fiscal management mess we would be creating." Of course, he acknowledged, Congress could change the "arttributable to Federal-aid highways" language of the Highway Revenue Act, but "the authority for doing that does not rest with the Committee on Public Works," but with the Ways and Means Committee.

Representative Clausen also addressed the argument that since the Highway Trust Fund is simply a crediting device within the general Treasury, the funds are really general funds that may be used for other purposes than highways. "The definition of highways as contained in the statutes" covers a variety of activities related to highways. "There is no mention, specific or implied, of use for anything attributable to rail mass transit." He continued:

> But leaving aside arguments and discussions of the legalities and philosophy of "busting the highway trust," the more important question is how can we best assist cities to solve pressing problems of congestion. The committee feels that diverting critically needed highway and street improvement funds to rail mass transit will, in the long run, only compound the problem. That is the reason it proposed separate authorization and funding for mass transit as an addition to the highway program, rather than an "either-or" solution. We feel that even if the "trust-busters," or their well-intentioned supporters who simply want a solution to city congestion, are successful in securing adoption of the amendment, it will prove to be an illusion and a hollow victory. Diversion will not provide the amount of relief that is needed. What little relief it does provide will have to be given at the expense of needed street and highway improvements.

Finally, he addressed the concern that the President would impound the general Treasury funds for mass transit:

> It would seem unlikely that the administration would do so. Both the amount of funding and the source of funding—the General Fund—was proposed by the Secretary of Transportation in a letter dated February 21, 1973.
>
> What is more, the President has consistently stated in communications, the administration wants a mass transit program exactly like the one included by the committee in title III of the bill before us. Budget documents also convey this intent. Under the circumstances, it seems incredible to suppose that the authorization contained in title III would be unacceptable to the administration, or that if approved by the Congress, that the President would impound the funding provided which he, himself, proposed. [*Congressional Record-House*, April 18, 1973, p. 13119-120]

Representative Wylie engaged Representative Clausen in a colloquy. Would the Anderson amendment compel any urban area to spend 1 penny on urban mass transportation? No. Did the amendment simply provide the flexibility urban areas need? Yes, but so did S. 502, with the difference being only the source of funding. Is payment of taxes into the Highway Trust Fund a vote for additional Interstate highways? No, a variety of facilities, such as exclusive bus lanes, is needed. [*Congressional Record-House*, April 18, 1973, p. 13120]

Representative John M. Zwach (R-Mn.), a teacher, farmer, and State legislator in his third House term, argued against the Anderson amendment from a Minnesota perspective. He praised S. 502 for taking care of mass transit "without destroying the integrity and the need for the trust fund moneys." Many of his State's roads were two-lane roads incapable of carrying heavy trucks:

> Our railroads, Mr. Chairman, are in a complete crisis. We cannot transport our farm products to the markets. The eastern dairy area needs our corn. There are no railroad cars to move that feed into that area. We have an ocean of it to move, and so we need this trunk highway money very, very badly. We need it to bring the products of the sea out there to produce the best and cheapest food in the world and move it back into the Members' cities.
>
> Let us not now, until we have some roads out in the agricultural producing area, break open this trust fund. [*Congressional Record-House*, April 18, 1973, p. 13121]

Representative William E. Frenzel (R-Mn.), a former State legislator whose district included suburban Minneapolis, differed with Representative Zwach on the Anderson amendment:

> This proposal fits the trend toward increased local government decisionmaking. In addition to being consistent with the President's concept of "The New Federalism," the amendment is consistent with the administration's, and DOT's, well publicized position on financing mass transit.

The notion that transit needs should be met from the general Treasury "is a pious thought, but the House knows that no funds will be appropriated for this purpose." He explained:

> New spending programs simply will not be funded this year. I do not challenge the committee's good faith, but I do point out that its transit alternative brings no hope whatsoever. [*Congressional Record-House*, April 18, 1973, p. 13121-13122]

Representative Harsha took his turn to comment on the Anderson amendment. He said "there is nothing sacrosanct about the figures we put in the authorization, and there is no assurance that they will be released" by the Nixon Administration. Given the Administration's commitment to mass transit, "I would assume they would honor the contract authority as much as they would the trust fund expenditures."

He pointed out that the Department of Transportation's own 1972 National Transportation Report "states that the diversion of large sums of money from highway improvements to mass transit will have little—very little—change on air pollution." He said, "let us not delude ourselves into thinking that we are curing the pollution problem by diverting highway trust funds to mass transit."

Representative Harsha also disputed the energy benefit. According to the 1972 report, the average passenger car contains 1.9 people, which works out to 22.8 passenger miles per gallon of gasoline (assuming 12 miles to the gallon). The average number of passengers per bus mile is 2.58 (keeping in mind that buses operate throughout the day, not just on jammed commuter routes during peak hours in major cities) or 10.3 passenger miles per gallon (at 4 miles per gallon for each bus). He asked:

> Where did the savings in fuel go? Our public buses are using twice as much fuel per passenger mile. What are we doing to our energy supply problems by using buses?

He asked his colleagues to consider Professor Hilton's testimony on how much automobile traffic is diverted to mass transit. He cited the professor's comments that in reality the changes were "imperceptible relative either to the daily variance or to the growth in vehicle counts." He continued:

> There are long-term solutions to the energy crisis. Rapid transit will not be a major factor.

Representative Clausen pointed out that the cities with the most extensive rail mass transit, such as Chicago, New York, Philadelphia, and San Francisco, still had "a major congestion problem." They needed "the highway-related public transportation system to supplement the rail mass transit systems." He added:

> The only point I am attempting to make is that we will need every dollar we can allocate from the highway trust fund to develop the highway-related public transportation system, which will help most of the urban communities in the country, large and small alike . . . . The Wright-Clausen alternative [i.e, the provision substituting general Treasury funds for urban system funds] to the Anderson amendment is designed to provide the desired flexibility and the positive financial commitment to both mass transit and a safer, more efficient and functional national highway system for both urban and rural America alike. [*Congressional Record-House*, April 18, 1973, p. 13122]

Representative William G. Bray (R-In.), whose tenure in the House began in 1951, said the issue wasn't whether highways or mass transit were needed. "Many of those speaking on this subject have ignored one of the prime issues in this legislation," namely the use of the dedicated Highway Trust Fund:

> To adequately understand the purpose of the highway trust fund and the method in which it should be handled, it is necessary to go back and study the congressional history and the creation of the highway trust fund. I was on the floor when this highway trust fund was debated. At no time was there any suggestion made that this money was to be used for any other purpose than—"the highway trust fund."

On April 27, 1956, the legislation that created the highway trust fund, H.R. 10660, which ultimately became Public Law 94-627, the Highway Act of 1956, was being debated on the floor of the House. The late Honorable Dan Reed of New York, then Republican chairman of the Committee on Ways and Means stated—

> . . . It is important to emphasize that the bill provides for the establishment of a highway trust fund . . . The existence of this fund will insure that these receipts will not be diverted to other purposes.

And, our late, highly respected colleague, Mr. Hale Boggs of Louisiana, at that [time] a Democratic member of the Ways and Means Committee, clearly stated the purpose of this legislation:

> . . . this bill . . . establishes the highway trust fund which dedicates most of these funds to highway construction and for that purpose only . . . . Thus, for the first time, the American motorist will pay these taxes with the assurance that he will be the direct beneficiary of every penny which he pays and he will pay with the knowledge that every cent derived from these taxes will be devoted exclusively to his personal convenience and safety . . . .

By "every moral and legal standard," the revenue should be used for the original purpose set out in the 1956 legislation:

> If this body desires that this highway tax be discontinued, repeal it. Thus place any other tax to care for mass transportation that is proposed, but let us not misuse a trust fund. [*Congressional Record-House*, April 18, 1973, p. 13122-13123]

(Representative Bray's recollection was incorrect. Representative Daniel A. Reed (R-NY), who served in the House from 1919 until his death in 1959, was Chairman of the House Ways and Means Committee in the 83rd Congress when Republicans controlled the House and Senate (January 3, 1953-January 3, 1955). When Democrats gained control of both Houses in the 84th Congress beginning January 3, 1955, he lost his chairmanship to Representative Jere Cooper of Tennesee, who was chairman during the 1956 debates. The Federal-Aid Highway Act of 1956 was Public Law 84-627.)

Representative LaMar Baker, the Transportation Subcommittee member, supported the public transit measures in S. 502. "The logic of the situation is that there is not enough money in the trust fund, and the trust fund is not generating enough money to do both jobs." The bill provided $3 billion from the general Treasury along with contract authority for mass transit. "It becomes a contractual obligation of our Federal Treasury if the urban government decides that this is what it wants to do." The "point of wisdom" was to "follow the course which has been so completely thought out and worked out, as it is set out in this bill."

Representative Glenn Anderson interrupted to ask Representative Baker where the money from the general Treasury would come from:

> If they did that—which I doubt—where would they get the additional money? Would they get it from additional taxes? Would they get it by cutting out some of the services we are cutting out right now? Or would they go into further deficit financing to pay for that contractual authority out of the general fund?

Representative Baker yielded to Representative Harsha to answer the question, but he simply summarized the bill's provision. Representative Anderson interjected that "the money to pay the contractual authority would have to come out of the fund," but Representative Harsha said he had not yielded time. He continued, "The money for mass transit comes from the general fund. So there is no total overall expenditure above what is in the bill."

Representative Anderson restated his question:

> If we do take money out of the general fund, where there is not any money today, will we then have to provide more deficit financing, or will we increase taxes, or will we cut some of the other programs, like education, health, and pollution, which we are cutting today, before there is a deficit.

Representative Harsha answered:

> Getting the money out of the general fund is just like money for housing or anything else. We do not have to increase taxes to do it, because the overall spending of the budget is not affected by reducing highway funds.

The exchange continued until Representative Harsha cut it off:

> Mr. Anderson of California. That stays over in the highway fund and does not come out.
> Mr. Harsha. The gentleman knows it is a unified budget. Every expenditure, whether it comes out of the trust fund or the general fund, is reflected in that budget. So there is no additional spending in our proposal over what the gentleman's proposal would do.
> Mr. Anderson of California. Yes, there is.
> Mr. Harsha. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Peyser). [*Congressional Record-House*, April 18, 1973, p. 12123]

(Representative Baker, who served in the 92nd and 93rd Congresses, would serve as Regional Representative to the Secretary of the U.S. Department of Transportation, 1981-1985, during the Reagan Administration.)

Representative Peter A. Peyser (R-NY), who represented Irvington, a suburb of New York City, said that New York City had "two desperate needs," namely money for mass transportation and money for highway construction and reconstruction. If the Anderson amendment were adopted, he asked, "does this take money away from the construction of highways?" Yes, Representative Wright answered, it would take money from highway construction in the area to the extent that the area chose mass transit alternatives. Under the bill, money for mass transit "would come in advance obligational authority out of general revenues, and the equivalent amount would remain in the trust fund for redistribution to all other cities" that could use it for highway construction."

If New York City decided to use the funds for mass transportation, "is that money then guaranteed to New York City, that they will get that money?" Representative Wright could not provide an absolute guarantee since he could not guarantee that the funds would not be impounded. He said that half the highway funds appropriated for the previous year had been impounded while only a small amount of transit funding had been impounded ($20 million out of $980 million). "So it appears to me on the basis of the record that one has a better chance to get that money out of general revenues than one would out of the trust fund."

Is an action pending, Representative Peyser asked, "to challenge the authority of impounding highway trust funds?" Representative Wright replied:

> Mr. Chairman, there is, and there are also actions pending challenging the authority of the President to dismantle other programs and to impound other funds. There is also contained in this bill an anti-impoundment feature that applied to mass transit. [*Congressional Record-House*, April 18, 1973, p. 13123-13124]

Representative Veysey, a member of the Public Works Committee from Brawley in southeastern California, said he had introduced legislation that was "perhaps the most acceptable answer to all interests." He described H.R. 5816, which he had introduced on March 19, 1973:

> My legislation would allow use of the trust fund for mass transit—only if such transportation systems are highway oriented. My bill, H.R. 5816, would open the highway trust fund to facilitate the fullest and the most rapid development of bus mass transit, including the purchase of rolling stock—again, other than rail . . . .
>
> Mr. Chairman, specifically, my legislation would prescribe that urban and urban extension sections of the highway trust fund shall be available to construct highway oriented mass transit systems, related facilities, and to purchase buses or rolling stock other than rail.
>
> It also will open the interstate highway trust funds to encourage such highway-oriented mass transit systems, but excluding the purchase of rolling stock.
>
> Finally, it specifies that all such rolling stock purchased for mass transit must meet standards prescribed by the Environmental Protection Agency under the Clean Air Act.

First, he could not support Highway Trust Funds for rail transit, which he called "a long term project at the best" at a time when southern California needed "immediate relief." Second, the cost of rail transit would dwarf highway-oriented transit systems and would be prohibitive on a cost-benefit ratio. Third, opening the Highway Trust Fund to rail transit would "significantly dilute the impact such funds will have on immediate, rifle-shot attention to developing sophisticated bus mass transit systems." He added, "We cannot afford to waste years toying with multibillion-dollar fixed rail schemes" when buses could "be put to work tomorrow." Finally, H.R. 5816 was consistent with the views of millions of Americans who wanted to restrict the Highway Trust Fund to its original purpose.

Representative Veysey concluded by saying his bill was "the immediate and practical answer to providing vital funds for mass transit . . . to reduce smog and congestion now, and save the grandiose, science-fiction approaches to mass transit until we can breathe again in our cities." [*Congressional Record-House*, April 18, 1973, p. 13124]

Representative Bingham, the longtime champion of opening the Highway Trust Fund to mass transit, recalled his long fight, dating to 1965. "The reasons for more mass transit in relation to highways are the same today as they long have been." He listed the reasons, including air pollution, energy consumption, and division of communities as well as the loss of tax base:

> There are, of course, several ways of encouraging a more balanced transportation system through Federal assistance. I personally feel that creation of a general surface transportation trust fund, consisting of the current highway trust fund and such moneys from general revenues as the Congress might see fit to add is the best solution because it would assure a sufficiently large quantity of funds to meet the extensive need for development of our transportation systems and it would provide maximum flexibility in the use and allocation of those funds among various transportation modes.

He had introduced a bill for that purpose in the 92nd Congress and was introducing it again, although he noted that "it will be referred to the Committee on Ways and Means," where he implied but did not say it would die.

Another option was to create a separate public transit or urban mass transit trust fund, but that was "a risky and inadequate solution for several reasons." First, the funds would mostly have to come from the general Treasury where competition with other needs would limit the amount available. Second, the trust fund would further restrict local officials in use of the funds, as was the case with the Highway Trust Fund. He noted one other objection:

> Finally, with the highway trust fund untouched, cities and States would continue to be seduced into building and improving roadways just because the money would be there—roadways that add more to local social, fiscal, and environmental problems than they eliminate.

He supported the Anderson amendment which "would simply end the use-it-or-lose-it policy that has forced Governors and mayors and county executives to build and spend on roads regardless of local needs for bus or rail mass transit."

The funding in S. 502 for mass transit consisted of "empty promises." There was "absolutely no assurance" that the funds would be forthcoming. "With the Federal Treasury overburdened as it is to meet social needs here at home, the highway trust fund is the only sure source of funds for mass transit, and the only source of funds sufficiently large to provide significant aid." [*Congressional Record-House*, April 18, 1973, p. 13124-13125]

Representative Jones of the Public Works Committee said he supported "proper development of a complete and balanced transportation network for the United States." That goal, however, could not be reached "by diversions from the highway fund." The "staggering backlog of road-related needs" meant that the Highway Trust Fund did not have enough funds to meet its present responsibilities while attempting to "properly service rapid transit requirements." He continued:

> In establishing the highway trust fund, the Congress made a commitment to all the people that those who were going to use the highways would pay for them . . . . We can justify the user taxes only to the extent that the payer receives an adequate return for his special tax. If a trust fund is put to other purposes, the user tax which supplies it is either discriminatory or too high.

The motorist came close to "completely paying for his transportation through the user taxes which build the roads and his private investment in automobile and fuel." He would be "severely short-changed" by diversion:

> Diversion of highway user taxes in face of the legitimate highway improvement needs would be a failure of the Government to fulfill an obligation to the vast motoring public which has participated in the fund with the promise of improved roadways.
>
> Those who urge a diversion in the highway trust fund for rail transit in an effort to realize fiscal goals or economy suffer the greatest of illusions. They completely ignore the total costs associated with construction and operation of such systems in an effort to temporarily solve a vexing problem—serving a need while restraining new expenditures.

To those who promote diversion for mass transit, he suggested:

> The rapid transit case should be presented on its own merits and funds should be made available from general revenues to service these urgent requirements.

Diversion would "leave the public with neither adequate rail transit nor adequate roads." [*Congressional Record-House*, April 18, 1973, p. 13125]

Representative Moakley, the first term Congressman from Boston, began his comments:

> Mr. Chairman, 7 months ago, almost to the day, this House voted against allowing cities like Boston to choose how best to spend its share of highway trust fund money. At that same time, September 21, 1972, as a candidate in Massachusetts Ninth Congressional District, I pledged that if elected to Congress, my first priority would be to try to change your mind.
>
> Of course, I am prejudiced.
>
> If you allow cities like Boston to decide for themselves how best to spend its share of the highway trust fund, no other congressional district in the United States would be as immediately and totally benefited as my own . . . . If you give Boston the green light on rail

> transit, over 5 billion transportation and transportation-related dollars will be generated in Metropolitan Boston during the next decade—and most of that money will be spent in my district.

He added that he was not only prejudiced but "also desperate," explaining, as he had during his testimony in March:

> With all due respect, regardless of your decision, the odds are great that no more highways will ever be built in Boston. One good lawyer could keep away the cement trucks from Boston for at least 15 years. All the roadbuilders in America would not stand a chance against one Boston lawyer clad in the armor of the Department of Transportation Act, the National Environmental Policy Act, and the Clean Air Act.

Boston, in short, was experiencing an "epidemic of carsickness." He could describe the symptoms, "but such testimony would be based on the false premise that your choice is between highways or no highways . . . [or] between rail transit or highways." Instead:

> Your choice is simply whether to allow cities like Boston to spend funds already earmarked for its use alone on the transportation mix best suited to meet its particular transportation needs.

The Anderson amendment would not take one penny from the Interstate System or dictate that a single penny be spent on rail transit. But if given a choice, Boston and 16 other cities would spend the funds on rail systems.

He recognized that some "think it irresponsible" to divert funds because "all the money that could conceivably be authorized by this Congress for rail transit for the next 3 years would barely pay for one rail transit system, let alone 17." They argue that given the non-rail needs in those cities, "allowing cities a rail transit choice offers them a false and empty promise." He disagreed because the Federal-aid urban system funds would supplement UMTA, State, and local money to build rail transit. The result would impact each city's ability to meet air quality standards:

> Regardless of whether you grant those cities a rail transit option, many of them still will not meet Environmental Protection Agency deadlines. But with rail transit, many of America's worst-polluted cities, Boston among them, could show compliance and meet the standards, if not the deadlines.
>
> By providing these cities a rail transit option, those of you who voted for the Clean Air Act could take pride in the fact that not only did you vote for clean air but you went the extra mile to make clean air possible.

Representative Moakley said that he had purposely "tried to avoid rhetoric or tell the pollution, energy and urban environment horror stories you have heard before." But he had a point to make:

> In closing, I would simply like to point out that the most significant and perhaps the pivotal point in the long fight to allow cities a rail transit choice occurred earlier this year here in the House. It happened when the House Public Works Subcommittee on Roads changed its name to the House Public Works Subcommittee on Transportation.
>
> And I think that is all anybody is really trying to say. Transportation in 1973 means more than simply roads. [*Congressional Record-House*, April 18, 1973, p. 13126-13127]

Representative Samuel H. Young, a Republican lawyer from Chicago serving his lone term in the House, supported S. 502 in general, but endorsed the Anderson amendment, saying:

> I believe that such use of the trust funds is highly consistent with the original purpose of the trust—the promotion and implementation of rapid and safe transit from one place to another in this country.
>
> If we are to enjoy the continued use of the automobile in metropolitan areas, if we are to relieve the congestion that plagues our cities, and if we are to meet air pollution standards of the future, we must immediately upgrade and expand our urban mass transit systems. If we do not take this step, our only alternative is to restrict the use of the automobile in the central city.

Mass transit was continuing its decline. In his own congressional district, the city of Evanston in the Chicago urbanized area was about to lose one of its two mass transit alternatives, the Evanston Bus Company:

Approval of the Anderson amendment to open up the trust fund would give Evanston the option of using its share of trust funds to aid the busline, and thereby relieve the highway traffic congestion in the city and surrounding areas. [*Congressional Record-House*, April 18, 1973, p. 13127]

Representative Heckler also supported the Anderson amendment. She began by explaining:

> I recently had the privilege of serving as moderator on the public television program "The Advocates." This nationally televised public debate addressed the question: "Should highway funds be diverted to mass transit at the option of the individual States?" The points brought out in that forum were to the points being made on the amendment that is before us today. The debate on TV was as intense as the debate in this Chamber.
>
> While viewers of this program do not have the benefit of electronic balloting, they are invited to mail their votes to public television and the results are announced the following week. I am delighted to report that this nationwide poll gave a resounding "Yes" to the question on diversion of highway funds. In fact, the tally was 74 percent "yes" against 26 percent "no." That was the vote of the people.

The Anderson amendment, Representative Heckler said, "is a very realistic attempt to solve a problem . . . . Public transportation must be helped."

She resisted "the dictum" that public transportation funds must come from the general Treasury:

> I suggest that we must look upon highway users in their larger role—that of transportation users. They have a direct interest in unimpeded mobility in all modes of surface transportation . . . . Let us give a choice to the commuter, so we can open up the highways for those who have no choice—such as the truckers and the bus lines.

The amendment, she argued, did not break faith with highway users:

> The calling-in of a debt is not a breaking of faith, and I submit that despite our highway system's very obvious benefits over the years since the enactment of President Eisenhower's Federal Aid Highway Act of 1956, our overreliance on highways has created some very serious problems to go along with the benefits. If indeed 97 percent of all traffic movement of individuals within the cities is performed by highways, roads and streets; and if indeed 94 peercent of all traffic is carried by automobiles and trucks within our urban areas, then I say that is a problem—not something to boast about. It is a fact of life that must be changed. If the highway user has paid his excise taxes and helped cause this problem, then I say it is not breaking faith if we ask him to pay excise taxes to help solve the problem.

As for those $600 billion in highway needs through 1990, "the highway needs study assumes utilization of highway transportation by all segments of our society." That was "a callous disregard of the hundreds of thousands of the elderly, the very young, the poor and the handicapped—for whom access to an automobile is either far-fetched or impossible." These people were "prisoners of our own prosperity" in our auto-oriented world and yet their lives were "disrupted by noise pollution and highway landtakings. Their health is endangered by the killing poisons of accumulated exhausts." She did not think such a future was worth $600 billion.

The Anderson amendment, small as it was, "represents Federal legislation at its finest." It was, she said, "one of the most carefully-crafted pieces of legislation in history." She was clear on what its passage would mean:

> We will have obligated ourselves to the principle of solving transportation problems with transportation money; we will firmly declaim a national set of transportation priorities for the Nation; and we will allow those who know their own local problems best to choose the solutions most appropriate for their own people. [*Congressional Record-House*, April 18, 1973, p. 13128]

(As of February 3, "The Advocates" had received 1,509 "votes" from 45 States and the District of Columbia, with 92.7 percent favoring the proposal, 5 percent opposing it, and 2.3 percent expressing other views. [Federal Highway Act of 1970 and Miscellaneous Bills, Hearings, Subcommittee on Roads of the Committee on public Works, United States Senate, Part 1, 91st Congress, 2nd Session, S641-95, p. 482])

According to the *Congressional Record*, Representative Bingham then discussed his amendment to strike the priority primary system from S. 502:

> This is in effect a coming extension of the Interstate System. But there is a big difference. When the Interstate System was authorized it was authorized only after intensive and extensive studies. The same studies have not been made for this extension of the Interstate System.

He pointed out that the 1968 Highway Needs report mentioned the proposal but indicated additional study was needed.

Representative Bingham's characterization of the priority primary proposal prompted an exchange with Representative Wright:

> Mr. Wright. This is not an extension of the Interstate System.
> Mr. Bingham. I said it had been so characterized, and I should like to stand on that statement.
> Mr. Wright. But that is a characterization. Is it not?

Representative Bingham agreed that the committee had removed the provision calling for the routes to meet Interstate standards, "but the fact is that the chances are this will build into an extension of the Interstate System, and there is no telling how much it is going to cost in the long run." He suggested:

> Why not just go ahead with the Federal primary system, and develop that to the extent we need to? Why do we have to come in with an additional amount for a new system which has not been thoroughly studied, which has not been recommended by the national highway needs report, which is opposed by the administration? It is just another foot in the door for what will amount to, I am convinced, in the end, an extension of the Interstate System. [*Congressional Record-House*, April 18, 1973, p. 13128]

Representative Wright announced that he had no further requests for time. The Anderson amendment was ready for final consideration.

Representative Anderson spoke in support of his proposal to open the Federal-aid urban system funds to rail transit. It was, he said, "a very simple amendment" that affected only a small portion of the Federal-aid highway program. In view of the concerns expressed about the amendment, he wanted to list the things it did not do. It did not affect the Interstate System or the primary and secondary systems. It did not add or delete a single penny approved by the Committee on Public Works. No State will get less money if the amendment passed.

He also responded to Representative Harsha's comments about contract authority:

> He said that under the Anderson amendment it would be "either/or," and under the committee bill it would be "both."
> My contention is that under the committee amendment it would probably be "neither" because this contractual authority is a kind of gimmick, trying to tell us that we are going to get money from somewhere without touching the highway trust fund. They say it does not

> come from the highway trust fund, but also they will not admit it has to take money out of the general gund—a fund in which there is not sufficient money today to meet our current needs. They say that yes, it is earmarked for that; they try to give you a sleight of hand—

Representative Wright asked Representative Anderson to yield:

> Mr. Wright. Mr. Chairman, I really take exception to the gentleman's remarks about sleight of hand, pretending and things like that. Does the gentleman know that 90 percent of the money which is provided by this Congress comes out of the general revenue? Since when is that second-class money?
> Mr. Anderson of California. Mr. Chairman, as long as the gentleman admits the money for their proposed contractual authority is going to be paid out of the general fund—
> Mr. Wright. Of course it is.
> Mr. Anderson of California. I want to make that clear.
> Mr. Wright. What is wrong with that? Ninety percent of the money Congress appropriates come out of the general revenue. Is that second-class money? Has anybody ever turned it down? [*Congressional Record-House*, April 18, 1973, p. 13136]

With Representative Anderson's time expired, Representative Shuster spoke in opposition to the amendment. He had three reasons. First, the Highway Trust Fund did not generate enough money to meet critical highway needs. He said the 1972 National Transportation Report had concluded that $600 billion would be needed to complete highway programs through 1990 and "of that amount approximately $300 billion is absolutely essential." Since the Highway Trust Fund would generate only $125 billion during that period, "only 41 percent of the funds needed to complete the critical portion of our highway program" would be covered.

Second, the Highway Trust Fund did not generate enough money to meet urban highway needs:

> The proponents of this amendment would have us believe that they speak for urban America. I do not doubt that they speak for a large portion of the 32 largest urban areas of America, those areas which represent over 400,000.

He, however, represented one of the 211 urban areas that had fewer residents. He believed that "most of the smaller urban America does not want the highway trust fund to be raided, because we need our highways in smaller urban America."

Third, additional funding was needed for highway safety:

> I would suggest it is up to us in this Congress to stand up and be counted and to fund this program to protect the highway trust fund so we can save 25,000 American lives. [*Congressional Record-House*, April 18, 1973, p. 13136-13137]

Representative Kluczynski rose in support of the Anderson amendment. He began:

> There is probably no one in this House that has been a more vocal and ardent supporter of the highway trust fund over the years than I have. I still believe it is the most successful mechanism ever put forward for financing a program and I believe the highway program is one of the most successful Federal-aid programs ever conducted by the Federal Government. I also believe that the highway program is still of vital necessarily to this country and it will be for years to come.

His hometown of Chicago had "one of the finest freeway networks of any city in the world" as well as a fine transit network:

> The transit system is, however, in trouble. No longer can we rely on the fare box to keep the system solvent. Increased costs of labor, equipment, and maintenance have made it impossible to operate in the black. Outside financial help of some kind is essential.

The Anderson amendment, which affected only a small portion of the funding authorized by S. 502, was not "the total answer but it will be a help in moving toward some solution to the problem of decreasing mass transit patronage and even in some instances complete loss of transit service." Combined with the authorizations in Title III, the funds freed by the Anderson amendment will help "improve these conditions in our cities and bring balance into the total transportation picture." [*Congressional Record-House*, April 18, 1973, p. 13137]

Representative Breaux opposed the amendment. He disputed the three main arguments he said were used in its support, namely that the surplus in the Highway Trust Fund could be used for mass transit, that the amendment would provide substantial relief for cities, and would not affect the allocation of funds to any State. "These arguments continue to be made when in fact, all three have little basis in fact and are subject to serious question."

After explaining that the surplus in the Highway Trust Fund was committed to ongoing highway projects, he said that only a portion of the $700 million authorized for the Federal-aid urban system would be used for mass transit:

> So it is unfair to hold out to the cities that such an amount will be used when in fact it will not. There is no question that this is solely an effort to break open the highway trust fund.

Even the cities that wanted to use all or most of the funds for mass transit could not use the authorization "as a satisfactory base for a major rail system because they have no idea of what will be in store after 1976."

As for the argument that the Anderson amendment would not affect allocation of Federal-aid funds to any State, Representative Breaux said:

> It seems to me that if we begin to fund both highways and mass transit from the urban system fund, pressures will be exceedingly intense in future years to increase the authorizations for the urban system, to meet the total transportation needs of the cities. Since funds in the highway trust fund are limited, it is obvious that the increased

> authorizations for the urban system would be at the expense of authorizations for the rural systems and could even cause extension of the date of completion of the Interstate System . . . .
>
> In the long run, all States would suffer under the Anderson amendment, particularly the larger more rural States. [*Congressional Record-House*, April 18, 1973, p. 13138]

Representative Stephen D. Symms (R-Id.), serving his first term in the House, also opposed the diversion of funds from the Highway Trust Fund. No one, he said, would deny urban needs, but the revenue in the Highway Trust Fund was needed for highways:

> To divert it to some other use at this time would cripple the highway system, and would not begin to supply the amount of money needed by our cities anyway. The sensible thing is to finish our highway system with the funds provided for that purpose, and work out a new and realistic program to build transit systems in the cities.

Rural States would suffer "a considerable loss" if the Anderson amendment were approved. For example if cities used the funds for mass transit, they will neglect their highways. "You cannot spend the same dollars twice." If highways begin to decline in the next few years, Congress would be right back where it started, trying "to solve the problem by sharing some more of the highway trust funds."

He also was concerned about the precedent. "Once we establish the principle that it is all right to steal a little from the trust, it will be easier the next time to steal a little bit more." Given growing urban needs, "they will be back for more next time." He concluded:

> We need to build transit systems, and we need to finish our highway system. The trust fund moneys are not adequate to build the city systems. Let us not destroy our road system by spreading our money so thinly that neither job is finished. [*Congressional Record-House*, April 18, 1973, p. 13138]

Representative Zion, the Indiana Representative serving on the Transportation Subcommittee, also opposed the Anderson amendment, citing the commitment Congress made in 1956 to highway users:

> They said, "You people out there using the highways, paying your taxes for highway use, put your money into a special fund and we are going to give you the best transportation system in the history of the world."
>
> This was a firm commitment that was made by the Congress of the United States. We said, "We are going to provide safe and dependable highways." We have not done too well in this regard because of inflation and impoundment, and a few other things. We have not kept our commitment . . . .

> And here is something that has not been touched on. This system is about 80 percent completed. A highway system that is 80 percent completed is about as effective as a chain with three or four missing links. It is practically useless.
>
> Let us take, for example, the stretch of I-64 between St. Louis and Louisville. Sure, there are some great, big beautiful four-lane highways, beautiful bridges, and there are some well decorated landscapes, but it does not do you much good if it does not go anywhere, does not start anywhere, and does not end anywhere . . . . And until we finish these missing links, until we have an unbroken chain, it is not going to do us much good.

Considering the amount of transit needs discussed in the recent hearings, the amount affected by the Anderson amendment "is really a drop in the bucket." Mass transit had a problem, no doubt, "but we have at least an equally serious problem in moving the completion of our Interstate System and the rest of our ABC system." He concluded:

> The fact that we are doing such an inadequate job does not, in my opinion, justify doing a worse job of saving lives on the highways by adopting this amendment. [*Congressional Record-House*, April 18, 1973, p. 13138]

Representative Burke supported the amendment by her Los Angeles colleague. "We in Los Angeles know how desperately we must have a balanced, multi-modal transportation system to serve the complex needs of our people." Los Angeles County alone had 7 million people, a population greater than 42 States, and nearly 5 million registered vehicles, more than 44 States. "We need to have assurance that Federal funds will be available to develop alternative means of public transportation." The Anderson amendment "would be responsive to the area's transportation needs."

The adverse consequences of the automobile were well known. "Accordingly, it is short-sighted to rely on one mode of transportation and the Anderson amendment provides our local officials with greater flexibility by which to meet the communities' transit needs." [*Congressional Record-House*, April 18, 1973, p. 13139]

Representative Spark M. Matsunaga (D-Hi.) said:

> Mr. Chairman, today, April 18, will go down in congressional history as a day of confusion.
>
> A distinguished British parliamentarian who served in the British Parliament for 40 years, and who became known as Back Bench Hamilton, after 40 years of service in the Parliament made this observation: If you cannot refuse, confuse.
>
> It seems that the opponents of the Anderson amendment have taken a lesson from Back Bench Hamilton, for, judging by the arguments they have made, there is more of an attempt to confuse the issue than to elucidate.

He emphasized, as had other supporters of the Anderson amendment, what it would not do, then said:

> What the Anderson amendment would do, Mr. Chairman, is to permit the State and local officials, who bear the immediate responsibility for coordinating an areawide transportation system, to make a choice of diverting some urban highway funds to other, higher priority transportation uses.

Representative Matsunaga said that he had introduced amendments in previous years to give Hawaii the same flexibility the Anderson amendment would give the Nation:

> Mr. Chairman, the Anderson amendment if adopted will help Hawaii; it is my firm conviction that it will also help America, in a most meaningful way.
>
> State and local officials in Hawaii and every other urban area of the country are now required to develop comprehensive transportation plans related to local needs. It is time that they were given the flexibility they need to pursue the goals set forth in those comprehensive plans in a realistic way. [*Congressional Record-House*, April 18, 1973, p. 13139]

Representative John Anderson said of the Members who opposed the amendment offered by his colleague from California, "I commend each of them on their presentation even though I think they were wrong." He would explain their two key errors.

First, the estimate of $300 billion in essential highway needs through 1990 was overstated:

> The fact is that the same report points out the estimate of the economically justified highway investments is roughly $100 billion, of which the Federal share equals $70 billion, and this is the figure that ought to be compared with the $135 billion in the projected trust fund and not the $300 billion.

He also disputed arguments about the surplus in the Highway Trust Fund:

> Now it is true that there are $7.7 billion in outstanding obligations. The fact of the matter is that most of the $7.7 billion in outstanding obligations will be paid over the period of 2 years. During the same 2-year period $12 billion will flow into that fund, so that money plus the $5.4 billion currently on hand will be more than enough to meet the current obligations of the fund. [*Congressional Record-House*, April 18, 1973, p. 13140]

Representative John F. Seiberling (D-Oh.) also supported the Anderson amendment. His family's fortune came from the Goodyear Tire and Rubber Company, which the Representative's grandfather, Frank Seiberling, had founded in Akron. The company had been among the clients Representative Seiberling had represented during his years as an attorney. He began:

> Mr. Chairman, it would be heresy for a person from Akron, Ohio, to proclaim that he did not support Federal aid highway legislation, and I am not about to commit any such heresy. I have supported it and will continue to support it. But that is not enough. There is probably not one single official of one single tire company who would publicly admit that he is in favor of the Anderson amendment. Yet if you talked with them privately, many would concede that we cannot go on as we are going, trying to build ever more highways to solve our transportation problems. The reason is simple; we have discovered that we can build automobiles faster than we can possibly build highways.

From Akron to the New York City to Washington, people were beginning to understand this fact. "Yet today mass transit is on the verge of disintegration in Akron, Washington and many other cities." Without adequate funds for mass transit, cities would never be able to solve their traffic problems:

> One of the reasons we have such horrendous traffic problems in our urban centers is that the Interstate Highway System funnels tremendous numbers of automobiles in and out of the city, yet it is impossible to make enough space in city streets to take care of them, unless we simply tear down huge areas of the inner city and turn them into streets.
>
> So if we are going to have a successful use of our highway system and our streets and our system of automobile transportation, then we are going to have to provide some way to end this congestion, and the way is to provide mass transit. It is not at all illogical to take the money out of the highway trust fund because the highway trust fund is one of the reasons we have the problem in the first place. I submit that those who wish the automobile to be the convenient and useful thing that it has been and can be are going to have to make some of that money available for mass transportation in those cities that need it.

He cited the growing energy crisis. It meant that "we can no longer afford to be almost totally dependent on the automobile."

Representative Wright interrupted to ask Representative Seiberling if he was aware that S. 502 included $3 billion in new contract authority for the UMTA mass transit program. Representative Seiberling said he was not only aware of it but had intended to commend the Committee on Public Works for its proposal:

> However, to provide, as the bill does without the Anderson amendment, that all money for mass transit must come out of the general revenue, is to postponing [sic] a decision which we should take now. Let us "bite the bullet," and tell the country, in the most tangible possible way—by cash on the line—that we are going to reduce our Nation's over-dependence on the automobile. [*Congressional Record-House*, April 18, 1973, p. 13140]

Representative Abzug wanted "to clarify some misstatements which have been made with respect to the impact of this amendment." First, she said that the Anderson amendment was not limited to urban areas with a population of 400,000 or more:

> The Anderson amendmend addresses itself to what are known as "urban system" funds. Urban system funds are spent in areas of 50,000 population or more. Also, in States where there is no urbanized areas of 50,000 or more, the largest urban area would be eligible for these funds.
>
> Therefore, we are actually speaking of flexibility for localities which are very large in number across this country and whose total population is 120 million people."

Another misstatement was that "we do not need the Anderson amendment because the committee bill has a very interesting proposal by the gentleman from Texas (Mr. Wright) which says we can get our $700 million out of general funds." She pointed out that, "We have had a great deal of difficulty getting any appropriations here in the Congress," but she stated that to get the $700 million out of general funds, "an equivalent $700 million in the Highway Trust Fund will be self-impounded by us." She explained her idea:

> We will not be able to use that $700 million. It will be effectively impounded. We cannot use those moneys. We cannot use them for anything—not for schools, not for housing, not for any of our needs. And, because of this double-funding feature, we might get a tax increase to boot.

By her calculation, "we are putting up $1.4 billion in order to get $700 million." That was fiscally irresponsible. In contrast, supporters of the Anderson amendment were merely recognizing "the reality that $700 million which is already committed to the urban system areas" should merely be left to them to determine how it should be spent.

The fact that much more than $700 million was needed was not "an argument against our using the $700 million already available to us in the best way possible." With more and more of the population living or working in urban areas, "the use of the private automobile as a basic form of transportation in our urban areas has become increasingly inefficient and damaging to our environment." Representative Abzug said that the "the future of transportation in our urban areas must be in the form of such modes as bus and rail transportation." She added, "We simply do not have room for all the cars." [*Congressional Record-House*, April 18, 1973, p. 13140-13141]

Representative Murphy, the skeptical Rules Committee member from Chicago, recalled that congestion "used to be a rare occurrence, a weekly annoyance." Now, of course, it was a daily experience:

> Highway officials suggest that we build more highways and widen existing ones. But is this truly an acceptable or adequate solution? What happens when additional highways are built and widened and problems of congestion and pollution continue to plague us? Should we not seek alternative solutions now while time remains for experimentation and research. Should we wait until the maze of freeways permanently destroys the physical appearance of our urban areas.

The Anderson amendment, he said, was "a direct, flexible, foolproof method of legislating for the needs of all people." By contrast, S. 502 contained "an inherent flaw," namely that "locales would be hesitant to return highway trust funds because there is no guarantee that an identical amount of general funds would be available for mass transit." Representative Murphy concluded:

> I do not profess to know all the answers to our urban transportation crisis but I do know the first step toward a sane solution—the Anderson amendment.

He yielded to a question from Representative Shuster:

> Mr. Shuster. Mr. Chairman, what that means is that if a dollar out of the urban system is spent for mass transit, that is one less dollar that can be spent in the urban system for highways; is that not a fact?
> Mr. Murphy of Illinois. What I was saying is this—
> Mr. Shuster. May I ask the gentleman, is that not a fact?
> Mr. Murphy of Illinois. Mr. Chairman, it is contributing to the people in the major cities in any event, the citys like New York or Chicago. That is our money, too. There is nothing involate about the trust fund. [*Congressional Record-House*, April 18, 1973, p. 13141]

Representative Shuster, yielded additional time, asked where Representative John Anderson got his statement that essential needs amounted to only $100 billion through 1990. Representative Anderson said the information came from a letter dated April 18 from Secretary Brinegar, who stated that "the cost of justifiable highway investments is well below $300 billion. The estimate of economically justified highway investments in the Report is roughly $100 billion, of which the Federal share equals $70 billion."

That letter objected to the provision of S. 502 calling for the use of general Treasury funds for mass transit rather than revenue from the Highway Trust Fund. Secretary Brinegar objected for three reasons. "First, the bill offers the possibility of short term flexibility at the price of maintaining the long term rigidity of the program." Highway funds would remain available only on a "use it or lose it" basis. "This rigid, stifling approach to the use of Highway Trust Funds is clearly not consistent with the needs of modern America."

Second, the bill was "grossly inequitable to urban areas," which provided about half of the revenue in the Highway Trust Fund. S. 502 asked urban residents "to pay twice if they choose mass transit in preference to highways; once through the substituted general funds provided by the bill, and a second time in highway taxes that they cannot use in the fashion they believe will best solve their local transportation problems."

Third, S. 502 established "a complicated procedure for funding mass transit, as opposed to the clean and simple approach of the proposed Anderson amendment." This complicated procedure was "particularly troubling and inconsistent" with the provision of S. 502 declaring that "drastic minimization of paperwork" to prevent unnecessary delays should be a national policy.

Secretary Brinegar also addressed Representative Harsha's claim, based on the Treasury Department's most recent report on the status of the Highway Trust Fund, that it would have a balance of $5.4 billion at the end of FY 1973 with $7.7 billion in outstanding obligations. "The numbers are right, but the conclusion is wrong." The Secretary suggested that a mortgage was an appropriate analogy, since the homeowner does not have to have all the money on hand to pay the entire mortgage, but needs only the amount due each month. The homeowner can use any remaining funds available that month for other needs:

> Similarly, the Trust Fund has both income and outlays. Cash is only required when bills come due, not when obligations are incurred. Most of the $7.7 billion in outstanding obligations will be paid over the next two years. During this period, there will be almost $12 billion in additional receipts to the Trust Fund. That money plus the $5.4 billion currently on hand will be more than enough to cover current obligations, as well as any additional outlays required.

Secretary Brinegar concluded that the arguments offered by Representative Harsha did not justify rejection of the Anderson amendment. "Our urban areas' desperate needs, on the other hand, require the meaningful long term flexibility which the amendment offers, and which the Committee bill does not." [*Congressional Record-House*, April 18, 1973, p. 13144-13145]

Representative Shuster responded to Representative Anderson that the cited information "is nowhere in this comprehensive report, and if the gentleman can show this House where it is is, I will be happy to eat this book." [*Congressional Record-House*, April 18, 1973, p. 13142]

The record of the debate did not show a response.

Representative Koch said he knew some Representatives understood the need for the Anderson amendment, but were concerned their constituents would think the amendment would take money away from their rural districts:

> May I urge these Members to vote for the amendment and educate their constituents on what it really means. We in the urban areas have stood with people in rural areas time and time again. It time for you to stand with us.

The inadequacies of the Nation's mass transit systems "are adversely affecting auto drivers—as well as transit riders." Increasing transit use would benefit motorists by making trips "both faster and safer." He added:

> If more people do not willingly switch to mass transit in coming years, the city may find itself forced to restrict auto traffic in the central city if it is to meet the Federal air quality standards. It would be better for everyone if mass transit were improved and those who by choice could use public transportation did so, leaving the roads to those who need to drive their private cars.

For too long, urban areas had been forced to choose highways even if mass transit would have better met their needs. The time had come to give those urban areas the flexibility to make their best choice. "If the cities want highways, as those who oppose the amendment would have us believe, then highways will be built." In that case, he asked, "What then is to be feared in providing this option?"

He rejected the highway lobby's argument about "trust," saying:

> I would submit that there is nothing more sacred about collecting taxes on gasoline than on cigarettes or liquor, the proceeds from which go into the General Treasury . . . . There is no transgression committed in the Congress broadening the list of eligible expenditures to better accommodate today's transportation needs.

He concluded:

> We are at a significant crossroads in the history of our Nation's transportation program, and I urge the House to respond affirmatively in passing the Anderson amendment. [*Congressional Record-House*, April 18, 1973, p. 13142]

Representative Wylie also supported the amendment. As a member of the Urban Mass Transportation Subcommittee, he said, "I am now persuaded that the problem of urban mass transit is much more serious than whether we construct additional Interstate highways." With 80 percent of the Interstate System open at a cost thus far of $49 billion, he said, "The more serious problem now facing the Nation in this regard is providing funds for urban mass transportation systems." He pointed out that his constituents agreed. He had sent 160,000 questionnaires to his constituents that included a question on diversion of Highway Trust Fund revenue to mass transit:

> To date, we have received somewhere in the neighborhood of 25,000 responses. Approximately 70 percent of those responding have answered "yes" to this question. This is the most persuasive argument I have heard. [*Congressional Record-House*, April 18, 1973, p. 13142]

Representative Lionel Van Deerlin (D-Ca.), a journalist before and after his years representing a San Diego district in the House (1963 to 1981), said he was in complete support with the Anderson amendment. He said that only the closed rule on this issue adopted by the House Rules Committee in 1972 had prompted him to vote against the Federal-Aid Highway Act of 1972, "even though I recognize its provisions are urgently needed."

He acknowledged the arguments on both sides, but thought that critics of the Anderson amendment were overlooking the fact that "at most only a small proportion of trust moneys would be siphoned off for bus and rail transit—a maximum of $700 million a year against a total annual authorization of $5.5 billion." This would leave "plenty of money" for highway development, "even in the highly unlikely event that local governments chose to use all the urban system funds available to them for nonhighway purposes."

Since no one could guarantee that general Treasury funds would be made available to substitute for Highway Trust Fund revenues, he said it was "fair to use the gasoline tax to pay for transit since the proliferation of automobiles is after all the primary reason we have such a crying need for alternative modes of transportation today." [*Congressional Record-House*, April 18, 1973, p. 13142-13143]

Representative Myers, whose quorum call had killed the Federal-Aid Highway Act of 1972, said he was not opposed to a balanced system of transportation:

> But to use the analogy we are only talking about home rule that has been used now . . . I wonder if the sponsor of the amendment and Mr. Van Deerlin would appreciate it if when they drive from here to California they would go through Indiana and if the Government should decide that we will spend all the money on railroads, if they would appreciate it if they would have to park their car across the State line and go across Indiana in a railroad car. I do not think they would really appreciate it.

Supporters of balanced transportation would not want "to have to leave their car in the suburbs and ride through city on a questionable means of transportation." [*Congressional Record-House*, April 18, 1973, p. 13143]

Representative Ginn(D-Ga.) said the Anderson amendment "suffers from one fatal fallacy." The fallacy was that it "seems to be founded upon the assumption that there is an unlimited supply of money in the highway trust fund." He said that unfortunately, this was "just not so." Under S. 502, urban system funds not used for highway needs would be returned to the Highway Trust Fund for use elsewhere while under the Anderson amendment, the money used for mass transit would be lost to the Highway Trust Fund for other highway uses:

> So the Anderson amendment in effect would only apply to a handful of cities—and it would not give them anything they cannot get otherwise out of the committee bill—and it would penalize all the other cities and small towns through the country.
>
> In my opinion, to divert funds from the highway trust fund would be like putting a screen door in a submarine. It does not make sense. [*Congressional Record-House*, April 18, 1973, p. 13143]

Representative Coughlin, whose base was in Philadelphia, supported the Anderson amendment:

> To those of us who know them, rush-hour traffic jams are no joke. The wasted man-hours, to say nothing of the aggravation, are no joke. Yet we insist on providing funds—and the committee bill does this—that can be used only to build more highways in urban areas that are already strangling with traffic. This is ridiculous.

The Anderson amendment was an opportunity to fight pollution and save energy. We should do more than just talk about these problems, he said, "we should put our money where our mouths are." He asked his colleagues to "permit those of us from urban communities to decide for ourselves how our transportation dollars—our tax dollars—should be spent." [*Congressional Record-House*, April 18, 1973, p. 13143]

Representative William Jackson "Jack" Edwards (R-Al.), whose district was based in Mobile, also supported the Anderson amendment "for many reasons." One of the most important was "the potential effect which this amendment will have on the energy crisis now bearing down on us." He explained:

> We have seen that our energy needs, our national defense, our balance of trade and payments, the strength of the dollar, and the health of our national economy all lean on each other. If one is weakened, so are the others. The Federal-Aid Highway Act of 1973, if it contains the Anderson amendment, provides us with a good opportunity to deal with the energy problem in the area of transportation, which accounts for nearly half of the U.S. petroleum consumption.
>
> Exclusive emphasis on highway building could severely aggravate an already teetering energy balance. The question has to be asked: What good are more and more highways if we do not have the fuel needed to travel on them?

Highways, he said, "are the threads which hold together the economic and social fabrics of our Nation." They are "the concrete conveyor belts for goods, services, people, and ideas." The threads, however, "are fraying in some areas and the time has come to give serious consideration to what continued emphasis on highway construction may do to America, if other means of surface transportation are not factored into the transportation equation."

The convenience of the car was "more illusion than fact" in many cities. "The root problem is that our demand for personal mobility has run headlong into the national commandments for pollution control and energy conservation." The alternative to allowing mixed use of the Highway Trust Fund today "may be inflexible constraints on the free and unfettered use of the private car tomorrow."

Representative Edwards emphasized that the Anderson amendment would not affect Interstate funding. He said he had received a letter from Secretary Brinegar a week ago making this point clear:

> In response to the inquiry from your office, I can assure you that the proposed Anderson Amendment would not impede the Interstate and rural highway programs. We would not support the amendment if it did, for we are unequivocally dedicated to completing the Interstate program and to continuing improvement of the rural highway system.
>
> The amendment applies only to the urban portions of our highway programs, and gives to local urban officials, at their option, some flexibility. It absolutely does not affect the level of authorizations, nor does it affect the formulas by which funds are distributed.

> I am aware of your great concern for I-65 and I-10, in addition to the rural highway system, and can assure you that the "urban" amendment would in no way operate to delay or impair these highways.

With that point clear, Representative Edwards said, the real question was whether to accept the Wright or Anderson approach. The "compelling difference" was that Representative Wright substituted general Treasury revenue for Highway Trust Fund revenue if urban officials decided to use Federal-aid urban system funds for rail transit systems:

> This is a burden the taxpayer of the country ought not to have to bear. The Anderson amendment makes the same amount of money available to the cities without using general fund money and without causing the cities to lose one dime of Federal money to which they would otherwise be entitled.

He concluded by pointing out that "the goal of transportation is to move people and goods in the most efficient, economical way." Highways can achieve that goal in many areas of the country, but in others, "the noose of traffic congestion, pollution, and energy waste is tightening, and the development of mass transit would appear to be the answer." [*Congressional Record-House*, April 18, 1973, p. 13143-13144]

Representative Marvin D. Mathis (D-Ga.), the news director of WALB-TV in Albany, Georgia, before entering Congress in 1971, said he agreed with Representatives Wright and Ginn about the need for highway construction:

> The principal city in the district I represent has more than 80,000 people, and yet there is no four lane highway access to the city of Albany.

Georgia had many other highway needs in its rural areas, but Representative Mathis emphasized that he was speaking for cities:

> The cities I represent are not as large, or course, as New York, Chicago, Boston, or many other major cities in this Nation. But, Mr. Chairman, my cities have transit problems just the same as the big cities, and their problems are not going to be solved by destroying the Highway Trust Fund.

He sincerely hoped the Members of the House would listen to the debate on both sides of the question, although many of his colleagues were not on the House floor. "I feel this amendment deserves the attention of all of us." [*Congressional Record-House*, April 18, 1973, p. 13144]

Representative John Anderson, referring to the April 18 letter he had received from Secretary Brinegar, said, "I do not accuse the members of the Committee on Public Works of bad faith" in drafting the mass transit provisions of S. 502. The Secretary had referred to the "complicated procedure" in the bill for funding mass transit; he favored "the clean and simple approach of the proposed Anderson amendment." Representative Anderson said:

> They want the Anderson amendment adopted so that they can administer this program consistent with section 109 of the very same bill that says that highways and mass transit programs, in order to prevent unnecessary delays, shall be carried out with a minimum of paper work. The provisions of the committee bill simply do not meet the test of their own section 109 of the bill.

He introduced the Secretary's April 18 letter into the record.

The House, Representative Anderson said, "ought to listen to the people in the Department of Transportation who administer the highway program when they plead with this House to adopt the Anderson amendment." [*Congressional Record-House*, April 18, 1973, p. 13144]

Nearing the end of the day's debate, Representative Bizz Johnson of California said he opposed the Anderson amendment:

> I just want to say to the Members present tonight that we went over this very carefully with our State highway engineers, the State highway and public works department, the State highway commission, and also the Governor of our State, and they are in opposition to the Anderson amendment, and they so testified.

The State's experience and its "very fine highway program" proved "that they know what they are doing, and what the provisions of the committee bill allow them to do in solving our mass transit and highway problem in the State of California. [*Congressional Record-House*, April 18, 1973, p. 13145]

Representatives Harsha and Wright brought the debate to an end for the day. Representative Harsha wanted to respond to Representative John Anderson's comment that the House should listen to those who must administer the program in the Department of Transportation. He said he was not surprised that Department officials say "the Wright amendment is cumbersome and difficult to deal with." He explained:

> They have been trying to destroy this program for years, and they have tried, as a matter of fact, to terminate the Federal aid to highway program. They sent legislation up here on the Hill and had it introduced in behalf of the administration, which would terminate the Federal aid program as of January 1, 1972. They want to do completely away with it. So why would they not put up every argument that they could, and that is what they have done, of course.

Representative Wright said he had only one question:

> Do you remember revenue sharing? You thought it was going to be a good thing. You thought revenue-sharing assistance was going to be "in addition to" rather than "in lieu of" everything else. Do you want this same sucker bait a second time? There is not enough money in the highway trust fund to fund both programs. We will not be able to do it. And the administration will use this money as it chooses to attend to your problems.

> Think. Think for yourselves before you bite that Department of Transportation sucker bait a second time.

With that, Representative Wright's time expired and the Committee of the Whole under Chairman Udall came to an end. Speaker Albert resumed the chair of the Whole House and "reported that the Committee [of the Whole] had under consideration the bill (S. 502) . . . [and] had come to no resolution thereon." With agreement that Members would have 5 days to revise and extend their remarks, the debate ended. The key vote was set for the next day. [*Congressional Record-House*, April 18, 1973, p. 13145]

The Showdown

On April 19, readers of *The Washington Post* learned about the heavy lobbying underway on both sides of the issues. The *Post* focused on Representatives from the Washington area, such as two freshmen, Representatives Holt of Maryland and Parris of Virginia. They were, the article said, "as freshmen hardly movers or shakers in the U.S. Congress." What they had in common is that they were "among a dwindling group of congressmen undecided" on the Anderson amendment.

"There has been much coming and going in the offices of lobbyists on both sides of the issue." They were among a small group of freshmen Representatives who had joined Secretary Brinegar for breakfast a few days earlier to hear why the Nixon Administration favored the amendment. In addition, "Staffers in the Transportation Department say Mrs. Holt's requests for information on the issue are being handled with great and solicitous care." The two also had been visited by contractors and road builders while receiving special attention from the Highway Action Coalition.

More senior Representatives, such as Maryland Representatives Lawrence J. Hogan and Gilbert Gude, both Republicans from the Maryland suburbs near Washington, reported "getting less attention from lobbyists on the issue." Representative Hogan of suburban Prince George's County, was "an ardent opponent of opening the trust fund." He had received a few calls from mass transit advocates trying to change his mind, but none from highway supporters who knew they could count on his vote. He said, "Everytime I drive down a pothole in Prince George's County, and we got a million of them, I say we ought to keep the Highway Trust Fund."

Representative Gude, whose district was in suburban Montgomery County, was "equally ardent about opening the trust fund up." He had received few letters on the subject:

> Gude is one of a bipartisan strategy group of about 40 congressmen pushing for opening up the trust fund. As for proponents of keeping the trust fund closed, Gude said, "They probably don't write me because they've written me off."

Virginia's Republican Representative Broyhill, who represented the suburbs of Arlington, opposed the Anderson amendment. He said:

> The idea of saying you have to raid a highway trust fund for another purpose is dishonorable. I have been for mass transit before the environmentalists ever discovered that

> there was an environment. I'll provide the funds for mass transit without going to an improper source."

Representatives Holt and Parris saw the issue in less absolute terms. Representative Holt said, "This is one I'm really reserving my opinion on." She added, "I believe we ought to have a balanced transportation system. It seems to me that buses are the answer. And if you have buses they have to have something to run on."

Representative Parris acknowledged, "That's a real tough one," adding, "To be frank with you I'm still vacillating." He did not have any qualms about tapping the Highway Trust Fund for rail transit:

> What Parris said he is concerned about is whether Fairfax, Prince William and Alexandria, the jurisdictions he represents, would ever get to use the money for mass transit even if the fund were opened.
>
> His support of the move to open up the fund, he said, depends on whether provisions can be written into the bill mandating that the local jurisdictions get the money directly and the Virginia Highway Department be bypassed. Given a choice Parris said, the state highway department would probably use the money to continue to build highways and would probably continue to favor rural areas over Northern Virginia. [Denton, Herbert H., "Rival Lobbies Woo Area Congressmen," *The Washington Post*, April 19, 1973]

Readers that morning of April 19 also could read about President Nixon's special message to Congress on energy policy. In remarks on transmitting the message to Congress, he said, "America's energy demands have grown so rapidly that they now outstrip our energy supplies. As a result, we face the possibility of temporary fuel shortages and some increases in fuel prices in America."

By the time President Nixon arrived in the White House on January 20, 1969, the Nation was in a widely recognized energy crisis. Historian Daniel Yergin described the situation:

> The number-one concern was the rapid increase in oil imports. The Mandatory Oil Import Program, reluctantly established by President Eisenhower a decade earlier, was laboring under mounting strain, creating controversies and gross disparities among companies and regions. Its loopholes and exceptions were very lucrative to those who had figured out how to capitalize on them, and all too visible . . . .
>
> The American oil and gas industry was already in a deep trough; the number of drilling rigs had declined steadily since 1955, hitting its lowest levels in 1970-71—little more than a third the level of the mid-1950s.

Independent oil companies wanted the quotas to remain in place, but politicians from oil-consuming States and oil users and consumers wanted the quotas lifted "so they could get cheaper supplies." Nixon retained the quotas:

> With supply problems becoming chronic in the early 1970s, the phrase "energy crisis" began to emerge as part of the American political vocabulary, and in limited circles, there was agreement that the United States faced a major problem. The central reason was the rapid growth in demand for all forms of energy. Price controls on oil, imposed by Nixon in 1971 as part of his overall anti-inflation program, were discouraging domestic oil production while stimulating consumption.

As the crisis rippled through the natural gas and electricity industry, demand continued to surge in early 1973. Yergin described the President's special message on energy policy, April 18, 1973, as involving "a far-reaching" decision:

> He was abolishing the quota system. Domestic production, even with the protection of quotas, could no longer keep up with America's voracious appetite. The Nixon Administration, responding to political pressure from Capitol Hill, immediately followed up on its abolition of quotas with the introduction of a "voluntary" allocation system, meant to assure supplies to independent refiners and marketers. Those two acts, coming one on top of the other, perfectly symbolized how circumstances had changed: Quotas were meant to manage and limit supplies in a world of surplus, while allocations were aimed at distributing whatever supplies were available in a world of shortage. [Yergin, Daniel, *The Prize: The Epic Quest for Oil, Money, and Power*, A Touchstone Book, Simon and Schuster, 1993, p, 589-590]

President Nixon said that in response to this "serious challenge," what was needed was "decisive and responsible action to increase our energy supplies, action which takes into account the needs of our economy, of our environment, and of our national security." He was ending quantitative controls, establishing a National Energy Office, accelerating leasing of oil fields in the Outer Continental Shelf "and increasing our ability to prevent oil spills," maintaining the coal industry, and urging passage of legislation to remove regulation of the domestic natural gas industry, permit the licensing of new deepwater ports and open the way for the Alaska oil pipeline, and begin the research on new forms of energy for long-range needs.

"Each of these steps," he said "can help us meet our energy needs and meet those needs without sacrificing our environment or endangering our national security, so that we can continue to build a better life for all of our people in this country."

In the special message to Congress, he began:

> At home and abroad, America is in a time of transition. Old problems are yielding to new initiatives, but in their place new problems are arising which once again challenge our ingenuity and require vigorous action. Nowhere is this more clearly true than in the field of energy.
>
> As America has become more prosperous and more heavily industrialized, our demands for energy have soared. Today, with 6 percent of the world's population, we consume almost a third of all the energy used in the world. Our energy demands have grown so rapidly that

> they now outstrip our available supplies, and at our present rate of growth, our energy needs a dozen years from now will be nearly double what they were in 1970.

After outlining the steps he was taking to improve energy supplies, he discussed the need to conserve energy:

> The abundance of America's natural resources has been one of our greatest advantages in the past. But if this abundance encourages us to take our resources for granted, then it may well be a detriment to our future. Common sense clearly dictates that as we expand the types and sources of energy available to us for the future, we must direct equal attention to conserving the energy available to us today, and we must explore means to limit future growth in energy demand.

Individual citizens could help in their day-to-day activities "by turning out lights, tuning up automobiles, reducing the use of air conditioning and heating, and purchasing products which use energy efficiently."

Government at all levels "also had an important role to play, both by conserving energy directly, and by providing leadership in energy conservation efforts." At the Federal level, he was establishing an Office of Energy Conservation in the Department of the Interior "to coordinate the energy conservation programs which are presently scattered through the Federal establishment." He was directing the Department of Commerce to work with EPA and the Council on Environmental Quality "to develop a voluntary system of energy efficiency labels for major home appliances." The General Services Administration would consider energy efficiency in procuring housing for government agencies, while the Federal Housing Administration would update its insulation standards. Meanwhile, EPA would soon release the results of its fuel efficiency testing of automobiles.

He added:

> There are other ways, too, in which government can exercise leadership in this field. I urge again, for example, that we allow local officials to use money from [the] Highway Trust Fund for mass transit purposes. Greater reliance on mass transit can do a great deal to help us conserve gasoline.

President Nixon concluded his message by saying, "Nations succeed only as they are able to respond to challenge, and to change when circumstances and opportunities require change." Today, the need for action was urgent, and he hoped Congress would "act with dispatch" on his legislative proposals:

> But in the final analysis, the ultimate responsibility does not rest merely with the Congress or with this Administration. It rests with all of us—with government, with industry, and with the individual citizen.

> When we have been confronted with national challenges in the past, the American people have done their duty. I am confident we shall do so now.

The front page article about the President's message in *The New York Times* described it as being "devoid of major surprises." [Cowan, Edward, "President Offers Policy to Avert an Energy Crisis," *The New York Times*, April 19, 1973]

Representative John Anderson had mentioned the President's energy message during the debate on April 18. He had said:

> I take this very brief portion of time to reflect on the fact that this is the day when we have received from the pen of the President of the United States a very long-awaited energy message.

He recalled Representative Wright's speech the day before stating that 98 percent of people traveled by car in the great cities and that the Nation included 113 automobiles serving a population of 210 million:

> I thought of that when I read the passage in the President's energy message which is entitled "Conserving Energy":
>
>> We as a Nation must develop a national energy conservation ethic.

The President, Representative Anderson pointed out, had called for approval to use Highway Trust Fund revenue for mass transit:

> We in the Middle West are faced with the very real prospect of gas shortages this summer. I saw in the Washington Post this morning an advertisement for one of the major oil companies in the Nation saying that yes, there is a very great likelihood of shortages of gasoline for periods of time during the summer of 1973.

He supported, therefore, what Representative Glenn Anderson was trying to do "to open up to a limited extent the trust fund to the extent that we can begin a conservation of energy policy in this country as the President of the United States has recommended in his message today." [*Congressional Record-House*, April 18, 1973, p. 13121]

Representative Seiberling had also mentioned the President's message during the debate, citing the same passage as Representative Anderson about developing a national energy conservation ethic:

> Last week the Science and Astronautics Committee's Task Force on Energy published a report of its findings. I was most gratified to be a member of that task force. I hope all members will read it. If they do, I believe they will begin to get a clear picture of the elements of the energy crisis. It is real, it is here, it is going to get worse, and it is going to be years before it gets better.

In simple terms, it means we can no longer afford to be almost totally dependent on the automobile. This is, in fact, the logical time to start moving in the other direction. If we authorize local communities to take the money from the highway fund for mass transit, we will not only be making funds available for an urgent need, we will also be sending a message to the Nation that the Congress itself is developing an energy conservation ethic. [*Congressional Record-House*, April 18, 1973, p. 13140]

(The Committee on Science and Astronautics formed the Task Force on Energy to conduct a thorough investigation of energy research and development (R. & D.) in the United States. The task force conducted its review in 1971 and 1972, with hearings in May 1972. Task Force Chairman Mike McCormack (D-Wa.) transmitted the report, *Energy Research and Development*, on January 3, 1973:

> The Task Force has identified what it considers to be the four most important aspects of energy R. & D. policy. These are (1) the immediate need for a significant increase in energy R. & D.; (2) organizational reforms required in government to effectively deal with energy R. & D.; (3) the importance of environmental protection and energy conservation; and (4) technological opportunities that should have the highest R. & D. priority.

(On the subject of "Conservation in Transportation," the report said that transportation accounted for about 25 percent of total energy consumption, and as much as 40 percent "of all indirect energy costs are included, such as those associated with the manufacture of automobiles or the construction of highways." Gasoline consumption accounted for 68 percent of energy used in transportation.

(Iincreasing the efficiency of automobile engines was one way to conserve motor fuel. "Current air pollution requirements are working at cross purposes, and the difficulties are great for developing an engine that is both efficient and acceptably non-polluting." Another option was to change the pattern of automobile use:

> It is now conventional wisdom to prescribe a changeover from automobiles to public mass transportation. Before this change can be made by other than compulsion, much more needs to be known about the qualities of mass transportation that would attract automobile users. Careful systems analysis approaches are needed in studying the entire transportation system, taking into account preferences of our citizens.

(Adopting land use policies "that get people to live closer to their work" was another alternative for reducing energy requirements associated with transportation. Yet another approach was to reduce business travel "by improving communications technology enough for salesmen and other business travelers to communicate electronically rather than face-to-face."

(The transportation section of the report concluded:

> Increasing efficiency and conservation of energy in transportation is a goal that would result in saving large amounts of fuel and is worthy of greatly increased R. & D. expenditures. [*Energy Research and Development*, Report of the Task Force on Energy of the

> Subcommittee on Science, Research, and Development of the Committee on Science and Astronautics, U.S. House of Representatives, 92nd Congress, 2nd Session, Serial EE. December 1972, p. v, 222])

On April 19, 1973, the House resolved itself into the Committee of the Whole to continue debate on S. 502, the Federal-Aid Highway Act of 1973, with Representative Udall again serving as chairman. He summarized the agreement from the day before that debate on the Anderson amendment would be limited to 30 minutes, with each speaker on the subject limited to 5 minutes.

He then called on Representative Glenn Anderson to discuss his amendment. He wanted to address the three main arguments the opponents had made. "First, opponents contend that it would result in a bankrupt trust fund." Nothing, he said, "could be further from the truth." The amendment would allow highway or transit use of the $700 million authorized for Federal-aid urban system funds. "If $700 million would bankrupt the trust, then your argument should be directed against the committee-approved bill—not my amendment."

The second argument used against the amendment was "that rural areas will suffer as a result of my amendment." The fact is, he said, that the vote on this day would affect only urban areas, not rural areas:

> Vote "aye" and your rural-primary and secondary highways will continue to be funded with $1.1 billion trust fund money per year. Vote "nay" and they will be continued also—it makes no difference to your area—it only affects the cities of 50,000 or more.

Third, Representative Anderson addressed the argument that his amendment would break faith with highway users. He said:

> If building police barracks, paying salaries of traffic court officials, building businesses and homes of those displaced by highway construction and purchasing ferryboats does not break the faith—then, certainly, taking steps to alleviate highway congestion, to benefit those who truly need the highway, is not breaking the faith.

He urged the House to vote "yes" and allow State and local urban officials "to meet their local urban transportation needs by building highways—if that is what they want—by buying a bus—if that is what they want—by construction of a rail system—if that is what they want—or a combination of the three." He had confidence in State and local officials to decide. [*Congressional Record-House*, April 19, 1973, p. 13224]

Representative Silvio Conte of western Massachusetts said that as a member of the Transportation Appropriations Subcommittee, he had become convinced "that our urban transportation crisis cannot be solved just by building more roads." The crisis could be solved "only through the proper combination of highway and mass transit capital investment." The transportation systems in many urban areas were "on the verge of collapse" while urban mass transportation systems were "deteriorating." As the number of automobiles increased by 5 million a year, "urban traffic congestion, and air pollution, and the Nation's gasoline shortage grow worse." He said:

> The answer is a program that caters to local needs and that allows flexibility in achieving a balance between urban highways and mass transit facilities.

As for the Wright proposal contained in S. 502, it was "not a compromise; it is a travesty." He explained:

> The highway trust funds that are refused then go back to the trust fund to build another road, heaven knows where.

Calling the proposal "backdoor spending," he asked, "Where will all the money to support this compromise come from? What programs will we have to cut?" He continued:

> The time has come for a change. The trust fund must be given the flexibility to deal with the transportation needs of today and tomorrow. The "backdoor spending" of billions of dollars to save the sacred cow status of the highway trust fund is not the way to do it.

He urged the House to "face up to its responsibility . . . and open up the highway trust fund for urban mass transportation facilities." [*Congressional Record-House*, April 19, 1973, p. 13224-13225]

Minority Leader Gerald Ford also requested time to address the Anderson amendment. Referring to the "very important step" Congress had taken in 1956 to ensure construction of the Interstate System, he pointed out that "we have not completed the highway program and there is no real surplus in the highway trust fund." He cited a statement by President Eisenhower's in 1956:

> A sound Federal highway program I believe can and should stand on its own feet with highway users providing the total dollars necessary for improvement and new construction.

(President Eisenhower made this statement in the letter transmitting his highway proposal to Congress on February 22, 1955. Although Congress rejected the bond-based financing proposal, developed by General Lucius Clay and his committee, the President's letter was the first step in the process that resulted in creation of the Highway Trust Fund in the Federal-Aid Highway Act of 1956. [Eisenhower, Dwight D., President's Message, *National Highway Program (Message from the President of the United States Relative to a National Highway Program)*, February 22, 1955, 84th Congress, 1st Session, House Document No. 93, p. III-VI.])

Representative Ford also quoted Secretary Volpe's statement in 1969 that "the integrity of the Highway Trust Fund must be preserved without question" in view of the intent of Congress and President Eisenhower in approving the Federal-Aid Highway Act of 1956.

The Anderson amendment, Representitive Ford said, sought to "violate the trust fund concept because rolling stock and operating equipment under no stretch of the imagination can be construed to be highways." He said:

> Let me make this observation: I challenge any one of the Members to go down to a gasoline station and stand there and ask the people who buy the gas and pay the tax as to whether they think they are going to pay that tax for rolling stock and operating equipment. They believe they are paying that tax for the construction of highways . . . .
>
> I said last year, and I repeat now, once the mass transit people get their nose under the tent with operating equipment, the next step is operating subsidies. Operating subsidies, we know from experience in our major metropolitan areas, are a bottomless pit.

As evidence, he cited a letter from officials in his hometown of Grand Rapids who "let the cat out of the bag" by saying:

> There would also be available to the metropolitan area about $125,000 yearly that would help take some of the burden off the local areas to provide sufficient funds to operate the transit system.

Representative Abzug asked Representative Ford to yield for a comment, but he declined because he did not have sufficient time. He concluded:

> Mr. Chairman, again let me say that once we break faith, once we let them get their nose under the tent, the diverters [will] go from operating equipment to operating funds and, believe me, that is a bottomless pit. We ought not to let this kind of diversion from the trust fund to take place. [*Congressional Record-House*, April 19, 1973, p. 13225]

Chairman Udall recognized Representative John Anderson, who wanted to read a portion of a letter dated April 17 from Secretary Brinegar. In response to a point "just made," Representative Anderson read:

> Does the Anderson/Grover amendment reduce the Federal commitment to complete the Interstate System?
> Answer: The Anderson/Grover amendment in no way reduces the Federal commitment to complete the Interstate System. Funds authorized for the Interstate System cannot be used for any other purpose under the bill reported by the Committee. The Anderson/Grover amendment does nothing to change this.

For opponents of the amendment, Representative Anderson said, the word "diversion" had become a code word "suggesting that those of us who proposed the Anderson amendment are recommending a breach of trust; that we are breaking faith with the taxpayers of this country." He said the amendment was not a diversion, but simply a way of giving local officials the flexibility to decide if building urban highway systems or mass transit was the better option.

He said "it is of enormous significance" that the vote on the Anderson amendment would take place on the day after President Nixon's message to Congress on energy policy in which he reaffirmed his support of the Anderson amendment:

> I am told that at the joint leadership briefing on that message yesterday morning, in response to a query he said:
>
> > Yes, we must examine the role of the automobile in American society if we are really serious—if we are really serious—about developing a conservation-of-energy policy in this country.
>
> The passage of the Anderson amendment would indicate to the Nation that Congress is aware of the problem and that we are willing to act in a decisive manner.

He added that the Members of Congress "represent simply a gaggle of constituencies," each with its own unique needs. To those who ask why they should support the amendment when they represent districts without rail transit, he said, "I would appeal to those of that persuasion that the problem of maintaining adequate mass transit in the cities of our land has a real and a very fundamental meaning for all of us, whether or not we live in an urbanized area."

He concluded:

> We are asking for an affirmative vote on this amendment so that we can begin to do now what the President suggested yesterday in the very opening paragraph of that energy message when he said, "Old problems are yielding to new initiatives." The time has come now to seek a new initiative to solve the transportation problems of this country. [*Congressional Record-House*, April 19, 1973, p. 13225-13226]

Representative Harsha was not convinced, saying "it strikes me as being very peculiar" that the cities with rail transit systems that are supposedly the panacea "for all of these ills" are the very cities "which have all of the traffic ills we hear about." Boston, Chicago, New York City, and Philadelphia, all of which have rapid rail transit, "have the highest congestion and traffic tieups in the country." Rail transit had not solved their problems, and "neither is the Abzug-Anderson amendment the solution to the problem."

He challenged Secretary Brinegar's statement that only $100 billion in highway construction through 1990 could be economically justified:

> He is trying to assert economic justification contrary to law. He is prohibited by the very act that created the Department of Transportation from using economic justification.
>
> Furthermore, if he applies the same tests of economic justification for mass transit, he could not spend even $1. By no method that I know of can we economically justify the construction of mass transit systems.

(The Department of Transportation Act of 1966 stated in Section 4(b)(2) that nothing in the act could be construed to authorize, without appropriate action by Congress, the adoption, revision or implementation of (A) "any transportation policy, or (B) any investment standards or criteria." When the 1966 Act was revised and recodified by Public Law 97-499 on January 12, 1983, Congress added Section 305 ("Transportation investment standards and criteria"), which directed the Secretary to "develop standards and criteria to formulate and economically evaluate all proposals for investing amounts of the United States Government in transportation facilities and equipment.")

Representative Harsha pointed out that while testifying before the Subcommittee on Transportation, Secretary Brinegar had referred to the need for $300 billion, 93 percent of which represented improvements to existing highways, not new highways. Most of those highways had been built as long as 40 years ago, with 80 percent of the construction in 1930 or earlier, "so we are not talking about building new highways but we are talking about trying to make those we have safer and improve and resurface them." He urged his colleagues to "not be deluded by the Anderson-Abzug amendment into thinking that we are going to start constructing new highways." Instead, this amendment jeopardized "the preservation of the present system" and the safety of the traveling public.

He also urged his colleagues to "not be deluded by the statement that we will not be taking anything away from the highway trust fund for rural highways." He explained:

> The fund has limited revenues. If we take anything away from that fund for any purpose other than highways, that reduces the availability of funds for highways . . . . We cannot get 2 quarts of milk out of a 1-quart milk bottle. We cannot use the highway trust fund to cover both programs.

He offered one final observation:

> The Department of Transportation's needs report states that major shifts in funds from highways to mass transit would improve transit but would result in increased highway fatalities. Furthermore, such shifts would result in very little improvement in pollution levels. In fact, that report estimates that for the period 1968 to 1990, the diversion of large sums to rapid transit would result in higher carbon monoxide and hydrocarbon levels.
>
> Obviously, if there is little or no change in air pollution, there will be little or no saving of fuel or energy because it is the consumption of fuel that causes air pollution.
>
> I certainly do not want the responsibility on my head of increasing highway fatalities by diverting highway funds from safety related programs.
>
> Do you?

He urged his colleagues to defeat "the Anderson-Abzug amendment." [*Congressional Record-House*, April 19, 1973, p. 13226]

Representative Boland, a Democrat who had first been elected to Congress in 1952 representing a district based in Springfield, Massachusetts, said he had supported the Interstate System when President Eisenhower recommended it. "I support it today," he said, calling it "the most remarkable network of highways anywhere in the world." But the end of construction was nearing. "And it is time—it is past time—that this Nation turn its attention, to a balanced transportation system."

He recalled Representative Wright's statistics about the growth of the automobile. "But, Mr. Chairman, automobiles are choking and strangling our cities—giving rise to problems of pollution, energy, mobility of people—18,000 to 19,000 of those killed by automobiles struck down on our city and town streets."

The Federal-Aid Highway Act of 1970, he said, had created the Federal-aid urban system in "a dramatic shift of emphasis." Now, S. 502 increased funding for the system to $700 million. The "nub of the question" was whether to "remove the constraints, presently imposed upon funds which have been earmarked under the Federal-aid urban system." It did not affect the Interstate System, reduce funding for rural highways, or prevent completion of urban highway systems, but "merely adds the option of mass transportation to those options which already exist for urban funds, and for urban funds only."

Representative Boland referred to Representative Kluczynski's change of position as "an act of leadership and statesmanship," and said that Representative Wylie had demonstrated those same characteristics in supporting the Anderson amendment, which he opposed in 1972. The amendment, he said, was "a simple appeal" for flexibility. "Surely, nothing could be more reasonable." He continued:

> And beyond that, Mr. Chairman, it is an appeal—a plea for those who do not have cars—those who are being strangled by cars. It is an appeal, for the poor, the disadvantaged, the elderly, the young—for those who must get to work—for those who seek opportunity—who desire an education.

He had received "considerable mail on both sides of this issue with the weight tilted against my position," but a careful reading of the mail "convinced me that there is considerable confusion on what this amendment does." He emphasized to his colleagues that the Anderson amendment affected only the Federal-aid urban system, not any other element of S. 502, and certainly not the Interstate System. He said of the flexibility offered by the amendment, "Let us leave it up to the urban areas to make that decision. Surely, they are entitled to this judgment." [*Congressional Record-House*, April 19, 1973, p. 13226-13227]

Representative Rostenkowski, the Chicago Democrat who served on the Ways and Means Committee, inserted extended remarks in the record at this point. He wanted to "associate myself" with the remarks of Representatives John Anderson and Boland in support of the Anderson amendment. He cited a survey by National Opinion Research Corporation, which found that 57 percent of the American people "thought we should limit automobile traffic in downtown areas," while 66 percent of those living in cities of a million or more "thought it a good idea." The Governors' Conference "overwhelmingly favored mass transit alternatives to highway building." He cited Governor Sargent's decision to ban highway construction in favor of improved public transportation in Boston.

"It is clear that changes have occurred in the Nation's thinking about highways since the interstate highway system and the highway trust fund were conceived, almost 20 years ago." At the time, "the gap between perceived highway needs and existing roads was clear," but "the view from 1973 is distinctly different." The idea of a single-mode trust fund "whether for highways, airways or rail transit—is outmoded." He added:

> Broadening of the highway trust fund is a necessary step from the point of view of overall national priorities, and a proper way to provide the substantially larger sums for urban mass transit which I believe to be in the best interest of the general public. [*Congressional Record-House*, April 19, 1973, p. 13227]

Chairman Udall recognized Representative Wright, but Representative William Jennings Bryan Dorn, the Democrat from South Carolina, asked his Public Works Committee colleague to yield time. Representative Dorn said he opposed the Anderson amendment. The Highway Trust Fund, he said, "has served our Nation well," allowing it "to build the greatest transportation system in the world." It "must be retained in order to complete this great highway system by 1979," as well as to improve the Federal-aid primary, secondary, and urban systems and reduce the tragic death toll on the Nation's roads. He was concerned that, "If we scatter this fund in the wind, it will help no one area, but will injure the Nation as a whole."

Representative Dorn wanted to respond to Representative Glenn Anderson's claim that his amendment would not affect allocation of Federal-aid funds to any State. On the contrary, the amendment "would have substantial effect on the distribution of Federal-aid funds to the States and even delay the date of final completion of the Interstate System." At present, funding for the primary, secondary, and urban systems was carefully balanced among rural and urban needs, as reflected in the findings of the 1972 transportation study "which indicate equal highway needs in urban and rural areas."

If, under the Anderson amendment, urban system funds were used for mass transit, the "orderly balance between rural and urban highways would be lost." To reattain the balance, future authorizations would be biased in favor of the urban system. The long-term result would be "to drain funds away from the Interstate System and the rural system, a situation I believe we should try to avoid." [*Congressional Record-House*, April 19, 1973, p. 13228]

Representative Wright next yielded time to Representative James C. Corman (D-Ca.), whose district was based in Los Angeles. He said:

> Mr. Chairman, there is a growing concern in this Nation about the lack of public transportation in metropolitan areas. Nowhere is the problem so acute as in los Angeles. Compared to any other metropolitan area in the Nation, commuter distances are greater and public transit is the least efficient. Dependence on the automobile pollutes our air, diminishes our overburdened energy supply, and imposes tremendous commuting costs to residents of Los Angeles.

> Air pollution, traffic congestion and urban freeway blight must be significantly reduced with less reliance on highways and the automobile as the main means of commuter transportation. Los Angeles has a crying need for reliable public transit as soon as possible and I take no issue with this obvious and pressing public need.

Despite this litany of problems, he opposed the Anderson amendment.

An "unusual coalition" saw "the highway trust fund as the only immediate available source of funds." He cited one member of the coalition:

> The President, never adverse to shifting the cost of Government to regressive taxes, sees breaking up the fund as a way to fund an expensive public facility without increasing the Federal deficit or reforming the Federal tax structure.

If the fund did indeed have a surplus, "we should repeal the expensive, regressive gasoline tax and thereby benefit those who pay this 'special' tax which strikes the middle and lower income taxpayers harder than any other group." Representative Corman considered the gas tax "the most regressive tax collected by Government." It was "both high and regressive," but "its virtue is that it is a user's tax." Using highway tax revenue for mass transit "would be the reverse of a user's tax" because highway users "would be more heavily taxed to absorb the cost of a mass transit plan that would be available to all."

The effort "to bust the highway trust fund" would further compound the inequity because "this source of funding to finance mass transit projects would single out a special group to absorb the costs." He added:

> It should be noted that how one pays for something in no way effects [sic] how much it costs. It a transit system in Los Angeles is to cost $3 billion to provide, that will be the cost whether it comes from gas taxes, the fare box, property or sales tax or general funds.

Funding for mass transit "should not come from the fare box" since that would make the fare so high "that there would be few customers." That was the case in San Francisco where general revenue paid for construction of BART but basing ticket prices on the fare box keeps them "relatively high" to cover anticipated operating costs. "If fares are higher than low-income segments of the population can reasonably afford, the working poor will obtain no relief." He also rejected property taxes to pay for transit, as had the voters of Los Angeles in 1968 and 1970:

> As public transportation is a public responsibility it is imperative that the taxpayer think through the various alternatives, both as to the method of mechanically moving people and whose pocket the dollars are to come from.
>
> We need an adequate public transit system in Los Angeles to reduce air pollution, conserve our energy supply and reduce commuters [sic] time and expenses. But it will cost billions. Those billions should be collected fairly and spent widely. Using gasoline taxes is not fair. [*Congressional Record-House*, April 19, 1973, p. 13228-13229]

Representative Wright wanted to "get one thing straight again." The Anderson amendment had not been originated by Representative Anderson of California or Senator Muskie:

> The inventor of this approach is the Department of Transportation. For 2 long years DOT spokesmen have been trying to hard sell this Congress on the idea of taking one fund and pretending to make it serve two purposes.
>
> In pushing that approach they are applying against the Congress an age-old technique, divide and conquer. They are throwing one bone to two dogs and trying to make us fight for it. Now, my friends in the Congress, if we fall for that trap we deserve the moniker of the biggest suckers of the year.

Completion of the Interstate System did not mean the end of the Nation's highway needs. While every town "depends directly upon highways for its lifeblood," relatively few "can benefit by rail transit." He warned:

> Let me assure the Members that if they vote "aye" today on this amendment that will not be the end of it. It may be the beginning of the end for the highway program as we now know it in this country.
>
> This diversion attempt is a plan that has been in the process of germination in the Department of Transportation for 2 years. The Department of Housing and Urban Development spokesmen are publicly clamoring to laddle out [sic] of the money from the highway trust fund for urban housing projects.
>
> Where will it end?

Every year, he said, the country adds 10 million vehicles to its total number. "Where are we going to put them all, in safety?" In fact, highways "are used more frequently by more Americans than any other service the society provides."

S. 502 had been more than fair to the cities. "Almost three-fourths of all the authorizations contained in this bill already go to the cities, and about two-thirds of those out of the trust fund go to the cities, although the cities only contribute about half of the funds." The bill contains $3 billion for UMTA's mass transit programs, and allows the use of general Treasury revenue to substitute for urban system funds from the Highway Trust Fund for mass transit projects. "Since when," he asked, "is money out of the general revenues considered some kind of second-class money?"

The "crux of it" was that S. 502 "does not violate the trust fund." [*Congressional Record-House*, April 19, 1973, p. 13229]

Representative Johnson of California also opposed the amendment. Like Representative Wright, he pointed out that more than half of Highway Trust Fund revenue authorized by S. 502 went to cities, while $3 billion in general Treasury revenue also went to the cities, which were getting "the lion's share" of all authorizations. "There are other parts of the United States, outside the big cities, that need help too. [sic]" Under the Anderson amendment, the entire country would have to "give up a portion of its trust fund moneys to give the big cities yet an extra slice out of the bill." Despite all the funding from S. 502 that would go to cities, "still they are not satisfied." He continued:

> What they really appear to want is not money for mass transit—which the committee bill gives them—but to bust the trust fund. I am perfectly willing to help them with their legitimate needs, but I am not prepared to take money out of the trust fund—which belongs to the country as a whole for highway purposes—simply to satisfy their apparently insatiable demands. [*Congressional Record-House*, April 19, 1973, p. 13229]

Representative Robert McClory (R-Il.) from the Chicago suburbs supported the Anderson amendment. "I am convinced that my position is consistent with the best interests of the highway users—those who travel by automobile and who pay the taxes for such automobile use from which the highway fund has been established." Allowing the use of Highway Trust Fund revenue for urban mass transit would relieve "the highways for the benefit of the motorists who must and will continue to use the highways for their transportation." [*Congressional Record-House*, April 19, 1973, p. 13229-13230]

Representative Frenzel supported the amendment, too:

> It no longer makes any sense to force local officials to make transportation decisions based for the most part on what Washington is willing to fund or not fund.

This inflexibility had played a significant role "in deflecting transportation planning at the local level away from mass transit development," with enormous social and economic costs. The Anderson amendment was "the only realistic hope" for developing mass transit systems at this time. Trying to get the funds from the general Treasury would "fly in the face of this administration's determination to keep the lid on new spending programs not in the budget." [*Congressional Record-House*, April 19, 1973, p. 13230]

Representative Michael J. Harrington (D-Ma.), whose district was based in Salem north of Boston, said he had advocated eliminating the Highway Trust Fund "in favor of a general transportation fund to deal with highway construction, railway needs, urban transit, airport improvement, and maritime requirements in a comprehensive overall plan." He recognized that such a transformation was "a political impossibility at this time," but the Anderson amendment was "a positive step in the right direction." S. 502 recognized "many of the demands on our transportation system," but without the Anderson amendment, "it will not provide the flexibility that is so urgently required in the use of funds in our urban areas." [*Congressional Record-House*, April 19, 1973, p. 13230]

Representative Milford, the freshman Democrat from Waco, opposed the amendment. He began:

> Mr. Chairman, today I have witnessed as many of my colleagues have sought, for seemingly noble and worthwhile reasons, to say to the American motorist: "I am sorry, but what I have

> been telling you for years no longer applies"—or, in short, "My word is good until I change my mind."
>
> Back home in my district, the 24th of Texas, our folks operate under what, at times in this body, seems to be an outmoded form of logic. If they give you their word, you can count on them keeping it from then on—without hesitation, without reservation, and without changing to accommodate themselves.

That logic "seems pretty valid to me" and he did not intend to violate the "trust" concept behind the Highway Trust Fund:

> We are not free to simply say to the motorist of our Nation, "even though you paid this money into this trust fund for the specific purpose of building the world's finest highway system, we have decided that we're going to use it for something totally unrelated." My dear colleagues, this is not our prerogative.

Such a change, he said, would be a "psychological precedent" that would be "not only unfair to our people—it is dangerous for our Nation." [*Congressional Record-House*, April 19, 1973, p. 13231]

Representative Harold D. Donohue, a Democrat who since 1947 had represented a district based in Worcester, Massachusetts, urged expeditious approval of the Anderson amendment:

> Mr. Chairman, from every ordinary standard of good judgment and prudent financing, it impressively appears that the highway fund is large enough to permit this type of reasonable "sharing": that there is an imperative current need throughout the country to resolve a veritable plague of traffic tieup frustrations; and that the wholesome benefits of mass transit improvement and pollution correction will fall equally on highway users as well as everyone else. In fact, we might as well ask who, these days, is not a highway user?

The Anderson amendment was "a substantial and equitable solution" to the problems facing the Nation's cities. [*Congressional Record-House*, April 19, 1973, p. 13231]

Representative Frank J. Horton (R-NY) of Rochester also thought "it is time that we adapt to an era of changed transportation needs." Opposition was strong "to the construction of new and wider swatchs of concrete through and around our cities, parks and suburbs." With 60 percent of the total Federal transportation budget going to highways and only 4 percent to mass transit, the emphasis on highways continues despite all the evidence of the harm they do, especially in urban areas.

He understood those who urged Congress to consider the "trust" involved in the payment of highway user taxes:

> The fact is that these taxes should be used not only to improve highways but also to compensate for the social, economic, and environmental costs which are brought on by highways and their users. One way to serve the interests of the motorists is to ease traffic congestion by providing convenient alternative means of transit.

Given approval of the Anderson amendment by the Senate and the Nixon Administration, "the House remains the only roadblock to a modest effort to open up the trust fund." He hoped that, "at long last, the public interest will prevail over the vested interest of the very vocal opposition." [*Congressional Record-House*, April 19, 1973, p. 13231]

Representative Jones of the Public Works Committee introduced for the record an article "on the need for maintaining the integrity" of the Highway Trust Fund from the April issue of the *American Road Builder*. The article, "Bust of Trust Fund Would Be a Double Failure," explained that "an unlikely assortment of allies has banded together in yet another raid on public funds for advancement of rail transit." If they are successful in raiding the Highway Trust Fund, the first failure would be reflected in the "higher death rates, lost time, and greater inconvenience and cost which will result from delays in completion of an adequate highway system for which he is paying." The second failure would be "the breach of trust"with the citizens "in the obligation to devote taxes imposed on a specific group of users to purposes related to their enhancement."

Already, a citizen "may rightly feel his government has failed him" because of "the delays and stretchouts in the highway construction program by the past two Administrations." The incomplete Interstate System and "the vast catalog of unfilled highway improvements are mute testimony to the fact that there is no surplus in the Highway Trust Fund."

The article sketched the historical trends that led to the Federal-aid highway program and, in 1956, the Federal-Aid Highway Act of 1956 and creation of the Highway Trust Fund:

> We can justify the user taxes only to the extent that the payer receives an adequate return for his special tax. If a trust fund is put to other purposes, the user tax which supplies it is either discriminatory or too high.

Despite "the staggering backlog of road-related needs," recent Administrations had "refused to commit the resources of the fund to their intended and required use." Instead, highway users had "suffered through curtailments, impoundments, freezes, and deferments." Diversion of highway user tax revenue "would be a failure of the government to fulfill an obligation to the vast motoring public which has participated in the fund with the promise of improved roadways.

Mass transit needs, the article stated, were real. Ridership had decreased from 17 billion in 1950 to 7 billion today. Municipal subsidies had increased 300 percent in the past decade. Even as urban population increased, "268 transit systems have ceased operations in twenty years." The article stated that, "Those who urge a raid on the Highway Trust Fund for rail transit in an effort to realize fiscal goals or economy suffer perhaps the greatest illusions." They ignored total construction and operating costs "in an effort to temporarily solve a vexing problem—serving a need while restraining new expenditures."

Motorists who come closer "to completely paying for his transportation" through user taxes and private investments would be "severely shortchanged" if the raiders of the Highway Trust Fund were successful:

> The transit case should be presented on its own merits and funds should be made available from general revenues if the requirements are as urgent as the trust busters would like for you to believe.
>
> Because of the limitations of the trust fund, if the raiders have their way, the public is going to find it has neither adequate rail transit nor adequate roads.
>
> The lure of the rail will again prove to be more of a promise than a reality. [*Congressional Record-House*, April 19, 1973, p. 13231-13232]

Representative William J. Randall (D-Mo.), from Jackson County, Missouri, opposed the Anderson amendment. "I am totally opposed to the invasion of the trust fund, first and foremost because it violates a trust or a commitment many many years ago." He also opposed the amendment because of the "staggering" highway needs facing the country. However, "an additional and very interesting reason" why he opposed the Anderson amendment was the Nation's railroad crisis. With thousands of miles of railroad trackage being abandoned, pressure on the highway network was going to increase, not decrease. "But if we let any of the money from the highway trust fund to be diverted there will be no way to bring these Federal-aid primary and secondary roads up to acceptable standards to handle the new loads that cannot now be handled by farm-to-market roads." The result would be increased food prices, which was another reason to oppose diversion.

He joined others in pointing out that the large cities with the most extensive mass transit systems "have the worst traffic pileups and traffic jams of all." The fact that a moving vehicle emitted less carbons than a vehicle stuck in traffic "should be reason enough to continue to support the highway program and oppose diversion of funds to any type of transit system." [*Congressional Record-House*, April 19, 1973, p. 13232-13233]

Representative Donald M. Fraser, a Democrat representing Minneapolis, provided the final comment in the published record of the debate before the vote on the Anderson amendment. He quoted from the President's message the day before on energy policy: "If present trends continue unchecked, we could face a genuine energy critis." Representative Fraser said:

> Some of us, I know, feel that the crisis is already upon us, but it is clear that the problem will only become more intense if we continue to rely as heavily as we do now on the automobile to move us from our homes to our jobs and back again.

Even if energy were not a factor, this amendment "would be necessary solely on transportation grounds." He said, "One historian recently discovered that traffic during peak periods in New York City actually moved faster in 1900 than it does today." The Anderson amendment would give local urban officials "a tool to use land in a more rational way and to transport people in a safe, efficient and economic manner." [*Congressional Record-House*, April 19, 1973, p. 13233]

With debate time expired, Chairman Udall called for a vote. The Anderson amendment was defeated with "ayes" totaling 190, "noes" of 215, and 28 not voting. The defeat by a 25 vote margin demonstrated that the Highway Action Coalition's lobbying efforts had not been successful even in reducing the predicted spread. [*Congressional Record-House*, April 19, 1973, p. 13233]

(The *Los Angeles Times* had identified seven Representatives from California who were expected to vote against the Anderson amendment. Of them, two voted aye (Representatives Burgener and Pettis). As expected, Representative Clawson, Corman, Moorhead, Rousselot, and Veysey voted against the amendment. The eight-member Maryland delegation, cited by *The Baltimore Sun*, split evenly. Representatives Gude, Long, Mitchell, and Sarbanes supported the amendment while Representatives Byron, Hogan, Hold, and Mills voted against it.)

Finishing the 1973 House Bill

With the critical vote completed, the House moved on to other amendments.

Representative James. M. Hanley (D-NY), whose district was based in Syracuse, offered an amendment to repeal Section 138 ("Allocation of Urban System Funds") of S. 502. Section 138 "earmarked" Federal-aid urban system funds for incorporated municipalities having populations over 400,000 based on the municipality's population as a percentage of the State's overall population. "If the provisions of the bill prevail, we will have removed from State jurisdiction the ability to determine need, in allocating these funds." New York would receive $77 million each year, but $55 million would be earmarked for New York City and Buffalo. Only 32 cities in the country had populations over 400,000, while all other cities "would enjoy what is left from the pie." The National Association of Counties and the Governors' Conference, he said, opposed the provision.

Referring to the fight over the Anderson amendment, Representative Hanley said:

> We have heard a great deal today about the need to provide flexibility in the use of transportation funds . . . . I believe that section 138 of this bill militates against the principle of flexibility by earmarking exclusively for the largest cities in States their share of the urban systems pie. We tread on dangerous ground when we talk in terms of shares, as they relate to transportation needs . . . . Either we favor flexibie use of urban systems funds or we do not.

Representative Wright expressed the Public Works Committee's opposition to the Hanley amendment:

> The purpose of the section, which was offered in the committee by the gentlewoman from New York (Ms. Abzug) was not to deprive other cities of their rightful shares, but simply to let those large cities of 400,000 and more—and there are 32 of them in the country—know in advance how much of that money on a percentage basis rightfully ought to be theirs, in order that they might make some advance, long-term plans. That is the whole purpose . . . .
>
> The idea behind establishing the figure at 400,000 was basically the thought that cities of that size probably need to have advance knowledge so that they can make long-term plans

> for their public hearings and otherwise accommodate all the other provisions of the law, and thus not have separate and interminable delay in the completion of particularly knotty and cumbersome highway problems.

Representative John Hall Buchanan, Jr. (R-Al.), from Birmingham, introduced a rival bill that instead of striking Section 138 would "improve it to include all urbanized areas of 400,000 or more and to provide a passthrough [sic] formula for such areas." He pointed out that Secretary Brinegar supported the provision, as did the Senate in its bill. By changing the language from "incorporated municipalities" (i.e., the 32 cities with populations of 400,000 or more) to urbanized areas that include incorporated municipalities and their suburbs, Representative Buchanan's amendment increased the number of cities that would receive the "earmarked" funds:

> I would call this a "fair play to cities" amendment or an equal rights amendment to that majority—majority, if you please, of Americans who live in such urbanized areas.
>
> It is one of the saddest but truest facts of life I know in this country that in this growingly urban Nation of ours many of the larger cities have been consistently discriminated against by their State governments in those areas where the State government has exclusive control over such Federal funds.
>
> This has been the case in my own city of Birmingham, consistently through a series of administrations. We got our interstate money last, and only after a sustained fight to receive it. It was uneconomic, unjust and unwise, but it happened.
>
> We do not get our fair share of urban systems money, although we are the largest city and our people are entitled to it as a matter of their rights as citizens of Alabama and of the United States.

Representative John H. Rousselot (R-Ca.) asked if the State highway agency would be bypassed by the amendment. Representative Buchanan replied:

> The effect of my amendment would be to provide the same kind of passthrough [sic] formula, to provide their fair percentage to urbanized areas, as is true in revenue sharing and many other programs where we have found it wise to do so. The gentleman is correct.

Representative Wright opposed the Buchanan amendment, which he said "would go a very dangerous step further" than the Hanley amendment. "This would utterly destroy the Federal-State partnership that has existed since the beginning of the highway program." The Governors' Conference opposed the amendment when the Public Works Committee considered it, as did AASHO:

> We should stop and think before we destroy the very precious and very delicate Federal-State relationship that exists within this program.

Representative Harsha pointed out that because of the metropolitan planning requirements of the law, "no project would be built in any municipal area without the concurrence and cooperation of local officials . . . . There is no need for this amendment." He admitted that he had not objected to Section 138 when Representative Abzug introduced it in committee "because I did not fully understand it, I am frank to admit." Now that he understood it, he said:

> It deprives States of their rights under existing law to apportion funds on the basis of need and priorities.

He urged adoption of the Hanley amendment.

Representative Abzug spoke in support of Section 138:

> This will provide our major cities with stable sources of funding and will allow them to develop adequate, comprehensive plans for a balanced transportation program—without affecting the prerogatives of funding available to smaller communities. The committee has in the past been a staunch and reliable advocate of the interests of such smaller communities, and it has in no way let them down by adopting this provision.

She pointed out that 35 million people lived in cities with populations of 400,000 or more. About $188 million of each year's apportionment would go to thse cities, leaving $512 million for smaller cities and metropolitan areas:

> In the 30 States which do not contain any cities of over 400,000 people, this provision will have no effect whatever on the amount or manner of distribution of urban system funds. In the remaining 20 States—plus the District of Columbia and Puerto Rico—the provision will only assure that the large cities receive their fair share of the funds, in much the same way that each State is guaranteed its fair proportion of funds.

After additional debate, the House rejected the Buchanan amendment. The Hanley amendment stripping S. 502 of the earmarking provision for Federal-aid urban system funds was adopted, again without a recorded vote. Representative Abzug demanded a recorded vote on the Hanley amendment but was refused. [*Congressional Record-House*, April 19, 1973, p. 13233-13240]

Representative Milford offered an amendment to strip contract authority from the UMTA funds authorized by S. 502:

> This amendment simply channels the appropriation of general funds through the Appropriations Committee—instead of granting blank check contracting authority . . . . I think that there may be some misunderstanding on the part of some Members of the House as to what "contractual authority" really means. It means that if you pass this bill in its present form, you have committed the U.S. Treasury to spend $3 billion. There will be no annual review, no way to modify or change—even if we should encounter a national emergency a year later.

> Most important, this House will once again be a participant to back door spending. We will be committing a sizable sum of money without taking into consideration the overall spending needs of this Nation . . . . This is a contract drawn by the Federal Government which must be lived up to with the House having no real say in how much money can be spent under such a contract.

Representative Harsha opposed the amendment, saying:

> The committee, in its wisdom, tried as best we could to provide the mass transit facilities needed in this country. We felt that the urban mass transit program should include contract authority, and if we can provide contract authority out of the trust funds for highways, we can, with equal logic, provide additional mass transit funds by contract authority.

Representative Stanton of Ohio agreed with Representative Harsha:

> Mr. Chairman, we have just lost a battle to open up the trust fund. As one who voted in favor of opening up the trust fund, I accept that defeat. I think that it is the will of this House not to open up the trust fund, but I ask the Members in the name of fairness not to deny us the one chance we have of funding for mass transportation in the United States. If we are denied this contractual authority then you will deny us everything, because the fact of the matter is we who know the House, if we were thrown to the position of going through the normal appropriation process the cities will not be meeting their needs, and getting the guarantee that was offered by the leadership of the House Committee on Public Works.

Representative Wright said "I emphatically agree with every word that has been spoken by the gentleman from Ohio." He added:

> It would break faith with our earlier expressions in debate today and upset the balance that we have created in order to serve mass transit. Mass transit does need help, and it needs it now, and the only way cities can get it in a timely fashion is by contractual authority.

Representative Robert N. Giaimo of the Appropriations Committee, a Democrat from New Haven, Connecticut, strongly supported the Milford amendment:

> And to my friends who voted for the Anderson amendment, as I did, I say to them that I wish they would think about what is really happening to the budgetary processes in this country.
>
> If we in fact had congressional appropriations for highway funds, I would be willing to bet my bottom dollar that we would have received some money today for mass transit.
>
> But the fact is that what is occurring in this country is that we go around wringing our hands and saying that Congress is losing control to the executive. We are told that the executive branch is taking over, and Congress is becoming powerless . . . .

> But what do we do? We lament over loss of control of the Federal budget, and we worry about the power of the Appropriation Committee. My figures are accurate. I know, that approproximately, 50 percent, of the taxpayers' money that is spent today does not go through Congress and does not go through the appropriations procedures.
>
> My chairman of the Committee on Appropriations will tell us that. What do we do? We authorize revenue-sharing funds over which Congress has no control. We authorize trust funds, the highway trust fund, the airport trust fund, the social security trust funds, over which the Executive has control and Congress has none . . . .
>
> I will admit that in the old days the Committee on Appropriations of both the House and Senate were pretty tough in giving out money. It was then that contract authority and trust funds and back-door spending come [sic] into being—during the thirties and the forties in this country.
>
> But the pendulum has swung the other way, and we are now giving away the one great power that the House and the Congress have, and that is control over the taxpayers' money . . . . I say that if Congress really wants to regain its power from the executive branch of Government, we had better cut out this business of back-door spending, because that is what all of these various modes of expenditure are really called. Get the power of the purse back here in the Congress; this is the only effective leverage that we have and which really justifies our existence as an institution.

Chairman Mahon of the Appropriations Committee said the vote on the Milford amendment was critical because it would reveal "what Members in this House want: Better control of the purse and greater power in the hands of Congress." He told his colleagues, "We should not be in favor of abdicating to the Executive. We should stand on our two feet and have a greater role in running this country."

He understood the need for mass transit, but the provision in S. 502 was unsatisfactory:

> It says for 3 years we have $3 billion for mass transit in contract authority. All right, suppose the Executive does not obligate the money, next year what do we do? For 3 years we are locked in because next year the issue will not come before us. We can lambaste the Executive about not contracting for these projects, but the issue would not be before us for review . . . . It is like revenue sharing in which for 5 years we have abdicated our control and have walked out of the picture and turned it over to the Executive.

Members of Congress sometimes speak of the President's abuse of power. "Of course if we give the power away how can we expect him not to use it?" He was "disappointed that the Committee on Public Works would want to take away from the House the right to act annually on such matters through the regular appropriation process."

Discussion of the Milford amendment concluded with comments from Representative Wright, who explained that "this is at the very heart of the balance between highways and mass transit that we sought so painstakingly and so arduously to achieve." He said:

> The only way that we can be absolutely certain that a city which exercizes the option to forgo a given strip of urban highway and substitute mass transit, is to give the Secretary of Transportation the right at that moment, at that time when the decision is made on the part of the city, to grant to that city advance obligational funds in order that the city would have necessary assurance to make that decision.
>
> I stood here in the well [of the House floor] earlier today and argued as passionately as I could to reject the Anderson amendment, which would have taken this money out of the trust fund. But with equal fervor I believe I must plead with the Members not to break the faith that we expressed in good conscience to the cities when we said, "If you will leave our trust fund intact and guarantee the highway program, we are going to give you an alternate system that is just as good."

The Milford amendment was rejected. [*Congressional Record-House*, April 19, 1973, p. 13240-13243]

The House quickly approved Representative Clausen's amendment to increase authorizations for American Samoa from $500,000 to $1 million a year. [*Congressional Record-House*, April 19, 1973, p. 13243]

Representative Bingham introduced his amendment to eliminate the priority primary roads from S. 502. The *Congressional Record* did not include Representative Bingham's comments during the debate on the amendment; they were revised and printed as an extension of remarks. He said, "This is in effect a coming extension of the Interstate System." Unlike the Interstate System, which was the result of extensive studies, no such studies had been conducted for the priority primary roads.

When Representative Wright pointed out that the program was not an extension of the Interstate System, Representative Bingham acknowledged that the committee had removed the provision calling for the routes to be built to Interstate standards. He added, however, that "the chances are this will build into an extension of the Interstate System, and there is no telling how much it is going to cost in the long run." By extrapolation, he estimated it would "run as much as $10 billion before we get through."

Pointing out that the Nixon Administration opposed the measure, he asked, "Why not just go ahead with the Federal primary system, and develop that to the extent we need to?" He said the new priority primary routes were "just another foot in the door for what will amount to, I am convinced, in the end, an extension of the Interstate System."

Representatives Breaux and Hammerschmidt spoke in opposition. Representative Breaux said:

> The gentleman is making something out of this section which it is not. Namely, it is in no way a second generation interstate system nor is it in any way a system which has to be built to interstate standards.
>
> This was the basis for much of the confusion about this section last year when it contained reference to interstate standards. The section has been rewritten in this bill to completely eliminate the reference to standards so that there will be no confusion on this point. The effect of these changes is merely to allow the system to be built to normal primary system standards.

Representative Hammerschmidt emphasized that these 10,000 miles "serve about one-sixth as much travel as the present interstate system on about one-fourth as much highway mileage." They should be improved "to high standards taking into consideration the heavy traffic volumes they handle." Inclusion of the measure in S. 502 was "a means of accelerating and upgrading the quality of key primary routes already on the Federal-aid system."

The House rejected the Bingham amendment. [*Congressional Record-House*, April 19, 1973, p. 13243]

With little debate, the House adopted an amendment by Representative Roberts that would allow the donation of property needed for a Federal-aid highway project. [*Congressional Record-House*, April 19, 1973, p. 13243]

Representative Zion introduced an amendment to "provide flexibility to the States so as to enable them to implement the beautification provisions or to expend such sums for highway safety improvements of the Federal-aid system." He added, "In other words, Mr. Chairman, this can be called the posies or people amendment." S. 502 included $30 million for landscaping:

> Experience with this program has been abysmally bad. Very few of the plants that have been bought and paid for have survived. Landscape gardeners have told me that they feel guilty taking tax money for plantings that will die for neglect, or fall victim to the State-financed mowing machines. They rationalize that somebody is going to get this gravy, so it might as well be them.

He pointed out that S. 502 included $150 million to purchase bullboards "in spite of a survey that shows there is no widespread dissatisfaction with billboards." He added that "in good conscience I cannot abide [a] $150 million expenditure for billboards at a time when we cannot afford to finish highway construction that is so badly needed."

As for $45 million in S. 502 to hide junkyards, he asked:

> How silly can we be? We need to recycle these offending materials. Do you think by any stretch of the imagination we can plant enough geraniums or jonquils—even $45 million worth—so that the junkyards are going to appear to disappear?

With the 2 millionth person likely to lose his or her life on the Nation's highways in 1974, he asked if Congress should spend millions of dollars "for bushes and flowers at the cost of legs and arms and heads, and lives?" He continued:

> What do we want here, Members of the House? Live bushes and dead bodies, or safe highways and healthy families?
>
> Every buck we spend to plant bushes could be spent to improve a guard rail and prevent the impaling of a family on its blunt end. We have identified in our committee bridge approaches that end smack-dab up against an abutment. We have in our committee files literally hundreds of pictures of twisted steel and broken bodies wrapped around inflexible signposts.
>
> So instead of planting posies, we can replace these lethal traps with breakaway signs. Every Member of this body has death traps in his district, just waiting to crush some family into shapeless pulp.

Representative Wright opposed the Zion amendment:

> The gentleman from Indiana makes a simplistic argument which at firsthand sounds reasonable, of course. Safety is more important than beauty. I do not think there is any quarrel with that . . . . What I am saying is that each has its rightful place. Where there are eyesores and physical drabness that make the highways things of drudgery instead of things of serene reflection and beauty, we should and we could make them more attractive for the American traveling public.

He urged the House to "get things in balance." S. 502 included $1.2 billion for safety, and considerably less for beautification. "So let us not take that money away and put it on safety also, because we can do both. We can have both safe highways and beautiful highways."

Representative Harsha, citing his longstanding interest in highway safety, agreed with Representative Wright. "I think we have adequate measures in the highway safety sections of this bill."

The House rejected the Zion amendment. [*Congressional Record-House*, April 19, 1973, p. 13244-13245]

Representative Burke introduced a substitute for Section 120 ("Control of Outdoor Advertising") of S. 502, which she said "might well be referred to as the Lady Bird Johnson amendment since I read in the newspaper yesterday that she has been lobbying for it." It would retain the provision on outdoor advertising in the Senate version of S. 502. Representative Burke pointed out that 49 States "have programs underway to remove signs that direct you to Joe's Broiler or Snookley's Nut Stand." Those signs were being replaced by Logo signs approved by the Secretary of Transportation.

The House version of S. 502 would place a moratorium on the Secretary's authority to remove nonconforming signs until December 31, 1974. Secretary Brinegar had said the moratorium would disrupt progress and force States to treat directional and nondirectional signs separately and piecemeal. The new test, whether a sign provides "specific information in the interest of the traveling public" would require court interpretation, "and each State must reevaluate its program to fit the new criteria, wasting much money and duplicating efforts."

The House bill also would remove the Secretary's power to approve uniform informational signs in the public interest. It added food services, camp grounds, gas stations, rest stops, and others to the kinds of signs companies could erect (presently natural, scenic, and historic signs, for sale or property signs, or to advertise a business conducted on the premises) and it would allow six directional signs per mile:

> We were going in the direction of limiting them to 1 per mile, but this bill would permit a total of 1.2 million billboards, an increase of 400,000 new signs.

She recognized that the Highway Beautification Commission had included these recommendations in its interim report, but pointed out "that the interim report was just that and that the Commission was extended to provide further study."

Representative Wright began his response:

> It is with some trepidation that I rise in opposition to the eloquent, attractive, charming, intelligent lady from California. She made such a beautiful appeal. This may be her maiden speech on the House floor, and I congratulate her on it. I thank her for the magnificent and articulate statement.

Compliment over, he said he disagreed with everything she had said. He pointed out that Congress created the Highway Beautification Commission "because obviously" the Highway Beautification Act "has not been administered in a popular way." He explained that all the bill did was distinguish "between signs that simply advertise and those that give useful directional information." The public clearly supported the distinction according to recent polls showing that "a large majority, better than two-thirds of the American public, do not want them to take down all the signs that tell them where they can find these traveler-oriented services—and certainly not until there is some other type of such directional information provided." He continued:

> All we say is, leave those until last; take down first—and I guarantee there are plenty of them to be taken down—the expressly commercial signs which merely advertise national products.

He also addressed "some very wrong information spread about," continuing:

> I saw Mrs. Johnson last night. Contrary to published misinformation, she is not lobbying against this highway bill. I visited with her. Somebody gave her wrong information.

> They said our bill would authorize the erection of 1.2 million signs, including 400,000 new and additional signs. This bill in and of itself does not authorize the erection of a single new sign.

He explained that "somebody apparently concocted that outlandish figure" by multiplying the maximum number of signs by 200,000 miles of highway covered by the Highway Beautification Act (the Interstate System and Federal-aid primary highways) "and said, 'We are going to have 1.2 million signs.'" Representative Wright called this assertion "ridiculous."

Representative Seiberling supported Representative Burke's amendment, which he said, "does what a lot of the more progressive States are trying to do to clean up our highways, so that we can end efforts to subvert the purpose of the 660-foot limitation." He added:

> Mr. Chairman, we are approaching the bicentennial of the founding of the United States, and it seems to me that one of our objectives by 1976 should be to eliminate the unsightly clutter of commercial signs we have allowed to develop along our highways and restore America the beautiful.

Representative Harsha recognized that the "very articulate" Representative Burke was "very sincere in this effort," but he pointed out that her amendment would take funds out of the Highway Trust Fund for beautification:

> This committee of the House has, ever since we have inaugurated the beautification program, gone on record as opposing the use of trust funds for highway beautification. We have always opposed any further diversion of the highway trust fund for beautification purposes.

The House rejected the Burke amendment. [*Congressional Record-House*, April 19, 1973, p. 13245-13248]

The House also rejected an amendment offered by Representative William F. Walsh (R-NY), a former Mayor of Syracuse (1961-1969) serving his first term in Congress, that would have modified the formula in S. 502 for apportioning Federal-aid primary funds. Instead of using total State population in the apportionment formula as under current law, Section 112 factored in only rural population. He pointed out that, "The rural primary system serves all of the people of a given State, urban and rural, whether for travel or for the movement of goods." The apportionment formula "should continue to reflect this broad purpose and include all of a State's population in the calculation."

Representative Harsha explained that, "under S. 502, there is an equal division between urban money and rural money." Since Federal-aid primary and secondary funds could be spent only in rural areas, the Public Works Committee changed the formula to reflect this change. [*Congressional Record-House*, April 19, 1973, p. 13248-13249]

The next few amendments were introduced with the support of the Committee on Public Works.

Representative Ginn proposed to double funding for construction training programs. The Federal-Aid Highway Act of 1970 had included $5 million a year from the system categories for the Secretary "to develop, conduct and administer highway construction training, including skill improvement programs." Representative Ginn said:

> The initial success of the highway construction training program has indicated the merit of expanding this program. A doubling of the annual dollar effort, from $5 million to $10 million, would be highly desirable.

With the Public Works Committee's support, the House adopted the Ginn amendment. [*Congressional Record-House*, April 19, 1973, p. 13249]

Representative Ogden R. Reid offered an amendment concerning the proposed Long Island Sound Bridge. Representative Reid, whose family owned the *New York Herald Tribune*, had been elected to the House in 1962 as a Republican representing a district based in Westchester County. He had switched to the Democratic Party on March 22, 1972, because he could not support President Nixon's reelection. His amendment added the following provision to Title 23, United States Code, Section 109 ("Standards"):

> (k) The Secretary shall not approve any project under this title which would significantly affect the highway system of a contiguous State without the concurrence of that State.

Representative Reid referred to the addition as the Reid-Wolff-McKinney amendment, saying it was "designed to protect the rights of States when they would be significantly or adversely affected by the construction of a federally aided highway or connection in contiguous States." He pointed out that the Senate had included the same provision in its version of S. 502.

At present, a State could build a facility that could significantly affect another State without that State's concurrence:

> A clear case in point is the proposed bridge over Long Island Sound between Rye, N.Y., and Oyster Bay, N.Y. While this federally aided span would be located solely within New York State, it will join Interstate 95 less than 2 miles from the point at which I-95 crosses into Connecticut and becomes the Connecticut Turnpike, and it will become the major conduit for traffic between all of Long Island and New England.

Representative Reid pointed out that according to the environmental impact statement, the bridge would handle 16 million vehicles a year by its fifth year of operation. "Obviously this tremendously increased volume will heavily impact the State of Connecticut, since much of the generated traffic will originate in, terminate in, or pass through that State." The New York legislature had voted against the project in 1971 and 1972, while the Connecticut legislature had also disapproved the project. "So has the Governor of Connecticut, whom I talked with this morning and who has written a very clear and persuasive statement as to why he does not feel this particular project is desirable at this time." The two Senators from New York and the two from Connecticut supported the amendment.

The bridge would cost an estimated $274 million, including about $72 million in Federal funds:

> For this money we could probably build 25 modern hospitals. I for one believe it is far more important to provide adequate health care and education for our citizens than to save 10 minutes driving to Mineola.

Representative Lester L. Wolff (D-NY) explained the "particular significance" of the amendment:

> For the past 6 years a battle has raged in New York over the proposal to build a bridge that would extend from Oyster Bay on Long Island to Rye, N.Y. The bridge would have an obvious and immense impact on New York, particularly on the entire Long Island Sound area. In its proposed path lie valuable wetlands at both ends of the bridge, shoreline and beach areas and the irreplaceable resources of the sound itself.

Considerable opposition had developed in New York communities, but Connecticut residents, "who at this moment have no say whether the bridge will go through or not, have unmistakenly and repeatedly expressed their opposition ever since the proposal was first aired." He explained that it would add "countless additional cars and trucks" onto the Connecticut Turnpike and Merritt Parkway, "aggravating an already tremendous congestion problem and increasing levels of air and noise pollution for Connecticut residents who have no say in the matter."

Representative Angelo D. Roncallo (R-NY), an attorney and local official serving his lone term in Congress, rose "in complete support of this amendment and in utter opposition to the Long Island Sound Bridge." He said its approaches "would destroy one of the most naturally beautiful areas of Long island" by cutting through "areas as yet untroubled by pollution, areas replete with wildlife, much of them Federal parkland." The bridge posed a threat not only to natural resources, but "to the peace and tranquility, and indeed the very character, of our communities." He continued:

> In addition to the approaches at issue today, some means would have to be constructed to connect the bridge with major existing north-south routes. I can promise you that unless this amendment is passed, we will soon see before us a request for funds to build an Atlantic Expressway across the south shore of Long Island, which would destroy and remove from the tax rolls some of the most valuable business property we have and create a "Chinese wall" dividing our communities in half. Other roads would have to be built or widened to feed the bridge, creating more traffic problems and further reducing the green areas we have left.

He said he had been working against the Long Island Sound Bridge since his days as a town councilman in Oyster. He added:

> The answer to the transportation problem in Long Island lies in improved and expanded public transportation, not in more traffic-producing roads, especially in this time of concern about our environment and dwindling energy resources.

Representative Harsha opposed the amendment. "This amendment is both unwise and unwarranted, and it is not restricted to just an area in this country; its application is nationwide." The amendment, if adopted, would "undermine the status of the Federal-aid highway program, and its effect would be to give each State what amounts to a veto for highway projects in adjacent States." He continued:

> The only restriction is that it must have a "significant effect." Who makes the determination as to what is a "significant effect"?
>
> The procedures required for the approval of highway projects are already long and arduous. There are some 23 steps to go through to get a highway program to the construction stages. In addition to that, it takes anywhere from 4 to 6 years from the initiation of a highway project to its completion.
>
> To superimpose yet another hurdle, particularly a hurdle of this kind, would for all practical purposes, Mr. Chairman, doom many projects to oblivion. We are trying to cut out the redtape, to alleviate the redtape, and get out of the bureaucratic mess we are in.

He argued that the affected State "can make its views known," but the "only thing it does not have is a veto."

Representative Reid pointed out that under the amendment, if the Secretary of Transportation determined that a project would not "significantly affect" the highway system of a contiguous State, "the matter would be moot." If he found that the project would significantly affect the neighboring State adversely, "then and only then is it clear that the Secretary must seek concurrence of both States." He added, "I believe that is only fair."

Representative Harsha said the Secretary's decision would be "subject to interpretation, and any citizen in any court can challenge it." Further, the amendment was aimed not only at the Long Island Sound Bridge but projects nationwide, all of which would be subject to similar challenges in the courts.

Representative Wright suggested modifying the amendment to indicate that the Secretary "in his judgment" would make the decision on significant impact. Representative Reid accepted the change, but Representative Harsha remained concerned. He did not know what Representative Wright was "trying to get at, but I am concerned that this language does not remove the probability that somebody could challenge this judgment as being capricious, over extended, and not in the best interest of solving the environmental issue here involved." Instead of opening "a can of worms," he would prefer to limit the amendment to the Long Island Sound Bridge.

Representative Wright explained that he was trying to render the amendment "less menacing and more palatable," saying that this change "would improve it to the extent it would stipulate the Secretary as the one to make the judgment, and not some self-appointed critic."

In view of these concerns, Representative McKinney offered his pending substitute amendment that stated, "The Secretary shall not approve" project documents for the Long Island Sound Bridge. He said he wanted to discuss "something that really disturbs me." Most Members of Congress, he said, think they live in a democracy:

> Let us look at the monstrosity we created in New York. We, the Congress of the United States, did it. We turned around and produced a Metropolitan Transportation Authority which is in essence responsible to no one.

The legislatures of two States voted against the bridge and no one voted funds for it, "but it still can be built because this autonomous agency can go ahead with its own bonding and build its own bridge."

He explained his objections to the bridge:

> The bridge will be so tall and so big, at 6½ miles long, that standing in New Haven 35 miles away, it will overpower the entire landscape.
>
> It is just an absolute travesty that we should take our one recreational body of water and our major national asset and fill it with this bridge.
>
> On top of that we have the very distinct possibility that we will bring all of the traffic in the State of Connecticut to a complete and utter halt.

Representative Harsha announced that he accepted the substitute amendment.

The House approved the McKinney amendment as a substitute for the Reid amendment. [*Congressional Record-House*, April 19, 1973, p. 13250-13253]

Representative Thomas F. Railsback (R-Il.) introduced an amendment directing the Secretary of Transportation to study the feasibility of including a route from Chicago, Illinois, to Kansas City, Missouri, in the Federal-aid primary system. He explained that his amendment "would be in addition to the Georgia to Kansas City feasibility study included by the Committee on Public Works in its bill." Representative Harold L. Runnels (D-NM) introduced an amendment to Representative Railsback's amendment, adding a route from Amarillo, Texas, to Las Cruces, New Mexico. The House approved the Railsback amendment with the Runnels addition. [*Congressional Record-House*, April 19, 1973, p. 13254-13256]

Representative Peter H. B. Frelinghuysen, Jr. (R-NJ), whose ancestors had served in the national legislature since Colonial days, introduced an amendment that would strike a provision of S. 502 affecting I-287 from Montville to Mahwah in New Jersey. Section 140(a) prohibited further action on 22 miles of the route "until new corridor hearings are held." (Section 140(b) called for a similar restriction on the Corporation Freeway in Winston-Salem, North Carolina, but was not affected by the amendment.) Representative Frelinghuysen said:

> Prohibiting construction . . . would mean the remaining road could not be built without additional, new hearings. In my opinion there is no justification for such an intervention on the part of the Federal Government. No case can be made for further delay over a badly needed interstate highway.

Because of the area's geography, "there is no easy alternative to the approved alinement." He added:

> Any alternative would have a severe and adverse environmental effect. In addition, an environmental impact statement on the approved alinement is expected any day. I would suggest we keep our nose out of New Jersey's business, and not try to delay further what needs to be done with respect to the completion of a crucially important circumferential highway.

Representative Roe, who had introduced Section 140(a) in committee, said he "would not present such an amendment that affects my district directly if I did not believe our cause was just and fair to our people." He acknowledged that a hearing had been held on the project, but that was 7 years ago, before enactment of NEPA, and the State had not held formal design hearings:

> Mr. Chairman, my people in the State have begged and cajoled and got on their hands and knees and asked for justice. They had the Department of Transportation to listen to them. [sic]
>
> What do they want to do? They want to speak on an issue that affects them. I listened all day for 2 days to the battle on mass transit and to the battle for people to be heard and the right for people to speak in America on issues that affect them. That is what this issue is about. The cause is just. We are simply saying to give the people of my district in my State the right to speak and to be heard.
>
> What is so terrible about that?

Representative Harsha opposed the amendment, saying that all Section 140(a) did was require a corridor hearing:

> The people of New Jersey want to be heard on this matter. They want to make their voices heard. There is nothing new about this provision. We had it in last year's bill, and passed it last year; the same provision.

Something else bothered him:

> Significantly enough, it seems to me that the gentleman is discriminating in his amendment when he offers to strike out one section . . . and is not suggesting that the same thing be done with the other portion of this section [affecting the Corporation Freeway].

Representative Wright also opposed the amendment. The House rejected it. [*Congressional Record-House*, April 19, 1973, p. 13256-13257]

Representative Clausen proposed an amendment to Section 126 of S. 502 permitting the use of Federal-aid funds for bicycle transportation. His amendment limited the amount to be expended for this purpose to $20 million a year:

> It places an expenditure and/or obligation ceiling on an otherwise open-ended authorization that I believe would be difficult if not impossible to administer.
>
> This will help the Secretary of Transportation and the State and Federal agency administrators to more effectively establish guidelines and regulations for the implementation of the provision.

Representative Howard, speaking in support of the amendment, said that "it is understood that the Department of Transportation will administer this in such a way that all States should have an opportunity to get some funds for bicycle path use." The Secretary would ensure "that all States participate in the program if they wish." The House adopted the amendment limiting total expenditures on bicycle transportation. [*Congressional Record-House*, April 19, 1973, p. 13257]

Representative Neal E. Smith (D-Ia.), who served in the House from 1959 to 1995, introduced an amendment that would add Section 149 to S. 502 on "Use of Interstate System Right of Way." It amended Title 23, United States Code, Section 111 ("Agreements Relating to Use of and Access to Rights-of-Way—Interstate System"), which required Interstate project agreements to include "a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System."

The Smith amendment added the phrase: "except the State Highway department may permit the construction and operation of small food service establishments in rest stop areas." He explained, "I believe the amendment acts as an anti-crime amendment by permitting the States to put coffeeshops at rest stops to encourage the presence of people."

Representative Wright supported the amendment, which the House adopted without further discussion. [*Congressional Record-House*, April 19, 1973, p. 13257]

Representative Wolff introduced another amendment to Section 126:

> My amendment broadens this section to include, not only bicycle transportation, but equestrian trails. Very simply, my amendment would allow use of highway funds for the development and improvement of equestrian trails in connection with Federal-aid highways.

He pointed out that the Senate bill included a nearly identical measure:

> The House bill should not differ from the Senate version on this point, it is important that we give due consideration to the safety and convenience of equestrians and motorists alike by allowing for the development of equestrian trails [sic].
>
> In making this small addition to the House highway bill, we are supporting and encouraging a recreational activity enjoyed by countless Americans, one that complements and promotes a healthy, active citizenry and a wholesome environment.

The House rejected the amendment. [*Congressional Record-House*, April 19, 1973, p. 13257-13258]

Representative Paul N. "Pete" McCloskey, Jr. (R-Ca.) proposed to amend Section 126, which presently prohibited snowmobiles from using trails and walkways "except for maintenance purposes and, when snow conditions permit, snowmobiles." The amendment added the phrase "and State and local regulations" after the words "snow conditions." He explained that, "all this amendment does is permit State and local governments to ban snowmobiles from the trails created under this bill." He suggested that "it is appropriate that we let State and local governments deny snowmobiles if they wish to do so.

Representative Wright indicated he had no objection to the amendment, which the House adopted. [*Congressional Record-House*, April 19, 1973, p. 13258]

The House next took up consideration of Title II, the Highway Safety Act of 1973. Representative Gray introduced an amendment prohibiting the Secretary of Transportation from promulgating uniform safety standards unless specifically provided for by law following enactment of the Federal-Aid Highway Act of 1973. He explained that 18 safety standards were in effect "which are more or less the rules of the road in conducting the safety program," including standards on driver licensing, driver education, and emergency medical services. "In many cases, it has taken a long time to get the proper State legislation to conform to these standards," but the Secretary had proposed in August 1972 to reduce the 18 standards to 9:

> Much of the material in the new standards is different than the old ones. They have entirely different headings and in one case the proposed new standard No. 1 is not in the category of a standard at all, but makes the safety program, in effect, a Federal rather than a State program.

Representative Gray said his amendment would merely keep the program moving "with the present standards until this new condensation of the standards is properly reviewed by the public and the Congress." The House adopted the amendment. [*Congressional Record-House*, April 19, 1973, p. 13262]

Representative Teno Roncalio (D-Wy.) offered an amendment on highway safety on Indian Reservations. He said it did "nothing more than provide machinery whereby the chief of the tribal council can make application for additional funds when the safety or the lack of safety on roads on the reservation warrants it."

With support from the Public Works Committee, the House accepted the amendment. [*Congressional Record-House*, April 19, 1973, p. 13263]

The House then considered Title III of S. 502, amending the Urban Mass Transportation Act of 1964. Representative Harsha introduced an amendment to strike Section 302 ("Impounding of Funds"), which provided that the sums authorized by Title III were not to be impounded or withheld from obligation by any member of the executive branch of the Federal Government. Referring to the $3 billion authorized by the bill for mass transit, he said he was concerned that the bill as drafted would require the entire amount to be obligated immediately upon enactment of the legislation. "I do not think anybody who has any sense of fiscal responsibility intends that situation to occur." He continued:

> Mr. Chairman, the administration has taken a very definite stand on infringement of its prerogatives in dealing with expenditures of funds from the national budget. We have been advised that if the language in the bill prevails the way it is that the bill would be subject to a veto. I would much rather have a bill than just an issue to debate in the coming months . . . .
>
> President Nixon on behalf of the U.S. taxpayer has chosen to bite the bullet. He has taken it upon himself to assure there will be no tax increase and in doing that we must not react irresponsibly for [sic] forcing him to spend money that will insure a tax increase. President Nixon has the courage of his convictions and unless we provide him the necessary flexibility he will veto this legislation. Too much is at stake to risk a veto—adopt my amendment.

Representative Blatnik opposed the amendment. He acknowledged some of Representative Harsha's points, but said, "I feel that to be that rigid as he suggests in removing any limitation on impoundment would be wrong." Impoundment, he said, "has presented serious obstacles all over America," but explained:

> I would suggest to the gentleman from Ohio that perhaps in conference we can come to some form of modification on this subject. Maybe the way it is in the bill it is too rigid. I for one would be against a total impoundment, but I would not oppose a certain amount of flexibility in the committee's provision dealing with Presidential impoundment.

Representative Abzug opposed the Harsha amendment as well. She said she questioned the need for a provision against impoundment "for I believe that impounding by the Executive is impermissible unless the applicable statute specifically permits or authorizes it." Recent court action supported her view as did William H. Rehnquist's memorandum in 1969 when he was Assistant Attorney General. He had written:

> With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that existence of such a broad power is supported by neither reason nor precedent.

She believed that Rehnquist was correct, but "the open-ended nature of UMTA funding led me to propose section 302 just to make the intent of Congress 'perfectly clear.'" She explained:

> What this provision does assure is that the administration may not withhold or refuse to obligate funds available under UMTA for any reasons other than those specified by law.
>
> It is designed to make sure that these funds are not impounded at some future date, because of reasons not directly related to this program, reasons such as "the status of the economy" or "inflationary pressures."

She acknowledged that some members of the Public Works Committee had argued that the provision was not needed in view of the Administration's support for mass transit:

> I am pleased to know of the administration's commitment; if it is carried out as stated, then this provision will not come into the picture and all will be well. I note, however, that in 1977, we will have a new administration, and I want to protect this program against any attempt on its part to impound funds that Congress has decided should be spent. Also, this administration impounded a third—$300 of $900 million—of the UMTA funds in fiscal 1972.

After a brief discussion of the general issue of impoundment, the House rejected the Harsha amendment. [*Congressional Record-House*, April 19, 1973, p. 13264-13266]

Representative Abzug introduced her amendment on "Assistance for Operating Expenses," the measure the Senate had approved for its version of S. 502. She said of S. 502 that it "recognizes what we have all known for a long time—the close relationship between highways and mass transit." She continued:

> It has long been obvious to anyone who has sat in bumper-to-bumper traffic that every 40 cars in front of him could be replaced by a single mass transit vehicle. The committee has acted on the evidence of this by taking an appropriate step of recommending an additional $3 billion for mass transit capital expenses, but it has failed to do all that must be done by declining to include operating assistance in its bill.

Her amendment authorized $800 million divided over 2 years for operating subsidies, with the funds allocated on a formula based on three equal factors: population, revenue passengers carried by the local transit system, and vehicle miles of that system.

Representative Abzug summarized the three goals of the plan:

> First, it will stop the spiral of higher fares, service cutbacks and dwindling ridership that plagues so many transit systems.
> Second, it relieves the unbearable financial pressure on local governments who are hard-pressed to find new revenues to support their transit systems . . . .

> Third, by offering Federal funds based largely upon vehicle miles and revenue passengers, it creates a powerful incentive for an efficient and attractive service operation.

She continued:

> These days, no one in his right financial mind expects mass transit to pay for itself out of the fare box—just as highways are not paid for exclusively by means of user taxes. One of every four dollars spent for highways comes from the same source as most local mass transit operating assistance—the burdensome, regressive property tax . . . . Mass transit gets people out of their automobiles only if it costs them less out of pocket; this cannot be assured unless we provide funds for operating assistance.

Representatives Biaggi and Howard briefly stated that they supported the amendment.

Representative Wright, however, opposed it:

> I think most of us on both sides of the aisle on the committee really have to oppose this amendment for one very simple and straightforward reason. On the very first day of our public hearings, the Secretary of Transportation, Mr. Brinegar, testified before our committee. Very clearly and unequivocally, he stated that if this bill should contain operating subsidies out of the Federal Treasury for mass transit, he would recommend a Presidential veto of the entire bill.

To avoid a veto, the House must reject the amendment.

Representative Clausen also opposed the Abzug amendment, saying that the Nation's urban mass transit systems were in trouble because of "rising operating costs, failing ridership, and other ills." Since they "are not able to make ends meet," the House was being asked not only to increase capital authorizations for mass transit but to provide operating subsidies. He pointed out that Secretary Brinegar had said "it is by no means clear that either the causes or the solutions to those deficits are simple enough to be addressed by the type of subsidy grant provisions being advanced." As the Secretary had pointed out, just five systems were responsible for 70 percent of the operating deficits (Boston, Chicago, Los Angeles, New York, and Philadelphia), with New York's losses amounting to half the total.

Questions had to be asked about what caused the operating subsidies:

> Realistically, the establishment of fare structures, routes, manpower levels and wage rates are local problems and can best be solved at the local level. By providing operating subsidies, we would, in effect, be relieving local areas of the pressure that is required to make the tough decisions that are necessary for efficient operation of mass transit systems . . . .
>
> Surely, if we establish the precedent of providing $400 million a year to divide up among the Nation's transit systems, we will not arrest the basic causes of the galloping deficits, nor

> will we, unless we earmark the funds for those systems which operate the least efficiently, do much to relieve their deficit problems.

After all, local governments created the deficit by their choices in "earmarking local tax revenues and the funds they receive under Federal revenue sharing for other purposes." He concluded:

> I do not believe the operating deficit problem can be solved by the creation of yet another Federal subsidy program. The only lasting solution can come from local initiatives, local pressures, and local trade offs.

The House rejected the Abzug amendment on operating subsidies. [*Congressional Record-House*, April 19, 1973, p. 13266-13269]

With no amendments pending on Title IV ("Prohibition of Discrimination on the Basis of Sex") or Title V ("Inapplicability of Time Requirements") of S. 502, the House turned to the overall bill. The *Congressional Record* of the debate contained several statements that may not have been delivered on the House floor but added to the record later. For example, Representative Tennyson Guyer (R-Oh.), who had been public affairs director for Cooper Tire and Rubber in Findlay before winning election to the House in 1972, emphasized the good faith backing the Highway Trust Fund:

> Why should we break the faith and spirit of the act by diverting these funds to other purposes? If moneys are allowed to be taken from the highway trust fund, it would be like the camel in the tent—just the beginning of a takeover. This will only set a precedent for Congress to take moneys from other in trust funds [sic] such as the airport fund or social security. Perhaps even our pension would not be safe from similar actions.

He supported mass transit, but funds for it should come from the general Treasury, not a fund earmarked for highways:

> The words above the Speaker's dais read: "In God We Trust."
>
> I subscribe to their meaning and their spirit. Let us also learn to trust one another as well, and a good beginning would be to honor the word, "trust," and the measures men of good faith have made by revering deeds done in trust. [*Congressional Record-House*, April 19, 1973, p. 13269]

Representative Gene Taylor (R-Mo.), who had run an auto dealership in Sarcoxie, Missouri, before being elected to the 93rd Congress and joining the Public Works Committee, called the Federal-Aid Highway Act of 1973 "a comprehensive response to the current transportation needs of the Nation, and a measure in harmony with the Public Works Committee's record of studied attention to the evolving needs of the traveling public." He said he had received a letter, dated April 12, from former Administrator Rex Whitton concerning the bill. After recounting Whitton's rise from chain man for a highway survey team in Missouri to Federal Highway Administrator and the many honors he had received along the way, Representative Taylor introduced the letter into the record:

Dear Congressman:

I am hopeful that you find it possible to support House Bill HR-6288 introduced by Jim Wright of Texas and Don Clausen of California. It is my firm belief that the Interstate program and the Road program, both Rural and Urban, needs are much greater than the Trust Fund will provide. Therefore it seems to me that it is entirely implausible to consider spending Highway Trust Fund money for building rail transit or for the purchase of busses [sic]. It seems most logical to me that general funds should be used for rail transit and bus purchase.

After the Interstate System is complete, and I certainly feel that it should be completed at the earliest possible date, the Trust Fund should then be used in its entirety to improve, reconstruct and rehabilitate our primary, secondary and urban roads.

Again I am most hopeful that you see your way to support the above-mentioned bill

Sincerely,

Rex M. Whitton

Representative Taylor asked his colleagues to consider "the wise counsel of Rex Whitton on the subject of 'busting the trust.'" [*Congressional Record-House*, April 19, 1973, p. 13270-13271]

Finally, the Committee of the Whole concluded its work, Chairman Udall stepped down, and Speaker Albert resumed chair of the House for a vote on the Federal-Aid Highway Act of 1973. First, he asked if anyone demanded a separate vote on any amendment adopted in the Committee of the Whole. Representative Abzug demanded a recorded vote on the Hanley amendment repealing Section 138 of S. 502 on allocating Federal-aid urban system funds attributed to incorporated municipalities with populations of 400,000 or more. She had inserted the provision in the bill, but the Hanley amendment had been approved during the debate on the House floor without a recorded vote. She had been refused a recorded vote at the time, but in this final moment of debate, the House approved the amendment by a vote of 292 to 93, with 48 members not voting.

The House then approved the Federal-Aid Highway Act of 1973 by voice vote.

Representative Wright sought unanimous consent for designation of House members to participate in a conference with the Senate to reconcile differences in the two versions of S. 502. Speaker Albert, hearing no objection, appointed Representatives Wright, Blatnik, Kluczynski, Johnson of California, Stanton, Harsha, Cleveland, Clausen, and Snyder. [*Congressional Record-House*, April 19, 1973, p. 13275-13276]

Reaction to the House Bill

The banner headline across the front page of the April 20 edition of *The New York Times* concerned former Attorney General Mitchell:

Mitchell Now Says He Heard Bugging Plot at Three Meetings in 1972, But Rejected it.

Below it was another article headlined:

Mass Transit Aid Barred as House Votes Roads Bill

Calling the vote a "major defeat for traffic-clogged cities," Marjorie Hunter told readers that the House, by a vote of 215 to 190, had decided against using Highway Trust Fund revenue for the purchase of buses or construction of rapid rail systems:

> The House passed the massive three-year highway construction bill by a barely audible voice vote, with many members already racing toward airports to begin a 10-day Easter recess.

Senator Muskie termed the vote disappointing, saying, "Coming only eight days after the news that clean cars will be delayed for one more year, the House vote could have serious consequences for many of our nation's urban areas."

Hunter added that urban forces lost "still another battle" when the House approved the Hanley amendment striking the provision earmarking Federal-aid urban system funds for New York City and 31 other major cities:

> But it was the proposal to divert highway trust fund money into mass transit that provoked the major debate, with both sides trotting out their best orators, as members of the powerful highway lobby awaited the outcome in the corridors outside the chamber. [Hunter, Marjorie, "Mass Transit Aid Barred as House Votes Roads Bill," *The New York Times*, April 20, 1973]

Still on the front page, a few articles below Hunter's story, the *Times* reported on the provision affecting the Long Island Sound bridge. Since the provision linked the use of Federal-aid highway funds to approval by Connecticut, the *Times* pointed out that it "would leave New York State the option of paying the full cost of the approaches—estimated at $70 million—or abandoning the Westchester County-Long Island project." The bridge, estimated to cost $168 million, was to be financed by bonds issued by the MTA. Approval by Connecticut, the article pointed out, was unlikely since Governor Thomas J. Meskill and the General Assembly had "consistently opposed the bridge," while the New York legislature had twice voted to prevent construction of the bridge, with Governor Rockefeller overriding the bills.

The *Times* said that Governor Meskill declined comment on the House vote until he had a chance to review the measure, which was similar to the provision in the Senate bill. He had sent a message to the State's House delegation outlining his opposition to the bridge because it would result in increased traffic, higher noise levels, and decreased air quality while putting open space at risk and adversely impacting the ecology of Long Island Sound.

Governor Rockefeller also declined comment on the provision until he had evaluated it. The *Times* pointed out that when the Department of the Interior had blocked plans for the project just a month earlier, the Governor had said he would build it anyway. He had declined to say how. "That's up to me. You'll find out as the scenario unfolds." ["House Votes to Tie Up L.I. Bridge Aid," *The New York Times*, April 20, 1973]

A few days later, Governor Rockefeller called the vote on the Anderson amendment "a tragic error." He said the vote "flies in the face of the transportation needs of urban America" and "exacerbates the fuel and energy problems of our nation and could be desperately wasteful of the country's resources." ["Rockefeller Scores Vote in House on Highway Fund," *The New York Times*, April 24, 1973]

The vote on the Anderson amendment was the lead item in much of the coverage of the House action. "The House," Mary Russell's article in *The Washington Post* began, "rejected attempts by the Nixon administration and urban congressmen to open up the Highway Trust Fund for mass transit uses." She informed readers that:

> The trust fund issue, which the House Democratic Study Group called "the major transportation, environmental issue of the 93d Congress," has been fought out by two powerful opposing lobbies for more than a year.
>
> Road builders, concrete, truck, auto interests and state highway officials were opposed by a conglomeration of big city mayors, several major unions, environmentalists, transit groups and the Nixon administration.

Despite the Nixon Administration's support for the Anderson amendment, "many Republicans defected" by voting against it. "The vote divided more along urban-rural lines than party lines."

Representative John Anderson said the defeat was "the result of a massive lobbying operation on the part of highway interests who successfully obfuscated and confused the issue." He added, "We simply were unable to refute the inaccuracies and scare tactics they used to convince other members that this was a raid on roads."

A spokesman for Secretary Brinegar told reporters that the Secretary was "disappointed" but was "hopeful something could be worked out in conference to give flexibility to the trust fund the administration feels is essential." The spokesman expected "a hard, tough, conference." [Russell, Mary, "House Closes Road Fund to Mass Transit," *The Washington Post*, April 20, 1973]

Representative Wright said, "It was the biggest bill to come before Congress and the Public Works Committee was sustained on every point." He added that the vote was "a good augury." An ARBA spokesman said, "We're very gratified with the House action. We hope that the conference committee will go along with the decision."

Transit backers were "privately" pessimistic. "We are very disappointed," a Highway Action Coalition spokesman said. "It just appears that we were not able to generate the kind of grass roots pressure on rural congressmen that the highway users and contractors did."

Despite Administration disappointment, the White House's chief lobbyist on the bill, Richard Cook, said he was optimistic about the long-term prospects for opening the Highway Trust Fund to transit:

> Congress is going to need a real jolt before they move. That will come when Environmental Protection Agency regulations close down city after city to traffic, and the gasoline shortage causes a crisis for commuters. Then they're going to wonder what hit them. ["House Defeat Defeats Highway Trust Fund Diversion Again," *Engineering News-Record*, April 26, 1973, p. 8]

UMTA Administrator Herringer told reporters that the Administration was disappointed by the vote on the Anderson amendment, but added that subsidies should remain a local concern. He cited the 1-percent sales tax approved by voters in Atlanta as an example. He was in Chicago to address a rail transit conference of the American Transit Association. He told the association that buses are and would continue to be "the mainstay of most mass transit systems." Research into improved rail transit was continuing:

> Our work on rail vehicles and systems also occupys [sic] a position of high priority in our overall research and development programs. In particular, two four-car trains of dual-power gas turbine-electric commuter cars will be tested in 1974 and 1975. These cars can operate together with similar cars or with straight electric cars, splitting off at the end of electrified track and operating to the end of a line.

UMTA also was testing an urban tracked air cushion vehicle for passenger-carrying use. He cautioned, however, that "We must be careful that we do not stimulate the demand for new, expensive systems beyond the ability to finance them." [Lewin, Robert M., "Development of Urban Mass Transit Seen No Threat to Commuter Rails," *The Journal of Commerce*, April 26, 1973]

The Christian Science Monitor, in an editorial, said the House "was wrong last week when it failed to open the Highway Trust Fund to mass transit use." The "fierce floor debate preceding the vote" provided only part of the reason for the "wrong decision" since the objections could be answered easily:

> Opponents of the so-called Anderson amendment . . . argued it would open the door to a larger "diversion" of road funds in the future, that operating subsidies would be asked for next. The answer to this of course is that Congress still can draw a line against larger outlays or operating subsidies whenever it wants; the amendment would not have wiped out Congress's power of decision.

> But most of the arguments against opening the trust fund to mass transit were not openly raised on the floor. Many members of the House were concerned that, as with revenue sharing as it has turned out, the mass transit funds might not represent "new money," or an actual increase in available revenue, but would be offered "in lieu of" funds already available to them.
>
> Another element in the turndown is the basic conflict between the rural and urban blocks in Congress—which seems archaic in these times when cities melt into suburbs and what farmers are left are hard to tell from city folk with the farmers' mechanized, businesslike operations.
>
> Then there's politics. Lobbyists for the trust fund—roadbuilders and automakers and oilmen—can contribute heavily to campaigns, and did last fall. The Highway Action Coalition, which headed the drive to open the trust fund for mass transit, had no money for campaigns. The trust protectors ran a heavy last-minute lobby effort.

Given "the American love affair with the automobile," the auto industry "scarcely needs protection." Auto sales were high, while auto industry executives were among the highest paid businessmen in the country.

The editorial stated that "the opening of the Highway Trust Fund for mass transit use would not in itself have directly affected the health of the roadbuilding or automaking industries." It continued:

> It would have indicated a change of emphasis, a weighing of the need for individual and thus often wasteful auto use against the clear logic of a more efficient mass transit alternative.

The irony was that many Republicans and conservative Democrats "who argue for freedom of local choice on other issues, contradict themselves on this one."

As other observers had pointed out, the *Monitor* expected a tough conference to reconcile differences in the two bills:

> We hope the Senate backers of funds for mass transit fight doggedly. If this fails, we hope the coalition that seeks to redress the federal government's unbalanced support of roadbuilding comes back next year with even greater fervor. ["A Wrong Decision," *The Christian Science Monitor*, April 24, 1973]

The Washington Star-News began its editorial:

> The praiseworthy campaign to give cities the option of using a limited number of their federal highway trust fund dollars for mass transit opened this year on a wave of optimism. It very likely died, at least for this year, with last week's smashing pro-highway victory in the House.

Technically, the editorial stated, the decision could be reversed in conference, but for three reasons, the prospects were "exceedingly slim." First, the vote was "more conclusive than anticipated." Second, the Senate conferees probably would not "engage in the same sort of last-ditch fight that dragged on to an impasse in the 92nd Congress." Finally, "in a canny maneuver," the bill's sponsors had included "a lot of transit money." They also allowed local officials to reject highway funds, which would be returned to Washington, and replaced by general Treasury funds for transit projects. The "big flaw" was that while Highway Trust Fund revenues were assured, "the promised substitute aid" would be "subject not only to the vagaries of annual appropriation but to the additional threat of presidential impoundment."

The editorial hoped the conference would lead to further gains for transit:

> Barring a near-miracle, however, it seems likely that cities will have to look elsewhere than the highway trust fund for transit dollars. And with the new highway legislation binding for three years, a renewed attack on the trust fund hardly seems imminent. ["Sacred Highway Dollars," *The Washington Star-News*, April 24, 1973]

An editorial in *The Los Angeles Times* attributed the vote to "Selfishness Over Highway Funds." The conference, of course, could reverse the House's decision:

> Certainly it is in the public interest for it to happen, and the greater the public demand for this sensible form of federal transit support, the better the prospects for a reversal of the House action.

Coming just a day after President Nixon's message on energy policy, the House vote was in contrast to the call for a reexamination of energy use. "Highway trust funds . . . are an obvious source to help finance these expensive [transit] systems." The editorial listed the southern California members who voted against "the interests of their constituents" (Representatives Clawson, Corman, Rousselot, Veysey, and Craig Hosmer):

> It is up to the joint conference committee to show better judgment than these men showed. The highway trust fund diversion plan can and should be adopted. ["Selfishness Over Highway Funds," *The Los Angeles Times*, April 20, 1973]

Representative Corman responded in a letter to the editor a few days later. In voting against the Anderson amendment, he said, "I had in mind the crying need for public transportation in urban areas like Los Angeles." He questioned where the billions of dollars needed were to come from. "The President, never averse to shifting the cost of government to regressive taxes, sees breaking up the fund as a way to fund an expensive public facility without increasing the federal deficit or reforming the federal tax structure." If the Highway Trust Fund had sufficient surplus funds to pay for mass transit, "we should repeal the expensive, regressive gasoline tax it imposes."

He pointed out that in 1968, Los Angeles voters had rejected a proposed 89-mile rapid transit system that was estimated to cost $2.5 billion. "The proposed half-cent sales tax as a method of financing was unacceptable to the people of Los Angeles." Developing a funding source for mass transit "must be accomplished so that no special group pays the bulk of the cost." The gasoline tax revenue in the Highway Trust Fund "hits hardest at the middle and lower-income motorists."

The needed billions "should be collected fairly and spent wisely," he said, concluding:

> I believe the House of Representatives reached the fairest and most equitable solution to this problem last week. Included in the Federal Aid Highway Act was a provision that would grant to the Urban Mass Transit Administration an additional $3 billion. This money will be available to urban areas for mass transit projects.

A reader, K. A. Sutherland of Ontario, California, took exception to the inclusion of Representative Rousselot in the list of Members of Congress who voted against the interests of their constituents:

> Will you please explain what gives you the right to so stigmatize honest men who may have, as did Rep. John Rousselot (R-San Marino), asked their constituents via a questionnaire exactly how they felt on the question? I for one am getting awfully sick and tired of politicians taking money out of my pocket on the pretext of taking care of one specific need and then when the money is no longer needed for that purpose continuing to rob me for something else. Granted that rapid transit is a problem; if it were to be considered "on its own merit" and financed on that basis, perhaps it would find more public support. ["Selfishness Over Highway Funds," Letters to the Editor, *The Los Angeles Times*, April 28, 1973]

Representative Wright, on April 26, predicted that the conference committee would approve the House's decision to provide general Treasury revenue for rail mass transit, according to Mary Russell of *The Washington Post*:

> Wright, author of the House bill, predicted little difficulty in getting the conferees to accept the general revenue formula for mass transit. However, other sources, and Representative [Glenn] Anderson, predicted that the Senate conferees would hold out for some trust fund money for buying buses, but not subways or rails.

Senator Randolph, a "wheels on the road" man, was expected to push for the compromise of allowing Highway Trust Fund revenues to be used for buses.

Representative Wright predicted instead that "the most meaningful difference" would prove to be the Senate bill's funding for operating subsidies. In view of the veto threat associated with the funding, "Wright said yesterday he would try to work out a compromise on this point."

Russell reported that two other expected points of contention were the 10,000-mile priority primary system ("Senators say it is unnecessary and too expensive") and the House moratorium on removal of direction signs ("Senate conferees are expected to want the beautification campaign continued"). [Russell, Mary, "Road Trust Fund Predicted as 'Safe,'" *The Washington Post*, April 27, 1973]

On April 20, readers of the front page of *The New York Times* may have glanced to the right of the article about the Long Island Sound bridge vote and seen the headline:

Nixon Seeks $2.3-Billion in a New Urban Aid Plan

The article began:

> WASHINGTON, April 19—President Nixon sent to Congress today a proposal for a $2.5-billion-a-year program for locally controlled urban development, designed to replace a number of similar programs administered by the Federal Government.
>
> The proposal, called the better communities bill, is the first of four special revenue-sharing proposals that the President has said he would seek to have Congress pass this year in hopes of fundamentally stirring Federal-state-local relationships.

The new program would replace seven Federal programs, including grants for urban renewal, model cities, neighborhood facilities, water and sewer grants, open space and historic preservation rehabilitation loans and public facilities loans.

President Nixon had discussed the measure in his March 8 State of the Union Address on Community Development:

> The Better Communities Act [that he said he would submit] is intended to replace inflexible and fragmented categorical grant-in-aid programs, and to reduce the excessive Federal control that has been so frustrating to local governments.
>
> Rather than focusing and concentrating resources in a coordinated assault on a set of problems, the categorical system scatters these resources, and diminishes their impact upon the most needy. Excessive Federal influence also limits the variety and diversity of development programs. Local officials should be able to focus their time, their resources and their talents on meeting local needs and producing results, instead of trying to please Washington with an endless torrent of paperwork.

He had submitted similar legislation in 1971 but, "Congress failed to enact it." Now, as part of his New Federalism initiative, he thought the revised measure "will deserve rapid approval by the Congress." The bill would ensure that no city received less money for community development than it received under the categorical programs being replaced. All the activities eligible under the categorical programs would be eligible for funding under the Better Communities Act, he said, but "it would be up to local leaders to determine how that money will be spent." The new program would minimize red tape and eliminate matching shares.

Secretary of Housing and Urban Development Lynn, the President's counsellor for community development, took the lead in developing the legislation. Lynn, in announcing the bill on April 19, said:

> The time has come to reduce Federal control, red tape and reviews. These supposed safeguards have all too often not contributed to better community development but instead have debilitated local resources and energy that rightfully should be directed toward the needs of the community. [Kovach, Bill, "Nixon Seeks $2.3-Billion in a New Urban Air Plan," *The New York Times*, April 20, 1973]

As Professor Lee pointed out in his book on Nixon's "Super-Secretaries," congressional Democrats and Mayors "promptly complained to the press that the bill was a conservative and anti-city subterfuge for cutting urban financial aid."

Although Lynn attributed the opposition to politics, he had not secured a committee hearing for the bill before the counsellor experiment came to an end a few weeks after he released the bill. Professor Lee said, "A compromise version of community development revenue sharing was ultimately signed into law by President Ford on August 22, 1974, about two weeks after Nixon resigned." [Lee, p. 143-144]

In April 1973, hopes for a Department of Community Development that would include FHWA and UMTA programs also collapsed. As noted earlier, the proposal had made it further in the 92nd Congress than any of the President's other reorganization proposals. Representative Holifield's committee had recommended its passage, but the bill never made it to the House floor for consideration. One of the first steps counsellor Lynn took was to assess prospects for the measure in the 93rd Congress. Professor Lee summarized an internal memorandum on the subject:

> Could House Government Operations Committee Chair Chet Holifield's (D-Calif.) support be counted on again? That "may depend upon the positions that the Administration takes in other matters," including a consumer protection agency and atomic energy policy. Senate Government Operations Committee Chair Sam Ervin "has not been particularly interested in the DCD proposal in the past," and his degree of cooperation might be linked to his fight with the administration on impoundment. The chairman of the committee's reorganization subcommittee, Abraham Ribicoff (D-Conn.), "has been generally ineffective in the past" and his cooperation might be linked to some federal projects back in his home state. Two weeks later, OMB reported that "apparently Holifield intends to reintroduce the DCD bill as the Committee reported it" in 1972. The latest on Ribicoff was that he was "at best, indifferent to DCD."

In anticipation of release of the bill, Lynn and his staff debated how best to promote the legislation, such as downplaying OMB's role in view of its conflict with Senator Ervin on impoundment. He initiated low-level meetings with the Department of Transportation regarding transfer of transit programs to the new Department, working with Theodore Lutz, the Deputy Under Secretary, instead of Under Secretary Krogh, who was facing Watergate and Pentagon Papers problems. Meetings between Lynn and Secretary Brinegar on the transit issue had not yet taken place when the plan collapsed:

> Plans for introducing DCD at the end of April (or whenever Representative Holifield decided) melted away in the policy chaos of Watergate. By the time the counsellorships

> were abolished on May 10, the bill had not yet been introduced. It never was. An August 1973 memo by [Michael] Raoul-Duval [who oversaw transportation issues on counsellor Lynn's White House staff] demonstrated the political, organizational, and policy sea change that had taken place during the previous one hundred days. Having become a [Domestic Council] staffer, he presented a summary of the Nixon administration's ongoing plans "in the field of Community Development." He did not mention DCD. [Lee, p. 144-146]

The Washington Observer column in *Engineering News-Record* commented on the impact of Watergate on transportation policy:

> The Watergate wrecking ball has knocked down more than the White House administrative structure. The campaign and crimes scandal also caved in the policy shell for housing and urban renewal, transportation, foreign trade, and such areas as environmental compliance. The President's rebuilding efforts so far have attracted no new faces, and the machinery to fill key staff vacancies itself is slowed.

With the departure of H.R. Haldeman and John Ehrlichman, President Nixon had given Vice President Agnew "a large voice in domestic policy making and a likely renewed role as urban contact man while assuring everyone that Agnew was not taking Ehrlichman's place." The President also had brought in General Alexander M. Haig, Jr., as Haldeman's temporary replacement:

> But both these moves may matter less in coming months than the fact that he wiped out the super cabiner level domestic counselors [sic] and opened more direct lines of communication with each cabinet member.

(On May 2, the President announced the appointment of Vice President Agnew as vice chair of the Domestic Council. [Lee, p. 186])

The magazine speculated that Secretary Brinegar would be a beneficiary. "Brinegar—crippled by the loss of under secretary Egil Krogh, who admitted a supervisory role as a former White House aide in the burglary of a safe in the Watergate-related Pentagon papers case—moves out of the shadow of James Lynn, still Housing and Urban Development (HUD) Secretary but no longer urban development counselor [sic]."

The article concluded:

> Kenneth Cole, chief staff man for the weakened domestic counsil, still must prove he has the influence Ehrlichman had with the President. It is an immediate concern because the Administration's Better Communities Act, calling for urban development revenue sharing, is being held hostage in congressional committee until a new federal housing program is sent to Congress. [Washington Observer, "Watergate Fallout Slows Government Machinery," *Engineering News-Record*, May 17, 1973, p. 7]

Norbert T. Tiemann

On April 13, 1973, the White House announced that President Nixon had selected former Nebraska Governor Norbert T. Tiemann, 48 years old, to be Frank Turner's successor as Federal Highway Administrator.

Born in Minden, Tiemann had interrupted his studies at the University of Nebraska in 1943 to enlist in the U.S. Army. After serving in the Philippines and Okinawa, he returned to the country and completed college in 1949. He worked as a county agricultural agent (1949-1950) before being recalled to service during the Korean War, serving in Germany (1950-1952). Returning to civilian life, he was director of industry relations for the National Livestock and Meat Board in Chicago (1952-1954).

In 1949, Tiemann married Lorna Bornholdt of Wausa (population about 750 at the time) in the northeast corner of Nebraska. They had four children, a son and three daughters.

When his father-in-law died in 1954, the family asked "Nobby," as he was known, to take over the family-owned bank. His success in operating the small-town bank led to his election in 1965 as president of the Nebraska Bankers Association. He also served three terms as Mayor of Wausa (1956-1962).

In 1966, he decided to seek the Republican nomination for Governor, running against the establishment's choice, Val Peterson, a former Governor (1947-1953) who had served in the Eisenhower Administration. Professor Frederick C. Luebke of the University of Nebraska-Lincoln described Tiemann's advantages:

> Tall and handsome, obviously intelligent, self-confident, vigorous, articulate, witty – Tiemann at forty-two years of age was a remarkably attractive candidate, an appealing alternative to the aging Peterson. He won the Republican nomination with a margin of 15,000 votes.

His Democratic opponent, Lieutenant Governor Philip Sorenson, 34 years old, had more political experience but Luebke explained:

> In Nebraska, when both political parties offer fresh, strong, and attractive candidates for the governorship, the Republican is likely to win, given the majority of Republican voters in the state.

Both recognized that taxation was the most important issue facing the voters in 1966, the result of two measures on the ballot that year:

> One was a referendum spearheaded by Omaha interests to repeal an income tax law passed in 1965 and scheduled to go into effect on January 1, 1967; the other was an initiative sponsored by the Nebraska Farm Bureau to amend the state constitution so as to prohibit the state government from levying property taxes, leaving such harvest to local governmental

> units such as counties, cities, and school districts. Not unexpectedly, the voters approved both, thereby temporarily depriving state government of about two-thirds of the revenue it needed to provide the services citizens expect.

Tiemann won the election with 62 percent of the popular vote, giving him the top State post at a time of fiscal danger that he intended to confront despite the weak role of past Governors:

> Traditionally, Nebraska governors have not exercised their political power to influence the legislature, determine public issues, or lead their party. This has been particularly true since the inauguration of Nebraska's unique nonpartisan unicameral legislature in 1937. Lacking the bridge-building capacity between the executive and legislative branches afforded by political parties as in all other states, Nebraska governors have preferred to limit themselves to their administrative role . . . .

In his inaugural address on January 5, 1967, Governor Tiemann signaled that he would take an activist role by submitting a revenue bill that would balance a sales tax with an income tax. In April, the Unicameral approved the "laws that were remarkable in their range and impact" and that provided the revenue the State needed to function.

Late in the legislative session, Governor Tiemann sought authority to enter into bonded indebtedness to pay for highway construction:

> The problem became acute for Nebraska after the enactment by Congress of the Federal Aid Highway Act of 1956 . . . . The problem for Nebraska was that ever since 1875 its constitution limited state indebtedness to $100,000. A century later this penny-wise, pound-foolish provision sometimes worked to the fiscal disadvantage of Nebraska taxpayers.

During the campaign, Tiemann had proposed to raise money through bonds that would be retired by revenue from a motor vehicle or fuel tax.

In June 1967, the Unicameral approved the plan to allow bonds to be issued if backed by a three-fifths vote of the legislature. Motor vehicle license fees and fuel taxes backed the bonds for highway construction. Voters subsequently approved the measure

Professor Luebke quoted a Nebraska resident as saying Governor Tiemann had dragged the State "kicking and screaming into the twentieth century." His leadership, the professor said, "was unprecedented in its activist or dynamic qualities." He continued:

> But without the activist leadership of Governor Norbert Tiemann, Nebraska's ship of state might well have lost its course between the Scylla of sclerotic traditionalism and the Charybdis of reforms that reached farther than the voters were willing to tolerate . . . . Tiemann had been willing to take risks more daring than those of any of his predecessors . . . . [Luebke, Frederick C., "Tiemann, Taxes, and the Centennial Legislature of 1967: Beginning Nebraska's Second Century," *Nebraska History*, Fall 1990, p. 107-119]

Marvin L. Nuernberger, who was appointed State Engineer in 1968, said of the bond vote:

> In 1968, the people thought the state highways were in poor shape and that there ought to be a way to improve them. Therefore, the bond issue won and became part of the massive bundle of highway legislation that was developed and passed in 1969. The enactment of this total highway package permitted Nebraska to become progressive in the planning and construction of an integrated network of highways, roads, and streets. [Koster, George E., *A Story of Highway Development in Nebraska*, Nebraska Department of Roads, 1986, p. 80]

Governor Tiemann's accomplishments in the area of roads included the first broad reorganization of the Department of Roads; issuing the first bonds for highway construction, establishing a 20-year plan for expressway construction, initiating the first mandatory driver examinations and motor-vehicle inspection programs, and closing the Omaha Gap on I-80. [*America's Highways 1776-1976*, p. 195]

The price of bold leadership, in Governor Tiemann's case, was defeat when he ran for reelection in 1970. His Democratic opponent, businessman James J. Exon, would serve as Governor from 1971 to 1979 before entering the United States Senate (1979-1997).

At the time of his nomination to be Federal Highway Administrator, Tiemann was Vice President for Corporate Finance of First Mid-American, Inc., an investment bank in Lincoln. He also served as president of the Coalition for Rural Development (1971-1973).

Upon learning of the nomination, the *Lincoln Journal* said it was "good news not only for the former Nebraska governor but for Nebraskans and all those who care about good highways." The newspaper said:

> That Tiemann has a deep appreciation of road needs and insight into how to meet them was demonstrated during his tenure as governor. Tiemann should face challenges aplenty in his new assignment. Decisions must be made about expansion of the Interstate System. Differences must be reconciled between the executive and legislative branches over highway spending. The future of the Highway Trust Fund—shall it be used only for roads or for other means of transportation?—needs to be determined. ["Tiemann a Good Choice," *Lincoln Journal*, April 16, 1973]

On May 15, the Senate Committee on Public Works held a confirmation hearing. Senator Randolph opened the hearing by complimenting Governor Tiemann as "a perceptive human being [who] knows that he approaches a new job in a time when the program he will direct is in a state of transition." While the highway program must still facilitate movement, "it must do so in a manner that is consistent with the other goals of contemporary American society." The pending highway legislation "will indicate new directions for the highway program."

In brief opening comments, Tiemann pointed out that he had served as Governor "in difficult years as indicated by the tax reform bills." The result had been adoption of 15 of 19 major legislative proposals by a legislature "that the press called hostile." To pass them, he had to "establish a good

working relationship with the individuals in the legislative branch." He hoped to establish a similar relationship with the members of the House and Senate Public Works Committees.
He said he would ask Deputy Administrator Bartelsmeyer to stay on. In addition, "I will ask Frank Turner to be my ex officio mentor, to be my strong right arm."

Highway safety would be a top priority, as it had been in Nebraska. Some of the measures, such as mandatory driver testing and car inspection had not been "a politically popular thing to do" in his State. "Nevertheless, in the pursuit of safety it was mandatory."

He described himself as "one of the original antitrust busters," adding:

> I have learned since that time that now the Federal highway program must interface with all other modes of transportation, that as we are nearing the end of the interstate construction—I think you will recognize it in the House bill and Senate bill presently in conference—that there is about a 50-to-50 split between rural and urban highways in the funding levels.
>
> It seems to me that as we phase out the Interstate System, we are beginning to get to the end of that, that we have to recognize that the level of funding for urban mass transit must be increased. I don't think there is any argument as to the need for funding the mass transit system.
>
> I think the sensitivity comes in how do we fund it. It seems to me that here's an area that could be very well compromised—and men of good will can sit down and decide how this can be solved.

Senator Bentsen began the questioning with the key question. "Do you favor the utilization of the highway trust fund for rail mass transit or not?" Tiemann replied "Yes," but clarified that he meant all transit, not necessarily rail transit.

Senator Randolph followed up by asking Tiemann's view as an individual, not a member of an Administration that favored the use of Highway Trust Fund revenues for rail transit. "I am asking for your personal feeling about this problem." Tiemann replied:

> Yes; Senator. I am on record as having given testimony during my tenure as Governor against the diversion of any funds at all from the trust fund. It is earmarked for highway construction and it should be that way. I continue to feel that way personally.
>
> However, as I indicated earlier, the administration's viewpoint is counter to that and being a member of that administration I will follow that mandate. However the public trust, if I am confirmed, that is placed in my hands means I follow the letter of the law.

Senator Clark of Iowa asked what Tiemann considered a realistic target date for completing the Interstate System. He replied that 1980 appeared to be the present expected completion date, but "I guess I have to hedge my answer more to say it is impossible to tell you how we can be completed because of the literally hundreds of court cases pending." As a result, "I think probably it is not realistic to come up with a solid date at the moment with all of these variables at issue."

Would Tiemann favor extending the Interstate System after it is completed? The States, Tiemann replied, would continue to have highway needs, whether they are called an extension or not. Those needs probably could better be met by continuation of the 70-30 programs than the 90-10 Interstate program.

Senator Clark also asked about impoundment. Tiemann replied, "I agree with the administration's position," adding that with inflation and the economy as they were, "the priority of fighting inflation probably takes precedence over highway building."

Senator Randolph said "there has been a tendency, I think, for the Federal Government at times to go beyond its constituted authority." He asked if Tiemann thought "the States can more readily accept and frankly commit themselves to action rather than to wait on the processes of the Federal Government?"

Tiemann said he agreed with the premise:

> One of the mottos around our office was "The quicker you cut redtape, the faster you will cut the ribbon." We very often had a battle with the Federal Highway Administration as to who is causing all the redtape. You can cut the redtape in the area where you have the responsibility. I think the Federal Highway Administration is moving very quickly in the reduction of redtape.

He cited certification acceptance as an example of reduced red tape. "I think we will eliminate a great deal of redtape—that is one of the high priorities, the elimination of redtape."

After the session, lasting from 9:55 to 10:33 a.m., ended, the Committee on Public Works unanimously approved the nomination. The Senate confirmed his nomination on May 16. Secretary Brineger administered the oath of office to the new Federal Highway Administrator on June 1, 1973, with Tiemann's daughter Mary holding the Bible. In his first message to FHWA employees, he said "I am very glad to be here" and that he hoped "to personally know as many of you as possible in the months ahead. He said:

> I am acutely conscious of the splendid traditions of the Federal Highway Administration and its predecessor agency, the Bureau of Public Roads, and the fact that my predecessors in the position of Federal Highway Administrator have all been men of dedication and integrity.

Noting that he was not an engineer, he explained that he would "rely heavily" on Deputy Administrator Bartelsmeyer and had asked former Administrator Turner "for his advice and counsel, so I will be receiving excellent guidance from these two top professionals." He concluded:

> Working together, we will not only continue the fine work FHWA has done in the past, but go on to new achievements in the future. ["Norbert T. Tiemann Sworn in as Federal Highway Administrator," *FHWA News*, June 1973, p. 1]

Tiemann's first interview as Administrator was with Lee Stillwell of Scripps-Howard Newspapers. "The good old days of highway building are gone," Tiemann said, "when highway building provided the only method of transportation." Stillwell wrote:

> Tiemann . . . has made clear to his engineers and aides that they must realize highways no longer can be built in straight lines from one point to another without considering side effects. The public and federal law demand protection for the environment. "And we go along with that," Tiemann said . . . .
>
> Tiemann said he believes his agency's future will be determined to a large extent by the final form of the Federal Highway Act now in a conference committee to iron out differences between House and Senate versions . . . .
>
> Tiemann said he supports this flexibility idea President Nixon has proposed but which the House version of the highway bill would reject. The automobile is the most successful form of transportation ever invented, Tiemann said, but it has been so successful that it has caused urban problems—air and noise pollution in addition to traffic jams. Other means of transportation must be used, he said, noting that rapid rail transit isn't economically feasible for most cities but that rapid bus transit is, especially where exclusive bus lanes are created.

Urban traffic problems cannot always be solved by new highways, so Tiemann intended to encourage people to promote carpools. About one-third of cars could be taken off the streets during commuter hours in this way. He also mentioned research underway to develop electronic equipment to give buses priority at stop lights; to widen intersections and cut off bottlenecks; and an experiment in the District of Columbia to use computers to adjust traffic flow.

Tiemann acknowledged that environmental considerations were still new, but said that highway officials should have a "deep commitment to preserving our environment." The article concluded with a quote from Tiemann:

> "Voltaire said, 'The only way to compel men to speak good of us is to do it,' and the only way to get public opinion on our side in this matter is to prove beyond a doubt that we are attaching the highest importance to environmental considerations. [Stillwell, Lee, "Transit More Than Roads, Highway Chief Says," *Pittsburgh Press*, June 18, 1973]

Tiemann's first speech was on June 18 to WASHO. He said that unlike most of his predecessors, he was not an engineer:

> However, in my former role as Governor of Nebraska, I worked very closely with the State Department of Roads, and I think I have a pretty good idea of how engineers think, and of how a highway department functions. My own background, in addition to the

> administration of state government, has been in the field of financial management, and I hope that the experience gained in both sectors will prove useful in carrying out my new duties.

As he had said during his confirmation hearing and his greeting to FHWA employees, he planned to depend heavily "on the experience of your good friend Deputy Administrator Ralph Bartelsmeyer" and had asked former Federal Highway Administrator Frank Turner for his advice and counsel. "I think you will agree that I will be getting some excellent guidance from these two top professionals."

Based on his experience as Governor of a rural State and as president of the Coalition for Rural Development, he assured WASHO that he would not ignore rural road needs while working to address urban problems. "This is especially so in those States or areas which have lost most or all of their rail transportation, and which have no interstate or intercity bus service."

At the same time, the WASHO States included many urban areas with critical transportation problems "and it is essential to our national well-being that these problems be solved." He pointed to a key problem:

> The automobile is the most popular and successful form of transportation ever invented, and it appeals greatly to our American sense of freedom by giving us the ability to come and go when and where we please. It has been the principal factor in our 20th Century economic and social lifestyles.
>
> Sadly, however, it has become TOO successful in our cities—to the degree where it is now defeating its purpose. As a result, we have arrived at a point where we must reduce dependence on private cars in urban areas—particularly during the rush hours—and convince commuters to either form carpools or use public mass transit facilities.

Rail rapid transit might work in the largest cities, but "because of population or geographic characteristics, rail transit is not economically feasible for most of our cities." Bus rapid transit, including exclusive bus lanes, offered a better solution, especially when combined with sophisticated electronic equipment that gave buses priority at traffic signals.

Cities needed the funds to make decisions to address their individual needs. For that reason, Administrator Tiemann said, the Nixon Administration "put a high priority on increased flexibility in the use of Highway Trust Fund monies." Efforts to open Federal-aid urban system funds to flexible use had been met with "a great deal of misunderstanding and confusion." He emphasized that how one area decided to use the funds would have no effect on rural expenditures or expenditures in other States. With the conference committee underway, "at the moment we do not know what the final outcome will be."

He also emphasized environmental considerations. "This is a matter of Federal law, of course, but it also is as it should be—as highway officials we SHOULD have a deep commitment to preserving our environment." Measures to address environmental concerns, including air and noise pollution, were here to stay:

> What it all means is that there will be no return to the procedures, methods, and philosophies of the past in the highway program. We are in a new era, one in which we must regard highways differently than we once did.

Further, they could no longer think of transportation modes as "independent entities, each with its own constituency and indifferent to the problems and the needs of the others." He explained:

> The point is, we must now think in terms of overall TRANSPORTATION planning, and the role of each mode in that plan. The modes cannot be competitive in our highly complex society of today—and tomorrow—instead, they must be complementary.

Still, "human nature is human nature, and long established ways of thinking and acting are not easily changed." However, steady progress was being made, as reflected in the fact that 22 States had created departments of transportation modeled on the Federal Department. (His home State was one of the exceptions, and remains so today.)

He said in closing that his primary goal would be "to establish a close and harmonious working relationship with State highway officials." With the Interstate System winding down, State and Federal officials needed to have meaningful discussions on the direction of the highway program, "keeping in mind always its context in regard to our larger total transportation objectives."

The Conference Committee Convenes

The 16 members of the conference committee–9 from the House, 7 from the Senate—planned to start work on Wednesday, May 9. Mary Russell of *The Washington Post* said, "It promises to be a long and difficult job, because the two bills are vastly different." Despite the urgent need for the funds, the conferees knew "the Nixon administration is raising the threat of a veto if the conference product is a budget-buster." Russell highlighted the key issues. The Muskie-Baker amendment opening Federal-aid urban system funds to rail transit; the Senate provision authorizing mass transit operating subsidies; the Senate's pass-through of urban system funds directly to cities and its "earmarking" of funds for larger cities; the House's priority primary programs for feeder roads off the Interstate System; and funding for highway safety.

She recalled 1972, when conferees deadlocked over the provision allowing Highway Trust Fund revenue to be used for rail transit:

> This year, Wright says he expects more of a compromise atmosphere, because the Congress is under pressure from the states. The makeup of the Senate conferees might make that compromise a bit more difficult, however.
>
> Attempts were made to have nine Senate conferees, five who opposed Muskie-Baker and four who supported it. But a 1972 reform adopted by the Senate Democratic Caucus says a

> majority of Senate conferees on any bill should represent the majority view of the Senate. Under pressure of this reform, a compromise was worked out so that the Senate will have seven conferees, four in favor of Muskie-Baker and three against.
> The House will have nine conferees, only two of whom supported the Muskie-Baker language when it was beaten on the House floor.
>
> There is little chance that the Muskie-Baker amendment to bust the trust will be accepted, because there are easily 10 votes against. But some compromises, perhaps providing mass transit funds for buses, or even rail rolling stock, might have to be worked out.

Russell pointed out that Representative Wright has proposed a compromise on transit operating subsidies. "In effect it allows states to use what they put up as their share of highway matching funds for operating subsidies, without losing the Federal share."

The Administration, she noted, supported the Muskie-Baker amendment, "but violently opposed the operating subsidies, and let it be known that if the bill contained operating subsidies, the President would veto it." Morever, the 3-year House bill authorized total funding of $25.6 billion or $3 billion a year more than the Nixon Administration wanted. (The Senate's $18 billion over 3 years was within Administration targets.) Russell continued:

> [The Administration] is concerned about the backdoor spending provided by the House bill from general revenues, sources say, and it worries about a recent court ruling against the impoundment of highway trust funds.
>
> Sources said if the bill is too loaded down with spending items like the priority primary system, the safety money and anti-impoundment language, it might be vetoed anyway.

John Kramer and other advocates for the Muskie-Baker amendment "are delighted at the prospects of a veto. Kramer explained:

> "I'm absolutely convinced a veto would be sustained" by Congress. "Then, given another go-around maybe we can pick up the 13 votes we need in the House to pass some form of Muskie-Baker."

Representative Wright suggested opening the conference to public observation. "It might be a good idea," he said, but it would be unusual. He acknowledged that not all conference participants, particularly Senator Randolph, might agree. "They may be highly amenable to it or they may have huge problems I don't know about." Senator Muskie indicated he unequivocally supported a vote to open the conference. [Russell, Mary, "Public Session is Sought for Highways Bill," *The Washington Post*, May 7, 1973]

The conference would not be in public.

Although some transit advocates hoped for a bill that would provoke a veto, they also mapped a strategy for the conference. According to the Washington Observer column in *Engineering News-*

Record, they were "turning their attention to salvaging provisions of the legislation that passed the first time around." "There are quite a few bargaining points left," Robert Coultas of the Institute for Rapid Transit said. Both bills included $3 billion in authorizations for UMTA's capital grants while the Senate bill included the Muskie-Baker amendment and $800 million in operating subsidies:

> Conferees are expected to delete quickly both Senate provisions to avoid a veto threat. But transit lobbyists can still push for a bill pending before the House Rules Committee that would provide both the $800 million in subsidies and the stipulation that the federal share of UMTA capital grants be increased from the present two-thirds to 80%. However, they will have to overcome strong Administration objections to operating subsidies and any increase in the federal formula above 70%. [Washington Observer, "Transit Advocates Map Plans to Salvage Programs," *Engineering News-Record*, May 3, 1973, p. 7]

The *Washington Star-News* said the issue of Federal subsidies was "about to explode in a showdown fight on Capitol Hill." In Washington, WMATA had taken over the region's bus lines and found one thing was unchanged: "Bus ridership and bus revenues both are continuing to decline, much as they did in the days of private management." New York City's problem with transit subsidies was "in a class by itself," with deficits approaching "the horrendous magnitude of a quarter of a billion dollars." What was clear in these locations and virtually everywhere else was "the clear, unvarnished evidence that most transit operations, unless fares are raised so high that few people would ride buses and trains, simply cannot survive from fare-box revenues alone."

For conferees on the Federal-Aid Highway Act of 1973, the "toughest decision will come on the campaign to authorize, for the first time, a new program of federal transit operating subsidies." Given the Nixon Administration's "adamant objections, the prospects are not bright."

Metro and other public authorities might consider sales-tax subsidies, as in Atlanta, to cut its fares or simply cutting fares to increase ridership. "The philosophy" behind such measures was that "increased transit ridership is worth its high costs as a tool of urban development to decrease traffic congestion," among several benefits. Nevertheless, where these efforts had been tried, "revenues flowing from more ridership [have not] offset the losses incurred by fare rollbacks and the higher costs of operation." Still, it was an idea worth considering "and it is at least conceivable that such actions may be forced in the future by such environmental pressures as air pollution and fuel shortages."

As a result, "it is high time that the issue of transit operating subsidies moves to the front rank of urban concerns." State legislatures may want to take up the issue:

> But the logical, compelling first source of relief for urban areas everywhere is a federal program of operating subsidy assistance, augmenting the responsibility Congress already has assumed to share in the local costs of building and equipping mass transit.

The Administration had complained that subsidies "would reward inefficient transit operations and assume an essentially local burden." The editorial responded:

> In truth, the initial proposals invited such criticism. A compromise version that will be available to the House-Senate conferees this week, however, would require a dollar-for-dollar matching of local tax funds, establish tighter criteria for need and redefine the money's use. By those means the federal government can avoid a disproportionate share of the burden, while recognizing the clearly demonstrable need to help. Both goals should be met. ["The Fight for Federal Bus Subsidies," *Washington Star-News*, May 6, 1973]

Railway Age magazine saw a possible compromise in the wake of the House's defeat of the Anderson amendment:

> But all is not despair for rapid transit men. The House-passed highway-aid bill and the Senate version now go to a conference committee where an important *quid pro quo* may take place. The Senate version, as all men know, contains a provision siphoning $850 million annually from trust fund monies to rail rapid and bus urban systems. If the Senate recedes from this provision, say House Public Works Committee sources, thus allowing no diversion, the House will go along with another Senate bill provision which channels $800 millionl a year from general funds to defray operating subsidies of urban mass transit systems.

Such a *quid pro quo* would make life harder for Secretary Brinegar:

> In any event, the House defeat of the diversion amendment, offered by Rep. Glenn Anderson (D-Calif.) was a stunning defeat for Mr. Brinegar who made an all-out attempt to secure House passage of diversion. If the tradeoff of diversion for operating subsidies takes place in conference, Mr. Brinegar's highway problems may just be beginning. ["House/Senate Transit Tradeoff?" *Railrway Age*, May 14, 1973]

Frank Reid of *Better Roads* was frustrated by the public debate. In his April 1973 editorial "What Next Mr. President," he said that "Alice in wonderland" thinking was "running rampant" in FHWA:

> Evidently charged with supporting your raid on the Highway Trust Fund, they have come up with a new twist . . . The Trust Fund is not really a trust. Why not? Because a long while ago, before 1956, that is, no trust fund existed and there was a gas tax! Not only was the gas tax not earmarked, it went directly into the General Fund.

FHWA's thinking, Reid explained, was that since half the funds in the Highway Trust Fund had once gone into the general Treasury, "it is a 'reasonable' assumption that half the present Fund be eligible for some General Fund use such as Mass Transit schemes." He told "the President":

> Now try that one on for size. They are really reaching to justify your raid. That kind of thinking could wipe out every earmarked tax we have on the books.

Reid cited the growing highway needs in the country:

> There's an old saying that you can't get blood from a stone; well it is becoming increasingly apparent that soon we will not be able to get this needed money out of the Trust Fund, at least not in amounts great enough to do the job. [Reid, Frank, Editorial Viewpoints, "What Next Mr. President . . .," *Better Roads*, April 1973, p. 21]

The following month, Reid began his editorial: "The Highway Trust Fund is, as usual, in hot water," with mass transit advocates eying road-user tax funds for their mode:

> This same problem crops up session after session. It is obvious that, whatever its merits, the Highway Trust Fund lacks unquestioning support in the Congress.

He said that Representative Harsha had explained the problem during a speech to ARBA's meeting in Houston:

> Representative Harsha laid it on the line to the convention delegates . . . . Congressional supporters of the Trust Fund have had little support from the highway industry over the past several years. He stated that each year it gets harder and harder to combat the constant stream of well organized opposition presented by the anti-highway lobby.
>
> He warned, in effect, that if the highway industry did not stop sitting on its collective hands then the next battle could well be lost by default. He urged all present to write to, or call their respective legislators . . . to tell the positive side of the highway story.

Reid not only endorsed the idea but had been propounding it for months, urging the highway community to makes its case to local newspapers and organizations, as well as legislators "and do it before we face those critical votes and before people get backed into corners with anti-highway opinions." He stated the point in italics:

> *It is long past time for the highway industry to come out swinging, to land the first punch for a change.*

He concluded:

> Once again . . . there must be a concerted effort on the part of all highway people to tell the highway story and tell it now, tell it tomorrow and tell it the day after that. Then and only then will the public and their elected representatives have the true highway picture before them when the next vote on the Trust Fund comes up.
>
> The job is yours, get out and do it. [Reid, Frank, Editorial Viewpoints, "There is a Strong Highway Story: Tell it Now!" *Better Roads*, May 1973, p. 17]

Rethinking the City

On May 16, Secretary Brinegar was in Los Angeles to address the Los Angeles Chamber of Commerce's National Transportation Week Luncheon at the convention center. Acknowledging that he'd been the Secretary for only about 100 days and his experience was limited, he said he would "like to offer some comments on the major transportation issues before the Nation as I now see them."

The Department of Trransportation, he said, had an annual budget of about $8 billion and slightly over 100,000 employees. "Our career staff people are, by and large, a dedicated and hard working group." The Federal-aid highway program took over half the Department's dollars, while the FAA comprised over half the employees. The Department's role was to ensure the modes of transportation "are working efficiently and cooperatively, [because] when the demands and the service are in fair balance, our Nation can move its freight and its people smoothly and at low cost."

The Nation's 1972 transportation bill was about $200 billion, with 80 percent going to highways directly or indirectly. Whether the expenditures met the Nation's needs was the question:

> Though clear-cut answers are hard to come by, there is growing evidence that it did not and that the resource allocation is out of balance . . . . I believe that our long-term concentration on highways and automobiles—to the point where we now have 3.4 million miles of the former and 100+ million of the latter—is no longer appropriate. Highway growth properly served to tie the country together over the past 30-40 years. But inertia and vested interests now make the needed shift of direction most difficult. However, I believe that the priority demands of the 1970's and 1980's—led by problems of urban congestion, an energy shortage, and air pollution—give us little option but to find the way to make this shift.

The need for such a shift was evident "during the so-called 'rush' hours" that might better be called "congestion hours." So much money had been spent on interstate transportation from city-to-city that moving within the cities "got lost somewhere in the shuffle." With so much of the population in urban areas, "we can no longer avoid facing the issue."

The UMTA program was the Department's major response to urban congestion:

> To illustrate what we are doing, during the calendar year 1972 we approved 133 separate grants to 61 urban areas. The major project effort is in support of bus purchases—with our capital grants now being used to purchase nearly 85% of all transit buses built in the U.S.

The Department also was trying "to provide a small measure of flexibility in the way that Federal highway trust fund dollars can be used." Accomplishing this goal "has proven to be a difficult task, largely, I think, because of misunderstandings about our proposal and because of inertia in the existing system." The Administration's proposal for allowing local choice in the use of funds apportioned for urban areas had "caused many cries of protest, especially from those closely related to highways." He said:

> Charges that we're out to "break the trust," that we're endangering the interstate highway system, and that we're neglecting the Nation's critical highway needs have been regularly heard in Washington in recent weeks.

> The controversy is most unfortunate, because when the smoke clears and the trust fund issue is looked at in a longer-term perspective, I'm quite certain that it will be widely understood to be a timely idea and entirely consistent with the broad purposes to which trust fund monies can be properly used.

The Muskie-Baker amendment, he explained, had passed the Senate by 5 votes while the comparable Anderson amendment had failed in the House by 25 votes. The conference committee was underway, but "I'm not optimistic." He added:

> If we lose we will have to seek an alternate way—including possibly consideration of some restructuring of the future make-up and objectives of the trust fund.

Although many questions surrounded urban transportation, he cited two:

1. How much longer can we continue to think of urban transportation planning as being separate from urban land use planning?
2. Who are the proper local community agencies to take the lead in developing and implementing coordinated transportation and land-use planning.

On the first question, he said that transportation systems "both shape urban centers and, in turn, are then shaped by the changes." A freeway serves existing development but also causes shopping centers and housing areas to be developed:

> Without a coordinated land-use-transportation planning effort we can find ourselves not eliminating urban congestion by adding new transportation systems, but rather sadly finding that we're now forced to cope with a higher and more complex level of congestion. "Congestion rises to meet capacity" may indeed be a perversion of one of Parkinson's laws that will forever haunt the too-narrow urban transportation planner.

(Parkinson's law, which Cyril Northcote Parkinson revealed in a humorous 1955 essay, is usually stated as: "Work expands so as to fill the time available for its completion.")

On the second question, Secretary Brinegar said he had been observing local agencies:

> My early analysis suggests that the better ones have agencies with at least these common characteristics: the agency's boundaries cover the relevant urban area; its charter comes from the state and gives it, as a well-defined metropolitan unit, considerable clout; it is involved both in planning and implementation; and it has widespread community support, backed by an adequate staff and a first-rate top executive. These characteristics may be no guarantee of success, but without them you surely run a risk of failure.

He turned to the issues facing Los Angeles which, as he noted, was his home. "I'm looking forward to returning to Los Angeles when my Washington adventures are over." As he traveled around the country and reviewed analyses available in the Department of Transportation, one thing had become clear:

> I've concluded that the Los Angeles area probably faces the most serious transportation problem of any major urban area in the Nation. Our extraordinary concentration on development of a freeway-suburban culture has driven us to a level of dependence on the automobile and its associated urbanization that, to an outsider, is almost beyond belief. Let's face it—we're "hooked" on the automobile and don't know how to break the habit . . . . The answer: offer some transportation alternatives to the automobile.

He suggested three actions. First, "Take this entire matter very seriously." The EPA's pressure to enforce the Clean Air Act would "continue unabated no matter how much you want it to go away." The "feet to the fire" approach would continue "and I recommend you be prepared to deal with it."

Second, "step-up this area's coordinated land-use and transportation planning effort and strengthen the implementation authority." Washington could not solve the area's problems, but if area officials developed "comprehensive, community-supported proposals we stand ready to help—and quickly."

Third, "let's start offering alternatives to the automobile right now." The San Bernardino Busway was a start, but much more needed to be done:

> I'm not talking about expensive and long-term programs, but rather about aggressively pursuing such low-cost ideas as (1) providing really high-quality, reliable rapid bus service on exclusive or reverse bus lanes on a great many freeways and arteries (coupled, of course with expedited movement of these buses through down-town [sic] traffic), (2) offering special freeway and parking privileges for car pools, (3) providing special parking lots in outlying communities to serve as "staging areas" for bus service or car pools, (4) developing a schedule of staggered work hours to balance the freeway load more evenly, (5) getting companies to provide free bus passes in lieu of free employee parking, and (6) permitting, and possibly subsidizing, the use of taxi-like limousines or small buses that can offer home pick-up and delivery services for groups of commuters that live near one another. Though some may think it "unthinkable," I suspect that before long a few cities—and Los Angeles may be one—will even be looking at the possibility of <u>licensing</u> the use of freeways, with the fees higher—like movie theaters or long distance telephone calls—during prime time. We may even be on the way to recognizing that good public transportation is such an essential key to urban survival that, like schools and fire protection, it must be made available free to all comers and supported by general or special taxes.

Some of these ideas might work for Los Angeles, while others might not. Secretary Brinegar said he had directed UMTA Administrator Herringer "to give 'special handling' to applications from Los Angeles." He urged local officials to work with him:

> For example, we have on hand computer programs that can help lay out and monitor car pooling arrangements, and we can share with you the results of a great variety of public transportation experiments now underway in other major urban areas.

Secretary Brinegar concluded with a bit of advice from "a newly-minted Washington bureaucrat" who still felt deeply about Los Angeles:

> Mark Twain once wrote: "Nothing so needs changing as other people's habits." To strengthen—and perhaps save—Los Angeles the time is urgently upon us when we must change a great many of our habits, but especially those of the over one and half million who daily drive back and forth to work in the solitary splendor of their personal automobile.

Reporter Ray Hebert, writing in *The Los Angeles Times*, called Brinegar's speech a "scolding of Los Angeles—by a person who knows the region" (a resident of Rolling Hills, as Hebert noted) and "one of the severest criticisms to come from the federal level about the area's failure to build another type of transportation system."

Hebert quoted the Secretary as saying, in a news conference the same day, that UMTA had about $1 billion available for grants each year. "Some of this money is available to Los Angeles. But I have not seen an application yet. Very little is coming to Los Angeles." The Southern California RTD, which was responsible for developing the area's transit system, took exception to this statement. A spokesman pointed out that UMTA funds had helped pay for the San Bernardino Busway as well as downtown minibuses. However, Hebert pointed out, those funds were requested during Secretary Volpe's tenure. [Hebert, Ray, "L.A. Must Break Auto Habit, U.S. Official Says," *The Los Angeles Times*, May 18, 1973]

The May 1973 issue of *Nation's Cities*, published by the National League of Cities, contained an editorial that asked the question: "Time to End the Highway Trust Fund?" Since creation of the Highway Trust Fund in 1956, "there have been some minor changes in the highway program, [but] it has failed to keep pace with the growing transportation needs of an urban nation." The Federal-aid highway program, including the Interstate System, was "unmatched by any other federal domestic program," but "its success has produced acute distortions and inequities in the availability of transportation, particularly in urban areas."

Cities pay about 50 percent of the tax revenue credited to the Highway Trust Fund, "yet they continue to receive a disproportionately small amount of the funds required to meet critical urban transportation needs." Local governments had made a strong financial commitment to their highway and transit networks, including $500 million a year to subsidize transit systems. "But local resources alone are inadequate to reverse the trends established by federal policies. Only federal remedial action can change these trends."

The Nixon Administration supported flexibility in the use of federal-aid urban system funds, but opposed mass transit operating assistance "in spite of mounting evidence that reduced fares and subsidized systems have resulted in dramatic ridership increases." It continued:

> All parties continue to fail to provide the means for adequate city participation in the allocation and control of highway resources. Cities have proposed earmarking Urban System funds to assure an adequate and dependable flow of funds. But decisions regarding

> the highway program still remain in the hands of state highway officials, whose traditional reticence to address the full range of city transportation needs is well known.

What cities needed was assurance "of an adequate and dependable flow of funds to plan, design, and put in place total, comprehensive, and balanced transportation systems." They must have the flexibility to use these funds to develop an integrated transportation system, not just a highway network. If Congress did not modify the program based on this urban need, "then the cities must evaluate their continued support of the Highway Trust Fund" when "allocations, uses, and control remain so blantantly [sic] biased against cities." City residents must insist "on a new plan better suited to their complex needs. [Pritchard, Allen, "Time to End the Highway Trust Fund?" *Nation's Cities*, May 1973, p. 8]

The nature of urban vehicles was in flux, according to John Hirten, special assistant to the Secretary of Transportation. On his daily commute, he had been test driving a four-seat Suzuki weighing 1,000 pounds, which had not yet been licensed for sale in the United States. The little car was capable of 50 to 60 miles per gallon. He told a national conference of import car dealers that, "in our urban areas, the 4,000-pound, 250-horsepower, 15-feet-long gas eating behemoth will soon be as extinct as the dinosaur."

The optimum urban vehicle would "be not only safe but sensible and appropriate for our urban areas." It would not be enough for the vehicle to be small and cheap or expensive and chic. "Safety, high performance and appropriateness will be the keys to the future American market." It might have an alternate or dual power source "but it seems clear that the engine will have to be innovative, and that patch-up fixtures won't do the job." [Ewing, Charles, "The 'Urban Vehicle'," *Washington Star-News*, April 27, 1973]

Robert J. Donovan, associate editor of *The Los Angeles Times*, interviewed John Portman, an architect and entrepreneur who had designed and built Peachtree Center in Atlanta, the Embarcadero Center on the San Francisco waterfront, and was developing Renaissance City in Detroit:

> Portman's thesis is that people no longer can count on using automobiles in the future as they have in the past and that cities must, therefore, either take a new form or cease to function.
>
> The form he favors is a city containing numerous self-sustaining communities, built on a scale where people could walk to work, walk to the store, walk to church, walk to the theater and use their cars only on occasion. These various communities would be tied together within the city by a rapid transit network.

Was such a scheme practical? "It has to be. Necessity will make it practical," he replied in reference to the energy crisis:

> You are not going to take away the automobile from people, because people are going to want maximum freedom of movement. However, the principle is not to take away the

> automobile but to conserve the use of the automobile by, among other things, keeping the wife away from the steering wheel for every move she makes . . . .
>
> The situation is no better in the suburbs. The suburb is the creature of the wheel, and the wheel has caused exploitation of the land by giving access to the far reaches . . . . So I think an approach would be to try not through rationing gas so much but through creating in our planned development and in the restructuring of our cities total communities which would be pedestrian-oriented—pedestrian villages, if you will—cutting down on the frequency of the use of wheels and looking more and more to maximum movement of people through rapid transit systems, people-movers and other devices.

The cause of traffic was that “no part of the city is self-sustaining, so that everyone is moving in all directions trying to make it all work.” The problem was not the automobile itself, but that it “is being used indiscriminately now because our whole environmental development since World War II has been based on the wheel.” Society needs to use the wheel “in a different way and begin planning on the basis that people are bipeds.”

He acknowledged that Los Angeles was not friendly to pedestrians. “L.A. is the sole creature of the wheel. I can’t think of any place you would walk in L.A.” He hoped the area would develop a mass transit system “and would develop within its network various coordinate, self-sustaining centers to take care of people’s needs.” What was clear was that “the endless spreading out of Los Angeles is no longer feasible and that the city will now have to double back on itself with an orderly redevelopment of older sections and the creation of a true core.” [Donovan, Robert j., “‘Put Cars in Their Place, Put People on Their Feet and Put the City in Order’,” *The Los Angeles Times*, May 4, 1973]

On May 23, Secretary Brinegar announced a new concept in transportation planning for cities of more than 50,000 population. The announcement explained:

> Called the Unified Work Program, metropolitan areas with more than 50,000 population may consolidate and coordinate all transportation planning activities when funding requests involve more than one modal administration of the Department of Transportation.
>
> “This is consistent with President Nixon’s desire to streamline the functions of Government and facilitate the flow of needed funds to local governments,” Secretary Brinegar said. “It also enables the local governments to set their own priorities, and at the same time avoids duplication of efforts to gain the necessary funds to carry out these programs.”

An areawide agency, such as a council of governments or regional planning commission, would prepare a statement of transportation planning activities for the coming year. This document would be the basis for funding requests to elements of the Department of Transportation:

> It should contain all specific highway, mass transit, aviation, railway and port and harbor activities, as well as such transportation support factors as socio-economic impact,

population estimates, alternative courses of action, public involvement (specially early enough in the process to influence courses of action as well as decisions), etc.

During a speech on June 1 to officials of the State departments of transportation meeting in Williamsburg, Virginia, Secretary Brinegar said his Department's goal was "to bring all the modes, and all our planning for their development, under the umbrella of a coordinated national transportation policy. His remarks repeated some of his comments in Los Angeles, including his emphasis on flexibility in the use of Federal-aid urban system funds:

> The outcome of our bill is in doubt. The principle has been accepted, though not the funding. But whatever emerges from the Conference Committee, I believe there is a growing awareness (1) that overdependence on the motor vehicle may now be working against, rather than for, an efficient, comprehensive national transportation system; and (2) that a failure to willingly pursue alternatives to the car today may lead to involuntary restraints later, as cities become totally saturated in traffic or as the fuel shortage takes on crisis dimensions.
>
> I find we are near a showdown situation between our transportation indulgences on the one hand, and our environmental preservation and energy conservation goals on the other. Looking ahead, we may expect some slight modifications in the EPA specifications, but no real weakening of that agency's position. So we must accept the fact that improvements to the cleanliness of the internal combustion engine or an alternative is essential to the future of the motor vehicle in Amerca; and, further, that some relative change in the role of the motor vehicle in the urban environment is equally essential if our cities are to survive and to thrive.

He told the State officials that they could not decree what is best for their urban or rural communities. A responsive agency at the State level could "coordinate state and local transportation objectives into an overall program." Theirs was "a creative, constructive, pace-setting role, in enriching and extending the process by which transportation needs at all levels can be met."

He added:

> Think "intermodal" should be your watchword.

Bicycle Boom Continues

The third annual Congressional Bike-In on Monday, May 7, 1973, was, according to *The Washington Post*, "One Huge Flop," largely "from lack of support." Only 8 of the 35 Representatives who had promised to participate showed up. They had their choice of 50 bicycles brought to the site for the occasion:

> Then eight members rode a slow, wobbly mile with a large escort of motorcycle police and turned back after completing only half the route.

> The congressmen showed a lot of interest in being filmed by TV cameramen—some of whom ran faster than they cycled—but not too much enthusiasm for the pleasures of the open roads round Capitol Hill.

Representatives Koch and Peyser, the event's two sponsors, had issued a statement saying, "We are pleased by the large turnout of members . . . ." One of Peyser's aides conceded that was misleading:

> But at least this ride was more legitimate than last year. We got them out of the Capitol grounds this time. Last year the TV cameras were right there and they never left the parking lot.

The two sponsors led the small group "riding side-by-side in a low-slung tricycle built for two." Flanked by the motorcycle police, the small group rode along East Capitol Street "with mock cheers of encouragement by bystanders."

One of Koch's aides explained why they turned back short of their objective, Lincoln Park. "They're afraid if they overdo it there'll be some coronaries." After the ride, while the participants posed on their bicycles for photographers, Representative Heckler arrived "wearing clog heels." She hopped on a bicycle for the shot. She explained, "My secretary didn't put it on the schedule. But I'll be there next year on time and wearing the proper clothes." [Saar, John, "Congressional Bike-In Proves One Huge Flop," *The Washington Post*, May 8, 1973]

Despite the annual failure of bicycle riding members of the U.S. House of Representatives, the bicycle boom was continuing. *National Geographic* magazine for May 1973 included Noel Grove's article, "Bicycles Are Back—and Booming!" along with articles on the Volga river in Russia, bats, Mexico City, and Camargue, France. Grove wrote that, "like millions of other Americans, I have mounted again the toy of my youth and found it an exhilarating new transportation tool." Unlike in years past, more bicycles were purchased in 1972 for adults than for children. "By sheer weight of numbers, they are slowly gaining acceptance in American traffic."

The big difference in recent years "stems from America's discovery of Europe's lightweight, multigeared machines." American manufacturers had belatedly adopted the concept with superlight models. A Schwinn spokesman told Grove, "Seventy percent of our production now is in 10-speeds, which are ridden mostly by adults."

Aside from bicycling's value in the transportation mix of cities and the resulting energy and pollution benefits, the bicycle was valuable for health reasons:

> Just how good is that exercise? For the answer I went to the man most credited with launching the boom in adult cycling. When noted heart specialist Dr. Paul Dudley White was medical consultant to President Dwight D. Eisenhower, he prescribed a sport that was rejected by his patient but adopted by millions. "I suggested bicycle riding, but he preferred golf," said Dr. White in his Boston office, where at 86 he still sees patients four days a week . . . ."

> Although pleased at the thought of millions of pairs of pumps flexing on bicycles in the United States, the sprightly octogenarian is greatly concerned for cyclists' safety. "I'm in favor of bicycling, but not on the same streets with cars," he said.

In fact, bicycle accidents had soared:

> The National Safety Council estimates that bike-related injuries totaled some 40,000 in 1972. Fatalities rose to almost 900, nearly double the number a decade ago.

Grove described his visit to Davis, California, "where a network of bikeways has become the model for bike-conscious municipalities." On "many a broad tree-lined avenue, two of the four lanes are marked for bicycles." He crossed his "first bicycle interchange, a concrete arch across the thoroughfare, with curved ramps at each end to feed cyclists onto roadside trails." Davis illustrated "that the bicycle can help loosen the snarls and irritations of urban transportation."

Grove quoted Marie Birnbaum, the U.S. Department of Transportation's bicycle program officer:

> Highway statistics show that 43 percent of all urban work trips by car in this country are of four miles or less. If we could get that many people on bicycles, think of what it would mean to our traffic problem. As for parking, you can put 40 bicycles in the space required for two cars.

In conclusion, Grove said, "With bikeway construction and ecological concern marching hand in hand, America's bicycling boom could harbinger a whole new era in transportation." [Grove, Noel, "Bicycles Are Back—and Booming!" *National Geographic*, May 1973, p. 671-680]

On February 25, Secretary Brinegar and Secretary of the Interior Rogers C.B. Morton had announced a national conference on "Bicycles U.S.A." for May 7-8 in Cambridge, Massachusetts, at the Department's Transportation Systems Center. The conference would cover a broad range of problems, including safety and the shortage of bikeways:

> "The bicycle has many desirable qualities as a transportation vehicle," Secretary Brinegar said. "It is inexpensive to buy and operate, provides door-to-door service, is clean, quiet and non-polluting. At the May meeting, we will explore methods of making the bicycle safer and more effective for urban travel."
>
> Secretary Morton said, "We at Interior are interested in expanding and improving public bikeways in our scenic parklands and urban landscapes to help meet the needs of the increasing number of Americans who bicycle for health and recreation . . . ."

About 250 bicycle enthusiasts, urban and highway planners, bicycle manufacturers, and government officials attended the conference. Special Assistant Hirten opened the conference with an exhortation:

> It is incumbent upon us to get past the stage of talking about the revival of the bike as if we were trying to convince ourselves that it really is a viable mode of transportation. Rather, I think it is time to concentrate on the disadvantages of a bicycle and try to find ways of overcoming those disadvantages.

The goal, he said, was for the bicycle to take its "rightful place in the multi-modal mix."

The bicycle boom had exceeded the ability of cities and towns to accommodate the new road users safely. "We are trying," conference chair Birnbaum said, "to upgrade the status and safety of the bicycle as a form of transportation."

Robert Rieber of the California Highway Patrol illustrated the scope of the safety problem by saying that his State led the Nation in the bicycle boom and in bicycle accidents. He estimated that 25,000 bicyclists would be killed or injured in California in 1975. "This is a real sobering thought before we put bicycles in urban areas." Solutions were hard to find, as *The New York Times* reported:

> Such comments [as Rieber's], along with suggestions that cyclists should be confined to special "bikeways" away from motor traffic, irritated a number of the participants, who believe that the automobile should be forced to accommodate to the bicycles.
>
> "We must make the roads and streets safe for bikes," said Bill Wilkinson of the National Parks [sic] Service. "We must move to infringe on motorists."

Some speakers blamed bicyclists for the safety problem and urged police officers to force them to obey traffic regulations. Bicyclists were urged to wear helmets, ride on the right, and practice "defensive bike riding."

The central safety issue was the mix of bicycles and automobiles. From a practical standpoint, separate paths might be too expensive; a study of a bike network for Atlanta indicated it would cost $20 million. Lanes marked only by a painted stripe would be much less expensive, but they, too, had their opponents. Friends of Bikecology opposed "white lines or signs along the road's edge, which do little more than lull both cyclists and motorists into a false sense of security."

Commuters and recreational bicyclists also disagreed on how to establish routes. Commuting bicyclists favored straight, direct, level routes, while recreational bicyclists were more concerned about the surroundings and the absence of cars. Most commuters accepted the presence of automobiles, but some argued for banning cars from downtown.

Bicyclists complained that Interstate highways did not include provisions for cycling paths. W. P. Walker, acting chief of FHWA's Highway Design Division, responded in an interview that FHWA was not against bike paths. "They've got to realize that to support a program, you've got to take from somebody. Cyclists are probably unable to support financially a national system of paths."

For the future, some speakers advocated a nationwide bikeway system similar in length to the Interstate System. Others favored bicycle-transit linkups. For example, buses might include a bike trailer and subway stations would have bicycle storage facilities. Planning was underway for such facilities along the BART system. [Reinhold, Robert, "Federal Officials Study Pedal Power as One Alternative to Piston Power," *The New York Times*, May 9, 1973; Stewart, Colin, "Future of Bicycling Lies With Auto," *The Christian Science Monitor*, May 19, 1973]

(On September 18, 1990, the U.S. Department of Transportation renamed the Transportation Systems Center in Cambridge, Massachusetts, in honor of former Secretary Volpe: The Volpe National Transportation Systems Center.)

Following the conference, an editorial in *The Washington Post* summarized the discussions and concluded:

> It is hoped that what the Boston conference set in motion will, like a 10-speed going downhill, keep moving on its own power. The basic sensibleness of the bicycle is clear, especially now when fuel shortages, pollution and excessive traffic are threats. There is also the personal reward of bicycling—a way to get rid of the flab that countless lazy Americans sit through life with. What all this adds up to, for the Department of Transportation, is an opportunity for leadership in helping the nation make the best of the bicycle boom. ["Coping with the Bicycle Boom," *The Washington Post*, May 29, 1973]

On May 10, the Food and Drug Administration (FDA) published a notice in the *Federal Register* of proposed safety standards for bicycles sold in the United States except racing bicycles, which were meant for adult use. FDA developed the proposed standards in accordance with the Federal Hazardous Substances Act of 1960 as amended by the Toy Safety and Child Protection Act of 1969. The standards included increased use of reflective surfaces for nighttime visibility; slip-resistant pedals; elimination of sharp edges and placement of gears to minimize injuries; elimination of front-wheel brakes as the only way to stop; and reducing the maximum spread of hand-brake levers.

FDA based the standards on voluntary recommendations adopted by the Bicycle Institute of America. John O'Connor, FDA's product-safety expert, said, "Most of the well-known bikes meet every requirement but the side reflectors." The estimated cost per bicycle was about $2, and even that low price was expected to decline as volume increased. [Spivak, Jacob, "New Safety Rules for All Bikes Sold in U.S. to be Proposed by Government Tomorrow," *The Wall Street Journal*, May 9, 1973]

(Functions under the Federal Hazardous Substances Act shifted to the Consumer Product Safety Commission (CPSC) when it began operations on May 14, 1973. The CPSC published the final rule in the *Federal Register* on July 16, 1974. The Bicycle Manufacturers Association and others had questioned whether bicycles should be regulated under the Child Protection Act, which allowed for regulation of any "toy or other article intended for use by children." The CPSC recognized that many bicycles, especially lightweight touring bicycles, were purchased by adults for commuting, touring, and other recreational activities. However, children and adolescents could and often did use these bicycles. Therefore, the CPSC decided to promulgate the regulations under the Act. [Title 16, Code of Federal Regulations, Part 1512—Requirements for Bicycles, *Federal Register*, Vol. 39, No. 137, July 16, 1974, p. 26100]

Proponents were optimistic about the bicycle provisions in the Senate and House versions of the Federal-Aid Highway Act of 1973. Representative Koch was continuing to promote legislation that would make the bicycle "a viable alternative to the automobile within the city" and crack the Highway Trust Fund. *The Christian Science Monitor* pointed out that similar measures had been included in the Federal-Aid Highway Act of 1972, but were not enacted when that bill failed:

> Bike proponents hope—and forecast—that it has a fairly good chance of becoming law this year.

In addition to Representative Koch's proposals pending approval in the highway bill, Representative Bell planned to reintroduce his bill to require installation of bicycle racks at Federal buildings, while Representative Myers intended to introduce his bill to give abandoned railroad land to the Interior Department for use as bicycle trails. Representative Koch, while awaiting action on the 1973 highway legislation, was considering a broader bill that would require studies of the feasibility of establishing a nationwide system of bicycle paths, perhaps connecting National Parks.

Much progress had been made already in establishing bicycle paths, he said, "but it is far from realizing the tremendous impact that bikes could have on our major urban areas." The best way, he was convinced, was to tap the Highway Trust Fund so its funds could be used to pave roads for nonpolluting bicycles instead of polluting automobiles. [Hey, Robert P., "Bicycle Bids for Role as a Serious Mode of Transportation," *The Christian Science Monitor*, May 15, 1973]

Meanwhile, Back in Washington

While the bicycle was one option for addressing the continuing energy crisis, the President's Oil Policy Committee was considering other options. Deputy Treasury Secretary William E. Simon, who chaired the committee, indicated in early May that he favored a reduced national speed limit on Interstate highways to conserve gasoline. This idea would be among the recommendations the committee submitted to President Nixon.

Although the Federal Government had provided much of the funding for construction of the Interstate highways, the States built, owned, and operated them. Each State set speed limits on its segments, with 70 m.p.h. a common limit, but speeds were as high as 80 m.p.h. in some western States. A limit of 50 m.p.h., Simon said, "isn't impractical." According to government officials, reducing the speed limit from 70 to 60 m.p.h. would raise gasoline mileage by 20 percent, while a reduction to 50 m.p.h. would add 5 to 10 percent to the savings. ["Nixon Aide Favors Nationwide Speed Limit on Interstate Roads to Conserve Gasoline," *The Wall Street Journal*, May 9, 1973]

(The original Woodrow Wilson Memorial Bridge carrying the Capital Beltway (I-95/I-395) across the Potomac River was the sole exception to Federal ownership of Interstate highways. BPR built the bridge under special legislation, which did not address ownership. After it opened on December 28, 1961, BPR and its successor, FHWA, retained the title but the bridge was operated by Maryland, Virginia, and the District of Columbia. The bridge was demolished in 2006 following completion of a new Woodrow Wilson Memotial Bridge that is owned by Maryland and Virginia.)

House and Senate conferees on the Federal-Aid Highway Act of 1973 were making slow progress on the difficult issues facing them. However, on May 17, conferees agreed on a compromise on the "earmarking" issue for Federal-aid urban system funds. The Senate had earmarked the funds attributable to cities with a population of 400,000 or more while the House had not included earmarking in its bill. According to Representative Wright, the conference chairman, conferees had tentatively agreed to earmark funds for urbanized areas of 200,000 population or more. In return for the House accepting the earmarking, the Senate had given up the pass-through provision of its bill that would have passed the funds through the State highway agencies to the cities.

Representative Wright also indicated that the closed-door conference had "agreed in principle" on the Senate provision for holding public hearings when transportation planning takes place in urban areas. The House, he said, had not included the provision in its bill because of the fear that it would add to red tape delaying projects. He added that he had instructed House and Senate staff to try to work out an agreement on funding for highway safety programs. The Senate had proposed $450 million a year, while the House had allocated $1.4 billion in its bill.

While conferees sought compromises for the Federal-Aid Highway Act of 1973, Senator Randolph and the Committee on Public Works were addressing the funding problem created when the 1972 legislation had failed. Without authorizations or approval of the 1972 Interstate Cost Estimate, FHWA had been unable to apportion funds to the States for Interstate Construction or the other Federal-aid highway programs. The States were experiencing a financial crisis as a result.

On March 6, the Senate had approved Senator Baker's Concurrent Resolution 6 allowing the apportionment of Interstate Construction funds, but the House had not acted on a similar measure. Now, the Public Works Committee had approved Senator Randolph's bill to avoid further disruptions in the highway program. Representative Wright said that House conferees "think it is a disservice to do it piecemeal like that. We think the most earnest efforts to get agreement on his bill should continue." [Russell, Mary, "Hill Conferees to Earmark Share of Urban Road Fund," *The Washington Post*, May 18, 1973]

Regardless of Representative Wright's view, the Senate took up S. 1808 on May 23. Senator Randolph described it:

> Its provisions are straightforward. This bill—S. 1808—authorizes the Secretary of Transportation to apportion among the States $1 billion in obligational authority for the Interstate System. It also authorizes expenditures of $500 million for the primary, secondary highway systems and the urban extensions of these systems.

The reason for the bill also was simple:

> It is estimated that by the end of this month—only a few days from now—22 States will have exhausted their ability to award Interstate contracts. Many will have depleted their funds for other highway systems as well.

According to an AASHO survey, 22 States would have exhausted their Interstate funds by the end of May; 24 would have exhausted primary funds; 22, secondary funds; and 18, urban extensions funds.

The crisis would be resolved with passage of the Federal-Aid Highway Act of 1973, but that was dependent on completion of the conference committee:

> The Senate-House conference on this legislation began on May 9. Since that time, we have met on 9 days with substantial results. Agreement has been reached on more than 60 items on which there are differences between the two bills. We are at the point, however, of considering the major issues on which there are substantial differences and on which the conferees have strong feelings.
>
> The Congress will adjourn tomorrow for the Memorial Day recess and it will be at least a week before we can meet again. Even then, Mr. President, I do not anticipate that speedy resolution of the difficult questions before us will be achieved. Meanwhile, there is growing uncertainty throughout the country among those in the States who must execute the highway program and among those in industry whose economic viability is dependent on an onging Federal-aid program. At the present stage, there can be no assurance that it will not be several months before a general highway bill is enacted.

He acknowledged a key argument against S. 1808, namely "that the deepening financial crisis will compel the Senate and House conferees to expedite the completion of their work." He did not agree with that idea. "Frankly, I do not believe that we should be forced to develop legislation of such scope and importance under those conditions." Conferees, he said, were acting "constructively and thoughtfully," adding:

> This is the correct approach and one that should be taken in an atmosphere free of the pressure generated by the prospect of the highway program coming to a halt.
>
> This bill provides relief to the highway program, but it does so in a way that does not remove the incentives for the conferees to reach agreement on all features of the Federal-Aid Highway Act of 1973.

Senator Stafford also spoke in support of the bill, pointing out:

> The construction season has already started in many States and is starting in others. But, we still do not have a comprehensive bill. The bill, S. 502, is in conference and I hope that we will be able to reach agreement soon on that measure. But, we have major differences still to be resolved and we must not penalize the States and the American public because we have been unable to reach agreement so far.

The funds authorized in S. 1808 "are well within the limits of funding that have already been agreed upon by the conferees" and would not upset any of the issues under negotiation in the conference."

Senator Baker pointed out that S. 1808 was similar to his Senate Concurrent Resolution 6 that the Senate had approved on March 6:

> This bill, while relatively modest in its scope, would assure that every State will soon receive a share of its fiscal 1974 highway funds, thus preventing the increased disruption of our national highway construction program . . . .

The conferees were making "good progress," Senator Baker said, and "with some luck and a continuation of the current spirit of conciliation among the conferees," they might complete work "within a week or two." The country, however, could not afford even a week's delay:

> But we must recognize that even a delay of that magniture would undermine the highway program in many States preparing for the spring and summer construction season.
>
> And we must also recognize that many important issues remain unresolved. The funding of mass transit is one. So is the House's proposal for a new priority primary highway system, and proposals relating to interstate transfer and highway safety. Any of these issues could delay final resolution of the conference for additional days or weeks.

Senator Bentsen said he had not supported this approach earlier in the year since as chairman of the Transportation Subcommittee, he had pledged to press for "a speedy resolution of all the construction questions" in the legislation. Conferees had exhibited "a spirit of cooperation," and he did not want to imply criticism of them in supporting S. 1808. They were, however, "facing some hard facts." Despite resolving many issues, the hard ones remained in dispute, including "the question of the use of the trust fund for rail mass transit, the question of the priority primary system in the House bill, the question of whether we should provide operating subsidies for mass transit companies and the question of the transfer of interstate mileage." The conferees were not going to "have any easy time resolving these difficult matters."

Approval of S. 1808 would not lessen pressure on the conferees since it would authorize the release of only about one-third of FY 1974 funds and no funds for the Federal-aid urban system, the use of which was a point of dispute. "The funds contained in this bill will not be adequate for the year, but they will allow the States to have some money in time for their spring letting of contracts." He would work hard to complete the conference report, but "I do not believe that we can afford to treat the States in a cavalier manner or hold all of the highway funds hostage to provisions in this bill which may well cause considerable difficulty."

The Senate approved S. 1808, without a recorded vote, but action in the House was uncertain. *The Wall Street Journal* said, "The House hasn't considered the proposal, but its highway specialists are considered less enthusiastic than the Senate about approving it." The State highway agencies were pressuring Congress to release at least some funds while conferees debated the 3-year bill:

> The pressure could force the House to go along with the Senate, but opponents of diverting the trust fund for transit want to keep the pressure on legislators. They want to encourage

> passage of a measure that would mainly extend highway funding and, in effect, shelve the trust-fund diversion issue.

The Washington Observer of *Engineering News-Record* also thought the measure was "in trouble" in the House. Prospects "are not good," the column said, because "key House members object to the bill, fearing it will remove some of the urgency from House-Senate conferees' efforts to hammer out a new highway bill." Representative Wright thought, "The bill would be counterproductive." [Washington Observer, "Stopgap Highway Authorization is in Trouble," *Engineering New Record*, May 31, 1973, p. 7]

The problem facing the States was illustrated in early June when Oklahoma's letting schedule for highway projects did not include a single project financed under the Federal-aid highway program, the first time that had happened in 10 years. The State highway commission's chief planning engineer, Verne Bradley, said he was hopeful Federal-aid funds would be restored by August under the pending highway legislation before Congress. ["Federal Road Funds Spent," *Oklahoma City Times*, June 4, 1973]

As May ended, the House-Senate conferees were considering the proposal to lower Interstate speed limits even though neither the House nor the Senate had included such a provision in its Federal-Aid Highway Act. Senator Randolph had introduced a proposal to cut speed limits by 10 m.p.h., but not below 55 m.p.h. Representative Wright acknowledged that the proposal "may be outside the scope of the conference," which was limited to the two versions of the 1973 Act, but that they might seek special permission from each House to include the measure.

Secretary Brinegar had asked the States to lower speed limits voluntarily, but he did not think the Federal Government had jurisdiction under current law to require such a change. The conferees were also considering how to require the States to lower their own speed limits. Representative Wright said that one option was withholding Federal-aid highway funds from States that failed to lower their speed limits in accordance with the law.

The conferees had still not resolved how to address the Muskie-Baker amendment in the Senate bill. However, Representative Wright informed reporters that conferees were considering an "innovative" proposal stemming from President Nixon's New Federalism programs. Under this proposal, the States would get back what they put into the Highway Trust Fund and could use the money for any purpose they wished, including construction and operation of mass transit.

Massachusetts was awaiting congressional action on the Interstate transfer mechanism. On June 4, Secretary Altshuler told the State legislature's Joint Committee on Transportation that the chance of building the highways scrapped by Governor Sargent was "virtually nil," even after the Governor leaves office. Secretary Altshuler explained that the final word on the Interstates would come from Governor Sargent because under current law, the States had until June 30 to inform the U.S. Department of Transportation which routes it intended to build. Governor Sargent was delaying the submission while anticipating that the new legislation would allow the Interstate mileage to be traded in for mass transit projects.

House Chairman Raymond F. Rourke, Democrat from Lowell, was skeptical about Secretary Altshuler's prediction. The environmental movement, Rourke predicted, would be dead in 5 years "if we can wait that long." The secretary explained that general opposition to the highways, plus air quality requirements and energy problems would make it very difficult to revive the highways. Further, "Congress is anxious to wrap up the interstate program." ["Road Moratorium Seen Permanent," *Quincy Patriot Ledger*, June 5, 1973]

Governor Sargent was in Lake Tahoe, Nevada, for the annual meeting of the National Governors' Conference where he chaired the Committee on Transportation, Commerce and Technology. On a committee proposal, the Governors recommended that financing for mass transit operating subsidies come from the general Treasury, not the Highway Trust Fund. They were already on record as supporting flexible use of Highway Trust Fund revenue for highways or transit. The Governors also urged Congress to give "top priority" to passage of the new Federal-Aid Highway Act. They also denounced impoundment of Federal-aid highway funds.

The Governors considered measures to address the energy crisis. They called for a firm energy policy, a mandatory petroleum allocation program, and reduced speed limits to "discourage high powered cars" that increased gas consumption. They also thought that automobile registration fees could be used to promote less fuel consumption.

They heard from S. David Freeman, director of the Ford Foundation's energy policy project, who recommended increasing the Federal gasoline tax to encourage conservation. The additional revenue "could be devoted to energy research and development on building and maintaining public transportation." However, Governor Sargent's committee rejected the idea. Governor Mike O'Callaghan (D) of Nevada, said the committee had "wisely avoided the pitfall of raising the gasoline tax." He said such an action would be "deadly—giving the national government more money to be impounded." Governor Reagan said he "agreed completely" with Governor O'Callaghan and suggested that tax policies should be directed to encourage positive action. ["Governors Urge General Funds for Transit Use," *Transport Topics*, June 11, 1973]

An "Innovative" Proposal

House and Senate conferees had yet to deal with the biggest question before them, the Muskie-Baker amendment. On June 14, Senate conferees formalized the "innovative" proposal Representative Wright had mentioned to reporters on May 31.

The new language would allow States to keep 20 percent of the revenue they contributed to the Highway Trust Fund and could use it on any surface transportation project they wanted. A percentage of the 20 percent would be earmarked for big cities, which could use the funds to build rail transportation and subsidize operating expenses. Since the funds would not go into the Highway Trust Fund, using the revenue for rapid rail transit would not technically be diversion. The Senate conferees also offered to deduct $400 million a year from authorizations for the Federal-aid urban system and the same amount from the rural primary and secondary systems if the House conferees agreed to the block-grant approach. *Engineering News-Record* explained:

> The intent of the Senate conferees is to circumvent the House prohibition on any diversion to transit spending by providing the flexible funds from trust fund sources, but not from the fund itself.

The idea, if adopted, would allow conferees to avoid a decision on the Muskie-Baker amendment.

The seven Senators endorsed the New Federalism approach and warned their House counterparts that this was the last compromise. If the House conferees did not accept it, the Senators would declare the conference to be deadlocked. Four of the House conferees were absent from the session; those present asked for time to consider the proposal. [Russell, Mary, "Proposal Would Give States 20% of Gas Tax," *The Washington Post*, June 15, 1973; and Washington Observer, "Highway Bill Stalemated Despite Senate Compromise Offer," *Engineering News-Record*, June 21, 1973, p. 7]

On June 19, *The Los Angeles Times* reported that the tie-breaking vote on the House side would have to come from one of the five conferees who had opposed the use of Highway Trust Fund revenue for rail mass transit. The decision, the newspaper predicted, would turn on the votes of two House conferees from California, Representatives Clausen and Johnson. Representative Johnson told reporter Paul Houston, "I have not made any decision on it." He added that, "Our state highway people have been in opposition" to diverting Highway Trust Fund revenue to transit. Houston was unable to reach Representative Clausen for comment.

John Kramer of the Highway Action Coalition agreed that the Senate proposal was the Senate's final effort to reach agreement:

> "If it's accepted by the House conferees, it will probably be accepted by the full Senate and House. But if it's not accepted, I suspect the conference will be hopelessly deadlocked. Congress will have to pass a continuing resolution (funding the highway program after July 1 at current levels), and the issue will be fought on the floor all over again." [Houston, Paul, "California Votes Could Unlock Highway Fund," *The Los Angeles Times*, June 19, 1973]

On June 18, House conferees meeting behind closed doors voted 5 to 4 to reject the Senate's compromise proposal. The following day, Representative Johnson denied that the House conferees had rejected the proposal by Senate conferees. They had discussed it and he had informed his House colleagues that he was "inclined to be against the Senate compromise." He continued to oppose opening the Highway Trust Fund to transit. The House conferees were working on a compromise to present to their Senate counterparts.

Houston reported that Johnson said:

> "It's contrary to our state position . . . to the position of our governor, the state Highway Department, the Highway Commission," he said. "There are more people in our state who agree with my way of thinking than yours," he told reporters for the Times and the Sacramento Bee, two papers which have published editorials in favor of opening the trust

> fund. "I have to look out for the rural areas to make sure they're all right, too. I'm not going to give everything to the cities."

Representative Clausen, again, could not be reached for comment.

Although the vote by House conferees was not formal, it "dealt a severe blow" to the idea of opening the Highway Trust Fund. With the conferees expected to propose additional transit funds from what Houston called "the government's beleaguered general fund—not from gasoline tax revenues," the Senate was likely to reject the new House proposal. The conference, he said, "appears to be hopelessly deadlocked." [Houston, Paul, "Highway Fund Use for Mass Transit Dealt Severe Blow," *The Los Angeles Times*, June 20, 1973]

An editorial in *The Los Angeles Times* on June 20 singled out Representative Johnson as holding the key when the conference met again the following day. Noting that he had said he would vote against the proposal, the editorial said:

> If he does, the measure probably will be dead. That might mean little to Johnson's rural constituents, but for the large population centers of the state it would mean a great deal. ["Last Chance for Transit Aid," *The Los Angeles Times*, June 20, 1973]

The House conferees rejected the Senate proposal on June 21 and offered a counterproposal that would have allowed $100 million of Highway Trust Fund revenues to be used to purchase buses, but not for rail transit. Cities wanting to build rail transit would have to get the funds from the general Treasury. Representative Wright told reporters that the conference sessions ended in angry disagreements. "Some of the senators don't care how much is available for mass transit. They just want to bust the trust fund." ["Road Bill Bogs Down on Hill," *The Washington Post*, June 22, 1973]

EPA Strikes Again

On January 15, 1973, when EPA announced radical transportation control measures for the Los Angeles Basin, it did so under court order. In all, 38 cities would require such measures to meet Clean Air Act mandates. As Russell Train pointed out in his memoir:

> To develop such plans, each tailored to the different circumstances of these cities, was a stupendously complicated task and a time-consuming one. Nevertheless, the Natural Resources Defense Council secured a federal court order requiring EPA to proceed with issuing the necessary rules. [Train, p. 175]

EPA invited the areas to submit plans for achieving ambient air quality goals.

Administrator Ruckelshaus, who had announced the Los Angeles plan, had resigned on April 28 to accept the President's nomination to head the FBI. On July 26, the President would nominate Train to shift from the Council on Environmental Quality to EPA as Administrator. He received a quick confirmation hearing before the Senate Committee on Public Works. The committee approved his nomination, but Senators William Scott and Clifford Hansen put "holds" on Senate floor action. Train wrote:

> The rules of senatorial courtesy require that such holds be respected for a reasonable period. Hansen never explained his action to me, but I understood it was done at the behest of the coal-mining industry, a strong factor in Wyoming. The industry presumably looked upon me with a jaundiced eye, given my support of coal mine health and safety legislation as under secretary of Interior and CEQ's sponsorship of legislation requiring the reclamation of strip-mined sites. As for Scott, I called on him in his Senate office once or twice, but he remained adamant in his opposion. I concluded that it was almost entirely ideological.

The Senate finally confirmed Train as EPA Administrator on September 10, by a vote of 85-0:

> After the vote, I visited Nixon in the Oval Office. The meeting was brief and we remained standing the entire time. I asked whether he would swear me in at EPA. He replied, "That's probably the very worst thing I could do for you!" And, of course, he was right. [Attorney General] Elliot Richardson swore me in at an outdoor ceremony at EPA headquarters with Bill Ruckelshaus standing by—lending me legitimacy, I hoped, in the eyes of the EPA troops. [Train, p. 157-158]

With EPA leadership in transition, Acting Administrator Robert Fri, EPA's first Deputy Administrator, held a press conference on June 17 to announce transportation controls for 17 urban areas to achieve air quality goals of the Clean Air Amendments. The plans, as Fri explained, relied heavily on increased use of mass transit and carpools. "We are basically attacking the problem by asking people to change their habits—their long-standing and intimate relation to the automobile." He added that in addition to reducing air pollution, "a move to mass transit . . . will make our cities more livable."

EPA approved a New York State plan for New York City that *The Wall Street Journal* described:

> . . . eliminate on-street parking in the Manhattan central business district; establish exclusive bus lanes on major streets and highways; restrict daylight truck deliveries to stores, factories and businesses; limit taxicab cruising in midtown Manhattan, and establish annual inspection and maintenance requirements for cars and light trucks.

The EPA-approved plans for northern New Jersey and the Los Angeles Basin were, as Fri said, more drastic than Congress intended. California had not submitted a plan for the Los Angeles area, leaving EPA to create a plan on its own:

> The EPA plan proposed for Los Angeles . . . doesn't say in so many words that all auto use would be prohibited. However, it does call for limits on gasoline sales, beginning May 1, 1977, sufficient to meet the air quality standard. Because of 78% reduction in air levels of carbon monoxides and an 87% reduction in photochemical oxidants, the major smog ingredients, are needed, the gasoline sales ceiling would have to be set at zero, Mr. Fri explained.

> In addition, Los Angeles would have to achieve a 60% cutback in use of diesel-powered vehicles by 1977, the EPA plan proposes . . . .

EPA intended to ask Congress to modify the legislation so such severe restrictions would not be needed:

> As an interim target, though, the agency advocates a 30% reduction in auto use, which in turn would lower the number of days when the air quality standards are violated by between 75% and 90%, Mr. Fri said.
>
> Thus, the EPA believes that Los Angeles-area residents still should have to comply with other features of its proposed plan. These include: limiting gasoline sales to the 1972-73 level, starting July 1, 1974; establishing bus and car-poor lanes, starting Dec. 1, 1973; an immediate ban on construction of new parking spaces, starting Jan. 31, 1974, and fitting existing road vehicles with the latest emission control devices.

The plan also would restrict motorcycle use:

> Starting in 1974, it would hold local motorcycle registrations at 1973 levels on the ground that the technology for controlling motorcycle emissions is currently lacking. Starting May 1, 1974, two-stroke motorcycles, "the worst polluters," would be totally barred in the Los Angeles basin during the "smog-prone daylight hours" of summer months . . . .
>
> The EPA also urged "immediate and large-scale purchases of additional buses to serve the Los Angeles area along with stepped-up feasibility studies of rail transit.

Regarding the EPA plan, the editorial in *The Los Angeles Times* cited earlier, said of Representative Johnson's position in the conference:

> Johnson could still change his mind and, in the larger interests of California, he should. Tomorrow's vote will come one week after the Environmental Protection Agency warned clearly that Los Angeles and other urban areas must soon develop mass transit systems, because unlimited automobile use is on the way out. Federal funds are essential to that development. California's congressmen above all should understand the urgency of that need. ["Last Chance for Transit Aid," *The Los Angeles Times*, June 20, 1973]

For northern New Jersey, home for commuters to New York City and Philadelphia, the State had not submitted its compliance plan in time. Fri announced an EPA plan that applied many of the same techniques to the area as to the Los Angeles Basin "with the major exception of a total gasoline cutoff":

> The objective there is to achieve a 57% reduction in hydrocarbon emissions and a 43% cut in carbon monoxide emission, compared with 1972 levels, the agency said.

> Northern New Jersey gasoline distributors and retailers, for example, would be required to freeze overall gasoline sales at the total amount sold in the area during the year ended June 30, 1973, with specific gasoline distribution patterns to be decided by the state. In addition, motorcycle limitations similar to the ones in the Los Angeles plan would be applied; bus and car-pool lanes would be established for most three and four-lane streets and highways, and "construction, modification or enlargement of any parking facility in the area" would require environmental clearance.

The plans for 17 other urban areas were less drastic.

Fri explained that EPA would submit legislative proposals to Congress to allow metropolitan areas more time to comply with air quality standards:

> There are signs that Congress will agree to such amendments once the EPA has completed public hearings and adopted final regulations under the present law, Mr. Fri suggested. Even if the clean air requirements are relaxed, however, the law seems certain to continue as a powerful force in reshaping the country's dependence on the automobile. ["EPA Plans Curbs on Transportation in 17 Urban Areas," *The Wall Street Journal*, June 18, 1973]

Train, in his memoir, summarized the broader problem:

> The plans EPA came up with contained a variety of control techniques. They required gasoline stations to install sealing devices on their tanks to prevent fuel evaporation and owners to get periodic inspection of their vehicles to determine whether they met emission standards. Many plans required changes in traffic patterns, such as designation of one-way streets to reduce emissions by achieving a smoother flow of traffic. Other requirements called for exclusive lanes to encourage car pools and use of public transportation. Most controversial of all were requirements that discouraged car use by restricting opportunities for parking or by imposing parking surcharges.
>
> Taken individually, these various elements were not all that unreasonable. What aroused public and congressional outrage was that such local requirements should be imposed by the federal government. I inherited an uproar when I moved into the EPA administrator's office in September 1973. [Train, p. 175-176]

In Los Angeles, Tom Bradley defeated Mayor Sam Yorty on May 29. Even before he was sworn into office on July 1, Mayor-elect Bradley was in Sacramento seeking cooperation from State political leaders on his plan to bring rapid transit to Los Angeles. *The Los Angeles Times* reported:

> Bradley, who has made construction of a rapid transit system the top priority in his new administration, said after the meetings that his goal of breaking ground on a transit system in 18 months may have been unrealistic but he appeared optimistic that a system could be built within four years.

In an address to the State Assembly, he referred to the disillusionment the public felt for political leaders in the wake of the Watergate revelations:

> They don't really make that distinction as to whether or not we come from the state or the federal government or the city. If the air is polluted they blame us in government . . . . If our streets are clogged with automobiles to the point where we can hardly travel on the freeways and highways, they don't blame city hall, they blame all of us.

Despite the Mayor-elect's professed optimism, the nature of any help from the State was unclear:

> Both the Assembly and Senate are considering a number of bills involving rapid transit, among them two proposals to put a constitutional amendment on the ballot in June, 1974, and bills to provide funding as well as agencies to implement and build the system. [Shuit, Doug, "Bradley Campaigns in Sacramento for L.A. Transit System," *The Los Angeles Times*, June 15, 1973]

On July 2, the new Mayor was on hand to greet riders of a subscription bus service arriving aboard seven buses at Atlantic Richfield Plaza in the city's financial center. Most of the 230 passengers were employees of Atlantic Richfield Company, an oil company that operated service stations under the ARCO brand. The Southern California RTD operated the new service, which cost commuters $40 a month:

> Bradley, on hand when the buses started arriving at 7:45 a.m., called it his first official act on his first working day as mayor. The city's chief executive said he hoped to encourage the same kind of specialized commuter service for City Hall workers and employes [sic] at other major Los Angeles firms.
>
> "This is a great idea, but it's only an interim step," he cautioned. "This sort of thing can work out. But we expect to build a rapid transit system. We simply have to move—to get people from their homes to their jobs."

Atlantic Richfield, as a spokesman explained, was encouraging its employees to make greater use of mass transportation to reduce congestion, improve air quality, and conserve fuel. The company was subsidizing its commuters by paying $15 a month for each. [Hebert, Ray, "Bradley to Push Subscription Buses as Interim Mass Transit," *The Los Angeles Times*, July 3, 1973]

Two weeks later, Judith Kinnard of *The New York Times* interviewed Mayor Bradley:

> Surrounded by unpacked boxes cluttering the new offices two weeks after his inauguration, the city's first black Mayor talked about his dreams for the next four years. "Number one, I want to see us build a rapid transit system," he said. "Then I want to see some kind of revitalization of some of these communities."

He was going to try to bring people together to achieve these goals, but an aide admitted that "building a rapid transit system is going to be a monumental job," Kinnard explained:

> The new Mayor will be trying to influence a life-style long wedded to the automobile and the equally long-standing skepticism toward rapid transit that has resulted from more than two decades of ineffectual studies and plans.

As Kinnard mentioned, Mayor Bradley had visited Sacramento and Washington even before taking office in search of help:

> "I did not go asking for dollar amounts or even specific programs," he said. "I just wanted them to know that we're going to come in with such programs and set the climate for a working relationship."
>
> Although he professes optimism, the Mayor has backed off his campaign promise "to break ground within 18 months" and has adopted an attitude of caution in devising a plan. The plan will be developed in two phases: an immediate response to meet the strict air quality regulations recently imposed by the Environmental Protection Agency, and a longer-range plan coordinated with the county government for a rapid transit system.

Even as he considered his options, Mayor Bradley was "lobbying to break the strong Federal and state highway trust funds to permit the use of bulging gas tax revenues, now limited to highway construction, for rapid transit." Kinnard continued:

> In California, a constitutional amendment is considered necessary to open the fund. However, Mr. Bradley plans a court challenge to the original legislation of 1938 by arguing that the definition of "roadway" could be expanded to include rapid transit . . . .
>
> Mayor Bradley's efforts come at a propitious time. They coincide with the tarnishing of the freeway dream of safe, swift automotive transportation that was born in the winter of 1940 with the six-mile $6-million construction of the first leg of the Pasadena Freeway. [Kinnard, Judith, "Mayor Seeks Los Angeles Mass Transit," *The New York Times*, July 15, 1973]

(On December 30, 1940, Governor Culbert Olson dedicated California's first freeway, the Arroyo Seco Parkway. "It is proper and timely," he said, "for us to pause a few moments to ceremonialize and celebrate an achievement so extraordinary as the completion of this, the Arroyo Seco Parkway . . . . Now that we have it, and it all looks so rather simple, so obviously necessary, so wholly practical, some will ask, `What is there so wonderful, or so bold about it?' Oh yes—but it takes courage to do a thing the FIRST time, no matter how simple and obvious it may appear AFTER it is done. And *this*, fellow citizens, is the *first* Freeway in the West. It is ONLY the first. And THAT is its great promise to the future--the promise of many more freeways to come." In 1954, the State changed the name to the Pasadena Freeway.)

While Mayor Bradley was taking the oath of office on July 1, the California Department of Transportation (originally nicknamed CALDOT) was officially opening for business. Governor Reagan summarized the agency's goals:

> It will be the purpose of the Department of Transportation to help assure that California's transportation needs are solved through the greatest possible coordination and cooperation between all levels of government.

He listed the objectives:

- To resolve the differences that may exist or develop about the various transportation alternatives available.
- To eliminate fragmentation to transportation planning and provide a more efficient, unified approach to transportation problems in all areas and involving all modes of moving people and goods.
- To hear and resolve, on a logical and fair basis, the legitimate concerns the people have about the impact of transportation facilities and rights-of-way on the environment.

The State, he pointed out, had almost 15 million vehicles of all kinds, including 12.5 million cars and trucks. By 1990, Governor Reagan said, "we must be prepared to accommodate a projected 20 million vehicles." He pointed out:

> Because California has more people and vehicles than any other state, we have been a principal contributor to the federal highway fund. We are—in the jargon of government—'a donor state.' We send about $200 million more a year to Washington than we get back for our own transportation needs.

As a result, CALDOT had a "big job cut out for it in the area of financing." For one thing, it would have to be the lead advocate in seeking a greater return on the State's contribution to the Highway Trust Fund to address needs through 1990:

> We will need $40 billion to maintain, improve and expand our network of highways, streets and roads, $15 billion for mass transportation systems and $5 billion for air facilities." ["Calif. Gets its Own DOT," *The Journal of Commerce*, June 29, 1973]

(At the time, California received Federal-aid highway apportionments equal to .59 percent of its contributions to the Highway Trust Fund. Since creation of the Highway Trust Fund, the State's rate of return equaled an accumulated .81 percent. ["Comparison of Estimated State Payments into the Highway Trust Fund and Federal-Aid Apportionments from the Fund, Fiscal Years 1957-1974," Table FE-221, *Highway Statistics 1973*, Federal Highway Administration, p. 90]

Ray Hebert reported on the opening:

> For the public, it could mean fewer battles over whether a freeway is needed and fewer—or perhaps no—attempts by state highway engineers to build them where they are not wanted. With CALDOT taking over, effective today, the state Department of Public Works, the master agency behind California's highway building program since 1921, has been wiped out. And the state Division of Highways, the mammoth state-wide agency directly

> responsible for the freeway-highway system, has been cut back to a Sacramento-based headquarters office.
>
> In Los Angeles, for example, the big Division of Highways complex is now a state district transportation office, one of 11 throughout California. Since 1940, the 4,000-employe [sic] office here has been responsible for planning, designing and building more than 550 miles of freeways in Los Angeles, Orange and Ventura Counties. As the world's largest regional freeway network, it has been praised and condemned.

CALDOT officials wanted to make clear that the new organization was not just a name change:

> "People have a right to wonder if it isn't that—just a change in name," said James A Moe, new state director of transportation and CALDOT's first chief. "But most of us are eager to get into broader transportation ideas—not just freeways and highways. The new department is the outgrowth of many people waking up to the fact that times are changing."

The new agency planned to deemphasize freeways and find new ways to move people. Rail rapid transit, buses, carpools, even experimental concepts such as high-speed air-cushion and magnetically levitated vehicles, would be considered as an alternative to freeways.

Despite some skepticism on that point, Moe said CALDOT would give a greater voice to the public, instead of allowing the Division of Highways, as in the past, to make virtually all decisions regardless of community feelings. Highways and mass transit would be considered complementary systems, not separate modes. For example, CALDOT announced "a plan to run buses against the normal flow of traffic on the Hollywood Freeway," a plan "patterned after high-capacity reverse-flow bus runs in Boston, New York and other cities." CALDOT also was considering expansion of exclusive bus routes based on the San Bernardino Busway model.

The future of controversial Los Angeles area freeways could be resolved through CALDOT's new "Bottom up" approach to transportation planning. Ideas and decisions would "flow upward from the community to the transportation district and then to Sacramento":

> Local authorities and citizen groups could convince freeway planners that the incomplete Slauson-Marina Freeway, for example, should not be finished. Or that it should be given top priority. Conceivably the long impasse over routing the Long Beach Freeway through South Pasadena could be broken. Under CALDOT, the California transportation plan's strength, Moe explained, will hinge on the quality of plans produced at the regional level, including priorities, financing and the capability of implementing them.

Moe recognized that one of CALDOT's potential problems was internal:

> At the outset, CALDOT will have a major problem—diehards and skeptics within the old Department of Public Works and Division of Highways who regard freeways as the only way to move people. These are the "old pros" who, Moe pointed out, were told to build freeways and highways and have been doing it successfully for many years.

> Now they are balking at the changeover because, as another CALDOT official explained, "they are being told that what they were doing is no longer important—that they have another job to do."

Even before CALDOT opened its doors, the Department of Public Works had conducted an internal education campaign to smooth the transition:

> A different attitude already is evident among many of the new department's 18,500 employes [sic]. New younger middle management experts with broader views are partly responsible, but some veteran freeway engineers are catching the fever, too. [Hebert, Ray, "New State Agency Downgrades Freeways," *The Los Angeles Times*, July 1, 1973]

Long Island Sound Bridge

Robert Moses, New York State's master builder of roads, parkways, and bridges, had long favored the Long Island Sound Bridge. In a 1970 memoir of his life in public works, he said the crossing had "long been a cherished project of mine, stemming from Jones Beach, the suburban parkway program, and the growing congestion of the Triborough East River bridges and their approaches." He cited several reasons:

> *First*: The main objective is to provide an adequate bypass or cut-off to keep cars out of New York City and the immediately adjacent suburbs—cars which are bound elsewhere, don't belong in the middle of town, clog the three Triborough East River bridges and their approaches, waste energy, time, and money, and make effective traffic control impossible . . . .
> *Second*: The route arrived at is the best possible. It taps the southward and westward streams of inbound cars driving to and from Long Island and not destined for the Bronx, southern Westchester, Queens, and western Nassau. It represents the continuation of the Wantagh-Oyster Bay Expressway, now terminating just south of Oyster Bay, over the Sound and straight through Westchester to the Tappan Zee Bridge . . . .
> *Third*: A crossing further south in Westchester and west in Nassau would be enormously expensive, take many houses, provide no adequate approaches, and complicate the trip to the Tappan Zee Bridge. A crossing further east, from Connecticut to Suffolk, would involve a bistate treaty approved by Congress and would present numerous other difficulties.
> *Fourth*: The interests of Westchester and Nassau Counties can be assured by representation of these two agencies in the membership of the proposed new authority.
> *Fifth*: Title to the crossing after retirement of its bonds should be in the state, which could eventually reduce tolls.
> *Sixth*: After some forty years of experience with parks, parkways, expressways, beaches, and recreation, I am not astonished at opposition on the part of those who want isolation and privacy, with approaches not too close by, who object to being disturbed, discommoded, and inconvenienced, and who seek indefinitely to prolong the old days and privileges . . . . After all, the good citizen must look ahead to coming generations, anticipate future needs, and be ready, however reluctantly, to sacrifice something for his neighbors, his grandchildren and the state.

He estimated the bridge, with parks, landscaping, and local approaches, would cost about $160 million. To those who questioned the need, he said:

> The Sound crossing should be regarded as more than a road over water. It is a giant link in the recreation system extending from Bear Mountain over the Bear Mountain Bridge, across northern Westchester to Rye, over the sound, and through Bayville to the Jones Beach Tower.

He was confident the bridge would be built:

> To sum up, the Bayville-Rye Crossing is not an imposition, intrusion, and unexpected catastrophe flashed on uninformed homeowners. This crossing constitutes the only practical means of bypassing the overloaded parkways, expressways, and East River bridges. It is no eyesore to destroy the Sound. The metropolitan bridges we have built in recent years, including the Verrazano-Narrows, are our finest works of architecture and engineering.
>
> History repeats itself. Before long, as has happened over and over again, the opponents will calm down and claim they were always in favor of the improvement. [Moses, Robert, *Public Works: A Dangerous Trade*, McGraw-Hill Book Company, p. 1970, p. 262-273]

The problem for Moses was that on March 1, 1968, his power base, the Triborough Bridge and Tunnel Authority, had become part of the MTA under Dr. Ronan. Moses had expected that he would be kept on, but Governor Rockefeller engineered his departure. To placate the ousted power broker, Dr. Ronan offered Moses a post as consultant to the Triborough Bridge and Tunnel Authority at a salary of $25,000 a year. Moses, who would retain his limousine, chauffeurs, and secretaries, would be in charge of "coordinating" the authority's construction program and have "primary responsibility" for the Long Island Sound Crossing.

Moses biographer Robert Caro described the disappointment Moses felt at this offer. Despite misgivings, he had publicly supported Governor Rockefeller's plan on the theory that Moses would retain power under the new organization:

> Analyzing the offer only deepened the humiliation. "Coordinating" Triborough's current construction program was a meaningless phrase: that program consisted only of a relatively minor reconstruction of the Cross Bay Bridge and the adding of a second deck on the Verrazano—and those projects were already under way. The Sound Crossing would be a great project, but no one knew when it would start—and it would probably not start soon. And that was only one project—one for a man accustomed to directing dozens. "Don't take all Bob's toys away," Moses' wife had begged the Governor. Well, the Governor hadn't. He had left him one—or, to be more precise, the promise of one.

The offer was "a slap in the face. But there was no other offer." He accepted and all he could do now was wait for Governor Rockefeller to give the go-ahead for the Long Island Sound Crossing.

The years passed, 1969, 1970, 1971, 1972—and still the project wasn't approved:

> There were various excuses from Rockefeller's office—in 1969, the bond market was soft and the issue couldn't be floated at feasible rate; in 1970, there was a gubernatorial campaign, and, with the affected sections of Long Island and Westchester up in arms against the bridge, the Governor didn't want to be put on the spot; in 1971, it was financing problems again; in 1972, a legislative campaign and the Governor didn't want to damage Republican chances to hold control of the Legislature—with each delay, Moses was assured that next year would be the year the big project got under way.
>
> Moses was fooled by the fact that Rockefeller himself wanted the great bridge built. He was fooled by the fact that the Governor promised publicly as well as privately that Moses would be the one to build it . . . . He was fooled most of all by the fact that it was simply inconceivable to him that he would not be allowed to build it: he had conceived it, chosen its precise location and the routes of its approach highways, he had directed the planning and blueprinting, he had, in a sense, since it was Triborough's money that would back the bonds that would pay for it, raised the money for it . . . . It was *his* bridge! To let someone else build it and take credit for it would be an injustice of an enormity he seemed unable to grasp. It look a long time for realization to sink in.

Gradually, Moses began to realize that Governor Rockefeller wanted the bridge but was probably waiting until Moses was too old to build it:

> It gradually became clear to Moses that the Governor and Ronan weren't going to give him *any* job—that, despite all their promises, they were not, ever, going to give him anything to do, and that they were just waiting for him to grow old and die or go quietly away somewhere. [Caro, Robert A., *The Power Broker: Robert Moses and the Fall of New York*, Alfred A. Knopf, 1974, p. 1142-1143, 1147]

On June 20, 1973, Governor Rockefeller cancelled the Long Island Sound Bridge. He said:

> In recent years, the people of our state and the country have gradually come to adopt new values in relation to our environment and evidenced a willingness to forego certain economic advantages to achieve these values.
>
> The Rye-Oyster Bay bridge has become a lightning rod in this period of evolution. Therefore, after a thorough review of all the factors . . . I have come to the conclusion that we should cease our plans to build the Rye-Oyster Bay bridge.
>
> In this period of change that we as a state and as a society are experiencing, people are beginning to question whether all growth is automatically good—beginning to look at the quality of life as well as the quantity of our Gross National Product.

He added:

> Although the bridge would bring many real benefits and fill some real needs, obviously it would lead to large-scale disruption of existing patterns of life."

He ordered the MTA to halt planning for the bridge and to withdraw applications pending with FHWA for funds for the approach roadways.

Having killed the bridge project, Governor Rockefeller added that the State "must continue to grow." The State, Governor Rockefeller said, should "concentrate our efforts on extending and improving our mass transit systems to better serve the needs of the people on an economical and efficient basis, while at the same time undertaking necessary highway projects throughout the state that do not involve ecological problems." He intended to recommend a "major, full faith and credit bond issue" to expand the State's mass transit systems. [Clines, Francis X., "Rockefeller Halts Efforts to Build L.I. Sound Bridge," *The New York Times*, June 21, 1973; Isaacs, Stephen, "Rocky Bows to Critics, Bars Bridge Over Sound," *The Washington Post*, June 21, 1973; "Long Island Bridge on Long Island Sound Killed by Rockefeller," *The Wall Street Journal, June 21, 1973]*

Just a month earlier, New York City was confronting the possibility of what *The New York Times* called a "Fare Disaster," namely an increase to a 60-cent bus and subway fare. Dr. Ronan voiced the concern, which the *Times* said "dramatically points up the long-neglected inadequacy of the region's mass transit system and the baling-wire fiscal arrangements that have kept them rolling along, however haltingly." The State and city made a "modest, one-time commitment" 2 years earlier for subsidies to keep the fare at 35 cents, but that commitment would end with 1973. If the fare did increase to 60 cents, the change "would impose extraordinary burdens on low-income workers, especially those living in two-fare zones, and risk crippling the city economy." A regional payroll tax might help, as would an increase in bridge and tunnel tolls to discourage use of private automobiles. Another solution was in Washington:

> Efforts must be redoubled in the Congress to break open the Highway Trust Fund and to divert some of this available money to mass transit needs.

One thing was certain:

> The time for deliberate discussion has almost run out, but not quite. It is imperative for this city, this region and this state to develop a permanent transit subsidy scheme that will avoid recurring fare-rise crises and assure adequate levels of service. ["Fare Disaster," *The New York Times*, May 21, 1973]

Following Governor Rockefeller's announcement that he would pursue a bond issue for mass transit and some highway projects rather than build the Long Island Sound bridge, the *Times* warned:

> The need is pressing; but precisely because of the new public attitudes which he has so eloquently cited, he will have no better luck this time than he had two years ago if, once more, the price of a meager improvement in mass transit is to be an unbalanced outlay for highway construction . . . . If he is serious on this point and on the evils of "large-scale disruption of existing patterns of life," he will call for a far more balanced bond issue than the last one. This will be all the more vital if Congress fails to authorize the use of Highway

> Trust Funds for anything but continued catering to the automobile—and the contractors, suppliers and labor unions that flourish in its service.

The Governor had announced a special session of the State legislature for July. If he wanted to "ward off a disastrous fare increase," the *Times* advised him to ask the legislature "to come up with a fair and fixed formula for state and local aid to both subways and commuter railroads—and to put it high on the agenda." ["Better Mass Transit," *The New York Times*, June 25, 1973]

On June 28, *Times* reporter Frank J. Prial published a "News Analysis" concluding that the "dramatic and significant breakthrough" claimed by Governors Rockefeller and Cahill in November 1972 "was no breakthrough at all." The agreement allowed the Port Authority of New York and New Jersey to spend $650 million for rail improvements, including rail links between Manhattan and Kennedy International and Newark airports. In addition, the agreement had repealed the covenant that prevented the Port Authority from becoming involved "in any deficit rail mass transit projects other than PATH, its own commuter line." As reflected in a recent Port Authority bond issue, the authority was interested only in profitable lines, not support for deficits on mass transit lines. [Prial, Frank J. "Mass Transit Barrier," *The New York Times*, June 28, 1973]

Dr. Ronan warned on July 11 that a 70-percent increase in fares would be needed in 1974 and 1975 to makes up for deficits in commuter rail operations on the Long Island Rail Road and PennCentral's Hudson, Harlem, and New Haven Divisions unless a $93 million public subsidy were obtained:

> Such a fare increase, he said, would be "unconscionable," "catastrophic" and "a disaster." He added that "D-Day," when public funding had to be assured—or else—was early in January . . . .
>
> Dr. Ronan noted that President Nixon on June 30 urged Congress to enact legislation that would allow localities to tap the Fderal highway trust fund for mass-transit construction. He wrote the President, he said, asking him to go another step and support a Federal operating subsidy for mass transit . . . . Dr. Ronan said that the M.T.A. was not recommending the form of governmental subsidy needed to make up operating deficits. He added, however, that "in our judgment, there'll be no Federal funds without matching local funds." According to Dr. Ronan, "We'll take the money from any place, local, state, Federal or the United Nations." He was not in favor of using bond issue funds to cover operating deficits.
>
> He described mass transit as absolutely vital to the city and the region and said: "It's time to stop talking about transit deficits. We don't talk about a Police Department deficit, but we need the subways as much as the Police Department." [Burks, Edward C., "Ronan Warns of 70% Commuter-Fare Rise by '75," *The New York Times*, July 12, 1973]

Dr. Ronan was referring to a June 29 statement in which President Nixon had announced new energy conservation measures to address one of "the most critical problems on America's agenda today." The new steps included:

> First, I am appointing John A. Love, Governor of Colorado, to direct a new energy office that will be responsible for formulating and coordinating energy policies at the Presidential level.
> Second, I am asking the Congress to create a new Cabinet-level department devoted to energy and natural resources and a new independent Energy Research and Development Administration.
> Third, I am initiating a $10 billion program for research and development in the energy field, which will extend over the next 5 years.
> Finally, I am launching a conservation drive to reduce anticipated personal consumption of energy resources across the Nation by 5 percent over the next 12 months. The Federal Government will take the lead in this effort by reducing its anticipated consumption by 7 percent during this same period.

These new measures were necessary, he said, because the Department of the Interior had estimated that the Nation's energy supply would fall short of demand by 1, 2, and possibly 5 percent. This threat required public and private sector changes and the involvement of "every single American." Small "alterations in our present living habits" could make a big difference. For example, raising the thermostat of an air-conditioner by just 4 degrees could save 15-20 percent in its use of electricity. The Federal Government would purchase or lease automobiles that "provide good gasoline mileage." He continued:

> Just as the Government can obtain energy-efficient automobiles, private citizens can do the same. Nearly three-quarter [sic] of the gasoline used in America is consumed by automobiles.
>
> Those who drive automobiles can also assist by driving more slowly. A car traveling 50 miles per hour uses 20 to 25 percent less gasoline per mile than the same car traveling 70 miles per hour. Carpooling and using public transportation will result in further fuel savings.
>
> In order to help reduce driving speeds, I am today taking the additional step of writing to each of the Nation's Governors, asking them to work with their State legislatures to reduce highway speed limits in a manner consistent with safety and efficiency, as well as with energy needs.
>
> I also continue to urge the Congress to pass highway-mass transit legislation which would provide States and localities flexibility to choose between capital investment in highways or mass transit. Diversion of some commuter traffic from single occupant automobiles to mass transit will result in significant energy and environmental benefits and, at the same time, permit the highways to be operated in the efficient manner for which they were designed.
>
> Energy conservation is not just sound policy for the country, it is also good economics for the consumer. Changing to a more efficient automobile, for example, could produce savings of as much as 1,000 gallons of gas in the course of a year. A savings of 1,000 gallons of gas equals a personal savings of approximately $400.

His June 29 letter to the Governors explained that the Federal Government would do its share, but the success of the Nation's conservation efforts rested "primarily in the hands of the American people." He continued:

> Nearly three-quarters of the gasoline used in America is consumed by automobiles. Thus, significant gasoline savings will be realized if the American people will change their driving patterns. It is estimated that a car traveling at 50 miles per hour consumes 20 to 25 percent less fuel per mile than it would at 70 miles per hour. Consequently, I am asking Americans voluntarily to reduce the speed at which they drive this summer.
>
> As part of this effort, I urge you to work with your legislature on reducing highway speed limits in your State, taking into account the objectives of mobility, safety and energy conservation. I would also urge you to consider the various actions being taken by the Federal Government to save on the energy it uses, and to adopt as many of these measures as are appropriate for your own State.

On July 20, Governor Rockefeller announced his plan for a $3.5-billion bond issue to finance mass transit operations and highway projects, as well as to provide $183.8 million in State aid to subsidize the 35-cent fare and commuter rates for 2 years. Localities would have to provide matching funds, with New York City responsible for $150 million a year, to avoid a fare increase.

The bond money, if approved, would be used on a 60-40 ratio favoring mass transit ($2.1 billion) over highways ($1.4 billion). The highway money, however, would be used to match Federal-aid highway funds, thus increasing its value based on the Federal-State matching ratio for Federal-aid highway projects. The referendum 2 years earlier that voters had rejected called for a 54-46 split in favor of mass transit:

> The difference this time, the Governor asserted at a news conference at his West 55th Street office, is that the city voters have a threatened 60-cent fare awaiting them if the plan is rejected.

He proposed that the Federal Government pay for all rising transit costs after the 2-year period. Reporters asked why he was proposing such a large bond issue with only $183 million to subsidize mass transit operations:

> "It isn't just to save the fare," he replied, but to build "an adequate transportation system" for the entire state to help travelers and business. He also said environmental factors, such as the need for cleaner air, had influenced the proposal.

State law prohibited the use of bond issue revenue for transit operation subsidies. "Therefore, the Governor proposes to tap the bond fund for $183.8-million and use it in place of construction money already in the state budget. That money would be transferred to the state's general fund and could then be used to subsidize mass transit."

If the State legislature approved the measure promptly, it would be put before the voters in November. ["Clines, Francis X., "Governor Asking a Bond Issue of $3.2-billion for Transit Plan," *The New York Times*, July 21, 1973]

Dealing with an Impasse

With FY 1974 about to begin on July 1, House and Senate conferees felt the pressure as States ran out of Federal-aid highway funds and had no expectation of additional funds becoming available the following week. In addition, Congress was about to embark on its July 4 recess, reducing the prospects of resolution any time soon.

The pressure on "deadlocked House-Senate conferees," Mary Russell wrote in *The Washington Post* on June 26, "is strengthening the position of mass transit forces in the conference." This was "a dramatic shift" from the start of the conference when "the prospect of many concessions to mass transit was dim." Although a majority of Senate conferees supported the Muskie-Baker amendment, only two of the nine House conferees supported the measure. The others said they supported mass transit, but were "against breaking the trust fund."

Six weeks into the conference, several factors were shifting momentum toward mass transit. The highway lobby, Russell said, might be more flexible because of its fear that highway construction "could come to a standstill if a new bill is not reported out." Further, with the fuel shortage likely to worsen through the summer and EPA calling for restrictions on the use of automobiles, pro-highway conferees were having a harder time defending their preference for "spending a great deal of money to build more highways."

After weeks of showing "no inclination to make a large concession on the major point," the Senators had offered the "revenue sharing" turnback of gas tax revenue as "a final offer" based on a suggestion offered earlier by Representative Clausen. The offer had several positive features. It sidestepped the issue of "busting the Trust" that pro-highway, pro-transit, and pro-environmental forces had been debating. In addition to letting the States decide how to use the money, the offer "lets states out from under the civil rights and environmental controls which had held up some projects" since State-funded projects generally were not subject to NEPA, Section 4(f), or other environmental measures.

The House conferees rejected the "final offer" without a vote. All the Democrats on the House side favored it except Representative Johnson. The four Republicans opposed it, "so the proposal lost 5-4" if a vote had been taken. The House conferees offered to allow $100 million in Highway Trust Fund revenue for the acquisition of buses, "but the Senators angrily rejected this, saying it was no concession at all, and after Thursday's meeting [June 21] both sides walked away in a huff."

Several outcomes were possible, Russell indicated. The House could pass the interim funding bill, S. 1808, it had resisted. The conferees could break up and start the process of moving a new bill in their separate Public Works Committees. "Or someone in either body could move to instruct the conferees to adopt a particular position and the move, if passed, would be binding on the conferees." None of the options was attractive:

> But the House conferees in particular are feeling the pressure to get a bill out now, since it appears the longer they go on, the less support remains for their position.

The Nixon Administration had held firm in support of the Muskie-Baker amendment but "has not pushed hard" for it. It had primarily been interested in reducing funding levels:

> In response, the conferees have tentatively trimmed the authorization—almost $9 billion a year in the House bill and $7 billion in the Senate bill—to about $5 or $6 billion a year over the three year period.

The Administration's position "complicates the House conferees' position," Russell said:

> In any case, the ball is now in the court of the House conferees, and time is running out. [Russell, Mary, "Transit View Gains in Road Bill," *The Washington Post*, June 26, 1973]

Two days later, on June 28, Russell reported that the House conferees had decided to try to pass the Senate's interim funding bill, S. 1808, through the House quickly via suspension of the rules. Representative Wright acknowledged that the conferees were "temporarily at an impasse," saying the situation reminded him of "two partially blind people looking at an elephant," with neither willing to retreat from his views. (He was referring to the story, originated in India, of blind men feeling parts of an elephant and drawing different conclusions about the nature of the animal as a result – the elephant is like a wall, a snake, a spear, a tree, etc.) He continued:

> Everybody these days is playing brinkmanship or maybe we should call it blinkmanship. The House and Senate are playing it with the President over the Cambodian bombing funds and the Senate and House are playing it over the highway bill.

Despite earlier opposition to an interim bill, Representative Wright was willing now to advance it because he did not want to impose a penalty on the States that were running out of Federal-aid highway funds. [Russell, Mary, "Interim Road Bill Aim of Hill Parley," *The Washington Post*, June 28, 1973]

Engineering News-Record also reported that the Federal-Aid Highway Act of 1973 faced "a slow death" in committee. Unless agreement can be reached, "some Washington observers believe that the three-year highway authorization bill may be scrapped and sent back to both houses of Congress for another go-around." According to an unnamed ARBA official, "If they can't reach agreement, it pretty much kills the bill. We'd have to start all over again."

Such an outcome was "no longer considered unthinkable." Barring a major concession, "reconciliation of differing House and Senate provisions for public transit funding could be impossible." Senator Bentsen said, "We've had our 23rd or 24th meeting. And it's starting to take a toll. We've all got other important work to do."

The Senate's proposed revenue sharing-like concept was "still alive but just barely." Senator Bentsen said of the proposal:

> It wasn't our last offer, but it was a very major effort that resulted from a good deal of compromise. We've given it back to the House with a major concession—we have agreed to exclude new rail transit construction. The money can still be used, though, for improvement of existing systems, modifications and maintenance. It covers everything short of the construction of a totally new system."

Representative Wright said the House conferees were still considering the modified proposal, but he was not optimistic:

> You could still buy transit rolling stock, maintain it and provide operating subsidies under the Senate plan. We face a practical problem—the President has said he will veto any bill containing operating subsidies.

John Kramer and other transit advocates felt that the continuing stalemate was working in their favor because they thought they could secure additional votes if conferees sent the bill back to the House and Senate for additional instructions:

> "We know we can hold our own in the Senate," says Kramer. "And with the fuel shortage and difficulties many areas are having in meeting air quality standards, we may be able to pick up enough new votes to carry the House." Kramer says that his group will press sympathetic congressmen to bring up a motion that, if approved by a majority vote, would send the highway bill back to both houses and effectively kill it as it now stands.
>
> But Wright says that conferees are a long way from sending the bill back to Congress. "If we couldn't resolve our differences we could offer to resign and ask for new instruction," he says.

In the meantime, he was ready to ask the House to approve S. 1808. "This," Senator Bentsen said, "would go a long way toward relieving the crisis atmosphere." ["New Road Bill Faces Slow Death in Committee," *Engineering News-Record*, June 28, 1973, p. 20]

On June 28, Representative Wright introduced S. 1808 on the House floor. The bill contained one variation from the Senate bill. S. 1808, as approved by the Senate on May 23, "authorized to be appropriated $500,000,000" for the Federal-aid primary and secondary system and their extensions within urban areas for FY 1974. The House corrected this language to read: "authorized to be appropriated*, out of the Highway Trust Fund*."

Thinking the measure noncontroversial, Representative Wright introduced S. 1808 under suspension of rules that allowed Speaker Albert to declare the bill passed in the absence of objection. However, Representative Harold R. Gross (R-Ia.) rose for a point of order, namely that a quorum was not present. When the Speaker asked Representative Gross to withhold his point of order, Representative Gross refused, pointing out that he wanted to comment on the bill. The Speaker had to concede that a quorum was not present. A call of the House was ordered. When 400 Representatives had recorded their presence by electronic device, the Speaker said a quorum was present and the House could continue its work.

(Representative Gross was generally characterized as a frugal watchdog of Federal funding. Eric Redman, who observed Representative Gross while working for Senator Magnuson during the 91st Congress, described his first observation of the Representative in terms that almost any contemporary observer would have agreed with:

> I had heard of H. R. Gross and his dilatory tactics, but I had never seen him in action. The diminutive Republican is a fiscal conservative who has built his reputation (and his career) on the notion that the best way to save the taxpayers' money is to slow down the proceedings of the House to such a great extent that only a trickle of legislation can pass . . . . Employing every conceivable partiamentary trick, Gross requests quorum calls, rises repeatedly on points of personal privilege, and worst of all, demands roll-call votes on each substantive issue instead of permitting the timesaving voice vote. [Redman, Eric, *The Dance of Legislation*, A Touchstone Book by Simon and Schuster, 1973, p. 244])

The Speaker, acknowledging his error in not recognizing Representative Gross, vacated his action under suspension of the rules. He recognized Representative Wright for 20 minutes.

Representative Wright explained that the interim highway funding measure was needed to help the 34 States that had exhausted their Federal-aid highway funds or would do so within 30 days. He explained his decision to advance S. 1808:

> Last night at 10 o'clock after 2 months of long and intensive negotiations it became evident to the conferees on the House and Senate sides that we were at least temporarily deadlocked. After having made enormous progress on more than 70 provisions of the bill theretofore in disagreement, we have reached an impasse on remaining sections of the bill. Rather than penalizing the States for our inability to agree, rather than putting the House and Senate under the pressures of having to agree on something they might not want to agree to, rather than putting small contractors out of business and people out of work, and rather than making the Northern States which have short building seasons lose completely their entire year's highway construction, we thought the decent responsible thing to do was to pass this interim bill which will hold them for 30 to 60 days.
>
> Hopefully, during that time we can hammer out upon the anvils of mutual compromise and understanding the kind of long-range bill that both the House and Senate will approve and appreciate.

Representative Glenn Anderson said that on behalf of those seeking additional flexibility for transit, he hoped S. 1808 would be the only stopgap measure that would be needed:

> We do not want to be obstructionists . . . . We feel the conferees are making headway, but we want them to work out their differences in good faith, and we want to remind them that a [sic] mass transit is in dire need, and we are going along on this one extension. We hope in the Members' conference they realize the plight and the needs of those of us in the city.

Representative Abzug said she was speaking on behalf of most members of New York's congressional delegation and many other House members "as to the dissatisfaction we feel at having to pass a continuing resolution at this time." She thought the Senate conferees had "offered a number of compromise proposals which to me seem eminently reasonable and not at all violative of the position of the House, yet our conferees have rejected each one." Since the House vote on April 19, she said, the energy crisis had become more critical and EPA had warned the Nation's large cities "that they must drastically reduce the amount of vehicle travel within their borders." She was willing to consider S. 1808, "but we may not be so willing if any additional extension of it is asked later on."

She recognized that the States needed the funds for their highway programs, but she added, "we must realize that our cities and our suburbs are pinched too. They too are desperately in need of funds for their transportation systems."

Representative Wright, as was often the case with Representative Abzug, did not appreciate her remarks. He replied that, "The House conferees have not been intransigent or wholly unyielding." He continued:

> During the first 3 weeks of the conference we did resolve more than 70 different points in disagreement. There existed a spirit of compromise and understanding on both sides.
>
> During the past 4 weeks, House conferees have offered several substantive proposals in an effort to compromise the remaining disagreements. We feel, quite frankly, that we have been more reasonable and conciliatory than the Senators. No doubt they feel they have been more so than we. I think it really unfair to take a position that either the House or the Senate has been totally stubborn.
>
> We have had difficulties, and I must say it has been extremely frustrating to me as chairman of the conference to have been unable to have persuaded our colleagues to find an avenue on which we can walk arm in arm on the remaining four or five items in disagreement.

He thought most House members "would agree that it would be ridiculous to hold the States hostage to our inability to agree." The "only reasonable thing" was to give them enough money for a limited period "during which time we will continue our efforts to find a solution to the long range problem."

Representative Gross rose to offer the comments that had prevented the House from dispensing with this noncontroversial bill under suspension of rules. He said he appreciated the Speaker's decision to return the bill for consideration and to Representative Wright "for his explanation of it," adding:

> When it was first called for consideration I had no idea of the nature or content of the bill, as was the case of many other Members of the House. I had absolutely no idea of what we were considering for there was no bill available on the House floor.

> I support the bill. I think it is a reasonable extension, and again I thank the gentleman for his explanation.

Representative Wright thanked Representative Gross, who had voted for the Federal-Aid Highway Act on April 19, for his support and added, "Surely I would agree that the gentleman and all Members of the House are fully entitled to understand what is involved in the bill."

Representative Harsha also spoke in support of S. 1808. He reiterated the point about States running out of money and the impact it would have on taxpayers who would lose their construction jobs. Further, because of inflation, the longer the delays took, the more the projects would cost. Formalities out of the way, he wanted to address Representative Abzug's comments in somewhat stronger terms than had Representative Wright:

> Mr. Speaker, contrary to what the gentlewoman from New York said, and it always amazes me how one not in attendance at a conference can know so much about the transactions in that conference. Not one of the suggestions or proposals by the other side has been in such a form that we could accept it, because each one totally violated the position of the House on the issue of rail transit. As a conferee on that committee from the House, I feel it is my responsibility to sustain the House position as much as possible. There has not been one offer of compromise from the other body that would not do violence to the House position on invading the Trust Fund.

The House conferees, he said, had offered several compromises to resolve the issue, "each time going a long way from the House position." He urged his colleagues "not to be misled by the accusations of those who were not privy to the conference and who do not in substance know what they are talking about."

In summarizing the contents of S. 1808, he explained:

> We have deliberately left out the urban systems and mass transit; retaining that issue for ultimate resolution by the conference committee we are not jeopardizing the House position in any way by this action, but we are trying to alleviate almost sure unemployment and stop breaking up the continuity of the highway construction program.

Representative Clausen, who also served on the conference committee, said:

> I want to state to the Members of the House that last night the House and Senate conferees met together informally in one of the most constructive and productive sessions of the entire conference. We had an opportunity to elucidate on our own particular views as to what our individual objectives on transportation policy might be. Mr. Speaker, I want to put to rest the fact that, while we have differing points of view, we are a long way from being, in my judgment, at an impasse. With the pressure of time, we felt that this was a better part of wisdom to move toward passage of this interim bill.

Another conferee, Representative Cleveland, agree that the House and Senate conferees had "worked in a spirit of compromise and accommodation" for the most part:

> But I regret to say that this spirit has been totally lacking regarding the principal difference before the conference: Diversion of highway trust funds for rail mass transit. On this issue, the Senate has been totally unyielding. From the beginning, Senate conferees have insisted that the House agree to the diversion for rail transit.

The House conferees, by contrast, had offered "a momentous concession," which he described:

> We have provisionally agreed to the authorization of $100 million a year or even more over the term of the bill for capital investment in buses. This represents a major departure from past policy regarding use of trust fund revenues and reflects the good-faith willingness of House conferees to go the limit in pursuit of reasonable compromise.

Senate conferees had refused to recognize "the magnitude of our concession." Instead, they "insist on a complete cave-in by the House side." This "unyielding attitude" confirmed what he had believed all along, namely "that the proponents of diversion are bent ultimately on nothing less than massive diversion of highway funds for rail systems in a comparatively small number of large cities." In his State of New Hampshire and many others, "mass transportation means four wheels on a highway." Bus transportation was the only mass transit alternative, which is why the House conferees had "gone the limit in making available the financing for bus transportation under urban system funds." He continued:

> This is as far as we can conceivably go in keeping with the mandate of this body in its rejection of the Anderson amendment. If the Senate side insists on diversion and total surrender of the House position, I foresee a deadlocked conference with consequent losses of highway, highway safety, and urban mass transit programs in this country.

After other House members endorsed the bill, Representative Abzug engaged Representative Wright in a colloquy on whether Federal-aid urban system funds were covered in the bill. No, he said, they were not. She asked if "there is any proposal that is intended to take care of that in the interim?" He explained that Senators Randolph, Muskie, Bentsen, Baker, Stafford, and Buckley, who had drafted S. 1808, said that the funds covered in the bill "are the categories in which States are running out of money." He added, "That is the reason for the coverage of those categories in this bill." He hoped the conferees could reach agreement in 30 days to allow all the categories to proceed on a long-term basis.

Representative Abzug asked if the Senate conferees had not responded to the House proposals and "that there have been no compromise proposals at all?" Representative Wright replied that "the other body has in good faith offered several proposals" but they were not acceptable to the House conferees. The House, in turn, had offered proposals that were not acceptable to their Senate counterparts:

> I believe the gentlewoman is ill-informed if she concludes in any sense that the Senate conferees have been more yielding than the House conferees. I believe the reverse is true.

He did not think the House wanted "a long diatribe today about why the House is right and the Senate is wrong," nor did he want "to pick arguments." He wanted to "make peace" and try to "harmonize two divergent positions," but for now he simply asked Representative Abzug and the House "to pass this bill, so that the States will not suffer during the remainder of the time" the conferees needed to resolve their differences on S.502.

With the debate winding down, Representative Kluczynski spoke in support of S. 1808 while commending Representative Wright for his leadership of the conference. "Contrary to what some may be saying, the conference has been very productive and we have now reached that point in conference where the most important points are being considered." He was confident that "a satisfactory" solution would be worked out, but in the meantime, he urged the House to approve S. 1808.

With that, Speaker Albert returned to Representative Wright's original request to suspend the rules and pass the bill. He said, "The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed. ["Apportioning Funds for the National System of Interstate and Defense Highways," *Congressional Record-House*, June 28, 1973, p. 22089-22092]

Although both Houses had approved S. 1808, the House version differed from the Senate version in adding the phrase "out of the Highway Trust Fund" to the section authorizing funds for Federal-aid primary and secondary funds and their urban extensions. For S. 1808 to become law, the Senate would have to approve the House version.

Later that same day, Senator Randolph offered the House bill for consideration in view of the minor amendment. After summarizing the bill, he discussed the conference that had begun on May 6:

> Our first meetings in conference were productive and agreement was reached on a number of points in the bill. In recent weeks, however, little progress has been made. We reached this plateau in our negotiations when the conferees turned their attention to the most controversial issue in the bill.

Based on experience in the 92nd Congress, "members of the Senate Public Works Committee knew that completion of a new highway bill would be a long and arduous task." As a result, he had introduced S. 1808 to ensure the States would be able to continue their Federal-aid highway programs in FY 1974. The amounts in the bill were "within the limits of authorizations which have been agreed to by the conferees at this time."

He recalled that the Senate had passed S. 1808 on May 23, but that the House Public Works Committee had been reluctant to consider the bill. "Their feeling was that we might soon reach agreement on S. 502, thus obviating the necessity for an interim financing measure." He did not share their optimism at the time, which is why he had introduced S. 1808, and the situation in the States had deteriorated since then. Without S. 1808, the pot would run dry:

> The conferees met again last night to discuss the Federal-aid [sic] Highway Act of 1973. We explored the issues remaining to be resolved and the House conferees at that time informed us of their willingness to take immediate action on S. 1808.

He pointed out that the bill did not authorize Federal-aid urban system funds:

> It would be improper to include urban highway funds in this bill since the structure and financing of the urban system is a central feature of the mass transit controversy.

Senator Baker also urged passage of S. 1808. He took the time to summarize the history of legislative efforts from the start of the 93rd Congress. The House, he explained, had not acted on S. 1808 immediately following Senate passage "because they believed that a final resolution of S. 502 was possible prior to the end of the fiscal year." He continued:

> The conference has met on some 20 occasions and we have resolved many of the provisions that were in dispute. However, we have been unable to resolve the most significant issue: The issue of urban flexibility in the use of highway trust funds for both highways and mass-transit purposes.
>
> In an effort to resolve these differences, the Senate conferees developed a new approach that built upon a suggestion that had been made by several of the House conferees. This new section would return 20 percent of the gasoline taxes collected nationally to the States for any transportation purpose.
>
> Last evening, the conferees met for several hours at and following dinner. That discussion was most constructive and valuable. But, frankly, it become clear that we could not reach agreement on the Senate's compromise, or any other variation that was suggested last evening.

He believed that the Senate's June 21 offer "represents a reasonable compromise between the two bodies," but with the July 4 recess about to begin, resolution would not be possible before the start of FY 1974 on July 1. "Pending that resolution, the adoption of S. 1808 means a fresh flow of Federal-aid funds to the States to allow highway programs to continue." He did not know if the conferees would need 1 week or 1 month or longer, but he was confident that "a spirit of compromise" would eventually result in a 3-year bill.

After a few additional comments, the Senate voted to adopt the House amendment to S. 1808. ["Funds for National System of Interstate and Defense Highways," *Congressional Record-Senate*, June 28, 1973, p. 22082-22084]

That same day, June 28, Secretary Brinegar addressed the National Broadcast Editorial Association in Washington. In discussing the Federal-Aid Highway Act, he relied mostly on language he had used in his speech to the Los Angeles Chamber of Commerce. At the time of that speech, he was not optimistic about prospects for the bill. On June 28, he said:

> The controversy is most unfortunate, because when the smoke clears and the trust fund issue is looked at in a longer-term perspective, I'm quite certain that it will be widely understood to be a timely idea and entirely consistent with the purposes to which trust fund monies can be properly used . . . .
>
> A Conference Committee is now working on a compromise bill. They've had some 30 meetings and have yet to find the way out. The worsening energy situation has made our position more understandable day by day, so perhaps we may win this one yet. The Senate has stood tough, for which I give them my thanks.

On July 6, 1973, President Nixon signed the interim bill, S. 1808, without comment. FHWA apportioned the funds from Public Law 93-61 among the States on July 11.

The Antipollution Charade

Throughout June, State and local officials, as well as the auto industry and EPA, were trying to deal with the impacts of the Clean Air Amendments of 1970. Any hope of relief in the courts ended when the Supreme Court upheld a 1972 U.S. District Court ruling in *Sierra Club v. Ruckelshaus*. The 1970 Act required States with heavily polluted air to submit plans to EPA for improving ambient air quality. The Sierra Club maintained that EPA regulations did not take into account the intent of the law to prohibit approval of a State air pollution plan that would allow deterioration of air quality in areas that exceeded national standards. This assertion was based on the law's declaration of purpose "(1) to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population . . . ."

In a ruling issued on May 30, 1972, District Court Judge John H. Pratt agreed with the Sierra Club, stating that the law's mandate to "protect and enhance" reflected the congressional intent to require not only improvement of air quality but prevention of degradation. (344 F. Supp. 253 (D.D.C. 1972)) The court issued a preliminary injunction enjoining the EPA Administrator from approving State implementation plans "unless he approves the State plan subject to subsequent review by him to insure that it does not permit significant deteriorating of existing air quality in any portion of any state where the existing air quality is better than one or more of secondary standards promulgated by the administration." The District Court directed EPA to issue regulations for the prevention of significant deterioration of air quality in clean air areas.

The District Court of Appeals affirmed the District Court's opinion. (4 ERC 1815 (D.C. Cir. 1972)) After hearing oral arguments, the Supreme Court affirmed the decision, by a tie vote with one justice not participating, in *Sierra Club v. Fri* (as the case was renamed following Administrator Ruckelshaus's departure) without a written opinion. (412 U.S. 451 (1973))

In Massachusetts, for example, officials and business representatives were concerned about EPA's proposal for the area. When the State did not submit a plan, EPA prepared a plan that, among other things, banned on-street parking in downtown Boston, closed Main Street in Springfield to all vehicles except trucks and buses, imposed a surcharge on downtown parking ($4 a day in Springfield, $5 a day in Boston), a sticker system dividing vehicles inside the Route 128 Boston area circumferential into five groups, with each group prohibited from driving 1 day a week during periods of excessive air pollution, and two emission-control devices for motor vehicles at a cost of $50 and $200 each. An EPA spokeman said, "A lot of state business and government officials don't think we're serious, but a lot of people are going to be surprised."

Frederick P. Salvucci, transportation assistant to Mayor White, thought the parking surcharge was "too drastic," the stickers "unenforceable" and devices "unfeasible." The plan was so unlikely that he thought EPA might really be anticipating the granting of an extension until 1977, as permitted by the law. Raymond Rodriguez, administrative assistant to Secretary Altshuler, said that "even with a two-year extension, it is going to be very difficult to meet the federal standards in Boston."

William F. Chouinard of the Boston Chamber of Commerce was less diplomatic. EPA's plan was "laughable," he said, and not likely to be implemented. If it were, it would mean "a cessation of activity in downtown Boston." [Carden, Lance, "Clean-Air Rules Stun Bay Staters," *The Christian Science Monitor*, June 15, 1973]
As EPA continued to roll out its plans, they took on increasing appearances of absurdity. The plan for Fairbanks, Alaska, banned more than five minutes of idling after October 1, 1974, to keep motorists from running their engines to keep the heaters on. Public off-street parking facilities would be required to have "interior car heaters and electrical head bolt heaters for warming engines." ["EPA Would Cut Idling in Fairbanks, Alaska—By Vehicles, That Is," *The Wall Street Journal*, July 9, 1973]

The U.S. Conference of Mayors was in San Francisco for its 41st annual conference beginning June 16. At a press conference on the opening day, four mayors criticized EPA's plans. Mayor Kenneth A. Gibson of Newark, New Jersey, said, "I question whether we can do these things unless we come up with adequate mass transit to carry people." Mayor Norman Y. Mineta of San Jose, California, said, "Until there is some alternate means of transportation, you just can't go ahead and ban something," referring to motor vehicles. Mayor Daley of Chicago told reporters that EPA had not discussed the plans with the mayors "and now they're trying to put the burden on cities," despite granting a 1-year postponement for the auto industry.

Mayor Henry W. Maier of Milwaukee said, "The real issue is when is the Secretary of Transportation going to speak out and declare a moratorium on highway building? When is he going to get the highway trust fund broken so cities can use the money for operating costs for mass transportation?" The country, he said, faced a "national emergency" and "it's about time he speak up and take a forceful stand." [McBee, Susanna, "Mayors Hit U.S. Plan to Cut Traffic," *The Washington Post*, June 18, 1973]

Editorial writers understood the problem. The *Washington Star-News* said:

> The clean-air ideal that Congress embraced so enthusiastically three years ago is coming into hard collision with the fact that its attainment—on the schedule envisioned—simply

> may not be possible. Developments emerging last week from both the Supreme Court and the Environmental Protection Agency reinforce that view.

The court's rulling "that air quality cannot be allowed to deteriorate significantly *anywhere* in the country" even affected "the great unpolluted expanses" of the country. If rigidly enforced, the ruling would "serve virtually to paralyze growth in underdeveloped areas that are seeking new industry."

As for EPA's plans, "some major cities have only the dimmest prospect, or none at all, of meeting the air standards set for the year after next." The plans contemplated an "astounding reduction of traffic" in 18 areas "and a 60 percent cutback in driving in northern New Jersey." These plans "could exact intolerable economic penalties and prove politically indefensible."

The only good news was:

> Fortunately, the acting EPA chief, Robert W. Fri, seems to have no delusions about all this. In presenting the highly restrictive plans, Fri said he was "not sure these are the results that Congress intended," and that he will "explore with Congress the desirability of extending the deadlines for these areas that are so deeply affected."

The *Star-News* editors considered that "the wise course." The goal should be "to achieve the final high objectives with the least possible economic damage." ["The Clean-Air Collision," *The Washington Star-News*, June 19, 1973]

The Washington Post agreed, saying of the Supreme Court ruling:

> The Supreme Court ruling has sparked less temperate calls for congressional intervention by some industry spokesmen, who charge that a national non-degredation policy will compound the energy crisis, perpetuate urban pollution (by keeping the polluters from moving elsewhere) and paralyze rural areas as well (by blocking economic growth). Such protests contain some wisdom and a lot of wishful thinking.

Regarding EPA's urban plans, the *Post* cited the same quote from acting Administrator Fri about what Congress intended. The question of feasibility needed to be faced "right now." The plans were, as city officials pointed out, "intolerable unless people have real alternatives to private cars." The editorial continued:

> There is no better argument for expanded federal aid for mass transit, including some form of the operating subsidies which the Nixon administration has so stubbornly opposed. Nor will funding alone do the job; the routes and service of many transit systems will have to be overhauled, especially to meet the needs of suburbanites.

Since these limitations had never been tried, "it is almost impossible to say" whether they would be "effective and acceptable" in any given city. What was clear was that "even with all the investment, innovation and civic effort possible," most areas could not meet the deadlines and would require legislative relief. "But it should be limited, temporary, and a last resort." ["The Costs of Cleaner Air," *The Washington Post*, June 26, 1973]

The California public, for one, was "in a mood to accept drastic steps to reduce air pollution provided these steps stop short of prohibiting them from driving their cars," according to a poll by Field Research Corporation. Mervin D. Field summarized the results:

> Measures that get a majority of support are the installation of car antipollution devices, even if these are quite expensive, and the building of mass rapid transit systems, even if these were to increase taxes.
>
> The public is not inclined to favor measures that would reduce their driving or make it more difficult, such as gas rationing, drastic slowdown of freeway construction or setting aside freeway lanes for exclusive use of high-speed buses. [Field, Mervin, D., "Public Against Driving Curbs, Survey Finds," *The Los Angeles Times*, June 29, 1973]

Gladwin Hill, the environmental reporter for *The New York Times*, concluded that, "The nation's campaign against air pollution has seemingly taken on some aspects of soap opera, with dire and sometimes implausible exigencies materializing almost by the day." After mentioning some of EPA's proposals imposing "restrictions of varying stringency," Hill wrote:

> The situation has a certain aura of unreality. Drastic reductions in auto traffic would paralyze almost any American community. This aura of unreality is reinforced by candid acknowledgments of Environmental Protection Agency officials that many of these "proposals" are of doubtful practicality.

In this "unusual governmental charade," Federal bureaucrats "whose job is to administer laws rather than give opinions on them" were "obliquely" saying:

- They are telling states with big-city automobile smog problems to get down to brass tacks with pollution control plans.
- They are telling citizens that the crunch has come when air pollution abatement requires not merely expenditure of money but also some changes in accustomed patterns of life.
- They are telling Congress that the Clean Air Act, as conceived back in 1970, needs some revision, particularly in deadlines.

The deadlines for stationary sources, such as factories, were "relatively easy technologically," Hill said. "Most industrial establishments, in collaboration with state authorities and E.P.A. regional offices, have worked out compliance programs." Automobiles were another matter:

> Congress, in setting a 1975 deadline, was in a sense shooting in the dark, because the technology for controlling car fumes was not fully known, and data on automobile contributions to big-city smog were incomplete.

One discovery since 1970 was that vehicle emission controls had not been developed as quickly as hoped, resulting in a 1-year extension. A second discovery was that even if emission controls were available, some cities would still be short of compliance by 1977. "Two-year extensions given a score of cities by the E.P.A. under the law were knocked out by a Federal Court ruling this year that they had been granted without sufficient evidence of necessity."

The problem was that "only a limited number of ways of reducing big-city auto smog quickly" existed "and most of them entail radical reductions in the amount of auto travel." Hill continued:

> Thus E.P.A. officials, sworn to administer the law, have had to go through the motions of formally "proposing" certain measures that seem unlikely to materialize. The E.P.A. has no authority to force a community to institute any particular traffic-management measure. Its authority relates to results: if a city's smog gets too bad, the E.P.A. can step in, as it did in Birmingham, Ala., in 1971, and even shut down industry.

States and cities were expected to formulate their own solutions, but where that was not possible, EPA "imposed" plans that, Hill said, "consist in general of workable helpful measures, laboriously custom-tailored by the agency's technical experts to fit a community's particular situation." However, the "big imponderable" was how long these plans would take to achieve the desired results. Evidently, the 1977 deadline would be missed. "Los Angeles, for instance, with the worst auto-smog problem, figures it can have things well under control by 1980, but not much before that." [Hill, Gladwin, "Antipollution Charade: The E.P.A. Drastic Proposals," *The New York Times*, June 25, 1973]

Editorial reaction continued. An editorial in *The Baltimore Sun* began:

> Automobiles in cities throughout the world have become a scourge. From Tokyo to Baltimore to Rome, ugly commercial strips, profligate use of land for streets and parking lots, traffic congestion, noise, and air pollution by health-damaging photochemical smog and carbon monoxide are some of the ugly byproducts of too many of these machines within cities. A problem of growing importance is the gasoline shortage, as automobiles consume about 10 times the fuel per passenger mile as the most efficient forms of public transit.

EPA had proposed a new plan for Baltimore on July 11 that included restrictions on automobiles in downtown, installation of emission control devices, and a sharp reduction in gasoline supplies. Traffic control measures included new buses, exclusive lanes for buses and carpools, limits on on-street parking, a permit system for off-street parking, and creation of a computerized carpool service. Additional measures included installation of devices to capture escaping vapors from gas delivery trucks and underground storage tanks. EPA also proposed adding catalytic converters to cars produced between 1968 and 1975.

The editorial said that all the problems caused by the automobile were "why we would applaud this week's proposals by the Environmental Protection Agency to reduce auto traffic within the Baltimore metropolitan area by 65 per cent of anticipated levels in the year 1977—if the proposals made any sense. The trouble is that they do not." Even EPA's Regional Administrator Daniel J.

Snyder III had admitted the proposals were "impractical." EPA, the editorial said, should not be blamed; it had to comply with the strict provisions of the Clean Air Amendments of 1970. "Given these constraints, it is virtually impossible to produce a practical plan."

A better approach would involve coordination among Federal, State, and local governments:

> Some elements of a concerted approach might include a state land use plan, more generous support of urban mass transit by the federal government, a move by the auto industry and consumers toward smaller cars, expansion of plans for metropolitan area rail transit, and possible move by the U.S. automobile industry to the low-pollution stratified charge engines designed by Japanese companies.

The problem was that coordinated plans such as this one "will take time, and it seems clear that Congress must ease the timetable on the Clean Air Amendments." [Associated Press, "Baltimore Faces Clean-Air Orders," *The Washington Post*, July 12, 1973; "Coping with the Automobile," *The Baltimore Sun*, July 13, 1973]

The *Christian Science Monitor* picked up on Hill's description of the EPA plans as a "charade." Congress, after all, "may decide that emergency steps" may be impractical and that long-range plans, such as building rapid transit systems, may require extension of the deadlines:

> A further point is that the plans put the burden of inconvenience on the user of the automobile. The development of smaller cars, cleaner engines, would have made much of the proposed auto-use cutbacks unnecessary. The government also, by pushing highway construction and frustrating the maintenance or expansion of urban mass transit, helped create the situation from which the auto-dependent public will have to extricate itself with considerable inconvenience.

Inconveniences would not have to last long before rapid transit networks 'would regain the familiarity they once had before American affluence produced the massive exhaust problem." The editorial concluded:

> Still, in the absence of a comprehensive federal program to vitalize mass transit systems, the EPA's plans seem unrealistic. Congressmen should be forewarned that the public will not take lightly to massive inconvenience caused principally by a too prolonged government attachment to highway construction, oil, and auto interests. ["Ban Your Car?" *The Christian Science Monitor*, July 13, 1973]

William K. Stevens began his article on the subject in *The New York Times* with a visit to Lexington, Massachusetts, "Birthplace of American Liberty." But on Massachusetts Avenue and Bedford Street in this city "where the American Revolution began, other signs are more prominent." They read: "Chevrolet," "Buick," "Shell," "Exxon," "Shopping Center," and "Motel." Stevens said:

> Cars. The material basis of the free-and-easy, go-where-you-want character of latterday American culture. Agents of the ordinary citizen's liberation from the strictures of geography. Life for most Americans rests as much today on the internal-combustion revolution of the 20th century as on the political revolution of the 18th.

Now, however, America's "automobile-based way of life is being directly challenged by official action." Faced with limitations imposed by EPA, "There appears to be no doubt that many Americans are viewing this prospect with, at the very least, considerable skepticism, and, at the most, outright defiance." He added, "Few observers expect that the restrictions will be applied as proposed."

The automobile, like any technological innovation, "has its bad side as well as its good." The bad included deaths and injuries in crashes, traffic jams, automobile graveyards, and "Freeway spaghetti that disfigures cities." Nevertheless, by "whatever combination of industrial self-interest, salesmanship, public policy and citizen preference, the automobile and the highway constitute today the primary means by which most Americans move about." Stevens continued:

> To Samuel Eliot Morison, the historian, the internal-combustion engine was "the material key to the Great Change"—that abrupt conversion of life in this country, early in this century, from old-fashioned, horse-drawn and rural to modern, motorized and urban. So fundamental was the change and so pervasive the influence of the auto, that it was easy, until now, to take it for granted.

Citing the Field poll in California, Stevens said that while Americans understand the downside of the preference for the private automobiles, "they do not stop driving." Auto sales continued at record levels, with 5 million sold during the first half of 1973. Over 111 million people had drivers licenses. Highway travel accounted for 98 percent of all trips, with 85 percent of those trips in an automobile. Eight of 10 people commute by car. Stevens explained, "'Without a car you're nowhere,' they say in Phoenix. Or, 'A car isn't a luxury, it's a necessity.'"

He added, "For better or ill," America's urban and suburban settings were "based on, and brought about by, the automobile." In Lexington, Stevens saw another sign: "Fight pollution, ride a horse." He added:

> But since there are few horses around shopping centers, the sign was affixed to the bumper of a car spewing out hydrocarbons, carbon monoxide and nitrogen oxides. [Stevens, William K., "Nation Dependent on Cars is Resentful of Curbs Planned as Pollution Check," *The New York Times*, July 15, 1973]

On July 16, EPA announced that it had approved 1-year suspension of 1975 emission standards to 27 auto manufacturers, in addition to the extensions approved for the major manufacturers in April. The firms included Alfa Romeo, BMW, Citroen, Daimler-Benz, Ferrari, Fiat, Isuzu Motors, Mitsubishi, Nissan, Peugeot, Porsche, Renault, Rolls-Royce, Toyota Motor Company, Volkswagen, and Volvo. They had, EPA said, made "good faith" efforts to meet the standards. The cars met interim standards for 1975 models that were likely to need catalytic converters in California and included advanced engine changes in other States. ["EPA Grants a Delay in '75 Emission Rules to 27 More Car Firms," *The Wall Street Journal*, July 17, 1973]

Conference Breakthrough

The cover of the July 23 issue of *U.S. News and World Report* carried several headlines:

WATERGATE: Who's Telling the Truth?

HOW REAL IS THE DANGER?
A Sick Dollar
Rampant Inflation
Credit Squeeze
Erratic Stocks
Speading Shortages

NOW, AN "EPIDEMIC" OF LEGALIZED GAMBLING

Inside, the magazine featured an interview with Secretary Brinegar on "Ways to Break the Traffic Jams." The first question was about the best way to clear up traffic congestion. The Secretary replied:

> What we need to do, most of all, is to offer people a better alternative to driving their own cars. For the immediate future, in most cities, the answer is expanded and improved bus systems, with parking lots on the edge of town and plenty of convenient distribution points inside the city . . . . Of course, the great virtue of this approach as a fairly quick solution to the congestion problem is the fact that the highways are there already, and you don't have to wait years for some new system to be laid down.

What about rail lines or subways? Because of their high construction costs, only about a dozen cities could support them:

> Building a subway system, no matter how beautiful or fast it is, is not going to solve traffic problems unless something is done to control the way a city grows. And cities will not be reshaped overnight. That takes decades.

That was why steps such as improved bus service, increased carpooling, staggered work hours, and other efforts to balance traffic were so important.

> Q. Does any city in the country have a decent bus system?
> A. No, but they're getting better.

UMTA funding was helping, recently passing "the 4-billion-dollar mark in contributing federal funds to capital improvements." Secretary Brinegar added, "The downtrend in ridership has, at last, been reversed." UMTA was undertaking research on ways to improve service and increase ridership.

Should public transportation be provided fare-free? In larger cities, that may be possible because mass transit "is going to be looked upon increasingly as an essential public service, like schools, fire departments and what have you." In that case, should the Federal Government provide operating subsidies:

> The Federal Government is very reluctant to step in and help a community cover its operating losses. That would raise some large problems. If the Federal Government were to pay for operating losses, I'm afraid it would end up having to judge the operating efficiency and fare practices of hundreds of local transportation systems around the country. We don't believe that's our role.
>
> Q. Do your plans call for any increase in federal funds for urban transportation systems?
> A. Yes. In addition to the Urban Mass Transportation grant program we have also tried to introduce an element of flexibility in the allocation of some of the highway-trust-fund money, particularly the 20 per cent or so that goes to the cities. We would like to give local people the ability to use that money in a variety of ways, not just for roads.

If Congress approved the proposal, most of the funds, Secretary Brinegar said, "would still go for urban highways." Highways had "done wonders in moving people and freight, but we're worried about extending this trend another 10 years." That was why the Highway Trust Fund should be available for buses, exclusive bus lanes, special traffic control systems, "and, if a community wanted it, to help finance rail transit."

What about special taxes on motorists, particularly during peak periods? "We may come to that—although I believe it would be a local and not a federal tax." As with movie theaters, which charge less for lightly attended afternoon shows, congested areas may find such taxes necessary. "The freeways and expressways have the capacity. It's just that about three or four hours a day they are enormously overloaded."

Would it be politically feasible to charge to use freeways that would no longer be free?

> They never were "free." Aside from the cost of construction and operation, which is paid for with taxes, the highways have generated high social costs. Damage to the environment, noise, and disruption of communities have been ignored much too long. ["Ways to Break the Traffic Jams," *U.S. News and World Report*, July 23, 1973]

Even as this interview appeared on newsstands around the country, House and Senate conferees announced a breakthrough on the 3-year Federal-Aid Highway Act of 1973. On Thursday, July 19, they had tentatively agreed on a compromise on the main issue, the Muskie-Baker amendment. *The Washington Post* reported:

> Under the compromise agreed by the conferees, the House version of the bill will be in effect for fiscal 1974. In fiscal 1975, $200 million of the $850 million urban share of trust fund money may be used to buy buses rather than building highways, and in fiscal 1976 the trust fund money may be used for buses and rail mass transit.
>
> While the compromise settles the main point at issue, the conferees still must settle some major points, including whether to allow operating subsidies for rail mass transit, whether to build a priority primary system of roads to connect with the present interstate system and whether to include highway safety provisions in this bill or a separate one.

Conferees also had tentatively agreed to allow urban areas to delete unwanted Interstate segments but retain an equivalent amount of general Treasury revenue for rail or bus mass transit or highway projects.

In a joint statement, Senator Bentsen and Representative Wright called the compromise "a significant breakthrough." ["Accord on Highway Bill Frees Funds for Transit," *The Washington Post*, July 20, 1973]

On Friday, conferees worked out the remaining details. Conferees included $2.6 billion for Interstate construction in FY 1974, $3 billion a year in FYs 1975 and 1976, and $3.25 bullion in FYs 1977 to 1979. They authorized $2 billion over 3 years for highway safety programs.

They authorized $100 million in FY 1974 for priority primary routes plus $200 million in FY 1975 and $300 million in 1976. Subject to approval by the Secretary, the States would select high-traffic sections of the Federal-aid primary system for improvement to supplement the service provided by the Interstate System. The Secretary was to report to Congress by July 1, 1974, on the initial selection of priority primary routes and the estimated cost of completing them.

Conferees agreed to allow withdrawal of controversial urban Interstate segments, with the option of using an equivalent amount for highways or transit. Transit funds, however, would come from general Treasury revenues, not the Highway Trust Fund.

In addition to the compromise on the Muskie-Baker amendment, conferees agreed to provide $1 billion a year through FY 1976 for transit capital grants at an 80-20 matching ratio. They decided to drop the Emergency Commuter Relief Act, with its $800 million over 2 years for rail transit operating subsidies, because they did not want to risk the threatened veto of the bill.

The final bill would not contain the pass-through provision allowing urban officials to administer Federal-aid urban system funds, but did "earmark" funds for urbanized areas of more than 200,000 population. This "earmarked" share would be allocated based on one of two methods: (1) the ratio of the population of each urbanized area over 200,000 population to the population of all urban areas over 5,000 population in the State or (2) by a formula developed by the State and approved by the Secretary of Transportation. In either case, allocations must be "fair and equitable" to incorporated municipalities of 200,000 or more population within these urbanized areas must be "fair and equitable."

The bill also set aside one-half of one percent of all apportioned Federal-aid system funds for transportation planning in urbanized areas. These funds were to be made available to metropolitan planning agencies that were to be established to conduct the 3C transportation planning required by the Federal-Aid Highway Act of 1962 for urban areas.

On behalf of House conferees, Representative Wright said, "I think we got an even break. The Senate agreed to our formula on Interstate transfers, and there's a lot more money in there than the urban system." As for the compromise on the Muskie-Baker amendment, he speculated that "at most, $125 million a year in urban systems funds will be requested for transit."

Speaking for the Senate conferees, Senator Bentsen said, "We have a good compromise of the opposing views, and made a great effort to scale down spending out of concern for the national economy."

John Kramer was delighted:

> We got three-quarters of what we wanted. We wanted to change the atmosphere in which urban transport decisions are made—to be sure public transportation alternatives are available to cities. That's happened. We also wanted to change the national transportation spending priorities. That's been accomplished, too, at least for urban areas.

He was disappointed that conferees were making a relatively small percentage of Highway Trust Fund revenue available for transit, "but it's a foot in the door."

The compromise, according to an estimate in *Time* magazine, was reached after "two years of congressional debate, 3460 legislative man-days of hearings, and a ten-week stalemate in the House/Senate conference committee . . . ." ["Compromise Road Bill Allows Trust Fund Money for Rail Transit in '76," *Engineering News-Record*, July 26, 1973; United Press International, "Conferees Agree to Free Trust Fund for Mass Transit," *Newark Star-Ledger*, July 21, 1973; "Busting the Trust," *Time*, August 6, 1973]

The key to the compromise, according to reporter Albert R. Karr, was the "Wright Shuffle." Karr set the stage:

> The hour was late, the mood was sullen and Congressman Jim Wright, for one, was angry . . . . Now the Senate delegation had just rejected a House offer of some modest transit aid through the big road-building fund. Mr. Wright, the Texas Democrat who headed the House contingent, turned to the Senate delegation in a moment of pique and fatique. "You don't care about helping mass transit," he snapped. "You just want to bust the trust fund."

Representative Wright's claim had "an element of truth" to it, Karr said. "The truth is that the Senate conferees—during the prolonged bargaining that eventually led to a more generous offer from the House—did think the fund should be 'busted.'"

The Wright shuffle involved allowing cities to use Federal-aid urban system funds for buses or subways, with the funds to come from the general Treasury and the Highway Trust Fund revenues frozen. Similarly, when a controversial Interstate segment was withdrawn in favor of transit projects, the funds would come from the general Treasury, not the Highway Trust Fund. The Wright Shuffle, in short, had "something for everyone," as Karr explained:

> The pro-transit cities get their money, the Highway Trust Fund remains at least technically unviolated and the budget-conscious Nixon administration is given a way to guarantee that any spending for transit will not boost total government spending.

As is often the case with a compromise, neither side was completely happy. Highway backers were not satisfied. Representative Harsha said, "The so-called highway lobby, when the chips were down, turned out to be little more than a paper tiger." Given the complexity of the Wright Shuffle, a transit-industry source told Karr the compromise was "a bag of air." However, UMTA Administrator Herringer called the compromise "almost a total victory" for transit, while an unnamed Senate transportation expert said, "We're finally breaking up the pattern a little bit and maybe in a few years we can really do something."

The amount of Federal-aid urban system funding available to big cities was relatively small:

> California cities would get only $96 million, Illinois cities about $49 million and Massachusetts only $27 million, for example. Presumably, not even all of these amounts would go for transit, for many of the smaller cities in each state would probably lean toward roads instead.

Another potential negative was that the legislation required transportation planning, but in many States the only planners were highway planners. "Their decisions, transit men fear, won't always be geared to helping transit." John Kramer conceded that transit advocates had succeeded only in getting "the nose of the camel under the tent."

The Interstate trade-in provision held the most promise for cities such as Boston and Baltimore that had "as many freeways as they want and huge unmet needs for transit." Even that option would be jeopardized if the Nixon Administration decided to oppose the use of general Treasury funds under the Wright Shuffle formula:

> And even if the administration does continue to support this approach, the legality of freezing trust fund monies is already under attack. The administration is embroiled in two court cases challenging its decisions to impound trust fund money in the past. Without this power to impound trust money, the administration presumably would be less eager to spend general revenues on transit.

Transit advocates were still intrigued by the idea of a Mass Transit Trust Fund "with the kind of self-generating revenues the highway builders now enjoy." Pro-highway legislators liked the idea because it would reduce the need for transit "raids" on the Highway Trust Fund:

> The conferees even laid some groundwork for a transit fund by directing the Transportation Secretary to study prospects for a revenue-producing tax on transit fuel. Then, in case such a mass transit fund comes into being, they prescribed that the highway fund may not be used to help finance bus and rail projects at all.

Senator Muskie still clung to the idea of shifting Highway Trust Fund revenue:

> As he put it, before people can choose transit over the private auto, "the diversion of funds from highways to public transportation must come . . . , both to signify our willingness to change and to make it financially possible to do so." [Karr, Albert R., "Transit and the Highway 'Shuffle,'" *The Wall Street Journal*, August 7, 1973]

According to an editorial in *The Los Angeles Times*, titled "A Precedent for Transit Aid," the "big break" in the conference "came when a California congressman, Harold T. Johnson (D-Roseville), reversed his earlier opposition and voted to accept a key principle of the Senate version of the highway aid bill," the Muskie-Baker amendment as modified by the Wright Shuffle. Although the compromise "on the use of highway trust funds for urban mass transit falls well short of meeting the immediate needs of the cities," the editorial said, "it represents a start that can be built on in future years." That was "real progress." The highway lobby feared ("correctly we hope") that once the Highway Trust Fund was breached "a steadily increasing share of it might go to nonhighway uses." The editorial added:

> Given the convergent problems of urban congestion, environmental pollution and energy shortages, that is exactly what should happen.

The delay until FY 1975 included in the compromise "will mean added hardship for cities," but for Los Angeles, the delay "can profitably be used for sound planning, with some greater assurance than ever before that a transit system aided with federal funds can become a reality." ["A Precedent for Transit Aid," *The Los Angeles Times*, July 22, 1973]

The *Washington Star-News* called the compromise "an historic symbolic breakthrough for the cause of balanced transportation" and said "the stone wall limiting the federal highway trust fund's ample resources exclusively to road construction finally has been breached." Defenders of the Highway Trust Fund "gave ground grudgingly," but assuming the House approves the bill, "we suspect there will be no retreat from that sound principle." ["Hole in the Trust Fund," *The Washington Star-News*, July 24, 1973]

The Baltimore Sun called the compromise "a precedent-setting move" in opening the "untouchable $6-billion-a-year highway trust fund." The House "still has to approve the conference bill and there may be more hurdles," but the *Sun*'s editorial concluded:

> There are problems with the conference proposal. It is too little and too late and contains inflationary sops for the highway lobby. On balance, however, it clearly establishes that the highway lobby is no longer the inassailable power it once was. The nation desperately

> needs new priorities in urban transportation and the conference proposal is a major step in the right direction. ["A Gain for Mass Transit," *The Baltimore Sun*, July 23, 1973]

By contrast, *The New York Times* saw the conference agreement not as a compromise but as "a major victory for the highway lobby." The problem was the House of Representatives, It "refused to admit that anything had changed since Henry Ford first marketed the Model T." During the first 2 years of the bill, Highway Trust Fund revenue could be used only for buses, "the only form of mass transit acceptable to the oil-gas-cement-automobile lobbies which hold the House in vassaldom."

The bill could be called a compromise only because the third year's Federal-aid urban system funding could be used for any form of mass transit:

> The bill can only be described as a disgrace. Are the cities of the nation not entitled to decide how they are to spend their own share of the trust fund? For Congress to make an inadequate sum of money available in 1975 means that Congress will be about twenty years behind the times in responding to an ever more critical problem. Moreover, the bill is loaded with objectionable features.

As examples, the *Times* cited the exclusion of operating subsidies and the funding for non-interstate superhighways outside the cities and their extensions within the cities:

> As a practical matter, advocates of mass transit have little elbow room in which to maneuver. Without strong leadership from the Administration, which has not been forthcoming, it is difficult to overcome the massed forces of the oil-gas-cement-automobile lobbies . . . . Unfortunately, the traffic jam will have to become more tangled, the gasoline shortage more acute, and the polluted air even dirtier before Congress recognizes that additional billions for benefit of the private truck and automobile are not the total answer to the nation's transportation needs. ["Highway Lobby Triumph," *The New York Times*, July 29, 1973]

Engineering News-Record pointed out that "diehard advocates moan about diversion getting 'a foot in the door,'" but were at least "happy to see the long disagreement over and a bill finally on its way to passage." They also "diminish the diversion prospects, because indications are that most areas will opt to put their urban system funds into highways." The magazine's editor, however, hailed the act "because it is a foot in the door, not so much for diversion as for balanced funding." Funding for highways and transit should continue "at least as high as current levels," but "should be made available in a more flexible manner so states and metropolitan areas can plan balanced systems to meet their varying needs without the financial bias imposed by the disproportionately high highway funding." The editorial concluded:

> At least Congress is now talking highways and transit in a single act and has written some flexibility into it. We predict that in a few years the recent struggle will seem very remote and few will be surprised to see a single transportation authorization package. ["Creeping Trust Fund Diversion," *Engineering New-Record*, August 2, 1973, p. 56]

The conferees approved the compromise S. 502, the Federal-Aid Highway Act of 1973, and issued companion House and Senate conference reports dated July 27. In addition to the provisions already cited, bill included:

- Conferees adopted the House provision extending the time for completion of the Interstate System to June 30, 1979, with Interstate Cost Estimates to be submitted every 2 years to allow for apportionment of the funds on a cost-to-complete basis.
- The bill extended the deadline for Interstate notifications by requiring States to notify the Secretary by July 1, 1974, of their intent to build remaining Interstate segments. In the absence of such notification, the Secretary was to remove the segment from Interstate designation. The Secretary could add substitute segments through July 1, 1975.
- Conferees adopted the House provision on the Howard-Cramer interstate mileage additions, but instead of leaving the total open-ended, imposed a 500-mile limit (instead of 200 miles under prior law).
- With the Interstate System "now in the final phase of completion," conferees added a paragraph to the existing Declaration of Policy (23 U.S.C. 101) stating that "it shall be national policy that increased emphasis be placed on construction and reconstruction of the other Federal-aid systems in order to bring all such systems up to standards and increase their safety to the maximum extent."
- The national policy, as provided in the House bill, would be that to the maximum extent possible the Secretary and other Department officials shall encourage "substantial" minimization of paperwork and interagency decision procedures to avoid needless duplication and unnecessary delays. The conferees substituted "substantial" for "drastic," the term used in the House bill.
- The bill called for the realinement of the Federal-aid primary, secondary, and urban systems by the end of Fiscal Year 1976, based on anticipated functional usage in 1980 or on a planned connected system. The primary system would consist of rural arterial routes and their urban extensions; the secondary system would include rural major collector routes; and the urban system would consist of arterial and collector routes exclusive of urban extensions of the Primary System. All systems would be subject to the approval of the Secretary, but State highway agencies would select routes to be included in the revised primary and secondary systems. Appropriate local officials, with the concurrence of the State highway agencies, would select the urban system routes.
- The bill retained the Federal share of 70 percent adopted in the Federal-Aid Highway Act of 1970 for non-Interstate projects.
- The new bill adopted Certification Acceptance procedures for projects on all Federal-aid highway systems except the Interstate System. At the request of a State, the Secretary could carry out his Title 23 responsibilities by accepting a certification of the State highway department that it would comply with State laws, regulations, directives, and standards at least equal to those under Title 23. Certification Acceptance did not extend to non-Title 23 laws such as NEPA, Section 4(f), or the Uniform Act.

- Conferees decided not to include provisions on control of outdoor advertising or junkyards even though the House and Senate bills had included extensive provisions on these matters. According to the Joint Explanatory Statement of the Committee of Conference, "The deletion of these provisions should not be construed as discontinuing the programs or affecting the existing law," which remained in effect. The conferees expected Congress to consider the issues in separate legislation.
- Expanded the Economic Growth Center Development Highways from the Federal-aid primary system to include roads on the other systems.
- Conferees adopted the House provision defining the Federal-State relationship as a "federally assisted State program" under which the availability of Federal-aid highway funds should not infringe on the sovereign rights of the States to select projects. The provision became 23 U.S.C. 145.
- The new bill incorporated the House measure on "Bicycle Transportation and Pedestrian Walkways" allowing the use of Federal-aid system funds to construct, in conjunction with Federal-aid projects, separate or preferential bicycle lanes, bicycle traffic control devices, shelters and parking facilities to serve bicycles and bicyclists. Funds authorized for public lands road projects could be used to construct bicycle routes in conjunction with those projects. On trails built with Federal-aid highway funds, motorized vehicles were permitted only for maintenance purposes and, in the case of snowmobiles, when snow conditions and State or local regulations permit. Conferees amended the House provision to establish eligibility for pedestrian walkways and set a national obligation level of $40 million a year, with each State limited to a maximum of $2 million a year for such projects. Separate bikeways could be built off Federal-aid right-of-way if the route would accommodate bicycle traffic that otherwise would have used the Federal-aid route.
- The bill authorized $50 million a year for a new Special Urban High Density Traffic Program for highways less than 10 miles long connected to the Interstate System in portions of urbanized areas with high traffic density. The Federal share for these projects could not exceed 90 percent.
- The bill authorized funds from the Highway Trust Fund for portions of the Great River Road on Federal-aid systems along with funds from the general Treasury revenue for portions on Federal lands.
- The bill directed the Secretary to investigate the feasibility of a national system of scenic highways linking accessible recreational, historical, scientific, and other similar areas of scenic interest and importance. The report was due to Congress by January 1, 1975.
- The Secretary may approve Federal-aid funds for exclusive or preferential truck lanes.
- The conferees called for studies of the feasibility of upgrading or building specified routes to appropriate standards that may include Interstate standards if warranted.
- The bill allowed private citizens to donate right-of-way for a Federal-aid highway project.
- It also specified Interstate segments identified in the Senate bill as the "Dwight D. Eisenhower Highway."

A number of provisions affected only one or a few States:

- New Hampshire would be allowed to repay all Federal-aid highway funds used on Route 101 prior to collection of tolls on the highway. Repayments must be made by October 1, 1977, or the provision would be rendered inoperative.
- The Secretary was to withhold further action on I-287 between Montville and Mahwah, New Jersey, and on the Corporation Freeway in Winston-Salem, North Carolina, until new corridor hearings were held. Hearings were to be held within 1 year of enactment of the legislation.
- The bill incorporated House and Senate provisions extending Federal-aid for ferryboats to those traveling in international waters between the islands of Hawaii, any two points in Alaska, and between the States of Alaska and Washington.
- The bill directed the Secretary to complete by October 1, 1973, the draft environmental impact statement for I-66 inside the Capital Beltway in Virginia and the District of Columbia. He also should expedite final action on a highway bridge project at the Raritan River on State Highway 18 in New Jersey and the Three Sisters Bridge on I-266 over the Potomac River in Arlington and Fairfax Counties, Virginia.
- The bill prohibited the Secretary from approving a project in one State that would affect traffic volumes in another State "without first taking into full consideration the views of that State." Originally, this provision was aimed at blocking the now-cancelled Long Island Sound Bridge, but its generic wording would apply anywhere in the country.
- Conferees adopted the Senate provision terminating Federal-aid status for the San Antonio North Expressway. Texas was to repay Federal-aid funds used on the project so they could be reapportioned. Conferees added this note: "This provision does not constitute a precedent for similar future action."
- The Secretary was authorized to approve construction of I-93 through Franconia Notch, New Hampshire, as a parkway built to the standards necessary for the safety of the traveling public, protection of the environment, and preservation of the park-like and historic character of the Notch.
- It authorized funds for relocation of U.S. 25E through a tunnel in the Cumberland Gap National Historical Park and provided for the construction of the Highland Scenic Highway in West Virginia as a parkway.
- Conferees continued the Alaska Assistance Program by authorizing $20 million a year from the Highway Trust Fund for Fiscal Years 1974-76 for Federal-aid highway projects in the State in addition to its regular Federal-aid apportionments. They also authorized $58.67 million from the general Treasury for reconstruction of the Alaska Highway in Canada.
- The bill authorized a series of railroad relocation demonstration projects in specified cities, with two-thirds of the funds from the Highway Trust Fund.
- After Louisiana received its final apportionment of Interstate funds, the Secretary could authorize the use of Federal-aid primary funds for reimbursement, up to 70 percent, for construction of toll roads.

For Title II (The Highway Safety Act of 1973), the Joint Explanatory Statement said that in passing S. 502, the House included the Highway Safety Act of 1973. The Senate had passed separate safety legislation, S. 893, but that bill was not within the conference committee's jurisdiction. The managers indicated that S. 893 was similar in many respects to Title II of S. 502, but they were basically working from the House bill.

The conferees authorized funds for rail-highway crossings, bridge reconstruction and replacement, a pavement marking demonstration program, highway safety on Indian reservations, high-hazard locations, elimination of roadside obstacles, and a new Federal-Aid Safer Roads Demonstration Program. The bill funded other activities, such as drug use and driver behavior safety research, safety educational programs, citizen participation, pedestrian and bicycle safety, and safety needs.

Other provisions included:

- A study of the feasibility of a National Center for Statistical Analysis of Highway Operations.
- Incentive grants for compliance with highway safety programs.
- Research grants for administrative adjudication of traffic infractions.

The bill also established eligibility for projects using safety funds to provide adequate and reasonable access for safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced after July 1, 1976, at all pedestrian crosswalks.

For Title III, the conferees adopted the House provision amending the Urban Mass Transportation Act of 1964 by increasing funds for the UMTA grant program from $3.1 billion through FY 1975 to a maximum of $6.1 billion. The Federal share of project costs was increased from 66 and 2/3 percent to 80 percent. It authorized funds from the Highway Trust Fund for the Rural Highway Public Transportation Program, with eligible items identified as the purchase of buses, passenger loading areas and facilities, and fringe and transportation corridor facilities to serve bus and other public transportation.

As noted, the bill funded a study of possible revenue mechanisms for a Mass Transit Trust Fund, including the possibility of a gas tax hike in urban areas. The bill also called for an update of the public mass transportation portion of the 1972 National Transportation Report. The report was to include a proposed program to meet identified needs, as well as information on the financial capability of all levels of government to address them. The study also was to evaluate the operating and maintenance costs and the fare structures of mass transit.

Conferees dropped the House provision stating that funds authorized to be obligated, appropriated, or expended under the Urban Mass Transportation Act of 1964 shall not be impounded or withheld from obligation.

Conferees retained Title IV of the House bill stating that notwithstanding time requirements in Title 23 for apportionment of funds (23 U.S.C. 104(b)), the Secretary shall apportion FY 1974 funds as soon as practicable after the date of enactment of the Federal-Aid Highway Act of 1973. The new Title IV included a provision accounting for the interim FY 1974 funding authorized by Public Law 93-61.

The Joint Explanatory Statement mentioned several provisions from the House and Senate bills that were not incorporated in the final version, such as:

- Conferees did not adopt the House provision amending 23 U.S.C. 111 to allow small food service establishments to operate at rest stops along the Interstate right-of-way.
- They did not include the Senate's prohibition of impoundment, but said the decision "shall not be construed to indicate anything other than complete agreement" with the ruling of the U.S. Court of Appeals for the 8th Circuit in Missouri's lawsuit.
- Conferees did not include the Senate provision designating the State Governor as program approver instead of the State highway department.
- Conferees also did not adopt the Senate provision requiring States to take reasonable measures to permit, encourage, and assist public participation in the urban transportation process.

[*Federal-Aid Highway Act of 1973*, Conference Report to accompany S. 502, 93rd Congress, 1st Session, Senate Report 93-355, House Report 93-410, July 27, 1973]

Senate Action

On July 30, 1973, Acting Administrator Fri announced that EPA would extend the deadline from 1976 to 1977 for automakers to meet nationwide standards for nitrogen oxides. This was the third exception for a pollutant; in April, EPA extended the deadline to 1976 for carbon monoxide and hydrocarbons. Fri explained that, "No one—manufacturer or supplies or anyone else—presented evidence that the standard could be met in 1976." In his view, the catalytic converter would eventually reduce emissions for all three pollutants without causing high fuel consumption, but the devices were not ready for widespread installation. [Witken, Richard, "Car Makers Given Pollution Delay," *The New York Times*, July 31, 1973]

On July 31, the New York legislature completed approval of Governor Rockefeller's transit bond issue. A bipartisan majority in the Senate (42 to 15) and House (99 to 43) approved the bill, sending it to the voters for a referendum in November. Some Democrats had been skeptical of the Republican Governor's proposal, calling it a "pig in the poke" and a "grandiose scheme" that voters would reject as they did a similar plan in 1971. Most members, however, felt they had to support the plan if it offered even a slim chance of keeping subway and transit fares at current levels. The *Times* reported:

> Even before the final votes were cast in the Assembly, the Governor appeared grinning at a hallway news conference to begin the job of selling the huge program to the voters in a November referendum.

> "I'll try and persuade you and your family," he said as legislative workers and coatholders prepared to depart at the end of the week-long session at which, as usual, the Governor's will prevailed over what legislative grumbling there was. [Clines, Francis X., "Transit Bond Issue Is Passed; Albany Special Session Ends," *The New York Times*, August 1, 1973]

The Senate took up the conference report on S. 502, the Federal-Aid Highway Act of 1973, on August 1. In introducing the bill, Senator Bentsen said:

> Mr. President, this conference report represents months of very arduous work by both the Senate and House conferees . . . . I can report that the conference held to reconcile the differences between the two bills was a very difficult one . . . . We were in conference over 2 ½ months. The conferees met 29 times, and the House and Senate conferees met among themselves several times to try to work out solutions to our most difficult problem, the question of diverting money from the highway trust fund for the use of transit. I believe we have emerged with a strong bill which preserves the essence of the Senate position on the highway bill.

He explained that conferees had begun with 110 points of difference in the two bills, but had resolved all but 13 of them by May 17, and those 13 remained unresolved for the remaining 2 months. On the key issue of the Muskie-Baker amendment, Senator Bentsen said:

> From May 17 until we reached a final agreement on July 18, there were no fewer than 10 proposals and counterproposals to reach a solution on this question. I believe that the solution that we ultimately reached was an eminently fair one . . . . In the compromise, Mr. President, I believe both sides have given substantially. The Senate gives up rail mass transit from the trust fund until fiscal 1976, although general fund moneys can be exchanged for trust funds for these purposes in both 1974 and 1975. The House gives up its absolute insistence that no funds shall be diverted from the trust fund for nonhighway related projects.

Turning to other provisions, he said that to avoid a veto, conferees "recognized that we would have to make substantial cuts in the House bill," with the result being a $5 billion cut from the House bill to a total of $19.9 billion for the 3 years covered by the bill.

The priority primary system of highways had been "strongly contested," resulting in substantial modifications from the House position. The 10,000-mile figure had been dropped because it "was objectionable both to the Senate and the administration." Funding levels had dropped from $900 million over 3 years to $600 million over the same period. He continued:

> And in response to the concerns of those who fear a "junior interstate" system, the bill provides that the roads do not have to be built to interstate standards and that the Federal share of the cost shall be 70 percent, not 90 percent as on the Interstate System. The conferees do not see the priority primary program in this bill as a commitment to an entirely new system of highways with a specified level of mileage.

As for mass transit operating subsidies, Senator Bentsen said:

> Faced with the unrelenting opposition of the administration, which indicated that operating subsidies in any form would invite a veto, and the skepticism [of] the House conferees, the Senate conferees agreed to drop operating subsidies from the bill.

He said the bill did not ignore transit, but included $3 billion in additional funds for transit capital grants, as well as the breakthrough agreement on the Muskie-Baker amendment. The Interstate transfer provision also could benefit transit. In the Senate bill, any funds left over following a withdrawal "would have gone to the account of the urban area to be used for highways or any mode of mass transit." The conference agreement modified the Senate bill to prevent the use of Highway Trust Fund revenue from withdrawn Interstates for mass transit. The "traded" funds would remain in the Highway Trust Fund for highway purposes, while an equal dollar amount of general Treasury funds would be made available for the transit project.

The issue of pass-through and earmarking of Federal-aid urban system funds had received considerable attention. The Senate bill earmarked funds for urbanized areas of over 400,000 population and allowed funds to be passed through for control by incorporated municipalities within those urbanized areas having 400,000 or more population. The House, however, did not include either feature and, as Senator Bentsen pointed out, had defeated earmarking by nearly 200 votes. The compromise bill excluded pass-through but retained earmarking for urbanized areas of 200,000 or more population according to a fair and equitable formula developed by the State and approved by the Secretary:

> We believe that this provision will assure that our larger urbanized areas receive their fair share of highway funds and will largely cancel the allegation that rural-dominated State authorities can deny urbanized areas the funds they require.

Conferees, he said, had dropped House and Senate prohibitions on impoundment of funds, whether from the Highway Trust Fund or the Urban Mass Transportation Act:

> Both provisions were dropped in the conference agreement in view of strong administration opposition and in light of other efforts by the Congress to place strong restrictions on the President's ability to impound. However, this action by the conferees is not to be construed as any endorsement of impoundment, and individual Members may initiate further action later on this matter if the administration continues to withhold highway funds or if other congressional initiatives do not succeed. ["Authorization of Appropriations for Construction of Certain Highways—Conference Report," *Congressional Record-Senate*, p. 27194-27196]

Senator Baker recalled the long path of the legislation through 1972, including the last minute quorum call in the House that scuttled the bill, and half of 1973. Speaking of the Muskie-Baker amendment, he denied that its purpose was to "bust the trust fund." He said:

> Certainly in the sense that the provision allows moneys which would otherwise have been spent upon highways in our densely populated urban areas to be spent instead, at the option of State and local officials, upon public mass transportation, it does break with old patterns. However, the amendment does not divert even #1 that is directed to the construction of the interstate system, the rural primary and secondary road programs, or any other inter-city road program to urban mass transit projects.

He was convinced that “continued highway building, as a primary response to urban problems, could in the future seriously damage the quality of life in our cities.” However, the House had not adopted the principle of flexibility for urban area officials. The conferees after “much study and numerous proposals and counterproposals” had adopted “a true compromise.” [“Authorization of Appropriations,” p. 27200-27203]

Senator Stafford said he would have preferred to retain the Muskie-Baker amendment, but “the compromise agreement that permits that flexibility in the third year of the measure represents a significant breakthrough for our Nation.” Starting in 1975, “we will be able to deal more effectively with both the transportation and air pollution problems of our urban areas in particular, and our Nation in general.”

He was disappointed that the final bill did not address outdoor advertising. He said that initially, conferees agreed tentatively on several points: extend control to highway signs visible from the Interstate and Federal-aid primary systems; allow up to three official signs (i.e., Logo signs) per mile providing traveler information about motels, food services, service stations, and natural wonders on those systems; allow a sign plaza area within the right-of-way of those systems; direct States to remove signs dealing with products before removing those with traveler information; and authorize $50 million annually from the general Treasury for removal of signs.

At the final session of the conference, the House suggested considering two alternatives. First, the House proposed to change that language from “official” signs to “officially approved signs.” Second, the House suggested deleting the entire section on beautification:

> Because the Senate conferees felt the “officialy approved” language would lead to greater proliferation of billboards, rather than removal, we decided to delete the entire provision and to try to reach another agreement on the issue after we have had a chance to reassess the situation in separate legislation . . . . It is my hope that the Congress will produce legislation that will further the cause of highway beautification and that the States and private interests concerned will bear that in mind during this interim period.

He also responded to a question from Senator Cranston about why the conferees had included the deadline of July 1, 1976, instead of an earlier date for installation of curb cuts. The date had been set, Senator Stafford said, “to allow the necessary time for adoption of enabling legislation by the States and the affected local governments.” The conferees preferred compliance sooner rather than later and urged the Secretary “to use his persuasive powers to assure that these new curb ramps are installed at the earliest feasible date in each state . . . .” [“Authorization of Appropriations,” p. 27203-27204]

Senator Muskie told his colleagues that the Federal-Aid Highway Act of 1973 was "the result of a most difficult negotiation" and as a result was neither "as progressive or far-reaching" as the Senate bill nor "as restrictive, narrowly focused or expensive" as the House bill. Senate and House conferees held "diametrically different views on the issue of flexibility in use of highway trust funds." In addition to delaying flexibility, the House had insisted on deleting Senate provisions requiring early consideration of alternative transportation modes and public participation in decisions on emergency funding of transportation alternatives in urban areas with critical air quality problems, as well as transfer of the funds from disputed urban Interstates to other transportation purposes in the same urban areas:

> Mr. President, we have not charted the new course proposed by the Senate bill, but the conference agreement signals a change in direction.

The Senate conferees made "every effort" to retain the Muskie-Baker amendment, and the fact that "we prevailed at all in providing flexibility in the third year" despite House opposition was a credit to Senators Bentsen and Randolph. "In less than 2 fiscal years we will be able to embark on a new era of urban transportation options." He added:

> By 1976, when this program will require new congressional action, we in the Congress will have a better understanding of the real transportation needs of America's cities and the demand these needs will make on the urban system portion of the trust fund. In the interim, we will have had an opportunity to review the highway trust fund in order to consider making transportation generally rather than highways alone a national commitment.

He pointed out the $3 billion in funding and contract authority in S. 502 for UMTA grants and the provision allowing general Treasury funds if an urban area wanted to develop public transportation instead of a project on the Federal-aid urban system. The funds were not assured, as they were under the Muskie-Baker amendment, but "it will provide a significant opportunity to test the will of this administration to commit Federal dollars to immediate transportation needs."

In short, Senator Muskie said the bill was "a modest beginning," but it "commenced an effort to diversify and make more flexible the uses of the Nation's limited transportation funds." With the legislation assured of passage, Congress must "examine in the years ahead how to do a better job to assure adequate transportation for all America." ["Authorization of Appropriations," p. 27207-27208]

Senator Percy of Illinois praised the bill overall, but objected to Section 110(b), which he said "is a pretty transparent attempt to do one thing and one thing only—build the Crosstown expressway in Chicago, despite the fact that the Governor of the State and thousands of effected [sic] citizens of Chicago do not want it to be built." Section 110 extended the deadline for State commitments to build Interstate segments. Section 110(b) directed that routes within an incorporated city that commits to pay the non-Federal share "shall be constructed." Senator Percy was certain that the Nation's Governors would oppose this provision. "And if any Member of Congress has any doubts, he could contact his Governor and see how he feels about this attempt to take the responsibility of building highways in their State away from the Governor."

He did not think the provision, although "very narrowly drawn," would have the intended effect:

> I think that we should make absolutely clear that all of the State's responsibilities under title 23 still hold, and the ultimate construction of any road is still subject to the agreement of the Secretary.

Senators Bentsen and Stafford said they agreed that the provision affected only the date after which the route would be removed from the Interstate System and the mileage transferred to another segment.
Senator Percy asked if he was correct that the language did not mandate construction of the Chicago Crosstown expressway. Senators Bentsen and Stafford agreed. Senator Bentsen added:

> I think as a practical matter where a State has to come in and do the supervision and assist in the plans, it would be very difficult and I do not see how a highway could be constructed unless there were State cooperation in the matter.

Senator Stafford added that "all environmental protections must be complied with before the construction of a highway can be undertaken." Right-of-way acquisition requirements also applied. "It does not seem to me that a highway could be built without taking care of all matters and without the planning and designing and without the agreement of the Secretary."

Senator Percy continued his colloquy by pointing out some of the Federal laws that would apply to construction of any Interstate highway. Senator Bentsen agreed that Section 110(b) did not relieve the Secretary of his legal responsibilities. Just because a city agreed to provide the funds, the Secretary cannot simply "go ahead and agree to the project."

Senator Percy continued:

> I would just add that so many citizens were deeply concerned about Crosstown that not only did former Secretary Volpe meet with citizens of Illinois, but he also made a special trip to Chicago, met with a cross-section of citizens in my office, and affirmed without any equivocation that he intended to abide by the law. He agreed that no longer would people have to feel that they would be bulldozed right out of their homes without having every provision of the law maintained, by providing adequate housing for people adversely affected by the construction of highways. And this is what is embodied in the legislation we passed in 1970 [the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970]. I trust that Secretary Brinegar will also abide by that policy, as I am sure he will.

He concluded by stating that his colloquy "demonstrates clearly and unequivocally that this particular section, section 110(b), not only is not going to build Crosstown, but it also sets a very bad precedent." It had not been part of the House or Senate bills and had not been considered in either body. "If hearings had been held, with full public discussion, the obvious defects of the section as now incorporated might have been brought to light." ["Authorization of Appropriations," p. 27208-27210]

Senator Adlai Stevenson, Senator Percy's Illinois colleague, reiterated the same points to elicit agreement from Senators Bentsen and Stafford. He emphasized that despite Section 110(b), the funds for the Crosstown Expressway would not be lost if the highway were not built, but under the Interstate transfer mechanism, could be substituted for general Treasury revenue for public transportation. "The Congress has preserved the responsibility of State and local decisionmakers, and it is now up to those decisionmakers to make their peace." ["Authorization of Appropriations," p. 27210-27211]

Senator Randolph told his colleagues that the 29 meetings of conferees over 2½ months had been "one of the most difficult [conferences] with which I have been involved in the nearly 29 years I have been in Congress." Deliberations had been "arduous, but I consider them time well-spent." The key issue over the Muskie-Baker amendment "was not one that developed suddenly after the convening of the 93d Congress." It had "been building for several years and has been the subject of intense public debate." The difficulty resolving differences was that they "were based to a substantial degree on the fact that it concerned matters of principle strongly held by Members of Congress" and "related to a major policy change affecting the transportation programs of the United States."

The result was a compromise, but "it was not one that impairs the effectiveness of either the highway or mass transit programs." It was "a realistic approach" that adapted the highway program to help cities meet highway and mass transit needs:

> I am sure there are individuals on both sides of the question who are dissatisfied with our answer to an extremely difficult and complex problem. The decisions of the conference committee relative to this point, however, are realistic and they are workable. From a practical standpoint, I believe them to be the only decisions we could reach to avoid a complete breakdown of the conference.

Without such a compromise, "it is extremely unlikely that there would have been a highway bill this year."

While the Interstate System was nearly 82 percent complete, many changes had occurred since the Highway Trust Fund was established in 1956. Urbanization accelerated, concern about the environment grew, the role of the automobile in air pollution had increased, an energy crisis developed, and people realized "that there are practical limits to road building in cities"and these changes had "revived interest in mass transit systems." The Highway Trust Fund, with its assured financed, appeared to be an option for meeting needs that mass transit could address better than highways. "Through the years we have endeavored to modify the Federal-aid highway program to maintain its ability to respond to these changes." The Federal-Aid Highway Act of 1973 "continues this process."

He did not like "to describe the results of any negotiations as a victory for one side or the other," but rather as an "accommodation." The Senate and House had made important concessions, with the House ultimately accepting "the key philosophical point in the Senate bill—specifically that highway trust funds can be used for all forms of mass transit development."

He was, therefore, surprised by the reaction of some commentators, particularly *The New York Times* editorial titled "Highway Lobby Triumph" that called the bill a "disgrace." He said the editorial relied on "a reasoning with which I am in disagreement and which is incomprehensible." It ignored "the fact that there are two sides to this question," as illustrated by the editorial in *The Los Angeles Times* titled "A Precedent for Transit Aid." Neither he nor the other Senate conferees are surprised by a difference of opinion on the merits of the final bill, "but there are times when there is unsupported and inaccurate appraisal of what we believe we have accomplished, such as the New York Times editorial." ["Authorization of Appropriations," p. 27211-27214]

Senator Williams, who had sponsored the mass transit provisions, said he would reluctantly oppose adoption of S. 502. He acknowledged the difficulty of the conference, but he had hoped "this legislation could at long last deal realistically and comprehensively with urban transportation problems, the blending of highways together with mass transportation facilities." However, the sections on urban mass transportation in the final bill were "entirely unsatisfactory."

By deleting the Senate provision providing operating subsidies, conferees refused to accept that public mass transportation "is a matter of public responsibility providing benefits not just to the individual transit rider, but to our entire economy." What, he asked, was the good of "all of the lofty pronouncements" on clean air and reducing the role of the automobile "when existing transit systems teeter on the brink of insolvency unable to provide the urban mobility necessary to achieve these worthy goals." In deleting $800 million for subsidies, "the conferees have once again proven the old adage of dollars for highways, but tokens for transit."

The $3 billion for UMTA grants and the changes in the use of Federal-aid urban system funds appeared positive but "completely miss the point." The real need was "for an immediate transfusion of operating assistance so that our existing transit systems are operational when the fully funded capital grant program takes effect." At present, 160 public transit systems in the country, "representing all but an insignificant fraction of the total transit ridership . . . face the same grim facts and prospects" that drove many transit companies out of business, namely rising costs, declining income, and "more dependence on the automobile." The Senate vote on March 14 to incorporate the Emergency Commuter Relief Act into S. 502 "recognized the need to halt the raising of fares to intolerable levels thus reducing ridership and curtailing existing transit services."

The only reason anyone had given for deleting operating subsidies was that if they were included, the President would veto the bill. "I only wish the President would exhibit such fiscal courage in the areas of defense spending and authorizations for additional mile upon mile of highways." The threatened veto "shows a total disregard for the problems of our Nation's cities and the citizens who inhabit them." The issue of subsidies was "far too vital to brush under the rug." He intended to reintroduce the subsidy measure later in the year, and the bill's House sponsors indicated they would do the same. "Only then will we in the Congress have fulfilled our responsibility to the American people."

After favorably quoting from "Highway Lobby Triumph," he said he appreciated the hard work of the Senate conferees, but "on this one proposition I have to take my stand." ["Authorization of Appropriations," p. 27214-27215]

Senator Bentsen replied that he was disappointed that Senator Williams would oppose the bill:

> I supported the Senator's amendment on operating subsidies. I feel very strongly about it. The Senate conferees tried very hard to accomplish this objective. We made several offers of compromise on the bill, which included operating subsidies. We explored the possibility with the White House, and we were told the administration was adamant on this proposal: that it would absolutely result in the veto of this bill if we included operating subsidies.

Few observers expected "the kind of breakthrough we have made in this area." The final bill made "a significant contribution for the transit needs of the country." After failing to pass a bill in 1972, "we have labored long and hard to do it this time." The bill does not satisfy either side, but the conferees' "give and take" resulted in "a good compromise and I think it was a worthwhile effort." ["Authorization of Appropriations," p. 27215]

Senator Javits of New York had given long and deep consideration to whether to support S. 502. "It is a very close one as far as I am concerned" because he deplored "the failure of this Congress to acknowledge the realities of urban life and the adamant refusal to admit the urgent necessity confronting our own mass transit systems." Given the clear advantages of mass transit, he said:

> It is simply archaic as well as arcane to persist in the idea that we must be tied with ribbons of concrete; that the automobile is the only way to go from place to place; and that we must therefore spend billions and billions in that effort.

He referred to Governor Rockefeller's proposed $3.5 billion bond issue as "a heavy burden on our people," but if New York were to continue to grow, "that is the way we have to go."

On those grounds, he considered voting against S. 502, but he acknowledged other considerations:

> It would also deny my support—although that support is not needed because the matter would pass overwhelmingly—for the purpose of opening at long last the door to reality in respect to the urban transportation needs of the country. I cannot deny that support even to so minimal a crack.

He knew that many were offended by the *Times* editorial, but "there is a great deal of truth in that editorial." On balance he would vote for S. 502, "but at the same time [he would] express profound disappointment and protest, and pledge myself to engage in the continuation of this fight until reality and justice are realized in respect to city problems and, indeed, the national problem of urban transportation." ["Authorization of Appropriations," p. 27217]

Senator Dole of Kansas discussed the provision designating the Dwight D. Eisenhower Highway. This was "an outstanding tribute" to the President who inaugurated the Interstate System:

> Appropriately, the Eisenhower Highway will run along I-70 from Washington, D.C., where Ike served two terms in the White House, across his home State of Kansas and through Abilene where he grew up and is now buried at the historical center which bears his name.

> From Kansas, the highway continues . . . to San Francisco. I can think of no more fitting tribute to General Eisenhower, for he was the guiding force behind the Interstate System. With its importance to national defense and to the peaceful pursuits of our people, it reflects his dual devotion to defending America from its enemies abroad and building on its strengths and freedoms at home.

The highway was "a lasting and fitting memorial to this warm and great son of the Kansas prairie who left his country and the world a better place for having served it. ["Authorization of Appropriations," p. 27218]

Senator Ribicoff of Connecticut thanked the conferees for adopting his provision on the Long Island Sound Bridge. Although Governor Rockefeller had dropped the project, "there is no guarantee that another New York Governor could not revive the idea of bridging the sound." He hoped the idea "remains dead," but this measure would ensure the people of Connecticut "will be included in any future decisions." ["Authorization of Appropriations," p. 27219]

Senator Kennedy said he understood the difficulties the conferees had faced before agreeing on "the best possible compromise obtainable under the circumstances." He would support S. 502, not because it contained everything he wanted, 'but because I believe that it represents a valiant effort to support the Senate position." He continued:

> This bill does bust the trust for the first time for mass transit. It does not bust it wide open to give States and cities complete flexibility in deciding on how to meet their transportation needs but it does represent the first time they are not locked into using all of their trust fund moneys for building highways.

Although the key measure did not go into effect until the third year, "the so-called Wright shuffle" allowed transit funding from the general Treasury in the first 2 years for Federal-aid urban system funds and Interstate transfers. He said "there is every reason to expect that Boston will be able to take full advantage of this provision and that the $900 million which would otherwise be spent on I-95 and the inner beltway, will now be spent largely on improving and expanding" Boston's mass transit network. The Wright shuffle was "a workable compromise."

The bill contained some negatives, such as the lack of operating subsidies, funding for priority primary highways, the measures allowing construction of the San Antonio North Expressway, an Interstate highway through Franconia Notch, and the Crosstown Expressway authorized "over Governor Walker's objections which was in neither bill." He concluded, however, that "the steps taken toward opening the highway trust fund are more important than the minuses," and he would vote for the bill. ["Authorization of Appropriations," p. 27220-27221]

Senator Kennedy was the final speaker. The Senate approved the bill 91 to 5. Senators Biden, Proxmire, Roth, Williams, and Clifford P. Case (R-NJ) voted against the bill. ["Authorization of Appropriations," p. 27221]

On August 1, Federal Highway Administrator Tiemann was in Portland, Oregon, where he told reporters that FHWA favors diversion of some Highway Trust Fund revenue for mass transit. He emphasized that mass transit was not going to replace highways any time soon. "Highways will continue to carry the bulk of traffic and goods in the future." He added, "What does the average American want? He wants something that goes where he wants to go and precisely at what time he wants to go. This means automobiles."

The FHWA supported mass transit "where it is feasible. And by mass transit we do not necessarily mean rapid rail." He cited Portland as an example. Rail rapid transit was not feasible, he said, because of Portland's geography and size. In addition to buses, the city's traffic problems could be relieved by exclusive bus lanes coupled with park-and-ride lots. Computerized carpool programs would help. Another option might be toll bridges with carpools and buses getting reduced fees and the best traffic lanes.

Tiemann also discussed the impoundment issue. "It will continue on about the same level as it was this last year," he said. A reporter summarized Tiemann's response regarding Missouri's court case:

> Though Missouri got a favorable ruling, it may be appealed to the Supreme Court, Tiemann said. This presents two options to would-be appellants, he said. They can appeal and gamble on winning in the Supreme Court, or they can release the $16 million to Missouri. He said if appellants choose the former, they risk losing in Supreme Court and this would mean releasing all the money impounded by Nixon. If the money is returned to Missouri, it probably would bring a succession of suits by other states that also felt short-changed in highway funds, Tiemann concluded. [Rubce, Web, "Fund Diversion Favored for Mass Transit," *Portland Oregonian*, August 2, 1973]

The House Takes Up the Bill

On August 2, Secretary Brinegar telephoned Representative Wright to assure him that President Nixon would not veto the pending Federal-Aid Highway Act of 1973. *Engineering News-Record* explained:

> The Office of Management and Budget (OMB) reportedly raised strong objections to the bill's 1975 and '76 Interstate allocations of $3 billion annually and to what was viewed as an overly generous $1.45-billion highway safety program. House leaders were told that the bill might be vetoed unless $1.5 billion was trimmed, which led the bill's backers to opt for postponement of a floor vote until after the August recess, in order to head off a pocket veto.
>
> But Transportation Secretary Claude S. Brinegar apparently interceded on behalf of the bill and succeeded in gaining White House support for the legislation, paving the way for House approval. "OMB has agreed to live with the bill," says a high Department of Transportation official. "Brinegar was very pleased with the bill and urged the White House to support it. We feel the bill is a victory for the department. ["Congress Passes Major Bills in Pre-Recess Flurry of Activity," *Engineering News Record*, August 9, 1973, p. 8]

(If a President vetoes a bill, Congress can overturn the veto by a two-thirds majority vote in each House and the bill becomes a law. If a President does not return a bill to Congress within 10 days after its final passage, it becomes a law without his signature. However, if Congress is not in session during that period, the bill does not become a law. "The latter event is what is known as a 'pocket veto,' that is, the bill does not become law even though the President has not sent his objections to the Congress." [*How Our Laws Are Made*, p. 46])
On Friday, August 3, the day before the start of the August recess, Representative John A. Young (D-Tx.) of the House Rules Committee introduced House Resolution 517, stating that upon adoption of the resolution, "it shall be in order to consider the conference report on the bill (S. 502)." The resolution also waived all points of order, mostly on features that were not in the House or Senate bills, against the conference report. "There were at least 38 waivers of points of order necessary to bring the conference report up successfully," including:

Section 102: *Authorization for the Interstate System*
Final conference figures above that in either bill.
Section 105: *Definitions*
Definition of "urban area" expanded beyond either bill.
Section 109. *Federal-Aid Urban System*
New matter added. Designation by highway departments.
Section 110. *Removal of Designated Segments of the Interstate System*
Complete new subsection (b) added which allows an incorporated city to share the non-Federal costs that is needed to construct a segment of an Interstate System wholly within it boundaries.
Section 121. *Public Transportation*
New matter added—subsection (k) which in essence says that no project shall be approved for the purchase of buses, passenger cars or rolling stock in any fiscal year where urban transportation funding or similar assured funding has been enacted to provide such funding for highway and public transportation.
Section 126: *Priority Primary Routes*
The limitation of 10,000 miles contained in the House bill has been removed and there is no top limit. ["Conference Report on S. 502," *Congressional Record-House*, August 3, 1973, p. 28088-28089]

The House quickly adopted the resolution, allowing Representative Wright to call up the conference report on S. 502 for consideration. The report, he said, "has been hammered out on the anvils of mutual compromise with the other body." It was "a good bill, a sound bill, and undoubtedly the best bill that could have been achieved under the circumstances." Conferees encountered "strong feelings" from their Senate counterparts, but also "conciliatory and harmonious" gestures. "I think it is impossible to say that either House predominated more than the other." He urged a resounding vote of approval. ["Conference Report on S. 502," p. 28089]

Representative Blatnik praised the House conferees, especially Representative Wright for his "outstanding skill in finally breaking through what—for weeks on end—appeared to be a hopeless impasse, and, in the finest sense of legislative skill, and delegation leadership, made possible the conciliation which resulted in a realistic resolution of the many issues involved in this bill." He cited a number of provisions in the bill, beginning with spending levels. The spending authorized by the bill "is not enough to satisfy our real highway and mass transit needs," but "represents the best achievable compromise between the President's minimal proposals and the recommendations of the House."

The conference "upheld the House on the need for a massive national effort to cut down the needless toll of death and injury on our highways." It also retained the provision for improving priority primary roads, "one of the most important provisions of the 1973 legislation." The new program was consistent with the new declaration of policy in the bill stating that as the Interstate System is completed, increased emphasis should be placed on the other Federal-aid systems. ["Conference Report on S. 502," p. 28090]

Representative Cleveland said he had not signed the Conference Report "because of my opposition to opening up the trust fund for urban mass transit, including subways." He explained:

> My position is that there has not been adequate exploration of the rationale for rail transit diversion, much less a persuasive case for it established.
>
> Nevertheless, I intend to vote for the bill because it does afford an opportunity to explore the matter of separate trust funding for mass transit.

The bill, he said, contained many worthwhile provisions, but he focused on the provision allowing for construction of a parkway-type facility to carry I-93 through Franconia Notch. The measure "represents a true compromise, a balancing of environmental and economic interests." The House had not included a comparable provision in its bill, and the final version of the Senate bill was substantially changed, "but with the complete agreement of Senator Cotton, the original Senate sponsor."

He just wanted to clarify one point, namely that under Section 158, the State had the authority to prohibit heavy commercial vehicles from using this stretch of highway during peak periods of recreational and tourist travel, while permitting it at other times. In a colloquy, Representative Wright assured him that New Hampshire had that right. ["Conference Report on S. 502," p. 28091]

Representative Clausen, another conferee, urged passage of the bill:

> The bill being offered today is the composite result of some 3,460 legislative man-days of concentrated and almost daily effort. It has been a long, painstaking and trying experience for everyone involved, but it has also been a very constructive and productive undertaking . . . .
>
> While I, of course, do not fully agree with every provision in this bill, it nevertheless represents a sound and reasonable compromise that has been very carefully and laboriously worked out. As such, it is, in my judgment, the best bill attainable under the circumstances and I shall support it.

The bill was "so broad and comprehensive" that talking about every provision would be impossible. Instead, he would focus on the principal issue before the conferees, namely diversion of Highway Trust Fund revenue to rail mass transit. "I joined with other House conferees in vigorously opposing these diversions from the highway trust fund" via the Muskie-Baker amendment, but the Senate conferees made clear they would not agree to a bill "unless there were provisions for the diversion [to] rail mass transit of some funds authorized by that bill." He explained:

> I am opposed to the diversion of highway trust fund moneys for expenditure for nonhighway purposes so long as the present and future essential highway needs of the Nation have not been provided for and the Interstate System is some 10 years from completion. This does not mean, however, that I am opposed to providing assured adequate funding for mass transit. In fact, I have advocated for several years the creation of a third trust fund, a mass transportation trust fund, to finance the many public mass transportation systems that are so badly needed in many of the urban areas of this country.

One reason that he supported the compromise on the Muskie-Baker amendment was that S. 502 now included a provision that prohibited the Secretary from approving the diversion in the final year of the authorization if a dedicated source of assured transit funding was approved in the intervening years. (This was subsection (k) of Section 121, cited as a possible point of order the Rules Committee had waived.):

> This provision was included in the conference report so as to permit the Ways and Means Committee of the House and the Congress as a whole to consider the creation of a mass transportation trust fund or other assured funding for public mass transportation before the actual diversion of highway trust fund moneys to rail mass transit occurs following the apportionment of the D [urban] funds authorized for fiscal year 1976.

The conferees, thereby, "have avoided the violation of section 209(f)(1) of the Highway Revenue Act of 1956, which limits the use of highway trust fund moneys to obligations incurred in carrying out the Federal-aid highway laws attributable to Federal-aid highways," at least pending further consideration of special funding for mass transit. He pledged his full support for the effort:

> I continue to believe that the need for continued highway improvement is so essential to the economic, communication, and transportation life of this country and to provide for the safety of persons using the highways that we will have perpetrated a great disservice to the people of this country if we ultimately permit the diversion of highway trust fund moneys to other purposes while the resources of that fund are inadequate to meet even the most essential highway and highway safety needs.

Representative Clausen was confident that the issue would remain controversial "for years to come." He explained:

> In all candor, there were very strong and justifiable feelings held and expressed on both sides of this question. In the final analysis, however, the critical and urgent need to

> immediately enact a long-overdue highway bill prevailed and, in a sense, provided the catalyst for compromise on this and other differences in points of view held by the various conferees.

He cited other mass transit provisions, including the $3 billion authorized from the general Treasury for the UMTA capital grant program:

> In addition, under a "transferability clause" included in the Conference agreement, urbanized areas would be permitted to "trade" their allocations for "controversial" interstate segments for an equal dollar amount of mass transit grants from general revenues.

He was pleased about the bicycle provision in S. 502, the primary goal of which was to provide separation of bicycle and motor vehicle traffic "to ensure the safety of both the motorist and the cyclist." He said he had introduced similar legislation at the start of the 93rd Congress for safety reason. "For obvious reasons, the cyclist has a distinct and dangerous disadvantage in such competition and thus I believe we should consider his safety by encouraging the multiple [use] of our road network."

The Highway Safety Act of 1973 included in S. 502 as Title II was "most important and essential in its own right." He credited Representative Harsha for overcoming the objections of those who wanted to cut funding for the new initiatives, saying that "he should be recognized as the 'champion of highway safety' here in Congress." He added:

> The time has come to call a halt in this unnecessary killing. The time has come for an end to alarmist rhetoric about highway safety and a firm commitment to realistic programs which will reverse the escalating tide of mayhem on our highways.

Representative Clausen concluded:

> I believe that enactment of the foregoing recommendations, coupled with their full funding and rigorous implementation by the Department of Transportation will mark the end of the beginning of this Nation's efforts to reduce the carnage on our highways. Through these measures we can save 10,000 perhaps 15,000, and maybe more lives each year. Commensurate reductions in accidents, injuries and property damage will also occur.

He urged the House to approve "a good bill, a desperately needed bill, a long overdue bill, and as I said at the outset, the best possible bill under all the prevailing circumstances." ["Conference Report on S. 502," p. 28092-28095]

Representative Hanrahan of Chicago said that he would vote for the bill because it was "essentially a necessary and beneficial piece of legislation." However, it contained "one glaring defect":

> During the deliberations, language allowing the city of Chicago to proceed with construction of the Crosstown Expressway, I-94 [sic], in spite of the Governor of Illinois' strenuous objections, was added to the conference committee's report. As an opponent of the

> Crosstown Expressway, I wish to state my great disappointment that this step was taken without the express approval of either the Public Works Committee or the House as a whole.

Unfortunately, the conference bill must be approved or rejected without change:

> I find it both depressing and ironic that within the same conference committee report there is now language allowing both diversion of funds from the highway trust fund for mass transportation and permission for the city of Chicago to undertake construction of an expensive, unnecessary expressway . . . . In short, I strongly feel that it would be a great mistake for Congress or anyone else to approve the construction of the Crosstown Expressway. Although I will vote in favor of accepting the Conference Committee's Report on the Federal Highway Safety Act of 1973 [sic], I wish the record to clearly indicate that I am firmly opposed to granting the city of Chicago any authority whatsoever to begin construction of the Crosstown Expressway. ["Conference Report on S. 502," p. 28095]

Representative Shuster said that Title II was "a truly historic piece of landmark legislation, the first that makes a comprehensive attack on the problem of the terrible slaughter that is taking place on our highways now." He planned to vote for S. 502, but he had "deep misgivings" about the Federal-aid urban system diversion provision. The best he could say for it was that at least it preserved "the integrity of the highway trust fund . . . for this year." On behalf of the people in the villages and towns across America, he said:

> So-called mass transit is not going to help them very much because when you are talking about mass transit, 90 percent of the time or more, you are talking about buses, and buses are dependent on those same obsolete, substandard, dangerous roads. So when the highway trust fund is busted in future years and is further drained of moneys for badly needed highways and highway upgrading, when our highway system begins to deteriorate because the fund is so overburdened with nonhighway drains that it cannot do the basic job for which it was created, when the people of America who are dependent on that highway system begin to complain, I hope those Members who supported the busting of the fund will stand up and tell those people that they were selected to pay the price, that it was thought to be more important to buy mass transit for a few of our largest cities than to upgrade the road system of the rest of the Nation, that they just will have to look elsewhere to find the funds to maintain their roads . . . .
>
> I think it is a slap at all of the people living outside of the big cities, who are dependent almost exclusively on our highway system for their transportation. I think it is a slap particularly at the people of rural America who now suffer the most from the grossly inadequate road system of rural America. And I think it is a slap at the families of all the people who will die on substandard roads in the future because there was not money left to make them safe. ["Conference Report on S. 502," p. 28096]

Representative Harsha acknowledged that the diversion of Highway Trust Fund revenue was the most controversial issue before the conference:

> What this House must understand is that immediately upon signing this legislation, the administration must apportion the balance of the funds for fiscal 1974. Prior to December 31 of this year, the administration must apportion the funds for fiscal 1975.
>
> And immediately upon that apportionment, those funds can be obligated by the several States. This means all this House salvaged out of this conference report were 4 lousy months of no diversion [until FY 1974 began]. Within 4 months the trust fund can be opened first for the purchase of buses and then, a year later, for purchases of any form of mass transit within the financial limitations.

This provision does not "represent the position of the House nor is it even a compromise of that position." He explained how it came about:

> First, the White House worked in rather intriguing fashion, and most effectively I might add, to undermine the House position on this issue. Some of the spokesmen for the administration were less than forthright with me. In fairness let me say, this does not include the Department of Transportation. DOT's position was set forth initially as favoring diversion, and the Department held steadfastly to that position, never offering to change. Second, that awesome array of special interest groups, the vaunted "Highway Lobby" referred to by some pundits as the mighty and powerful highway juggernaut, turned out to be, when the chips were down, little more than a spineless, sputtering chameleon—changing from "principle" to capitulation. There were some exceptions, but these were very few indeed. When this occurs—when the troops desert you—there is little alternative in the face of such overwhelming odds but to salvage what you can. This I believe the conferees did, and I might add did in an admirable fashion.
>
> If you were aware of the conglomeration of rash counter-productive, untenable provisions that were sent to us by the other body, you could more readily appreciate the significance of my remarks. Without enumerating all of these provisions, suffice it to say that the House conferees did an outstanding job in that regard.

He said, "I feel I lost the battle" on diversion, but he won because the final bill included the safety measures of Title II. "If implemented properly and fully funded, this legislation will save literally tens of thousands of lives annually and prevent countless serious injuries." The bill had many other redeeming features, but he came back to diversion:

> Because of the principle involved and the consistent position I have historically taken on the diversion issue, constantly refusing to yield to some of the most excruciating pressures ever exerted, including a personal request from the President of the United States, I find accepting this conference agreement a most bitter pill to swallow. However, our Nation must have a highway bill. The economy demands it. The jobs of thousands of working men and women depend upon it. The transportation system of this country requires it. And the safety of millions of Americans, the traveling public, dictates it

He urged his colleagues to approve the bill. ["Conference Report on S. 502," p. 28096-28097]

Representative Harold R. Collier (R-Il.), who worked in editing and public relations before beginning his public service career in the Chicago area's Berwyn and joined the House in 1957, stated that he would support the bill, but was disturbed by the provision on the Crosstown Expressway "that may eventually have some impact on the eastern boundary of my district." Section 110(b) appeared to be "a veiled effort" to ensure construction of the expressway which would "spill across the boundary of the city of Chicago." He said that Senators Stevenson and Percy contended that the language would not permit the city to bypass the Governor's authority. Others say it would. He requested clarification.

Representative Wright said he would have to respectfully disagree with the two Illinois Senators. The language in Section 110(b) was "clear and unequivocal." He said that "any part of the Interstate System lying wholly within the city of Chicago—and I believe that applies to the cross-town freeway lying within the incorporated limits of the city of Chicago—may be constructed and will be constructed if the city of Chicago wishes it constructed and is willing to pay all non-Federal costs of construction."

When Representative Collier asked if this was not "a change in what has been basic law heretofore," Representative Wright said it was. However, it was consistent with the flexibility the bill was giving to cities to decide their own transportation needs. For example, S. 502 allowed a city to withdraw an Interstate segment, with approval of the Secretary:

> Now, having granted to a city a right under certain circumstances to remove a section which it does not want, the conferees felt it only fair and equitable that we should give to the city the right to retain and construct a segment that it does want. In each of these situations we have given to a city a greater degree of flexibility. ["Conference Report on S. 502," p. 28098]

Representative John Anderson said the Rules Committee on which he served had to include Section 110(b) in its general waiver because the provision had not been in the House or Senate version of S. 502. He wanted to make clear that he supported the general Rules Committee waiver but in doing so "I was not indicating my approval of all the matters which had come out in the conference." He requested Representative Wright's attention before referring to the colloquy on the Senate floor that indicated that the provision meant the State could not de-designate the Crosstown Expressway within Chicago's city limits, but all requirements under Title 23, NEPA, the Uniform Act, Section 4(f), and other Federal laws still applied. "None of those responsibilities on the part of the State are abrogated by virtue of the inclusion of this amended language."

Representative Wright acknowledged that the language did not abrogate any existing right of the State, except to state that the city could build an Interstate highway lying within its boundaries if it is willing to pay the 10-percent matching share. "Beyond that I think there is no intent, nor do I think there is any effect, of limiting the rights of the States."

Representative Anderson asked if it also was true that the Secretary did not lose his legal responsibility to ensure compliance with environmental requirements and is not mandated to approve construction of any particular highway.

Representative Wright agreed that the provision only mandated construction "when the conditions herein enumerated are met." As Representative Anderson continued to seek clarification, Representative Wright pointed out that the provision was "general legislation; this is not local or special legislation." It did not refer to a specific city or stretch of Interstate highway. It referred to any given stretch of Interstate highway within a city's boundaries, "and if that city is willing to do those things stipulated, it mandates the construction of that segment."

Representative Collier, still not satisfied, requested time to ask whether the city could build the Interstate route if the route extended beyond the city's border as was the case with the Crosstown Expressway. Representative Wright clarified the provision:

> If one does not agree, it does not build that segment of the highway, but the other would be permitted to build its segment of the highway unilaterally if it desired to do so and agreed to contribute its own matching funds. ["Conference Report on S. 502," p. 28098-28100]

Minority Leader Gerald Ford praised the conferees:

> I think they did a good job under the most adverse circumstances. They did as well as they could to uphold the House position. If they had the support they should have had from sound proponents with the right ideas, including some in the administration, we would have come back with even better legislation,

He said he was not bitter about the result, "but I cannot help but be critical." Drivers moving through Interstate construction zones often saw signs proclaiming: "Your highway taxes at work." He continued:

> Since this new highway bill now provides for diversion from the highway fund of some construction [funds] to the purchase of buses, to the purchase of equipment, and eventually, I am sure, the bottomless pit of operating subsidy, I rue the day when instead of putting signs on the side of the road, "Your highway taxes at work" building highways, they will have some high-speed bus purchased with highway tax construction money with a sign hung on the rear, "Your highway taxes at work."
>
> I wonder how many of the people who paid those highway taxes for the construction of highways are going to appreciate that bus pushing them off the highway.

Getting back to fundamentals, he praised the authorization for priority primary routes. "This is an absolutely essential provision and will presumably speed-up the remaining portions of U.S. 131 in Michigan." He said the mass transit lobby disapproves of this provision, but added, "That could not make me happier, because I want priority primary routes constructed."

He concluded:

> It is awfully hard to swallow a bill that diverts funds from the highway trust fund, but because of the safety features, because of the priority primary route provision, it is my

> intention to support the conference report. [“Conference Report on S. 502,” p. 28100-28101]

Representative John E. Hunt (R-NJ) picked up on Representative Ford’s comments:

> It will be a sad day in this country, and for those of us who let this through, when we pass a conference report on a bill that permits this raid on the highway trust fund.
>
> As the gentleman said, we will come to portions of the road where they will have some kind of gimmick with a sign on it to say: We succeeded in stopping the road at this point.
>
> Regardless of the fact that the money in the trust fund specifically was put there by the voters for highway construction, it has been diverted to other interests. [“Conference Report on S. 502,” p. 28101]

Representative Mizell expressed his “continuing opposition to opening the highway trust fund for financing urban mass transit systems.” He said:

> I continue to believe that the best way to finance urban mass transit systems—and I am not questioning the need for them—is to set up a special trust fund for that purpose, just as we have done for highways and airports.

This objection, however, was overshadowed by the many other excellent provisions of the bill. He cited continued funding for the Interstate System, other rural highways, and title II on highway safety. He also cited a “section I sponsored in the committee, calling for new corridor hearings on the proposed Corporation Freeway in Winston-Salem.” The hearing would “guarantee that the voice of the people is heard and their concerns fully considered before any further work is done on this proposal.” [“Conference Report on S. 502,” p. 28101]

Representative Kluczynski commented on the effort that went into this bill, including extensive hearings with all interested parties (“those who were for it and those who were opposed”), developing the bill in subcommittee and committee, and getting it through the Rules Committee. Then there was the conference committee:

> I have been in the House for 23 years. I have been on many conferences, but I had never witnessed anything like that in my life.

The result was “the finest legislation ever enacted by any Congress.” It “recognizes the relationship between urban and rural highways” while addressing “the needs of mass transportation in our cities.” His colleagues knew, he said, that he was “a staunch defender of the integrity of the trust fund.” He would continue to fight for continuance of the Highway Trust Fund, but the “limited diversion” and the added $3 billion for mass transit from the general Treasury was “an excellent compromise.”

Representative Kluczynski wanted to clarify the implications of Section 110(b) for the Crosstown Expressway:

> It is quite clear that the intent of this subsection and the intent of the conferees is the following: that in any case where a particular portion of an Interstate System [sic] lies wholly within the boundaries of an incorporated city, that portion of the Interstate System may be constructed under this subsection, on the condition further contained in this subsection that the incorporated city agrees to pay all non-Federal costs of construction.

The Chicago Crosstown or I-494 was "a prime example" because individual segments "have logical terminal points on that freeway" inside the city, namely the Kennedy Expressway and the Dan Ryan Expressway:

> It is perfectly clear that regardless of the construction or nonconstruction of any other segments of the Interstate System that may link to a particular city, if that particular city determines to go ahead with that portion of the Interstate System that lies within its boundaries, it shall be done.

He said that theoretically, if a State opposed a route that a city considered essential, FHWA would have to work with the city to allow for construction:

> The committee intended, under this subsection, and this subsection only, that a direct relationship between local government and the Department of Transportation would be established.

This concept was philosophically consistent "with other sections of this legislation which provide greater local determination regarding transportation plans and programs." The conferees added this provision "to assure that vitally needed highway facilities such as the Chicago Crosstown be constructed at the earliest possible date." ["Conference Report on S. 502," p. 28101-28102]

Representative Morgan Murphy (D-Il.), an attorney based in Chicago who entered the House in 1971, agreed with Representative Kluczynski. After summarizing the history of the Crosstown Expressway, Representative Murphy said:

> In closing, I would merely add that the question of whether to approve or disapprove the Crosstown is better left to the people back home in Chicago. I am confident that the Crosstown controversy will be resolved equitably, assuming that all facts and figures relating to it are made available for public inspection. ["Conference Report on S. 502," p. 28102-28104]

Representative Annunzio pointed out that much effort had been expended during this discussion and in the Senate to clarify the intent of Congress. However, experience made him cautious about the value of clarifying congressional intent:

> It is my fervent hope that this legislation will act as a conduit to bring the Governor of Illinois and the major of Chicago together in an amicable settlement that will benefit the people of our city and our State . . . . I do not want to raise false hopes that congressional intent will resolve this problem because I have little faith in congressional intent since I have experienced firsthand flagrant violations of congressional intent. In my humble opinion, the only way that the people can come out on top is for their public officials to recognize their needs and wants, and to work toward meeting and resolving those needs and wants. ["Conference Report on S. 502," p. 28104]

Representative Abzug acknowledged that the conferees "worked very hard" and that "in every compromise there are balances in disappointments." Despite some disappointments, she would vote for the bill "because I am pleased that, for the first time, there will be an opportunity for some local mode [sic] and flexibility in the handling of funds." In 1976, she said, "we will, at long last, be able to determine for ourselves what to do with our own contribution to the trust fund." It was a "step in the right direction," but she added:

> I believe frankly that if we consider the situation in this country, the overwhelming numbers of people who live in urban areas who are choking to death from carbon monoxide, the problems of pollution and congestion, we will recognize that this step forward is a very small step indeed.

She said that the "most glaring omission" was the absence of transit operating revenues:

> In New York City, for example, we are faced with a doubling of the cost of subway and bus fares, which are already too high. Unless we are able to maintain fares at their present levels, or preferably roll them back, history has shown that more and more riders will shift to the automobile. The cost of this shift, in terms of traffic congestion and environmental consequences, is incalculable. The fight must continue, therefore, to secure this type of desperately needed assistance.

That aside, the bill "represents a significant achievement" and she hoped the President would sign the measure quickly "so that we can get on with the business of developing a better balanced transportation system." ["Conference Report on S. 502," p. 28105]

Representative Robert C. Eckhardt (D-Tx.), who represented a Houston-based district, questioned Section 154, which allowed Texas to repay Federal funds for the North Expressway. He recognized that S. 502 was being offered on an all-or-nothing basis, but he wanted to point out "a bit of legislative history." The provision originated in the Senate, he said, and had not been considered in committee or on the House floor. It was "a nongermane amendment" under the rules governing the Committee on Public Works ("But it shall not be in order for any bill providing general legislation in relation to roads to contain any provisions for any specified road."). However, because the Rules Committee had waived all points of order, Representative Eckhardt said, he could not raise a point of order on this provision.

Apparently, the Rules Committee "did not consider that section to be of significance or of great enough importance for this body to consider that point separately." He disagreed because on a "matter of principle," namely exemption of a project from NEPA, the House should take up a nongermane amendment. Without House debate, therefore, the provision would allow Texas to repay the Federal funds used on the North Expressway project, but he pointed out:

> It cannot reasonably be construed to alter the duty that developed on any Federal governmental agency to design and direct its action with the necessary regard to its impact on man's environment . . . . Thus, where Federal highway construction covers an entire area, the project must be considered as a whole. And the whole plan must be accomplished in compliance with such policies and recommendations. The nongermane Senate amendment does not say that the State of Texas can buy itself immunity from such Federal policy application for the portion of a total project, federally instituted, going through Olmos and Breckenridge Park.

Since that portion was part of a larger project, "it cannot be excised from the application" of NEPA "except by clear legislative language purporting to accomplish that end." Section 154 did not include such language, nor was there any House legislative history "that can be used to amplify the language of the amendment so as to give it a meaning other than that which its words spontaneously yield." ["Conference Report on S. 502," p. 28105-28106]

Representative Glenn Anderson said the conferees had devised "an acceptable compromise that can be supported by those of us who have been working to open the highway trust fund for bus or rail transit purchases." The bill, while not perfect, "does place us on the right track to providing for a balanced transportation system by allowing flexible funding out of the highway trust fund." He continued:

> Next year trust fund revenue will be available for bus purchases, and the following year rail systems are eligible for trust fund allocations.
>
> When we consider that only last winter such a proposal was not even germane [according to the House Rules Committee], and when we consider that only 1 year ago such a proposal was considered radical, I feel that all of us who have worked to permit flexibility in the use of highway trust fund revenue can be pleased. This is a step, but a necessary step, toward flexibility . . . . ["Conference Report on S. 502," p. 28106]

The record of the debate contains several additional statements that appear to have been inserted in the record after-the-fact. One was by Representative Herman Badillo (D-NY), an accountant who had served in New York City's government before joining the House in 1971. He said he appreciated the difficulties the conferees encountered, but "I must speak in opposition." He said:

> This conference report perpetuates our distorted national transportation priorities and by excluding the provisions for operating assistance to existing mass transit systems it represents a refusal to accept the fact that efficient urban mass transportation is a matter of

> public responsibility providing benefits to the entire Nation, not just to individual transit riders or communities.

Making "heroic pronouncements" about cleaning the air or curbing auto use did little good "when transit systems across the country are threatened with insolvency and steadily lose riders because of necessary fare increases." In deleting the Senate's provision authorizing $800 million for operating subsidies, while "at the same time authorizing billions for miles and miles of highways," the conferees had failed to recognize that, as the *Times* editorial "Highway Lobby Triumphs" put it, "additional billions for benefit of the private truck and automobile are not the total answer to the Nation's transportation needs."

Representative Badillo added that New York's voters would be asked to approve a $3.5 billion State bond issue in November that would preserve the current fares and avert "a disastrous fare increase that could end [up] bankrupting the entire transit system in New York City." If Congress, he said, were "living up to its responsibilities to our urban centers, a bond issue of this scope and nature would be unnecessary."

He knew that legislation to provide operating subsidies would be introduced again later in the session, but for now, "I must vote in protest against this conference report which, in terms of urban transportation needs, is tokenism at its worst." ["Conference Report on S. 502," p. 28109]

His New York City colleague, Representative Biaggi, said (in an added statement) that he had opposed the House bill because it did not contain Highway Trust Funds for mass transit, but "am pleased to see that the conferees agreed to include such a section in the compromise version of the bill." He, too, was disappointed that the bill did not make Highway Trust Fund revenues available for mass transit operating subsidies, an issue that the 93rd Congress must address. However, the bill was "a fair compromise and should not be delayed further." He would vote for the bill. ["Conference Report on S. 502," p. 28110]

With expiration of time for debate, Speaker Albert called for a vote on the conference report. The House voted to approve the bill, 382 to 34 (with 17 not voting). ["Conference Report on S. 502," p. 28110]

The Associated Press said the House action on the Federal-Aid Highway Act of 1973, a major farm bill, and a bill raising the minimum wage to $2.20 an hour in two steps as occurring on "a busy day of desk-clearing for the annual summer vacation," which began on August 4. *The New York Times* put it this way:

> Amid cries of "vote, vote," the House worked its way through a stack of Senate-House conference reports while the Senate spent most of its day in recesses waiting for the House to tie the loose ends of legislation before Congress could recess until Sept. 6. [Associated Press, "Three Big Bills Pass, Congress Recesses," *The Washington Star-News*, August 4, 1973; Madden, Richard L., "Congress Votes Pay Bill; Start's a Month's Recess," *The New York Times*, August 4, 1973]

The Washington Post published an editorial titled "The Highway Trust Fund: On the Right Track." It recognized that compromises "leave almost everyone a bit unhappy." The bill "displeases diehard guardians of the highway trust fund" while failing to "satisfy mass-transit advocates because it does not open up the trust fund entirely now, and it fails to provide operating subsidies for mass transit." Nevertheless, "for all the grumps it will provoke, this compromise is something to be marveled at because it came to pass at all." Clearly, the final bill "is nobody's ideal" and was more highway-oriented than the *Post* would like:

> The conferees have not executed a daring leap from highway funding to transportation funding, but they have at least brought national policy into a transitional phase. It is an old-fashioned, hard-won political compromise. ["The Highway Trust Fund: On the Right Track," *The Washington Post*, August 6, 1973]

By contrast, *Transport Topics*, the motor carrier industry newsletter, called its editorial "Death by Diversion." Pointing out that "the Highway Trust Fund was being maimed," the editorial quoted several Representatives who "did not let trust-busting mischief pass without vividly pointing out some things anti-highway forces have apparently overlooked." It cited Representative Ford's comment about "Your highway taxes at work" signing now being placed on buses and his reference to "the bottomless pit of operating subsidy." It referenced Representative Shuster's comment that the diversion was stealing highway funds from rural Americans "who need those trust fund monies to upgrade a largely obsolete, substandard and often downright dangerous road system." The editorial concluded:

> Rep. Shuster called the compromise-diversion measure "a slap at the families of all the people who will die on substandard roads."
>
> It is, in effect, death by diversion. ["Death by Diversion," *Transport Topics*, August 13, 1973]

Engineering News-Record was more positive:

> Some die-hard highway advocates moan about diversion getting "a foot in the door," but most are happy to see the long disagreement over and a bill finally on its way to passage . . . . We hail the act, however, because it is a foot in the door, not so much for diversion as for balanced funding.

With this start on creating balanced transportation systems, the editorial predicted "that in a few years the recent struggle will seem very remote and few will be surprised to see a single transportation authorization package." ["Creeping Trust Fund Diversion," *Engineering News-Record*, August 2, 1973]

Mass transit planners were "overjoyed," according to *The Christian Science Monitor*. An aide to Governor Sargent of Massachusetts said, "This is the most significant transportation legislation passed in a decade." Boston was expected to be a chief beneficiary of the new legislation, with an estimated $821 million in Interstate segments on hold:

> Alan Altshuler, the state Secretary of Transportation, says the funds will allow completion of much of the city's mass transit master plan in 10 years instead of the expected 20 years.

The substitute funds from trading in unwanted Interstates were expected to be used to extend rapid transit lines onto commuter rail lines, modernize the existing system, and use more expensive construction methods for transit lines to reduce neighborhood impacts. A spokesman for the MBTA said the organization was expecially excited about the increased Federal share for transit projects. "Even if the federal pot does not increase and even if new states start requesting funds, we can still lower our state and local expenditures."

In addition, Section 121 authorized the use of Interstate funds to finance the Federal share of projects for exclusive or preferential bus, truck, and emergency vehicle routes or lanes. This change would allow Governor Sargent to proceed with his plan for a two-lane, special purpose tunnel that would be open only to buses, airport limousines, taxis, emergency vehicles, and trucks going to and from Logan International Airport.

In Chicago, the dispute continued over how the legislation would affect the $1 billion Crosstown Expressway, which "has been blocked for years by citizens' protests, court action, and opposition from Gov. Daniel Walker." Governor Walker believed the State's role in holding public hearings gave him leverage. "We can determine whether, if not when, the highway will be built." The U.S. Department of Transportation was considering a State proposal for "a longer western route, which would only cost about $500 million because fewer families would need to be relocated. If the less costly route were approved, the State wanted to use the balance of $500 million to aid the CTA, which, "in a perennial financial crisis, is threatening to cut service or increase fares." [Stewart, Colin, "Transit Aid Welcomed by States," *The Christian Science Monitor*, August 9, 1973]

According to Albert R. Karr of *The Wall Street Journal*, the Nixon Administration had decided to embrace the compromise plan to use general Treasury funds instead of Highway Trust Fund revenue for transit projects. As reflected in the congressional debates, the White House position had been a concern:

> However, administration officials say that they've been willing all along to permit more spending from general revenues for transit. They preferred a direct raid on the fund, they say, but didn't want public knowledge of their position to weaken a lobbying effort in this direction.
>
> Thus, this week President Nixon is expected to sign the bill that authorizes the new transit-aid approach, and Transportation Secretary Claude S. Brinegar will likely announce that department's intention of carrying it out with full dispatch. Their comments will be "very firm" in this pro-transit resolve, one source close to the officials' deliberations says.

The plan for the Federal-aid urban system, Karr wrote, was acceptable to "administration budget-makers because total transportation outlays won't go up" since the equivalent Highway Trust Fund revenue would be frozen for future use. UMTA Administrator Herringer confirmed this view. "I see no reason why we wouldn't fund those [transit] projects" out of the general Treasury.

The Interstate substitution plan was of more concern because it might apply to "perhaps $5 billion to $6 billion in funding for controversial urban segments:

> Because this total represents piecemeal appropriations over the life of a particular road project, the transfer clause might make available as much as $400 million or $500 million a year for transit, by one estimate. But in this case, the administration may well have to do some more freezing of its own.

How much cities might use for transit was a matter of speculation. Karr said estimates ranged from $100 million to $450 million a year, with the rest going for city roads and streets:

> The transit sum will be "nominal" this year, fiscal 1974, says John Kramer, director of the Highway Action Coalition, an antihighway group. He says cities want to get caught up on roadwork that was stalled by the prolonged debate in Congress over the new highway-transit funding.
>
> All along, Mr. Kramer says, the "key" to making the Senate-House compromise work has been what the administration would do. A transit-industry source agrees that if the Nixon men release money from general revenues, on top of the current $1 billion Urban Mass Transportation budget, they will convert what he regards as "a bag of air" into "a bag of gold."

One additional concern was that cities wanting to use urban system or Interstate transfer funds for transit would be applying to FHWA. "The agency's expertise lies in highway work rather than transit." Karr explained that Secretary Brinegar had directed FHWA and UMTA to develop "joint criteria" in anticipation of the legislation. An UMTA source "says 'a working relationship' is being created." [Karr, Albert R., "Cities' Use of General Revenues for Transit Seems to Have Won Administration Backing," *The Wall Street Journal*, August 13, 1973]

As Representatives Badillo and Biaggi had said, plans were underway to reintroduce the Emergency Commuter Relief Act when Congress returned in September. Senator Williams and Representative Minish had held off advancing the transit bill pending action on the Federal-Aid Highway Act. Now that S. 502 had been approved without the Emergency Commuter Relief Act, they intended to move forward with their measure in the fall. ["Congress Passes Major Bills in Pre-Recess Flurry of Activity," *Engineering News Record*, August 9, 1973, p. 10]

The 1973 Act Becomes a Law

On July 13, 1973, Federal Aviation Administrator Butterfield, the former deputy to H. R. Haldeman, participated in what initially appeared to be a routine interview with staff of the Senate Select Committee to Investigate Campaign Practices (also known as the Senate Watergate Committee). During the interview, he revealed the existence of a taping system in the White House. His public revelation of the taping system on July 16 would alter the course of the Watergate investigation and increase pressure on the President. *The New York Times* headline on July 17 read:

NIXON WIRED HIS PHONE, OFFICES TO RECORD ALL CONVERSATIONS; SENATORS WILL SEEK THE TAPES

Surprise Witness
Butterfield, Ex-Aide at White House,
Tells of Listening Devices

As the *Times* explained, "The recordings became the immediate focus of the central investigation by the Senate panel into the role President Nixon may have played in the Watergate cover-up." From the start, the President would fight release of the tapes in every forum, including the Senate, the courts, and in public statements.

By early August 1973, he was facing a crisis from an unexpected source. On August 6, Vice President Agnew announced that he was under investigation by the United States Attorney in Baltimore, George Beall, for possible violations of criminal law. Initial media reports indicated he was suspected of extortion, bribery, and tax evasion related to a kickback scheme involving contractors, architects, and engineers employed on Maryland projects. The Vice President's statement said:

> I will make no further comment until the investigation has been completed, other than to say that I am innocent of any wrongdoing, that I have confidence in the criminal justice system of the United States, and that I am equally confident my innocence will be affirmed. [Apple, R. W., Jr., "Agnew is Under U.S. Investigation in 'Possible' Criminal Violations; Innocent of Wrongdoing, He Says," *The New York Times*, August 7, 1973]

R. W. Apple, Jr., in a *Times* news analysis on August 8 wrote:

> President Nixon, says a man with occasional access to the Oval Office, "feels as if he's living through six crises at once." [This was a reference to Nixon's 1961 book, *Six Crises*, describing how he had handled controversial situations.] The revelation that Vice President Agnew is under investigation for extortion, bribery and tax fraud in connection with Maryland building contracts seemed almost incredible to many politicians here, coming as it did on the heels of so much other bad news for the Administration.
>
> Only six and a half months ago, Richard M. Nixon took the oath of office for his second term in a mood of euphoria. He stood on the brink of a peace agreement in Indochina; he had carried 49 of 50 states, something no other man had ever done; he seemed to have divined precisely the nation's mood.
>
> Since then, the fortunes of the Nixon Administration have been so disastrous that the Washington soothsayers have been forced to abandon the word "nadir." Every time the President's situation seemed impossibly bad, every time it seemed inevitable that his luck would turn, the opposite has happened: Some other disaster has come to public attention. [Apple, R. W., Jr., "A New Crisis for Nixon," *The New York Times*, August 8, 1973]

Although Vice President Agnew had said he would not comment on the allegations, he held a news conference on August 8 in a studio-auditorium on the fourth floor of the Old Executive Office Building. Reporters Richard M. Cohen and Jules Witcover described his entrance:

> The television networks decided at once to cover the event live, and by three o'clock more than 200 reporters were there. Agnew came out, ramrod straight as always, tense but in control. In a sense, his whole political career, and his self-image as a righteous man unfairly put upon, had prepared him for this moment . . . . Now finally he was called upon to cash in all the chips he had gathered since 1969 in building and cementing his reputation for blunt and honest talk. He was equal to the call.
>
> "Because of defamatory statements that are being leaked to the news media by sources that the news reports refer to as close to the investigation," he began, "I cannot adhere to my original intention to remain silent following my initial statement a few days ago, which asserted my innocence . . . . And since I have no intention to be so skewered, I called this press conference, to label as false and scurrilous and malicious these rumors, these assertions and accusations that are being circulated and to answer your questions regarding them . . . ."
>
> With some uneasiness at the start, but soon with firmness, even aggressiveness, as he stood straight and unsmiling before the microphone, Agnew proceeded to field every question asked of him.

In response to a question about what turned out to be an erroneous allegation that he received $1,000 a week in kickbacks, Cohen and Witcover wrote:

> Agnew knocked it out of the park: "I am denying them outright and I am labeling them, and I think a person in my position at a time like this might be permitted this departure from normal language, as damned lies." [Cohen, Richard M., and Witcover, Jules, *A Heartbeat Away: The Investigation and Resignation of Vice President Spiro T. Agnew*, A Washington Post Book, Bantam edition, October 1974, p. 169-170]

On August 13, the *Times* reported that Federal investigators were planning to go through the records of the Vice President's 2 years as Governor of Maryland and those of Jerome R. Wolff, whom Agnew had appointed chairman-director of the State Roads Commission of Maryland in March 1967. "In the new phase of the far-reaching investigation—which has all Maryland agog even though the state had become all but accustomed to seeing its political figures face criminal charges—Mr. Beall appeared to be concentrating on highway construction and engineering contracts." [Waldron, Martin, "Agnew Term as Governor Under U.S. Scrutiny Today," *The New York Times*, August 13, 1973]

(Wolff, as noted earlier, had been the Vice President's Advisor for Science and Technology. However, when the White House learned that he had retained an interest in two engineering companies, Counsel John W. Dean III ruled that Wolff had a conflict of interest and ordered him off the payroll in 1970. Cohen and Witcover described Wolff this way:

> Among his fellow engineers, the brilliant Wolff was hailed as a genius, and it was true that he was nationally recognized for his expertise in the new and complex field of environmental planning. He was both lawyer and civil engineer, able to provide legal and scientific advice to a client concerned about the environmental impacts of a particular project. [Cohen and Witcover, p. 61]

Above the Agnew article on the front page of *The New York Times* that day appeared an article headlined:

PUBLIC FOUND DISILLUSIONED BY THE WATERGATE SCANDAL
Survey Shows Complacency Jarred by
Senate Hearing and a Wide Loss
Of Confidence in the President

The article was based on hundreds of interviews correspondents had conducted with Americans across the country before the revelation of the Agnew investigation:

> Subsequent reports that Vice President Agnew is under investigation for possible criminal misconduct could be expected only to reinforce the basic impression. The Watergate scandal is hurting President Nixon – badly. [Roberts, Steven V., "Public Found Disillusioned by the Watergate Scandal," *The New York Times*, August 13, 1973]

Later that day, Senators Randolph and Baker, Secretary Brinegar, Administrators Tiemann and Herringer, and freshman Republican Representative Hanrahan were among those standing behind President Nixon in the Oval Office as he signed the Federal-Aid Highway Act of 1973. In a formal statement, he called it "a significant extension and reform of the Federal highway program," which he described as "the strong tradition of Federal-State cooperation in building American highways." This was, however, more than just a highway act:

> One of its most significant features is that it allows the Highway Trust Fund to be used for mass transit capital improvements. This landmark provision is one that I have urged for some time and one that I recommended with special emphasis in four different messages to the Congress this year. Under this Act, for the first time, States and localities will have the flexibility they need to set their own transportation priorities. The law will enable them at last to relieve congestion and pollution problems by developing more balanced transportation systems where that is appropriate rather than locking them into further highway expenditures which can sometimes make such problems even worse.

He highlighted "the $3 billion I requested for funding the Urban Mass Transportation Act" and the provision allowing State and local officials "to substitute mass transit projects for certain urban Interstate highway segments which are controversial and non-essential." He also pointed out that the 1973 Act earmarked urban highway funds for areas with populations over 200,000 and "cuts red tape and improves efficiency by giving more authority to the States and by increasing planning funds." He added:

> I am pleased that the bill also designates several links of the Interstate network forming a coast to coast route as the Dwight D. Eisenhower Highway, a fitting tribute to the father of the Interstate highway system.

He regretted that the bill exceeded his budget proposals and included "a number of special narrow categorical grant programs at a time when it is particularly important for us to trim back on the budget and the bureaucracy." However, he recognized that funding levels had been cut back from earlier versions "and I am gratified that certain other elements, particularly an anti-impoundment provision and mass transit operating subsidies, were eliminated from the final version."

Overall, he said, the legislation reflected "a spirit of constructive cooperation between the Congress and the Administration and I am confident that the Act can be properly administered so as to not violate my commitment to a non-inflationary budget." He concluded:

> The legislation I sign today represents an important forward step for our country, not only in providing for better and more balanced transportation, but also in related fields such as environmental protection, highway safety, energy conservation, and community development. I am gratified that it includes important proposals to which I have long given high priority. I sign S. 502 with confidence that it will contribute significantly to the strength of our American economy and the quality of American life.

Informally, the President had observed that, "the dullest thing in the world is to spend a day on a superhighway." He added, also informally, "Let me say after these two smog alerts we've had in Washington, let's have more mass transit."

After the ceremony, Secretary Brinegar and Melvin R. Laird, the former Defense Secretary who was now the President's counsellor for domestic affairs, briefed reporters. Secretary Brinegar said:

> Both in terms of dollars and numbers of separate programs, this is the single most important piece of legislation that the Department of Transportation has been called upon to administer.

He highlighted the urban transportation features of the 1973 Act, which gave "urban transportation planners immediate flexibility in the uses of the Highway Trust Fund dollars that are allocated to urban areas." He said:

> No longer must these planners think "just highways." Now they will be able to consider trade-offs to such alternatives as buses, exclusive bus lanes, and rapid rail systems. We do not see such flexibility as a "busting of the trust,' but rather as a sensible broadening of its uses. Approximately $2½ billion is authorized for this "flexible" urban usage.

Citing the $3 billion for UMTA capital grants, Interstate substitution, $8.75 billion for Interstate construction and $3.3 billion for rural highway programs over 3 years, and the new highway safety programs, he added:

> The Act even helps the bicycle rider—perhaps the ultimate in the efficient usage of energy—by providing up to $120 million from the Trust Fund to be used for the construction of bicycle paths in connection with highway projects.

In closing, he praised the conference committee that had drafted the final bill "in a spirit of constructive compromise." The result was "a good bill—one that will go a long way toward providing our Nation with the balanced, total transportation system that it needs."

Reporter Lou Cannon, writing in *The Washington Post*, said:

> Two emerging and related administration themes dominated the ceremonies and announcements surrounding the bill signing. One is the developing White House praise for Congress on non-Watergate issues, the other the reiteration of administration belief in its own ability to government.

Cannon quoted Laird as saying during his briefing, "It is important to bear in mind that we are moving forward on the domestic agenda for America." [Cannon, Lou, "Nixon Signs $22 Billion Highway Bill," *The Washington Post*, August 14, 1973; "President Signs Highway Bill With provisions for Mass Transit Assistance," The New York Times, August 14, 1973]]

Senator Randolph issued a statement after the ceremony:

> We deliberated the provisions of this bill in conference for more than 120 hours. The result is a measure that responsibly meets transportation requirements in large cities, small towns and rural areas.

The Department of Transportation subsequently compiled editorials and articles on the Federal-Aid Highway Act of 1973. According to H. David Crowther, Director of Public Affairs, "Of the sixty-nine editorials included, fifty-eight are favorable and eight are unfavorable." The editorials Included:

- The *Tucson Star* said, "The breaking of the Highway Trust Fund is long overdue," pointing out that "powerful interest groups" had "zealously protected" the Fund. "Tucson could benefit greatly by the release of funds for mass transit—providing there is coordination and the planning is done early and done well." ["Breaking Highway Trust Fund Long Overdue," *Tucson Star*, August 15, 1973]
- The *Little Rock Democrat* said, "The Congress has acted wisely to opening [sic], ever so slightly, the Highway Trust Fund tap, to allow money to trickle into urban mass transit." Highway building can never catch up with demand. "The sooner we return to the more efficient trains and buses, the better chance we will have of keeping a reasonable amount of our land unpaved." Considering the billions in the new law for highways, "Surely the highway lobby will not begrudge a mere $1 billion of road-user taxes for relieving the burden of traffic on roads." ["A Trickle for Transit," *Little Rock Democrat*," August 14, 1973]

- "With President Nixon's signature," *The Los Angeles Times* wrote, "the way has at last been cleared for the nation's cities to begin receiving some of the essential federal support they need to build mass transit systems." Although the Highway Trust Fund "has been cracked," it "can't meet all of the transit financing needs of Los Angeles and other cities." ["U.S. Clears the Way for Transit Aid," *The Los Angeles Times*, August 15, 1973]
- "The amounts involved are small," *The New Haven Journal-Courier* in Connecticut wrote, "but the significance of the breakthrough to a new distribution formula for the Highway Fund—amassed from federal road user taxes—is potentially large." It was not "a bonanza" for urban transit, and it "falls short of anything like the 're-ordering of priorities' that was talked about in last year's presidential campaign." However, with Congress finally approving "a break in the solid front that has kept the Highway Fund as a sort of sacred trust in years past, there is at least a slight shift of emphasis." ["A Little Help With Mass Transit," *New Haven Journal-Courier*, August 15, 1973]
- *The Miami Herald* predicted that "when people in big cities find it a little easier and cheaper to move from place to place, the blessings they might count could begin with the signing this week of the new Federal Highway Act by President Nixon." The Act was "unlike any other" and brought the Federal transportation effort "a bit closer to the world of reality" because a "limited amount—very limited—[of highway funding] will be spent on mass transit." The bulk of Highway Trust Fund revenue "will go into pavement, but at least a piddling transit appropriation is a start and a precedent." The next time Congress considers a highway bill, "the city skies will be blacker with air pollution and the streets will be even more clogged with autos." The "real significance" of the new law was "not what it does this time but the promise of what it can do in the future to give Americans the choice of traveling modes which they so desperately need." ["Tip-Toeing Out of the Trust, a Step Toward Real Transit," *The Miami Herald*, August 15, 1973]
- Monday, August 13, was "a great day for public transportation," according to an editorial in *The St. Louis Globe-Democrat*, because "the powerful highway lobby finally got a well deserved kick in the teeth." Funds for money-starved transit agencies, including the Bi-State Development Agency serving the St. Louis area, would receive "sizable amounts" of funds "from the heretofore sacrosanct Highway Trust Fund." The "highway lobby" had successfully blocked all attempts to use Highway Trust Funds revenue for transit "until yesterday." ["Banner Day for Rapid Transit," *The St. Louis Globe-Democrat*, August 14, 1973]
- "The highway lobby guarded its exclusive access to the fund for years," said *The Akron Beacon-Journal*, but the "hallowed wall around the Federal Highway Trust Fund has finally been punctured." After years of preserving the Highway Trust Fund, "the pressure was too great in Congress this year." At first, only "a few coins [would] trickle out of the fund's money bags, but the process has finally started." The highway lobby should not be upset at the prospect. "Indeed, more imaginative and far-reaching mass transit and rapid transit projects may be a positive boon to the motorist—eventually decreasing both congestion and pollution." ["At Last Comes the Vital Step Toward Transportation Sanity," *The Akron Beacon-Journal*, August 15, 1973]

In New York, Dr. Ronan said, "The enactment of the compromise highway bill is a significant victory for mass transportation as it opens the opportunity for the use of certain highway funds for mass transit facilities and equipment." With this significant victory for developing balanced transportation systems, he said, the next important step was to secure Federal operating assistance. ["MTA Praises Highway Bill," *The Journal of Commerce*, August 16, 1973]

"This bill," Dr. Ronan said, "opens up the possibility to do a number of things and not just on a one-shot basis." In the first year, he anticipated the purchase of 500 buses, with 70 percent for the metropolitan area. "This will materially help the bus fleets in New York City, Westchester and other communities." The new buses would be air-conditioned. The second year funding would be used for highway and capital rail projects. State matching funds would come from the bond issue that he hoped voters would approve in November. [Anderlan, David A., "Officials Plan for Use of Highway Funds," *The New York Times*, August 15, 1973]

Of course, not everyone was pleased. On August 16, the *Times* published a letter from Gilbert B. Phillips, president of the Automobile Club of New York, reacting to the *Times'* July 29 editorial "Highway Lobby Triumph." "Not only is opening the Highway Trust Fund not a triumph for anyone, it is a portent of what may become the ruination of the nation's transportation systems." Phillips objected to the way the editorial berated House members who "have a sincere and serious concern over precipitate actions not founded on objective data or in the best interests of the public in shaping transportation for the future."

He pointed out that when Senator Williams' effort to secure $4.4 billion in general Treasury revenue for urban mass transit had failed in 1972, the Senator suggested soul-searching "on the question of whether the effort was to aid mass transit or to break up the Highway Trust Fund." The editorial, Phillips said, had not mentioned that the 1973 Act provided $1 billion a year for transit. "Is The Times more interested in busting the Highway Trust Fund than it is in making a realistic effort to obtain assistance for transit?"

Phillips also objected to a July 31 editorial in which the *Times* had advocated increased tolls on the East River bridges to subsidize transit. "Sooner or later, our elected officials, and we hope the media must face the unavoidable truth." If New York City needed mass transit, "the public must be told what it will cost." He added, "Simple arithmetic will tell the community that motorists cannot foot the bill, nor can any other single group." Only a "broad-based revenue source" could foot the bill. He concluded by asking, "Isn't it time for some soul searching?" [Phillips, Gilbert B., ""The Highway Trust Fund: Unrealistic Aid for Mass Transit," *The New York Times*, August 16, 1973]

Frank Reid, the editor of *Better Roads*, predicted that the 1973 Act "sets the stage for the eventual breaking up of the Highway Trust fund." The raid would start slowly, but "by the third year, the Trust Fund raid will be on full blast." If a Mass Transit Trust Fund were established by then, the highway funds would remain intact. "Don't hold your breath on that one!" The Highway Trust Fund had a ready source of income from highway users:

> For the Transit people, there is no such ready source of funds. They can't even pay their operating costs now, much less tax the user for more money to support such a special fund.

The more likely result was a Transportation Trust Fund "generally supported by the existing highway-user taxes."

Reid had warned the highway community when "the old Bureau of Public Roads was emasculated and merged into what is now the Department of Transportation." The Federal-State partnership was abandoned and, as Reid had said at the time, "the clock is never turned all the way back." He had urged State highway officials to convert their agencies into departments of transportation as quickly as possible so that "highway men would at least be in key positions to give highways a fair shake." Now, with the 1973 Act, "we are right back where we were, financially, before there was a Trust Fund." He urged highway officials not to fight it. Instead, they should learn "the new ground rules so well, that highways remain an effective means of transporting people and goods." He concluded his editorial:

> In a truly balanced, comprehensive transportation system, highways are too important to be ignored. Start planning NOW to promote and defend highways in an inter-fund battle for a limited number of dollars. Both taxpayers and legislators must be kept aware of the great need for a good highway system.
>
> Yes, start now—*just for once, let us lock the barn door before the roads are stolen.* [Reid, Frank, "New Highway Challenge: A Transportation Trust fund," Editorial Viewpoints, *Better Roads*, September 1973, p, 9, emphasis in original]

Bicycle interests also questioned the legislation. At first, the 1973 Act had seemed like a "a great pedal forward," as a news service article put it:

> It wasn't, transportation officials say now. Instead of pumping more money into bikeways, they claim, the highway bill in effect clamps a lid on federal funds that were already being spent.

The problem was the $40 million ceiling on projects nationwide, and $2 million limit per State:

> To the layman, that may sound like plenty of money. But to officials in the Federal Highway Administration—which has already been doling out bikeway money for several years without specific legislative authorization to do so—it's viewed as a pitifully low figure. "That spending ceiling includes both walkways and bikeways," one FHA planner said, "and you can't build a heck of a lot of walkways for $2 million. That just doesn't leave much for bike paths, or even marking off a bike lane on an existing highway. Frankly, the highway act is restrictive rather than promotional."

A cycling enthusiast in the Department agreed. "Maybe that's not what Congress intended. They said they wanted to promote bicycling, and all that. But that doesn't look like the way it's going to work out."

The Department was encouraging States to address the safe and operational problems of mixing motor vehicles and bicycles:

> Whatever is done, Transportation Department urban systems specialist Marie Birnbaum says, "It's got to be worked on by all levels of government—and it isn't necessarily just a money thing. We've got to start identifying the problems of non-motorized vehicles in a world designed for motorized ones. We've got to stop looking at bicycles as toys and realize that millions of adults are riding them to work every day. [Knight News Service, "'73 Highway Act Backpedals on Bike Funds, Riders Find," *The Baltimore Sun*, August 28, 1973]

As August 1973 ended, Lee Stillwell of Scripps-Howard newspapers, wrote that:

> America's love affair with interstate highways as the ultimate solution to urban transportation problems appears to be cooling fast as citizens challenge increasing numbers of proposals for new ones.

He cited Department of Transportation officials as saying the objections usually involve:

- They don't solve problems because the growth that sprouts around new ones just creates bigger jams.
- Proposed freeways through the hearts of cities threaten the few remaining nice neighborhoods many citizens regard as the last hope for keeping cities from becoming hollow shells ringed by prosperous suburbs.
- A growing health danger from air pollution pouring from vehicle exhausts.
- Excessive use of autos contributes to the energy crisis by burning up large amounts of fuel daily.

John Hellegers of the Environmental Defense Fund, said, "The trust fund is the source of the problem." State highway officials were pressured into building Interstate highways because that was the only way the money could be spent. "It's tragic to what lengths they will go to build a highway." [Stillwell, Lee, "American Love of Interstates Turning Sour," *Pittsburgh Press*, August 30, 1973]

The Priority of Quality

On December 31, 1973, the Commission on Highway Beautification submitted its final report, *The Priority of Quality*, to President Nixon. The report listed the recommendations in the Commission's August 1972 interim report before providing additional recommendations, beginning with directional signs that let motorists know of services such as gas, food, and lodging on the road ahead. The Commission wanted to ensure that as billboards containing directional information were removed, "such information continues to be provided effectively" in a variety of ways, including Logo signs. Only two States, Oregon and Virginia, had installed such signs "and relatively few facilities have qualified anywhere" for inclusion on the signboards. The committee recommended:

> The authority of the Secretary to authorize directional signs for all necessary motorist services pursuant to both subsection 131(c)(1) and 131(f) of title 23 should be clarified and confirmed.

FHWA was encouraging the States to defer removal of directional signs until other types of signs had been removed, but “many States apparently for administrative convenience, are providing little or no effort to differentiate between directional and nondirectional signs in removal projects.”

> Sign removal programs should be structured so as to defer the removal of private signs providing necessary directional information about the goods and services of peculiar necessity to the traveling public until last.

> The operator of a facility providing such goods and services (gas, food, lodging, trailer parks, etc.) should be given the right to retain his last nonconforming directional sign on any given route until such time as he is afforded alternative means of providing the directional information contained on such sign.

The Commission recommended alternative ways of informing the public:

> States should be encouraged to make greater use of tourist information centers, map plazas, etc., within safety rest areas. The present requirements for the placement of such facilities in safety rest areas should be reviewed and revised to assure that there are no arbitrary restraints on their effective use.

The facilities might employ other means of directional information, including telephones in rest areas, tape cassettes, and transmitters for AM radios:

> The Federal Communications Commission should give careful consideration to the needs of motorists to get information about specific goods and services in any rule-making proceeding the FCC might undertake to provide for special purpose transmission, particularly those which might be received on AM radio in automobiles.

The Commission concluded that local jurisdictions could best regulate on-premise signs based on “local mores and desires.”

> The Commission suggests that independent consideration be given in the various States to State coordination of regulation of on-premise signs at locations such as areas immediately adjacent to major interchanges where land use may be of critical State or regional concern.

Members of Congress had expressed concerns about FHWA compliance with the language of the law and the congressional intent. Areas of concern included “State zoning determinations, the exemption for on-premise signs, federal participation in compensation, and authorization of directional signs.” The Commission felt that “Federal administrators on occasion have been highly arbitrary and neglectful of legislative language, to the point of substituting their own judgments for those of Congress.”

> The administrators of the Federal program should immediately take steps to adhere more closely to the language of the law and the intent of Congress.

The penalty of losing 10 percent of Federal-aid highway funding for failure to maintain control of outdoor advertising was so severe that it could rarely be imposed. The Commission suggested a change in law so that "the Secretary would have the option of assessing less than a 10% penalty, depending upon the relative severity of the noncompliance." In the case of judicial proceedings, a State should be able to recover the penalty if it prevails.

The Commission recognized that Indian reservations and the Commonwealth of Puerto Rico, both covered by the Highway Beautification Act, possessed "peculiar legal status."

> Tribal councils should be given clear authority to set a regulatory scheme consistent with the Highway Beautification Act of 1965 on Indian reservations.
>
> In view of general concern expressed in the Commonwealth of Puerto Rico about unessential restraints from Federal laws, Congress might wish to reconsider the necessity of applying the requirements of the Highway Beautification Act in the Commonwealth. [*The Priority of Quality*, p. 16-23]

The Commission also addressed control of junkyards, abandoned cars, and litter. The Highway Beautification Act "provides that junkyards or solid waste disposal sites within 1,000 feet of Interstate and Primary highways must be screened or relocated unless they are located in industrial areas." Although FHWA reported that all but two States were in compliance, questions had arisen about the effectiveness of screening and the appropriateness of some of the plantings used to screen junkyards. The Commission recommended more effective screening, but suggested that local highway authorities "direct their emphasis to relocation of junkyards wherever possible." It recommended clearing the areas for recycling, especially of abandoned cars, and that the private sector be given priority in absorbing the recycled material. [*The Priority of Quality*, p. 24-28]

Litter control was "a serious problem" that cost State and local governments an estimated $50 million a year. The Federal-Aid Highway Act of 1973 directed the Secretary of Transportation to study the litter problem and submit a report to Congress on the subject. In the meantime, the Commission recommended careful consideration of disposable containers, placement of receptacles in readily accessible areas along highways and in rest areas, use of the unemployed to rid highways of litter, and continued education of the public about the little problem. [*The Priority of Quality*, p. 28-29]

Part 5
A Blessing in Disguise

Transit Battles On

By the time Congress returned in September from its recess, transit supporters were voicing concerns about the Federal-Aid Highway Act of 1973. On September 5, an editorial in *The Wall Street Journal* referred to the 1973 Act as "a lamentably weak compromise in the long battle to redirect the multi-billion dollar Highway Trust Fund and open it up for mass transit." The bill, the editorial explained, put off the use of Federal-aid urban system funds for mass transit for 2 years while "Congress gave simultaneous authorization for yet another highway program." The editorial also denounced "President Nixon's destructive practice of impounding appropriated funds on an unprecedented scale." ["Congress Returns," *The Wall Street Journal*, September 5, 1973]

The New York Times anticipated that in coming days, the House and Senate would vote on the operating subsidies in the revived Emergency Commuter Relief Act, the measure that conferees had partly dropped from the 1973 Act:

> With few exceptions, cities all across this country are witnessing a familiar, but no less vicious, cycle in the fortunes of their mass transit systems: rising costs and fares, loss of passengers, reduced net income, deterioration, loss of more passengers and finally a slide into hopeless decay.

The pending vote could "break that terrible progression by the only means that can break it—a Federal operating subsidy." The "hoary belief" that Federal operating subsidies "would be throwing public funds down a bottomless well" had been challenged by imaginative action in several "exceptional cities." The *Times* cited San Diego, which adopted a subsidy to reduce fares from 40 cents to 25 cents, after which "patronage went up an astonishing 72 percent." Atlanta, which dropped fares to 15 cents, had seen ridership increase by 11 million passengers.

Federal action, in the form of $400 million a year in subsidies for 2 years, was "the one real hope for arresting a decline that has already reduced the country's mass transit patronage to less than one-third of what it was a quarter-century ago." The Senate bill made the grants available at the Secretary of Transportation's discretion. The *Times* preferred the House version, which made funds available to any system that produced a comprehensive plan for improved service, with apportionment based on the number of passengers carried and other criteria. In this way, the subsidy "would be not merely a handout but an incentive to increase patronage—and the only known ways to do that are to keep fares down and improve transit services."

If cities were to meet EPA's stringent air quality standards and reduce energy use, the key was for the House and Senate to pass the bill "by votes overwhelming enough to discourage an all too likely Presidential veto—or at worst to brighten the prospects for overriding it." ["Cash for Mass Transit," *The New York Times*, September 7, 1973]

Also on September 7, the Senate took up Senator Williams' bill, the Emergency Commuter Relief Act, S. 386. It amended Section 3 of the Urban Mass Transportation Act of 1964 by authorizing $400 million a year for 2 years to defray operating expenses, including debt service for mass transit investments. State or local agencies seeking a grant would have to submit a comprehensive mass transportation program to the Secretary of Transportation showing how it would improve the service and put it on a sound financial basis, including a reasonable fare structure. The Secretary would have to determine that the mass transit services are being provided efficiently. The Federal share would be two-thirds.
Senator Williams told his colleagues:

> On four previous occasions the Senate has accepted this premise and overwhelmingly approved legislation providing for such a program—a program that only the Federal Government can successfully administer . . . . [Most recently on March 14] we passed S. 386 by a 59 to 36 vote as an amendment to the 1973 highway act.
>
> But each time the legislation was derailed short of final enactment. On each occasion, the House failed to act and the House-Senate conferees, under the threat of a Presidential veto, deleted the provisions of S. 386 from the final bills. And in taking this position I, for one, believe that the President has shown a total disregard for the problems of our Nation's cities and the citizens who inhabit them.

The need for this bill was greater than ever:

> During the 4-year delay in enacting S. 386, costs have risen, fares have increased, and services have been curtailed, due to greater and greater operating deficits. As a result, more and more transit riders have been forced to use automobiles. And transit plans and projects that are urgently needed have piled up and gathered dust. ["Emergency Commuter Relief Act," *Congressional Record-Senate*, September 7, 1973, p. 28919-28921]

Senator Randolph was among those speaking in support of S. 386. He regretted that Senator Williams had voted against the Federal-Aid Highway Act of 1973, which contained several pro-transit elements, but not operating subsidies:

> Throughout a long and difficult conference with the House of Representatives, we encountered strong opposition to this provision. In the end the Senate conferees agreed to its deletion. This was necessary in order to obtain final agreement on important legislation and, frankly, to avoid a Presidential veto of that measure. The administration was adamantly opposed—wrongly, in my mind—to any Federal operating support for mass transit. ["Emergency Commuter Relief Act," p. 28923-28924]

After debate and amendment of the bill, including one from Senator Hart of Michigan authorizing demonstration projects to determine the feasibility of fare-free transit service, the Senate agreed to postpone the vote to Monday, September 10, to follow the vote on confirmation of Russell E. Train to be EPA Administrator. After confirming his nomination on the 10th by a vote of 85 to 0, the Senate turned back to S. 386. After brief supportive comments on the bill, the Senate passed the

Emergency Commuter Relief Act by a vote of 53 to 33. ["Emergency Commuter Relief Act," p. 29066]

Albert Karr pointed out that Senator Williams had opposed operating subsidies in 1961, saying, "It would be unwise, I think, to merely throw good money after bad by subsidizing the costs of [transit] deficits rather than trying to remedy the cause of it." As the Senate vote indicated, Senator Williams was not the only convert to operating subsidies. "A number of important people have opposed the idea at first—only to come back to it in the end." Former Secretary Volpe was one. He had once considered subsidies a "bottomless pit," but had changed his view in 1972. He had been, however, unable to persuade the White House. Karr continued:

> Now, it's understood that the new secretary, Claude S. Brinegar, and other department officials recently sought White House backing for some kind of transit-aide program, too, but without success.
>
> Meanwhile, various administration budgeteers and transit experts are understood to be kicking around the idea of letting transit systems use some federal money for either capital improvements or to help cover deficits, although no final decisions have been made. The official administration position still opposes the subsidy.

Still, the pressure to "do something" was growing. Even Karr's cab driver, stuck in downtown-Washington congestion, had said in frustration, "For God's sake, do something, even if it's wrong!" In part, this growing support reflected the realization that EPA's air quality requirements meant that cities would have to emphasize transit. "We should be subsidizing transportation," Mayor Pete Wilson of San Diego said, "to a far greater extent than we ever have in the past. If we don't, then we are going to limp along toward realization of the standards."

Noting that the House had never approved the idea, Karr said "observers think it may well do so for the first time, when the measure comes to the floor tomorrow [October 3]." If so, spokesmen indicated the President would veto the measure:

> The spokesmen say, for instance, that they didn't want a repeat of the government's sizable operating subsidy program for the Merchant Marine. The program doesn't seem to have done much to keep ocean freight moving in U.S. ships, as it was intended to do.

To date, according to the House Banking Committee, 150 State and local operating subsidies for transit have been approved. "These subsidies have apparently helped nearly arrest the long postwar decline in transit ridership. A decline that ended only this year." While that was a positive change, "what is needed is even more dramatic, a major surge in ridership." Getting people out of their private automobiles would require "fast, frequent, full-route, and comfortable commuting," without which subsidies "may be putting the cart before the horse (or the car before the bus)." Karr continued:

> And, as some Transportation Department planners have envisioned, a federal subsidy program might do well to include requirements that cities take steps like boosting auto parking fees or creating exclusive bus lanes in order to qualify for the dole.

Unfortunately State and local subsidies "proved a spotty, uncertain and often inadequate form of assistance, especially when it comes to inducing steps toward better transportation service." Karr cited the CTA as having received "some one-shot cash infusions" from the State "but the amounts have been small enough (though not tiny and prospects of more are so uncertain that the CTA has actually cut back service—and is faced with having to cut back more—when it should be improving service." Milton Pikarsky, CTA's chairman, explained that State or local funding for CTA was "possible only once every four years . . . because the others are presidential, congressional or mayoralty election years." He said, "Local officials are not yet ready to do these things—the federal government has to be the catalyst." [Karr, Albert R., "The Growing Clamor for Transit Subsidies," *The Wall Street Journal*, October 2, 1973]

On October 3, the House debated the Emergency Commuter Relief Act, H.R. 6452, which Representative Minish had introduced. The debate was more contentious than Senate consideration of the comparable bill. The Rules Committee had approved an open rule with 2 hours of general debate and had waived points of order against the bill for failing to comply with the House rule on appropriation in a legislative bill. The first order of business was to approve the rule, which many Representatives opposed. Representative Quillen, the Republican from Tennessee, explained the objection:

> It makes in order a bill which will merely cause us to go over much of the same ground that we have already covered in our consideration of the Federal-Aid Highway Act.

After outlining the 1973 Act's pro-transit provisions, he concluded:

> The administration is strongly opposed to the enactment of this bill, at a time when it is essential to control Federal spending. If inflation is to be controlled, we cannot continue to increase Federal spending.
>
> Mr. Speaker, in order that the House may not waste its time fighting over again the battles that were recently fought on the Federal aid to highway bill, I will ask for a no vote on passage of this rule. Let us defeat this rule and not waste our time plowing the same ground twice.

Others shared Representative Quillen's view. Representative Delbert L. Latta (R-Oh.) asked in the view of enactment of the 1973 Act, "how much more do a few large cities want from the taxpayers of this country?" Representative Frenzel said he cheered when the bill had been dropped from the 1973 Act "and hoped we had seen the last of the bill." Objections were too numerous to list, but the worst was "that the concept of operating subsidies is inherently deficient" because it turned priorities "upside down" by perpetuating "obsolete systems." He added that in an era of fiscal limits, subsidies would divert funds from needed capital improvements. He concluded:

> So let us not waste scarce transit dollars on obsolete systems; let us not accept future liabilities of billions of dollars of future transit operating losses; let us not tolerate a big-city money grab; let us put those scarce transit dollars where they will do the most good. Let us vote down this rule.

Representative Ford also opposed the rule because "it would be an academic exercise to pass the rule, consider the bill, and perhaps pass the bill, because it is inevitable that this legislation would not get the approval of the administration." He read from an October 1 letter he had received from Secretary Brinegar:

> The most important feature of H.R. 6452 would be the establishment of a new categorical grant program making funds available exclusively for operating subsidies. This bill would authorize $800 million for these grants and distribute the money by formula among only the largest urban centers.

On that basis, Representative Ford explained, the Administration unequivocally opposed H.R. 6452. Given that the Administration opposed the bill without reservation, Representative Ford urged his colleagues to defeat the rule and, if unsuccessful, the bill.

Representative Minish objected to the criticism of big cities. He pointed out that New York paid $30 billion in income taxes. "Where the population is, that is where the problem is." Representative Biaggi of New York also resented the reference. "In my judgment, [the bill] is just a response to a need that has been universally recognized as critical." As for the threat of a veto, he said:

> We should permit the President to review the findings of the Congress and then if he sees fit he will either sign or veto a bill which we feel will provide a great deal of assistance to millions of people in these United States. I harbor a hope that he will recognize the need and sign the bill into law.

Representative Koch said he wanted to take head-on the question of whether the legislation was a big city bill and whether the 1973 Act disposed of the problem. On the latter point, he pointed out that the 1973 Act did not address operating subsidies at all. On the big city question, he wanted to be very honest:

> This bill will apply where the existing transit lines are. It will not provide an operating subsidy to a transit system that does not exist. Therefore, obviously, where the subway riders are, or where commuters are, or where bus riders are, that is where the money will go.

He asked if that was any different than the way Federal-aid highway funds were apportioned:

> There is no limitation as to where we will put our highway money. It goes where the highways are . . . . I accept that principle, I accept it because it makes sense to put the money where the need is.

Representative Abzug agreed that the Federal-Aid Highway Act of 1973 was "a transportation milestone for all our people," including those in rural areas who needed buses as well as those in New York City who needed new subway cars:

> When we talk about mass transportation by bus, subway, rail or otherwise, we are speaking of the ways in which we can find solutions to some important national problems—the problems of pollution, the fuel crisis and the unclogging of our suburban and rural highways and highway interconnections, as well as the highways and streets of urban America.

She concluded:

> So when we speak about granting subsidies, it is not just for the guy or gal who goes into the subway in New York; it is a subsidy for all the American people with some hope for the future that we can create a decent society, economically as well as environmentally. That is what is inherent in this kind of subsidy bill.

Representative Gross pointed out that the bill was "a special-privilege bill for a few large cities, and especially the city of New York," which would get a quarter of the funds in the bill. He urged defeat of the rule and the bill. "I suggest that if the bill is approved we should take the torch from the hand of the Statue of Liberty and replace it with a tin cup."

Representative Madden of Indiana said he wished the funds in the bill could be tripled or quadrupled. As for Representative Gross' comment, Representative Madden said:

> Two years ago I drove from Chicago out to Omaha, and I went through Congressman Gross' area, and congressional district. You can shoot a cannon down any highway out there and it would be a miracle if you hit an automobile or truck. We in the traffic congested area of the Nation need this small subsidy to get at least some help on our transportation troubles.

Following additional debate, the House approved the rule, 282 to 131. Now, the debate could begin on H.R. 6452 amending the Urban Mass Transportation Act of 1964. [Urban Mass Transportation Assistance Act of 1973, *Congressional Record-House*, October 3, 1973, p. 32782-32792]

Representative Minish explained that as Americans increasingly lived in urban and suburban areas, mass transit had declined in recent decades, serving 10 billion fewer riders than it did just 20 years earlier. "These passengers are not lost. Rather, they are riding in cars, most one to a car." They could be enticed back to transit if the Federal Government assumed a partnership with the States and localities "for convenient, cheap, attractive mass transportation." He continued:

> Fortunately, the one-man one-car concept of transportation is now recognized as the most expensive and the most environmentally damaging means of moving people to and from their homes, places of employment, and the marketplace. Yet in spite of the tremendous cost and the social damage, billions of dollars have been spent to facilitate auto traffic, while a relative handful of dollars have been directed to meaningful alternative systems of transport.

He recognized that some might disagree with his characterization of the funding level in H.R. 6452 as prudent, but "I cannot emphasize too strongly that these costs are as nothing compared to the heavy economic and social costs of continued over-reliance on the automobile and continued neglect of mass transit." He concluded his introduction of the bill by saying, "We should face the fact that good urban transit service is a matter of public responsibility like education or police protection which provides benefits not just to the individual consumer, but to the well-being of the entire economy." [Urban Mass Transportation Assistance Act of 1973, p. 32793-32795]

Several Representatives spoke in support of the bill, including Representative Edward J. Patten (D-NJ), who said:

> Now, we might hear, "Congress recently passed mass transit funding in the form of the Federal Aid Highway Act, so why authorize more?" Mr. Chairman, what we did by including mass transit provisions in the highway bill was to buy the carriage; but the carriage is not going to move without the horse. [Urban Mass Transportation Assistance Act of 1973, p. 32799]

Representative Koch said the bill provided "a means for breaking the cycle of deteriorating service and declining ridership in which public transportation has been spinning for the past 3 decades." From 23 billion passengers in 1945, the peak year, transit had declined to a 1972 low of 6.5 billion passengers. "This is an astounding reduction, but one which suggests the potential of mass transit as a means of transportation for millions of people in all parts of the country."

He disputed a common criticism:

> Some argue that if a mass transportation operating assistance program is enacted, the demands for funding will only grow. But this is in fact what would not happen. Indeed, the committee sees this bill as providing emergency assistance to stem the tide of deficits now plaguing most systems. In the long run, the bill should save money at all levels of government.
>
> H.R. 6452 is designed to salvage and revive existing transit systems, make better use of transit capital resources, and return systems to a more sound financial basis. Just as this country subsidized trunkline airline operations for a number of years until they were able to operate independently, we now need to invest money in transit service so that it can be updated to better meet today's needs and become more financially viable. This cannot be done through capital grants alone.

He could not understand why some opposed operating subsidies. The Nation subsidized Amtrak. "Why should it be more reasonable to subsidize the operations of railroads carrying people between cities than mass transit transporting men and women to and from work in our cities?" The Nation subsidied the U.S. merchant marine to continue the U.S. flag fleet. "Similarly, we need mass transit operating subsidies so we can be assured that we will have the capability of moving large concentrations of people at an efficient pace within our cities.
He disputed that the money would go only to large cities:

> One of the things that recommends this bill over others that have been introduced is that every transit system—private and public, urban and rural—can get assistance through H.R. 6452. The Secretary is directed to allocate funds on the basis of a formula prescribed by the bill. The formula assures every transit system of some assistance upon submission, and approval by the Secretary, of a comprehensive transit service improvement plan.

True, a large share of the money would go to large cities. "But, is this so unreasonable that because transit systems and transit passengers are concentrated in certain parts of the country, these areas will get large portions of the funding?" He pointed out that the "transit crisis is a crisis of national proportions affecting all of us."

His New York colleague, Representative Biaggi, added:

> Let us make no mistake about it; the billions of dollars poured into highways and related facilities by the Federal, State, and local governments do not come from user taxes exclusively. There are sizable amounts for maintenance repair, ancillary facilities, traffic control systems, highway personnel, police patrols, and so on, that are not covered by user taxes. What we do here today is put mass transit service—the service that so many Americans, particularly our elderly, our poor, and our handicapped must rely on—on an equal footing with highway services. [Urban Mass Transportation Assistance Act of 1973, p. 32799-32800]

Representative James A. Burke (D-Ma.), who represented a Boston district, said H.R. 6452 was designed to alleviate a national problem that would only get worse unless addressed now:

> At another time, a far-sighted Congress saw the growth of the automobile as necessary to our society and they aided its growth by mandating the Interstate Highway System. Today, it is time again for another, hopefully, more farsighted House to approve aid to transit systems which will serve as alternatives to the automobile with its attendant problems of pollution, noise, congestion, and land requirements.
>
> In the mid-1950's when Congress initiated the interstate highway project America was primarily a rural, small-town country and the idea of Congress was to connect major cities by the most advanced road network at the time. Today with that vision almost complete the emphasis should be upon improving mass transportation within the urban and suburban areas because today more than 70 percent of our population live in these urban-suburban areas.

As many others pointed out, Representative Burke said that urban mass transportation was no longer a local problem. "Instead it now is national in scope, and Congress must deal with the problem directly—in the form of operating subsidies."

Representative Roe summarized testimony from Stokes of BART and Dr. Ronan:

> The minute you mention subsidies everybody runs and hides. But everybody testified to the point that the States simply cannot carry the cost of the mass transportation systems themselves. They have to have additional financial aid, particularly until they reach a revenue-producing level from fares collected . . . . Have we deteriorated to a point in this country where we refuse to make the investment that is needed, not out of emotion, but out of essential necessity? [Urban Mass Transportation Assistance Act of 1973, p. 32803-32804]

Representative Bingham, who just a few years earlier had battled Representative Fallon on the House floor in support of transit, said that since coming to Congress in 1965, "I have been working vigorously to help redress this imbalance through opening up the Highway Trust Fund for mass transit purposes at local option." Finally, the Federal-Aid Highway Act of 1973 accepted that premise:

> Unfortunately, it did not go as far as I had proposed, but its adoption represents an important victory in the cause of balancing highway needs against mass transit requirements.

H.R. 6452 was "an intelligent approach to a critical problem and deserves the support of all of us who are concerned about maintaining the health of our urban areas, fighting pollution, relieving the energy crisis, and insuring the mobility of our society, especially the poor, the old, and the handicapped." [Urban Mass Transportation Assistance Act of 1973, p. 32807-32808

After these and other statements, some of which were introduced for the record rather than delivered during the debate, the bill was read and amendments considered. The first was by Representative Wylie of Ohio who introduced an amendment on behalf of the Nixon Administration that would delete the section of H.R. 6452 dealing with operating subsidies. It was "not fair" to say the Nation was not providing assistance for mass transit unless it also provided operating subsidies. Congress, in the Federal-Aid Highway Act of 1973, had increased capital grants for mass transit:

> There is some inconsistency in that we have already provided an additional $3.1 billion for capital grants and now we add an additional $800 million for operating subsidies. I think the amendments are counterproductive because the money for each program will be coming out of the same pocket: the general revenue fund, and there is only so much to go around.
>
> I think what we need to do is provide the system first and then say to cities and municipalities, "It is up to you to operate it efficiently. We will try to help you with your capital grant program, since this will be your first major outlay as far as urban mass transportation is concerned" . . . . I am a strong supporter of urban mass transportation, and I supported the increase in the capital grant program to 80 percent Federal money . . . and I favored opening the highway trust funds for that purpose.

However, the section he proposed to eliminate would encourage inefficiency because it did not provide the Secretary of Transportation with guidelines on how to judge the merit of plans submitted by transit agencies seeking funds. [Urban Mass Transportation Assistance Act of 1973, p. 32811]

Representative Minish opposed the amendment, saying, it "plainly would gut the bill . . . and there would be nothing left in the bill." He addressed Representative Wylie's comments on guidelines:

> Let me say that it seems the people on this side of the aisle [Democrats] have more faith in the administration than the Members on the other side [Republicans]. There are plenty of safeguards in the bill. The Secretary of Transportation has the authority to deal with subsidies any way he wants. If transit systems do not measure up to what he thinks ought to be done they will not get any money. So it is a fallacy to say that this money is going to be wasted. [Urban Mass Transportation Assistance Act of 1973, p. 32811]

After additional debate, the House adopted the Wylie amendment, 206 to 203, to drop operating subsidies from the bill. [Urban Mass Transportation Assistance Act of 1973, p. 32814-32815]

As debate on H.R. 6452 was nearing an end after action on other amendments, Speaker of the House Carl Albert "resumed the chair." Under House rules, he asked if a separate vote was demanded on any amendment. Representative Wright Patman, who chaired the Banking Committee, demanded a separate vote on the Wylie amendment. After a voice vote, the Speaker declared that the "noes appeared to have it." Representative Wylie demanded "the yeas and nays." His amendment was defeated, 205 to 210.

The House then voted on H.R. 6452, which was approved 219 to 195. [Urban Mass Transportation Assistance Act of 1973, p. 32823-32824]

Marjorie Hunter, writing in *The New York Times* the next day, explained that big-city legislators had achieved the victory "only after a day-long excursion on a wild roller-coaster in which they found themselves first up, then down, and finally on top." She explained:

> Democratic floor leaders won an initial victory early today as the House agreed, 282 to 131, to bring the bill to the floor for debate. Scarcely hours later, Administration forces succeeded in stripping from the bill the operating subsidy provision, leaving the measure little more than a skeleton. That vote was 206 to 203. Under House rules, a second vote is permitted on any amendments that have been adopted during the amending stage. And Democratic managers of the bill, with the help of arm-twisting by Democratic leaders, succeeded in reversing the earlier vote.
>
> The bill then cleared the House by a vote of 219 to 215 and will be sent to a Senate-House conference to reconcile the differences.

The victory on the second Wylie amendment vote "was caused primarily by Democratic shifts":

> Voting for the proposal by Mr. Wylie to delete the subsidy provisions of the bill were 146 Republicans and 68 Democrats. Voting against were 166 Democrats and 37 Republicans.

> On the subsequent vote, 175 Democrats and 35 Republicans voted against the Wylie amendment, while 148 Republicans and 57 Democrats voted for it.

Despite the last-minute victory, the bill was still facing a Nixon veto threat. Considering that a two-thirds vote in both Houses would be needed to overturn a veto, "the narrowness of the vote indicates that a Presidential veto would be sustained." [Hunter, Marjorie, "House Approves Subsidy to Cities for Mass Transit," *The New York Times*, October 4, 1973]

On October 4, at a symposium sponsored by the Maryland Transportation Federation in Baltimore, a former member of the Nixon Administration suggested that the President was being poorly advised on national transportation needs in placing an undue emphasis on urban mass transit. Former Federal Highway Administrator Frank Turner told the symposium:

> The only problem we have in our cities is the rush hour traffic—morning and evening—five days a week. This constitutes from three to five per cent of the transportation movement in our cities.

The news media had drawn public attention to this "exotic part of the nation's transportation problem because they get caught in it every day."

The reason the Nixon Administration was emphasizing mass transit was "advice on the part of federal administrators that is of the same caliber of advice that we've seen of late on another topic involving the administration," Turner said, apparently referring to Watergate:

> What is continually overlooked in the push for mass transit in lieu of the auto is that downtown areas are not continuing to draw. Downtown Baltimore is a good example. It's long past due for reconstruction. And like other great cities, reconstruction is underway. The assumption is that re-growth will occur after reconstruction. But that's not true. Downtowns are growing at a much slower rate than the community in general.

As an example, he pointed out that redevelopment in the area around the new World Trade Center had not increased the number of people going into downtown New York City:

> Therefore, we don't need great concentrations of mass transit in downtown areas. And this point has not been given proper consideration. What we do need is relief from the pressures we have right now. We have blinded ourselves to the major portion of the problem. As a result, a disproportionate amount of money has not been applied to this part of the transportation problem.

The country's "rural transportation system" was the most deficient part of the network, while much time was lost in suburban areas where highway travel dominates. In cities, Turner said, "We don't need very much reduction in rush hour traffic to ease the problem. A 30 per cent reduction in the traffic flow would make the system adequate." Requiring carpools would be inexpensive and it would provide a better solution to urban transportation problems than new rail systems. "Mass transit is the wrong thing to do," he said in recommending that Federal transportation administrators focus on rural and suburban problems. [Marcks, Drew, "Mass Transit Overrated, Transportation Expert Says," *The Baltimore News-American*, October 5, 1973]

Secretary Brinegar, of course, disagreed with Turner's assessment. On October 15, he was in Miami to address the 92nd annual meeting of the American Transit Association. "It's my judgment," he told the meeting, "that the United States has, at last, turned the corner in its acceptance and usage of mass transit." He continued:

> To use a businessman's phrase—you're now clearly a "growth industry." By 1980, as your Association approaches its centennial year, the transit industry should be well on its way to again being the mainstay of urban transportation in our major cities. This Administration, I assure you, is dedicated to that objective.

Americans increasingly realize that "our long-term concentration on highways and automobiles—to the point where we now have 3.4 million miles of the former and 100 plus million of the latter—is no longer appropriate." Highways and motor vehicles had been essential at any earlier time, but the priorities of the 1970s and 1980s, such as urban congestion, air pollution, and the energy shortage, "now give us little choice but to shift the direction to public transit."

Despite "a rather late start," the Federal Government was addressing the urban transportation problem. One way was through UMTA's capital grants program:

> Since January 1969 our Department has approved 250 transit projects involving grants totaling $1.83 billion. Last month the 1973 Federal-Aid Highway Act doubled the available contract authority, extending it to a total of $6 billion. In this fiscal year we have in the neighborhood of $875 million to obligate. Despite the increased Federal share (we now match local dollars four to one), it appears that we will be able to approve most of the grant applications that are for bus purchases and bus facilities.

The flexibility afforded urban officials under the Federal-Aid Highway Act of 1973 was another significant step:

> This law overcomes one of the obstacles that has most hindered the progress of public transit in the past—the inability of local planners and municipal authorities to bargain persuasively for transit funds when Federal dollars for highways were cheaper and more readily available. Now, for the first time, cities can choose from a shopping list of transportation options in budgeting their portions of Highway Trust Fund monies . . . .
>
> The result is not only a new flexibility of funding, but <u>immediate</u> flexibility in the sense that only budget technicalities stand between urban communities and the accessibility of designated funds for transit purposes. Any city preferring an exclusive busway, for example, over a proposed freeway should make the fund application accordingly. We will work out the bookkeeping details.

Interstate substitution was another important provision:

> Mass transit projects—railways or busways—can now be substituted on a dollar-for-dollar basis for unbuilt Interstate highway segments no longer considered essential to the National system.

He added:

> I wish to caution that the '73 Highway Act does not guarantee money for transit purposes; it simply makes it available. Whether funds are drawn down for highways or transit depends ultimately on local initiative. For long-term success of these initiatives, in our view, we must have more comprehensive planning at the local level, better cooperation on the part of all the authorities involved, and closer coordination between local and state agencies. As part of President Nixon's doctrine of New Federalism, we believe that as much as possible of this decion-making should be at the levels of government closest to the people . . . .
>
> I am hopeful that under the broad and somewhat complex provisions of the Highway Act, more and more highway people and transit people, state officials and local authorities, will find out how to sit down and work together. Perhaps, hopefully, we'll even stop thinking of "highway people" and "transit people" as having different objectives.

The result of these and other initiatives was historic:

> President Nixon's commitment to the resurrection and renewal of public transit has yielded a most significant milestone in this, the fourth year of that commitment. The annual decline in total U.S. transit ridership has stopped, and, for the first time since the end of World War II, the trend is moving upwards.

He acknowledged "the continuing dilemma of operating losses," but said:

> I wish that I could say that I see a major Federal role in solving this problem, for I know how serious it is to you. Yet, in all honesty I believe the proper Federal approach is the one we have been advocating: helping with the capital investments but not with operating costs.

UMTA Administrator Herringer also was in Miami to address the annual meeting. In his speech on October 17, he confirmed that Secretary Brinegar would recommend that President Nixon veto the Emergency Commuter Relief Act if it came to him with $800 million in operating subsidies. Responsibility for operating budgets was "principally a local one." Some of the deficits could be eliminated by more efficient operations, particularly during off-peak hours.

He recommended that the industry needed an aggressive marketing campaign to get across the idea that mass transit was cheaper and safer than the automobile and contributed to cleaner air and energy conservation. It was time, Herringer said, "we start selling this product on its strengths." [Crosby, Thomas, "Transit Aid Veto Backed by Brinegar," *The Washington Star-News*, October 18, 1973]

Downfall of Vice President Agnew

On October 10, 1973, Vice President Agnew, famous for alliterative denunciations of Administration and war critics (calling them at one point "nattering nabobs of negativity"), resigned to avoid criminal prosecution for tax evasion and money laundering during his years as County Executive of Baltimore County, Maryland (1962-1966), and Governor of Maryland (1967-1969). The scheme involved accepting "kickbacks" from consultants who won contracts with the county or State.

As part of the agreement with prosecutors, Agnew pleaded *nolo contendere* (no contest) to a single charge of income tax evasion on $29,500 in "payments" received as Governor in 1967. In return for his resignation and plea, the Department of Justice agreed not to bring any other criminal charges against Agnew.

Jerome Wolff, the Agnew-appointed chairman-director of the State Roads Commission of Maryland, was one of the prosecutor's key witnesses. Cohen and Witcover explained Wolff's role:

> One of his chief tasks was to monitor every consulting engineering and construction contract in the state. It was a commanding position; under state law, for all practical purposes he controlled the selection of engineers and architects on every roads commission contract, subject only to Agnew's approval.

What made Wolff especially valuable to prosecutors was that he had documented his activities, giving the prosecutors a paper trail to follow.

The kickbacks usually averaged 3 to 5 percent of the design fee, but at least one engineer was paying 10 percent. The money was split among participants in the scheme, with Agnew receiving 50 percent of the kickback.

Another figure in the scheme was Allen Green, president of Green Associates, Inc., an engineering company. He met with Governor Agnew about six times a year:

> The two men usually discussed state business at such meetings, and Green nearly always would take the opportunity to bring up the subject of special interest to him—state road contracts. He would tell Governor Agnew which road and bridge contracts his company was interested in; sometimes Agnew would promise him a contract, sometimes tell him it had been committed to somebody else. In all this, the payoffs were never mentioned, but they continued on a regular basis. [Cohen and Witcover, p, 119, 134]

Although Vice President Agnew had little control over Federal contracts, he continued to receive kickbacks from his Maryland associates based on contracts still underway from his time as Governor.

Kickbacks were not unique to Maryland. Shortly after Vice President Agnew stepped down, *The Wall Street Journal* pointed out that prosecutors had identified Louisiana, New Jersey, and

Pennsylvania as trouble spots. In New Jersey, for example, convicted officials included a Member of Congress, the Mayors of Jersey City and Newark, and two Secretaries of State, all on kickback charges.

The *Journal* added:

> Particularly susceptible to abuse are contracts for architectural and engineering services—of the kind that led to Agnew's exit from the Vice President's office. [These] contracts are negotiated, rather than bid for competitively. The contracting official is given much leeway to choose among qualified applicants, thus opening the process to political influence. [Karmin, Monroe, "Throughout the U.S., Public Contracts Tied to 'Campaign Gifts,'" *The Wall Street Journal*, October 17, 1973]

Theodore White, who had covered passage of the Federal-Aid Highway Act of 1956 as a reporter, saw the Agnew abuses as an outgrowth of the Interstate System. Referring to the 1956 Act, he wrote:

> One can follow the thread of this single Highway Act on to politics: the reasoning behind the Federal Highway Act was so seductive as to melt resistance. It ran thus: the entries to and exits from big cities were so congested that a way had to be created for people to move into and out of such cities easily and go wherever they wanted to. But where more and more Americans wanted to go was the suburbs; and suburbia was to change American politics just as much as the opening of the West a century before.

Suburbia, he said, "had a new kind of politics, and only word of mouth to explain it." Suburbanites knew little about how they were governed, lacking the newspaper, radio, and television coverage that focused on the big city:

> Suburban politics revolve around land—the homeowners' use of land; where new expressways will go; where new factories will go; zoning ordinances and land-use variances that politicians broker among themselves for money.

In the suburbs, the usual big city graft ("from prostitution, gambling, ticket-fixing") was minimal. The "graft that comes from real-estate deals, zoning fixes and highway construction is maximal."

In the context of this new environment, Agnew had been "on the take by 1962 from engineering firms, [and] he remained on the take all the way through his career, until it was learned in 1973 that he was on the take still." [White, p. 44-45]

[Today, White is best known for his series *The Making of the President* that began with the 1960 election, but his article, "Where Are Those New Roads" in *Collier's* (January 6, 1956) is an insightful contemporary view of the political and economic forces that had killed the Federal-Aid Highway Act of 1955 in Congress.)

In the turmoil of the Vice Presidential resignation, President Nixon saw Representative Ford as a safe choice for Vice President because he would win confirmation easily. He had been in the House of Representatives since January 3, 1949, serving as Republican Minority Leader since 1965. He had never wanted to be President; his highest aspiration had been to become Speaker of the House if Republicans could gain control of the House (a feat they would not achieve until the mid-term elections of 1994).

When President Nixon announced his choice on October 12, congressional Democrats joined Republicans in praising the Minority Leader. Shortly after the announcement, *Engineering News-Record* commented:

> When President Nixon nominated Rep. Gerald R. Ford (R.-Mich.) to be Vice President, he selected one of the best friends the roadbuilders have. Ford has long been known as one of the most forceful advocates of highway construction. On only one occasion this year did he split with the Administration over major legislation. That involved diverting money from the Highway Trust Fund for construction of public transit systems. Ford argued that the construction funds would only be a foot in the door. If it was approved, he predicted, operating subsidies would be siphoned out too. ["Ford's Better Idea is More Highways," Washington Observer, *Engineering News-Record*, October 18, 1973, p. 7]

Journalist John Osborne wrote about the confirmation hearings for Vice President-designate Ford in the December 15 "Nixon Watch" column in *The New Republic*:

> The chairman and members of the Senate and House committees that approved the nomination of Congressman Gerald Ford to be the next Vice President of the United States spoke often at the hearings on the nomination as if they expected Ford to replace Richard Nixon in the presidency and were deciding whether he is fit to do so . . . . Chairman Howard Cannon said that his Senate Rules Committee "should view its obligations as no less important than the selection of a potential President of the United States." Chairman Peter Rodino said at the start of the House Judiciary Committee's hearings that "what we may indeed be undertaking this morning is an examination of a man's qualifications and fitness to hold the highest office in America, that of President of the United States."

Ford understood, "and answered matter of factly when he was asked what he'd do 'if you were President.'"

He explained that his 25 years in the House, 8 of them as Minority Leader, qualified him to be Vice President:

> I believe I can be a ready conciliator and calm communicator between the White House and Capitol Hill, between the reelection mandate of the Republican President and the equally emphatic mandate of the Democratic 93rd Congress.

Contrary to what some had said, history suggested he would not be an effective White House lobbyist, as Osborne wrote:

> Ford indicated in different answers that he did and didn't think that a realistic view. Senators Lyndon Johnson, Hubert Humphrey and Alben Barkley [Vice President under President Harry Truman, 1949-1953] discovered in recent times that their clout with the Senate melted away when they became Vice Presidents. Ford's disgraced predecessor, Spiro T. Agnew, never recovered from the harm he did himself during his first months in the vice presidency when he presumed to tell senators how to vote.

Questioners periodically asked if he supported the President's individual positions or generally. He said of his relationship with President Nixon:

> Of course I support the President. He is my friend of a quarter century. His political philosophy is very close to my own. He is the head of my party and the constitutional chief executive of the nation. He was chosen quite emphatically by the people a year ago as I, if confirmed as Vice President, will not have been.

He had periodically disagreed with President Nixon and had said so, but acknowledged that as Vice President, "I imagine . . . you do your presidential criticizing a little more privately than publicly." [Osborne, John, *The Fifth Year of The Nixon Watch*, Liveright, 1974, p. 209-212]

Representative Ford resigned from the House after he was sworn in as Vice President on December 6, 1973. He had been confirmed by the Senate on November 27 by a vote of 92 to 3, and by the House, earlier on December 6, by a vote of 387 to 35. (The three opposing Senators were Thomas F. Eagleton (D-Mo.), briefly Senator McGovern's Vice Presidential running mate in 1972, William D. Hathaway (D-Me.), and Gaylord Nelson.)

(On August 13, 1974, the National Society of Professional Engineers and the Maryland chapter of the society announced that Jerome B. Wolff, who had been president of Greiner Environmental Services., Inc., since leaving his position on Vice President Agnew's staff, had been expelled from both professional organizations. The action against Wolff and several other engineers was taken "with prejudice," meaning the engineers could never be reinstated. They were expelled "for unethical conduct" involving payoffs to former Vice President Agnew and his successor as Baltimore County Executive, Dale Anderson. [Walsh, Edward, "Engineers Expel 5 in Md. Scandals," *The Washington Post*, August 14, 1974]

The Quiet Revolution

Administrator Tiemann addressed the Chicago Association of Commerce and Industry on September 26, 1973, during "National Highway Week." The subject of his speech was "The Quiet Revolution." He said:

> I think it is important to explain to Americans in all walks of life what today's Federal-State highway program is really all about, because highways affect all of us individually in our everyday activities, and collectively in the attainment of our national goals.

> Unfortunately, many misconceptions and misstatements are prevalent about the highway program and how it relates to our present-day lifestyle. This, perhaps, is because both friend and foe alike are generally unaware of a "quiet revolution" that has been going on in the highway program, one that already has brought sweeping changes in direction, purpose and procedure.

He wanted to describe this revolution and "explain why much of the routine criticism you hear of the highway program is no longer accurate—or justified."

He began by saying the highway program was no longer a separate entity:

> Highways are a part of the total transportation team, and are fully in harness with the other modes. We are all pulling in the same direction—toward this total transportation the United States must have—and I think we are beginning to make notable progress.

FHWA worked "in very close concert and harmony" with UMTA, NHTSA, FAA, and FRA, "all parts of the Department of Transportation team." As a result, the goals and methods of the Federal-aid highway program had changed dramatically:

> Today the program is very much <u>people</u>-oriented, and <u>environment</u>-oriented. We want it to be responsive to the needs and desires of all of our people—for, after all, while highways are indispensable servants in our society, we must never permit them to become our masters.

He acknowledged the "loud voices raised in the land" that were "harshly critical of the highway program—even to the extent that some would do away with it altogether." This view was unrealistic since "almost 95 percent of the people and goods in this Nation are moved by highway." He thought some critics had "gone to an extreme—and untenable—position" because they were "true zealots, and this is their cause, so no amount of logic or compromise will sway them." Many environmentalists, city planners, mass transit advocates, and other highway opponents held a couple of basic misconceptions, namely that highway officials were "inimical to their objectives" and that "highways and their objectives are an either/or proposition."

Neither premise was valid:

> Those of us in the highway program do <u>not</u> oppose environmental, ecological, transit or other worthy goals; indeed, we are very much in sympathy with them, and we, too, are working <u>for</u> them.
>
> And this most definitely is <u>not</u> an either/or proposition. In our society today we are all very much aware of the need to preserve our environment and to protect our ecology, and of the vital necessity of providing dynamic new mass transit facilities for our urban areas. At the same time, America needs highways, along with all other forms of transportation, if it is to continue to progress. And these highways must be modern, safe and efficient.

Both sides had made mistakes and were guilty of misunderstandings. "Neither those who plan and build highways nor those who oppose highways have been without fault in this regard, and I would admit this freely." Highway officials had learned much from listening to their critics and as a result the highway program was "vastly improved over the highway program of yesteryear."

The "war," if it ever existed, with other interests was over. Now was a time for "mutual good will, trust, and cooperation." FHWA would do its part. "We want the highway program to be a good neighbor to all other desirable activities, and we intend to see to it that it is." He invited "conservationists, city planners, sociologists, or members of whatever disciplines" think something was wrong "to feel free to come in and tell us about it." He promised a "respectful and honest hearing."

The problems in the Nation's cities were well known, certainly to Chicago residents. The solution was obvious: "we must persuade significant numbers of people to leave their automobiles at home, particularly during the rush hours, and travel by mass transit or by car pools." In this regard, the Federal-Aid Highway Act of 1973 was landmark legislation "because it provides immediate flexibility in transportation decisionmaking in urban areas." He cited its breakthroughs on use of Federal-aid urban system funds, withdrawal of controversial Interstate segments, and increased UMTA funding. "The Department of Transportation feels that cities should have a choice as to what transportation modes are best for their particular needs, and this Act provides them with this choice."

He emphasized that highway officials were not opposed to rail rapid transit. "We are wholeheartedly for it wherever it is needed and can be justified." Elsewhere, "mass transit will of necessity be bus-oriented, utilizing exclusive bus lanes or other forms of preferential treatment."

He identified environmental concerns as "another area of great importance." At FHWA, he said, "we sincerely believe that the environment is just as important as highways, and we have an unequivocal commitment to making certain that the environment is protected." The environmental impact statement was "firmly established as standard operating procedure for State highway departments." The States also were preparing Action Plans for FHWA approval indicating how environmental consideration would be reflected in each State's highway planning and how the public would be involved in early decisionmaking:

> Of course, these things are required by Federal law. But I personally believe, as Edmund Burke once said, "It is not what a lawyer tells me I may do, but what humility, reason, and justice tell me I ought to do." In other words, we are doing all of these things to protect the environment because it is right to do so.

He commented on FHWA's commitment to fair treatment of relocatees, equal opportunity and civil rights, bicycling, highway safety, and reduction of red tape:

> There is more—much more—but no more time today to discuss it. I trust, however, that the things I have mentioned have helped to make you better aware of the "quiet revolution" that

> has been, and is, making today's highway program as different from that of the past as is a 1974 model car from the Model T, which started it all.
>
> And I leave you with this assurance: we are going to continue to make sure that the highway program is a good neighbor to all of the other needed programs in our society. For as Mark Train put it, "Always do the right thing. This will gratify some people, and astonish the rest." [Emphasis in original]

The Energy Crisis

After much debate and delay, Congress had settled on the transportation balance reflected in the Federal-Aid Highway Act of 1973. Transit, bicycle, and urban interests had wanted more, but the highway interests had worked hard to preserve the "trust" in the Highway Trust Fund. While rival interests fought for their share of the funds, forces were underway that would aid transit, bicycle, and urban interests in ways their supporters could not have foreseen when President Nixon signed the legislation. In addition, the House and Senate had approved the Emergency Commuter Relief Act to provide, if a presidential veto could be overturned, Federal operating assistance.

In recent years, the public had been adjusting to reduced availability of gas for their cars. Transit and bicycle interests had added the energy crisis to their arguments for increased funding from a guaranteed source. Just 3 days before the Oval Office ceremony in which President Nixon approved the Federal-Aid Highway Act of 1973, officials announced on Friday, August 10, that gasoline, heating oil, and other petroleum products would remain under price controls indefinitely. The present rigid controls would remain in effect through August 18, to be replaced by a slightly less rigid freeze. According to *The New York Times*:

> John T. Dunlop, director of the Cost of Living Council, said that the petroleum ceiling would result in some rollbacks in gasoline and heating oil prices below freeze levels. He does not expect such rollbacks to be widespread, however.
>
> The most visible evidence to the customer of the new controls will be red-white-and-blue stickers on service station gasoline pumps. They will display the lawful prices and octane ratings. [Associated Press, "Price Controls Are Kept on 'Gas' and Oil," *The New York Times*, August 11, 1973]

These forces were known by the Members of Congress who approved the Federal-Aid Highway Act of 1973. They could not know that the single event that would most affect the Federal-aid highway program would take place just 2 months after the legislation became law – not in the United States but Lebanon.

Israel and several Arab States led by Egypt and Syria were in the midst of the Yom Kippur War (October 6 to 26, 1973), which Israel would win. The war would impact the entire United States, but it also helped bring about one of the most startling events in the Watergate investigation.

In May, Attorney General Richardson had appointed a Special Prosecutor to investigate the widespread abuses grouped under the name Watergate. Richardson selected Archibald Cox, a former Solicitor General (January 1961–July 1965) and a professor at Harvard Law School, for the post. In October, with the Administration absorbed in diplomatic efforts to help Israel and mounting an airlift, President Nixon and his aides decided that the investigation had become too much of a distraction. At 8:15 p.m. on Friday, October 19, the White House released a statement:

> For a number of months, there has been a strain imposed on the American people by the aftermath of Watergate . . . . Our government, like our nation, must remain strong and effective. What matters most, in this critical hour, is our ability to act—and to act in a way that enables us to control events, not to be paralyzed and overwhelmed by them. At home, the Watergate issue has taken on overtones of a partisan political contest. Concurrently, there are those in the international community who may be tempted by our Watergate-related difficulties at home to misread America's unity and resolve in meeting the challenges we confront abroad.
>
> I have concluded that it is necessary to take decisive actions that will avoid any possibility of a constitutional crisis and that will lay the groundwork upon which we can assure unity of purpose at home and end the temptation abroad to test our resolve.

The President announced he would compromise on the White House tapes by making summaries of them available to Senator John Stennis (D-Ms.). The 72-year old hard-of-hearing right-wing Senator, a strong supporter of the President, would listen to the tapes to verify the accuracy of the summaries. President Nixon also indicated that he was ordering Cox, a Federal employee, to end his inquiry. Cox refused to end his investigation.

On Saturday, October 20, General Haig ordered Attorney General Richardson to fire Cox for insubordination. When Richardson refused and resigned, the White House asked William Ruckelshaus, now Deputy Attorney General, to fire Cox. He refused and resigned. Both had made commitments to the congressional investigators regarding the independence of the Special Prosecutor. Next, the White House turned to Solicitor General Robert H. Bork, who had taken office only a few months earlier. Having made no such commitment, he fired Cox. Press Secretary Ron Ziegler announced the news at 8:22 p.m., Saturday Night. What quickly became known as the "Saturday Night Massacre" would quickly impact the course of the investigation into the Watergate abuses. As White put it:

> Thus playing with fate brilliantly across the world, the President, still resolute, played the same gambler's game at home—but badly, mindlessly, totally miscalculating the consequences . . . . The reaction that evening was as near instantaneous as it had been at Pearl Harbor, or the day of John F. Kennedy's assassination—an explosion as unpredictable and as sweeping as mass hysteria . . . .
>
> Within three day, Charles Alan Wright, the President's Constitutionalist, stood before Judge Sirica to capitulate, to announce that the President would yield the tapes demanded. "This

> President does not defy the law," said Wright, though his client three days before had done exactly that. [White, p. 263-271]

While President Nixon used the war to try to end the Watergate investigation, Israel's enemies decided to use the war to punish the small country' allies. On October 17, 1973, 11 Middle East nations, all members of the Organization of Arab Petroleum Exporting Countries (OAPEC), proclaimed a progressively increasing monthly cut in exports of oil to the United States and other nations perceived as unfriendly to Arab goals. The cut soon became a boycott until March 1974. The OAPEC and the Organization of Petroleum Exporting Counties (OPEC), which included non-Arab countries, used the boycott as an opportunity to raise the price of their oil after the boycott.

Daniel Yergin described the reaction:

> What better recipe could there have been for panic prices than the oil supply situation in the memorable final months of 1973? The ingredients included war and violence, cutbacks in supply, embargoes, shortages, desperate consumers, the specter of further cutbacks, and the possibility that the Arabs would never restore production. Fear and uncertainty were pervasive and had a self-fulfilling effect: both oil companies and consumers frantically sought additional supplies not only for current use but also for storage against future shortages and the unknown. Panic buying meant extra demand in the market. Indeed, buyers were scrambling desperately to get any oil they could find. "We weren't bidding just for oil," said one independent refiner who did not have a secure source of supply. "We were bidding for our life" . . . .
>
> The age of shortage was at hand. The prospect, at best, was gloomy: lost economic growth, recession, and inflation . . . . Moreover, the United States, the world's foremost superpower and the underwriter of the international order, had now been thrown on the defensive, humiliated, by a handful of small nations . . . .
>
> In the United States, the shortfall struck at fundamental beliefs in the endless abundance of resources, convictions so deeply rooted in the American character and experience that a large part of the public did not even know, up until October 1973, that the United States imported any oil at all. [Yergin, Daniel, *The Prize: The Epic Quest for Oil, Money & Power*, A Touchstone Book, 1993, p. 615-616]

Journalist and author David Halberstam described the immediate impact:

> The American economy and the American people were completely unprepared for the change. The squandering of oil was built into the very structure of American life. Everyone had become dependent upon cheap energy. Almost all American cars, for example, had automatic transmissions, which used 25 percent more gas than the old manual transmission. With many American brands of car, if a buyer wanted a manual shift, he had to say so in advance so it could be ordered from the factory. By the time of the Yom Kippur War, 85 percent of the job holders in America drove to work every day—and as a result, public transportation had atrophied. Suddenly gas was expensive and scarce. In a short time it

> went from 36 cents a gallon to 60. People lined up for hours at every service station. There were fights as drivers tried to jump the line, reports of bribes, and even one murder committed in a struggle for gas. In the neurosis created by the boycott there was a new craze called "topping off," which was an attempt to keep one's tank perpetually filled. At one service station in Pittsburgh a motorist came in and bought 11 cents' worth, and the attendant spit in his face. The Boston police department came up with an interesting statistic: The number of cases of automobile arson went up dramatically, from 149 to 330, in the year when the gas prices jumped; most of those torched cars were gas guzzlers. In the first quarter of 1974 the use of gas dropped 7 percent in the United States instead of rising the normal 7 percent. [Halberstam, David, *The Reckoning*, William P. Morrow and Company, 1986, p. 458-459]

In an address on November 7, 1973, President Nixon advised the Nation that the energy crisis was "a problem we must all face together in the months and years ahead." The Federal Government, he said, would take several steps, such as preventing industries and utilities that use coal from converting power plants to use oil, reducing the number of flights as well as the supply of heating oil for homes and offices (by 15 percent), reducing the temperatures in government buildings, and speeding up the licensing and construction of nuclear power plants. He asked State and local officials to take appropriate steps, including:

> How many times have you gone along the highway or the freeway, wherever the case may be, and seen hundreds and hundreds of cars with only one individual in that car? This we must all cooperate to change.
>
> Consistent with safety and economic considerations, I am also asking Governors to take steps to reduce highway speed limits to 50 miles per hour. This action alone, if it is adopted on a nationwide basis, could save over 200,000 barrels of oil a day, just reducing the speed limit to 50 miles per hour.

In addition, the President indicated he would direct his staff to work with Congress on emergency energy legislation. It would make daylight saving time a year-round provision, relax regulations to balance environmental interests with energy requirements, impose energy conservation measures such as restrictions on working hours for shopping centers, fund exploration and development of oil from the naval petroleum reserves, and give the Federal Government authority to reduce highway speed limits throughout the Nation as well as the power to adjust the schedules of planes, ships, and other carriers.

These were all short term measures. For the long term, he outlined measures his Administration would take, including the launch of a campaign to free the country from reliance on oil from other parts of the world. He was convinced the Nation had the reserves, as well as the technology to meet this goal. He cited the 1940s Manhattan Project that developed the atomic bomb and President Kennedy's pledge to put a man on the moon in 10 years:

> Let us unite in committing the resources of this Nation to a major new endeavor, an endeavor that in this Bicentennial Era we can appropriately call "Project Independence."

> Let us set as our national goal, in the spirit of Apollo, with the determination of the Manhattan Project, that by the end of this decade we will have developed the potential to meet our own energy needs without depending on any foreign energy sources.
>
> Let us pledge that by 1980, under Project Independence, we shall be able to meet America's energy needs from America's own energy resources.

Yergin said of Project Independence:

> To call this plan ambitious was a considerable understatement; it would require many technological advances, vast amounts of money, and a sharp swerve away from the new road of environmentalism. His staff had told him that the goal of energy independence by 1980 was impossible, and suggested that it was thus silly to proclaim. Nixon overruled his staff. For energy was now both a crisis and high politics.

Nixon fired his energy czar, John Love, and replaced him with Deputy Treasury Secretary William Simon:

> Telling the Cabinet about Simon's new post, Nixon likened it to Albert Speer's position as armaments overlord in the Third Reich. Had Speer not been given the power to override the German bureaucracy, Nixon explained, Germany would have been defeated far earlier. Simon was somewhat discomfited by the comparison. Nixon further said that Simon would have "absolute authority." But that was one thing he surely did not have in fragmented, contentious Washington. [*The Prize*, p. 617-618]

On December 11, 1973, the Senate Committee on Public Works held a hearing on "Transportation and the New Energy Policies." One of the witnesses was George H. Andrews, Director of Highways for the Washington State Highway Department and president of the American Association of State Highway and Transportation Officials (AASHTO), as AASHO was now called. He reported on a survey of AASHTO's member States. He said that "the uncertainty as to the availability of critical materials such as asphalt, cement, reinforcing and structural steel, and petroleum products is making it difficult to obtain reasonable bids in 23 States." Some States, he said, "are curtailing some of their maintenance activities" to conserve fuel, while every State was experiencing revenue reductions as a result in a decline in State gas tax revenues and was adjusting project schedules in view of the new financial reality.

He reported on the "social and economic effects" if all highway construction were suspended in 1974. Such an action would save 148 million gallons of gasoline and 450 million gallons of diesel fuel. It also would result in increased unemployment totaling 1,291,000 workers, while the lack of improved facilities with safer designs would prevent a reduction of 9,070 injuries and 460 fatalities. He summarized other "extreme financial hardships" that would result from curtailment:

> A great deal of heavy equipment being used today because of the national commitment to building of the interstate program is bought on time and the lending institutions that have

> extended the credit may have to call loans. If this happens, it could mean bankruptcy to many private businesses.

Many States had lowered speed limits, some even before President Nixon had called for a reduction:

> Many of the States have already taken action individually to lower speed limits on not only the interstate system but on all highway systems within their borders . . . . [As] of December 3, 1973 . . . only two States—Massachusetts and South Carolina—have adopted a two-tiered system [different speed limits for trucks/buses and other vehicles].
>
> Nine States have set 50 miles per hour limits and 7 have set 55 miles per hour. Three States have set dual limits with higher speeds permitted on the interstate and turnpike systems . . . . Some States are withholding action, pending action taken in the Congress.

AASHTO had not formally recommended a maximum speed limit, although Andrews said that in testimony before the House Committee on Energy, AASHTO had stated that 55 mph "was probably a desirable maximum." However, AASHTO was particularly concerned about speed differentials where one class of vehicles, such as trucks and buses, had a higher speed limit than other vehicles on the same road. One of the primary causes of crashes is speed differential, in part because it encourages lane changes and other maneuvering among lanes.

On January 2, 1974, President Nixon signed the Emergency Highway Energy Conservation Act, which prohibited FHWA from approving Federal-aid projects in any State that had a speed limit over 55 m.p.h. The provision was to go into effect 60 days after enactment. The Act also prohibited the use of variable speed limits for different classes of vehicles and authorized the Secretary to carry out a demonstration project to encourage the use of carpools in urban areas. The speed-limit restriction on project approvals would end when the President declared the end of the fuel shortage or June 30, 1975, whichever came first.

The President, working out of his home in San Clemente, California, said he was "gratified and encouraged" by the number of States that had voluntarily lowered speed limits as he had requested. "I have also been pleased by the response of so many Americans to my request that they slow down on the highways even when the speed limits have not officially been lowered." He estimated that lowered speeds would save nearly 200,000 barrels of fuel a day. His brief remarks concluded:

> With the attitude of cooperation and mutual concern expressed by a wide range of conservation actions by individual Americans, the social and economic impacts of the energy crisis can be minimized and we can look even more confidently to the day when we will become self-sufficient in energy.

(The requirement authorized by the emergency legislation was sometimes referred to as a "national speed limit," but in requiring FHWA to withhold project approvals if speed limits were not lowered, the measure recognized that State and local governments, not the Federal Government, impose speed limits.)

The oil boycott was short-lived, ending in mid-March, but it had long-lasting effects on how Americans thought about transportation. Average vehicle distance traveled declined in 1973 for the first time since rationing of gasoline and rubber had ended after World War II. Alternatives to the motor vehicle, particularly transit, gained momentum. Officials promoted carpooling while bicycling received the biggest boost as a means of transportation it had received since the 1890's.

Americans began turning away from the large cars they had favored, increasing the market share of foreign auto manufacturers whose small, fuel efficient vehicles gradually increased their share of the U.S. market. Historian John Steele Gordon described the impact of the 1973 energy crisis:

> With gas in short supply, far more fuel-efficient European cars saw a sharp rise in demand. The Volkswagen Beetle, which had had only a niche market among college students and families with second cars, became an icon of the new automotive era and would have a longer production run than even the Ford Model T. Japanese cars also began to invade the American market, revealing starkly how poorly many American cars were manufactured and how inefficient American manufacturing had become.
>
> With the long period needed to redesign and retool, the American automobile industry would struggle for more than a decade to regain its footing. By the time it did, the automobile business had become one of the first heavy manufacturing industries to be thoroughly globalized. [*An Empire of Wealth*, p. 387]

The Safety Bonus

A week before the oil boycott began, *The Washington Post* carried a *Los Angeles Times* article that began:

> Nearly 60,000 people will be killed on U.S. highways this year. That might not be much of a surprise unless you recall that more than seven years ago—on September 9, 1966, to be exact—President Lyndon B. Johnson signed two major traffic safety laws in the hope the nation could "cure the highway disease" that already had killed more than 1.5 million Americans since the turn of the century.

Despite "billions of dollars" spent since then on highway safety, 58,000 people would be killed on the roads in 1973, up from 53,000 dead in 1966. At some point in 1974, "the 2 millionth U.S. traffic fatality will be recorded." True, the fatality rate was lower, reflecting increased miles of travel, but in 1966, people had expected the number of fatalities to decline.

Even the most optimistic safety experts were talking about "holding the line" rather than reducing the death toll. "And others say even that is a pipe dream." For example, Roy Haeusler, the Chrysler Corporation's chief safety engineer, said, "We're going to have more fatalities in 1980 than we have now. There will be no reduction, much less a reduction of one-half," as once predicted by government officials.

The article attributed the continued climb in fatalities to several factors. One was the "continuing debate over the most effective way to combat highway deaths." The debate over whether to improve cars, highways, or drivers "has caused such a diffusion of effort that no area has received strong, sustained attention." Further, the most effective moves "are considered too costly or too radical to implement."

Improved safety standards since 1966 "have added more than $300 to the price of the average car." If new car sales in 1974 totaled 11 million, "buyers will pay a $3.3 billion safety premium for their cars." However, the only change "that promises significantly greater survival in accidents is the unpopular seat belt system." Polls indicate that only 3 out of 10 people use the systems. "And no other advances on the horizon appear good enough to cause a drop in the annual death toll."

The results of efforts to improve driver behavior also were disappointing. William E. McCormick, assistant director of the University of Michigan's Highway Safety Research Institute, suggested that attempts to change driver behavior were futile because no one understood why drivers make unsafe choices. According to traffic safety engineer B. J. Campbell of the University of North Carolina's Highway Safety Research Center, driver education efforts failed because "many of our driver programs in highway safety are the equivalent of dividing one aspirin among 10 people with a headache. If the headaches are nor cured we shouldn't blame the aspirin." [Fisher, Dan, "U.S. Highway Deaths Still Seen Increasing," *The Washington Post*, October 7, 1973]

In an interview with United Press International, Secretary Brinegar said the focus of safety efforts would now be on the driver:

> I think that some of the quick, early things that could have been done to the automobile have been done—the collapsible steering gear, improved windshields, the seatbelts, the shoulder harness, and perhaps ahead of us, the air bag—those technological things have pretty well been explored.

He clarified that, "I don't think we are letting up on the car, but in terms of quick payoff, we're back harder on the driver." One of the biggest concerns was alcohol, which was involved in about half the fatal highway crashes. "Those things seem to tell you that if you want to put a lot of effort into quick results—which the country wants—it should be on the driver, and I think that's where you'll see" a renewed emphasis:

> Brinegar said he favors stiffer restrictions against drunk drivers. "I think that we should move to a very strict legal action" in the event a drunk driver is caught. He suggested he would "come close" to recommending mandatory license suspensions for such drivers. "I'd have to look at some of the legal sides, but I'd surely do something essentially like that."
>
> "It's a matter of singling out the group—the young people, and the people who are excessive drinkers, are clearly the ones who are causing most of the accidents," he said.

Secretary Brinegar also argued that while more progress was needed, the 1966 safety legislation had been effective. The fatality rate (deaths per 100 million miles traveled) had fallen since 1966. "If the traffic death rate stayed as it was in 1966, the fatality [total] would now be about 75,000 or 80,000 a year" because of increased traffic. [United Press International, "Driver Safety Pushed," *The Washington Star-News*, October 22, 1973]

The energy crisis would have many unpredictable impacts, but one of the first was an unexpected bonus in highway safety. After initially focusing on energy savings, officials began to see a safety benefit by late November 1973. According to Eugene L. Lunn of NHTSA's research institute, the lower speed limit could reduce fatalities by 1 percent or 5,000 lives a year. "There will be a drastic reduction if we went through all of 1974 with less traveling and at lower speeds."

Experts were divided on this prediction. They agreed that reduced travel miles would have a safety impact, but other changes resulting from the energy crisis could counteract the impact. Smaller vehicles might be more fuel efficient, but also less safe. Motorists carrying extra cans of gas in their trunk increased their risk of a fire following a rear-end collision. And speed differences among vehicles on a road, always one of the main causes of crashes, could increase risks as drivers ignoring the speed limit weave among slower vehicles. Dr. Haddon of the Insurance Institute for Highway Safety said the short-term impact of lower speed limits was "hard to assess because it depends on how strictly speed limits are enforced and the availability of gas." He added that, "in the long run the increased use of small cars will increase injuries and deaths if controls continue because we are putting people in smaller packages." [Lyons, Richard D., "Slower Speed May Savey 5,000 Lives Next Year," *The New York Times*, November 27, 1973]

Very quickly, however, officials noticed a decline in crashes. As *The Washington Post* reported:

> Serious highway traffic accidents dropped sharply over the long Thanksgiving weekend this year in what highway safety experts said yesterday was an apparent side effect of the nation's energy crisis . . . . Figures compiled by the American Automobile Association showed a 22.2 percent drop in nationwide traffic fatalities. There were 679 fatalities during last year's Thanksgiving weekend and 528 this year, according to the AAA figures.

Traffic volumes fluctuated in minor ways from 1972 to 1973, but State police and highway officials considered the reduced speeds the key factor. Chairman Reed of the National Highway Transportation Safety Board said, "It's certainly reasonable to assume that wherever we have a reduction in speed we're going to see a corresponding drop in severe accidents." [Richarus, Bill, "Accidents Decline as Speeds Fall," *The Washington Post*, November 28, 1973]

The safety bonus resulted in additional support for the Federal legislation on speed limits.

In 1974, the country experienced 46,049 highway deaths, compared with 55,096 fatalities in 1973. The reduction was widely attributed to the speed limit of 55 m.p.h. and reduced traffic volumes.

With the 55 m.p.h. speed limit still in effect after the boycott, fatalities increased to a post-boycott peak over 50,000 in 1978, before beginning a gradual decrease to 39,230 deaths in 1992 and 32,367 in 2011, the lowest level since 1949 even though drivers traveled nearly 46 billion more miles than in 1949. Initially, the decline was widely attributed to the lower speed limits, but other changes, such as safer vehicles and added safety features on roads, were occurring at the same time and may have had a longer term positive benefits for highway safety that may account for the continued progress after the Federal requirement was lifted.

AASHTO in L.A.

AASHTO held its annual meeting in Los Angeles beginning November 12, 1973. When Mayor Bradley had to cancel his planned address of welcome, AASHTO found a substitute: Governor Ronald Reagan. Instead of an impromptu greeting that would have left a large block of empty time for AASHTO to fill, Governor Reagan filled the hour with a speech on highways and the environment. He began:

> In recent years, most of us have become a great deal more concerned about the necessity of protecting the environment, and we have been doing something about it . . . . Literally millions of dollars have been and are being spent to fight smog, eliminate water pollution, and to otherwise preserve and protect the environment against unnecessary intrusion by the activities of man.

Although any "reasonable person would say that we have been moving vigorously" on the environmental front, Governor Reagan said that "no matter how much we do, there is still a very active fringe element in the environmental movement that never seems to be satisfied." The "voices of reason are being drowned out by the prophets of calamity" who want to take the old expression "stop the world, I want to get off," and change it to "stop the world and put us off." He continued:

> A strange sort of no-growth, no-development syndrome is proposed without regard for the consequences this might have on the lives of our people or the vitality of our economy.

Most daily traffic "is for a very necessary and practical purpose," such as commuting to and from work. "We must have the fuel and electric power to drive those vehicles, along with the rapid transit systems we are trying to develop to ease the burden on the private automobile and the roads." He suggested:

> It is high time we strike a more realistic and reasonable balance between the need to protect the environment and the equally urgent need to have an efficient, functioning transportation system, including highways, with sufficient fuel to meet the needs of a modern industrial economy . . . .
>
> Right now, America is caught between two whirlwinds forcing potentially massive disruptions in our society, the effort to protect the environment and the world wide energy shortage.

In the face of this national challenge, "the philosophy of no-growth" was imposing "an environmental straight-jacket on our economy." He was concerned about proposals to drastically curtail automobile traffic:

> There have been suggestions that a surcharge be imposed for downtown parking, for higher taxes on automobiles, for steps that would mean higher gasoline prices to limit driving, even for gasoline rationing itself.

These might be temporary solutions, but they "hit the average citizen where it hurts most, in the pocket book." The solution would not be found by forcing people out of their cars "because government makes it too expensive for the average citizen to operate his own car." The solution was more likely to come "from the engineers in the factories, not from the economists in Washington." He said:

> Because it is such a complex subject, it is not my purpose to dwell on the particular guidelines . . . . But there is one element in many of these suggestions that I find disturbing, unrealistic and decidedly unfair. That is the tendency to apply economic sanctions, to imipose an economic penalty as a major tool in the effort to solve the pollution problem.

Governor Reagan considered highways "an essential element" in the Nation's transportation system:

> Perhaps it is time that those of you in this particular area of transportation become less defensive and more aggressive in pointing out the beneficial impact of America's network of highways and roads.
>
> There has been far too much mythology about the so-called adverse impact of highways and not enough of the facts about how vital our highways are to the prosperity, convenience and well-being of our people.
>
> We have the best transportation system in the world. And the main reason for that is because we have the best highways and roads.

He said the population had doubled since 1916 and the number of vehicles had increased 30 times, yet highway mileage has increased less than one third. "In some areas, highways require less land area than we used for horses and wagons before the automobile was invented." The Interstate System carried 19 percent of all traffic "and yet uses up only one percent of the land area devoted to highways and roads." Although freeways were "cast as the butt of so many jokes" and portrayed as the "archvillain," they "made a massive contribution to traffic safety," saving thousands of lives. Further, most of the funding, 93 percent, spent on roads was to improve existing facilities, not build new ones.

He said California was "ahead of most of the rest of the nation in adding technical devices to control smog," but now, "in fairness to our people, in recognition of the realistic limits of existing technology, it is time to start asking some very serious questions in view of the fuel shortage." He explained:

> The California scientist who discovered smog has questioned whether the catalytic converter might do more harm than good. Even some researchers for the Environmental

> Protection Agency are raising serious objections to this device, which is scheduled to be introduced on 1975 automobiles. Should government mandate this type of device before these kinds of serious reservations are fully resolved?

He agreed that smog control devices had been helpful in reducing emisions, but "there is also no dispute that in doing so, the automobile engines have required more fuel, at a time when we face a fuel shortage."

Governor Reagan concluded:

> We need a modern system of roads and highways to carry our people to and from work, to haul the products of our industries and farms to market, to help maintain a dynamic and prosperous economy and to make travel safer for our people.
>
> That is a legitimate and valid goal. It is something that government must recognize, just as we recognize the need for legitimate and realistic steps to protect and preserve the environment. [Reagan, Governor Ronald, "The Voices of Reason," *American Highway and Transportation Monthly*, March 1974, p. 5]

Later that day, Secretary Brinegar provided a different perspective. He said that since moving from his home in the Los Angeles area to Washington, he had spent a great deal of his time addressing the collapse of the Penn Central, northeastern rail bankruptcies, and other rail crises, but "it's clearly the automobile and the highway that dominate our Nation's transportation system." About "80 percent of what we spend for transportation involves highway transportation." Illustrating how the motor vehicle and the highway dominated the lives and lifestyles of Americans, he continued:

> As the late highway commissioner Thomas H. MacDonald . . . once observed: "It was not our Nation's wealth that made our highways possible; rather, it was our highway system that contributed greatly to our country's wealth."
>
> But now, 3.8 million miles of highways and 100-plus million automobiles later, we have come to a turning point. Clearly, our long-term concentration on cars and highways is no longer appropriate. The four big problems of urban congestion, pollution, safety, and now, perhaps the most important of them all—the energy shortage—demand a re-thinking of direction and a shift emphasis.

He emphasized that he was not anti-highway. "I'm 'pro-transportation,' as you are, and our assignment now is to find how best to reach that broader goal." He was searching for ways "to manage a smooth transition from the old ways to the new ways." The fact that 23 States now had a department of transportation and that AASHO had become AASHTO reflected a "trend toward broad gauge transportation planning and thinking."

Secretary Brinegar emphasized that his Department had "worked hard for a highway bill that would permit us to push forward on our Interstate and rural highway programs, but at the same time provided for flexibility and common sense in the use of the dollars assigned to our urban areas." The Federal-

Aid Highway Act of 1973 was another “strong and welcome step forward.” It was complicated legislation, but “the key point is that every urban transportation planner is now free to choose from an assortment of transportation options, and to do so immediately.” Secretary Brinegar said the 1973 Act was neither pro-highway nor pro-transit. Rather, “it is transportation legislation and I intend to administer it as such.”

He also had taken an important step by delegating approval of EISs, previously retained in the Office of the Secretary, to FHWA, UMTA, and the other Modal Administrations. “I am confident that the importance of environmental considerations has been widely accepted by the transportation community and that my modal Administrators are fully capable of responsibly exercising this added authority.” The “chain of command has changed a little, with FHWA and UMTA taking on new roles, but he had encouraged them “to keep it simple, be stingy with the red tape, and to work out procedures that will then make the regulations easily accessible to the public at large.”

As reflected in President Nixon’s energy statement, the transportation sector would play a major role in reducing the need for foreign oil. Change was inevitable since over 50 percent of “liquid petroleum ends up being used in transportation—mostly, of course, by our 100 million automobiles.” Substantial savings could be achieved by a greater use of carpooling and mass transit, especially buses. As challenging as the energy shortage might be, it at least showed the danger of relying too much on foreign oil. “Today, at least, we can cope and can learn how to avoid this future trap.”

The District of Columbia’s Airis delivered the annual departing president’s address on November 12. He agreed with a recent statement by Governor Tiemann that the Federal-Aid Highway Act of 1973 was “a complex and significant piece of legislation.” Some of its provisions, Airis said, “depart from traditional practice.” AASHTO was still working with FHWA staff “in an attempt to solve some knotty problems of interpretation.” The main point was that at last, the States had a highway act that “would be adequate for the next two to three years.” He added, “This, alone, is very much a plus over last year.”

The compromise measure in Section 137 allowing the withdrawal of Interstate highways and the substitution of nonhighway public transit projects “made headlines, of course,” but he said:

> This is a novel feature, but the provisions dealing with priority primary routes, the urban high density traffic programs, economic growth center development highways, public mass transportation studies, the special earmarking of urban funds, and the addition of extensive Title II Safety Act provisions, from a practical standpoint, are also equally new and novel and no less significant.

He reminded members that in June 1973, AASHO had begun a transformation that had just been approved by the Policy Committee. AASHO would become AASHTO, with membership expanded to include a broader spectrum of State transportation officials and its regional organizations modified accordingly. “In making these changes, I think the Association is keeping abreast of the times and stepping into a role that it needed. The emphasis now, as in the past, is on *state* officials.

Airis concluded "by philosophizing just a little bit." He said:

> We hear a great deal nowadays about changes or innovation in the transportation field—about total transportation. Yesterday the glamour term was "balanced transportation," and Governor Tiemann, our Federal Highway Administrator, spoke recently of "The Quiet Revolution." This indicates, I think, that in urban areas, particularly those of the Northeast, there is unrest over our present mix of modes; there is too much traffic congestion on city streets and highways caused, to a sizable extent, by commuters' preference for their private vehicles on the home-to-work, work-to-home movements. There is the feeling that something ought to be done about this situation.
>
> The corrective action, I think, is going to require some "real doing" in the form of furnishing the large metropolitan area commuter a better alternative—a "better mousetrap" if you will. We need better coordination between the existing modes, and perhaps someday, even new modes.

The question, he said, was when to stick with "the tried and proven" and when "to adopt innovative approaches." Administrators dealing with urban areas needed "not only to be intimately familiar with all the facts, but also sufficiently nimble to avoid losing their heads over unpopular positions on inconsequential matters. Nevertheless, transportation officials had to adhere to their principles. "I see no reason to be pessimistic," Airis said, adding, that "I am confident we will continue to have a good system." ["President's Annual Address," *American Highway & Transportation Monthly*, March 1974, p. 3, 4, 10, emphasis in original]

Administrator Tiemann also addressed AASHO. He told the State administrators that, "The changing state-local role which is evolving out of the '73 Act may be causing you some uncertainty—but I really do not believe that it should." He continued:

> We feel that our urban areas should have responsibililty for determining their own futures with respect to transportation systems, and that local officials, working through metropolitan organizations, should stand up and be counted, and make tough decisions on transportation issues.

Nothing, however, had changed the requirements for a State-local cooperative process. "You are going to continue to be very much in the act—as you should be."

The Interstate withdrawal process was an example:

> Who initiates the proposal? Under the law it must be a joint request by the state governor and the local government. Who determines that the substitute mass transit project is in accord with the planning process and has a priority? The state highway department. And there are many more such examples. In short, the only possible way I could forsee [sic] a loss of state control is where there is an absence of state leadership—and I do not expect that to happen.

He also discussed the Certification Acceptance procedure for "ridding yourselves of some Federal red tape . . . under which a state can elect to build all but its Interstate Federal-aid highways under its own laws and regulations, if they are at least equivalent to the Title 23 laws."

(FHWA's history volume, *America's Highways 1776-1976*, discussed Certification Acceptance, observing that it "superseded the highly successful Secondary Road Plan, but unfortunately, it did not succeed very well." It required States to develop projects in accordance with State laws and procedures that were at least equivalent toTitle 23 requirements. The new law excluded the other requirements that States found most burdensome, including NEPA, Section 4(f), the Uniform Act for right-of-way acquisition and relocation assistance, and the Davis-Bacon Act. "Thus, Federal program demands and complexities still governed." Further, since the 1973 Act eliminated the Secondary Road Plan, "more work was actually generated." The result was that "States did not elect to use Certification Acceptance procedures." [*America's Highways 1776-1976*, FHWA, 1976, p. 226])

UMTA Administrator Herringer also addressed the annual meeting, saying that the flexibility under the 1973 Act "allows us, by working together, to take advantage of environmental and energy saving advantages of mass transit, while continuing to make appropriate use of the highways." The provision that had received the most publicity, he said, was the use of Highway Trust Fund revenues for transit. About $2.5 billion that would have been earmarked for highways over the next 3 years could now be used for highways or mass transit:

> This new flexibility is *immediate*. I stress the immediacy because there has been some confusion about the source of the dollars—that is, will they come out of the Trust fund or out of general revenues? Let me assure you that which procket the money comes from makes no difference from the point of view of the local authority who wants to spend his money on transit. President Nixon and Secretary Brinegar have made it clear to me that we should encourage local areas to spend Urban Systems money on transit now, if that is what they wish to do. We will take the amount out of general revenues, until the provisions regarding the Trust Fund itself take effect. From the point of view of local officials, the full amount of Urban System funds is available for mass transit—highways or rail—right now in FY 1974 . . . . I believe that the most far reaching effect of this Bill may ultimately be the closer relationship that will be encouraged between transit interests and highway interests at all levels.
>
> To me the Federal-Aid Highway Act of 1973 is only the first step in giving state and local authorities the tools with which they can make and implement transportation decisions.

[Tiemann and Herringer statements from "Comment-Federal-Aid Highway Act '73," *American Highway & Transportation Monthly*, March 1974, p. 3, 4, 8, 10, emphasis in original]

The Transit Bill

On November 6, 1973, New Yorkers overwhelmingly rejected Governor Rockefeller's transportation bond issue. New York City residents favored the measure, but counties outside the metropolitan area rejected it by a 2-to-1 margin. A day later, Dr. Ronan announced that the subway fare would go to 60 cents on January 1 unless a stopgap subsidy was identified. He urged the city to restore its $100 million transit subsidy. Outgoing Mayor Lindsay responded: "Dr. Ronan's shoot-from-the-hip, instant political response to the short-term fare problem is a misdirected, misinformed misfire." The city had no such funds.

Mayor-elect Abraham D. Beame, who had won with around 60 percent of the vote, called Governor Rockefeller to ask for help. The Governor agreed to a meeting when he returned from his vacation.

Former U.S. Attorney Robert M. Morgenthau said he would file suit to block a fare increase on the grounds that it would violate Federal EPA air quality requirements by forcing more people into their automobiles. Theodore Kheel predicted that even if the suit were successful, money would be needed to operate the subway, which otherwise would have to shut down. He considered it unrealistic to expect the State to provide enough help; he intended to seek an additional State gasoline tax for mass transit and to put more pressure on the Port Authority to construct mass transit facilities. [Burks, Edward C., "Ronan Predicts a Rise to 60 Cents by Jan. 1 if No Subsidy is Found," *The New York Times*, November 8, 1973]

Governor Rockefeller, on November 13, said that he saw no way to save the 35-cent fare. "We may be able to prevent it from going all the way to 60 cents, but I'm not even sure of that." He challenged those who voted against the transportation issue to come forward with their plan for saving the fare. The Governor also reportedly told Mayor-elect Beame not to get locked into a "save-the-fare" posture. With the legislature including a majority of members from the upstate counties that had provided the margin of defeat for the bond issue, prospects for financial rescue appeared dim. [Ronan, Thomas P., "35c Fare is Doomed, Governor Contends," *The New York Times*, November 14, 1973; Clines, Francis X., "Transit-Fare Hopes Dimmed by Upstate Opposition," *The New York Times*, November 14, 1973]

When the Governor and Mayor-elect met on November 20, Rockefeller said "there could be a chance" to save the fare. Although the Governor said a week earlier that anyone saying the fare would be saved would be "kidding the public," now he assured reporters that he and Mayor-elect Beame would seek Federal-aid to subsidize the fare by meeting with Federal officials. They would ask for a meeting with President Nixon in hopes of saving the Emergency Commuter Relief Act, the House version of which would give New York 23 percent or $184 million of the operating subsidy funding, assuming the President did not veto the bill. The White House did not immediately respond, but Secretary Brinegar and Administrator Herringer said they continued to oppose subsidies. [Clines, Francis X., "Rockefeller Sees Beame, Calls Saving Fare Possible," *The New York Times*, November 21, 1973; Tolchin, Martin, "President Asked to Meet on Fare," *The New York Times*, November 24, 1973]

President Nixon declined to meet with Governor Rockefeller and Mayor-elect Beame. The President's Chief of Staff, General Haig, told the Governor that since the President had nothing to offer the city to save the 35-cent fare, the meeting would be pointless. Instead, Governor Rockefeller, Mayor-elect Beame, Nassau County Executive Ralph G. Caso, and Dr. Ronan scheduled a meeting with Secretary Brinegar.

Beyond the public stance, White House "sources" told reporters that the Nixon Administration was rethinking its policy on Federal operating subsidies if they were a short-term measure in a larger legislative package addressing the energy shortage. The President still planned to veto the Emergency Commuter Relief Act. "It's just a fact of life," a White House official told reporters.

"It's not likely that the President would approach a small part of an otherwise acceptable energy bill in the same way [with a veto] that he would a separate categorical program." The official said:

> We still feel as strongly as we can say, that transit operating costs are a local responsibility. Particularly in New York you can see the problem posed by Federal subsidies: The voters there weren't willing to pass a bond issue to save the fare, so why should the people in Des Moines help subsidize it?

Given the MTA's projected 1974 deficit of $300 million, Federal officials emphasized that even if a Federal operating subsidy passed, it would not be enough to save the 35-cent fare. [Tolchin, Martin, "Transit Meeting with Rockefeller Declined by Nixon" and Lindsey, Robert, "Federal Subsidy Weighed," both *The New York Times*, November 30, 1973]

The meeting with Secretary Brinegar took place on November 30. After meeting for 45 minutes, Secretary Brinegar and the New York delegation held a joint news conference. "The time has come," Secretary Brinegar said, "to take a broader look at how to build and run mass-transit systems by giving localities funds to distribute themselves." He planned a total review of the issue that would be completed "in weeks." Dr. Ronan told reporters, "This is the first time that there has ever been a spokesman for the Administration who has embraced the concept of operating subsidies." Governor Rockefeller added, "We came to Washington and found an awareness of the problems nationwide."

The New York officials also met with the State's congressional delegation, but received a mixed reception. Senator Javits said "this is an emergency demanding emergency action." However, Senator Buckley pointed out that New Yorkers had voted against the bond issue:

> I am in principle against Federal transit subsidies. If one of my colleagues here in the Senate would ask me how New Yorkers, having voted against incurring debt in order to save the 35-cent fare, could at the same time ask the Federal government to incur debt for that purpose, I couldn't answer to the question and wouldn't try to.

Asked that day if the energy crisis had proven to be a blessing in disguise, Governor Rockefeller said, "Tragic as it is, I would say yes." [Tolchin, Martin, "Brinegar Weighs Mass-Transit Aid," *The New York Times*, December 1, 1973]

Politicians, transit officials, and others were searching for ways to reduce energy use, increase transit funding, and cut back on the Nation's commitment to the private automobile. For transit backers, the Federal-Aid Highway Act of 1973 had been a breakthrough but not a solution. As Professor Smerk pointed out in his 1991 book on transit history:

> The important features of the 1973 Act for transit were the increase in the amount of money for the federal transit program and that the Highway Trust Fund was no longer treated as a sacred cow. The mechanism that inevitably assured highway construction, whether or not it was the most desirable approach to the solution of mobility problems, had been changed, although this most certainly did not mean that America's zest for highways and highway

> construction was ended. More responsibility for the use of the funds was thrust upon the cities, since it was at their option—given the cooperation of the states—that money might be diverted from highway use to transit purposes. This did not produce a widespread shift of highway money for transit purposes but, as noted earlier, it did increase local flexibility in finding solutions to urban transportation problems. It was not a pot of gold for transit or a catastrophe for highway interests—no transportation revolution took place.

He saw several reasons for the breakthrough:

> What was particularly significant was the cohesion of the transit lobby: its organization, the quality of its program of information and persuasion, and the receptivity of Congress. The support of the White House in opening the Highway Trust Fund was another critical factor. Fred Burke had been right about what was possible with a well-organized lobby effort.

The 1973 Act had been a "major departure from previous transit funding," but had not provided the vital operating subsidies so many cities needed. While the weakened White House promoted urban transportation revenue sharing, without success, congressional supporters of mass transit saw the energy crisis as the crucial factor in turning back to the issue. [Smerk, p. 122-123]

Transit supporters saw their opportunity and seized it:

> The lobbying by the supporters of transit continued to follow the strategy that Fred Burke and other key supporters had devised. The planning and organization were taken seriously as the supporters of transit sought to complement their legislative victory of 1973 with operating aid. Advocacy of transit legislation by the U.S. Conference of Mayors and the National League of Cities remained, but it was the transit industry itself that gained the strength and skill to become the leader of the charge. [Smerk, p. 124-125]

On December 19, House-Senate conferees completed work on the Emergency Commuter Relief Act. The bill would provide $400 million a year for operating subsidies, beginning with the current fiscal year, 1974. The compromise scrapped the House plan for formula distribution of the subsidy funds and capped each State's total at $50 million a year. In addition to authorizing $40 million for an experimental program of free transit, the bill required any locality receiving Federal funds to provide half fares for the elderly and handicapped during nonpeak periods. The bill also included an amendment from Representative Koch, one of the conferees, that deleted a Senate provision allowing Federal mass-transit funds to be given as loans.

Fearing a pocket veto while Congress was in recess, conferees decided to hold the bill until Congress returned in January and not to preview it for the White House, which still threatened to veto it. Supporters hoped to gain the two-thirds support that would be needed in each House to overturn the expected veto, but the odds were not good, even in the midst of the energy crisis. Representative Minish said, "It is ironic for the federal government to urge citizens to switch to mass transit while at the same time it provides no support whatsoever for these operations."

The change in formula distribution meant that New York City would receive $76 million less than it would have received under the House bill. "We tried down to the very end to get the Senate to accept the formula," Representative Minish said. "They were clearly afraid of getting it voted down in a veto-override vote." Representative Koch added that, "what we have to do now is hope that the President recognizes the need for this bill." ["House-Senate Panel Votes Operating Aid for Mass Transit," *The Wall Street Journal*, December 20, 1973; Tolchin, Martin, "State Transit Aid is Cut $76-Million in Conferees' Bill," *The New York Times*, December 21, 1973]

Governor Rockefeller, 65 years old, had announced on December 11 that he would resign on December 18 after 15 years in office, with Lieutenant Governor Malcolm Wilson becoming Governor. The outgoing Governor indicated he would head national commissions looking into future problems and water conservation. Asked if he was contemplating another run for the presidency in 1976, he responded, "Whether I will become a candidate in the future I do not know. I should like to keep my options open." He said, "I have great faith in our country, and I am optimistic about the future. But we can't take the future for granted."

This statement was reflected in the challenges he faced as chairman of the National Commission on Critical Choices for America, described by the *Times* as "a multi-million-dollar study of future problems he has fashioned." ["Rockefeller is Resigning After 15 Years; Will Head 2-year National Issues Study; Wilson to Assume Governorship Tuesday," *The New York Times*, December 12, 1973] He also continued to serve as chairman of the National Commission on Water Quality, having been appointed to the position in May 1973.

Former Governor Rockefeller and Governor Wilson visited the White House on December 26 for a 30-minute meeting with President Nixon. They briefed him on the plan developed by State and local officials to borrow enough money, subject to approval by the State legislature, to retain the 35-cent fare through April in the expectation that Federal assistance would become available by then. The President told them that he supported flexible use of Federal funds for mass transit, including operating subsidies, but would not commit to providing the $200 million needed to save the fare after the loan ran out. "I am completely satisfied," Governir Wilson said, "and I'm very pleased that the President's view on the matter is that to the extent that Federal funds can be made available, there should be flexibility as to whether those funds can be used for capital or operating purposes." [Tolchin, Martin, "President Backs Flexibility in Use of Transit Funds," *The New York Times*, December 27, 1973]

By mid-December, Nixon Administration officials were considering a single urban transportation fund, including over $2.2 billion in highway and mass transit aid that cities could use as they wished. By also ending impoundment, the plan would place additional Highway Trust Fund revenue in the new fund. It also would allow localities to use the single urban fund for operating subsidies. Although Congress had ignored Secretary Volpe's similar plan in 1971, White House officials expected that Congress would be more receptive due to the energy crisis. [Toth, Robert C., "Nixon Plans Single Fund for Urban Roads, Mass Transit," *The Washington Post*, December 14, 1973]

United Transportation Assistance Program

In January, with the plan about to be unveiled in the State of the Union Address, Albert Karr pointed out that the plan also involved killing "the long-sacrosanct Highway Trust Fund" after its current expiration date in 1977:

> The plan reflects a Nixon administration desire to deal with rising transit demands amid the energy crisis with a method that will curb highway spending and check total outlays at a time when cities and transit systems say their needs have increased. One official dubs it a "face-saving measure."

The President still planned to veto the Emergency Commuter Relief Act, if approved by Congress, "on the ground [that] a simple and direct subsidy isn't merited." [Karr, Albert R., "Plan Stressing Mass Transit, Not Roads, Likely to Be Announced by Nixon Next Week," *The Wall Street Journal*, January 21, 1974]

On January 23, the President's special message to Congress on the energy crisis provided several references to the President's legislative plans. As part of conservation plans, he said:

> It is widely recognized now that the development of better mass transit systems may be one of the key solutions to both our energy and environmental problems. My budget for fiscal year 1975, which will be sent to the Congress in the next two weeks, gives special priority to the improvement of urban transportation, especially transit bus fleets. In addition, I will soon propose legislation to increase the amount and flexibility of Federal transportation aid which is available to local communities.

Changes in the Clean Air Act would be needed during the energy shortage. Congress, he said, was working on emergency legislation to permit temporary relaxation of requirements on power plants. "It would also extend the deadlines for the reduction of emissions from automobiles." The President wanted quick action to relax requirements and "freezing the standards for auto emissions—now applicable to 1975 model cars—for two additional years." These could be done "without significantly adverse effect on our progress in improving air quality," while giving the industry time to improve fuel economy. Actions under the Clean Air Act would be reconsidered to ensure they provide "an appropriate balance among our objectives for environmental quality, economic and social growth, energy supply and national security."

On January 30, the President addressed a joint session of Congress on the State of the Union. For 1974, his predictions included the assertion that, "We will make a crucial breakthrough toward better transportation in our towns and in our cities across America." He said:

> I think all of us recognize that the energy crisis has given new urgency to the need to improve public transportation, not only in our cities but in rural areas as well. The program I have proposed this year will give communities not only more money but also more freedom to balance their own transportation needs. It will mark the strongest Federal

> commitment ever to the improvement of mass transit as an essential element of the improvement of life in our towns and cities.

In a separate message the same day, he listed the recent increases in aid for mass transit, including the $3 billion increase approved in the 1973 Act.

> For the first time since World War II the downward trend in transit riderships has been reversed, and is now moving upwards. And for the first time, under the provisions of the Federal-Aid Highway Act of 1973, States and localities can now use a portion of their Federal highway funds for public transit purposes.

In general terms, he explained a soon-to-be-released proposal that "would give our communities not only more money but also more freedom to balance their own transportation needs—and it will mark the largest Federal commitment ever to the improvement of public transportation." Officials would be able to choose how to use the new funds for highways or transit, including operating subsidies:

> Under this bill resources would also be available for the first time to augment the operating funds for public transportation systems in both urban and rural areas. By permitting Federal resources to be used for operating purposes, this proposal should make it unnecessary to establish a new categorical grant problem for transit operating subsidies, as is now contemplated in bills before the Congress.

Although details were unclear, Dr. Ronan said, "We're encouraged by it." He could not predict whether the proposal would save the 35-cent fare, but hailed the proposal as an "historic breakthrough." ["Nixon Asks 50% Rise for Mass Transit," *The New York Times*, January 31, 1974]

In an editorial, the *Times* acknowledged the President was "moving in the right direction," particularly his "turnabout" on operating subsidies. However, his proposals would "apparently fall far short of the expectations and needs of such hard-pressed cities as New York." The city, which would receive only about half the needed subsidy, "can no longer afford to postpone a determined search for additional sources of local transit support, if a fare increase is to be averted." In the long run, the President's commitment was inadequate if the goal was to provide improved transit facilities to lure motorists out of their cars. Congress would have to "move faster and faster in order to put this country's commuters back on the rails and buses where they belong." ["Transit Short-Changed," *The New York Times*, February 1, 1974]

In a February 9 radio address, President Nixon provided more details on his plan:

> We have to find ways to use our enormous transportation systems in a more flexible manner . . . . Our efforts must continue to concentrate on achieving the goals of flexibility in the use of our transportation systems, economy in the use of our energy resources, and balance in the availability of diverse forms of transportation.

For this purpose, he would submit legislation to Congress:

> The program would authorize $16 billion in Federal assistance for metropolitan and rural transportation over the next 6 years. Two-thirds of this amount would be allocated to State and local governments for application in areas where they believe this money can be spent most effectively.
>
> Local officials, who understand your community better than anybody here in Washington, would determine transportation priorities, choosing between construction of highways or public transit systems, or the purchase of buses or rail cars. This would provide for flexibility between capital investments and other expenses.
>
> The unified transportation assistance program will make the largest Federal commitment ever to the improvement of public transportation in our cities and towns. Its objective is to provide you with diverse forms of public transportation that take into account the need for transportation without environmental damage, without wasted energy, and if possible, without congestion.

In a February 13 special message to Congress proposing the transportation legislation, the President explained the Unified Transportation Assistance Program (UTAP):

> I am submitting to the Congress today legislation to create a Unified Transportation Assistance program. This program would provide $15.9 billion to urbanized areas over a six-year period and $3.4 billion for small urban and rural areas through fiscal year 1977. This act would mark the largest single commitment by the Federal Government to metropolitan and rural transportation in our history.
>
> The legislation would make several critical improvements over current programs:
>
> - The recipients could spend the money not only on capital improvements, such as new buses, new rail cars, new rapid transit systems, and non-interstate highways, but also on other transit needs. Broadening the law in this way would permit local tradeoffs between capital investments and costs to improve services. I believe this is the most effective way for the Federal Government to provide transit assistance, and I will continue my strong opposition to any legislation which establishes a categorical program solely for local operating assistance. Such a program would unnecessarily inject the Federal Government into decisions which can be far better made by State and local governments.
> - UTAP also would allocate over two-thirds of metropolitan funds on a population-based formula so that our cities would receive an assured flow of transportation assistance. We are aware of the concerns voiced by some that our proposed formula should be altered to meet the unique problems of some of our largest cities. We intend to work closely with the Congress, elected officials and others, in examining alternative formulas.
> - Finally, UTAP would also provide additional, more flexible assistance for public transportation systems in smaller urban and rural areas. Most of these funds would probably be used by the localities for improving the service and safety on main

> highways and roads. Funds would also be available for public transportation equipment and demonstrations in smaller urban and rural areas.

> Enactment of the Unified Transportation Assistance Program would augment my budget for fiscal year 1975, which already calls for an increase of 50 percent in spending for transit capital improvements under existing programs.

He concluded;

> For too long we have focused a great deal of attention on some forms of transportation to the detriment of others, we have permitted decision-making at the Federal level to scramble priorities at the State and local levels, and we have begun to lose the diversity and flexibility in transportation systems that encourage competition and, therefore, great efficiency and greater effectiveness in the employment of these systems.
>
> We have a clear understanding of these problems now, and we have begun to come to grips with them. I believe 1974 will see a crucial breakthrough in expanding and enhancing America's national system of transportation so that it once again serves our Nation with a maximum of flexibility, diversity, and balance.

Smerk, in describing UTAP, said, "The great difference between this and other legislation that was introduced—and the factor that perhaps had the most wrenching impact on congressional thought—was that UTAP sought to combine the existing urban transit and urban highway programs." He continued:

> Under the terms of the UTAP program, beginning in July 1974 (the beginning of fiscal year 1975), $1.4 billion would have been made available for transit. One-half of this sum would have been allocated to states on the basis of population. Cities receiving funds under UTAP would have the option to use the funds for either capital or operating purposes. The other half of the money—$700 million—would be used for the "regular" UMTA mass transit discretionary grant program.

The discretionary funding level would remain at $700 million, but formula funds would increase from $800 million in FY 1976 to $900 million in FY 1977, and $2 billion a year from FYs 1978 through 1980. Capital funds would be available on an 80-20 Federal-State matching basis. [Smerk, p. 128]

Senator Williams, commenting on the new plan, noted that the conference committee had yet to release the Emergency Commuter Relief Act. "We didn't send it to the White House because they threatened a veto." Now, he said optimistically, "we can move the bill downtown [to the White House] and it would be possible to have operating expense funds for the subways available soon, if the President wants it." [Lyons, Richard D., "President Offers $16-billion Plan on Aid to Transit," *The New York Times*, February 10, 1974]

Elizabeth Parker, the former Department of Transportation policy official, explained that UTAP "was poorly received by highway and transit interest groups and Congress; it received no serious consideration or debate." As with Secretary Volpe's Single Urban Fund, highway and transit interests "felt threatened by the proposed changes in program control." The problem was that neither interest saw an advantage in the proposal. Smerk put it this way:

> First of all, transit officials and other transit supporters held that UTAP really did not provide any new money for transit and that there would still be too little available to meet needs. On the other side of the coin, state highway officials and the interests involved in highway construction were most fearful that the transformations wrought in the Highway Trust Fund—already eroded by the passage of the Highway Act of 1973—would seriously cut into the money available for highways. This was especially worrisome as the sharp rise in inflation at the time caused construction and maintenance costs to rise even more than expected.

Further, reduced driving during the energy shortage could seriously erode Highway Trust Fund revenue:

> The highway interests . . . were seriously and genuinely concerned with the possibility that there would not be enough money to go around for highways in an atmosphere of sharply rising costs and stable or falling Trust Fund income. Moreover, still smarting from the opening of the Highway Trust Fund by the 1973 Act, highway interests feared the long-run danger of perhaps the total demolition of the Trust Fund or a major diminishment of the sums available for roadbuilding.

In short, with neither transit nor highway interests behind it, the Administration's UTAP proposal had no constituency to seek its adoption. Parker said that UTAP "became such a joke among interest groups that they threatened to send a pair of taps to each member of Congress so they could do the UTAP." [Parker, p. 58; Smerk, p. 129]

Trying to Craft a Transit Bill

With UTAP an unappealing option, Congress struggled to complete transit legislation, Conferees on S. 386 tried to modify the bill to diminish the prospect of a veto. On February 20, 1974, they amended the bill to permit local transit agencies to use the $800 million for capital or operating expenses, instead of only for subsidies. In a joint statement, Senator Williams and Representative Minish said:

> Now with the energy crisis upon us, the necessity for mass transit has become even more critical. We cannot expect the commuting public to significantly reduce its use of private cars if we do not provide alternate sources of transportation. We anticipate that this [conference] report will be approved by both the Senate and the House, and we hope that President Nixon will not turn his back on our mass transit and energy problems by vetoing this legislation.

Dr. Ronan thought the proposal was a good short-term measure. "It will give Congress more time for mature consideration of the long-range Administration plan" that would address "the true dimensions of the energy crunch and the impact on mass-transit." [Witken, Richard, "The Prospect for a Transit Bill," *The New York Times*, February 22, 1974]

Officials of UMTA, according to Smerk, liked the revised bill but their support "was squelched by higher echelons in the administration; apparently the White House felt it could get a better deal out of UTAP, handled by the Public Works committees, than was possible with the Minish-Williams bill that had been a product of the Banking and Currency committees."

Secretary Brinegar made clear on March 5 that he was "flatly opposed" to the revised bill and had urged the President to veto it if approved by Congress. In a letter to Representative John J. Rhodes (R-Az.), who had replaced Vice President Ford as House Minority Leader, the Secretary said the bill, which would have provided $150 million to New York City, was "heavily weighted to a handful of big cities with large and expensive rail transit systems." The "piecemeal, one-shot, categorical approach" would set back the President's "more comprehensive program." He did not object to formula fund distribution, but found the formula in the conference bill, based on number of passengers, vehicle miles, and population, to be "complicated." The President's proposed formula was fair, but "we are not wedded to a formula based upon population; the Administration is prepared to discuss the adjustments in the formula during deliberations on the total package."

Representative Minish said of Secretary Brinegar's position, "I'm damn mad," adding, "They make the point that it's a big-city bill. Of course it is. That's where the problem is." Senator Williams said of the Secretary's letter: "This is truly tragic" and "a woeful retreat" from the President's more relaxed position. Representative Koch saw maneuvering over the Watergate scandal as the basis for opposing aid to big cities. "There's no question that the major voices raised on impeachment come from urban areas, and it may be that he's trying to punish them. He may just be so angry that he's flailing at the cities."

In New York City, officials claimed that if the revised Emergency Commuter Relief Act were defeated, it would force an increase in the subway fare to 60 cents—"no question about it," as Dr. Ronan put it. He added that, "the conference bill would provide immediate funds, whereas the President's bill would involve considerable long-term discussions and delays." Failure to aid the city, Mayor Beame said, would have "disastrous results." [Tolchin, Martin, "House Maneuver on Transit Bill Perils 35c Fair," *The New York Times*, March 6, 1974]

For the bill to advance to the House floor for a vote, the Rules Committee would have to waive the point of order that the bill included concepts that were in neither the approved House nor the Senate bill. Department of Transportation officials made their opposition to S. 386 known to committee members and staff. On March 6, the Rules Committee postponed action by voice vote, effectively killing the conference report even though it was still technically alive. Many members of the Rules Committee wanted to kill the bill outright. As *The Washington Post* explained:

> The [conference report] fell victim to intense opposition by the Nixon administration, including a warning by Secretary of Transportation Claude S. Brinegar that he would

> recommend a veto of the bill. In addition, there was a jurisdictional dispute in the House itself.

The House and Senate banking committees had developed S. 386, while the Administration's bill had been submitted to the public works committees. Representative Minish, who urged Rules Committee approval, claimed jurisdiction over urban transit, but Representatives Harsha and Stanton had urged the Rules Committee to block action to give the Public Works Committee time to take a broad look at urban transportation issues. Rules Committee Chairman Madden and other members considered the bill overly generous to New York City. However, at the request of Representative Richard Bolling (D-Mo.), who had represented Kansas City since 1949, they decided, as the *Post* put it, "to postpone action, a move that keeps it technically alive but probably will sidetrack it until it is overtaken by the administration bill." [Eisen, Jack, "Transit Aid Bill Blocked in House Unit," *The Washington Post*, March 7, 1974]

In a news analysis, *Times* reporter Martin Tolchin acknowledged that the bill was "a long shot." He explained:

> The White House, oriented toward conservative "middle America," and the rural-suburban-dominated Congress have provided operating subsidies to farmers, oil men (through tax relief), railroads, airlines and the maritime industry, to name a few. But mass transit, vital to the economy of most larger cities, has been regarded as a sinkhole.

The Nixon Administration "had wondered out loud why these cities could not live within their means." No large city could do so, and every transit system was "operating deeply in the red."

Cities had seen "a ray of hope" in the fall of 1973 when the Senate and House finally passed the Emergency Commuter Relief Act providing $800 million in operating subsidies, including 25 percent or about $200 million for New York City. Passage in the House had never been certain:

> The House Democratic leadership saw the legislation's potential as a partisan issue, to enable the Democrats to recapture the allegiance of city dwellers, traditionally Democratic loyalists who had been lost to Mr. Nixon's "new majority." The vote in the House was postponed for two weeks to enable the leadership to use its computers to identify the legislation's Congressional opponents.
>
> "We asked them, 'Can you go with us? We would appreciate it,'" recalled Representative John J. McFall, California Democrat and majority whip. "It's like the fellow who gets his face slapped because he asked girls for kisses, but he got some kisses, too."

Following President Nixon's policy reversal on subsidies, conferees revised S. 386 to reflect the President's own proposal, prompting Rules Committee action. As noted, Chairman Madden objected to the big city orientation of the bill, saying that "ninety per cent of the states were left out in the cold." His State, Indiana, "had less than 1 percent of the funds. You can't put a bill like that over on 435 Congressman, and most come from rural areas."

In the "jurisdictional tangle," Representative Minish, "named only a year ago as chairman of the transportation subcommittee of banking and currency, was no match for John A. Blatnik, Minnesota Democrat and well-entrenched chairman of the Public Works Committee."

Another factor, according to Tolchin, was the distribution formula. The President's proposal to distribute funds based on population "undoubtedly had a more widespread Congressional appeal than the Minish-Williams bill, whose formula was based on population (50 per cent), number of riders (25 per cent) and number of miles carried (25 percent)."

The Rules Committee action effectively killed the bill "by postponing its consideration until the President's bill comes before it—which some legislators said could take a year."

New Yorkers "were stunned" by the Rules Committee's action. Governor Wilson said:

> When I saw the President, I told him of the urgent need of New Yorkers for $200-million in mass-transit operating subsidies. The President manifested a sympathetic concern.

When the President told the delegation he was sympathetic to operating subsidies, Tolchin wrote, "The New Yorkers left the White House in a state of elation—misplaced elation, as events later indicated." Governor Wilson put it this way:

> This is a prospect that is too devastating even to consider. I've stated this in terms of essentiality. Essentiality does not admit to degrees. A thing is essential or not essential. It is not more or less essential.

The New York City delegation expressed their frustration as well:

> "He's given up entirely on the city areas," said Representative James J. Delaney, Queens Democrat and the only member of the Rules Committee to vote for the bill. "He's appealing to the rural areas."
>
> Representative Edward I. Koch, Manhattan Democrat, expressed the view of many metropolitan-area Congressmen when he said that "the President sees the cities as the anti-Nixon coalition . . . he may just be so angry that he's flailing the cities."
>
> The bill's death also points up the relative powerlessness of the New York Congressional delegation. "New Yorkers just don't realize what it meant to the state to have a Charlie Buckley or a Manny Celler up here," said a New York Congressman who asked not to be named. "When they went into [sic] see the leaders, the leaders really listened." [Tolchin, Martin, "Federal Mass-Transit Aid: The Hope That Fizzled," *The New York Times*, March 8, 1974]

Representative Koch saw a hidden reason for the Rules Committee's action. He suggested that the Department of Transportation had approved a $60-million grant for improvement of Cline Avenue in Chairman Madden's district in Gary, Indiana, in exchange for the chairman blocking the bill that would save the 35-cent fare. Chairman Madden, according to Representative Koch, had been seeking the funds for 12 years, as the *Times* explained:

> The administration, he [Koch] said, announced approval of the project in the same week that Mr. Madden blocked action by his committee on a bill to authorize $140-million in Federal transit aid.
>
> "It boggles the mind to think that this was coincidental," Mr. Koch said. "God works in wondrous ways, but I don't think He did this time—that was no coincidence."
>
> . . . . But the department said the grant had been in process for some time prior to its announcement. Administration officials asserted that there had been no connection between the road project and the legislative fight over transit subsidies. Mr. Madden could not be reached for comment. [Lindsey, Robert, "Koch Says Nixon Trade Blocked Transit Bill," *The New York Times*, April 16, 1974]

(The funds for Cline Avenue connecting I-80 and I-90 were from the Special Urban High Density Program established by the Federal-Aid Highway Act of 1973. The legislative history suggested that Cline Avenue was one of the projects to be funded. During the March 15 Senate debate, Senator Bayh of Indiana inserted a lengthy statement in support of the 1973 Act (apparently not delivered on the floor). He stated:

> I am glad to report in addition that the bill contains a proposal I made last year for a special urban high density traffic program. Routes selected under this program would be less than 10 miles long, would serve areas of concentrated traffic population and heavy traffic congestion, and would meet the urgent needs of commercial, industrial, airport or national defense installations. A route would be eligible only if the Secretary determines that no feasible or practicable alternative mode of transportation would be available, and parkland and residential areas were not damaged. I believe that this program will provide a means for completing the Cline Avenue Expressway in Lake County, Ind., thereby eliminating an extremely serious commuter and industrial bottleneck. The route meets the stiff requirements of this section, I believe, and the road is very badly needed. [*Congressional Record-Senate*, March 15, 1973, p. 8230]

(House Report 93-110, issued April 10, 1973, on the 1973 Act stated:

> Typical of this kind of facility is the proposed Cline Avenue facility connecting Interstate 80 and Interstate 90 in East Chicago. In this instance, the route is only 5.6 miles long, but is in a heavily industrialized area and will be very expensive to build. There are no funds available, there is no remaining Interstate mileage for designating it on that System, and there is an obviously urgent need for the facility. [*Federal-Aid Highway Act of 1973*, House Report No. 93-118, p. 22])

The Nixon Administration opposed the revised S. 386 for several reasons, including the fear that its passage would diminish prospects for its UTAP proposal. Smerk identified another concern:

> Brinegar was unhappy with the Minish-Williams provision that would have given the money directly to transit officials rather than work through the states as UTAP proposed. Minish-Williams supporters countered with the point that, under the terms of S. 386, before local transit officials could receive funds, they had to be designated by local elected officials and approved by the secretary of transportation.

Another factor was the Watergate scandal enveloping President Nixon:

> Charges were flying that the president's efforts to defend himself against the strong possibility of impeachment proceedings had seriously weakened him as an effective chief executive. UTAP was supposed to be evidence—along with other programs in other areas—of strong, farsighted leadership on the part of the president. The Nixon administration tried to sell the UTAP program as a true long-range measure that would help satisfy the national needs in the area of mass transportation. If successful in getting the Congress to pass UTAP instead of the Minish-Williams bill, the possibility of a serious conflict with Congress over a certain presidential veto of Minish-Williams could be avoided at a time when the Congress was likely to hold the fate of the Nixon presidency in its hands.

In addition, UMTA was now receiving requests for more funding than was available:

> With a shortfall of funds and the threat that the money situation would grow worse in years to come, UMTA would face the bureaucratic nightmare of having to choose among applications. This means that UMTA would have to develop rankings and priorities in order to select winners among competing projects; the implementation of such a policy would, at worst, inevitably lead to monumental snafus and, at best, kindle the ire of members of Congress who saw mass transportation projects for their districts languishing because of lack of funds.
>
> [The] problem of decion-making could be avoided if funds were distributed according to a formula. Thus UTAP took on an added measure of attractiveness to those in the federal establishment charged with managing the mass transit programs, because real decision-making and the choice among projects was placed in the hands of local officials. [Smerk, p. 131-132]

As noted earlier, UTAP had little appeal for transit interests. It provided little additional funding for transit, while much of the optional highway-transit funding would go to highway projects. For the next few months, Senators and Representatives introduced alternative bills for increasing transit funding. [Smerk, p. 133-135.]

Another problem facing the Minish-Williams bill was a jurisdictional dispute between the House Committee on Public Works and the Committee on Banking and Currency over which was responsible for formulating urban transportation policy. The issue could be traced to the mid-1960s when UMTA was in HUD while BPR was in the Commerce Department. When HUD was created in 1965, the House decided to give jurisdiction over it to the banking committee, which had been handling Federal mortgage insurance. UMTA was included as an afterthought.

This split jurisdiction was not a problem until the Nixon Administration began asking Congress to let local officials choose among highways and transit, as *National Journal Reports* explained:

> Any bill that would create a unified urban transportation program would be up for grabs by either House committee, as well as by the House Ways and Means Committee, which controls all taxation, including the gasoline tax that supports the highway trust fund.

The Administration's UTAP proposal contained provisions that could fit under either committee:

> Title I contains amendments to the 1973 Highway Act, Title II would establish a mass transit allocation formula for 1975-77, and Title III would merge the urban highway and transit programs after 1977.
>
> Nobody in Congress . . . gave Title III much of a chance of passage, while the amendments in Title I are minor, compared to the impact of the bill as a whole.
>
> But by including Titles I and III in the same bill, a Transportation Department official said, the department was able to present the plan as an amendment to the highway portion (Title 23) of the U.S. Code, thus assuring referral to the Public Works Committee.
>
> That official, who declined to be quoted by name, said the department was concerned about committee assignment for a good reason. The plan would be treated differently by each of the committees.

The Committee on Banking and Currency, "long considered a choice assignment for Members with urban constituents," was a strong supporter of mass transit but had little interest in the rural highway program. The Public Works Committee supported UMTA programs and many members favored a mass transit trust fund, but with its jurisdiction over highways, was "likely to resist efforts to shift federal funds out of roadbuilding."

The Nixon Administration had to choose between the committees in drafting its bill:

> If they wrote UTAP in such a way as to have it referred to the Banking Committee, they feared the committee might turn the bill into a raid on the treasury in behalf of the largest metropolitan areas. If, on the other hand, the bill were sent to Public Works, they would have little chance of getting changes in the highway program.
>
> Given this choice, Public Works seemed their best bet. It would be no permanent loss to introduce Title III this year and have it dropped by the committee.
>
> The Administration already had won a victory on funding flexibility in 1973; that, in itself, should stimulate a major review of the highway trust fund when it expires in 1977.

> By contrast, if Congress were to pass a bill that would establish what Administration officials would consider a wrong-headed subsidy program, the decision would be difficult to reverse. Subsidy programs develop their own constituencies once they are established.

According to an anonymous UMTA source, the Administration had another reason for its committee preference:

> The Administration had been receiving private assurances from the committee—while Administration officials still were trying to decide whether to support the Williams-Minish conference report—that Public Works would act expeditiously on the Administration plan.

Consistent with the Administration's plan, Speaker Albert assigned the UTAP bill to the Committee on Public Works.

(Jurisdiction was not an issue in the Senate where rules allowed bills to be divided and referred to several committees at the same time.)

Shortly after the Rules Committee rejected S. 386, Speaker Albert met with leaders of the Rules Committee and Public Works to decide on a course of action. On March 15, Chairman Blatnik announced that the committee would hold intensive field hearings on mass transportation, in addition to Washington hearings on UTAP. "The committee needs actually to see, taste and feel the problems."

After the committee had held hearings in six cities on April 1, 5, and 6, the transit lobbyist Fred Burke called them "an incredible show." He added, "I cannot recall another time when there were field hearings in six cities in one week." He speculated on the motivation for this unusually compact hearing schedule. "There is a driving force in Public Works to do something and outdo the Banking and Currency Committee." [Malbin, Michael J., "Transportation Report/Mass Transit Bills Slowed by Jurisdictional Dispute," *National Journal Reports*, May 20, 1974]

On July 25, the House Public Works Committee reported out a $20 billion mass transit bill, H.R. 12859, providing capital and operating funds for 6 years. The Federal share would be 75 percent for capital projects; 50 percent for operating subsidies. Chairman Blatnik said, "This is landmark legislation which for the first time establishes a firm multi-billion mass transportation program."

Nine cities with fixed rail systems would share $10.8 billion, with the amount received by each city determined by the Secretary of Transportation. Representative Abzug had succeeded in adding a provision to H.R. 12859 directing the Secretary to base the distribution guidelines on usage, population, previously approved projects, and local funding commitment. "That puts us way ahead," she said following committee action on the bill. "New York City should certainly get the kind of money that we need." New York was seeking $200 million to protect its 35-cent subway fare.

The fate of the bill was uncertain. The Nixon Administration threatened a veto of any bill authorizing more than $12 billion as inflationary. Committee members voted for the bill in the hope of securing a two-thirds vote of the full House in favor, the amount needed to override a veto. Another optimistic scenario for committee members was that President Nixon would no longer be in office to veto the bill. As Representative Abzug put it, "We've got to fight it out [since] this Administration is hardly here to stay." ["House Unit Backs Mass Transit Bill," *The New York Times*, July 26, 1974]

One detail, of seemingly little importance, remained to be dealt with, namely the conference report on the Minish-Williams bill (S. 386, now called the Emergency Urban Mass Transportation Act). On July 24, the Rules Committee resurrected the bill, which as Smerk said, "had been stuck in legislative limbo while the long-range transit proposals had occupied center stage." The bill was finally cleared for a House vote. Representative Minish told his colleagues about the bill:

> Under the conference report, $800 million in contract authority would be available to the Secretary of Transportation through the end of the present fiscal year for grants to local and State public bodies, agencies, and transit authorities. The funds could be used, at the discretion of the recipient, for either capital expenditures or operating subsidies.
>
> The Federal share of the cost of projects under the bill could not exceed 80 percent, with the remaining funds provided by the applicant. Moreover, there is a requirement that these funds must be supplementary to and not in substitution for the average amount of State and local government funds and other revenues spent in the operation of mass transportation service for the past 2 fiscal years. In addition, no assistance will be provided unless the fare charged the elderly and handicapped during nonpeak hours does not exceed one-half the normal fare.
>
> The funds under the conference report would be distributed by formula to urbanized areas within each State. In urbanized areas in which 75 percent of the population is served by a public transit authority or by a local public body providing transit services, that entity shall receive the funds after consultation with the Secretary of Transportation and other State and local public bodies. Where such a recipient is not in existence, the funds apportioned for the urbanized area shall be made available to the Governor of the State for distribution to these areas . . . . In addition, the Governor may distribute funds to a State agency engaged in providing transit services by contract to either public or private bus or rail carriers.

The apportionment formula was based 50 percent on population of the urbanized area, 25 percent on the number of revenue passengers in the area, and 25 percent on revenue vehicle miles in the area.

S. 386, he said, contained one other important provision:

> This is title II, which authorizes $20 billion for fiscal 1975 for demonstration projects to determine the feasibility of free fare urban mass transit systems. In this connection, it is interesting to note that the city of Seattle has been most successful with a limited experiment of this type. By charging no fare whatsoever in the central business district, that city has increased transit ridership to 70 percent over last year.

That same day, the House voted 221-181 to reject the bill. The bill was returned to the Banking and Currency Committee. The jurisdictional dispute between Representative Blatnik's Committee on Public Works and Representative Patman's Committee on Banking and Currency was one reason the bill failed, since Representative Blatnik made clear that he considered his committee to have jurisdiction over public works. [Consideration of rule: Providing for Consideration of Conference Report on S. 386, Urban Mass Transportation, *Congressional Record-House*, July 30, 1974, p. 25649-25655; Consideration of bill: Conference Report on S. 386, Urban Mass Transportation, *Congressional Record-House*, July 30, 1974, p. 25655-25666]

A claim in *The Washington Post* that the defeat was based on "widespread antagonisms in the House to the authoritarian chairman," Representative Patman, prompted Representative Minish to say the claim "adds little to the understanding" of the bill's defeat. In a letter to the editor, he explained:

> Anyone following this legislation would have known of the heavy pressure from the administration, including the threat of a presidential veto. It is also a fact that the Public Works Committee wanted to clear the way for their own legislation and this was not an inconsiderable factor in mustering opposition to the Banking and Current Committee Bill.

Although S. 386 had failed in the House, he added that, "I think that the pressure brought by my bill will do much in pushing the Congress and the administration toward greater support for meaningful and much-needed mass transit programs."

The future of mass transit legislation was uncertain. The House was expected to start a presidential impeachment debate in August, which would prevent consideration of H.R. 12859 or any other major bills. The Senate had not yet reported a comparable bill, in part because it expected to hold an impeachment trial. According to *The Wall Street Journal*, "Some key Senators are reluctant to act on any big long-range mass transit plan, lest it disturb last year's historic compromise allowing transit companies to get money from the Highway Trust Fund." [Large, Arlen J., "House Due to Vote on Transit Subsidies; Nixon Veto Looms if Senate Goes Along," *The Wall Street Journal*, July 29, 1974; Wilkin, Richard, "Despite Setback, Future of 35c Fare is Still Unclear," *The New York Times*, August 1, 1974; "Surprise in the House," *The Journal of Commerce*, August 1, 1974; Minish, Joseph G., Letter to the Editor, *The Washington Post*, August 5, 1974]

Smerk summarized:

> Without doubt, S. 386 looked as if it was consigned to the legislative bone pile; as events developed, however, there was a lot of life left in it. [Smerk, p. 135]

Revenue Mechanisms for Transit

During the long gestation of the Federal-Aid Highway Act of 1973 in 1972 and 1973, highway interests came to favor a mass transit trust fund because they thought it would reduce pressure to divert revenue from the Highway Trust Fund to transit. Transit interests wanted a trust fund because it would assure a source of revenue safe from the appropriations cycle. However, neither side could identify a reliable source of sufficient revenue for a new trust fund.

Section 138(b) of the 1973 Act directed the Secretary to study “revenue mechanisms including a tax on fuels used in the provision of urban mass transportation service, and an additional gasoline tax imposed in urban areas which could be used now or in the future to finance transportation activities receiving financial assistance from the Highway Trust Fund.” The study was to cover possible tax rates, potential revenue from each source, how the taxes could be collected, and “the potential impact on transit usage by such taxes.” The Secretary was directed to report the findings to Congress by no later than the 180th day after enactment of the 1973 Act.

On February 28, 1974, Secretary Brinegar submitted the report to Congress. His brief transmittal letter concluded:

> Consideration of the use of special taxes for financing Federal aid to urban mass transportation implicitly raises the question of earmarking of the revenues of certain taxes for limited purposes. In general, we feel that such earmarking should not be extended beyond its current applications. Continuing revenue sources very often come to be considered either a floor or a ceiling on annual expenditures for a particular purpose regardless of the merits of either decreasing or increasing these expenditures as times and priorities change. [Transmittal Letter, *A Study of Revenue Mechanisms for Financing Urban Mass Transportation*, U.S. Department of Transportation, February 1974]

As directed by the statute, the study of possible transit taxes was limited to excise taxes on transit fuel (gasoline, diesel oil, and propane) “and the assumption has been made that the transit fuel tax would be imposed on bus fuel only.” The study did not consider a tax on electrical power for rail or trolley systems.

The report described the decline in transit passengers from 19 billion in 1945 to approximately 5.3 billion in 1972. “Over the 10-year period ending with 1972, bus passengers declined at an average annual rate of 3 percent; for the last five years, the average annual rate of decline has been 5 percent.” Some evidence offered by the American Transit Association suggested that “this trend is being reversed and that increased ridership may well be experienced over the next several years.”

Factors affecting transit ridership included quality of service, fares, gasoline shortages, higher gasoline prices, EPA policies, and urban area policies to limit growth in automobile traffic. “Significant changes are occurring with respect to each of these factors,” such as:

> Transit agencies, particularly the great number operating motor buses, are attempting to improve service through such means as adding more buses, replacing old equipment, providing fully air-conditioned fleets, and improving schedule frequency. A few transit agencies have experimented with lower fares.
> On the constraint side, it is expected that shortages in supplies of gasoline for automobiles will continue through 1976. It is also expected that policies aimed at shifting journey-to-

work trips from automobile to transit in order to reduce air pollution will continue to be implemented.

These factors were contributing to the "leveling off in the long-decline in transit ridership," but the impact of factors such as oil shortages and pollution control policies "are substantially unknown at present. [*A Study of Revenue Mechanisms*, p. II-4 – II-5]

The Department considered a range of tax levels and their impact on fares for bus riders. "For example, a $0.10 fuel tax results in an $0.01 fare increase for bus riders, a $1.00 fuel tax results in an $0.08 increase, and a $3.00 fuel tax results in a $0.25 increase." Each increase would result in ridership decline ($0.10 – 0.88 percent decline; $1.00 – 7.06 percent decline; and $3.00 – 22.06 percent decline). "It is assumed that the decrease in transit ridership will result in an equivalent decrease in bus mileage and fuel consumption." [*A Study of Revenue Mechanisms*, p. II-26 – II-27] Depending on the amount of the tax, revenue would range as low as $30 million and as high as $1.3 billion a year. These yields did not take into account "probable reductions in transit ridership resulting from fare increases." [*A Study of Revenue Mechanisms*, p. II-17]

From an administrative standpoint, collecting this tax would be difficult:

> The federal excise tax on the sale of gasoline is customarily assessed by the Internal Revenue Service at the manufacturer or refinery level, whereas the tax on diesel fuel is assessed at the pump.

(Using State motor-fuel tax receipts for comparison, the Department of the Treasury estimates the amount of Federal gax tax collected from drivers in each State even though the revenue is collected only from the few States with producers or importers.)

Wholesalers and distributors pass on the increased cost of the gas tax to customers, including State or local governments. Under Federal law, sales to government agencies are exempt from the excise tax, and procedures are in effect to account for this exemption. All publicly owned transit operations qualify for the exemption, which is interpreted broadly. The declining number of privately owned transit systems, most of them in economic difficulty, would be subject to the tax. Collecting revenue from a transit fuel tax from publicly owned systems would be administratively difficult and legally uncertain in view of the exemption. Collecting the tax from privately owned systems would be legal, but could worsen their tentative financial condition. [*A Study of Revenue Mechanisms*, p. II-38 – II-39]

The report summarized the Department's conclusions on taxing fuel used for transit:

> A tax rate necessary to generate sufficient revenues to make a meaningful contribution to transit financing requirements would be extremely high. The effects of such a tax on transit ridership would depend on the extent to which the revenues to pay the tax were derived from the farebox.

The current gasoline shortage was expected to increase transit ridership, but higher fares would have the opposite effect. "A consequent increase in automobile use would exacerbate the current gasoline shortage, urban pollution, and urban congestion." In addition, transit users come mainly from households with low to modest income, working women, minorities, school children, young people, and senior citizens, all of whom would find the increased fare burdensome.

If the transit tax is not passed on to passengers, State or local governments would have to raise the money from other tax sources. "This would mean, in effect, that state or local taxes would be used to pay a federal tax which, in turn, would be used to pay a portion of the costs of urban mass transportation." [*A Study of Revenue Mechanisms*, p. II-44]

In studying the effect of an urban gasoline tax on motor vehicles, the study varied from the law, which referred to urban areas (population 5,000 and over). The study considered only urbanized areas (those with population of 50,000 or over) "where the preponderance of transit usage occurs." [*A Study of Revenue Mechanisms*, p. III-1]

The effect of a 1- to 3-cent hike in the gas tax on motor vehicle use would be minimal, and would have little impact on gasoline consumption:

> [W]ith the restricted supplies of gasoline projected for FY 1975 and FY 1976, very large price increases would be required before consumption would fall below the available supply.

A tax rate of 3 additional cents a gallon would raise about $1.5 billion a year "and would not be expected to have any significant effect on the consumption of gasoline or on transit usage."

As with the tax on transit fuel, collecting the additional tax on gas used in urbanized areas posed administrative difficulties. The tax could not be collected at the distributor or refinery level since the destination is not known. The States might have to collect the revenue along with revenue from State gas taxes and send it to the Internal Revenue Service. The tax might lead to evasion as motorists purchase cheaper gas outside the urbanized area. [*A Study of Revenue Mechanisms*, p. ii, III-14 – III-15]

The report pointed out that even as Section 138(b) called for a study of revenue mechanisms, the 1973 Act contained several provisions to increase funds for transit. It cited the potential use of Federal-aid urban system and Interstate substitution funds. At this early date, projections of how much these new sources would yield for transit were impossible to make. The 1973 Act also increased UMTA funding. These changes could impact policy on whether additional revenue from a tax on bus fuel or gas for urban motor vehicles was needed. [*A Study of Revenue Mechanisms*, p. IV-1 – IV-4]

The report concluded:

> Under either of the above funding interpretations, it is clear from the magnitude of the tax rates that a transit fuel tax would not be a workable alternative. With regard to an urban

> area gasoline tax, several potential problems have been raised in this study. Such a tax proposal would have to be judged in relation to other alternatives for financing urban mass transportation and highway facilities in urban areas. [*A Study of Revenue Mechanisms*, p. vii]

The President Resigns

In the end, the tapes that Federal Aviation Administrator Butterfield had revealed brought down the President. Despite the President's efforts to deflect every charge and to give the impression of focusing on important national and international issues, his presidency came down to a recorded conversation on June 23, 1972, during which he directed the Central Intelligence Agency to halt an FBI investigation into the Watergate break-in that would be politically embarrassing during his reelection campaign.

On Saturday, July 27, 1974, the House Judiciary Committee voted to recommend impeachment of the President on three articles:

> Article I—Obstruction of Justice
> Article II—Abuse of Power
> Article III—Defiance of Committee Subpoenas

With the reality of the taped conversation impossible to deny, the President issued a statement on August 5 acknowledging his efforts to block the investigation. He urged people to recall, first, that despite his actions, the investigation had continued:

> The second point I would urge is that the evidence be looked at in its entirety, and the events be looked at in perspective. Whatever mistakes I made in the handling of Watergate, the basic truth remains that when all the facts were brought to my attention, I insisted on a full investigation and the prosecution of those guilty. I am firmly convinced that the record, in its entirety, does not justify the extreme step of impeachment and removal of a President. I trust that as the constitutional process goes forward, this perspective will prevail.

On August 6, he held a 90-minute Cabinet meeting during which he acknowledged his problems and the likelihood of impeachment. He told Vice President Ford and the Cabinet that he would remain in office and let the legal process decide his fate.

His determination to fight, a key component of his long political career, came to an abrupt end on Wednesday, August 7, when three congressional leaders visited the President. They informed him that support had eroded in the House and Senate. Senator Barry M. Goldwater informed him that he had no more than 15 votes in the Senate against impeachment. Senator Hugh Scott confirmed the estimate. Representative Rhodes declined to give a count in the House, but privately thought he could count on only about 50 votes. He made clear that he did not want any misunderstanding; he was not suggesting there were alternatives to resignation.

If the President saw any way out in this discussion, Senator Goldwater slammed it shut. He said that with a clever lawyer, he might be able to survive Article I and III of the impeachment, but not Article II. "I'm leaning that way myself, Mr. President."

As Theodore White explained:

> The session lasted less than thirty minutes. And there was no one left, no major American political figure to support the man who had been elected by the largest free majority in American history. [White, p. 28-29]

On August 8, President Richard M. Nixon informed the American people that he would resign the following day. In a 9 p.m. television and radio address from the Oval Office, he said:

> In all the decisions I have made in my public life, I have always tried to do what was best for the Nation. Through the long and difficult period of Watergate, I have felt it was my duty to persevere, to make every possible effort to complete the term of office to which you elected me.
>
> In the past few days, however, it has become evident to me that I no longer have a strong enough political base in the Congress to justify continuing that effort. As long as there was such a base, I felt strongly that it was necessary to see the constitutional process through to its conclusion, that to do otherwise would be unfaithful to the spirit of that deliberately difficult process and a dangerously destabilizing precedent for the future.
>
> But with the disappearance of that base, I now believe that the constitutional purpose has been served, and there is no longer a need for the process to be prolonged.

He wanted to carry on, despite "the personal agony it would have involved," and his family urged him to do so. However, "the interests of the Nation must always come before any personal considerations." After talking with congressional leaders, he recognized that he might not have support "that I would consider necessary to back the very difficult decisions and carry out the duties of this office in the way the interests of the Nation will require." He said:

> I have never been a quitter. To leave office before my term is completed is abhorrent to every instinct in my body. But as President, I must put the interests of America first.

He announced that he would resign at noon on August 9, 1974.

The Ford Administration

For the public and the media, President Ford presented a remarkable contrast with the former President, who had earned the nickname "Tricky Dick" in the early 1950s and never lived it down. After the bitter and divisive drama of the Watergate scandals, people enjoyed reading about a President who seemed to be an "everyman."

In that era, Vice Presidents lived in their own home. In 1951, Representative Gerald R. Ford and his family moved to 1521 Mount Eagle Place in the Park Fairfax apartment complex in Alexandria, Virginia, the same rental community where the Nixons had once lived. They moved to 514 Crown View Drive in the Clover neighborhood of Alexandria in 1955. The home is near King Street (State Route 7), a main commuter road between U.S. 1 (Jefferson Davis Highway) on the east and what was then I-95 (Henry G. Shirley Highway, now I-395). The Fords had built the four-bedroom, two-bath colonial house on a quarter-acre lot. The house included a recreation room in the basement and a two-car garage. The Fords later added a backyard pool. When Representative Ford became Vice President, the Secret Service improved the home's security, installing bulletproof glass and adding steel rods under the driveway to support the Vice President's armored limousine, among other changes.

For the Fords, the morning of August 9, 1974, began in a way that any family could identify with, as *The New York Times* explained:

> For the new First Family, today was a flood of mundane chores and extraordinary events.
>
> Only hours before Betty Ford sorrowfully embraced Julie Nixon Eisenhower [President Nixon's daughter] on the White House lawn as President Nixon departed in his helicopter, she was debating with her 18-year old son about whether he should go to the beach this week.
>
> President Ford seemed to set the pattern for the day when, at sunrise, he stepped out of his house in his bathrobe, uninhibited by the reporters on vigil outside his modest suburban house in Alexandria, Va., to retrieve the morning paper, which would have been a simple task for one of the Secret Service agents on duty there.
>
> Mr. Ford cooked breakfast for himself and his son, Steven, who had risen early to collect his paycheck from the National Capital Park Service for mowing grass along a highway, while the rest of the family slept.

An accompanying photograph showed Betty Ford, coffee mug in hand, and the Fords' daughter Susan standing at the front door, in their bathrobes, talking to a neighbor. ["The Fords' First Day as First Family," *The New York Times*, August 10, 1974]

While the Nixons moved out of the White House, the Fords stayed in their home in Clover for a week and a half. At the request of the Secret Service, the police blocked Crown View Drive in both directions, allowing only local traffic and authorized vehicles. *Time* magazine described the President's daily commute:

> Every morning last week, the President of the United States was driven into the capital from his suburban Alexandria, Va., home along with the stream of commuters who daily turn Interstate 95 into what Washingtonians sometimes grumpily refer to as "the world's longest parking lot." Preceded by a police car and trailed by four other vehicles, including a Secret Service station wagon and a press van, his limousine was hard to miss. Many motorists

> waved a cheerful if somewhat bemused good-morning as the Chief Executive, immersed in his morning newspapers, sailed past them in the lane reserved for buses and car pools. Gone was the public hostility of yesterday as Nixon's presidency foundered; now there was a new President, totally contrasting in manner, mien and style from his predecessor, and he was moving fast. ["Gerald Ford: Off to a Fast, Clean Start," *Time*, August 26, 1974]

(In 1974, Congress approved funds to renovate the residence at the U.S. Naval Observatory as a Vice Presidential home, but it was not ready for occupancy while Ford was Vice President.)

At noon, Chief Justice Warren E. Burger was in the East Room of the White House to administer the oath of office to the 38th President of the United States, Gerald R. Ford. Burger had been in Europe, but returned on a military plane for the occasion. The new President said he had not expected to be President and had not received the votes of the American people. "I expect to follow my instincts of openness and candor with full confidence that honesty is always the best policy in the end. My fellow Americans, our long national nightmare is over."

A month later, on September 8, 1974, President Ford issued a full and unconditional pardon to his predecessor, an act that proved to be the most divisive of his years in the White House. *The New York Times* called the decision "an act of monumental folly" and a "cynical aberration of justice" that raised questions about President Ford's "credibility as a man of judgment, candor and competence," "showed incredibly poor judgment bordering on moral obtuseness," and "wiped out the era of good feeling that he himself had inaugurated." ["Mr. Ford's Folly," *The New York Times*, September 15, 1974]

With the economy still struggling despite President Nixon's efforts to overcome stagflation, President Ford declared that inflation was his main target–"public enemy number one." Presidential historian Robert Dallek summarized the Ford approach:

> When the economy, whipsawed by rising energy costs, fell into a cycle of stagflation in 1975—falling GNP, the worst since 1929-1932; 9 percent unemployment, the highest since 1941; and rapidly rising prices, the biggest increases in twenty-five years—Ford focused only on how to keep inflation in check. In response to the worst economic downturn since the Great Depression, he urged tax increases and less government spending to reduce deficits and encouraged price restraints by handing out WIN (Whip Inflation Now) buttons. In addition, he opposed congressional efforts to stimulate the economy with a large tax cut and expand social welfare programs by vetoing seventy-two pieces of legislation in a little over two years—nearly doubling the number of Nixon's vetoes in a five-and-a-half-year period and substantially more than the average in an eight-year presidential term. [Dallek, Robert, *Hail to the Chief: The Making and Unmaking of American Presidents*, Oxford University Press, p. 185]

He saw government regulation, and the bureaucrats who administer the regulations, as imposing hidden costs. This view would inform his transportation proposals for reducing Federal bureaucratic involvement in Federal-aid programs and regulation of the transportation sector.

On August 30, President Ford announced that his choice for Vice President was former Governor Nelson Rockefeller. Dating to his campaign for the Republican Party's presidential nomination in 1964, Governor Rockefeller had been seen by conservatives as too liberal. His past and perhaps future presidential ambitions and his long experience as the top executive of New York also raised questions. Despite conservative objections and revelations during the confirmation hearings of questionable behavior, the Senate confirmed him for the post, 90 to 7, on December 10. Senator Goldwater, who had secured the presidential nomination in 1964 but lost the election in a landslide, was among the few voting against the former Governor.

The House of Representatives confirmed him, 287 to 128, on December 20, 1974. Later that day, Chief Justice Burger administered the oath of office to the new Vice President in the Senate chamber shortly after 10 p.m.

National Mass Transportation Assistance Act of 1974

On Monday, August 12, 1974, before a joint session of Congress in the House chamber, President Ford said, "I do not want a honeymoon with you. I want a good marriage." He asked for congressional help in fighting inflation by cutting Federal spending to achieve a balanced budget. He had already instructed the Cabinet, his advisors, and White House staff "to make fiscal restraint their first order of business, and to save every taxpayer's dollar the safety and genuine welfare of our great Nation will permit."

On this occasion, his first opportunity as President to address Congress, he did not want to threaten vetoes, but said, "I do have the last recourse, and I am a veteran of many a veto fight right here in this great chamber." He asked, "Can't we do a better job by reasonable compromise? I hope we can."

One of the first bills after this challenge was the Federal Mass Transportation Act of 1974 (H.R. 12859), the House Public Works Committee's $20-billion mass transit bill. In a meeting with municipal officials, including Mayor Beame, President Ford pledged his support for an $11.8-billion transit program and letting local officials decide whether to use Federal funds for capital projects or operating subsidies. [Smerk, p. 135] Reporter Mary Russell explained on August 15:

> Congress' willingness to cooperate in President Ford's announced goal of cutting government spending to hold down inflation faces its first test today as the House considers a six-year, $20 billion mass transit bill that the administration has said is "highly inflationary."
>
> House Minority Leader John J. Rhodes (R-Ariz.) has said the President would veto any bill with a funding level higher than $11.6 billion . . . . During debate on the mass transit bill yesterday, Rep. E. G. Shuster (R-Pa.) said, "What we have today is a first test of whether we merely applauded the words of the new President or whether we are going to act on those words."

Representative Wright pointed out that "the President said he would meet us half way," so Democrats on the Public Works Committee were willing to reduce the size of the bill to $15.5 billion, halfway between the current total and the Administration's preference. He could not say whether committee Democrats could accept a lower amount, but Representative Shuster called the "halfway" amount "just too much money given present inflationary conditions."

The bill contained other controversial measures. It would exempt mass transit projects from filing environmental impact statements under NEPA, substituting a new set of environmental standards for such projects. "Liberal Democrats are expected to offer an amendment to knock out the NEPA exemption, arguing that the bill's standards are vague and that circumventing NEPA sets a dangerous precedent." Other provisions increased permissible bus width on Interstate highways and increased allowable truck weights on the Interstates from 73,280 pounds to 90,000 pounds. [Russell, Mary, "Transit Bill Vote to Test Hill Anti-Inflation Forces," *The Washington Post*, August 15, 1974]

On August 15, the White House made clear that President Ford favored cutting the bill to $11 billion and restricting operating subsidies. During debate that afternoon on subsidies, Representative Milford, the Democrat from Big Tussle, Texas, called subsidies "a big-city ripoff" and an "insult to the taxpayers." Others called subsidies a "rat hole" and a move to "bail out" New York City. Members of Congress from rural areas agreed with Representative Milford's characterization of subsidies as an attempt by the big cities "to unload their problems on Washington." Representative Lamar Baker (R-Tn.) said, "There's no reason to bail out New York when they pay wages like $7.24 an hour plus cost-of-living increments to subway motormen."

Representative Abzug defended subsidies, saying that without them, New York would have to raise fares, thereby triggering a new inflationary spiral. She also pointed out that subsidies would benefit rural communities because the bill included bus subsidies.

The House sustained operating subsidies, 202 to 197, after a strong debate, but by voice vote cut the Federal-State matching ratio for subsidies from 50-50 in the bill to 33-67. As *The New York Times* said, "Both votes showed a wide-ranging disinclination on the part of the House to take responsibility for saving New York's 35-cent transit fare." [Burks, Edward C., "Support for 35c Fare and Aid Shrink in House Debate on Bill," *The New York Times*, August 16, 1974]

On August 20, the House of Representatives approved, over the New York delegation's objections, Representative Harsha's amendment to reduce total authorizations in the bill to $11.8 billion by a 257 to 155 vote.

The House also voted to delete the provision increasing weight limits on the Interstate System. Representative Koch objected to the provision. He said that, "all great committees occasionally make errors. This is one of the errors in this bill." Allowing heavier trucks, he said, would increase fatalities while increasing damage to highway pavements. The cost of repairing the damage "will be borne by the localities up to $100 million a year, which is not refunded in this bill, and because the existing bridges on the Interstate System were built for the current maximum loads and not those permitted in the bill." (The States were responsible for highway maintenance without Federal-aid.)

Representative Harsha defended the provision, pointing out that the lower speed limit had "necessitated the addition to the truck fleet of additional trucks to transport the same volume of goods." The proposed weight increase "would enable the trucking industry to increase its load-carrying capacity . . . with a resulting fuel savings of 5.6 percent and a decrease in the number of trips by 7.8 percent." He quoted Secretary Brinegar, who had called for increases in the weight limits:

> We believe that the weight increases we propose will have a minimal effect upon highway safety. The lowering of the speed limit to 55 reduces braking distance materially, far more than any increases in braking distance with existing equipment which might be attributed to greater axle loads. To the extent that increased truck productivity leads to fewer trucks on the road, it means less exposure to accidents.

Representative Wayne L. Hays (D-Oh.) said:

> Mr. Chairman, the gentleman had me with him until he made that statement about the poor trucks. There is not a truck in this country which is obeying the 55-mile-an-hour limit. They will blow one off the road if one is going 50 miles an hour.

Representative Harsha acknowledged that the truckers do not obey the speed limit ("That is a matter of enforcement"), with Hays adding, "They are all doing 65 to 75 miles an hour." (According to a *New York Times* account, Representative Hays's comment "brought some roars from the House.")

Representative Wright pointed out that the provision did not raise limits, but only permitted States to do so if they wished.

The House approved Representative Koch's amendment striking the provision by voice vote, but he demanded a recorded vote. The provision was deleted by a vote of 252 to 159.

Finally, the House approved the Public Works Committee's 6-year, $11.8-billion bill, 324 to 92. [Federal Mass Transportation Act of 1974, *Congressional Record-House*, August 20, 1974, p. 29370-29392]

Representatives Abzug and Koch were among those voting for the bill despite their disappointment about the reduced funding level. Representative Abzug explained:

> This is landmark legislation even though the bill has been cut, because it establishes the principle of operating subsidies, which we never had before.

She hoped that funding levels could be increased when the House and Senate establish a conference report on the final measure.

A Department of Transportation spokesman said the bill was "a major deal for us because the money level is down to a level the Administration will accept. It looks like we now have a good chance for an acceptable mass-transit bill this year. [Burke, Edward C., "House Passes Transit Bill Providing $11-Billion Aid," *The New York Times*, August 21, 1974]

According to an aide, Senator Williams considered the bill inadequate, objected to the reduced Federal share of operating subsidies, and was thinking of revising the Emergency Commuter Relief Act. According to a *Times* account:

> Senator Williams contends that the new House bill will actually lower the funds available for capital projects at least for the first two years of its six-year spending plan. In fact, he argued that there is no compelling need for a new bill on capital allocations because there is already capital funding for fiscal 1975 and 1976, and that therefore the big need is to tackle the problem of operating subsidies. [Burks, Edward C., "Mass-Transit Bill Held Inadequate," *The New York Times*, August 22, 1974]

Editorial reaction to the House bill was similarly negative. *The New York Times* called its funding "disappointingly inadequate" and "clearly insufficient to meet the pressing needs of deficit-ridden transit systems here and elsewhere." *The Los Angeles Times* said the bill "falls seriously short of assuring the level of federal support required" and hoped the Senate would increase funding levels.

On a more positive note, *The Christian Science Monitor* called the bill "one of the first big dividends of the end of the impeachment process." Instead of being absorbed in that process, Congress could get "back to its primary business of legislation—with an eye on the fall elections." The bill broke ground on operating subsidies and authorized funds that "look fiscally responsible." ["Too Little for Transit," *The New York Times*, August 22, 1974; "Transit: A Chance to Choose," *The Los Angeles Times*, August 23, 1974; "House Push for Mass Transit," *The Christian Science Monitor*, August 22, 1974]

The House bill, which had originated in the Committee on Public Works, was submitted to the Senate Banking, Housing and Urban Affairs Committee. But as the initial reaction to the bill suggests, it faced serious objections, in part because of its origins in the Public Works Committee. Smerk explained:

> The bill would amend U.S. Code Title 23, the Federal Highway Act, and cause major changes for both highway and transit interests, changes that were very upsetting to both groups. The bill would also completely abolish the UMTA programs. The whole of the mass transit aid program would be subject to the procedures of the federal highway program. Supporters of transit were fearful of what would happen to mass transit if it was left to the mercies of state highway departments. Moreover, both President Nixon and Secretary of Transportation Brinegar had objected to the operating-aid provision. There was fear that, to use political rhetoric, it would become a bottomless pit or a rathole down which to squander taxpayers' dollars. It became clear that the Senate was not about to go along with H.R. 12859 and that it would not come up with a long-range bill of its own and go

> through what promised to be a difficult conference process before the end of the 93rd Congress. [Smerk, p. 136]

As *The Baltimore Sun* put it at the time, "Comprehensive mass transit legislation . . . appears to be caught in a series of legislative and special-interest conflicts and is unlikely to win approval during the current session of Congress." The three major factors stalling the legislation were (1) fear by transit interests that the bill gave too much control to State transportation departments ("The people seeking transit money would be the people who administer highway programs. It would be a clash of policy," said James McCannon of SEPTA); (2) the prestige of the Ford Administration made it unlikely Congress would call for additional funding; and (3) as aides to Senator Williams pointed out, the funding procedures and inadequate amounts for construction programs were unacceptable. His aide, Stephen J. Paradise, explained that under the House bill, the use of funds for operating costs would reduce the funds available for construction that was crucial in many big cities.

These concerns had revived interest in S. 386, the Minish-Williams bill, but this, according to the *Sun*, "appears to be a questionable strategy because the House has shown considerable opposition to federal support of operating costs and a provision permitting it in the major bill passed only by a vote of 202 to 197." The bill provided no funds for construction, and tentative plans indicated the 2-year, $800 million subsidy would be cut in half to try to increase House support:

> A transit lobbyist here [in Washington] indicated a willingness to wait for major legislation until after the November elections both because President Ford now appears strong enough to force low spending levels and because of the possibility that the new Congress will have a larger number of transit supporters. ["Mass Transit Legislation Appears Dead This Year," *The Baltimore Sun*, September 3, 1974]

President Ford was in Pittsburgh on September 9 to address the Sixth International Conference on Urban Transportation. He began by joking:

> I am told that some people in Europe heard about my nomination of Governor Rockefeller and concluded that we had solved our transportation problems in America. The Europeans said that we now have a combination of a Ford, who makes automobiles, and a Rockefeller, who makes gasoline.

He said he was not a transportation expert, but was "dedicated to the revival of efficient transportation in our great urban centers here in the United States." He described the decline of urban transportation:

> The relationship between urban regeneration and urban transportation is extremely close. Among our most pressing urban problems—and your presence here highlights it—is transportation, especially the automobile. For the last 25 years, two decades and a half, automobiles have been the most important factor in shaping urban centers and expanding suburbs. The statisticians tell me that there are some 100 million automobiles on nearly 4 million miles of American streets and highways. That makes one automobile for every two

> Americans, and most of those 100 million cars are in our way when any one of us tries to go downtown.
>
> Many Americans have moved to suburbs where there is less and less traffic. My wife Betty and I can vouch for the very restful suburban life, and we picked it for reasons that most Americans select it. We raised our family in Alexandria, Virginia, just outside of Washington, D.C., and on a personal note, I miss it, especially my backyard swimming pool.
>
> In the last two decades, suburban population grew far faster than our central city population. And in some instances, the population growth in our suburbs resulted in an actual numerical decline in our central cities. Americans, as a result, by the millions on a day-to-day basis, drive to and from work. Most took the road or the highway or the street, approximately at the same time of day as everybody else. Frankly, I admire the fortitude and the driving skill of the millions of Americans who are on time going to work without police and Secret Service escorts . . . .
>
> I am sure everyone, everyone here especially, along with thousands, or literally millions of other Americans have been caught in rush-hour traffic jams. I know I have for a number of years while serving in the House of Representatives and living in Alexandria. Sitting in bumper-to-bumper traffic has become a way of life to far too many Americans.
>
> As a Congressman, I was in New York City about 10 years ago, and I asked a New York City policeman the best way to get to Brooklyn, and he was very blunt in his answer. "Buddy," he said, "the best way to get to Brooklyn is to be born there." [Laughter]

Being from Michigan with the name of Ford, the President said, "you can be sure I am not going to say anything unkind about automobiles." It was, however, "self-evident that excessive use of cars in dense urban areas increases pollution levels, causes unbelievable traffic jams, massive headaches, and bumper-to-bumper tie-ups which burn too much scarce and expensive fuel." The energy shortage from October to March made clear that, "Solutions must be found for the growing problems of congestion and pollution, challenges now complicated very severely by our energy conservation." A renaissance of urban transportation "must be built on solid, defendable concepts."

The fact that mass transit usage in 1973 had increased for the first time since World War II was encouraging, but until the Nation developed urban mass transit systems that people want to use—systems "that offer convenience, comfort, and reliability expected from the automobiles that Americans have been traditionally using"—transit service would continue to be underused.

The international conference, with its emphasis on transit marketing, "is exactly on the right target." People had an understandable reluctance to abandon what they were brought up to use, namely the automobile, and try something "new and different." President Ford said, "There has to be something extra if we are going to achieve a viable mass transit system in most of our urban metropolitan areas." He suggested that the transit industry learn from the automotive industry. "They have done quite well with the product that they have promoted in our country. We must compete with the automakers in the effective promotion of products, in their imagination, enterprise, and marketing skills."

One point must be understood. "The automobile is and will continue to be our chief transportation vehicle" because it "fits America's traditional lifestyle." We must "learn how best to live with them in the urban scene." Diversity of choice among options was one key, coupled with land-use planning." This could, "only be done, in my judgment, wisely and well at the local level."

The Federal Government has a role in assisting urban mass transit systems, but "that role must be carried out in complete and total partnership with States and localities." The "heavy hand of the Federal Government" must not dictate outcomes. To help cities, he said:

> Federal assistance, as I see it, must be primarily directed at finding cost efficient solutions to the problem of moving people. It must only secondarily be viewed as a means to stimulate urban area economic growth or to increase central-city density. Federal taxpayers just can't afford to pay for the whole package, and I won't ask them to do so.

The House and Senate must join with the White House as inflation fighters:

> Investments in local mass transit systems must have reasonable cost-to-benefit ratios or relationships. The House-passed Federal Mass Transit Act of 1974 proposes an $11 billion spread [sic] over a 6-year period and, I add emphatically, an absolute upper dollar limit.
>
> In addition, I have a problem with the program structure in the House bill and its treatment of Federal operating assistance for public transit. A committee of the Senate will be considering a transit bill whose program structure is similar to the Administration's transit proposal. I am confident that this problem, or this conflict between the House and Senate versions, can be overcome in a House and Senate conference.
>
> It is probably known to many here, I have opposed in the past transit operating subsidies, particularly out of the Highway Trust Fund, because of my strong belief that such a program would lead to the Federal Government [getting involved] in the local day-to-day transit operating matters. And also, I have learned, from my experience with other Federal categorical grant programs for operating expenses, that these funds often do not result in better or more service. Instead, they simply result in greater cost and less efficiency.
>
> It is my conclusion, however, that our current inflexible urban mass transit grant program encourages States, encourages cities to adopt what you can call capital-intensive solutions, such as subways, as a response to their transportation problems.
>
> Accordingly, as a compromise for my own long, deeply held convictions, I am supporting some limited Federal operating assistance such as the proposal I mentioned a few moments ago, submitted in February and currently being considered by the Senate.

He was referring to UTAP.

> I recognize that this change will allow a limited portion of Federal urban transit funds to be used for operating expenses as an integral part of a comprehensive transit program and as a result, primarily, of decisions by local and State officials . . . . And although the operating assistance provisions of the House bill do not meet these standards, the Senate will . . . and I hope does, correct this deficiency, and I trust the final version will contain that specific provision.

He was confident "we can achieve our national transportation goals . . . without further feeding the fires of inflation or busting the Federal budget."

In closing, he emphasized that from the Nation's earliest days, "we have been a mobile people." Today, we had many "avenues of movement for all Americans," but whatever choices people make, the "wheels of the Nation cannot stop turning, whether they are on cars or trucks or buses or trains or planes."

A *Times* editorial reacted to the President's remarks:

> President Ford built mass-transit boosters up to a jarring letdown in Pittsburgh the other day when he told transportation experts there that last winter's energy crisis had driven home the message that "we must make major progress in improving mass transit." Most of the President's subsequent remarks made it painfully evident that this transit message had failed to penetrate the White House with any real sense of urgency.

His limit of $11 billion on the transit bill "hardly qualifies as a commitment to 'major progress." He also had expressed reservations about operating subsidies "despite the clear need for such aid." His comments seemed less to reflect a President who had learned the lessons of the energy crisis, and more "the parochial prejudices of a Congressman [from Michigan] more concerned with the prosperity of a major local industry than with the burdens of pollution and congestion which the automobile imposes on urban areas." ["Mr. Ford on Transit," *The New York Times*, September 14, 1974]

The Coconuts, the Bread, the Dollars

On September 15, a conference of mayors convened by Mayor Beame in San Francisco agreed on an intensive campaign for Federal operating subsidies. As part of Mayor Beame's effort to save the 35-cent fare, more than 15 cities would send representatives of government, labor, and business to Washington the week of September 23 to lobby for the funds.

Reminded of President Ford's restriction of transit aid to $11 billion, Mayor Beame replied, "He changed his mind on pardoning Nixon, didn't he? Now he can change his mind on more transit money." He called the House bill "inadequate" and thought that "a reasonable compromise, perhaps $18-billion, would do." He was backed up by Mayor Neil Goldschmidt of Portland, Oregon. "We're tired of going to Washington and hearing them say, 'We're all for comprehensive transit help but, gee, there's just not enough time before adjournment.' The time is now."

[Malcolm, Andrew H., "Mayors to Lobby for Mass Transit Aid," *The New York Times*, September 14, 1974]

Prospects for a bill in 1974 dimmed. Secretary Brinegar told reporters that Congress could "take it up in February—we don't need it right away." The dollar levels in the approved House bill were satisfactory, Secretary Brinegar said, but as the President had explained in Pittsburgh, "The program structure has some serious difficulties." He also dismissed talk of reviving the Minish-Williams subsidy bill. The Administration would "find it very difficult" to support the measure.

Senator James B. Allen (D-Al.) presented another obstacle, namely the threat of a filibuster. His filibusters had blocked legislation on public financing of political campaigns, consumer protection, and pay raises for Members of Congress. Now, he said, "There is always a possibility" of a filibuster of the transit act. The bill was "only the tip of the iceberg," adding, "We might as well open the door to the U.S. Treasury and say come on in." The bill would "build up megalopolises" when the country needed "a decentralization of the population, businesses, and industries in this country." ["Filibuster Hint Dims Hopes of Mass Transit Bill Vote," *The Washington Post*, September 20, 1974]

[The contemporary Ralph Nader Congress Project described Senator Allen as a "parliamentarian," defined as "If you're not keen on policy-making, you should learn the rules of procedure. If you are perennially in the minority, you *must* learn the rules of procedure." In a newsletter to his constituents, he describes his role as "keeping watch in the Senate to see that our position is not prejudiced by adverse parliamentary maneuvers." [Green, Mark J., Fallows, James M. and Zwick, David R., *Who Runs Congress?* A Bantam/Grossman Book, 1972, p. 221])

The lobbying effort by local officials had little impact on the Administration's position:

> Adamant opposition to immediate federal subsidies for urban mass transit operations was expressed yesterday by a Ford administration spokesman, despite warnings that imminent fare boosts will hurt the poor and increase auto use.
>
> Responding to a phalanx of urban America's leaders—mayors of large cities, governors and candidates for governor, labor leaders and mass transit lobbyists—who launched a renewed effort to win transit subsidies, a Department of Transportation official said the administration would rather wait for a more comprehensive bill next year.
>
> "We believe it is a realistic expectation that such a measure will be enacted early in the life of the 94th Congress," said Frank C. Herringer, urban mass transportation administrator.

He made the comment on September 25 while testifying before what Smerk referred to as "an almost unprecedented action," namely another day of hearings on S. 386, the bill still technically in conference committee.

The approved long-range House bill, written by the Committee on Public Works, stalled in the Senate Banking and Currency Committee. Support was insufficient and time in the session too limited to complete work on it. Having concluded that that the House bill could not be approved in the Senate by the end of the year, Senator Williams revived S. 386 on the theory that the short-term bill had a better chance of congressional approval. The revised bill reduced the subsidy to $600 million ($200 million in FY 1975 and the remainder in FY 1976).

The diluted bill, as Herringer made clear, was still unacceptable to the White House. He repeated the President's statement that he would support operating subsidies only as part of a comprehensive multi-year financing plan:

> It is with reluctance that I take this position, because I am concerned that it will be misinterpreted and branded as an anti-mass transit stance.

He worried that the bill would "take the steam away from the long-term bill" by making the long-term bill less urgent. He said that Secretary Brinegar would recommend a veto of the revived Minish-Williams bill.

Senator Williams said the Administration's position was "more than distressing" since the bill had been "tailored to everything that has come to us from the Administration." He hoped the Secretary would "think this through . . . we're going to fight to accomplish what the nation needs." Representative Fortney H. (Pete) Stark (D-Ca.) said the Administration's position was "an affront, a cop-out" and "not responsive" to the needed "spirit of compromise." The Ford Administration, he said, "is ready to let [mass transit] go down the tubes."

Representative Abzug said she preferred the long-term bill. "The Minish-Williams bill is a little bill with a little bit of money, but it can derail the long-range mass-transportation bill." She urged Senator Williams to hold hearings on the House bill, but he replied, "it would take us easily from now until the end of the year," at which point all pending bills would die with the end of the 93rd Congress.

For New York, which needed $200 million a year in Federal subsidies, the outcome varied among the bills, but neither version of the Minish-Williams bill came close to the $125 million the city would have received the first year of the House bill. Governor Wilson called the situation "an extreme emergency" and said he had talked with the President. He declined to repeat the conversation, but said the President listened to what he wanted to say. The Governor pointed out that, "the Republican party does not control either house of the Congress," and added, "I am fed up to the gills about words. I want money. It is the coconuts, the bread, the dollars."

President Ford had agreed to an October 1 meeting with the Conference of Mayors. The conference president, Mayor Joseph L. Alioto of San Francisco, said of the planned meeting, "The nation's cities—the people who live in our cities—cannot wait until next year for relief."

As part of Mayor Beame's plan to save the 35-cent fare, he said he would ask the President to allow the city to convert half of its $240 million in transit grants to operating subsidies. He favored the Minish-Williams bill, but wanted it amended to give cities the choice to use transit funds for subsidies of capital expenditures. The House bill, according to the Mayor was inadequate for New

York's needs. He hoped to "turn the President around" to secure immediate action because "the fare is in the hands of the Federal Administration." [Tolchin, Martin, "A Weakened Bill on Mass Transit Cuts Aid to Fare," *The New York Times*, September 26, 1974; Jones, William H., "Administration Hits Transit Subsidy," *The Washington Post*, September 26, 1974; "Beame to See Ford Today on Transit," *The New York Times*, October 1, 1974]

Secretary Brinegar and Administrator Herringer joined President Ford in the Cabinet Room for the meeting with the Mayors and business and union leaders. Henry Ford II led the business community, while representatives from organizations such as the A.F.L.-C.I.O., the Amalgamated Transit Union, and the United Steelworkers of America participated.

President Ford gave unqualified support to the House mass transit bill, but refused to endorse the stop-gap Minish-Williams bill even if the House bill failed in the Senate before the end of the 93rd Congress. Herringer told reporters after the meeting that "the President supports long-term legislation and does not accept the fact it can't be passed." The President promised to call a White House meeting for the mayors and House and Senate leaders to discuss how to expedite the measure. As Secretary Brinegar said, "the President wants to enlist the Mayor's efforts to get a bill out."

Mayor Beame said, "The President feels very definitely that a long-term bill could come out of this session." He added, "We're plugging for a better bill. The $11-billion bill would not save the fare. But if there is a better bill, who knows what would happen." Chicago's Mayor Daley agreed. "We all need immediate relief for the emergency that exists today."

Earlier in the day, Senator Williams had met with the mayors, informing them that the long-term House bill was inadequate. An improved bill, he promised, would be the first of order of business in the 94th Congress. He would continue to pursue the Minish-Williams bill in the interim.

Mayor Beame, who proposed his 50-percent measure, summarized the situation by saying, "We're afraid that the city is going to get caught between the long-term bill and short-term bill, and get nothing." Reminded that Congress would recess in mid-October for the mid-term elections in November, Mayor Beame replied, "They're on the payroll until January 3." [Tolchin, Martin, "President Backs Transit Measure," *The New York Times*, October 2, 1974]

On October 3, the conference committee on S. 386 approved a report combining the Minish-Williams bill with the House bill to create a 6-year, $11.8 billion urban mass transportation program, with two-thirds of the funding restricted to capital projects and the remainder available for operating subsidies at local option.

Ron Nessen, the White House press secretary, said that President Ford "would strongly support the bill and be happy to sign it into law." An unnamed White House transportation saide said, "We're going to push very, very hard for it. We think it's exactly what the President wanted. We're delighted." Part of the White House pleasure in the bill stemmed from its fear that the November elections, the first in the post-Nixon era, would result in a more liberal Congress in 1975 that would seek a stronger, more expensive bill.

Senator Williams intended to bring the conference report before the Senate after the elections. He was confident the Senate would pass the bill. Representative Minish wanted to bring the bill to the House floor before the elections, but the House Rules Committee would have to approve the measure and that presented a problem. The conference report had converted an $800 million bill into an $11.8 billion mass transit bill that differed in many respects from S. 386 and the approved House bill. Although the switch violated House rules, Chairman Madden was confident his committee would approve the bill. "I'm going to go along with it," he said. "The people want mass transit, and I think my committee will go along with it." [Tolchin, Martin, "Ford Plans Strong Support in Congress for Mass-Transit Bill," *The New York Times*, October 5, 1974]

He did not anticipate difficulty he would encounter in securing passage. The jurisdictional dispute between the Public Works Committee, which had drafted the House bill, and the Banking and Currency Committee, which had drafted S. 386, was part of the problem. Members of the Public Works Committee had held 4 months of hearings before completing work on the House bill. They were upset that the conference committee had ignored the House-approved bill and spent 80 minutes converting its $800-million Minish-Williams bill to meet President Ford's wishes.

Chairman Blatnik of the Public Works Committee, who was not seeking reelection in November, said, "To allow a multi-billion bill to be written in conference with no hearings, I don't understand how we can tolerate it." He added, "This procedure grossly violates all the rules and precedents of the House." Representative Jones of the committee said, "We dispatched subcommittees to Boston, New York, Chicago, San Francisco and Atlanta. We rode the subways, and we passed a bill."

Representative Madden acknowledged the charge of plagiarism, but told Representative Blatnik, "This bill is practically a carbon copy of the [public works] bill that we passed. You're absolutely right. But how are we going to explain to 220 million Americans why we haven't passed a bill?"

On October 8, the House Rules Committee voted 6 to 6 on releasing the bill, with the tie blocking the bill from a vote on the House floor. Three members were absent from the vote, and Chairman Madden, confident that he could secure approval, scheduled another vote for early October 9. If approved then, the bill could reach the House floor before the recess began on Friday, October 11.

Despite President Ford's support, only one of five Republicans on the Rules Committee had voted for the bill. Three voted against it while the fourth was not present. Representative Dave Martin (R-Ne.), who according to the *Times* led the attack on the bill, said of Administration support:

> Somebody from the Transportation Administration came to see me yesterday to say he wanted to see it passed. By comparison, on the rice bill, I had everybody from the Department of Agriculture, from the Secretary on down.

Secretary Brinegar indicated he would write a letter to the committee Republicans reaffirming the President's support. Pressure would be applied to the absent members and others to support the bill. Administrator Herringer said, "I think we'll get it back on the track tomorrow, but it was an awful scare." [Tolchin, Martin, "6-to-6 Vote in House Rules Committee Blocks Mass-Transit Bill," *The New York Times*, October 9, 1974]

Later that day, President Ford addressed a joint session of Congress on the economy. He covered a variety of topics, including energy. "America's future depends heavily on oil, gas, coal, electricity, and other resources called energy. Make no mistake, we do have a real energy problem." Pointing out that 17 percent of American's energy came "from foreign sources that we cannot control, at high cartel prices," he said:

> The primary solution has to be at home. If you have forgotten the shortages of last winter, most Americans have not. I have ordered today the reorganization of our national energy effort and creation of a national energy board.

He said he had met with automakers "to assure, either by agreement or by law, a firm program aimed at achieving a 40 percent increase in gasoline mileage within a 4-year development deadline." He also called for actions to increase energy resources at home, including deregulation of natural gas supplies and amendments to the Clean Air Act.

He did not mention the mass transit bill, but it came up during his press conference at 2:30 p.m. in the Rose Garden on October 9.

> Q. Sir, if you accept that mass transit is an essential part of the energy saving program, can you explain why you did not lend your support to a comprehensive Federal mass transit bill now before Congress, in your very important speech yesterday?
>
> THE PRESIDENT. The answer to that is very simple. I had some considerable part in working out the compromise on the Williams-Minish bill. If you will recall, I had about 15 mayors from all over the country down here to see me, including some business people.
>
> I told them I wanted to help. Within a day or so, I called Senator Williams. After it was suggested, we worked out a figure and a time and a formula. And as a result, Senator Williams, in conjunction with other Members of the Congress, arrived at a mass transit bill that provides for a little over $11 billion over a period of 6 years with a formula between capital outlays and operating expenses.
>
> I think we made a big step forward, and I compliment the Congress for cooperating. And there was no need for me to mention in that speech yesterday something that was fait accompli the day before.

He did not know that Chairman Madden had decided that morning to postpone consideration of the bill. The conference committee bill, he said, "was the most unparliamentary thing I have seen in over 30 years" in Congress. He was confident he had the votes to approve it, but feared it "would meet the death of a rag doll" if the Rules Committee approved it for a House vote before the election. He was simply postponing action until after the recess to smooth ruffled feelings. "We'll get a mass transit bill," he told the committee.

Representative John Anderson of the Rules Committee took a different view of the vote, attributing it to "election-year politics." House Democratic leaders, he said, did not want President Ford to be able to take credit for the legislation. "If there had been any will at all on the part of the Democratic leadership of the House, it would have come out of the Rules Committee."

Speaker Albert said he was disappointed. He observed that 5 of 10 Democrats on the Rules Committee had voted for the bill the day before, but Representative Anderson had been the only Republican to support the bill. Three Republicans voted against it and one was absent.

Administrator Herringer said, "If Congress does not act, it is doubtful that federal assistance for operations will be available to the cities prior to fiscal year 1976." [Tolchin, Martin, "Transit Bill Backed by President Stalls in Rules Committee," *The New York Times*, October 10, 1974; Eisen, Jack, "Ford-Backed Mass Transit Bill Delayed," *The Baltimore Sun*, October 10, 1974]

Addressing the 93rd annual convention of the American Transit Association in New York City, Representative Minish was optimistic about the bill's prospects in the lame duck session following the elections. "Our only remaining hurdles involve petty jealousies on the part of a very few, but powerful, House members who are not the least interested in transit itself, but only in transit as a source of power with which to protect other interests."

Governor Wilson also was critical of the forces delaying the bill. "Congressmen have shown plenty of mouth but no money," he said. He predicted "disastrous results" if Congress did not approve the bill, adding, "My sense of justice will be outraged if Congress does not respond."

Mayor Beame told association members of the strong support in Congress for the bill and President Ford's "commitment" to it, but said, "yet we are still without legislation and we are living in the 11th hour of a pending transit disaster." It would, he said, be "a national tragedy if, because of Congressional prerogatives or Presidential procrastination, a mass-transportation assistance bill fails of passage this year." Failure would result in inflationary fare increases across the country, not just in New York.

Herringer, in a news conference at the New York Hilton Hotel, said, "I don't think we should structure a national transit program to save the 35-cent fare or any fare. I'd hate to see the capital program grind to a halt in order to maintain the 35-cent fare." The *Times* summarized his views:

> Mr. Herringer, who was here to speak at the 93d annual meeting of the American Transit Association, said it was much more important to provide money for service improvements.
>
> He suggested that a better method of protecting low-income riders from high fares was a direct subsidy—the issuance of "transit stamps" similar to food stamps, to be turned in for tokens. On the other hand, he said, a subsidized low fare is also a subsidy for the well-off resident of Westchester County or Connecticut who works in the city and uses the subway.
>
> While city and state officials have been emphasizing the need for Federal aid to help hold down the fare, Mr. Herringer urged the following kind of national transit measures:
>
>> Enactment by Congress of the pending $11.8-billion mass-transportation-assistance bill for both capital projects (construction and equipment) and for operating subsidies, the latter perhaps being necessary although he said he was "not wild about them."

He expected Congress to pass the bill in November, "but it's not going to be easy."

David L. Yunich, the new MTA chairman, held a news conference on October 16 to predict transit and bus fares of 60 cents in 1975 unless a Federal subsidy became available. "We're at the brink," he said. "I think it's a crime that the Congress has bottled up the legislation this way." Calling the legislation "the keystone in maintaining the fares," Yunich said he was disappointed the public had not voiced its concerns to Congress. "The public just isn't responding in the way they should in this fight for subsidies in the Congress."

Chairman Madden had given "a new sharp jolt" to hopes for the bill, according to the *Times*, by sending a telegram to Yunich stating, "In my opinion there is no way S. 386 can move." Dr. Ronan, now chairman of the Port Authority of New York and New Jersey, was worried that "it's going to be hard to energize Congress" during the lame duck session. [Burks, Edward C., "Ronan is Afraid Congress May Stall on Transit Aid," *The New York Times*, October 15, 1974; Burks, Edward C., "Warning is Given on New Subway," *The New York Times*, October 16, 1974; Burks, Edward C., "M.T.A. Now Sees a 60c Fare in 1975 Unless U.S. Gives Aid," *The New York Times*, October 17, 1974]

Finding a Way for S. 386 to Move

On October 17, the American Transit Association merged with the Institute for Rapid Transit. Dr. Ronan became the first chairman of the new American Public Transit Association (APTA). B. R. Stokes, the former BART general manager, became APTA's first executive vice president. Smerk explained:

> Stokes increased the number of professionals by adding to the staff inherited from the Institute for Rapid Transit and the American Transit Association. APTA meetings and conferences became much more business oriented, with strong emphasis on solving practical transit problems and helping members in their relations with government at all levels. The basic lobbying strategy for APTA remained in the hands of Fred Burke, who had played such a major role in the passage of the 1970 legislation. Burke headed a consulting firm that specialized in transit and other urban issues, and he was retained to work closely with APTA and its members. [Burks, Edward C., "Ronan is Afraid Congress May Stall on Transit Aid." *The New York Times*, October 15, 1974; Smerk, p. 331, n. 2]

In the November 5 mid-term elections, the Watergate scandal cost Republicans around the country. Democrats gained a two-thirds majority in the House after taking 49 seats from the Republican Party. In the Senate the Democrats gained three seats. (After a September 1975 special election in a disputed New Hampshire contest to replace retiring Senator Cotton, the Democrats gained a fourth seat, giving them control of 61 seats in the Senate.) New York Governor Wilson was one of the Republican Governors who lost their election bids. Democrat Hugh Carey, a U.S. Representative since winning election in 1960, became Governor on January 1, 1975.

On November 12, Secretary Brinegar held a news conference in his 10th floor office at Department headquarters. He said the White House was working with congressional leaders on a new strategy for passage of the mass transit bill. "We're pretty hopeful that S. 386 will find its way out this session. We think we will get action." He acknowledged that the Rules Committee vote before the elections "caught us by surprise. The vote was quicker than we expected." The strategy now was to secure passage in the Senate, where support was assured, before the House Rules Committee voted on the bill again. "The House will hear the voice."

In addition, the President and Secretary were communicating with congressional leaders. The President, for example, had brought the subject up during a 45-minute breakfast with Speaker Albert. "Hopefully, we can pass it," the Speaker told reporters.

Democratic leaders hoped to satisfy Representative Jones, who would become Chairman of the House Public Works Committee in January following Chairman Blatnik's retirement. Jones indicated, however, he would continue to oppose the conference bill, largely over the jurisdictional issue. [Tolchin, Martin, "Brinegar Says Ford Pushes New Transit Bill Strategy," *The New York Times*, November 13, 1974]

Meanwhile, the Conference of Mayors was sending 15 mayors, including Mayor Beame, to Washington to lobby for the bill. On November 14, they met with Secretary Brinegar and Kenneth Cole of the White House domestic council in the morning, and with congressional leaders in the afternoon. Secretary Brinegar assured the Mayors that the Ford Administration was working hard to pass the $11.8 billion, 6-year bill during the lame duck session. He predicted that more than one Republican would vote for the bill in the House Rules Committee so it could proceed for a floor vote. Referring to Representative Anderson's lone Republican vote in the 6-6 tie, Secretary Brinegar said, "We have more than one. We'll have enough."

Mayor Alioto urged Congress to complete work on the bill before Christmas:

> He said the mayors not only considered the measure anti-inflationary but also felt it was the best means available to conserve gasoline supplies.
>
> Mayor Abraham Beame of New York agreed and said the measure is needed if his city is to be successful in staving off an increase in its public transportation fares . . . .
>
> Mayor Alioto says the mayors expect the transportation bill to obtain overwhelming approval in the Senate and said the mayors would work hard to assure the House passage as well. [Associated Press, "Mayors Seek Transit Bill Support," *The Baltimore Sun*, November 15, 1974]

On November 19, Senator Williams brought S. 386 to the Senate floor. He explained the long history of S. 386, recalling the approval of the original version five times beginning in the 91st Congress and twice in the 93rd, once as part of the Federal-Aid Highway Act of 1973, from which it was deleted in conference to avoid a presidential veto. On February 25, 1974, the conference report had been filed, but the House recommitted it to conference, largely for reasons stated in Secretary Brinegar's letter to Minority Leader Rhodes:

> In that letter, the Secretary stated that S. 386 had the following critical weaknesses: First. It effectively eliminated participation by State governments in planning and executing public transportation programs; Second. The formula for distributing funds contained in S. 386 was unsound; Third. The funding authorization in S. 386 was out of line with the need to fight inflation; and Fourth. The administration opposed any legislation providing for operating assistance that was not part of a long-term comprehensive bill.

Senator Williams explained why the conference committee had decided to conduct "an extraordinary public hearing" on September 25:

> This was done so that we could explore means of improving and modifying S. 386 so that urban mass transit assistance legislation could be enacted into law this year.

Many of the witnesses had spoken of the need for a long-term comprehensive mass transportation bill. "In particular, the administration testified that they would oppose any legislation which did not provide a long-term program."

The conference committee was scheduled to meet the morning of October 3, but Senator Williams and President Ford discussed the bill:

> During that conversation, the President stated that he would enthusiastically support legislation along the lines of S. 386 if the final version of the formula grant-operating assistance program were extended from a 2-year program to a 6-year program. He also requested that the capital grant program which now authorizes $3 billion through fiscal year 1976 be funded for an additional 4 years. The President explained that in this manner the Congress would be enacting a comprehensive 6-year long-term urban mass transportation assistance program. The President stressed that any final legislation should contain authorizations ranging between $11 billion and $12 billion for the life of the program. He explained that this amount would be within his budgetary estimates and would comply with the need to curtail Government spending and thus fight inflation.

Based on these instructions, House and Senate conferees revised the bill. It provided $7.825 billion for the existing UMTA capital grant program. Instead of the original $800 million, 2-year measure in S. 386, the new bill included $3.975 billion in formula funds that, in accordance with Mayor Beame's suggestion, could be used for capital projects or operating costs. "The use of the money would be left to the discretion of local officials who best know the real needs of their communities." Based on a formula suggested by Secretary Brinegar, the optional funds were distributed 50-50 upon population and population density per square mile. Also to meet the Secretary's objections, Governors would allocate funds for urbanized areas of under 200,000 population:

> For areas of over 200,000, the Governor, responsible local officials, and publicly owned operators of mass transportation services, would select a designated recipient to receive and dispense the funds. Governors and governing bodies of local communities would also be

> required to develop long-range plans and programs for improvement and coordinating all forms of transportation within urbanized area.

After only 30 minutes of discussion, the Senate approved the bill, 64 to 17. The 17 votes against the bill were from conservatives who objected to the precedent of Federal funding for operating subsidies. Of the 17, only Senator Harry F. Byrd, Jr., spoke briefly, saying he was afraid the Federal Government "may be getting itself into a very precarious position for the future." Senator Weicker raised the only other objection to the bill, saying it was "totally inadequate." He added, "This is business-as-usual during rather extraordinary times." Despite his concerns, Senator Weicker voted for the bill.

"It's been a long, long journey," Senator Williams said following the victory.

Now, attention turned to the House. In a joint statement, Mayor Alioto of the U.S. Conference of Mayors and Los Angeles Mayor Bradley of the National League of Cities said that the "overwhelming vote" in the Senate "should hopefully provide further momentum to assure final passage in the House this year." Their statement reflected the strategy devised by the White House and congressional leaders to secure a big victory in the Senate as an incentive for the House Rules Committee to release the bill. [Naughton, James W., "Senate Approves $11.8 Billion Mass-Transit Bill by 64 to 17, Sending Measure to the House," *The New York Times*, November 20, 1974; Urban Mass Transportation Assistance Act of 1974—Conference Report, *Congressional Record-Senate*, November 19, 1974, p. 36564-36573]

On November 20, the House Rules Committee approved the bill for floor consideration. Approval was by an "overwhelming voice vote" according to one account. Chairman Madden said:

> "This committee has been accused all over the nation of holding up mass transit. We've been accused by the newspapers, and every mayor in this country from the big cities has been giving this committee the devil."
>
> "Is the chairman telling us he can't take the heat?" asked Representative Delbert L. Latta, Ohio Republican, with a smile on his face.
>
> Mr. Madden responded by holding aloft an elegantly printed volume, entitled "Subways of Seoul," and observing, "We send them $400-million a year and they're building a subway, so maybe we ought to spend a little money on our own cities."

One of those voting for release of the bill, Representative Dave Martin (R-Ne.), had voted against it before the election. He said he changed his mind following a call from President Ford. "I told him I'd help get it out," but he still planned to vote against it on the floor.

The floor fight would be tough, with Representative Jones promising, "We will use all our resources and all our energies on the House floor" to kill the bill.

Representative Minish hoped to get the bill to the floor before Thanksgiving on November 28, but Speaker Albert said the intensity of the debate would determine if approval came before or after the holiday. "If it's going to be a long-drawn-out thing, it will probably be after," he said.

Governor-elect Carey, still serving in the House, told reporters in the Capital cloakroom:

> With this bill finally moving, there's a good probability that we can hold the 35-cent fare. This bill doesn't go all the way, but it goes a long way. The rest of it is up to the state. We certainly ought to scrape up the rest.

Under the bill, New York City would receive $170 million in the current fiscal year, 1975, in operating subsidies, along with $125 million for capital expenditures. Mayor Beame said:

> The decisive action by the House Rules Committee today gives us every encouragement that Congress will enact a mass-transit bill within a few days. We are pleased that we now have the bipartisan support of the Congressional leaders and the Administration to act on this vital urban legislation. [Tolchin, Martin, "Rules Committee Votes to Send Mass Transit Bill to House Floor," *The New York Times*, November 21, 1974]

To the surprise of some, the bill came before the House the following day, November 21. Representative Delaney of the Rules Committee, who represented Queens, told reporters why the bill had arrived on the floor with such haste. Knowing that the House Committee on Public Works was preparing an all-out assault, he said, "We had to get this to the floor before they organized. If we gave them a week or two, it would have been all over. Public Works can exert a lot of pressure."

On November 21, Representative Delaney began consideration by introducing House Resolution 1470, the House Rules Committee resolution waiving all points of order against the conference report. Representative Harsha immediately rose in opposition to the rule:

> However well intentioned the proposition before us today, it is utterly wrong from a procedural standpoint. It does violence to the intent of the House on jurisdiction grounds and creates the risk of the House being stampeded into the approval of a mass transit bill irrespective of the merits.
>
> Aside from the question of the merits, or jurisdiction, in my judgment it would be a tragic mistake for the House to approve this rule and thereby give sanction to the most outrageous violation of rules and precedents of the House to occur during my many years in the Congress.

He pointed out that S. 386 had not been considered by a standing committee of either House or on the floor of either House in a manner that allowed for amendments:

> It, therefore, represents the product of a handful of Members working alone, working subject to intense outside lobbying pressure and working in haste, and, we are asked to take

> it or leave it and vote it up or down on its initial consideration by this body under what amounts to a closed rule.
>
> Mr. Speaker, if this House takes this ill-considered action, we may as well forget all about the reforms we have enacted, to our credit, in recent years. This would be a step backward and to the extent we are bound by our precedents—and we are—our action will come back to haunt us.

He rejected the claim that in developing the House's $11.3 billion bill, the Committee on Public Works had engaged in a jurisdictional power grab. On October 8, he said, the House had shifted jurisdiction over mass transit from the Committee on Banking and Currency to the Committee on Public Works. (Later, Representative Minish pointed out that the shift would not take effect until the 94th Congress; his committee still had jurisdiction.)

Representative Bingham, who recalled that he had fought since the 89th Congress and finally succeeded in 1973 to divert Highway Trust Fund revenue to mass transit, said he reluctantly supported S. 386. "I am reluctant because it is so woefully inadequate."

Representative Wright, "with a mixture of reluctance and great sadness," said he would oppose the rule. He supported the substance of the bill, adding:

> But there is something far more profound and far more important for the long run, and that is the question of whether or not we shall sit still or lie supinely and permit the will of the House to be subverted, the rules of the House to be contraverted, and the House to be denied the privilege of going to conference on another bill that the House has passed. That is what this amount to—a bold and brazen effort on the part of the other body to avoid going to conference with the house on a bill that the House has passed—the 6-year, long-term bill from which many basic provisions have been engrafted by the conference committee onto the two smaller and shorter range bills which went to conference.
>
> I do not know whether this procedure is without precedent. I know that it should be without precedent. I, for one, cannot be a party to setting this kind of a precedent today.

Representative Carey acknowledged the jurisdictional issue, but said:

> Nothing is sacred around here, but at this moment, at this time, I make an appeal to my colleague from Texas, do not stop the passage of this bill and this rule, because it is the one single act that will help to put a brake on inflation and tell the people of the United States that we have to do something to conserve energy and get to work. If we hold back on this rule, we are telling the people that the jurisdiction of the committee is more important than the immediate needs of the American people.

Representative Wright clarified that he was not seeking defeat of the bill, but the rule. "We are prepared to go to conference" under House rules on the House-passed bill created by the Committee on Public Works.

Representative Garry E. Brown (R-Mi.) dismissed the jurisdictional argument by pointing out that when the Administration submitted its UTAP proposal, which included highway issues, the package was referred to the Public Works Committee. That committee left the highway program untouched, and reported a mass transit-only bill that, since it addressed only mass transit, should have come from the Committee on Banking and Currency. "Now, if there is a 'Johnny-come-lately' concerning the jurisdiction," he said, "it is the Committee on Public Works."

As the debate on the rule continued, Representative John Anderson read a telegram from President Ford to Minority Leader Rhodes, the addressee:

> I understand that the U.S. House of Representatives will consider today the National Mass Transportation Assistance Act of 1974, S. 386. As you know, I fully support this six-year, \$11.8 billion transit bill. It represents a responsible step in our efforts to reduce energy consumption and control inflation. This is a good bill and I commend the efforts of you and other leaders in the House who are working hard for its passage. I am very hopeful that action you take today will result in passage of S. 386 so that it will be on my desk for signature when I return from abroad.

Representative Anderson said:

> Have we all forgotten . . . why it is that this is legislation of an urgent character? It is for the reason the President has spelled out in his telegram to the minority leader, and that is that this is needed if we are going to produce a meaningful and credible conservation program. If we are serious about trying to do something to fight inflation and to cut down the amount that we are paying for imported oil from abroad, then we have to go to the assistance of the mass transit systems of our country that would be aided under the various formulae grant provisions of this legislation.

Representative Blatnik expressed "a strong objection to this kind of procedure, these kinds of shenanigans." He said the report "violates every rule and orderly legislative regular procedure of the Congress," continuing:

> It is a conference report that was debated by a handful of Members of both bodies which changed a simple 2-year, \$800 million authorization into a long-term, 6-year, \$11 billion program . . . . It is a report . . . which comes to us today on an up or down vote. It cannot be amended. It cannot be recommitted. We are asked to buy a pig in a poke.

He urged defeat of the rule and initiation of a conference on the House-approved bill his committee had initiated. "I ask every member to search his conscience to protect this House that we all love, and to vote down this abominable procedure, and—with it—the conference report."

After additional debate, the House voted in support of House Resolution 1470, 241 to 154, allowing for consideration of S. 386. This vote indicated that despite the jurisdictional dispute, S. 386 would pass the House. After additional debate, the House approved S. 386 by a vote of 288 to 109 later that day.

Senator Williams hailed the vote as a "major advance" in reordering national priorities. Representative Minish said, "This is a new era for mass transit, and one that is long overdue.:

Mayor Alioto, on behalf of the U.S. Conference of Mayors, said of the bill:

> This means the beginning of a balanced national urban transportation policy. Until now, the Federal transportation policy in urban areas has been directed toward encouraging only the use of the automobile.

Mayor Beame expressed the hope that the bill would preserve the 35-cent fare. The bill was "far from ideal in terms of our needs," but "we now have a clear commitment by the Congress and the Administration to the concept of operating subsidies."

Secretary Brinegar said the bill provided "urban areas of the country with the means for meeting one of their most pressing problems. With this legislation now enacted, the cities can proceed with long-range mass-transit plans." Administrator Herringer agreed that the bill represented a "fundamental change in mass transit," adding, "The voice of the people was heard." [Russell, Mary, "House Votes Mass Transit Aid, Sends Bill to White House," *The Washington Post*, November 22, 1974; Tolchin, Martin, "House Approves $11.8-Billion Aid for Mass Transit," *The New York Times*, November 22, 1974; Urban Mass Transportation Act of 1964 [sic], *Congressional Record-House*, p. 36935-36955]

President Ford approved the National Mass Transportation Assistance Act of 1974 in the East Room of the White House in a morning ceremony on November 26. In brief remarks, he said the legislation had been a top priority:

> This marks a long-term and vital major Federal commitment to mass transportation. This legislation represents a compromise in the best sense of the term. Although different positions were set forth in the beginning—the views of the Administration, the Congress, Governors, mayors, and others—we were able to reconcile our differences and develop legislation to meet our most urgent needs in mass transportation at a cost which is not inflationary.

The legislation was a significant step in "our fight against excessive use of petroleum, in our economic battle, and in our efforts to curb urban pollution and reduce congestion." He continued:

> The assurance of steady and predictable support for public transit for the first time will enable localities to plan intelligently for their long-term needs. Also for the first time, this legislation will permit the Federal Government to provide limited assistance toward the operating expenses of transit systems. Provisions of the bill will minimize possible adverse effects of Federal involvement in such deficits.

He signed the bill, he said, with "a great deal of personal pleasure."

The *Times* declared the ceremony a personal victory for Senator Williams, Representative Minish, and Mayor Beame "who was instrumental in enlisting President Ford's support for the legislation," the *Times* said. "The Mayor gave Mr. Ford cufflinks made of subway tokens dipped in gold" that had been designed by Beverly Yunich, wife of the MTA chairman. "I'm confident that the fare will be saved through 1975," Mayor Beame told reporters after the ceremony. "This is an historic occasion which ranks with revenue sharing in its importance to urban America."

Senator Williams said:

> Two months ago, we were depressed about the legislation's chances for enactment. We were beset with legislative problems that looked amost insoluble. The elements that came together came together at just the right moments—the President, the Congress, the nation—all within 48 hours.

Representative Minish said that if anyone had told him he'd be attending a signing ceremony in 2 months, he would have had "grave doubts—to say the least." He added, "But I'm resourceful, so here we are."

On behalf of the U.S. Conference of Mayors, Mayor Alioto said:

> President Ford has now accomplished more than any President of the United States for mass transportation. This marks the day when the automobile stops getting a monopoly of favored treatment from the Federal Government. [Tolchin, Martin, "President Signs Mass-Transit Act," *The New York Times*, November 27, 1974]

Smerk summarized the reaction to the new law and its impact:

> Naturally, the passage of the Act brought considerable euphoria to its supporters. The fact that another major step had been taken in fleshing out a more complete program of federal aid to mass transit made the bill important in the development of the federal role in urban mass transportation. It should be carefully noted that the bill was not intended to be the final word on federal mass transit programs. The Act of 1974 was intended to be a short-run measure for the purpose of keeping mass transit viable until longer-range measures could be enacted . . . .
>
> After all the bills and compromises, the transit industry not only had new legislation that provided operating aid, but it also had a clearer mission from Congress, which was: to keep fares stable, expand service, and increase ridership. This the industry proceeded to do during the remainder of the seventies. [Smerk, p. 141]

The Continuing Fight for/Against Impoundment

In June, the House Rules Committee had cleared the impoundment bill for House debate. It imposed a $268.1-billion spending ceiling and required the President to notify Congress within 10 day if he were going to withhold spending authority. His action could be overturned by a vote of the House or Senate within 60 days of notification. House action would be postponed to December. ["Congress Compromises on an Anti-Impoundment Bill," *Engineering News-Record*, June 14, 1973, p. 7]

By the end of August 1973, the Nixon Administration had developed a new legal strategy for speeding up a final decision on its position. Solicitor General Bork worked out a plan to leapfrog the lower courts where 37 challenges were under consideration and get a Supreme Court ruling right away. The idea was to key on the Georgia case, where State officials had gone directly to the Supreme Court to seek release of funds under the Federal-Aid Highway Act, the 1972 Federal Water Pollution Control Act, and the National Defense Education Act. A news account of the new legal strategy explained:

> More than $2 billion in apportioned highway funds is currently impounded. If the government did not put its bets on the Georgia case, it would have had to try to get the Supreme Court to look instead at the case Missouri brought to get its highway funds, a case the state has won. Because the road money is set aside as a trust fund, the government's right not to spend it may be a bit foggier than in appropriations from general revenues. The Georgia case, by presenting three kinds of programs, gives the high court the chance to work out a compromise ruling. ["Strategy Planned to Free Impounded Monies," *Engineering News-Record*, August 30, 1973]

In addition, Solicitor General Bork asked the Supreme Court to appoint a special "master" to take evidence because the "case presents major statutory and constitutional issues of enormous importance." The master would gather evidence on "the Federal budgetary process, the considerations leading to the imposition of spending controls, the ways in which the executive branch monitors and seeks to improve the state of the economy."

On September 26, 1973, 10 States, including Missouri, urged the Supreme Court to reject the Administration's plea. They were concerned that a hearing on the Georgia case would "retard the progress" of their similar suits making their way through lower courts, which were ruling in favor of the States for the most part. They also rejected Bork's suggestion that in view of the complexity of the issues, a special master be appointed to hear the evidence. Such a procedure, the States argued, might encourage lower courts to put off consideration of their suits knowing that the Supreme Court might rule soon on the same issues. [MacKenzie, John P., "10 States Oppose Impoundment Suit," *The Washington Post*, September 27, 1973]

On October 9, 1973, at the start of its new session, the Supreme Court declined to hear the Georgia case. The Supreme Court typically does not explain why it chooses not to hear cases, and it did not do so in this case. The Administration's new strategy having been defeated, it still had the option of appealing other pending decisions at the Circuit Court level.

On December 5, the House voted on the Budget and Impoundment Control Act that had cleared the Rules Committee in June. The House approved the act, 386 to 23. [Budget and Impoundment Control Act of 1973, *Congressional Record-House*, December 5, 1973, p. 39691-39740].

On December 7, 1973, six States (Louisiana, Nevada, Oklahoma, Pennsylvania, Texas, and Washington) filed suit in the U.S. District Court in Washington for release of $2.7 billion in highway funds. Based on the Missouri ruling that the Administration had not appealed to the Supreme Court, the States sought release of the funds for all 50 States, the District of Columbia, and Puerto Rico. William J. Guste, Jr., Louisiana's Attorney General, said, "It is our position that when congress directed the secretary of transportation to allocate certain funds to Louisiana and other states for badly needed highways . . . that the secretary had no right to disregard the will of congress." The suit asked the court to determine whether the Department of Transportation had acted "unlawfully and unconstitutionally" in its impoundment actions.

Attorney General Slade Gorton of the State of Washington said it was "unfortunate" that the States had to pursue their interests in court since Missouri had already won its case on the same grounds. Guste claimed the impoundments reflected a "defiance of Congress' will that illustrates an arrogance in the White House that's unprecedented." James R. Adams, the Deputy Attorney General of Texas, added:

> The president simply does not have the power he's seeking to exert. It's obvious that the administration intends to keep right on impounding and insisting on its level of spending rather than the level approved by Congress. [United Press International, "Six States File Suit for Federal Funds," *Baton Rouge Morning Advocate*, December 7, 1973]

Days later, the Administration impounded funds for rural water and sewer facilities, angering many Members of Congress. A news report said that Representative Jamie L. Whitten (D-Ms.), Chairman of the Committee on Appropriations, believed the impoundments of the popular programs would give new impetus to the budget bill making its way through the legislative process:

> Whitten said the new impoundment only adds to congressional frustrations and noted the lopsided 386-23 vote by which the Budget Reform Act passed containing the anti-impoundment amendment. Whitten said he is more inclinded to take a tough line because the Administration will not promise to avoid impoundment even if Congress comes in below spending ceilings. "I asked Treasury Secretary George P. Shultz if they would promise to abide by our appropriations if we stayed within the ceiling, and he wouldn't commit himself. With that attitude, the Administration seems to think they have the right to an item veto; and they don't," said Whitten. ["Latest Impoundment May Drive Congress to Overdue Showdown," *Engineering News-Record*, December 13, 1973, p. 9]

On March 22, 1974, the Senate completed several days of debate and approved the Congressional Budget Act of 1974 by a vote of 80-0. The Senate bill and the House bill, approved the previous December, would not be reconciled in a conference committee. [Congressional Budget Act of 1974, *Congressional Record-Senate*, March 22, 1974, p. 7833-7938]

While Congress considered the legislation, courts continued to consider the impoundment cases. For example, on May 7, 1974, U.S. District Judge Robert W. Hemphill ordered the Department of Transportation and OMB to release $50 million in Federal-aid highway funds to South Carolina. Calling past impoundments "illegal," he said, "The executive branch does not have authority to withhold funds which the Congress directed to be spent." Congress, under the Constitution, had "the power of the purse." The impoundments, therefore, were "a clear usurpation of the power" vested in Congress. Judge Hemphill added that, "After the Congress has enacted legislation, there is no longer a political question concerning an act. It is the law subject to only statutory construction." [Munn, Hugh E., "Impounded Funds Ordered Released," *Columbia State*, May 8, 1974]

The Nixon Administration, beset by the Watergate scandal, released $500 million in impounded transportation funds on June 13 ($370 million for highways, $130 million for mass transit). An anonymous White House source told reporters the release was prompted at least in part by a fear that courts would force release of all impounded funds, despite the impact that action would have on spiraling inflation. Members of Congress thought Watergate, and the prospect of impeachment, was behind the move, as Representative Koch explained:

> He's trying to mend his fences . . . . If he thinks he's going to mend his fences by letting the money Congress appropriated be spent, we're delighted, but we're still going to do our constitutional duty.

Representative Benjamin S. Rosenthal (D-NY), who represented a Queens district, added:

> It's one of the cards he's using in the battle against impeachment. He's done everything he could to placate the conservatives. Now he thinks maybe there's some hope by going to the other camp. He feels that maybe those people won't feel so ill of him if he gives them 10 per cent [sic] of what they're entitled to all along. My own judgment is that none of this will help him but we're glad to take the money. ["Impounded Transport Funds Released," *The New York Times*, June 14, 1974]

Indiana was not among the States pursuing impounded funds in court, and Senator Bayh wanted to know why. He wrote a letter to Indianapolis's Republican Mayor Richard G. Lugar, the Senator's rival in the November 5 election, and Chairman Richard A. Boehning of the Indiana State Highway Commission asking them to join a suit filed by Nile Stanton, an Indianapolis attorney, seeking release of impounded funds owed to the State. Stanton was trying to force State officials to join him in the suit. Boehning explained that, "Filing suit is not the only alternative. My approach is to try and work with the Federal Highway Administration in gaining their favor on other projects that we have going in the State of Indiana rather than filing suit and having them aggravated with us." A news report added:

> As an example, Boehning said, the Federal Highway Administration would not have had to designate Cline Avenue (in Lake County) as a high-traffic urban thoroughfare, but it is now one of a few that have been so designated nation-wide. That can mean $60 million in the next three to five years, Boehning pointed out.
>
> He also said the Federal Highway Administration recently approved another $5 million for Indiana's portion of the Interstate-275 along the Indiana-Ohio boundary line near Cincinnati. "Here are a couple of things we got favorable action on which aided the highway program in Indiana," Boehning added . . . .

> "I am not going to cast stones either way," Boehning said, "but I don't think he (Bayh) ought to be casting stones at the Nixon administration either." ["State Roads Chief Rejects Suit for Regaining Impounded Funds," *Indianapolis Star*, June 28, 1974]

(A Federal judge dismissed Stanton's suit. Senator Bayh narrowly defeated Mayor Lugar, who in 1976 defeated Senator Vance Hartke in a landslide.)

At the height of the Watergate controversy, Congress was making progress on its budget control legislation aimed at improving congressional operations and reclaiming power from a weakened White House. House-Senate conferees had met in April to reconcile differences between the differing budget control bills approved earlier by wide margins. On June 5, they completed work on a conference report, approving it unanimously in a rare public session that lasted less than an hour. Senator Ervin told the other conferees, "This, I think, is one of the most important pieces of legislation Congress has ever considered."

In the past, Congress approved appropriations acts each year that were developed without reference to their overall impact on the economy or the other sectors of the budget. Under the conference report, the House and Senate would establish Budget Committees to oversee expenditures and revenues and a congressional budget office to provide Members of Congress with the type of advice, expertise, and information the President received from OMB.

Under a new timetable, the President would submit his budget proposals within 15 days after Congress convenes each January. The new Budget Committees would send recommendations, by April 15, in the form of concurrence resolutions, not subject to presidential review, establishing fiscal goals to be followed by the Committees on Appropriations. By May 15, both Houses would approve a reconciled version of the two initial resolutions. Congress would consider a second set of resolutions in September to reflect any economic changes since May, completing action by September 25.

The legislation gave either House a veto by resolution (not subject to a presidential veto) of a proposed impoundment. If the impoundment involved the cancellation of a program, the President would have to submit a recission request for congressional approval. The Comptroller General, with congressional approval, could take the President to court if he failed to comply with congressional action.

In addition, the legislation shifted the start of the fiscal year to October 1 beginning in 1976.

The House approved the Budget and Impoundment Control Act of 1974 by a vote of 401 to 6, and the Senate by a vote of 75 to 0, sending it to the President. [Madden, Richard L., "Conferees Agree on Wide Reforms for U.S. Budgets," *The New York Times*, June 6, 1974; Madden, Richard L., "Budget Overhaul Passed by Senate," *The New York Times*, June 22, 1974]

Beset by the impeachment threat, President Nixon signed the legislation on July 12, 1974, knowing that it had been approved by veto-proof margins in the House and Senate. He said he took "special pleasure today" in signing the legislation. He had long supported, he said, budget reform, and the new law would meet that goal. He hoped that future legislation would simplify some of the provisions. "The impoundment control provisions, in particular, may well limit the ability of the Federal Government to respond promptly and effectively to rapid changes in economic conditions." Despite this "major step toward reform of the Congressional budgetary system," he said that Congress had approved or was considering measures that exceeded his budget requests. "I will have no choice but to veto bills which substantially exceed my budget."

He expected to implement the proposals in the 1976 budget he would submit in early 1975 that would provide for a balanced budget. "To achieve this balance, I plan to propose a broad range of legislation which will be needed to cut back individual programs."

He added, "I pledge the full support of the executive branch in helping fulfill the great promise of this bill."

United Press International described the scene:

> The signing ceremony was carried out in an air of joviality, as Mr. Nixon bantered with Congressional leaders around his desk. Mr. Nixon handed the first pen to Speaker Carl Albert, and told the other Senators and Representatives they would get pens that he would personally pay for.
>
> Mr. Nixon wore a dark blue suit and a black tie, dressing for the funeral services for former Chief Justice Earl Warren he was attending before taking off for a two-week vacation at his San Clemente, Calif., estate.
>
> Mr. Nixon expressed confidence that a balanced budget goal for 1976 "can be won." [United Press International, "Congress Gains Wide Budget Role," *The New York Times*, July 13, 1974]

The new law was intended to end or at least control the presidential practice of impounding funds, including Federal-aid highway funds, in a one-sided attempt to control inflation, reduce the deficit, or any other reason. However, the bill did not halt impoundments immediately. For example, the Federal-aid funds that were to be released to South Carolina remained impounded as the U.S. 4th Circuit Court of Appeals considered a Federal appeal. An attempt to secure quick release was denied by Supreme Court Justice Thurgood Marshall on August 23, who said the impoundment would remain in effect until the Circuit Court ruled. ["Impoundment Gets Temporary Okay," *Columbia Record*, August 24, 1974]

Indiana began questioning its decision in August not to go to court after FHWA and OMB impounded funds for the Cline Avenue project. Governor Otis R. Bowen said, "Now (the Federal officials) are telling us that we have to use our regular highway funds of $71 million a year to build the road." The State could use the funds for Cline Avenue, but he said that would jeopardize the State's plan to accelerate completion of the Interstate System. Governor Bowen said the recent action was "enough to make you threaten to sue," but he wanted to give new President Ford a chance to establish himself before deciding whether to pursue legal remedies. ["U.S. Highway Officials' Rulings, Fund Impoundments Irk Bowen," *Indianapolis Star*, August 23, 1974]

On September 20, the Ford Administration submitted a status report to Congress on unspent authorizations. The report, required by the Budget Act, revealed that the balance in the Highway Trust Fund was increasing by $1.7 billion a year and stood at $6 billion. Congress had authorized $6.3 billion for the Federal-aid highway program in FY 1975, but the President's budget proposal called for only $4.6 billion in expenditures. Theodore Lutz, Deputy Under Secretary for Budget and Program Review, explained that the Department had to ask Congress to agree to deferral of $10.7 billion in highway aid, which would "shake down" to near $6 billion:

> The department has already deferred or impounded $4.4-billion over the last few years. In addition, Congress has already authorized a spending level of $6.3-billion for the 1976 fiscal year beginning next July 1, and Federal law requires the department to make that money legally available to the states starting next Jan. 1. That adds up to $10.7-billion. The department is more likely to want to spend only about $4.6-billion to $5-billion of next year's $6.3-billion, however, so that the unspent authorizations, now at $4.4-billion, will climb to about $6-billion next year if Congress does not exercise its new prerogative to intervene. [Burks, Edward C., "Unspent U.S. Highway Money Piling Up," *The New York Times*, September 21, 1974]

Jerry Mallek, senior editor of *Rural and Urban Roads* magazine, predicted that the Nixon Administration's June release of $500 million in impounded highway funds might signal the end of "the nation's longest budgetary shell game." The Budget Act "stops further selective impoundments by the executive branch, except where Congress agrees."

Thus far, Missouri, Iowa, and South Carolina had received judgments by courts that the actions by OMB and FHWA were illegal. "In all, 16 state agencies filed suit for the release of nearly $1.5 billion in highway funds," with six other States reportedly considering similar suits:

> Currently, administration lawyers are eyeing a forthcoming case in Minnesota where they hope to set a precedent *favoring* impoundments. This was important to the administration on two counts: (1) it needs some kind of opposing precedent to the Missouri case, and (2) it must set that precedent in the same FHWA region that includes Missouri. Meanwhile, the administration's legal tactic is to abort (as it already has) all class action suits or any hearings before the U.S. Supreme Court.
>
> However, by dint of the same tactic, the administration must still fight all suits one by one as they appear. So if states cannot file a class action, the "Feds" cannot get an umbrella ruling, either. [Mallek, Jerry, "Road Funds and Impoundments: The Great Shell Game," *Rural and Urban Funds*, August 1974, p. 4-5]

On February 11, 1975, President Ford was in Wichita where he addressed a joint session of the Kansas State legislature. He addressed his "action program to fight an inflationary recession, to tackle the energy crisis, to create jobs, and to foster economic stability." Toward the end of the speech, he said:

> Now, I would like to announce an important action that I am taking in response to the request of many Governors. Last week, I met with a number of Governors in Atlanta, Georgia. Last night, I met with another group of Governors in Houston, Texas. And I will have the privilege and the honor of meeting with some additional Governors here this afternoon.
>
> The ones that I have met with have pointed out to me that owing to the softness in the construction industry, they as Governors will be able to accelerate work on our highway system at lower cost than in the recent past. Accordingly, I have ordered the release of up to $2 billion in additional Federal highway funds.
>
> The Governors have assured me that these funds are needed and can be put to immediate use in highway construction projects that can be underway by June 30, 1975. This action will help an industry that has been one of the hardest hit during our current economic turn-down. In reaching this decision, I considered that authority is already available in the Highway Trust Fund.
>
> Now, I have urged State governments to focus these additional funds, first, on projects that will produce meaningful jobs; second, on improvements that will enhance highway safety; and third, on projects that will complete key links in our interstate system.
>
> Priority—and I add this as a very important part of the recommendation—will also be given to urban mass transportation projects which State and local officials agree should be substituted for less critical highway projects.

He held a news conference at 7 p.m. in the ballroom of the Ramada Inn. A reporter asked about doubts expressed, even by Republicans, about the President's energy program to increase domestic energy supplies, restrain energy demand, and prepare for energy emergencies. The President replied that if Congress could come up with a better plan, they should do so. "It is my judgment that the crisis is far too serious, that the need is very obvious, and therefore, I intend to continue trying to give some leadership for a solution to our vulnerability to foreign oil cartels."

The next question concerned his release of impounded highway funds:

> Q. Mr. President, without diminishing your attempt to do that, there is an inconsistency, do you think, in your proposal to conserve energy by increasing, in effect, its price, presumably for gasoline as well and, at the same time, releasing $2 billion in highway funds to build more highways so we can drive more?
> The President. I think that is a good question, but I think there is a good answer. The reason I released $2 billion to the States for the construction of additional highways was because over the last 10 days or 2 weeks I have met with a number of Governors, Democratic and Republican, and all of them, more or less, assured me of the following:

> Number one, that in most cases they had State funds that could be used right away, and they—or most of them—have promised me that if I did release this $2 billion for highway construction, that they could get bids and have the contracted work underway within a few months.
>
> We all know that the highway construction industry is depressed. We know that unemployment in the highway construction industry is very high. We know that better highways save lives. We know that highway construction jobs are meaningful employment. We think that this program, when it gets underway, will provide roughly, both direct and indirect, about 140,000 or more jobs. We think that the promotion of safety, employment, the ulitization of State matching funds, and the opportunity to get action justifies what I have done.
>
> And it seems to me that there is no inconsistency in doing this at the same time we are trying to conserve fuel, because better highways save fuel. And furthermore, it could have a favorable impact in giving to States as well as to local communities the right to use of the money, some of the money for mass transit, which is an energy saver, a fuel saver.

Instead of being distributed to the States by formula, the Department of Transportation explained that the funds would be sent to the States on a "first-come, first-served basis," with priority given to construction proposals on which bids can be opened or work started within 45 days after approval by FHWA. A press release explained:

> Projects which can be funded under the program may cover a wide range of construction. They could include the replacement of bridges, completion of key links in the interstate highway system, upgrading of existing highways, safety improvement projects and the development of public transit facilities under recent amendments to the federal-aid highway laws.

Administrator Tiemann said he had asked the States to submit all projects which are ready for contracting:

> He said the message he is sending out to the States is that the financial restraints now are off and that federal funding will be provided for all approvable projects.

Surveys indicated that up to the full $2 billion could be committed before the end of June. Further, workers, equipment, and materials were all available to permit full implementation:

> It is estimated that between 35 and 50 percent of the nation's highway construction capacity now is idle. This, together with the immediate availability of highway construction materials should cut the normal period required for the start-up of projects.

The Department estimated that half the $2 billion would go straight into the pockets of wage earners. The Department expected the release to create about 107,000 jobs directly, while induced jobs from expenditure of wages and profits would generate up to 150,000 jobs "depending on the pattern of spending that would be generated by this additional infusion of federal funds."

In short, as an FHWA spokesman told reporters, "In this case, we're saying to the states, in effect, 'it's here; if you can use it, come and get it.'"

Administrator Tiemann, at a news conference in Chicago, said the funds would be used mainly to update and renew existing roads, rather than construction on new alignments. New Interstate links would be a minor part of the program because of their longer startup time. He did not expect large amounts of the funding to go for mass transit, but said construction of highway median strips for bus lanes would be an example of how the funds might benefit mass transit. Asked if the release of funds would increase fuel use on roads at a time when conservation was a goal, he replied, "Even if we didn't manufacture one more auto in the nation, we'd still have to spend this $2-billion to upgrade our road system. [AP, "Released Funds to Repair Roads," *The New York Times*, February 13, 1975]

States that could not afford the matching funds would not be able to apply for the funds. President Ford said he could not waive the statutory matching requirement. Nevertheless, on February 18, Governors attending the winter meeting of the National Governors' Conference planned to fight for a waiver. An account in *The Washington Post* explained:

> Gov. Calvin L. Rampton of Utah, chairman of the National Governors' Conference, said the decline in state gasoline tax revenues, linked to conservation measures, made it impossible for more than half the states to meet the matching requirements on the newly released funds . . . . Rampton said a survey of governors found 21 of 37 states replying saying they could not meet the matching requirement from available gas tax revenues. [Madden, Richard L., "Readiness is Key to Road Fund," *The New York Times*, February 12, 1975; Broder, David S., "Governors Seek Road Fund Release," *The Washington Post*, February 19, 1975]

Congressional reaction was not as positive as President Ford might have wished. Senator Proxmire commented that the funds would be better spent on housing:

> For $2-billion only 125,000 jobs are produced at a cost of $16,000 per job. By putting only $300-million or $400-million into new housing construction 500,000 houses could be built and one million men and women could be put to work. [United Press International, "Funds for Housing Urged Over Funds for Highways," *The New York Times*, February 14, 1975]

The new chairman of the House Committee on Public Works, Representative Jones, called the release "both little and late." He explained:

> The time for such half-way measures is long past. Every dollar of highway funds that the Administration has locked up should be put to work without further foot-dragging and fly-specking . . . . We need those jobs and can get them in short order if we get started here and now. ["Rep. Jones Seeks Release of Impounded Highway Funds," *Florence Times*, February 25, 1975]

On February 12, the day after President Ford announced release of $2 billion in impounded funds, U.S. District Court Judge John Lewis Smith, Jr., ruled that the White House did not have the power to impound Federal-aid highway funds. In deciding a lawsuit brought by 12 States, he said, "The [Federal-Aid Highway] Act does not allow the Secretary to withhold funds for reasons unrelated to the merits of a project itself." In addition to this ruling, according to AASHTO, at least seven other States had won decisions against impoundment of highway funds, most recently a $121 million claim by Kansas. [Eisen, Jack, "Highway Fund Impoundment is Upset," *The Washington Post*, February 13, 1975]

On May 15, 1975, FHWA reported that $1,085,495,000 of the $2 billion had been obligated to 35 States, with 11 other States indicating they would make use of the funds. Tiemann said, "It looks very much as though we will have all, or most, of the $2 billion obligated by our deadline, June 30, which is the end of the current fiscal year." Only six States had informed FHWA that they would not be able to use the funds, with one of them, Pennsylvania, able to use only its original apportionment for the year:

> The others, with their problems, are: Rhode Island, New Jersey and the District of Columbia (lack of plans ready to be implemented); and Connecticut and New York (court injunctions which have stopped or delayed work on controversial Interstate System routes).

Ending Impoundment of Federal-Aid Highway Funds

The Budget Control and Impoundment Act of 1974 required Presidents to submit reports to Congress and the General Accounting Office on funding that was being withheld whether as an impoundment or for management purposes. If either House of Congress disapproved, the President had to release the funds.

On September 20, 1974, President Ford submitted the first Deferral Message, designated D75-17, explaining why he was impounding funds from several programs. He emphasized the importance of his proposed actions:

> Budgetary restraint remains a crucial factor in our efforts to bring inflation under control. In today's environment, we cannot allow excess Federal spending to stimulate demand in a way that exerts further pressures on prices. And we cannot expect others to exercise necessary restraint unless the Government itself does so.
>
> The responsible apportionment of congressional appropriations and other Federal budget authority is an essential—though often controversial—element of budget execution. Sound management principles and common sense dictate that Federal agencies spend money in an orderly fashion and only to the extent necessary to carry out the objectives for which the spending authority was provided. Current economic conditions require extra care to assure that Federal spending is held to the minimum levels necessary.

He specified total deferrals of $19.8 billion, including:

> Federal-aid highway funds ($4.4 billion for fiscal year 1975 and $6.4 billon for fiscal year 1976). Release of these funds would also be highly inflationary and would have to be offset in cuts in higher priority programs. Some of the funds are being withheld pending resolution of court cases concerning the environmental effects of proposed highway construction.

In view of the President's subsequent release of $2 billion in impounded Federal-aid highway funds, Congress concluded that the time had come to reject the deferral message.

Senate Resolution 69, introduced by Senator Randolph on February 7, 1975, was the vehicle for congressional action. On April 24, the Senate considered the resolution. Senator Randolph explained that he did not believe the President possessed the legal authority to impound funds, as reflected in numerous court rulings. The resolution permitted under the Impoundment Control Act was "the most expeditious manner to make these highway funds available for obligation at a time when our economy needs infusions of money to stimulate employment."

He recognized that the States could not use all the impounded funds immediately. "To this end we have expressed our desire to conduct a continuing dialog [sic] with the executive branch to reach agreement on a suitable funding level for Federal-aid highway programs in fiscal year 1976." He continued:

> I think it is an opportunity as well as a responsibility for us to indicate our genuine concern for unemployment, for the need for construction workers to be at gainful employment, and for us to strengthen the system of the mobility [sic] through facilities provided for the movement of people and the movement of products from the field, the factory, the farm, and the mine.

Given the "broad implications" of Senate Resolution 69, Senator Randolph had referred the measure not only to his own Committee on Public Works but to the new Budget Committee, chaired by Senator Muskie, and the Appropriations Committee where Senator Bayh, chairman of the Subcommittee on Appropriations, was responsible for initial review. "Each of those committees expedited consideration that the measure might be brought to the Senate promptly."

Senator Randolph hoped the Senate would approve the resolution unanimously, but Senator Proxmire, whose Joint Economic Committee had explored the unemployment issue extensively, made clear that would not be the case. Based on information gathered during numerous hearings, he said, "I think this is one proposal that will do nothing, and I stress nothing, to solve unemployment problems . . . . The passage of this resolution will contribute to a galloping budget deficit." The funding could not be spent quickly, and by the time "the first dollars are spent, the economic situation may call for Federal spending constraints to fight inflation, not a greater budget deficit to fight unemployment." Further, he estimated that each job created would cost $15,000 or $16,000. "It will be much more cost effective to provide jobs in other areas."

He added that, "what we emphatically do not need at this point is more and more highways." Despite "the clout of the highway lobby" in his home State of Wisconsin and throughout the country, the energy crisis had "taught us we should slow down, not speed up, the construction of a highway network that threatens to strangle this Nation's transportation system which makes it a gasoline glutton, not an energy saver." He continued:

> We have to reorder our priority so that money we used to spend on highways goes into mass transit systems, subways, and railroads, to move goods and people with a minimum waste of energy and a minimum condemnation of land.

He also doubted the optimistic prediction that the funds could be used promptly:

> Mr. President, this resolution, as I understand it, will release $9.1 billion in Federal aid funds, of which $6.4 billion is attributable to 1976 contract authority. The President released $2 billion in highway funds in February, making available a total of $6.6 billion for 1975. It is doubtful that the States can use more than $6.6 billion in 1975. It is my understanding that they will not use more. That is why I argue this will not have any immediate effect.
>
> It has been argued that this resolution will make the impounded funds available in 1976. I am told by the staff of the Appropriations Committee that this is not the case since the administration will likely submit a separate deferral on July 1. So this 1976 deferral and not the one we are debating today will determine the actual level of obligations.

Senator Bayh, speaking next, said that the Committee on Appropriations believed "that the highway program should be used to the maximum possible extent to relieve the very serious unemployment situation in which we find ourselves." When the President "is reluctant to recognize the problem, and when he does, offers proposals that are too little and too late, this Congress must take action to fill the void." Although "the economic and social benefits of highway transportation to the Nation are far reaching," he recognized that "there will be those who will say that the Senate, by disapproving the deferral of highway funds, will be doing so to the detriment of public transportation and railroads." He disagreed, citing the National Mass Transportation Assistance Act as greatly expanding the Federal-aid available to the States and local communities for their public transit programs.

He "felt very strongly about this" because he believed Presidents Johnson, Nixon, and Ford did not have authority under the Constitution to impound funds:

> This is not the first time we have been confronted with this situation. But our Founding Fathers in their wisdom, having come from Europe where they saw the abuse of King George using the power of the tax collector and the privilege of the throne, put into that Constitution that it is the Congress' responsibility to appropriate funds . . . . I would hope that we would, indeed, unequivocally stand up and say we confirm once again our right as members of the legislative body to control the pursestrings [sic].

Regarding Senator Proximire's objections, Senator Bayh agreed about the timing of expenditures, but for Congress to turn down Senate Resolution 69 would be "a signal to the President and a signal to the entire country that we are once again going to derogate our responsibility to control the purse strings." As for Senator Proxmire's criticism of highways, Senator Bayh pointed out that the emphasis on the Interstate System had been to the detriment of primary and secondary roads. "These funds can do something about rebuilding those roads that are very important."

Finally, Senator Bayh rejected Senator Proximire's objection regarding mass transit:

> This bill will permit the expenditure of up to $800 million for mass tansit. This is not simply a highway lobby bill. It provides $800 million to do something about mass transit.

The Senate agreed with Senators Randolph and Bayh. It approved Senate Resolution 69, 77 to 7. ["Disapproval of Proposed Deferral of Budget Authority," *Congressional Record-Senate*, April 24, 1975, p. 11666-11672]

Representative Jones had introduced a similar resolution in the House, but House action was not needed after the Senator rejected the deferral.

Congress was eager for the funds to be used, but was concerned because some States were having trouble matching Federal funds for the original $4.6 billion authorized for the Federal-aid highway program in FY 1975, yet alone the impounded funds that had been released. On February 26, 1975, Representative Howard, chairman of the Surface Transportation Subcommittee of the Committee on Public Works and Transportation, as it was now called, introduced a bill to temporarily waive the matching requirement. It cleared the full committee on March 21. During House debate on April 10, Representative Howard explained the reason for the bill:

> Very briefly . . . on February 12 the President announced the release of $2 billion of the impounded Federal highway funds. The President stated—and we commend him for this—that he was releasing this money for the remainder of this fiscal year in order that the States may be able to utilize it not only to provide for additional safety and transportation of people in their States, but also to help meet the tremendous unemployment that we find throughout this Nation. We applaud the President for this action.
>
> However, in checking, we did find that unfortunately many of the States in the Nation are unable to make use of this money in the time allocated.
>
> Of course, the provision the President made is that any project approved under this release of $2 billion must be under contract by June 30 and work begun within 45 days, thereby putting people to work within 45 days at most after contract. Of course, many of the States depend upon their matching funds—10 percent on the Interstate System and 30 percent on all other roads. Some of them raise matching funds by a tax on gasoline.

The slowdown in 1974 had reduced gas tax revenue the States needed for matching funds. For 1975, they found matching funds for their share of the $4.6 billion made available by formula, but "had no idea there would be another $2 billion available, and so they did not budget matching money." The bill he had introduced would authorize the Secretary of Transportation to allocate up to 100 percent of the construction cost, "with the stipulation, of course, that the States before January 1, 1977, return with non-Federal funds these moneys to the Highway Trust Fund so that we may have our balanced system as soon as possible."

Another problem was that States did not have the flexibility to shift funds among Federal-aid categories. "We found that some States are all ready to go on a certain section of a highway but they do not have funds in this particular category, but they do have funds available to them in a different category." The bill would allow States to transfer funds among categories, not including the Interstate System, through the end of the fiscal year.

Debate was generally supportive as Members spoke in favor of the bill or asked questions to clarify its intent. The House passed the bill by voice vote. ["Increasing the Federal Share of Highway Projects," *Congressional Record-House*, April 10, 1975, p. 9966-9975]

The Senate Committee on Public Works discharged its version of the bill for consideration on the Senate floor on May 22. The bill was identical to the House bill except that it extended the waiver of matching funds to September 30, 1975, instead of June 30. After brief discussion, the measure passed by a voice vote. Senator Proximire inserted the only opposing views into the record of the debate, saying in part that far from being a "recession fighter," highway construction was "the least efficient, most expensive way of creating jobs." Aside from costing too much per job, "it is bad public policy for this Nation to continue on the automobile binge." ["Federal Highway Administration Apportionments," *Congressional Record-Senate*, May 22, 1975, p. 15951-15954]

That same day, the House agreed to the Senate amendment, and the bill went to the President for signature. Without ceremony and some reluctance, President Ford signed the measure on June 4 (Public Law 94-30). In a statement, he said he strongly opposed "in principle deferring matching requirements by State and local governments." He recognized, however, that the intention of "this one-time exception" was to help the States "take advantage of the special jobs-producing highway funds which I released in February and of the additional funds made available by the Congress in April." Noting the payback requirements, he said, "I have signed this legislation to insure that all States will be able to take advantage of their fair share of these special highway funds and to proceed with projects which will stimulate employment in the construction industry."

The Department of Transportation's annual report for FY 1975 said that President Ford's release of $2 billion in February had reduced impounded funds to $9.1 billion while increasing the federal-aid highway program to $6.6 billion. Senate Resolution 69 had released the remaining funds:

> The states were able to obligate an additional $1.2 billion because of this release. As a result, by the end of the year, almost $7.8 billion had been obligated. This figure is $3.2 billion above the original fiscal year 1975 program level. [9th Annual Report, Fiscal Year 1975, Department of Transportation, p. 29]

(For many years, the Highway Trust Fund was self-supporting with sufficient revenue to support growing levels of support for the Federal-aid highway, transit, and safety programs. However, increased fuel efficiency, reduced driving due to economic difficulties, and other factors cut into the revenue derived from the highway user taxes. By the 2000s, Congress had to find ways to support desired funding levels by supplementing revenue credited to the Highway Trust Fund. As *Transportation Weekly* editor Jeff Davis pointed out in June 2011, “a provision written into the Budget Act of 1974 (and never really tested since then) restricts the kind of revenues that can be deposited into the Trust Fund if the Trust Fund is to continue providing spending in the form of contract authority.”

Section 401 of the Act “prohibits the House and Senate from considering bills providing new direct spending (specifically including contract authority) that is available outside the annual appropriations process.” The measure was intended to prevent “backdoor” spending measures that avoided Appropriations Committee action on new spending by tacking it onto trust fund accounts. Trust funds that support at least 90 percent of deposits from dedicated taxes “related to the purposes for which such [spending] will be made” were exempt, but if the Highway Trust Fund revenue goes below that percentage, contract authority would be called into question. [Davis, Jeff, “Additional Trust Fund Revenues and the ’90 Percent Rule,’” *Transportation Weekly*, June 16, 2011, p. 7-8])

$2 Billion Worth of Job Generation

Administrator Tiemann initiated a study to evaluate onsite employment as a result of President Ford’s release of $2 billion in impounded funds. The study covered the period from March 1, 1975, to October 31, 1978, based on contracts awarded between March 1 and July 1, 1975. The study found that:

> The $2.0 billion release resulted in authorization of 2,112 contracts between March 1 and July 1. The average size of contract was $946,970. Total onsite employee-hours of labor generated was 52,000,000 (including an estimate of 1 million employee-hours of labor required to complete contracts extending beyond October 31, 1978) . . . .
>
> Using a conversion factor of 1,600 employee-hours per employee-year for onsite employment, the 52,000,000 employee-hours of onside employment converts to 32,500 onsite employee-years or jobs for the $2 billion. Of the total cumulative employee-hours usage, 50 percent was generated before about April 15, 1976, (15 months after the release); 75 percent before about September 15, 1976; and 90 percent before about June 30, 1977.

Total wages from the $2 billion released were $360 million (18 percent of contract value).

The study identified variations in the labor intensiveness of expenditures:

- Most labor intensive urban contract size = $500,000 - $1,000,000 (only minor variations)
- Most labor intensive rural contract size = $1,000,000 - $3,000,000 (only minor variations by size of project)
- Most labor intensive urban contract = Traffic Operations to Increase Capacity and Safety (TOPICS)
- Most labor intensive rural contract = Rural Secondary
- Most labor intensive urban type of work = Bituminous paving
- Most labor intensive rural type of work = Grade and Drain

The study concluded that "the Federal-aid highway program provides a quick return in employment for capital investment in improvements which, in themselves, provide long term benefits." It continued:

> Onsite employment, matched as it is by "offsite" employment and "induced" employment, has, in the case of the $2 billion expended on the projects studied, resulted in some 32,500 employee-years of employment onsite plus an estimated 32,500 offsite employee-years of employment and another estimated 92,500 employee-years of induced employment. [Smith, Norman E., *Generation of Employment: A Report on Employment Generated by Federal-Aid Highway Funds*, FHWA, undated (probably 1979), p. 1-3]

Federal-Aid Highway Amendments of 1974

The Emergency Highway Energy Conservation Act, which President Nixon had signed on January 2, 1974, was a quick reaction to the energy shortage that began in October 1973. Its key feature, the denial of Federal-aid highway project approvals in any State that did not establish a maximum speed limit of 55 m.p.h., was temporary. The requirement went into effect on the 60th day after enactment (Sunday, March 3, extended by the Department of Transportation to March 4 to avoid weekend confusion), but it would cease after the President declared "that there is not a fuel shortage requiring the application of this Act," or after June 30, 1975, "whichever date first occurs."

Some States had lowered speed limits voluntarily in late 1973, while others delayed until the last minute, but all were in compliance by the due date. The safety bonus, noted earlier, was soon observed. In April, for example, Maryland State Police reported that traffic fatalities were about half what they had been in 1973 (116 compared with 214). Colonel Thomas S. Smith, superintendent of the State Police, said, "I would attribute the decrease to the reduction in driving in the state and the lower speed limits, as well as the co-operation of Maryland citizens in following the speed limit." He said police had noticed "a slight upward trend in fatalities and speeders" in some areas. "It does seem that the general public's speed on the roads is edging up." [Wade, Robert P., "50% Fewer Road Deaths Credited to Speed Curb," *The Baltimore Sun*, April 5, 1974]

Kansas was the last State to comply, enacting the necessary legislation only the weekend before the deadline. Reflecting the State's reluctance, Senator Dole of Kansas offered an amendment to the pending Standby Energy Emergency Authority Act that would revise Section 2 of the Emergency Highway Energy Conservation Act to allow States to increase the maximum speed limit to 60 m.p.h., at their discretion without loss of Federal-aid project approvals. (The purpose of the Standby Act was to assure the Federal Government had the authority to meet the Nation's essential energy needs and for other purposes.)

Senator Dole brought his amendment to the floor while the Senate was considering the Standby Act on May 13. The principal factors for offering the amendment, he explained, were that the oil embargo had ended and the Nation was no longer facing "the same grave supply crisis." In States such as Kansas "where distances between towns and cities are great" and automobiles the only option, "55 miles per hour is an unreasonably and frustratingly low speed to travel." Further, the speed limit "is having serious economic consequences for the trucking industry and through it to the other industries and businesses—especially the beef industry—which depend on truck transportation."

Senator Randolph responded that the Dole amendment was "surely another indicator that Americans are rapidly forgetting the lessons that were painfully learned a few months ago." They were not "a midwinter hallucination but rather a permanent fact of life in this country." The American people embraced conservation, but recently "we have seen growing evidence that our resolve to conserve energy was, indeed, short lived." The President may have declared the energy crisis at an end, but the "energy shortage is real and it is persistent."

In addition to conserving oil, the 55 m.p.h. speed limit had resulted in "a dramatic drop in people killed on our highways." He introduced a May 13 letter from Secretary Brinegar acknowledging that the speed limit "admittedly had some adverse economic impact on certain sectors of the transportation industry." However, the energy saved and the deaths avoided argued against increasing the speed limit at this time. He did not believe the limit should be altered "prior to passage of sufficient time to allow proper assessment of its advantages and disadvantages."

Senator Percy opposed the amendment as well:

> Certainly a relaxation of the speed limits today would again say to the Nation that "the energy crisis is over." Mr. President, it is a long, long way from being over. It is going to be with us for a good, long time, regretfully.

Senator Henry Jackson, the primary author of the Standby Act, also opposed the amendment, first because of its impact on oil consumption:

> In testimony before the Senate Public Works Committee, Secretary of Transportation Claude Brinegar indicated that some fuel economy could be achieved at 55 miles per hour, but that at speeds of 60 miles per hour, no fuel savings would be realized. At 55 miles per hour, savings of up to 160,000 barrels per day would be realized; yet, the loss in travel time from 60 to 55 miles per hour is only 5 minutes.

On a drive from Kansas City to Wichita, the difference would be only 16 minutes. "I could say the same thing about the wide open spaces of eastern Washington, my own State, in order to be fair to the Senator from Kansas."

He also was concerned about the impact on safety. "It is estimated that with a 55-miles-per-hour speed limit instead of 60, some 12,000 lives can be saved this year . . . . A gain of 5 minutes an hour in driving time is not worth 1,000 lives a month."

He shared the concern of Senators Randolph and Percy that the American people were getting back to practices that were wasting energy and increasing the price of oil:

> Mr. President, this situation only further underscores the need to develop conservation programs that will protect the American consumer from a repeat of this winter's gasoline supply fiasco.

In support of the Dole amendment, Senator Hansen said that in his State of Wyoming, the issue was nonpartisan. The Republican and Democratic party conventions had each voted to raise the speed limit to 65 m.p.h. He said that "the important thing to consider is, as is true in so many other instances, it really does not make any sense to try, in the Halls of Congress, to legislate specifics for each of the 50 States." Wyoming wanted to increase the speed limit, he said, but if Vermont wants to retain the 55 m.p.h. speed limit, nothing in the Dole amendment would prohibit it from doing so. He shared the goal of energy conservation, but said "that a good case cannot be made for conserving energy by the important trucking industry of the United States if a 55-miles-an-hour speed limit continues."

Senator Fannin said that when he was Governor of Arizona (1959-1965), he had served on the National Governors' Conference highway safety committee. As this past service suggested, he knew that highway safety was "a vital interest," but he supported the Dole amendment:

> Still, when we start analyzing what is involved in going from 55 miles an hour to 60 miles an hour, I do not think we really can agree on the differences involved in that 5 miles an hour.

He thought the safety benefit of the lower speed limit was partly because the results were measured when driving was down because of the oil shortage. He added that 60 m.p.h. was safer for trucks and buses:

> Trucks and interstate buses . . . have gear ratios that do not go into high gear until they reach 50 or 55. At cruising speeds, they are operating around 60, and there is at that speed a saving of a considerable amount of fuel.

Senator Dole concluded the debate by pointing out that under his amendment, each State had the flexibility to stay at 55 m.p.h. or increase the speed limit to 60 m.p.h. Anyone who travels 100 to 400 or more miles a day would confirm that 55 m.p.h. "is an unquestioned irritation, inconvenience, and source of frustration." He was in favor of highway safety, but if that were the primary intention behind the current law, "perhaps we ought to lower the speed limits to 25, and assure that perhaps no one would be critically injured on the highways."

He agreed that the Nation should try to conserve energy, but so far about all the Congress had done was approve year-round Daylight Saving Time and a speed limit of 55 m.p.h. "One great saving was made in reducing the speed limit from 75 and 70 to 55, but the increase from 55 to 60 miles per hour will not really add all that much additional fuel consumption." He recognized that setting the proper speed limit involved "a very grave, delicate balance," but for those who live "in an area of the country with broad open spaces, 60 miles an hour is a safe, reasonable, and psychologically acceptable limit."

The Senate rejected the Dole amendment, 29 to 52. (The Senate did not approve the Standby Energy Emergency Authorities Act.)

By then, with oil flowing again from the Middle East, Americans had begun ignoring the speed limits, although speeds were still below pre-crisis levels. As Senator Dole had said, motorists in the large western States found the lower limit especially bothersome. Captain Bill McLain of the Texas Department of Public Safety said, "The traffic is definitely faster now. Motorists are becoming a little bit disillusioned with the 55-m.p.h. speed law." Speeding tickets were increasing around the country. [Associated Press, "55-m.p.h. Speed Limits Ignored," *The Baltimore Sun*, May 6, 1974]

In California, the upper speed limit had dropped from 65 m.p.h. to 55 m.p.h. on January 1, 1974, and was scheduled to return to 65 m.p.h. in July 1975 unless Federal law changed. Governor Reagan recommended retaining 55 m.p.h. for urban freeways, but the higher limit could be restored on rural freeways "when we can for certainty say we do not need the gas savings that we're getting from the lower speed limit." For rural freeways, a 65 m.p.h. limit would "recognize the problem of those people who have got 400 miles to go." Different urban and rural speed limits made a "great deal of sense to him." California Highway Patrol (CHP) Commissioner Walter Pudinsky preferred eliminating the lower speed limit as soon as gasoline supplies were back to normal. He said the CHP could arrest 100,000 drivers every day for ignoring the speed limit if he had enough officers and equipment. [Gillam, Jerry, "Reagan Urges Permanent Limit of 55 M.P.H. on Urban Freeways," *The Los Angeles Times*, May 3, 1974]

In this context, the House and Senate were developing legislation that would address the speed limit on a permanent basis. Secretary Brinegar wrote to Senator Randolph on July 23, 1974, to urge enactment of legislation making the 55 m.p.h. speed limit permanent. The Secretary emphasized that the reduction in highway fatalities in the 8 months since the lower speed limit went into effect justified congressional action making it permanent. A news release explained:

> In his letter to Randolph, the Secretary cited figures to show that highway fatalities have declined on an average of about 23 percent during the first six months of this year. He said that since November, 7,000 fewer people were killed on our streets and highways than were killed in a similar period a year earlier. He said that a large part of that reduction in fatalities resulted from the lower speed limit.
>
> Mr. Brinegar said there are competing economic factors to be considered in the decision to make the 55-mile limit permanent. But he said those factors are outweighed by the increased safety on the highways.

Secretary Brinegar was replying to Senator Randolph's request for comments on the Committee on Public Works' Federal-Aid Highway Act of 1974. The Secretary said he opposed a provision increasing funds for the Federal-aid highway program through FY 1976 because it "would create further inflationary pressure throughout the economy," according to the news release. Secretary Brinegar also opposed a provision allowing alteration of existing highway construction contracts to compensate for increased costs due to inflation. The provision would, the Secretary said, give preferential treatment to one group of contractors even though all have been affected by the same cost increases.

In February, the Administration had attempted to address one of the economic factors Secretary Brinegar mentioned by introducing legislation that would allow bigger, heavier trucks on the Interstate System. Reporter Albert R. Karr described the proposal:

> The Transportation Department's Federal Highway Administration yesterday [February 20, 1974] proposed legislation specifically telling states to raise their interstate load limits 2,000 pounds for each truck axle. The measure also calls for a boost in the total truck weight permitted; a length limit that would allow longer trucks in many states, and clearance for certain combined "twin-trailers" to ply the roads. Any state that didn't change its laws to comply with the new limits would lose all its federal road building funds.

He added that the proposal was in part a response to the trucker strikes and unrest during the energy shortage that followed the October 1973 oil boycott:

> As part of Nixon administration efforts to end the recent independent truckers' strike protesting the effect of the fuel crisis on their operations, Transportation Secretary Claude S. Brinegar had promised a close look at possible steps to allow bigger trucks on roads built with federal aid.
>
> "Because of the 55-mile-an-hour speed limit imposed during the fuel problem a truck run that previously could have been finished in 10 hours currently takes 11 hours," said Norbert T. Tiemann, federal highway administrator. He said the higher load limits would be temporary, confined to the duration of the energy crisis, and are "directed toward providing . . . immediate relief to sectors of the economy suffering, in part, due to governmental action."
>
> However, Sen. Mike Gravel (D., Alaska), who chaired Senate Transportation subcommittee hearings on the big-truck issue yesterday, said the legislation, if enacted, would be, in effect, "a minimum of five years," and Mr. Tiemann conceded, "We don't believe (the fuel crisis) is going to end very soon."
>
> One Senate source goes further, arguing that there isn't any possibility, once the energy crisis is ended, of rolling back any decision to permit bigger trucks on interstate roads.

The Administration was optimistic, despite past setbacks in trying to raise size and weight limits:

> I don't envision any problem" in getting the legislation passed, says John W. Barnum, Transportation Under Secretary. "I think it's in pretty good shape." Mr. Barnum says he has talked to several Congressmen who had previously opposed big-truck legislation, but now see it as "a new ball game," saying they'll back it on energy grounds. And a Senate highway expert states, "I wouldn't be surprised if something passed."

> But an aide to one Senator on the Transportation subcommittee cautions that the measure will still find tough going. "A lot of Senators just don't like big trucks," he says.

(Barnum, who had become the Department's General Counsel in 1971, became Under Secretary of Transportation in May 1973 following the departure of Egil Krogh, Jr. The title was changed to Deputy Secretary in 1974 and Barnum retained that position into January 1977.)

Although AASHTO, the American Trucking Associations, and shippers favored the proposal, AAA and the National Transportation Safety Board were among the opponents. They were concerned about the safety implications of larger, heavier trucks mixing with passenger vehicles. [Karr, Albert R., "Nixon Bill to Allow Bigger, Heavier Trucks on Interstate Roads is Aided by Oil Crisis," *The Wall Street Journal*, February 21, 1974]

As noted earlier, Congress had quickly discarded the UTAP proposal. On August 20, 1974, the Senate Committee on Public Works reported the Federal-Aid Highway Amendments of 1974. The bill "responds to some of the issues raised by the energy crisis and fills in those sections of the 1973 Act which were either deferred by the House-Senate Conferees or found to need adjustment after they were enacted into law." The introduction summarized the bill:

> The principal sections of the Committee bill are directed at the country's energy problems: one would make the temporary 55 miles per hour speed limit, approved by the Congress and the President last winter, permanent. The second would permit modest increases in the allowable weights of trucks on Interstate highways, increases that the Committee feels will improve the productivity of trucks while remaining within acceptable limits of safety.

Among the deferred issues, the bill extended the Highway Beautification Act for three years, increased funds for implementation of its provisions, and allowed "alternative information systems along highways which do not conflict with the thrust of the original act." In other provisions:

> A charter bus provision which passed the Senate last year is also included in this measure; it would amend Section 164(a) of last year's highway legislation by allowing public transit systems receiving Federal-aid funds to engage in charter activities so long as they do not foreclose private carriers from doing so.
>
> The bill also contains provisions (1) allowing the termination of highway contracts under conditions where the materials necessary are not available from the expected supplier because of Federal actions [in the allocation of petroleum supplies]; (2) providing additional authorizations for the rural bus demonstration program approved last year; (3) allowing the Alaska ferry to stop in Canada; (4) allowing funds for Indian reservation roads and trails to be used on Federal-Aid Highways on or leading to Indian lands and increasing the authorizations for the program by $25 million; (5) providing $20 million, half from the Highway Trust Fund, for bikeway facilities in urbanized areas; (6) amending Section 322 of Title 23, which deals with elimination of rail-highway grade crossings in the Northeast corridor; (7) increasing the authorization for the special bridge replacement program by a total of $150 million; (8) setting up a separate authorization of approximately $116 million

> for the repair of bridges on the vital Overseas Highway leading to Key West, Florida; (9) authorizing $360,000 for an engineering study of a railroad relocation demonstration project in Lafayette, Indiana; (10) authorizing all parkways, not just those on a Federal-Aid System, to be financed out of the Highway Trust Fund; (11) creating a new program authorizing $15 million for each of two fiscal years for access roads to Federal reservoirs; (12) assuring that public transportation facilities assisted with Federal-aid funds are accessible to the handicapped; and (13) extending a carpool demonstration program for one year to be separately funded at a level of $15 million. [*The Federal-Aid Highway Amendments of 1974*, Committee on Public Works, United States Senate, 93d congress, 2d Session, Report No. 93-1111, August 20, 1974, p. 2-3]

Despite this early action, Congress put off further action on highway amendments to work on the National Mass Transportation Assistance Act of 1974. With limited time remaining in the 2nd session of the 93rd Congress after enactment of that law, the public works committees resumed work on the highway amendments. As the House Committee on Public Works explained in its report of December 11, 1974:

> The time remaining in the current session of Congress will not permit the consideration of a major highway bill. To provide continuity of the existing Federal-aid highway program, action on a new authorization bill must be completed during the first session of the 94th Congress. Congress must also act next year to continue the highway Trust Fund [sic] beyond its present termination date of October 1, 1977; otherwise, Congress will have to provide some other source of financing for the highway program.

The 1975 Interstate Cost Estimate was to be submitted in early 1975, and that would result in funding issues and hearings. For now, several critical issues could not be put off:

> There are provisions in the reported bill directed at the country's energy problems. One would continue the national 55 miles per hour speed limit until Congress declares by concurrent resolution that it is no longer necessary; a second provision would require State certification of enforcement of the 55 miles per hour speed limit; a third provision would extend for one year the authority to make grants for demonstration carpooling programs. Actions on these measures need not await a comprehensive review of the total highway program.

The House bill included an increase in funds for the rural primary and secondary systems in 1976, a provision permitting buses of up to 102 inches in width to operate on the Interstate System, approval to accept donation of property for highway projects with appraisals, a provision increasing or decreasing the funds available for substitute Interstate highway or public mass transportation projects to offset inflation or deflation, and several "earmark" authorizations for projects. The House bill also contained new categorical programs (Access Highways to Public Recreation Areas on Certain lakes and Off-System Roads). In addition, the bill addressed highway beautification and the control of outdoor advertising based on the final recommendations of the Commission on Highway Beautification.

The Senate passed the Federal-Aid Highway Act of 1974 (S. 3934) on September 11, 1974, with 85 yeas and zero nays. The House took up the bill on December 16, 1974. Chairman Blatnik brought the bill to the House floor on December 16, 1974, under suspension of rules. The Committee had substituted its version, the Federal-Aid Highway Act of 1974, for the Senate bill. The chairman said:

> This will be the last highway bill for which I, as a Member of the House of Representatives, will be here on this floor asking you [to] support. I have been through many of them with you including that great bill in 1956 which got the Interstate System really rolling. Now we are the envy of the world with that system and much of the rest of the world followed our example.

Most of the floor discussion was favorable to the bill. However, Representative Koch opposed the bill. He admitted:

> I am very apprehensive. I feel somewhat like a Volkswagen confronting a Mack truck. The Mack truck is on the wrong side of the road and there is no place to go for help. But I think there is help.

His problem was the House Rules Committee had sent the measure to the floor under suspension of rules, meaning no amendments would be considered. (Suspension of rules was allowed on certain days during the year, but also during the last 6 days of a session. [*How Our Laws Are Made*, p. 25.])

He objected to the increase in weight limits for trucks. He pointed out that on August 20, during consideration of the mass transportation bill, the House had approved his amendment, 252 to 159, to delete from the bill its provision increasing weight limits. The measure was not in the House version of S 3934, but the Senate had approved the increase in its version. Representative Koch was certain that in conference, the Senate's provision would be accepted, unless the House bill could be amended to "simply state that there shall be no increase in truck weights, and would therefore keep truck weights at their current levels." Such an amendment could be added only if the House first rejected the bill so it could come back to the floor under an open rule.

Representative Wright responded that the urgency of the bill stemmed from the fact that the current Congress was about to end and the bill would die with it prior to the start of the 94th Congress. The suspension of rules "was dictated by the realities of the situation." He did not see how "it makes a particle of difference" regarding the issue that concerns Representative Koch:

> He is concerned, he says, about some provision in the Senate bill which would increase the allowable and permissive weight of trucks. I would advise my friend, and all of the others here, that this bill does not contain that provision. It is not in the bill. There is no basis in reason for voting against this bill. This bill does not contain any language whatsoever respecting that problem.

The House approved the bill by voice vote and sent it to conference with the Senate. [Federal-Aid Highway Amendment of 1974, *Congressional Record-House*, December 16, 1974, p. 40149-40163]

House and Senate conferees approved a conference report on S. 3934, the Federal-Aid Highway Amendments of 1974, on December 17. The following day, Senator Randolph brought the report to the floor for consideration. He said the critical issue had been truck weights:

> There was much discussion of this problem and resolution was difficult. The conference committee ultimately agreed to include the provisions of the Senate bill allowing an increase in truck weight to a maximum of 80,000 pounds and the initiation of a bridge formula for the distribution of weight over the truck configuration, with two modifications. The provision regarding weight limitations on the steering axle was deleted at the insistence of the House conferees because it was felt that the Bureau of Motor [Carrier] Safety has the authority to regulate in this area under the Interstate Commerce Act.

The conferees also "grandfathered" any State that had a weight limit in excess of that in the bill "for a vehicle with any group of two or more consecutive axles operating on the Interstate System."

Senator Randolph recognized that some individuals would be dissatisfied with the weight limit provisions. However, they were "realistic and workable" and were the only way "to avoid a complete breakdown of the conference." Following a short debate on the weight limits, the Senate approved the conference report, 68 to 27. [Federal-Aid Highway Amendments of 1974-Conference Report, *Congressional Record-Senate*, December 18, 1974, p. 40683-40686, 40690-40691]

The House also considered the conference report on December 18. Introducing the report, Representative Wright called the bill "a fair and equitable meeting of the minds between the conferees of the two bodies." As in the Senate, the provisions on truck weight limits provoked discussion. Representative Wayne L. Hayes (D-Oh.) pointed out that the House, "by a very substantial vote," had defeated an increase in weight limits. Representative Wright responded that the vote had come on the mass transit bill, not the highway act, and so was not binding on the conferees.

Representative Koch told his colleagues, "we have a second opportunity to vote this bill down," adding, "We should have done it the other day when it first came up." With the exception of the weight provisions, "this is a good bill," with "a lot of money in it for rural areas and it has got a lot of money in it for the urban areas." He found it hard to vote against the bill, but he was going to do it because of his concern about safety:

> I am saying it is dangerous to you, to your wives, and to your children, because you and your families are on these same interstate roads [as the heavier, dangerous trucks] . . . . What I am urging the Members to do is not only think of the [unsafe] drivers but also to think even more of their own families, whose lives are in danger—in danger—as a result of increasing these weights.

Representative Seiberling said that given his family background in the tire business, it was hard to oppose a measure that might increase business. However, he pointed out that NHTSA had just initiated a study of weight limits from a safety standpoint. "I do not see how we can in good conscience approve a bill to increase the axle limits without that kind of a report before us so we know what we are doing."

Representative Wright responded that "such reports are before us, and several of them have been before us for as long as 5 or 6 years." The Federal-Aid Highway Act of 1956 had called for a study that BPR conducted at a cost of $27 million:

> They recommended to the Congress that certain limits be applied. The limits we have accepted from the Senate bill are well within the limits and lower than the limits recommended by the safety people in the Bureau of Public Roads and in the Department of Transportation.

(Representative Wright seems to have been referring to the provision in the 1956 Act authorizing the AASHO Road Test "for the purpose of determining the maximum desirable dimensions and weights for vehicles operated on the Federal-aid highway systems, including the Interstate System . . . ." The focus was primarily on how varying vehicle weights affected different thicknesses and configurations of concrete and asphalt pavements and bridges, rather than on safety issues.)

When Representative Seiberling suggested that NHTSA was more safety oriented than BPR, Representative Wright replied, "the Department of Transportation is a creature of this Congress, and this committee has been instructed to do certain things and we believe we are following the right course."

After brief further debate, the House approved the conference report, 307 to 67. [Federal-Aid Highway Amendments of 1974, *Congressional Record-House*, December 18, 1974, p. 40906-40913]

President Ford approved the legislation on January 4, 1975. In a statement, he said the bill contained three energy-related provisions that he considered highly desirable:

> First, it will establish 55 miles per hour as the national speed limit on a permanent basis. This limit has proven to be of great value in not only saving fuel but in decreasing the loss of life on our highways.
>
> Second, this bill will extend the carpooling demonstration program for 1 year, until December 31, 1975. This program provides funds to States and localities to encourage the use of carpools. The Department of Transportation has estimated that it could save this country 5 billion gallons of gasoline. In addition, it will reduce air pollution and urban congestion.
>
> Third, the bill will increase the allowable weights for trucks on interstate highways. Largely because of the lower speed limit, many truckers have found themselves in an economic

> bind, with decreased productivity. This modest increase in allowable truck weights should help them regain that productivity, without threatening public safety on the highways.

The bill also contained "undesirable changes" in the Federal-aid highway program:

> For one, it would provide $347 million in additional authorizations for existing highway programs and $405 million for new categorical grants. Of these amounts, more than $500 million in contract authority would be available to States without further action by the Congress.
>
> Since funds for many of the existing programs are already being deferred, these extra authorizations are not needed. Approving these funds at this time would not only be unnecessary but highly inflationary as well. In addition, one of the objectives of this Administration is to reduce or eliminate categorical grants. This bill provides authorizations for numerous new categorical grant programs. Accordingly, I will recommend to Congress that release of most of this highway obligational authority be deferred for 1975. I hope Congress will agree with this plan.

He concluded:

> The 94th Congress and the Administration must work together to develop a highway program for this decade which is compatable with our national transportation and economic objectives. I will work with the Congress to develop such a program.

The Federal-Aid Highway Amendments of 1974 (Public Law 93-643) increased authorizations for the Federal-aid primary and secondary systems in rural areas and provided funds for control of outdoor advertising and junkyards, and for landscaping and scenic enhancement. It increased funds for Indian Reservation Roads, the Rural Highway Public Transportation Demonstration Program, and the Special Bridge Replacement Program. The Act also:

- Directed the Secretary of Transportation to carry out a feasibility study for a rail-line relocation demonstration project in Lafayette, Indiana.
- Declared as national policy that the elderly and handicapped have the same right as others to use mass transit systems. The Secretary was to require that projects under the Federal-aid urban system, Interstate transfer, or rural-bus demonstration provisions be planned, designed, constructed, and operated to implement this right.
- Increased from 18,000 to 20,000 pounds the maximum weight allowable on any one axle and from 32,000 to 34,000 pounds the maximum tandem axle weight for vehicles operated on the Interstate System. Any vehicle that could lawfully be operated in a State on the Interstate System on the date of enactment may continue to operate in that State even if it exceeded the national weight limits.
- Each State was required to certify enforcement of maximum vehicle size and weights and speed limits. The Secretary could not approve Federal-aid projects in any State that failed to certify.
- Authorized the Alaska ferry system to make stops in Canada.

- Extended outdoor advertising controls to signs on Interstate and primary systems more than 660 feet from the edge of the right-of-way outside urban areas, visible from the main traveled way, and designed to convey its message to the main traveled way. Directional and official signs and notices could remain in place. Payment of just compensation was required for removal of any sign lawfully erected under State law. Similarly, compensation of just compensation was required for disposition of any junkyard lawfully established under State law.
- Allowed "advance construction" payments when a State has obligated all its Federal-aid system funds under a given apportionment and proceeds with a project on that system without Federal-aid funds. The Secretary may compensate the State for the Federal share when the next apportionment becomes available.
- When a party wished to donate property for project right-of-way, the prerequisites of an appraisal or tender of just compensation were waived.
- Authorized funds for access highways to public recreation areas on lakes.
- Provided funds for a bikeway demonstration program, defining "bikeway" as "bicycle lane or path, or support facility, a bicycle traffic control device, a shelter, or a parking facility to serve bicycles and persons using bicycles." Grants could go for the construction of commuting or recreational bikeways in urban areas. Federal share: 80 percent.
- Extended the carpool demonstration as noted by the President.
- Authorized the use of funds under the Safer Roads Demonstration program for the correction of high-hazard locations off the Federal-aid systems.
- Authorized funds for the construction, reconstruction, and improvement of off-system roads. "Off-system road" was defined as "any toll-free road (including bridges) in a rural area, which road is not on any Federal-aid system and which is under the jurisdiction of and maintained by a public authority and open to public travel."
- Authorized the Secretary to adjust the estimated cost of an Interstate project based on the 1975 Interstate Cost Estimate.
- Authorized the Secretary to make grants for State programs for driver education and training for persons driving school buses.

The legislation included several provisions directed at specific projects, including reconstruction or replacement of bridge structures of a two-lane nature on the Overseas Highway (U.S. 1) to Key West, Florida, construction of a bridge to replace a drainage culvert in Auburn, California, and high-density urban highway intermodal connection between Franklin Avenue and 59th Street, South, in Minneapolis, Minnesota. ["Analysis of 1974 Federal-Aid Highway Act Amendments (P.L. 93-643)," *FHWA News*, April 1975, p. 6-7]

(The first change in the speed limit requirement occurred in the Surface Transportation and Uniform Relocation Assistance Act of 1987, which allowed States to raise the maximum speed limit to 65 m.p.h. on rural segments of the Interstate System (outside urbanized areas of 50,000 population or more). Some States raised speed limits immediately while others raised it only on selected rural Interstate routes. Other States modified speed limits in later years. It was entirely up to the States.

(Federal restrictions on speed limits would not be completely lifted until 1995 when the "Republican Revolution" of the 1994 elections turned Congress over to conservatives who wanted to eliminate Federal restrictions on what they perceived as State prerogatives. After an emotional debate in both Houses, Congress included a provision in the National Highway System Designation Act of 1995 that eliminated all Federal restrictions on the speed limit. After President Bill Clinton approved the legislation on November 28, 1995, the States were free to raise the speed limit to any level they thought appropriate, or leave it at the existing level, without concern about the loss of Federal-aid highway projects.

(Those opposed to the measure predicted it would turn highways into "killing fields," but the feared outcome did not occur. As noted earlier, highway deaths fell to 32,367 in 2011, the lowest level since 1949.)

New York City's 35-Cent Fare

On May 19, 1975, Frank Herringer visited New York City Hall with a green check in hand for $85.5 million. *The New York Times* described the event:

> Mayor Beame and David L. Yunich, chairman of the Metropolitan Transportation Authority, made up the happy "reception committee." Frank C. Herringer, New York-born son of a Transit Authority employe [sic], casually handed over the green check in his present capacity as head of the Federal Urban Mass Transportation Administration.
>
> The Mayor then interrupted newsmen asking questions, declaring, "Sorry, we've got to get this check to the bank right away." He explained that the city would lose a day's interest--$12,000 to $13,000—if the check was not deposited before 3 o'clock. Mr. Beame had a Finance Administration official standing by to be sure that the deposit was made on time.
>
> The Transit Authority thus became the first such agency in the nation to receive a Federal operating grant . . . . Mr. Herringer said that the $87.5-million operating grant would subsidize nearly 227 million rides.

It was a result of the "Beame Shuffle" included in the National Mass Transportation Assistance Act of 1975. Introduced by Representative Koch, the provision allowed cities to shift half their transit capital grant funds to meet operating deficits.

> The Mayor steered clear of saying that Federal assistance would save the 35-cent fare beyond the end of the year. He said instead that the grant "will help us run New York City's buses and subways at a reasonable cost to the rider." [Burks, Edward C., "M.T.A. Receives $87.5-Million Aid," *The New York Times*, May 20, 1975]

An UMTA press release quoted Herringer as expressing concern that the transfer of funds "not delay progress on the affected capital projects." The release also quoted Mayor Beame:

> The city of New York is very pleased by this Federal contribution to its mass transit systems. What is even more important is that this is a subsidy of operating costs and as such is an historic breakthrough. It is an acknowledgement of Federal responsibility for mass transit systems which benefit metropolitan regions.

Mayor Beame added that in presenting the first check to New York City, Herringer was recognizing that the city had been "responsible for the marshalling of support in all parts of the country for the concept of Federal operating subsidies for mass transit. It was New York City's initiative which helped secure the Congressional and Presidential approval which made today's grant possible."

New York officials and their representatives in the Congress had fought hard, almost desperately, to save the 35-cent fare and had been successful thus far, but by May 1975, an increase was inevitable.

The MTA had kept the fare at 35 cents thanks to subsidies from the State and city, but by spring 1975, New York City teetered on the brink of bankruptcy. With neither the Federal nor State governments prepared to rescue the city, its ability to provide an annual subsidy to the MTA disappeared.

The city's financial disaster was a result of many factors that had developed over the decades. According to contemporary journalist Ken Auletta, the size and nature of city expenditures was one factor:

> The city's budget, $2.7 billion in 1961, leaped to $13.6 billion in fiscal 1976 . . . . From an emphasis on basic services which are most visible to middle- and upper-income residents—the city's budget shifted to providing more public employee benefits and more services for the poor.

The city became less attractive to middle-income residents and businesses as taxes increased and benefits aimed at them decreased. The suburbs became an increasingly attractive option. "The causes of the fiscal crisis cannot be fully comprehended without" understanding the "exodus of wealth" and the "flood of poor people" who represented an increasing percentage of the city's population. In a way, the migration was inevitable since it was happening in cities around the country. "But a good deal of this population shift was foreordained by city, state and federal policies promoting highways and low-interest government-sponsored home loans." Auletta added:

> Government also made it possible for people to get to their new homes. On January 16, 1955, the Triboro Bridge and Tunnel Authority and the Port Authority agreed to a $1.2 billion scheme to construct a second deck on the George Washington Bridge and miles of new bridge approaches and roads that would bulldoze neighborhoods. The architect of this scheme was Robert Moses . . . .

He quoted Robert Caro's biography of Robert Moses, *The Power Broker*, as saying the plan "sealed, perhaps for centuries, the future of New York and its suburbs." Auletta continued:

> It stimulated new road construction. Visions of sugarplums danced before the eyes of the establishment. The banks thought of the bonds to be sold; the construction unions, of the jobs to be created; the law firms and politicians, of the legal fees and insurance premiums; the real-estate interests, of the enhanced value of their Manhattan properties.
>
> Had that money been spent on mass transit, New York might today be a very different place . . . . But the automobile was the wave of the future.

These forces, especially since enactment of the Federal-Aid Highway Act of 1956 and the construction of the Interstate System, pulled people out of the city. "By 1970, the average household income of the New York City suburbs ($17,062) was more than 50 percent greater than that inside the city ($11,269)."

The transit strike beginning January 1, 1966, "the most damaging strike in the city's history," was another factor. Settlement of the strike 12 days later cost between $52 and $70 million, "almost three times what one of the three mediators, Theodore Kheel, told me should have been the price." The real cost was to come:

> Aside from the immediate $70 or so million price tag, the strike's costs were steep. The city's economy lost millions of dollars in sales and other taxes, and employees sacrified an estimated 6 million workdays. The transit fare rose from 15 to 20 cents; future deficits were guaranteed when the transit system lost 2.1 percent of its riders.

Auletta found that even repeal of the Port Authority's bond covenant, which Kheel had been fighting for years, was part of the problem. The covenant dated to 1962 when the Port Authority arranged a swap with the Governors of New York and New Jersey:

> In exchange for its agreement to take over and modernize the Hudson River commuter rail link between the two states, the Port Authority received permission to build a world trade center in lower Manhattan. The legislatures of the two states also passed covenants solemly pledging that the Authority and its bondholders would never again be asked to take over a deficit-plagued mass transit system. Since such systems chronically lose money, the covenant effectively prevented the rich and powerful Authority from investing in mass transportation. It also reassured bondbolders that their investments would continue to be secured by revenue-generating projects.
>
> Years passed. The Authority's surpluses grew. Mass Transit revenues shrank. Slowly, a chorus of critics also grew—lashing out at the Authority's refusal to invest in mass transit, at the $850 million lavished on the World Trade Center, at the miles of "profitable" concrete ribbons strangling New York.

Theodore Kheel's fight in court had been in vain, but his long campaign helped change attitudes:

> By 1973 and 1974, political support for repeal of the covenant was widespread. Before turning over the reigns of state government to Malcolm Wilson in late 1973, Governor Rockefeller extracted a pledge that he would repeal the covenant.

Governor Brendan Byrne of New Jersey approved the repeal on April 30, 1974, as did the New York State legislature:

> But Governor Wilson hesitated. He worried, he said later, that repeal would "overturn a solemn pledge of the state." Kheel responded: "Repeal of the 1962 statutory covenant will in no way impair the security of Port Authority bondholders."

Attacked for his hesitation by city associations, *The New York Times*, and Republican allies who feared Wilson would lose his election bid in November 1974, "and just about everyone in politics," Governor Wilson finally signed the repeal on June 15:

> After an agonizing appraisal, he said, it was determined to his satisfaction that the repeal was constitutional. The courts disagreed, deciding in 1977 that repeal of the covenant was unconstitutional.

(As noted earlier, Wilson lost the election to Democrat Hugh Carey, who had served in the U.S. House of Representatives since January 3, 1961.)

In the meantime, "the damage had been done," as Auletta explained:

> Repeal came at a bad time. Following the Arab oil boycott, energy costs were soaring, the national economy was in a recession, there was an international crisis, the financial community was suffering losses and had less cash to invest in tax-exempt bonds. And since a credit market is tissued together by faith as well as facts, repeal signaled to investors that what the state giveth, the state can taketh away. Investors took this as a sign that the governments'—or, more precisely, the politicans'—word was no good.

As the city's fiscal crisis deepened, it was unable to rely on "moral obligation" bond issuances to balance its budgets. In 1960, Governor Rockefeller had signed legislation creating a State Housing Agency that could raise funds through moral obligation bonds. Since they were not backed by the State's full faith and credit, they could be issued without a referendum. The agency accepted its moral obligation to find a way to repay bondholders. "The city took the cue" and increasingly relied on such bonds:

> In February 1975, the state Urban Development Corporation—an offspring of the Housing Finance agency—defaulted on its "moral obligations." Within a month, the city found itself unable to borrow money.

When the bond market slammed shut, the city's cumulative deficit was approximately $3 billion. Its reliance on new debt to service old debt was no longer feasible. Despite the State's emergency efforts to borrow money to pay the debts and restore solvency, investors "remained wary," as Auletta explained

> Regular cash deadlines neared, and nerve-ending dramas were played out as all participants marched to the brink of bankruptcy—each time pulling back at the point of no return. Usually, employee pension fund trustees would relent at the last minute and agree to invest more of their members' money. Sometimes the banks agreed to roll over due dates on securities.

Mayor Beame sought a bailout from Washington, but President Ford said in a speech at the National Press Club in Washington on October 29, 1975, that if Congress approved the legislation, he would veto it:

> One week ago, New York City tottered on the brink of financial default which was deferred only at the eleventh hour. The next day, Mayor Beame testified here in Washington that the financial resources of the city and the State of New York were exhausted. Governor Carey agreed. They said it was now up to Washington, and unless the Federal Government intervenes, New York City within a short time will no longer be able to pay its bills.

The fault, he said, was with "those who have misled the people of New York about the inevitable consequences of what they were doing over the last 10 years." The causes were "a steady stream of unbalanced budgets, massive growth in the city's debt, extraordinary increases in public employee contracts, and total disregard of independent experts who warned again and again that the city was courting disaster." A Federal bailout, President Ford said, would "ensure that no long-run solution to the city's problems will ever occur."

He referred to at least eight proposals under consideration in Congress. "I can tell you, and tell you now, that I am prepared to veto any bill that has as its purpose a Federal bailout of New York City to prevent a default." He intended to introduce legislation "providing the Federal courts with sufficient authority to preside over an orderly reorganization of New York City's financial affairs" under bankruptcy laws.

After his remarks, he responded to several questions, the last being, "Do you think you will carry New York City in the next election?" After the audience laughed, President Ford said, "I will take my chances on New York City." He thought the people of New York City would understand how they had been mislead by their leaders and would appreciate "some straight talk."

The next day, *The New York Post* created one of its most famous front-page headlines: "FORD TO CITY: DROP DEAD."

On December 9, President Ford approved, without ceremony, a $2.3 billion seasonal loan authorization. He had proposed such a loan bill a few weeks earlier. Congress appropriated the funds on December 15 in a $10.3 billion supplemental appropriation bill that the President signed as soon as it reached his desk. As Auletta explained:

> With notes coming due in November, the State legislature, at the instigation of city officials, declared a moratorium on the repayment of $2.4 billion of outstanding city notes. Next, the federal government came to rescue, narrowly approving a $2.3 billion annual season loan to the city (to be repaid with interest) after assurances that this loan would put New York back on its feet . . . .

For the next 3 years, "the city limped along," periodically escaping bankruptcy. [Auletta, Ken, *The Streets Were Paved With Gold*, Random House, 1979, p. 29-91; Caro quote, *The Power Broker*, p. 926]

(In the 1976 election, President Ford lost New York City and the State to Governor Jimmy Carter, with much of the blame going to that headline in *The New York Post*.)
The city's finances were unraveling at a time when the entire country was facing economic strains. Presidential historian Robert Dallek explained that the economy "whipsawed by rising energy costs, fell into a cycle of stagflation in 1975—falling GNP, the worst since 1929-1932; 9 percent unemployment, the highest since 1941; and rapidly rising prices, the biggest increases in twenty-five years . . . ." [Dallek, p. 185]

On March 14, 1975, MTA's Yunich announced bus and subway service cuts beginning April 1 because of a "very marked loss of ridership." The subways were carrying 200,000 fewer riders each weekday than for the same period in 1975, costing a loss of $20-25 million. A *Times* article said, "Mr. Yunich cited rapidly declining employment here—especially in the garment district and in clerical positions—as the main reason for the loss of riders." The result of the cutbacks would be "longer waiting times between buses and trains on the affected routes, primarily in nonpeak hours." Yunich said MTA was not planning layoffs, but would retain the hiring freeze instituted the previous August. The main impact of the changes would be on overtime, which he said was "eating us out of house and home." [Burks, Edward C., "Subway and Bus Service Faces Cuts as Riders Fall," *The New York Times*, March 15, 1975]

A month later, the Port Authority announced it would increase tolls on the George Washington , Bayonne, Goethals, and Outerbridge bridges and the Lincoln and Holland Tunnels from $1 for a roundtrip fare to $1.50 on May 5. Vehicles carrying three or more persons could get discount roundtrip fares of 50 cents. Trucks would pay the new fare, but buses would continue to pay the existing roundtrip fare of $1.80. Dr. Ronan said the changes reflected the Port Authority's commitment to mass transit improvements in the area. A Port Authority announcement explained:

> It is no longer in the public interest to offer special inducements to motorists who choose to drive to work. On the contrary there is general agreement on all levels of government that commuters should be encouraged to make maximum use of public transportation or to form car pools. [Burks, Edward C., "Port Authority Increases Tolls at Crossings by 50%," *The New York Times*, April 11, 1975]

Kheel, criticizing the increases as "too little and too late," asked Governor Carey for a much higher toll. Robert N. Rickles, executive director of the Institute for Public Transportation, urged the Governor to veto the increase and require a 100-percent increase instead. In view of "the dire situation" of the subway, commuter rail, and bus systems, Rickles said the increased revenue could be used to support a $600 million bond issue "for much needed expansion and upgrading of the commuter rail system and subways system in New York City." A higher toll increase would, he predicted, divert enough traffic from the automobile to mass transit to allow the city to reject plans to replace the West Side Highway with an Interstate highway.

Two weeks after the increase in tolls, the Port Authority reported that instead of causing motorists to use mass transit, traffic had actually increased. Some motorists had switched to the Tappan Zee Bridge, which had not experienced a toll increase, to cross the Hudson River instead of the George Washington Bridge. [Burks, Edward C., "Carey Requested to Back a $2 Toll," *The New York Times*, April 16, 1975; Burks, Edward C., "Toll Increase Fails to Cut Port Authority's Traffic," *The New York Times*, May 21, 1975]

Mayor Beame was scrambling to balance the city's budget for FY 1976, even delaying its release while he identified ways to increase revenue or reduce expenditures to close the expected $641 million budget gap. He finally released the 1976 budget on May 29, saying that without new revenue, "we must move from programmed recovery to shock therapy." He actually released two budgets, one "crisis budget" of $11.891 billion reflecting the absence of the additional revenue he still hoped to secure, the other an "austerity budget" of $12.678 billion based on receiving the funds. Both budgets involved thousands of layoffs and widespread reductions in service. [Ferretti, Fred, "Mayor Emotional," *The New York Times*, May 30, 1975]

On July 14, Mayor Beame asked the City Council to repeal a law that had limited the one-way fare on the Staten Island Ferry to a nickel since 1898. The increase would allow restoration of services that had been cut on July 1 as a result of the fiscal crisis. [Kihss, Peter, "Beame Asks Wend of 5-Cent Ferry Fare," *The New York Times*, July 15, 1975]

Later that month, MTA announced the bus and subway fares would increase to 45 or 50 cents in 1976. Yunich explained that MTA had "problems similar to those of the city." It faced rising cost at a time of "serious decline of almost 5 percent in ridership, due to the increased unemployment in the city." He added:

> In view of the city's present over-all financial plight, it is clear that the city will be unable to provide any financial support beyond that which it has already allocated. Therefore, the M.T.A. board is compelled to consider a fare increase.

The size of the increase would depend on possible cost reductions and levels of support from the city and State. Yunich also said the MTA was reviewing fares on the New Haven and other commuter rail lines.

Meanwhile, the City Council passed the Staten Island Ferry fare increase to 25 cents by a vote of 34 to 2. [Burks, Edward C., "A Fare Increase to 45 or 50c Seen; Ferry Rise Voted," *The New York Times*, July 26, 1975]

On July 31, MTA announced a bus and subway fare increase to 50 cents, effective September 1, 1975, a 25-cent toll increase on most facilities of the Triborough Bridge and Tunnel Authority (part of MTA), and a 25-percent increase in fares on the commuter rail lines. Even with these changes, Yunich said, "We're not out of the woods by a long shot." He called for understanding by the public and cooperation from the transit unions. The *Times* reported:

> Asked how the M.T.A. could justify an increase of more than 40 per cent now, Mr. Yunich replied, "When I came to New York in 1940 the subway fare was a nickel, and a loaf of bread cost 9 cents. Now a loaf of bread costs 69 cents and the fare is going to be 50. I think the relationship is pretty good."

The *Times* added:

> The M.T.A . . . is largely autonomous, but is heavily dependent on subsidies--$70-million each from the city and state and $244-million from the Federal Government. The unlikelihood of any increase in these subsidies has necessitated the fare increases . . . .
>
> Although Mayor Beame and the Municipal Assistance Corporation recommended the transit-fare increases as part of an over-all revenue package, Mr. Yunich made it clear that the M.T.A. still needed and counted on the $70-million annual city subsidy. In other words, the fare increase in his view is to ease the plight of the M.T.A., a separate entity, and not that of the city treasury.

The increase would require the city to increase its subsidy payment by $16.8 million to keep the fare 15 cents for school children. [Burks, Edward C., "Some Tolls Rising," *The New York Times*, August 1, 1975, Burks, Edward C. "Fare Rise to Cost City $16.8 Million," *The New York Times*, August 2, 1975]

A group of Federal, State, and local officials formed a group to "rollback fare increases," which they deplored as "another sharp turn of the inflationary screw." Representatives Abzug and Koch joined the other members of the group in calling for a 12-county special payroll tax to be paid by employers or a surtax on State personal income and corporate taxes. They predicted that the tax could produce $270 million in new revenue, enough they said to roll back the fare increases due to go into effect on September 1. Representative Abzug accused MTA of raising fares without considering other alternatives:

> The Federal Mass Transportation Act of 1974 provided enough funds to hold the fare until next Jan. 1. But Big Mac and the bankers have dictated this increase now to sell their bonds.

Citing Atlanta's regional tax as a model, the group called on Governor Carey to convene a special session of the legislature to enact the tax. The *Times* reported:

> Persons close to the Governor indicated there was little likelihood of a special session, and the Assembly Speaker, Stanley Steingut, first wants to see what recommendations a joint

> legislative transportation hearing will produce Sept. 10. Also, a city transit official described the effort to get the M.T.A. to roll back its announced fare increases as something like trying to "roll back the Red Sea."

On August 19, Representatives Abzug and Badillo urged about 1,000 people in a lunchtime rally in Lower Manhattan to refuse to pay the increased transit far. "We must refuse to pay this tax, this new transit fare," Representative Abzug said from atop a panel truck serving as an improvised stage. "There were no public hearings and the banks and the Metropolitan Transportation Authority forced Mayor Beame and Governor Carey to raise the fare. We fought the whole Revolution to avoid this type of taxation without representation."

Other speakers, including Representative Koch, urged people to sign petitions calling on Governor Carey to convene a special legislative session to consider the issue. In an interview after the rally, Representative Badillo suggested that people boycott the subways to put pressure on MTA and city and State officials. Citing the 1966 transit strike, he pointed out that people could carpool as a way of protesting the fare hikes.

In an editorial, the *Times* denounced Representatives Abzug and Badillo for launching "a worthy cause on a dangerously misdirected track." The editorial continued:

> Their incitement to break the law is a shocking abrogation of responsibility by officials who were elected to help fashion the laws of the land and who are sworn to uphold them. Mrs. Abzug's rabble-rousing cry to "resist if necessary" has a ring of rank hypocrisy from a member of Congress who was once vigorously outspoken against lawlessness as practiced in the Nixon White House.

As an alternative, the *Times* called for efforts to promote the regional tax advocated by some rally speakers, as well as to "reduce wasteful work rules and other excessive transit labor costs—a subject on which Matthew Guinan of the Transport Workers Union, a co-sponsor of the rally, and other speakers were strangely silent." [Burks, Edward C., "Tax for Transit Gaining Support," *The New York Times*, August 15, 1975; Smothers, Ronald, "Boycott is Urged on Fare Increase," *The New York Times*, August 20, 1975; "Turnstile Tantrums," *The New York Times*, August 21, 1975]

MTA held hearings on the fare increases for commuter rail lines on August 21. Faced with extensive criticism, board members, according to the *Times*, "snapped back yesterday at critics of their projected 25 per cent fare increase on commuter routes, accusing some legislators of 'rank nonsense' in their attacks." The increases for commuter railroads became official on August 25. Yunich said, "While the board regrets the necessity to increase fares, it has no alternative." Otherwise, he predicted a shortfall of $203.6 million for bus and subway operations and $57 million for the commuter rail lines by mid-1976. He urged "all levels of government" to give priority to transit financing. "It is now generally recognized that public transportation cannot be sustained solely by the farte box." [Burks, Edward C., "Hearings of M.T.A. Marked by Clashes on Commuter Fare," The New York Times, August 22, 1975; Burks, Edward C., "Fare Rise Up to 25% to Start on Monday on Suburban Rails," The New York Times, August 26, 1975]

September 1, the day the fare increases went into effect was part of the Labor Day holiday, easing confusion on the lines. After the first work day with the new fares, the *Times* reported:

> The vast majority of New Yorkers trooping back to work yesterday gave the new 50-cent transit fare a shrug or a snarl, and a few of them—42 by early evening—were arrested in scattered gate-crashing incidents.
>
> Despite organized attempts at some subway stations to urge riders not to pay, the transit police—including 300 extra men assigned to the day shift—were able to hold disturbances to a minimum on the first regular working day with the new fare.

The "vociferous rallies of the last few days . . . finally came to little as the great majority of New Yorkers paid the extra 15 cents of the new fare."
After the first week, subway ridership was down compared with a year earlier, but had already been running behind the previous year by about 4 percent because of economic conditions. [Burks, Edward C., "Fare Rise Brings Anger, Shrugs, Turnstile-Jumping and Arrests," *The New York Times*, September 3, 1975; Burks, Edward C., "Subway Riding Here Down 8.2% During First 5 Days of Fare Rise," *The New York Times*, September 11, 1975]

Auletta provided a different perspective on the fare increases:

> Take, for instance, the city's 40 percent subway fare increase in 1975. Many cried, with considerable justice, that this was counterproductive and would lead to the loss of many more riders. That September, the city needed to borrow $906 million to meet its monthly cash needs. Sixty-five percent of this sum was earmarked to repay interest and principal on previous loans, much of which could have been eliminated if previous mayors had not borrowed so promiscuously. Just one-fifth of this September 1975 debt service payment—$120 million—could have spared the 35 cent subway fare. [Auletta, p. 267]

Another force on fares became clear on September 29 when EPA Regional Administrator Gerald M. Hansler announced orders requiring the city and State to establish tolls by mid-1977 on all East and Harlem River bridges. The toll-free bridges included the Brooklyn, Manhattan, and Queensborough Bridges. The *Times* reported:

> Mr. Hansler said the tolls would reduce the pollutants emitted by automobiles by cutting the number of vehicles coming to Manhattan. He estimated that a toll of $1.50 per round trip, 24 hours a day except Sunday, would raise $145 million a year. He added that such revenue would have to be used for mass transit . . . .
>
> The E.P.A. traffic order calls for a 10 per cent reduction in automobiles entering Manhattan south of 60th street between 6 and 10 A.M. Although it is left to the city to achieve this goal, the order calls for elimination of parking meters in mid-Manhattan (which number about 200); sets a rigid control over construction of new parking areas south of 60th Street (one new space only if two are deleted); and suggests new parking surcharges of $2 per space per day.

Mayor Beame responded by saying the city would take EPA to court to invalidate the order because the Federal Goverment did not, the city argued, have the constitutional authority to order a city or State to impose tolls or other measures to comply with the Clean Air Act.

> The city's Corporation Counsel, W. Bernard Richland, said: "We're not going to do it. The idea is ridiculous. It is foolish. It is contrary to the public interest and contrary to the objectives of the Clean Air Act."
>
> Mr. Richland, who is seeking a ruling by a three-judge Federal court, said the E.P.A. orders were clear violations of the 10th Amendment, which reserves all powers to the states not specifically delegated to the Federal Government.

Mr. Richland added that, it was "a pretty-damned ridiculous situation" for EPA to try to force the city to spend an enormous amount of capital funds, "which are unobtainable," for toll plazas. [Burks, Edward C., "U.S. Formally Orders Tolls on Bridges to Manhattan," *The New York Times*, September 30, 1975; Burks, Edward C., "State Will Offer Toll-Bridge Plan," *The New York Times*, October 1, 1975]

(The new bus and subway fare remained in effect through June 28, 1980, when it jumped to 60 cents. Mayor Beame ran for reelection in 1977, but finished third in the primary behind New York Secretary of State Mario M. Cuomo and Representative Edward I. Koch, who won the general election. Beame did receive more votes than Representatives Abzug and Badillo in the primary. Mayor Koch took office on January 1, 1978.)

(In the early 1970s, as mentioned earlier, New York City officials were promoting construction of the Second Avenue Subway. In part with an UMTA grant, the city broke ground on the project on October 27, 1972, at 103rd Street and Second Avenue. Governor Rockefeller and Mayor Lindsay wielded pickaxes, which barely "dented the asphalt pavement," while Senator Javits and Secretary Volpe were among the dignitaries who handled shovels. Recalling that the plan for the subway line dated to the 1920s, Mayor Lindsay said, "We know that whatever is said about this project in the years to come, certainly no one can say that the city acted rashly or without due deliberation." Governor Rockefeller, a Republican speaking just a few days before the presidential election, said, "There is just one man responsible for this groundbreaking this morning, and that man is President Nixon." *The New York Times* explained:

> He was referring to the fact that the Federal Government would pay $12.1-million for construction of the first part of the line, from East 99th to East 105th Street. The State will pay $4-million and the city $2 million. That section is scheduled for completion in the fall of 1975 . . . .
>
> And Secretary of Transportation John M. [sic] Volpe reminded the assembled civic leaders, civil service workers, politicians and schoolchildren [from nearby Public School 121] that since January 1969, the Nixon Administration has given the city's trisate [sic] area more than $235-million in mass-transit funds.

> The subway is expected to cost at least $1-billion, and there is no firm estimate of when it will be completed. The old Second Avenue elevated line carried its last passengers in 1942, and service on the Third Avenue elevated below 149th Street was terminated in 1955.

(Dr. Ronan hailed the groundbreaking as "a day of deliverance for the straphanger." ["Rockefeller and Lindsay Break Ground for 2d Avenue Subway," *The New York Times*, October 28, 1972]

(Unfortunately, the straphanger's relief was to be delayed. The fiscal problems that struck the city in the mid-1970s brought a halt to construction before service could begin. In 1995, MTA's New York City Transit revived the project by beginning a NEPA alternatives analysis. The Federal Transit Administration (FTA), UMTA's successor, issued a Record of Decision in July 2004 concluding the NEPA phase. The $4.4 billion project involved construction in stages of the line from 125th Street to the financial district in Lower Manhattan.

(On November 19, 2007, Secretary of Transportation Mary E. Peters announced that FTA would provide $1.3 billion over 7 years for the first phase as construction progressed. She said, "It will be very good news to people in the area that this long-planned, on-again-off-again project will finally be completed." She added that this was the second-largest expenditure on a mass transit project, the largest being $2.6 billion for the Long Island Rail Road link to Grand Central Terminal. MTA would raise the remaining funds for the first phase of the Second Avenue Subway by issuing bonds. Although plans called for four construction phases, MTA had not established a schedule for the remaining work. [Neuman, William, "U.S. Approved $1.3 Billion for 2nd Avenue Subway," *The New York Times*, November 19, 2007]

(Officials broke ground for the first phase of construction (96th Street to 63rd Street as an extension of the Q train) on April 12, 2007, with construction of this phase to be completed in December 2016. Once again, the *Times* was on hand:

> The politicians and dignitaries sat on a stage about 40 feet under Second Avenue and 99th Street, at the dead end of a 35-foot-wide tunnel built in the 1970s for the on-again-off-again Second Avenue subway. The tunnel was sealed when New York City's fiscal crisis hit, and ever since then it has been waiting for a day like yesterday—a day of cleansing spring rains and underground rites.

(Dignitaries included Governor Eliot Spitzer, Assembly Speaker Sheldon Silver, U.S. Representative Carolyn B. Maloney, MTA Chairman Peter S. Kalikow, FTA Administrator James S. Simpson, and local officials. Deputy Mayor Daniel L. Doctoroff represented Mayor Michael R. Bloomberg, who was out of town:

> Yesterday's ceremony was at least the fourth groundbreaking for the line. Three previous ones were held in 1972, 1973, and 1974 when politicians, including two governors (Nelson A. Rockefeller and Malcolm Wilson) and two mayors (John V. Lindsay and Abraham D. Beame) hacked away at the Manhattan pavement with pickaxes or jackhammers to symbolically start work on different segments of the project.

> Once yesterday's speeches were over, Mr. [Eliot G.] Sander [MTA's chief executive] announced, "We are now going to hit the wall." It turned out that no actual ground was going to be broken. A section of wall where the 1970s tunnel ended had been prepared with a false front of quick-drying cement, half an inch thick, which would fall away when it was tapped with a hammer. For that purpose, 11 shiny brick hammers with plastic-covered handles had been laid out on a table on the side of the stage.

(The *Times* identified a comment by Dr. Ronan, who had participated in that first groundbreaking in 1972, about the 2007 groundbreaking as "Quotation of the Day": "There used to be a saying in New York, 'I should live so long.'" [Neuman, William, "Was There a Ghost? No, Just a Tunnel at the Latest Subway Groundbreaking," *The New York Times*, April 13, 2007])

Herringer's Biggest Disappointment

On April 25, 1975, Herringer was named general manager of BART. He would receive an annual salary of $68,500, which was an increase of $16,500 over the salary of his predecessor, B. R. Stokes. BART's vice president, Elmer B. Cooper, explained:

> We had to pay more to get the man we wanted. We needed someone to lead us out of the hole we are in. He was the best person we looked at for the job, the best transportation man in the country.

(By contrast, the Governor's salary was $49,100.)

BART faced an operating deficit of $15 million and a projected deficit of $100 million in the next 5 years, and was experiencing technical and mechanical problems. Cooper said Herringer's principal task would be "to evaluate the system in terms of fixing all the things that are wrong with it. As general manager, he has the power to evaluate the staff and do what he wants."

Herringer's last day as UMTA Administrator was June 30, 1975; he would remain BART's General Manager until December 31, 1978. Commenting on the use of Federal-aid urban system funds for mass transit, Herringer said, "I would have to say the results have been disappointing to say the least."

Only two transfers from the Highway Trust Fund had taken place by then. Secretary Brinegar announced the first transfer on July 2, 1974, with $1,547,597 in Federal-aid urban system funds being transferred to the Bi-State Development Agency of St. Louis as part of a $12.2 million grant for the purchase of 240 buses, 100 bus stop shelters, 343 two-radios, and other support equipment. Days later, on July 9, Secretary Brinegar announced the "first significant use" of urban system funds for mass transit with the transfer of $33 million to the New York City Transit Authority to buy 398 buses and continue its subway fixed-equipment rehabilitation program. "We hope," the Secretary said, "that New York's flexible use of Federal highway funds will prove to be an instructive example for the entire nation."

The St. Louis and New York City examples did not spur a surge of urban system transfers. Herringer attributed his “biggest disappointment” to lack of information about the program among local transit officials and the “formidable institutional problems” in the States to switching highway funds to transit. He explained, “The decision-making process goes through the Mayor or Governor, and no one pulls it together.” Local highway authorities still exercised considerable control over disposition of highway funds and were not eager for their transfer. The fact that expenditures required a 30-percent local match, compared with 20-percent for UMTA capital grants, also had discouraged transfers.

Several areas appeared ready to begin transfer activities. San Francisco, Chicago, and Minot, North Dakota, had submitted applications for a total of $3.6 million in transfers, while Houston’s transit administrator, Barry Goodman, said, “We met resistance at first” from Texas highway officials, “but after we explained the needs, they agreed.” [Associated Press, “U.S. Transit Chief Named Manager of BART System,” *The Los Angeles Times*, April 26, 1975; Blumenthal, Ralph, “Mass Transit Use of Road Fund Lags,” *The New York Times*, April 21, 1975]

On July 22, 1975, the White House announced that President Ford would nominate Robert E. Patricelli to be UMTA Administrator. The 35-year old native of Hartford, Connecticut, had graduated, *cum laude*, from Harvard Law School in 1965. He had served in the Department of Health, Education and Welfare as Deputy Under Secretary for Policy Coordination, Deputy Assistant Secretary for Planning and Evaluation, and Special Assistant to the Secretary. Since 1971, Patricelli, his wife Susan, and their two children had lived in Hartford where he was vice president of Greater Hartford Process and Greater Hartford Community Development Corporation. He had never held a job related to transit, but had been assured the job would be an “exciting challenge.”

In July, Patricelli sold his Hartford home and relocated his family to McLean, Virginia. In view of his pending job, he wanted to commute by bus to Department headquarters in southwest Washington, but found that he would have to drive 2 miles, park on the street, catch a bus to downtown, and transfer once to reach his office. He decided to commute by car and park in the Department’s four-level underground garage despite the personal embarrassment. Some of his new colleagues were not sympathetic, with one anonymous official saying, “If it was all that important to him, he could have cranked it into his house-hunting.” [Crosby, Thomas, “Brand New U.S. Mass Transit Boss Misses the Bus,” *The Washington Star*, August 7, 1975])

On August 6, Deputy Secretary Barnum officiated at the swearing in ceremony for Patricelli, who served through the remainder of the Ford Administration.

Taking the Sting Out of the 1970 CAA

By the fall of 1973, EPA was continuing to approve plans to bring urban areas into compliance with the ambient air quality standards imposed by the Clean Air Amendments for 1975. On October 15, EPA approved transportation rules for Los Angeles and 16 other areas. For the Los Angeles Basin, the rules included free parking for carpools, surcharges on parking fees, restrictions and eventual bans on motorcycles that did not meet stringent emissions standards, a requirement that the owners of cars manufactured between 1966 and 1974 install an oxidizing catalyst at their own expense, and implementation of inspection and maintenance of 1966-1974 vehicles for antipollution performance.

The area would experience a 57-percent reduction in its gasoline and diesel supplies for the summer of 1977. Drastic as the plan was, it would not be sufficient. Assistant EPA Administrator Robert L. Sanson told reporters that Los Angeles would have to eliminate its vehicle travel completely and San Francisco would need a 97-percent reduction to achieve the standards required by law.

In announcing the plans, new EPA Administrator Russell Train said a "major source of concern" for EPA and Congress was that ultimately, the agency might need to impose "major limitations on gasoline usage itself." He added:

> Achieving reductions in gasoline use of 60 to 80 per cent or more—as several urban areas may need to do by 1977 in order to meet the law's national air quality requirements—is almost certainly unreasonable. It could produce substantial economic and social disruptions.

Although Train planned to ask Congress for an extension of the deadline, he considered other measures reasonable and said they would be pursued vigorously, an aide pointed out that Los Angeles and other California urban areas might need at least 5 years beyond 1975 to meet the standards without gasoline rationing.

The reaction in Los Angeles was negative. Senator Tunney, recalling his reaction in January, said of the possible traffic ban that "E.P.A. spokesmen hint that it may be all but total for Los Angeles, which, of course, would turn the area into a 20th-century ghost town." [Witkin, Richard, "E.P.A. Issues Rules on Car Pollution," *The New York Times*, October 16, 1973; Benjamin, Stan, Associated Press, *The Washington Post*, October 16, 1973]

Next, in response to another court order, EPA proposed measures to address "complex sources" of air pollution such as parking garages, airports, shopping centers, and sports stadiums. In approving new such projects, State or local officials would have to consider the air-quality impacts of highway traffic accessing the facility. The goal, Train said, was not to stop construction but to encourage "proper location and design." Developers would be required to show that their proposal would not violate a State's pollution-control strategy or "prevent or interfere" with attainment or maintenance of national air quality standards. Projects that could not meet this test would have to be blocked. ["Developers of 'Complex' Air Polluters Get More Latitude Than Expected in EPA Plan," *The Wall Street Journal*, October 29, 1973]

By then, the Nation had begun suffering from the severe energy crisis caused by the oil embargo. As Train, who had become EPA Administrator only the month before, put it in his autobiography, "Any honeymoon for me at EPA was nonexistent." The energy crisis "occupied much of the president's time not already taken up by Watergate." He continued:

> One of the major difficulties EPA faced was that compliance dates for meeting environmental standards mandated by statute, particularly the Clean Air Act, began to hit just as the nation was feeling the pinch of the energy crisis, was in the midst of inflation, and was on the edge of an economic downturn. We prepared our defenses as best we could against the opponents of environmental regulation, who typically argued either that the cost of compliance with a given regulation far exceeded the benefits to be achieved or that the risks addressed by a regulation were overstated and did not justify the cost of compliance.

At a pre-boycott Cabinet meeting that Train attended, President Nixon "made quite clear his conclusion that it was going to be necessary to 'lower the emission standards.'" [Train, p. 161-162]

A new concern had emerged that the new catalytic converters that would control auto emissions produced small amounts of sulfuric acid vapor that could cause lung damage. (Governor Reagan had mentioned this concern in his AASHO speech.) On November 6, 1973, Train testified before the Senate Public Works Committee that the possible dangers could be dealt with by removing sulphur from gasoline or adding equipment to the converters. The dangers did not justify rolling back the standards for automobiles. Dayton H. Clewell of Mobil Oil Corporation told the committee that removing sulphur from gasoline would require a significant investment while aggravating the fuel shortage:

> We must make up our minds about our order of priorities. Do we desulphurize or do we increase gasoline refinement capacity? It does not look as though we can do both.

A panel of GM, Ford, and Chysler officials used the hearing to ask Congress to freeze emission standards at 1974 levels for 1, 2 or 3 years. [Witkin, Richard, "Senate Panel Told Desulphurizing 'Gas' Is Costly," *The New York Times*, November 6, 1973; Witkin, Richard, "Agency Bars Stay on Auto Pollution," *The New York Times*, November 7, 1973]

On December 2, *The Washington Post* reported that the White House, bypassing EPA, sent an OMB-drafted amendment to the House Public Health and Environment Subcommittee freezing 1975 auto exhaust standards through 1977. The Senate Committee on Public Works had already voted an extension to 1976:

> For the public, the proposed amendment would mean a slowdown in the drive to clear up the air. For Detroit it would mean more time to find ways to clean up engine exhausts and perhaps reduce its planned investment in catalytic converters to purify pollutants coming out of the tail pipe.

EPA officials were "reported to be furious that the White House amendment went to the House Thursday without their knowledge." [Wilson, George C., "Clean Air Delay is Proposed," *The Washington Post*, December 2, 1973]

Train summarized the conclusion:

> In recognition of the practical difficulties the auto industry faced in putting catalytic converters into production, the Energy Supply and Environmental Coordination Act of 1974 provided an extension until 1977 of the 1975 auto emission standards and also gave the auto industry the right to petition for a one-year suspension of the 1977 hydrocarbon and carbon monoxide standards. The industry promptly petitioned for such an extension in January 1975, during the Ford administration.

In signing the legislation on June 22, 1974, President Nixon said that the country must continue to fight for clean air. "It has become clear, however, that certain requirements established by the act cannot be achieved within the deadlines allotted, and others have unacceptable economic and social implications."

After public hearings on the issue, Train announced on March 5, 1975, that because of the sulfuric acid emission problem, he was suspending the 1977 auto emission standards and recommending a program for reducing hydrocarbons, carbon monoxide, and sulfate emissions for the 1977-1982 model years. [Train, p. 167-169]

A similar fate awaited the ambitious and controversial transportation management plans the Clean Air Amendments of 1970 had required. In discussing the outcome of these efforts, Train explained that:

> In response to all the controversy that swirled around the federal role in these issues, Congress inserted language in EPA's appropriation bill requiring, in effect, that none of the funds appropriated be used to enforce transportation plans. That essentially was the end of a no-win effort. [Train, p. 176]

Secretary William T. Coleman, Jr.

The September 1974 issue of *Government Executive* contained an article about the Department of Transportation ("the youngest Cabinet level organization in the Federal structure"). It quoted Secretary Brinegar as saying:

> When I was sworn in on February 2, 1973, I took a personal pledge to do my best to be Secretary of all Transportation. But a funny thing happened to me on the way to carrying out that pledge: I nearly got run over by a bankrupt railroad; I got backed to the wall by a trucker's strike and I spent several months struggling with the energy shortage.

He also had overseen a shift in the balance between highways and transit, a shift that highway interests understood. Some in the highway community were having trouble accepting the shift, but Administrator Tiemann embraced it in recognition of the limitations of the highway mode:

> We expect that the Federal Highway Administration is going to gradually evolve from being primarily an engineering organization to one that is concerned with the management of our transportation network, including in cooperation with UMTA, mass transit in our urban areas.

> Building new freeways is no solution in itself unless we know how to manage the traffic that uses them, so that we can prevent traffic congestion and accidents. In other words, we must know how to most efficiently manage the facilities we have.

(Tiemann would follow through on this evolution in October 1975 when he changed the title of the top official in FHWA's State offices from Division Engineer to Division Administrator. The new title, he said, better reflected the nature and scope of the position. "As the role of the Federal Highway Administration has gradually evolved from essentially an engineering function to the much broader responsibility of highway management, so, too, has the assignment of the Division Administrator changed.")

The magazine quoted Secretary Brinegar's message:

> Transportation is not an end in itself. It is a means to contribute to the Nation's economic well-being and quality of life.
>
> Thus, transportation is a linking process—it links together the Nation's productive resources as they move from the raw material stage to the manufacturing plant to the consumer; it links our dispersed population centers; and it makes it possible to move people and goods within our densely populated urban centers. ["A Moving Target," *Government Executive*, September 1974, p. 1-2]

On November 18, 1974, Secretary Brinegar was in Detroit to address AASHTO's annual meeting. He began by recalling his speech a year earlier to what was then still technically AASHO in Los Angeles. He had complimented the organization then for its "broadened outlook and on your new focus on all aspects of transportation." He continued:

> Yes—and this point is made even more pertinent by the location of this year's meeting—our Nation's transportation system continues to be inescapably dominated by our 120 million automobiles and trucks and by the 3.7 million miles of streets and highways that serve them.

How, he asked, could the Nation deal with the policy dilemmas of an economy containing excessive inflation and high unemployment while coping with the "chilling—and the word may prove to be unfortunately apt—prospect of a permanent energy shortage?" President Ford had made reducing inflation a top priority, but he also "launched a major effort to deal with the energy shortage, both by increasing domestic supplies of all types and by decreasing wasteful usage through conservation." Because the transportation sector used 60 percent of the Nation's energy, the Department of Transportation's program had to be part of the fight.

America used about 17 million barrels of oil per day, but produced only about 9 million barrels daily of crude oil. Secretary Brinegar said, "it's little wonder that the balance of energy power has shifted to the Middle East—along with $60-$70 billion per year of the world's monetary resources. To change course, much of the reduction "must come from the transportation sector."

First, he said, "We must find effective ways to discourage people from using the family automobile so casually and so wastefully." The country's 100 million automobiles use over 5 million barrels of petroleum a day. "Quite clearly, any serious effort to save fuel must concentrate on the family automobile." Drivers must be convinced to "voluntarily reduce unnecessary driving," a cause helped by higher gasoline prices. The single occupants of the 30 to 35 million automobiles commuting each weekday must be convinced to car pool or shift to mass transit. The 90-10 carpool incentive grants from the Highway Trust Fund had resulted in over $8 million in grants to 80 urban areas, but would expire at the end of the year unless renewed as President Ford was about to request. The Department was about to launch a national publicity campaign to promote carpooling. The theme was:

Double Up, America. Two can ride cheaper than one

Enforcing the 55 m.p.h. speed limit was another important way of reducing energy consumption. "In addition to major fuel savings, observing the speed limit will significantly reduce highway deaths and injuries." The FHWA was conducting a survey to determine which States were lax in enforcement. "We may find it necessary to seek legislative authority to withhold FHWA or NHTSA funds as a method to achieve the needed compliance."

In addition, the auto industry must produce more fuel efficient cars. The 1975 models (fleet average about 16 miles per gallon) were slightly better than the 1974 models (14 miles per gallon). "If the auto industry, including imports, can achieve, by 1980 models, the 40 percent improvement that President Ford has called for—to a 1980 average of 19.6 mpg—the fuel savings would be of major proportions."

Another imperative: "We must make alternatives to the automobile more attractive to potential users, especially in our large and congested urban areas." Recent ridership increases, partly a result of the energy crisis, were encouraging but even with increased funding for transit, "there are limits" to what transit can accomplish. "We must not expect too much too fast from mass transit." In the largest urban areas, the percentage of travelers using mass transit might reach as high as 24-30 percent, "but for virtually all the rest, 15 to 20% is more likely a realistic upper limit over the next decade."

Between the two mass transit options (rail and bus), fixed guideway rail systems are very expensive, take years to build, and attract significant ridership only in densely populated corridors. "Viewed strictly from a technical standpoint, in all but a very few situations buses are cheaper, more quickly available, and can be more flexibly adapted to changing commuting patterns." He added that, "Unfortunately, too many automobile commuters do not yet view buses as a very appealing alternative."

As a result, the automobile would "almost certainly be the principal form of urban transportation in most of our cities for a long time." The key, therefore, was to find ways to make automobile use more efficient through "better urban planning and better traffic management." Better management might include staggered work hours, carpooling, and traffic flow controls as well as special bus lanes and "minibus" home pick-up and delivery services. With such techniques, "we should be able to entice reasonably large numbers of people to switch from their cars, especially as gasoline prices, downtown parking rates, and other costs of automobile ownership and usage rise."

The Ford Administration, he said, would soon be proposing a Federal-aid highway bill that would be based on several objectives. Without going into details, Secretary Brinegar said it would maintain the longstanding Federal-State relationship. It would take a long-term perspective of funding through FY 1980 to help States make "reliable long-term transportation plans." The special funding programs, now exceeding 30, would be reduced. "The States and localities need more responsibility and more flexibility in deciding upon local priorities and uses of the available funds. Further, annual funding levels should be "reasonably predictable, yet be sufficiently flexible to permit adjustments for changing National conditions, including the impacts of inflation." He hoped that the 1974 Budget Control Act would offer "the machinery for achieving this flexibility, although until we have some actual experience under it I must reserve judgment."
Completing the Interstate System would remain a priority. "Although only one-seventh of the interstate mileage is not yet open to traffic, the unfunded cost is at least one-quarter of the total—and growing." Secretary Brinegar said that he saw "a need to focus on a method of identifying key unbuilt and unfunded priority links—especially those that will complete connections between and around our major cities—and then funneling ear-marked money to these high-priority links." The Highway Trust Fund should be continued until the Interstate System is largely completed. "Longer-term uses of Trust fund dollars—including possible future maintenance and upgrading of the Interstate System—are issues that we still have under analysis.

(The 1975 Interstate Cost Estimate, which went to Congress on July 16, 1975, indicated that the total cost of the Interstate System would be $89.2 billion (up from $76.3 billion in the 1972 estimate) and that the 90-percent Federal share would total $79.52 billion (compared with $62.5 billion in 1972.)

Secretary Brinegar's prepared remarks concluded with this observation:

> Despite today's problems and uncertainties our Nation—and its National will—remains strong. Our physical assets, our productive capacities, and our innovativeness are as great as ever. Caution is certainly needed as we work our way through today's global minefield, but caution must not give way to pessimism.
>
> We are endeavoring to design our programs to reflect the right mix of caution about today and optimism about the future. We solicit and welcome the advice of AASHTO in this process.

On December 17, 1974, Secretary Brinegar submitted his resignation to President Ford, effective February 1, 1975. In a December 18, reply, President Ford accepted the resignation "with deep gratitude for your dedicated service." He said:

> In doing so, I want you to know of my personal appreciation for the many improvements in the Nation's transportation system that have occurred in your tenure as Secretary. The Regional Rail Reorganization Act of 1973 and the National Mass Transportation Act of

> 1974 are but two of many legislative achievements of truly historical significance. Under your capable leadership, we have for the first time since the creation of the Department articulated a National Transportation Policy, and I particularly want to commend you for this important achievement.

He wished Secretary Brinegar continued success as he returned to the private sector.

Shortly after the announcement, *The Journal of Commerce* reported that his tenure "drew universally high marks for his achievement from industry spokesmen." He did an excellent job "under very difficult circumstances." Secretary Volpe had been "a tough act to follow," according to an unnamed administration source:

> "Mr. Volpe was a lot more dynamic and forceful. Mr. Brinegar's style was different. He was more a behind-the-scenes guy who would hold informal, unannounced meeting in his office or go to the hill to meet with Congress, take steps to resolve the problem and go home. Mr. Volpe did the same thing, but he'd hold a press conference afterwards and made Department of Transportation employees feel they were part of the action."

Another source said that Secretary Brinegar took a direct role in his speeches, sometimes writing them himself. "There is no question he grew in the job . . . and he learned the hard way." One lesson was that, "Congress packs a lot of clout and one doesn't walk up to the hill and tell Congress what to do." [Rokeach, Morrey, "Brinegar Draws High Marks," *The Journal of Commerce*, December 20, 1974]

The DOT Historian's Web site said of Secretary Brinegar:

> While Secretary, Brinegar confronted railroad revitalization and proposed regulatory reforms that the collapse of the Northeastern railroads made necessary, reauthorization of the federal highway program, and the impact of transportation on energy consumption and the environment, triggered by the energy shortage of 1973-74. Brinegar also steered the Department through Watergate. When Gerald Ford said that he intended to seek the Presidency in his own right, Brinegar, not wanting to be part of a reelection campaign, resigned, effective February 1, 1975, and returned to the Union Oil Company, where he was elected senior vice president and member of the Executive Committee. He subsequently served as leader of the Reagan transition team for the Department of Transportation. After retiring as Vice Chairman from Unocal Corp., as it was later named, Claude Brinegar was elected to the Conrail Board of Directors. [http://ntl.bts.gov/historian/bios.htm]

On January 14, 1975, President Ford announced that he would nominate William T. Coleman, Jr., as the fourth Secretary of Transportation. The 54-year old attorney would be the second African American to hold a Cabinet post (the first was Robert C. Weaver, Secretary of Housing and Urban Development from 1966 to 1968). A graduate of the University of Pennsylvania, Coleman had completed a year of law school before enlisting in the U.S. Army Air Corps in 1943. After graduating *summa cum laude* from Harvard in 1947, he served as a law clerk to Supreme Court Justice Felix Frankfurter in 1948 along with Elliot L. Richardson, a Harvard Law School classmate.

The future Attorney General recalled of Coleman, “He had strong views on a variety of subjects, but he always approached a case with strict legal and constitutional perspective—and brother, was he sharp.”

As president of the Legal and Educational Defense Fund, Inc., of the National Association for the Advancement of Colored People, he was involved in the Civil Rights Movement of the 1950s and 1960s. He was a co-author of Thurgood Marshall’s successful 1954 brief before the Supreme Court in *Brown vs. the Board of Education*, the decision that overturned the “separate-but-equal” concept of race relations. In addition to a successful career as an attorney in Philadelphia, he had served as a staff lawyer for the Warren Commission’s investigation of the assassination of President Kennedy and as chairman of the White House Conference on Civil Rights in 1965, among a number of part-time assignments in public service.

The future Secretary had extensive experience in transportation, including service as legal counsel helping Philadelphia and Cincinnati acquire their private transit systems, transportation labor matters, and as special counsel for SEPTA, the Philadelphia area transit agency. At the time of his nomination, he was a director of Pan American World Airways, the financially troubled U.S. flag international airline. If confirmed by the Senate, Secretary-designate Coleman said he would resign from his PanAm post.

For a profile appearing in *The Washington Post*, Coleman said he had “enormous respect” for President Harry S. Truman and President Eisenhower, knew President Kennedy “from Harvard days” and “admired him very much,” but declared “there is no man that I admire more than Lyndon Johnson.” In his Philadelphia office at the law firm of Dilworth, Paxson, Kalish, Levy and Coleman, he gestured toward a picture of himself with the former President. He also expressed “great admiration” for President Ford, noting their service on the Warren Commission. He declined to comment about President Nixon, saying, “I’ve got to go before the Senate and I don’t want to go into that, please.”

Coleman had been offered Federal posts before but always turned them down:

> I thought it important that the talent I thought I had should be used in the private sector. I thought corporations would pay a lot of attention to my recommendations [on civil rights] when they saw me function in things that had nothing to do with race. I could get companies to be more responsible.

He initially had planned to turn the position down, but changed his mind after meeting with President Ford:

> President Ford really wants to make a change. In 15 minutes’ conversation, he told me how important transportation is to him. I felt the guy really wants to do it.

He declined to be more specific. [United Press International, “Ford to Nominate Black to Cabinet,” *The New York Times*, January 14, 1975; Wooten, James T., “Transportation Choice,” *The New York Times*, January 15, 1975; Epstein, Aaron, “Nominee to DOT Has Built-in Caution Light,” *The Washington Post*, February 22, 1975]

An editorial in *The New York Times* said of Secretary-designate Coleman:

> [His] distinguished achievement as a private practitioner of the law and as a public-spirited citizen make it almost irrelevant to note that he is the second black to be nominated to a Cabinet post, were it not for the fact that his color lends even greater depth to his accomplishments. The country is fortunate that Mr. Coleman did not reject this call to public service as he did some years ago when President Johnson asked him to join the Federal judiciary. ["The Ford Nominations," *The New York Times*, January 16, 1975]

The Senate Commerce Committee confirmed Coleman unanimously and sent his nomination to the Senate floor. The Senate confirmed Coleman in routine business on March 3.

On March 7, President Ford and Secretary-designate Coleman appeared in the East Room of the White House for the oath of office. They were joined by Coleman's family and friends, including President Johnson's daughter Lynda Johnson Robb and so many Philadelphia associates that the Metroliner to Washington was unofficially dubbed "The Coleman Special."

President Ford began his remarks by recalling that as a member of the Warren Commission, he had met the new Secretary in 1963. "When we were looking for a Secretary of Transportation, Bill Coleman's name was right at the top of the list." He warned Coleman that, "you have your work cut out for you" because of the Department of Transportation's "very critical role as this Nation proceeds toward energy independence." With transportation accounting for over 50 percent of our total petroleum use, "we need strong assistance from the transportation sector" to attain the goal of energy independence."

(The President accidentally referred to the position as "Secretary of Commerce," before correcting himself and assuring Coleman, "I'm not switching jobs on you.")

President Ford pointed out that the Federal-Aid Highway Amendments of 1974 required the States to certify their enforcement of the speed limit of 55 m.p.h. prior to the release of Federal-aid highway funds. "Strict enforcement of the 55-mile-per-hour limit is absolutely essential . . . . I look to you for stern but equitable enforcement." Secretary Coleman also would be working towards a goal of a 40-percent improvement in auto fuel efficiency by 1979 for new cars.

The President recalled how he had fought for the National Mass Transportation Assistance Act of 1974 in the last days of the 93rd Congress. "I am looking to you for vigorous implementation." Pending legislative initiatives included "a new highway bill, which will set forth a revised highway program through the year 1980."

Just before the swearing in, the President said, "Mr. Secretary, I'm very pleased to welcome you into one of the toughest Cabinet posts in our Government and to wish you success as we work together. Now, Mr. Secretary, if you still want the job—[laughter]—I will ask Justice Marshall to please administer the oath."

Supreme Court Justice Marshall, Coleman's associate from the Civil Rights era, administered the oath of office.

Later, during a reception in the State Dining Room, a reporter asked Coleman's mother if she was proud of her son. "Am I proud of him? I'm the proudest mother in the United States today." [Kilpatrick, Carroll, "William T. Coleman Becomes Secretary of Transportation," *The Washington Post*, March 8, 1975; Black, Creed C., "A 'Fine Philadelphian' Joins the Cabinet," *The Philadelphia Inquirer*, March 9, 1975]

Interstate Substitution-Withdrawal

In the reports to Congress in 1939 (*Toll Roads and Free Roads*) and 1944 (*Interregional Highways*) that first described what became the Interstate System, one of the central tenets was that the larger cities would have an inner beltway built through decaying properties around the CBD and an outer beltway around the city. The two belts (and a third more distant belt for the most heavily populated areas) would be linked by radial express highways. The outer beltway or beltways would carry traffic among the radials as well as traffic bypassing the city. The inner beltway would link the radial termini to allow traffic that was not bound for downtown to bypass the congested CBD. Motorists could leave their vehicles in parking structures near the inner beltway and continue to their destination on foot or by transit. This configuration was intended to relieve congestion, revitalize the inner core, limit suburbanization, and restore the tax base of the cities.

Many large cities developed plans for their expressway networks, usually modeled on the concepts in the two reports. Business organizations, State and local officials, and the public supported the elaborate expressway plans until construction began. Once their disruptive impacts on neighborhoods and businesses became evident, the urban Interstates proved unpopular, controversial, and difficult if not impossible to build. Where they were built, they generally failed to solve the problems they were designed to address. Congestion continued. Suburbs expanded along the Interstate routes with "edge cities" springing up at the interchanges. The CBDs continued to decline as population and businesses shifted to the suburbs. And cities, faced with declining revenue, struggled to provide services, including mass transit, to a needier population.

City and State officials were faced with unsatisfactory options. They could try to build controversial Interstate highways to reap the jobs benefits from the expenditure of millions of dollars. They could cancel the Interstates and lose the money and jobs. They could try to shift a controversial route to a location where construction might be possible or use the money on other noncontroversial Interstate routes. Making these choices even more unappealing was the growing demand for public mass transportation. As cities took over mass transit from the private companies that had formerly provided the service, they searched for additional revenue—from taxing their own residents and those in surrounding areas or from the State or the Federal Government—to improve the service and pay for its inevitable operating deficits.

Boston had followed the familiar pattern of conceiving an expressway network, beginning construction, discovering that it proved controversial, and then building the routes anyway—that is until People Before Highways Day brought Governor Sargent to Boston Common shortly after replacing Governor Volpe. From then on, Boston was different from most other cities because Governor Sargent was not trying to modify the routes or their designs to overcome objections to their construction. He had cancelled the freeways outright.

Business and labor interests charged him with costing the area $700 million in Federal-aid funds that translated into jobs lost and economic opportunity squandered. Pressed to save the funds, if not the highways, Governor Sargent argued for allowing Interstate funds intended for controversial routes to be put to alternative uses, including rail and bus mass transit options. Although this issue was only one aspect of his congressional testimony in 1972 and 1973, he was a critical figure in convincing Congress to approve the concept, as his Secretary of Transportation, Alan Altshuler, discussed in books he and associates wrote after he left office.

In a book written with David Luberoff on mega-projects, Altshuler said that substitution was an option that "Sargent had already been pursuing (in cooperation with leading members of the Massachusetts congressional delegation) for the past year." When Secretary Altshuler suggested a middle option of scaled down freeways, Sargent rejected the idea. "Sargent confided privately that [regardless of their merits] he did not see who would support my middle-ground position . . . . The pro-highway and anti-highway forces were so polarized that he felt compelled to choose one or the other in clear-cut fashion."

Because a statutory change would be needed, Governor Sargent took the lead in Congress among State and local officials who hoped to trade in Interstate highways for alternative highway or transit projects. His success, according to Altshuler, came for an unexpected reason:

> Leaders of the highway coalition at first considered this a preposterous idea, but state officials persisted, arguing that it was unfair to penalize states that—because of changing political circumstances and new federal environmental laws—were unable to build controversial highways. Sargent, in particular concentrated on lobbying his state's powerful congressional delegation. In response, House majority leader Thomas "Tip" O'Neill, through whose district two of the controversial Massachusetts highways passed, and Senator Edward Kennedy asked the key committee chairmen—Representative James Wright (D-Tex.) and Senator Jennings Randolph (D-W.Va.)—to include the transfer provisions in pending legislation to reauthorize the federal highway program. Wright and Randolph proved receptive. Altshuler, who conceived this provision and, on Sargent's behalf, managed the effort to secure its enactment, wrote [about it] several years later:

They quoted a passage from Altshuler's 1979 book on urban transportation:

> The Senator (Jennings Randolph) and congressman (Jim Wright) who played the key roles in forging the new strategy were from West Virginia and Texas, respectively. Along with nearly all of their committee colleagues, they were perennial champions of the highway program who had minimal interest in transit. Their central concern was that urban expressway controversies and transit aid demands had become significant threats to the consensual and veto-proof dominance of the highway coalition in Congress. By extending the program concept to include (and provide major new benefits for) transit and to return

> disputes about highway-transit tradeoffs firmly to the local level, they not only reestablished congressional harmony in the highway policy arena, but they also enhanced their own reputations as legislative statesmen. (Congressman Wright became House majority leader in January 1977). This is by no means to minimize the victory achieved by urban anti-highway and transit interests in the 1973 and 1974 acts. But it is to emphasize that they were minor actors who achieved influence largely by maximizing their nuisance potential. Their triumph occurred when a few farsighted leaders of the highway coalition, which remained politically dominant, discerned that a mutually beneficial solution was possible and persuaded the rest of the coalition to accept it. [*Mega-Project*, p. 87, 187-188; the excerpt about Wright's and Randolph's concern is from *The Urban Transportation System: Politics and Policy Innovation*, p. 38]

With strong support from the Massachusetts delegation, Congress included a provision in the 1973 Act that allowed a Governor and the local governments concerned to ask the Secretary of Transportation to withdraw Interstate designation from controversial unbuilt routes or portions thereof in an urbanized area. The Secretary could withdraw designation if the segment was not essential to completion of a unified and connected Interstate System and the Secretary received assurances that the State did not intend to construct a toll road in the traffic corridor that would have been served by the Interstate route. Transit projects in or serving the same urbanized area could be substituted, with funds from the general Treasury in an amount equal to the Federal share of the withdrawn facility. (The Federal-Aid Highway Act of 1976 allowed local officials to substitute highway projects in addition to transit projects.)

Altshuler discussed these events in an oral history interview that Darwin Stolzenbach conducted for AASHTO's 1988 Interstate Highway Research Project. Regarding Governor Sargent's announcement on February 11, 1970, that he would not build the I-95 extension into Boston or I-695, Altshuler recalled Secretary Volpe's reaction:

> Volpe reacted almost violently. When Sargent made the speech in February 1970, he did not tell Volpe until a couple of hours before [when] he made a courtesy call. As you can imagine, Volpe was furious. Then about a week or two later, Sargent went down for a Governor's conference, and he took me with him, and the MBTA Chairman and the Commissioner of Public Works.
>
> He had a meeting with Volpe in the Vice President's office. The Vice President wasn't there, but Volpe had gotten the office. Volpe walked in and for five minutes he just lambasted Sargent for making this dumb decision. And Sargent, who called Volpe "Governor,"—Volpe called him "Frank"—and Sargent said, "Well, Governor, you know, you have got to listen to the people." And Volpe pointed his finger at me and he said, "Frank, you are listening to the wrong people!"

On why Secretary Volpe subsequently kept his views private, Altshuler explained:

> Volpe was changing his own positions rapidly during this time period. And I mean, he was stopping things for environmental reasons and so on. But the main reason that Volpe went

> along, I think, was . . . Volpe's view that he was a highway builder second or third. But first he was a politician. If you are a politician and you have a protégé and you become Secretary of Transportation and he becomes Governor, you let him be the Governor. And if he does things you don't agree with, you nonetheless give him pretty good support.
>
> And that's what Volpe did. Volpe never criticized Sargent publicly.

Governor Sargent's February 1970 decision included a call for a study and he asked Secretary Volpe for $3.5 million to help fund it:

> He needed $3.5 million. And the state legislature sure wasn't going to give it to him. The state legislature was in the hands of the highway people. Frank Turner advised Volpe not to authorize it . . . "It is illegal to spend highway money to study the possibility of not building a highway."

(Despite Turner's efforts, Secretary Volpe announced the grant on February 25, 1971, calling the study "one of the most comprehensive ever submitted to the Department of Transportation." A press release described the study:

> The study will consider a number of major transportation controversies in the Boston area. These will be reviewed in concert, with careful attention to their interrelationships and to their effect upon the full range of metropolitan values, such as environment, housing, employment, and the economy.

(Governor Sargent, the press release continued, was "deeply grateful to the Secretary." The study, he said, would serve as a model for the country because it would bring the transportation decisionmaking process as close as possible to the local level and elevate citizen participation; would first evaluate and weigh environmental and community considerations and impacts before deciding whether to build a transportation facility, rather than selecting the facility, then studying its impacts; and was an effort "to develop a new Federal/State relationship in transportation planning which encourages state initiative and Federal flexibility in developing transportation programs for urban areas.")

Asked why Governor Sargent decided to promote the idea of withdrawal and fund substitution. Altshuler said:

> Well, the reason was fairly simple. Sargent was potentially out on a limb for enormous sums of money. I had become very concerned that the thing that was driving the [highway] policy in Massachusetts was federal money that was up there. And it was clear that if Sargent permanently stopped the highways, the major criticism of him was not going to be on transportation grounds—it was going to be that he had lost $600 million that was coming to the state of Massachusetts.

And at the same time there were severe shortages of money for transit investment, transit investments that essentially would have lots of support behind them and for which there was no money.
So clearly the way to give Sargent the maximal range of options . . . was to reduce this potential political liability of not building the highways. So that's what it was all about, basically, to make it potentially feasible for Sargent to kill the highways.

How did Massachusetts promote the withdrawal-substitution concept?

[At] every opportunity we lobbied hard for this position. Then in 1972 the administration proposed, as part of the proposed Highway Act in 1972, the flexible use of urban highway assistance funds for transit as well as highway purposes.

Now, we lobbied like crazy to get Interstate funding included there, as well. The Interstate was considered to be sacrosanct, you know.

We were lucky in that, at the last minute, in 1972, the whole bill got killed. It got killed in part over the issue of even (opening) the highway funds for urban systems . . . .

So then in 1973 the issue was building, and in 1973 the administration finally proposed a bill that included our Interstate component . . . .

Did Massachusetts reach out to the other States for support?

Now, it might be worthwhile to talk about some of the alliance-building that went on.

At the beginning, Massachusetts was absolutely alone pursuing this thing. We decided what we had to do was to find at least a few other states with similar problems that might join us in this effort. And, also, try to neutralize and get support from AASHO. Now, AASHTO. There were several people who, in the end, joined. Harry Hughes, who was then the Secretary of Transportation in Maryland had a problem both in the Baltimore area and in the Washington [suburbs]. Harry was a very enlightened, thoughtful guy. And so he joined.

He was the only one who really gave vigorous support [to] Massachusetts. We got a little bit of support, as I recall, from the state of Illinois, toward the end. I guess we didn't get it—in one administration we did, and in one administration we didn't.

After [Langhorne Bond] became the Secretary of Transportation out there . . . we got support. See, Chicago would never support us. They were very important because a Chicago representative [Kluczynski] was the key person on the House Public Works Committee. The Crosstown Expressway was an issue that we thought might lead them to support us, but Mayor Daley was absolutely committed to building that . . .

My recollection is that eventually . . . Pennsylvania joined us, because they had problems in Philadelphia. But that is about it. California vigorously opposed us . . . . Reagan was

> Governor of California at that time, and he had a Commissioner of Transportation named Jim Moe who was a very decent fellow . . . [but] it was the position of the state that the Interstate system was the one thing the federal government [should] be doing. The federal government should go out of the highway business and the transit business altogether except for the Interstate.

What about AASHO's position? Referring to AASHO's executive director, Alf Johnson, Altshuler recalled:

> He was really quite a statesman of the highway program. And we went to him and we said, "Look, the issue is very simply state discretion. We are not saying that [other States shouldn't] build highways. We are not lobbying against highways in Montana and so on. Our position is simply that Montana shouldn't tell Massachusetts how to spend its money. And he basically could see that.

Did the transit lobby support the concept?

> The key thing was that by 1973 there . . . was a powerful mass transit lobby and it included most of the cities . . . . By 1973 the idea had taken off considerably. And the National League of Cities took a position that without the flexibility in the use of highway funds monies, that they were going to be opposed to highway bills. [W]hat happened in 1973—and there was a big difference in the situation in 1970 when this all began—was that the highway people were [convinced] that the coalition was more important . . . . the highway coalition got together by expanding the logroll.
>
> We basically made a deal that we were going to have local officials on board, as in 1956. What we were going to do was we were going to give the urban officials flexibility to use it for either highways or transit, we were going to put highways and transit into the same big bill—comprehensive highway transit legislation, with flexibility in the urban areas—and we were going to eliminate any opposition to highway programs. And we did.
>
> Nationally it was a success, great success. Of course, very few urban freeways have been built since.

How did you get the measure through Congress?

> Everybody in the country that was a highway lobbyist was ready for this. Frank Turner was not ready for this. But the—some of the key statesmen . . . came to recognize that the way to really solidify the political base of the national highway program, to be able to override Presidential vetoes, was to have veto-proof majorities. And the way to get veto-proof majorities was to forget whether a given highway is being built in Boston or Baltimore.
>
> The way to get a veto-proof national program through is to include transit. And they did. And they succeeded in doing that.

Now, there were a couple of key people for this. The first one who came around, is Jennings Randolph. He came around in 1972 to our side. My recollection . . .was that this came out in the 1972 bill. We managed through a close friend in Massachusetts [a member of the MBTA] to get access to Jennings Randolph, who was Chairman of the Senate Public Works Committee . . . .

See, what I was doing in 1971 and 1972, was talking this up everywhere. And after one of my talks about this, this guy came up to me and he said, “You know, I happen to be a very good friend of Jennings Randolph. If I can be of any help to you, let me know.”

. . . Well, he managed to set up a luncheon in the Senate dining room with Randolph, and Harry Hughes and I and Barry Meyer [the committee’s chief counsel and chief clerk]. And Randolph heard us out, and at the end he said to Meyer, he said, “Well, that sounds perfectly reasonable to me. Why don’t you just write it up?”

And Meyer took it from there and made history. It was incredible. That one meeting. And it was through the Senate. And with the Senate on our side, we decided the only way we really had a chance in the House was through Tip O’Neill. Sargent had very good relations with O’Neill, even though he [Sargent] was a Republican. And now, he [O’Neill] had been against the highways for a long time. See, the most controversial highway in Boston was the Inner Belt [that] would have run about a mile to the west of here, across the river. It would have taken 2,500 people out of their homes in Cambridge, which was O’Neill’s district. And O’Neill had opposed that highway for a decade or more. So one of the things Sargent had done in 1970 was to stop the Inner Belt.

Nevertheless, Tip O’Neill was a hard guy to get to. Everybody wanted access to him. He would listen politely but serious access was difficult.

Again, the key turned out to be a friend, a close personal buddy of O’Neill’s, who . . . was a former state legislator in Massachusetts . . . . Peter Cloherty. He agreed to bring our case a little more vigorously to O’Neill’s attention. And then get him to do more than just say it was fine, get him to actually lean on Kluczynski, the Chicago guy that was head of the Public Works Committee.

Lean on him to do it. And in the end, O’Neill hosted a lunch in his office, to which Kluczynski came in for three minutes, and [O’Neill] made the old [major league pitch] to him that [he] wanted it, Massachusetts wanted it. Otherwise it was a perfectly social lunch for another hour and a half.

The message was given. But even though the message was given, in the House it was tough because [Richard J.] Sullivan, who was the Chief of Staff, and Frank Turner as a part-time consultant [to the committee], they didn’t want to get the message. They just didn’t want to get the message.

> And so, in fact, we had to keep going back to O'Neill and getting pressure from O'Neill's office, the Committee, to keep it on track on the House side.
>
> But it [stuck], finally. And again there was a battle about how precisely to fund it. And out of the issue of how to do it, the Wright amendment as it [came] to be known, was born, the issue of substitution out of the general fund. The key decisions were basically made as a result of these two contacts . . . . But he [Wright], even more than Jennings Randolph, he was aware in 1973 that there was a need to break the deadlock between the highway program and the cities . . . .
>
> From 1965, it was clear that there was a real deadlock that was building up between the cities and the Interstate program and the highway program. So this didn't just come out of the blue. I don't think in 1970 or 1971 we could have done this. By 1973 the administration was behind this, too. [Altshuler, Alan, Oral History Interview by Stolzenback, Darwin, 1988 Interstate Highway Research Project, American Association of State Highway and Transportation Officials, Public Works Historical Society, Transcript, p. 15-32, questions summarized]

Stolzenbach also interviewed Frederick Salvucci, who was Secretary of Transportation and Construction for Massachusetts when AASHTO was conducting the oral histories. Secretary Salvucci offered further insight into the origins of the withdrawal and substitution provision of the 1973 Act and why Representative Wright was the key person in finding an acceptable compromise:

> When Sargent made his decision that the funds should be shifted from highways to transit, there was no statutory vehicle to do that. I have used the expression that it was like Frank Sargent jumped off the top of the Prudential Tower [749 feet tall, with 52 floors] . . . in hopes that Alan Altshuler would weave a safety net by the time he got to the ground floor. And I think in large part the interstate transfer legislation was crafted technically by Alan Altshuler and the people who worked for him and politically was done, I am sure, by a lot of people that I don't know. But the people who I know were part of it were Frank Sargent, John Volpe . . . who was mad that the highways were killed, but didn't want to see the region go without the resources to do something about the transportation system.
>
> Tip O'Neill was the Majority Leader and it was his district. And Tip was in a position—Tip had many parts to his constituency. He had advocated against the highway construction because those were his neighborhoods. But he also had a lot of construction workers. I mean, his father, I think, was one of the organizers of the Bricklayers Union. So he was a building trades guy.
>
> So—and he was the kind of guy who wanted to help his district. So he wanted the highway pushed out of the neighborhood, but he very much wanted those dollars to come into the district and the jobs that went with them . . . . Well, it turned out he wanted and fought very successfully for the interstate transfer to allow the transit to be built in his district, so he ended up without the disruption, and he got the jobs, too, and the economic development

> that went with it. So he was certainly very supportive of the interstate transfer legislation, and probably the key figure in getting it through.
>
> Jim Wright, who is now Speaker, was the chairman [sic] of the House Public Works Committee, I believe, at the time . . . . I heard one anecdote just the other day. It's fifteen years since Frank Sargent made his decisions, and we had a little event to commemorate it at MIT, with six of us giving our recollection of what happened. It was kind of a workshop and you know, coffee and donuts. It was a fun evening. A lot of people that hadn't seen each other in fifteen years.
>
> And I went out for pizza afterwards with Jack Doolittle, who had been Alan Altshuler's Undersecretary. And he told me a story—I thought I knew, you know, everything that had happened here, but you never do. He told me a totally new thing, to me—that when all this work was going on to get the interstate transfer provision, Mike Dukakis . . . was running, I believe, the TV program called The Advocates . . . . And he had a sort of a discussion or maybe a debate between [Governor Sargent] and Jim Wright on whether or not you should be allowed to transfer highway dollars to build transit.
>
> And as Jack told me the story, after the debate, Jim told Dick Sullivan who was there . . . "I'll tell you what. They've got a valid point, but I've got a valid point. I don't want Trust Fund dollars going into it, but they need the resources to build that transit because that's what that region needs. Figure out how to do it."
>
> And they, as the story went, they put it together that night, the idea of you could get an equal amount of dollars, but they had to come from the general fund so that the sanctity of the Trust Fund would stay, and that you weren't spending Highway Trust Fund dollars on transit. So, in a way, Massachusetts came out fine because they got an equal number of dollars as they would have gotten to build the transit.
>
> But the highway community won . . . in many ways because those dollars that didn't get spent in Massachusetts went back into the Highway Trust Fund and were spent on highways elsewhere in the country. And the construction community won twice because they got to build the subways and build the highways in the other states.
>
> So it was an incredibly win win compromise that Jim Wright crafted there. Nobody lost on it. [Salvucci, Frederick, Oral History Interview by Stolzenback, Darwin, 1988 Interstate Highway Research Project, American Association of State Highway and Transportation Officials, Public Works Historical Society, Transcript, p. 25-32]

Governor Sargent submitted a request on March 26, 1974, transmitting comprehensive transportation proposals for the Greater Boston region and seeking withdrawal of 24.7 miles covering the entire I-695 Inner Loop and most of I-95 within the I-495/Route 128 circumferential and certain other system modifications.

On May 23, 1974, FHWA Administrator Tiemann and UMTA Administrator Herringer approved Governor Sargent's request—the first approved withdrawal/substitution proposal. Several adjustments were approved to provide system continuity, including the addition of short segments and renumbering of others. The remaining portion of former I-95 became part of an extension of the I-90 Massachusetts Turnpike to provide a connection across Boston Harbor to Logan International Airport. In addition, I-495/Route 128 was designated to carry I-95 around the Boston area.

In a May 30 announcement, Secretary Brinegar stressed that the action would result in "more than a half billion dollars in additional Federal funds" for public transportation:

> With the announced approval by the Transportation Department, the $671 million which would have been spent on those segments is released for other transportation projects, including mass transit. Initial planning indicates that more than $600 million of the new funds will be used for mass transit projects, which can include rail rapid transit and rolling stock for rail transit and buses. The remainder of the funds will be used for improvements to the Southeast Expressway in Boston and completion of a segment of Interstate Route 495 in southeastern Massachusetts.
>
> In making the announcement Secretary Brinegar pointed out that the new Federal mass transit money made available by this one action compares to the Department's Urban Mass Transportation Administration's total annual budget for 1974 of $872 million.

During a May 25 briefing at the State House, Governor Sargent told reporters that the Inner belt and I-95 in and out of Boston "will never be built." As for the substitution funds, "The large bulk of it will go for mass transit." His plan included extension of the Red Line, a below grade route for the Orange Line, a circumferential transit system with a connector to the Green Line, and commuter rail improvements. According to Guy Rosmarin of the Governor's staff, officials had been "sweating out the decision . . . it is the first in the nation."

(Over the time that the State used the funds, the base cost was adjusted for inflation as provided by Federal-Aid Highway Amendments of 1974 to a total of $1.5 billion. Of this amount, State and local officials used $1.451 billion for transit projects and $86 million for highway projects.)

As Altshuler and Luberoff pointed out in *Mega-Projects*, the Federal-Aid Highway Act of 1956 included a "cost to complete" provision. The Federal share would be 90 percent regardless of how an Interstate project's cost increased during the planning stages, and the cost usually increased significantly in response to changes in design standards, NEPA, the Uniform Act, and attempts to address adverse impacts and public criticism. The Federal-Aid Highway Act of 1973 converted the "cost to complete" commitment into "a tradable entitlement." They wrote:

> The 1973 interstate transfer provision . . . also changed the political and planning dynamics in several locales, ultimately providing more than $6.8 billion in funding for more than 50 transit projects, most notably in Washington, D.C. ($2.1 billion), Boston ($1.5 billion), Chicago ($882 million), New York City ($848 million), Baltimore ($485 million), and

Philadelphia ($354 million) urban areas. The Boston region, for example, used it to fund an extension of its Red Line subway and a relocation of its elevated Orange Line as a depressed facility paralleled and in places covered by a linear park. Interstate transfers also provided about one quarter of the funding for Washington, D.C.'s long-discussed subway system. [*Mega-Project*, p. 192, 235]

California withdrew only two segments under the substitution provision. On May 15, 1980, FHWA Deputy Administrator John Hassell, Jr., and UMTA Administrator Theodore C. Lutz approved withdrawal of a 5.1-mile portion of I-80 in Sacramento from the Interstate System between C Street and I-880. Officials maintained route continuity by shifting the I-80 designation to the existing I-880 loop around the west and north sides of Sacramento. On January 16, 1981, FHWA Administrator Hassell and UMTA Administrator Lutz approved withdrawal of a 1.9-mile segment of the Embarcadero Freeway connection to I-80 in San Francisco at the western end of the San Francisco-Oakland Bay Bridge.

New York, another State that had strongly fought for the substitution option, withdrew three Interstate segments, two of them in New York City. The withdrawals involved a segment of the Long Island Expressway (I-495) and all of Westway (I-478). New York built the Long Island Expressway between the Brooklyn-Queens Expressway (I-278) and Van Wyck Expressway (I-679) before enactment of the Federal-Aid Highway Act of 1956. The segment was incorporated into the original 40,000-mile Interstate System authorized by the 1956 Act. In 1963, BPR approved the use of Interstate funds to widen the 6-lane expressway to 10 lanes, including 4 lanes elevated above the existing facility. At the request of Governor Carey and Mayor Koch, the Department of Transportation approved withdrawal of this 4.7-mile upgrading of I-495 on June 29, 1979.

FHWA approved addition of I-478 to the Interstate System in 1971 to connect the Lincoln, Holland, and Brooklyn-Battery Tunnels along the Hudson River on the west side of Manhattan Island. On August 7, 1985, after years of controversy, the U.S. District Court enjoined the U.S. Army Corps of Engineers from issuing a landfill permit for Westway and enjoined FHWA from approving funds for the route. This ruling prompted Governor Mario M. Cuomo and Mayor Koch to request withdrawal of the 4.26 miles of I-487. Secretary of Transportation Elizabeth Dole approved the request on September 30, 1985. (New York also requested withdrawal of I-687, a 3.-6-mile connector between I-90 and I-87 in Albany, from the System. FHWA and UMTA approved the withdrawal on July 14, 1978.)

The District of Columbia and Maryland were more aggressive than California and New York in applying the withdrawal option to their controversial Interstates. At the District's request, all or portions of the following segments were withdrawn from the Interstate System in stages:

First Stage: I-70S and I-95 (October 3, 1975)
Second Stage: I-66 and I-266 (April 29, 1977)
Third Stage: I-295 and I-395 (September 8, 1978)
Fourth Stage: I-695 (August 27, 1980)
Fifth Stage: I-266 (June 28, 1982)
Sixth Stage: I-66 and I-266 (August 19, 1983)

Maryland's Interstate withdrawals also took place in stages:

First Stage: I-70S in Washington area (July 28, 1975)
Second Stage: I-70 in Baltimore (September 3, 1981)
Third Stage: I-83 and I-595 in Baltimore (September 29, 1983)
Fourth Stage: I-297 between Bowie and Millersville (September 29, 1983)

The final Interstate withdrawal occurred on September 22, 1989 (bus lanes on I-205 in Portland, Oregon, and substitution of light rail). In all, the Department approved 50 actions involving withdrawal of 343 miles of Interstate highways in 21 States and having a base value of $9.7 billion to be used on highway or mass transit projects at local option.

Mark Rose put the change in perspective:

> During the next several years, political leaders at state and local levels took advantage of the new legislation to dismantle planned portions of the Interstate system judged particularly objectionable . . . . No more than a decade earlier in cities such as Portland and Denver, coalitions of growth minded business and political leaders had led successful efforts to secure Interstate routings through their cities. By the mid-1970's, the reality of the matter was that the freeway era had ended and the politics of highway building had devolved toward the state and local levels. [Rose, p. 112]

A Statement of National Transportation Policy

Early in the early years of the United States, Congress was faced with pressure for internal improvements. As Caroline E. MacGill wrote in *History of Transportation in the United States Before 1860*:

> Washington and Jefferson, and other public-spirited men who had labored for a "broader national life" had foreseen that a national policy of improvement of land and water routes was essential . . . . An empire of rich territory, isolated from the Atlantic seaboard, and with no outlet except by way of New Orleans or the St. Lawrence, was being rapidly occupied, and no systematic effort was being made for its relief or to insure its loyalty. The isolation of the West was felt to be a menace to that national unity which meant national life. The industrial and commercial seaboard, the cotton-producing South, and the grain-producing trans-Allegheny region, developing as they were into three separate social entities, were beginning to conceive of their interests as being in some respects mutually antagonistic. Manufacturing was relatively undeveloped and politically impotent, but under the influence of a new school of political economy—the so-called "national school"—and from motives of obvious self-interest, the manufacturers united with the farmers to overcome the indifference of the shipping interests in the agitation for internal improvements . . . .
>
> As production increased in any community, two distinct services were involved in the transportation problem: first, the local problem of collecting products at centers of

> distribution within the district; second, the national problem of providing practical routes and facilities for reshipment to distant markets.

As the 18th century gave way to the 19th, "the primitive facilities provided for this traffic had become inadequate." As sectors of the country and the commercial interests put pressure on Congress, the Senate passed a resolution on March 2, 1807, asking the Secretary of the Treasury to submit a report on roads and canals. Secretary Albert Gallatin's report on roads and canals, sent to the Senate on April 4, 1808, was the first attempt to establish a national transportation policy. [MacGill, Caroline E., under the direction of Balthasar Henry Meyer, *History of Transportation in the United States Before 1860*, Reprinted by the Carnegie Institution of Washington, 1948, p. 131-135]

Gallatin, who had migrated from Geneva, Switzerland, to the United States in 1780, had settled in western Pennsylvania. He entered the House of Representatives in 1795, where he impressed his colleagues with his grasp of financial issues. He served in the House until President Thomas Jefferson selected him to be Secretary of the Treasury in 1801.

Gallatin's report began by stating, "The general utility of artificial roads and canals is at this time so universally admitted, as hardly to require any additional proofs." Artificial roads and canals were typically provided by private enterprise, but did not always repay their investors because "the tolls may not have been fixed at a rate sufficient to pay to the undertakers the interest on the capital laid out." The investors lose, "but the community is nevertheless benefited by the undertaking." In a country "possessed of large capital" or where population resides in a small area, "those improvements may often, in ordinary cases, be left to individual exertion, without any direct aid from Government." In the United States, the size and diversity of the country "render the facility of communications . . . an object of primary importance" but "check the application of private capital and enterprise to improvements on a large scale."

Financial, commercial, and geographic challenges prevented private investment from providing the artificial roads and canals the Nation needed:

> The General Government can alone remove these obstacles.
>
> With resources amply sufficient for the completion of every practicable improvement, it will always supply the capital wanted for any work which it may undertake, as fast as the work itself can progress; avoiding thereby the ruinous loss of interest on a dormant capital, and reducing the real expense to its lowest rate.
>
> With these resources, and embracing the whole Union, it will complete on any given line all the improvement, however distant, which may be necessary to render the whole productive, and eminently beneficial.
>
> The early and efficient aid of the Federal Government is recommended by still more important considerations. The inconveniences, complaints, and perhaps dangers, which may result from a vast extent of territory, can not otherwise be radically removed or prevented

> than by opening speedy and easy communications through all its parts. Good roads and canals will shorten distances, facilitate commercial and personal intercourse, and unite, by a still more intimate community of interests, the most remote quarters of the United States. No other single operation, within the power of Government, can more effectually tend to strengthen and perpetuate that Union which secures external independence, domestic peace, and internal liberty.

As Albert C. Rose, BPR's longtime unofficial historian, explained, Gallatin's proposal for a network or roads and canals was based on three basic concepts. First, given "the legitimacy of Government aid to finance transportation projects transcending local needs," the report demonstrated that "the through routes of national importance could be financed only by the General Government because the central authority alone possessed 'resources amply sufficient for the completion of every practicable improvement.'" Second, the General Government should undertake only improvements that would yield reasonable returns on the original investment. Third, a nationwide system of transportation would be essential to the national defense. [Rose, Albert C., *Historic American Roads: From Frontier Trails to Superhighways*, Crown Publishers, Inc., 1976, p. 27]

America's Highways 1776-1976 summarized the plan:

> The works proposed by Gallatin were, first, a series of great canals along the Atlantic coast connecting the natural bays and estuaries into one continuous waterway for the carriage of heavy freight. Supplementing this waterway, there would be a light-duty turnpike from Maine to Georgia for passengers, mail and light goods hauling. The second part of the plan was to form communications between the four great Atlantic rivers and the Western rivers by river improvements, short canals and four heavy-duty freight turnpikes across the mountains. These would be supplemented by internal roads to Detroit, St. Louis and New Orleans. The third part was to open inland navigation between the Hudson River and the Great Lakes and the St. Lawrence River, plus a canal around the Niagara rapids to open the Great Lakes to sloop navigation as far as the extremities of Lake Michigan. [*America's Highways 1776-1976*, p. 18]

As MacGill pointed out, Secretary Gallatin's report displayed "the characteristics of a shrewd politician, as well as of a statesman of comprehensive foresight." He understood that "the interest of the different sections of the country must be united in support of a national scheme of improving transportation facilities as a condition of securing legislation which would benefit western Pennsylvania or any other section." Nearly every State would benefit directly from the Gallatin plan.

The report estimated that the plan would cost $20,000,000 and could be completed in 10 years at a cost of $2 million a year:

> He showed how the benefits to be derived from any given improvement on investigation were dependent upon the completion of other improvements, and closed his report with the

> assertion that the General Government alone was competent to undertake the work outlined. [MacGill, p. 136]

Congress, then divided over expenditures for the National Road (a portage between the Potomac River at Cumberland, Maryland, and the Ohio River at Wheeling, then in Virginia), and soon engaged in the War of 1812, did not adopt Secretary Gallatin's plan. However, as modes of transportation evolved, Rose concluded, Gallatin's observations and recommendations "established the pattern which was expanded and modified as the national frontiers moved westward from the Allegheny Mountains to the Pacific Ocean." [Rose, p. 27]

Officials in the mid-20th century considered a national transportation policy covering the public private component, but with limited impact. As mentioned earlier, President Kennedy submitted a message to Congress in April 1962 on "The Transportation System of our Nation." The message was a broad statement that covered a wide range of topics that were part of a basic national transportation policy, including freight shipments by land, air and water; international aviation and maritime issues; and labor relations. In addition to discussing the need to revitalize urban transit with a Federal-aid program, the report advocated what became the critically important 3C transportation planning process.

The section titled "A Basic National Transportation Policy" stated:

> The basic objective of our Nation's transportation system must be to assure the availability of the fast, safe, and economic transportation services needed in a growing and changing economy to move people and goods, without waste or discrimination in response to private and public demands at the lowest cost consistent with health, convenience, national security, and other broad public objectives.

Resources devoted to providing transportation service "should be used in the most effective and efficient manner possible," which meant that "users of transport facilities should be provided with incentives to use whatever form of transportation which [sic] provides them with the service they desire at the lowest total cost, both public and private." The Nation could continue to rely on "unsubsidized privately-owned facilities, operating under the incentives of private profit and the checks of competition to the maximum extent practicable." A more coordinated Federal policy would mean "equality of opportunity for all forms of transportation and their users and undue preference to none."

In these and other recommendations, President Kennedy addressed the physical side of transportation, namely the provision of facilities for transport, and the regulatory structure for rail, motor carriers, and air transportation.

His special message concluded:

> The troubles in our transportation system are deep; and no just and comprehensive set of goals—which meets all the needs of each mode of transportation as well as shippers, consumers, taxpayers and the general public—can be quickly or easily reached. But few areas of public concern are more basic to our progress as a nation. The Congress and all

> citizens, as well as all Federal agencies, have an increasing interest in and an increasing responsibility to be aware of the shortcomings of existing transportation policies; and the proposals contained in this message are intended to be a constructive basis for the exercise of that responsibility.
>
> The difficulty and the complexity of these basic troubles will not correct themselves with the mere passage of time. On the contrary, we cannot afford to delay further. Facing up to the realities of the situation, we must begin to make the painful decisions necessary to providing the transportation system required by the United States of today and tomorrow.

President Johnson, in proposing a Department of Transportation, recognized the need for a unified national transportation policy. When Congress approved the Department of Transportation Act of 1966, it included a declaration of purpose that was essentially a statement of national transportation policy:

> The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

As the clash between highway and transit interests intensified in the early 1970s, the absence of a new national transportation policy became a target. In March 1974, the Subcommittee on Transportation of the House Appropriations Committee held a hearing on development of a national transportation policy, with representatives of railroads, mass transit, airlines, waterways, farming, and highways appearing as witnesses. A subcommittee member, Representative Brock Adams (D-Wa.), complained in an opening statement that the Department of Transportation "does not have the resources, the desire, or whatever it takes to develop—and to attempt to implement—a national transportation policy." He continued:

> For those who have taken former Attorney General John Mitchell's advice to "watch what we do, not what we say," we have found little to watch at DOT—as with the abominable snowman. All I have seen is a few tracks, and those are now being obscured by snow.

(An editorial titled "Watch What We Do" in *The Washington Post* on July 7, 1969, said that reporters had recently overheard the Attorney General telling civil rights activists protesting the Nixon Administration's efforts to modify the Voting Rights Act of 1965 that, "You will be better advised to watch what we do instead of what we say.")

To replace the "fragmented . . . nonsystem," Representative Adams said, the Nation needed a unified transportation budget, a congressional Committee on Transportation, and a single transportation trust fund. The present collection of separate trust funds led to imbalance. "The interstate highway system nearly put the eastern railroads out of business," he said:

> One year, the New Haven Railroad made a lot of money hauling sand, gravel and cement. Shortly after, the same sand, gravel and cement was used to build a superhighway that helped propel the railroad into bankruptcy.
> A single trust fund . . . would not end revenue problems in transportation. But it would lead to rational decisions on which mode, which functions, which types of transportation vehicles and which functions should be assisted financially. [Bilanow, Alex, "Congressman Blasts DOT for Inaction on a National Transportation Policy," *The Journal of Commerce*, March 8, 1974]

On March 5, Secretary Brinegar appeared before the Subcommittee on Transportation, Committee on Appropriations, to present a 51-page first draft of a national transportation policy. He had written it, but had not had time to clear it with OMB and the White House. The statement acknowledged that "almost any meaningful statement of policy will be seen as a threat by some interests." Secretary Brinegar laid out the principles that he believed should guide national transportation policy:

> The overriding thrust of Federal policy is to see that the nation has an overall transportation system that reasonably meets its essential needs. To the maximum feasible extent, this system should provide transportation that is efficient, safe, fast, convenient, and limits negative impacts on the environment.

Whenever possible, transportation should be provided "through the competitive forces of the private sector, or, if the private sector is inappropriate, by State and local governments." Funding should be limited to "those few cases where there is a clear and widely accepted requirement for concerted action in an area of high national priority, and where the private sector or State and local governments are obviously incapable of adequately meeting this requirement." Where a Federal funding role has been established, "these expenditures should be recovered from users and other beneficiaries in a manner that is appropriate to the degree of benefits received, unless widely accepted national policy directs otherwise."

To address the "severe transportation problems" in large urban areas, the Federal effort should encourage "(a) the establishment of non-Federal governmental mechanisms that embrace the full urban area and have the authority to make and implement all relevant urban plans; (b) the development at the local level of urban plans that properly relate transportation needs to future land-use plans and community development objectives; and (c) the development of plans that are appropriate to the structure and size of the urban area." As a corollary, the Federal Government should "encourage urban areas to stress public transportation plans" based on "using existing transit systems and highways more effectively."

Economic regulation of interstate transportation "needs to be thoroughly reexamined to determine which parts are necessary, as a minimum, to protect the public interest, and those which, through the passage of time, have become more of a burden than a help." The Nation also must "deal aggressively and equitably" with conservation of energy, increased safety, protection of the environment, and transportation for the poor, handicapped, and elderly. The difficulty of resolving these sometimes conflicting points of view caused "delay, confusion, and excessive reliance on appeals to the courts." A better process, the Secretary said, is needed.

Rural public transportation was "in an uncertain state, with numerous isolated rural areas now able to be reached only by private automobile." Many questions remained to be answered in future statements.

The lack of close coordination among modes was a "major cause of inefficiency in both passenger and freight transportation." A priority program was needed "to lift unneeded restraints to intermodal cooperation and to encourage the joint use of terminal and other facilities by all transportation modes."

The Department adapted Secretary Brinegar's testimony into a May 1974 publication, *A Progress Report on National Transportation Policy*. Secretary Brinegar's brief introduction emphasized the need for such a policy. "Agreeing on the need for such a statement, however, has proven to be much easier than agreeing on what it should say."

In an interview with William H. Jones of *The Washington Post*, the Secretary explained that the basic difficulty in developing a national transportation policy was that different people had different ideas about what the term meant. Some people wanted a "grand design" that pinpointed where rail lines, highways, air routes, and canals should be built. The Secretary did not think such a policy was possible. "Our role is to establish policies to implement goals . . . . We should spell out relative goals, on such issues as subsidies versus user charges, that will lead to plans evolving in various areas" across the country. He thought that a "fundamental shift in personal transportation" was underway. "We are beginning to abandon the idea of a big family car at the center of the way we do things . . . . Beginning to understand we can ration travel." He expected a significant shift to public transportation, which he said has "plenty of slack" to absorb the increase. [Jones, William H., "Brinegar: New Path for Transportation," *The Washington Post*, March 17, 1974]

Secretary Brinegar would not complete a national transportation policy and was skeptical of the goal. In September 1974, he told *Government Executive* magazine:

> "National Transportation Policy" is an attractive but illusive concept. I don't know how many times I've been lectured to the effect that "what the country needs is a National Transportation Policy," and that with such a policy "all these transportation problems"—and everyone has their own list—"would soon vanish."

The Department of Transportation could do better in coordinating transportation, but a National Transportation Policy would prove disappointing:

> The reason is simple: Those who are asking for "policy" are usually really after the details of "programs"—they want to know where the future highways will be built and how they will be financed; where the railroads will run; what cities will have subways, and so on.

> I'm convinced that our country is too big, our mixed public-private economy too complex, and our historic divisions of federal, state and local responsibilities too firmly entrenched to permit us, at the federal level, to even come close to being able to design the nationwide details of such programs.
> Further, since transportation serves to link activities that flow from other policy decisions—including those of national defense, urban development, environmental protection, energy conservation, and on and on, who, we must ask—knowing in advance that the question is unanswerable—can tell us the future of policy and programs in these areas. ["A Moving Target," *Government Executive*, September 1974, p. 1]

His successor, Secretary Coleman, felt differently. He released *A Statement of National Transportation Policy* on September 17, 1975. William H. Jones reported that Secretary Coleman was "obviously pleased at a news conference" releasing the 55-page policy statement less than 6 months after taking office. The Secretary credited Secretary Brinegar for completing much of the policy work before leaving office.

In the foreword, Secretary Coleman emphasized that the statement was "my initial attempt to set forth the broad policy considerations that should underlie the Federal government's response to the Nation's transportation needs." He added that, "Since policy formulation is a continuing process, the positions presented here are preliminary and may be amended and refined as we learn from experience and as we listen to your views." [*A Statement of National Transportation Policy* by the Secretary of Transportation, U.S. Department of Transportation, September 17, 1975, p. i]

The "Policy Overview" began: "Transportation has substantially shaped the growth and development of the United States." Waterways opened the frontiers, while railroads "fed the hearths of an industrial revolution and now have renewed significance in the era of environmental and energy consciousness." Highways "made us the most mobile population on earth, profoundly altered our land use patterns, and established the automobile, truck and bus as an important part of the Nation's mobility and economic activity." Mass transportation "provided the lifeline to city centers and now offers hope for their revival." Civil aviation extended mobility for business and pleasure while pipelines "are vital to energy independence."

The overview continued:

> To sustain and enhance our economic vitality and growth, the productivity of our commerce and the quality of our leisure, we need a healthy and responsive transportation system. National transportation policy must serve these broad goals of our society by helping to guide the development, financing, and maintenance of a safe, efficient, accessible and diverse transportation system . . . . The values and priorities of our society are changing as the land on which we live is changing, and transportation must blend with other national goals in seeking heightened quality in the American way of life. [*A Statement of National Transportation Policy*, p. 1]

The Federal Government had "actively participated in building transportation's infrastructure," but given America's basic economic philosophy, "the private sector should bear primary responsibility for meeting the Nation's transportation needs." The Federal role in interstate and international transportation "is mandated by the Constitution and defined by practical requirements of uniformity and connectivity," but recent laws on mass transit, environmental quality and energy conservation had expanded the Federal interest into local concerns. "Now, we must seek a more rational delineation of responsibility among the levels of government."

Because most transportation involves local activity, Federal assistance involves Federal, State, and local priorities and decisionmaking. "As we decentralize authority and increase State and local program flexibility, States and localities must improve program management and, where possible, increase their financial participation in projects that primarily benefit their residents." A "more rational relationship" with the private sector was also vital. "Unfortunately, the Nation's economic regulatory structure in transportation has not kept pace with changes in industry and the economy." [*A Statement of National Transportation Policy*, p. 1-2]

National policy must recognize "that diversity and intermodal completion are essential to an effective transportation system." Policy, therefore, "must move in the direction of increasing equal competitive opportunity among the transportation modes, promoting cooperation among modes, minimizing the inequitable distortions of government intervention and enabling each mode to realize its inherent advantages." In addressing a particular mode, "we must recognize and evaluate the consequences of government action on the competitiveness of other modes." [*A Statement of National Transportation Policy*, p. 3]

The Department of Transportation had to identify the unique Federal role for each mode. The automobile was "the most universally accepted form of transportation in America" and was "the most flexible and responsive mode and provides the greatest freedom of mobility." It also was a major contributor to pollution, energy consumption, congestion, and fatalities and injuries. "We will seek to preserve and maximize its unique contributions. At the same time, however, we will strive to increase its energy efficiency, economic and socially responsible use and safety." [*A Statement of National Transportation Policy*, p. 5] Similarly, highway transportation was "essential to the preservation of American mobility and to our economic well-being." Its continued high performance depended on cooperation among Federal, State, and local governments "and increased program flexibility" that will allow each level of government "to best determine priorities and improve its transportation in the most cost-effective manner."

Completion of the Interstate System was "a top federal priority" and older segments "need to be modernized and rehabilitated." Beyond the Interstates, State and local governments should have increased flexibility, including "more options in their selection of projects within broad-based program categories." Where segments were primarily local in service, "we will expect State and local officials to justify these expenditures carefully." Further, in view of changes since the highway networks were planned, State and local communities should "rethink some of the highway planning already done so as to determine if a particular highway still offers the best transportation alternative."

Urban areas require intermodal balance, including the option to transfer highway funds to mass transit. The "special problems of rural America" must be addressed with programs designed to meet rural needs.

Funding should be adequate, but "consistent with other transportation and national priorities." It should not be "affected either way by the current revenue yields of gasoline or other automobile taxes." With "large segments of the Nation's highway infrastructure" in place, "we must address the future requirements for and utilization of the Highway Trust Fund." [*A Statement of National Transportation Policy*, p. 9-10]

Each urban area should be free to select the transportation solutions that best serve its needs. Federal policy should respond to locally determined goals while meeting national objectives such as revitalization of cities, reduction of air pollution, conservation of energy, and access for the disadvantaged. "Because mass transit serves all these objectives, simultaneously and well, it merits strong Federal as well as State and local support," as reflected in the Federal-Aid Highway Act of 1973 and the National Mass Transportation Assistance Act of 1974.

Federal policy should require analysis of the cost-effectiveness of transportation alternatives while requiring implementation of transportation plans "to improve the efficiency of existing facilities and transit services and conserve energy (e.g., carpools, exclusive bus lanes, higher parking fees)." Fixed rail systems were "appropriate only in a few highly populated metropolitan areas," but Federal funds should support "efforts to develop a type of rail system which is much less costly to build, operate and maintain." The Federal Government should give funding preference to localities that "demonstrate consistency with broader community development goals, effective processes for resolving jurisdictional conflicts, effective cost controls and a substantial State, regional and local financial commitment." [*A Statement of National Transportation Policy*, p. 8-9]

Federal resources should be allocated "more fairly among the modes," with subsidies offered only "when a clearly defined national interest requires the development, modernization or maintenance of essential transportation service." [*A Statement of National Transportation Policy*, p. 10]

In closing, the statement indicated that a transportation policy issued by one Federal Department "does not become the Nation's transportation policy," which required actions by other Federal, State, and local officials:

> A more perfect transportation system will evolve primarily through the efforts of an innovative, competitive, and forward looking private sector. The Federal Government must support this evolution, reinforcing the strengths of our system and shoring up its weakness . . . .
>
> Although there are old habits and ways of thinking, and strong forces of politics, precedent and program inertia at work, we must now seek new, more efficient ways of responding to the Nation's transportation needs. This document is an initial attempt to do so. It may well contain inconsistencies, omissions and policies that the public will not accept. It is hoped, however, that it will stimulate discussion of the issues so that there will be progress and

> ultimately consensus on a policy which we will all work to implement. [*A Statement of National Transportation Policy*, p. 49-50]

The Washington Post said the policy did not contain "much that is surprising" since Secretary Coleman and other Ford Administration officials had been incorporating these ideas into their speeches and statements for the past several months. The policy would, inevitably, face opposition from transportation interests:

> The real value of the Secretary's statement is that it may force Congress—and the rest of us—to begin to look at transportation in its broadest sense. National policy has been formed in the past out of a series of responses by Congress and other administrations to individual situations—and powerful special interests. And once a particular solution has been found, it has usually become a permanent part of government policy.

The railroad and airline industries were struggling with regulatory structures put in place for a different time, "and the highway trust fund, created to solve a problem of the 1950s, has already acquired many of the characteristics of a national fixture." These old policies did not make sense in 1975 "but the resistance to change, no matter how small, is enormous."

Secretary Coleman's policy came "at a time when it is obvious the government must act." Many old railroads "are dead and a large number of those remaining, along with several airlines, are seriously ill." The idea that highways, trucks, and automobiles could solve the problem was increasingly doubtful. "Secretary Coleman's statement provides a better framework than was available in the past in which to consider how the nation should proceed on transportation." ["A National Transportation Policy," *The Washington Post*, September 22, 1975]

An editorial in *The Journal of Commerce* began, "A demonstrable truth does not lose its validity simply because it has been often and widely repeated, nor because it has not gained general acceptance." Secretary Coleman's ideas might not have "the sense of novelty and urgency," but they merit "serious attention even though to a large extent they merely repeat, in a slightly altered sequence, what has often been said before."

Of particular interest to *The Journal* was the proposal to impose a new tax on inland water carriers and higher taxes on truckers "as two means of enabling the railroads to compete more successfully for the available freight." This idea prompted a question about the Department's objective. Is the objective a better transportation system, fairness for each segment, or "a better deal for part of it," namely the railroads? And, asked the editorial, "Is DOT giving any thought to inflation or fuel conservation in putting forth this program?" Or does saving the Nation's troubled railroads override these other concerns? "The rails would benefit from taxes on their competitors, we agree. But would the transport system as a whole?"

Based on this tax issue and the failure to consider inflation or reducing the use of oil, the editorial found "the tenor of the first policy roundup by a DOT secretary disappointing." ["Not Quite on Target," *The Journal of Commerce*, September 22, 1975]

Carlton C. Robinson, a traffic engineer who had joined the Automotive Safety Foundation in 1955 and was now an official of HUFSAM, said that Secretary Coleman's policy statement "wasn't perfect but at least he tried to create one." He praised the report for strongly supporting the concept that users should pay for the transportation facilities they need. He added that, "The system of payment . . . is certainly not perfect but doesn't, in our judgment, deserve the harsh treatment the policy affords." Secretary Coleman seemed to be "confused about the role of the Highway Trust Fund which channels charges on highway users to highway improvements." Robinson explained:

> Its income is not all raised by charges on users of the Interstate System nor is it all spent on Interstate construction. State and local safety programs, bridge replacements on important rural roads, improvements in urban traffic, relocation assistance, highway landscaping and literally hundreds of other activities are paid for through the Trust Fund. [Robinson, Carlton C., "Highway Financing," Letter to the Editor, *The Washington Post*, October 12, 1975]

Sense and Nonsense

While Secretary Coleman was unveiling the National Transportation Policy, Representative Adams was delivering the keynote address to a symposium sponsored by the Mitre Corporation on transportation issues. (Mitre is a Massachusetts-based not-for-profit corporation that provides engineering and technical services to the Department of Defense and other Federal Agencies, including FAA.) In a speech titled "The Sense and Nonsense of Congress and Transportation," Adams told the symposium that the way the Federal Government dealt with transportation was one of the "basic problems." Congress and the Executive Branch were "completely fragmented," he said, explaining:

> It is what I call the "squeaky wheel" approach to policymaking—the wheel that squeaks the loudest seems to get most of the oil or, perhaps we now should say, its share of the oil . . . .
>
> I can tell you that more than 27 different agencies have important roles in Federal government policy on transportation . . . . The Congress managed to complicate this nonsense by dividing oversight and funding jurisdiction over this maze of agencies among a series of committees and subcommittees.

Most of the talk about transportation reform related to what he called the "deregulation delusion." It was, he said, a "large strawman" concealing "the basic flaws not only in railroading, but also in our whole transportation industry." He had previously suggested that a national transportation policy could begin:

> The Nation's transportation policy should be directed toward creating and maintaining a privately owned and operated intermodal, interstate system regulated by the Federal government in the public interest.

His proposal dealt primarily with regulation of private-sector transportation providers, but he pointed out that government affected transportation in "two major ways—as regulator and as financier." For example, he pointed out that in his view, regulation was not the "principal cause" of the financial collapse of the northeastern railroads. "Probably the major contributing factor was the Federally supported construction of the interstate highway system, which was superimposed on an already overbuilt rail network." He continued:

> Yet this was done without any detailed analysis of the intermodal transportation network of New England. I am not arguing that the interstate highway system should not have been built, but certainly the effect on rail and water transportation should have been considered . . . . In developing a national transportation policy, we must give as much emphasis to policy decisions on the level of Federal investment in transportation as we do to fair and evenhanded regulation.

Once a national transportation policy is established, Congress should organize its committees to line up with that policy.

Representative Adams also recommended adoption of a unified transportation trust fund. With multiple trust funds as at present, transportation funds were scattered throughout the budget, making it "impossible to compare the level of investment in the individual modes."

Regarding the trust fund concept, he said:

> The problem with the existing funds is that they make flexible transportation spending almost impossible. These funds acquire a life of their own and roll along like unstoppable fiscal juggernauts . . . . In practice, the beneficiaries of the fund have shown great ingenuity at developing new and vitally important uses for the money sitting in the pot with their name on it.

In remarks to reporters, Representative Adams said of Secretary Coleman's policy, released that same day, that it was "not definitive" but "evolutionary." [Adams, Representative Brock, "The Sense and Nonsense of Congress and Transportation," *Symposium on Transportation Issues*, The Mitre Corporation, M76-14, 1975, p. 23-32; "Transport Policy Held Fragmented," *The Journal of Commerce*, September 19, 1975; and Aug, Stephen M., "Reduced U.S. Share in Transportation Fund is Urged by Coleman," *The Washington Star*, September 17, 1975]

Despite Representative Adams' dismissive comment, Secretary Coleman's policy helped establish his reputation for decisiveness. Albert R. Karr, in an October 1975 profile, explained that Secretary Coleman was a man "in a hurry" who knew his time in Washington would be limited:

> Using one of his favorite analogies . . . the Secretary told his staff, "it only takes nine months to produce a baby, the most precious thing in the world and the most complicated. Nothing government does should take longer.

Karr contrasted the new Secretary with his predecessor:

> How much he does in moving fast and forcefully on several key transportation issues will be a real test of his mettle . . . . So far, Mr. Coleman is emerging as a "big-picture" man, who doesn't want to immerse himself in detail and delights in making prompt decisions.
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> His predecessor, oilman Claude Brinegar, took one issue at a time, studied it till he became an expert and moved cautiously. Mr. Coleman, in contrast, brings "liveliness," which a department source says is timely and necessary for putting some Brinegar-drafted programs into operation. "A guy cannot be dynamic (like Coleman) and cautious at the same time . . . .
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> As for his desire to rush ahead with changes, a Coleman underling says Mr. Brinegar made "fewer mistakes," but the new Secretary "will have left his mark on many more things" by the time he leaves.
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> In an interview, Mr. Coleman says that in the next 15 months he'd like among other things, to set up a "truly interstate private rail-freight system" (a nationwide network rather than a bunch of regional systems); decide how to improve Boston-Washington passenger train service; create a coherent international aviation policy; resolve policy on future highway construction, and reconcile rising transit needs and costs.
>
> Should all this seem overambitious, Mr. Coleman likes to quote Robert Kennedy's paraphrase of George Bernard Shaw: "Some men see things as they are, and say 'Why?' I dream things that never were, and say, 'Why not?'"
>
> . . . . He said in a recent New Orleans speech that "the great American love affair with the automobile is not over," but he also said the illicit aspects of this affair" and its "illegitimate offspring"—congestion, pollution, fuel waste and highway deaths—must be eliminated.

Karr explained that Secretary Coleman appeared to want to slow highway construction and leave local officials the task of reducing reliance on the automobile as mass transit improved. He recognized that this would be a slow transition since otherwise, local politicians would find themselves "getting thrown out of office." He called on local officials to rethink planned highway projects, many of which he thought should never be built:

> As for mass transit, Mr. Coleman largely follows predecessor Brinegar's stand: Few cities can justify expensive rapid-transit systems; the federal government cannot pay the lion's share of such projects, especially as their costs climb, and better bus service and management of the car will provide most urban-transport gains. But many public-transit advocates take heart in his support of added transit financing as lending general favor to their cause. [Karr, Albert R., "The 'Wild Man' of Transportation," *The Wall Street Journal*, October 27, 1975]

Following President Ford's defeat in November 1976, Secretary Coleman followed through with his plan to release a final statement of national transportation policy. He released the 400-plus page *National Transportation Trends and Choices (To The Year 2000)* on January 14, 1977, just a week before leaving office. The report attempted to identify trends developing in transportation and the public choices resulting from those trends. In a statement, he explained, "Only by knowing the trends and the public decisions that will be necessary can we, as a nation, make the proper choices to direct America's vast transportation network toward desired national goals."

The report did not attempt to answer questions, but rather provided information needed to pursue answers. During a press conference, he said the Nation needed to focus on restoration of its cities. "We'll be making a great mistake," he said, "if New York, Philadelphia, Boston, Baltimore, Cleveland, the other cities, are not restored and their vitality maintained and increased." An account in *The Washington Post* said:

> Coleman described a litany of governmental actions that in his view have contributed to suburban expansion and urban decline—from public housing constrained by zoning policies to core cities to the boost in sprawl abetted by highways and sewer lines.
>
> "If we do nothing," he said, the problem of the cities "will get worse. There has to be an active discussion. I feel that way. All I want is for the Congress and the President to debate that issue, then based on that debate, make an intelligent choice." [Feaver, Douglas B., "Public Transport Key to Cities' Future," *The Washington Post*, January 15, 1977]

During his last week in office, he made a circuit of every floor of Department headquarters to thank employees for their support. Each floor was alerted to his arrival and employees waited in the halls to greet him with handshakes and hugs.

The Department's historian summarized Secretary Coleman's later career:

> On leaving the Department, Coleman returned to Philadelphia, but subsequently became a partner in the Washington office of the Los Angeles-based law firm of O'Melveny and Myers. In 1996, in the wake of the July 17 crash of TWA Flight 800, he served on the President's Commission on Airline and Airport Security. That same year, Coleman received the Presidential Medal of Freedom, the highest honor given to civilians by the United States.)

Representative Adams would leave the House on January 22, 1977, to become Secretary of Transportation under President Jimmy Carter on January 23, 1977. One of his top priorities was developing a national transportation policy. "I don't want you to think the frenzied activity we're going through was planned," he said. "We're running on the momentum of a transportation policy that was basically to build an autobahn system in the United States, and we've been at it for 20 years." The country was in an interim period, "knowing that petroleum is not going to be available as it was—and shifting to something new. And I just happen to be caught in the middle of that shift." He dismissed the Coleman policy as "more factual than conclusionary." He had established a task force to solicit ideas, and had received a suggestion from President Carter, delivered by the White House on March 21, 1977:

> I suspect that many of the rapid transit systems are grossly [underlined] overdesigned. We should insist on (a) off-street parking, (b) one-way streets, (c) special bus lanes, (d) surface rail-bus, as alternatives to subways. In some urban areas, no construction at all would be needed if a, b and c are required. [Mollison, Andrew, "Adams in Search of New Transportation Policy," *Atlanta Constitution*, July 24, 1977]

On February 6, 1978, he released *Transportation Policy for a Changing America* "to set before the country the broad directions and goals [the Secretary] expects to pursue in developing Federal transportation policies and programs for the future." In addition to pursuing longstanding objectives such as economic development, national security, efficient management of public transportation, and a competitive and responsive private transportation sector, the Secretary believed that other concerns and priorities needed far greater attention than in the past. They included energy conservation and production, environmental protection and enhancement, safety, quality of life, and improved resource allocation, both human and material.

The statement indicated that the Carter Administration was considering a combined transportation account that would collect all Federal financing for transportation, whether from user fees or appropriations from the general Treasury, into a single account with regular review by the Congress. "Congress and the Executive branch would then have the ability to decide how best to allocate the limited transportation resources among the many competing claims of Federal assistance, without necessarily changing the method of financing for individual modes." However, Federal legislation for grant programs for urban and rural transportation should stress the "flexibility necessary for state and local decisionmakers to meet different local conditions while encouraging the simple and speedy administration of the program." [*Transportation Policy for a Changing America*, U.S. Department of Transportation, February 6, 1978, p. 1-2, 21-22]

Secretary Adams left office on to July 20, 1979, as part of a shakeup of the Carter Cabinet.

Parting Shot: A Statement of National Highway Transportation Policy

In December 1976, outgoing Administrator Tiemann released *A Statement of National Highway Transportation Policy* to serve as "basic policy guidance for the program planning, research, development, implementation, and management functions which derive from the statutory responsibilities of the FHWA." The policy making process is "complex, evolutional, and controversial." All involved in transportation may not agree on goals and objectives, but "policy can represent but one aspect of concern, albeit an important one . . . ." It explained:

> Basic to this process are two fundamental policy problems. *First, there is the question of the appropriate Federal role in improving the Nation's highway transportation systems . . . . The second fundamental policy problem concerns the scope of national highway transportation policy.* [*A Statement of National Highway Transportation Policy*, FHWA, December 1976, p. 1-2, emphasis in original]

The highway network, described as "one of the Nation's greatest assets," was impressive in extent and performance, but "heavy use has contributed to serious deficiencies which must be corrected if the system is to continue to meet high standards of safety and efficiency." Even the Interstate System, though not yet completed, was "already overloaded on a daily basis," especially during peak periods in urban areas. Other roads also are overloaded, numerous deficient bridges must be replaced, and many miles require safety improvements. "Because of these deficiencies, there must be continuing improvement of the Nation's highway system." Further, highway travel was expected to increase about 40 percent by 1990, which will only worsen conditions "unless adequate improvements to the system are undertaken or there are major changes in travel habits." [*A Statement*, p. 2-4]

The overall national principles that were the basis for policy development were: mobility, intergovernmental cooperation, economic development, safety, energy, environmental quality, and civil rights. [*A Statement*, p. 4-7] With those principles in mind, the statement defined national highway transportation policy by subject:

> **Interstate System**: The FHWA places top priority on completion of the essential sections and programs are designed to accomplish this policy objective . . . . Moreover, it is FHWA policy that the Interstate program be recognized as a long-term national commitment to maintain a high level of service on the Nation's most important transportation system, and that adequate resources be provided to fulfill this commitment. [*A Statement*, p. 9-10, emphasis removed from this and other indented excerpts]
>
> **Urban Transportation**: FHWA policy [is] that Federal-aid highway program funds be used, where appropriate cost-effective projects are identified, to fund improvements in urban areas which result in the most effective mix of transportation services . . . . It is FHWA policy that the movement of automobiles, motorcycles, buses, rail transit vehicles, taxis, trucks, bicycles, and pedestrian traffic be managed together so that maximum effectiveness of the urban transportation system as a whole may be more nearly achieved. [*A Statement*, p. 10-11]
>
> **Rural Transportation**: FHWA policy shall focus greater attention on determining rural highway transportation needs and improving rural highway service. [*A Statement*, p. 11]
>
> **Program Funding Mechanisms**: Program levels should be determined through careful analysis of system performance, and should reflect an explicit Federal role related to maintaining or improving such performance . . . . A fundamental premise of the FHWA, one which forms the basis for policies concerned with transportation program funding mechanisms, is that appropriate user charges are a fair and equitable means of obtaining transportation revenues in order to provide benefits to users. [*A Statement*, p. 12]
>
> **Transportation planning**: Transportation exists to meet an interconnected set of broad national, State, and community social, economic, and environmental goals, and its profound effects on development must be consistent with these goals. To achieve this consistency, the FHWA encourages the coordination of transportation planning at all levels of government with land-use planning and other social, economic, and environmental planning . . . . It is FHWA policy that in urban areas the transportation planning process shall include

the development of a transportation plan and a short-term improvement program . . . . FHWA policy is that transportation planning at all levels of government should be multimodal, and special attention should be given to the need for improved intermodal transfer facilities and access to terminals. [*A Statement*, p. 13-14]

Research and Development: FHWA policy seeks to ensure that the benefits of research and development are made available to other governmental agencies and to private enterprise through effective dissemination programs and appropriate incentives for their use . . . . In order to increase the benefits of highways, improve their quality and minimize their cost, the FHWA promotes the widespread use of new technology . . . . [*A Statement*, p. 14-15]

Management of the Highway System: It is FHWA policy to encourage the use of system management techniques, or low capital intensive methods, to improve traffic flow and to help solve mobility problems . . . . Since many of these concepts require new and innovative plans, it is FHWA policy that each urban transportation planning process shall include the development of a plan for transportation system management. [*A Statement*, p. 16]

Safety: Although the accident and fatality rates of United States highways are the lowest of all major industrial countries, the FHWA is committed to a national highway transportation policy which will further reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways . . . . The following are current highway transportation safety policy objectives: realignment of FHWA safety functions to provide a focal point for coordinating safety efforts and evaluating progress; improvement in the overall management of safety programs by simplifying planning procedures and encouraging State agencies to better coordinate their activities; improvement of highway accident data collection and analysis systems; enforcement of the 55 m.p.h. speed limit; increased use of Federal-aid funds for cost-effective safety improvements; updating and enlarging by the States of their motor carrier safety activities through cooperative agreements with the FHWA; and safer shipment of hazardous materials. [*A Statement*, p. 19-20]

Social, Economic, and Environmental Factors: It is FHWA policy that full consideration shall be given in highway transportation programs to the impacts of highway development and travel, along with transportation needs, engineering aspects, safety elements, and project costs. Furthermore, a systematic, interdisciplinary approach is essential to assure a balanced treatment of all of these factors in providing for safe and efficient transportation service . . . . It is FHWA policy that noise control mitigation measures be taken, where feasible, when anticipated noise levels for new projects exceed specified levels related to adjacent land uses . . . . It is FHWA policy that every effort be made to minimize the detrimental effects on those who must be relocated or are otherwise directly affected by highway construction. [*A Statement*, p. 20-21]

> **Special Highway Programs**: The Federal Government has a unique interest and role in special programs such as those to construct and improve highways on federally owned lands, to promote mobility in Appalachia and designated economic growth centers, to provide highway assistance to foreign governments, to assure access to defense facilities, and to provide disaster relief . . . . The FHWA policy is to administer these programs as efficiently as possible, to streamline procedures for administering them, and to assure the same high standards of performance, safety and environmental protection as those established for the regular Federal-aid highway programs in cooperation with the States. [*A Statement*, p. 21-22]

Under the broad heading of **Program Management**, the policy statement discussed a number of issues:

> The FHWA Organization: Since detailed knowledge of local conditions is frequently needed to respond effectively, the FHWA shall continue to delegate to its field offices as much flexibility and decisionmaking authority as is consistent with the uniform application of Federal highway policies.
>
> Program Accountability: It is FHWA policy to ensure proper accountability in the administration of national highway transportation programs.
>
> Streamlining of Procedures: It is FHWA policy that the flexibility of States in developing and carrying out projects using Federal highway funds should not be restricted by excessive Federal regulation . . . . FHWA continually reviews its internal procedures to: minimize those requirements which are not contained or envisioned in the law; curtail lengthy and complex instructions; simplify existing procedures and requirements to provide greater flexibility and discretion at the local level; eliminate unnecessary paperwork; and decentralize program responsibilities and related delegation of authority.
>
> Quality Construction: It is time to readdress and reemphasize the basic function of highway transportation agencies—the construction and maintenance of quality highways—so as to provide the best possible investment of public highway funds.
>
> Program Emphasis Areas: It is the policy of the FHWA to annually determine and carry out an internal program that focuses special attention on certain timely and significant objectives [such as] quality of highway construction and maintenance; Federal/State/local coordination and Federal interagency coordination; transportation systems efficiency; delivery system for Federal-aid highway funds; motor carrier safety; highway safety; and Civil Rights (internal, external, minority business enterprise participation).
>
> Minority Business Enterprise Contracting: It is the policy of the FHWA, consistent with Executive Order, to provide opportunities for minority business enterprises to be informed, to bid, and to obtain commodity and service contracts.

> Equal Opportunity: The FHWA shall further internal efforts to recruit, promote, and train minorities and women for all positions and especially for those positions of a supervisory nature . . . . In addition, agencies and contractors that receive Federal highway aid must also protect civil rights, and strive to eradicate the effects of past discrimination on the basis of race, color or national origin in the planning, location, design, construction, and operation of Federal-aid highway improvements. [*A Statement*, p. 16-19]

The final section explained that in considering general policy directions that Congress and the executive branch "deem in the national interest," two significant points are appropriate:

> First, it should be based as much as possible upon the systematic analysis of alternatives and, second, that as coordinated, multimodal transportation systems continue to be developed, new perspectives on transportation service in its broadest functional terms will become necessary.

The statement concluded:

> The appropriate policy directions for the future must ensure that the transportation system operates efficiently with respect to the four major transportation service categories [short haul of passengers, long haul of passengers, short haul of freight, and long haul of freight] and that all system improvements are compatible with broader societal goals. This goal indeed provides a challenge to all those concerned with the development and use of the Nation's transportation system as well as to the formulation of future policy statements on transportation. [*A Statement*, p. 23-26]

A month later, with the inauguration of President Jimmy Carter, Administrator Tiemann resigned.

Federal-Aid Highway Act of 1976

On January 26, 1975, Representative John C. Kluczynski died of a heart attack in Chicago. An obituary in *The Washington Post* explained;

> The 79-year-old lawmaker complained of a fever on Saturday, an aide said, but refused to call a doctor. About 10:30 p.m. Sunday, he got out of bed in his home to get a drink of water, collapsed and died. He had planned to fly to Washington yesterday [Monday] afternoon.

The article described him as "a leading supporter of the interstate highway program," adding, "When it came under attack from environmentalists, he sprung to its defense." As a longtime highway supporter, "it was an article of faith . . . that the highway trust fund, raised chiefly from gasoline taxes, should not be tapped for mass transit." However, he "abruptly switched position in 1973," under pressure from Mayor Daley, "paving the way for more liberal federal aid to transit."

Representative Kluczynski "was the archetype of an old-fashioned big-city ethnic politician."

> Of medium height, he weighed close to 250 pounds, and had a ruddy round face topped with white hair. He was rarely seen without the unlighted butt of a cigar clenched between his teeth.

He had owned a restaurant, a catering business, and a bar called the Syrena. Although the restaurant had closed, the bar remained open and he "could be found there on weekends, meeting with constituents."

An obituary in The New York Times recalled:

> Mr. Kluczynski, sponsor of the 1965 act to beautify highways, turned against it in 1967 in a determined effort to protect the billboard industry and force a showdown on highway beautification.
>
> "I believe," he said then, "we enacted a can of worms, and I'm going to try to untangle it."

President Ford, who had worked with Representative Kluczynski in the House for 23 years, said he was grieved to learn of his death. "I know how much he loved his work and how well he did his job." The President described his former colleague as "a conscientious, hard-working public servant, who served both his party and his country well." He added, "John helped to shape our interstate highway system—an achievement in which he took special pride." [Eisen, Jack, "Head of Hill Unit on Highways Dies," *The Washington Post*, January 28, 1975; Associated Press, "Rep. Kluczynski of Illinois Dead," *The New York Times*, January 28, 1975]

The highway champion would not be around to fight another attempt to restructure the Federal-aid highway program in favor of mass transit.

By late January 1975, reports were emerging that the Ford Administration would propose to divert a large portion of highway user tax revenue from the Highway Trust Fund to the general Treasury. The Administration's FY 1976 budget proposal, which the President unveiled on February 3, 1975, reflected the plan. He said:

> My budget recommendations anticipate legislation that I shall propose to extend the Highway Trust Fund through 1980 for the Interstate Highway System only, and increases its funding. My proposal will focus trust fund assistance on completion of key segments of the Interstate Highway System needed to link the national system together. They will also combine a number of narrow categorical grant programs to eliminate red tape and allow localities greater flexibility in meeting their transportation problems. In 1978, States will be permitted, under this proposal, to assume over $1 billion of Federal motor fuel tax receipts for local needs.

Administrator Tiemann explained FHWA's views in an article that appeared in the March 1975 issue of *American Road Builder*. Following enactment of the National Mass Transportation Assistance Act of 1974, "it is now essential that a balance be struck by passing a companion bill for highway development that will provide needed flexibility." With the Highway Trust Fund set to expire in 1977, FHWA's idea was to continue one cent for the Interstate System, deposit two cents in the general Treasury, and return one cent to States that increased their fuel tax by a like amount. All other revenue presently going into the Highway Trust Fund would continue, except for one cent of the diesel tax. All non-Interstate highway programs would be financed out of the general Treasury. Tiemann said the plan had not yet been approved by the Department or OMB,

Under the proposal, Tiemann said, funds would be available for Interstate construction in the amounts of $3.5 billion in FY 1978, $3.7 billion (FY 1979), and $3.8 billion (1980), all higher than at present. A portion of Interstate construction funding would be set aside for the Secretary's discretionary use in expediting closure of gaps in essential Interstate routes between urban areas (known as "essential gaps").

The proposal would revise the Federal-aid primary system to include all rural and urban arterials. "There would be no special earmarking of funds for urban extensions, as we anticipate that the states will make adequate provision for them." The secondary and urban systems would be replaced by a Rural Transportation Assistance Fund and an Urban Transportation Assistance Fund. They would have "broadened eligibility," with a minimum of the funds to be spent on the secondary and urban systems, but the rest would be available on or off the systems for any highway or transit purpose, other than maintenance and operation. Separate categories, such as economic growth center and urban high density, would be folded into the rural or urban funds. Other programs, including the public lands categories, bridge replacement, and highway safety, would remain separate.

FHWA was still considering how to address a problem caused by the Budget and Impoundment Control Act of 1974. Tiemann explained that contract authority had been the source of the Federal-aid highway program's "strength and viability" because it allowed States to prepare projects, including multi-year projects, in advance. In recent years, with project development time increasing, "the value of contract authority to permit orderly planning and assured financing became even more important." The Budget Act "changed all of this by providing that—and I quote—"new spending authority is to be effective for any fiscal year *only* to such extent or in such amounts as are provided in appropriation Acts." This provision would have to be amended in some way that was yet to be determined. [Tiemann, Norbert, "Proposed Omnibus Highway Bill," *American Road Builder*, March 1975]

With reauthorization of the Federal-aid highway program due in time for FY 1977, the Ford Administration convened a Surface Transportation Task Force to recommend options for creating a Surface Transportation Program and Administration. With representatives from the Office of the Secretary of Transportation, FHWA, UMTA, and FRA, the task force identified areas of national interest and ways of giving State and local officials increased flexibility in dealing with local transportation issues.

Based on the task force's recommendations, President Ford unveiled his reauthorization proposal on July 7, 1975. It reflected views that would later be part of Secretary Coleman's national transportation policy. President Ford's announcement began:

> Twenty years ago, President Eisenhower sent to the Congress a landmark report on our Nation's highways. That report, and the legislation it inspired, launched the Nation on one of the most ambitious public works programs in history—construction of the 42,500-mile Interstate Highway System.

He was referring to *A 10-Year National Highway Program: A Report to the President*, prepared by the President's Advisory Committee on a National Highway Program, commonly referred to as the Clay Committee. President Eisenhower had transmitted the report to Congress on February 22, 1955 as the basis for legislation to give the country "a modern safe highway system."

With 85 percent of the Interstate System open and the Highway Trust Fund scheduled to expire on October 1, 1977, President Ford proposed the expected transformation in the Highway Trust Fund. "In this way, the ability of State and local governments to deal with their own transportation problems will be improved, but costs to the highway user will not be increased."

Regarding his other proposals, he said:

> The highway program is a classic example of a Federal program that has expanded over the years into areas of State and local responsibility, distorting the priorities of those governments.

Accordingly, he proposed to consolidate 30 narrow grant-in-aid programs into three broad categories dealing with urban and suburban transportation, rural transportation, and highway safety:

> This is consistent with my general philosophy that we should not, at the Federal level, extend our influence into areas which other levels of government can handle better.

In a statement issued at a White House press conference, Secretary Coleman said the proposal "reflects the changing Federal role in transportation." Interstate funds would be made available to the States by formula, but funds also would be available for Interstate improvement and rehabilitation to protect the Federal investment in the network.

Over 30 categories would be combined into:

- Urban Transportation Assistance Program
- Rural Transportation Assistance Program
- Highway Safety Improvement Program

He explained:

> These programs would continue to be available for conventional Federal-Aid Highway construction, the development of mass transit projects, and the construction and improvement of highways not part of any Federal Highway System. It is important to note that local and state discretion would be maintained in the use of these non-Interstate

> Highway monies, as well as in the use of the one cent of the gasoline tax which would revert to the states.

Although the proposal "represents a strong commitment" to completing the Interstate System, "it marks the beginning of a new era in transportation—one in which highways play a vital, but not total role." He added:

> We are not self-sufficient in energy. How can we continue to delude ourselves that highways and the private automobile symbolize the apex of the American dream.
>
> One of our most pressing challenges is to blend effectively our National energy conservation goals with the continued need for a strong highway system to serve the Nation's economic and social objectives. I believe these challenges call for new direction in our highway program, and I believe the proposed Federal-Aid Highway Act of 1975 is a bold, forward-looking effort to meet this goal.

The highway community reacted to the proposal as it had to similar previous consolidation proposals. The day of the announcement, the AGC said the Ford proposal was "deceiving in its implications, entirely overlooks the major highway needs of the nation, and would leave the uncompleted interstate highway program badly underfunded." Representative Shuster, a Republican, said he would break with tradition and not introduce the bill, even as a courtesy to the Republican President. According to an aide, he considered the bill a "rape" of the Highway Trust Fund. Representative Jones, chairman of the Public Works Committee, said, "It seems to me a great error to change a very successful program. I don't think it's a very well thought out plan." He saw the hands of transit backers behind the plan:

> The notion is abroad that there is enough money in the trust fund to do their work. That's totally fallacious. There's not enough money to [solve the mass transit problems] of two cities, much less the rest of the country.

Highway supporters especially objected to the idea that highway users would continue paying the gas tax, even though some of the revenue was going into the general Treasury instead of highway building. Representative Wright said, "I don't think those taxes should be continued to be levied against motorists and then simply dumped into the general fund."

An unnamed highway supporter said, "I think the administration just wanted to lower the highway priority and get rid of the trust fund. The federal budget people don't like trust funds and they perceive there is not as much interest in building highways anymore." When a spokeman for HUFSAM was asked if the organization would oppose the plan, he exclaimed "Damned straight." [Hoyt, Clark, "Ford Urges Diversion of Road Funds," *The Philadelphia Inquirer*, July 8, 1975; Crosby, Thomas, "Ford Plan Will Rekindle Transit-Highway Dispute," *The Washington Star*, July 10, 1975]

Mark R. Arnold, writing in Dow Jones and Company's weekly *National Observer*, recalled a Michigan Congressman named Gerald Ford who said during the House debate in 1972:

> To divert highway-use revenues to purposes other than the provision of highways would abrogate a long-standing moral commitment as well as a statutory provision. We ought not break faith with taxpayers.

Now, "that same Gerald Ford, from the perspective of the Oval Office, proposed to do exactly what, as a congressman, he opposed."
The Ford proposal, Arnold said, "set off the predictable furor among highway builders and their allies in Congress." But at the same time, "it fell short of the objective of veteran freeway fighters, who want to 'bust the trust'—dismantle the Highway Trust Fund entirely." He added that despite the devolution of funding and authority, the plan "doesn't propose to de-emphasize highway construction nationally." He explained:

> And even if Congress should endorse Ford's plan in its present form, which is highly unlikely, officials estimate that by 1980 Federal transportation spending would break down about the same way it does now: Washington would spend $3 on highways for every $1 it spends on mass transit.

The proposal "revived the New Federalism doctrine, which Richard Nixon enunciated and then abandoned under pressures of the Watergate scandal." It also "marks a step backward from earlier efforts to graft an energy-conservation ethic onto Federal transportation policy," as Arnold explained:

> Instead of broadening the Highway Trust Fund to finance mass transit or reserving a share of its revenues for energy research, the plan continues the present pattern of spending under a different format. "They're changing the signs on the door but the same things go on inside," says one critic.
>
> If conservationists are less than enamored of the proposal, so are highway champions. Predicting that Ford "would not get away with" the scheme, Rep. Robert E. Jones . . . defended the Highway Trust Fund as "the only program I know that's pay-as-you-go." [Arnold, Mark R, "Broken Trust?" *National Observer*, July 19, 1975]

Conservative columnist and former Nixon speechwriter Patrick J. Buchanan wrote:

> Of all the inventions that have liberated the working man from the drudgery of daily existence, none has done more than the automobile. It has taken him off crowded and dirty commuter buses, subways and streetcars. It has brought within reach the home and plot of ground in the suburbs his parents dreamed about. It has given his wife and teen-age children freedom of movement to visit shops, markets, friends and social events dozens of miles away. It has provided access to national parks, monuments, playgrounds and beaches, formerly the preserves of the upper middle class and the rich . . . .
>
> Yet for 10 years, a political war has been mounted against the automobile. Private cars are regularly disparaged by the trendies in the media as inefficient wasters of raw materials. They are blamed for urban sprawl, congestion, pollution and the energy crisis . . . . The

principal victims of this war against the automobile have been auto workers, unemployed by the tens of thousands, and the working poor, priced forever out of the new car market.

He explained:

> Before Americans start nodding thoughtless agreement to attacks on the "highway lobby" they ought to know that the highway lobby wants them to ride in their own cars; while the "mass transit lobby" has in mind forcing them back onto the buses and subways from which they and their parents escaped years ago.

His point was:

> Why Gerald Ford, who is as middle American as a Dodge Charger, should have thrown in with the mass transit lobby, against the highway trust fund, is difficult to understand. Nevertheless, workers of the world unite. When those television commentators say, "We have to change our life styles," what they mean is, "YOU have to change YOUR life styles." Not in a million years will you find Cronkite, Sevareid, Chancellor or Brinkley riding across town on a city bus. [Buchanan, Patrick J., "'Highway Lobby' vs. 'Mass Transit Lobby,' " *St. Louis Globe-Democrat*, August 9, 1975]

Time magazine found the proposal deceptive. Its editorial began:

> Most experts agree that the U.S.'s transportation network is gravely out of balance—too much emphasis on highways and too little on railroads and mass transit. The main reason can be summed up in four words: the Highway Trust Fund.

Describing the proposal as "this apparent trust-fund busting," *Time* said "the President's plan is far less innovative than it appears to be" and called it "a collection of politically attractive revisions that change almost nothing." The Highway Trust Fund would continue to receive enough revenue from the remaining gas tax and other excise taxes "to continue to finance road building at close to its present massive scale." Much of the money returned to the States "would still be used for highways," since most State constitutions require highway user tax revenue to be used for highways:

> Indeed, Ford's proposal would only free the states from complying with federal rules that force highway builders to design their roads to be safe and not harmful to the environment.

Meanwhile, the remaining highway user tax revenue "has in effect already been committed to highways," instead of mass transit, welfare, defense, "or anything else." Mass transit would remain at a competitive disadvantage in seeking funds:

> "Sure, we need more mass transit," sums up a transportation expert in Washington. "But we also need the highways, there is not enough money for both." Whether Congress will agree remains to be seen. ["Not Busting the Trust," *Time*, July 21, 1975]

Newsweek was also skeptical, quoting "one Washington hand" as predicting the proposal would touch off "one of the biggest lobbying battles of this or any decade." The magazine said the proposal was a break from the President's views as a member of the House of Representatives:

> Just two years ago, when Congress for the first time was about to divert money from the fund for mass transit, Ford stood in the well of the House and declared: "we ought not to break faith with the taxpayers in order to let this kind of diversion take place." But now he was embarking on a program that one aide called "almost a radical restructuring of an American institution."

Although "more than one lobbyist must have spilled his Martini when he heard of the President's proposal," *Newsweek* found a mixed reaction among the traditional highway supporters. Carlton Robinson of HUFSAM said, "If this passes, the [Interstate] system won't be finished in this century." Times, however, might be changing:

> Some members of the highway lobby may be less willing to go down the line for the "old-time religion." Some auto executives, for instance, are known to agree with Ford's idea that the use of the trust fund should now be limited to completing and then maintaining only the intersate roads. And Big Oil may give this issue low priority because of other problems with Congress.

Still, the odds seemed "heavily against Ford's proposal." The Public Works Committes were "loaded with road devotees who are jealous of their spending prerogatives." The White House, however, was hopeful:

> White House aides are convinced nonetheless that the President has a chance, if not this year, then next. Win or lose, said one Administration aide, "it will be blood, sweat and tears all the way." ["Taking on the 'Road Gang,'" *Newsweek*, July 21, 1975]

On Capitol Hill, Secretary Coleman received a skeptical reception during testimony as he tried to explain and justify the Administration's proposal. *Congressional Quarterly* summarized the pro and con views in Congress on abolishing the Highway Trust Fund. Among those favoring abolition was Senator Kennedy, who had introduced legislation for that purpose. He said the Highway Trust Fund had "produced the best highways and the worst transportation in virtually the entire industrialized world." He added, that "we have put blinders on our transportation planners" who know that "highways commanded the lion's share of the federal transportation dollar so they planned for highways."

Leonard Arrow, who had replaced John Kramer at the Highway Action Coalition, said, "You can't begin to have an integrated transportation system with all this segregated money hanging around." Michael Finkelstein, chief of Highway and Mass Transit in the Secretary's Office of Planning and Program Review, agreed, saying the country must get away from the "trust fund mentality." He pointed out that, "We don't designate cigarette taxes for [lung] cancer wars or alcohol taxes for federally subsidized bars."

Representative Shuster said, "We're smoking opium if we think the fundamental people mover is going to be anything but the highways." Given the unsafe condition of the Nation's roads and bridges, "the inescapable fact is that the Highway Trust Fund is inadequate to provide for America's highway needs."
Ben M. Hogan of the AGC said, "The solution to the urban mobility problem will require more spending for highways, not less." That was because in cities, "mass transit, with few exceptions, can only be rubber-tired."

The idea of general Treasury funding for non-Interstate highway projects concerned Representative Glenn Anderson. The multi-year nature of highway project development meant that if the highway program had to compete with all other needs every year, "I feel we would have a losing battle [because] the immediacy of other things, like schools, would shatter us." [*Congressional Quarterly*, "Abolish Highway Trust Fund?" *Madison (Wisconsin) State Journal*, September 15, 1975]

One voice for change was former Secretary Boyd, now president of the Illinois Central Gulf Railroad. On August 14, he was in Osage, Iowa, for a ceremony marking reconstruction of the railroad's line from Waterloo to the Minnesota State line. He said:

> The idea of a designated highway trust fund is ridiculous. Those funds should be for general transportation.

He urged the States, as well as the Federal Government, to open the trust funds to other uses:

> The biggest problem in settling up a state transportation department is the possibility of it being just another highway department and not devoted to general transportation needs. The best way to get around that problem is to open state highway trust funds so that the money can be used for other functions . . . . [W]hat is needed is for the states and federal governments [sic] to stop favoring one form of transportation—namely the highways—and begin treating all modes of transportation equally. [Piller, Dan, "Urges Open Highway Trust Funds," *Des Moines Register*, August 15, 1975]

On September 30, Representative Howard told the APTA meeting in New Orleans, that "Secretary Coleman should not play one side [of the mass transit issue] against the other." He was referring to statements by Secretary Coleman that the proposal would benefit donor States that contributed more to the Highway Trust Fund than they received from it:

> I refuse to believe that Louisiana citizens don't travel outside their state. That [1956] act served a specific purpose very well.

He speculated that President Ford's real motive was to include highway user tax revenues in the capital budget. "That way he could use the money however he wanted. But it may not be for transportation."

Representative Howard hoped to avoid the "bi-annual fight" between highway and mass transit proponents, but to achieve that goal, a "broad view is needed by the administration." [Bauerlein, Chuck, "Official in Favor of Highway Fund," *New Orleans States-Item*," October 1, 1975]

When AASHTO met in St. Louis for its annual meeting, Secretary Coleman delivered the keynote address. He began by saying, "I am neither anti-highway nor anti-auto." The automobile was "the most flexible and responsive mode and provides the greatest freedom of mobility." The country must "preserve and maximize the motor vehicle's unique contributions to our culture, lifestyle and economy." Nevertheless, he was "deeply concerned that the *value* of the highway transportation system in our country is being diminished by markedly prejudicial circumstances," which he explained:

> The dream of "two cars in every garage" of 30 years ago has come to pass, and the problem is that the cars are not in the garage but on the highways. Our cities cannot contain them; our energy resources cannot forever support them; and our environment cannot tolerate them.

That was, he said, a foundation of his national policy statement. Completion of the Interstate System was "a top priority, especially where connective intercity links are concerned." However, he favored reexamining the merits of the Highway Trust Fund financing mechanism. "I am in favor of adequate funding authorizations for highway programs, but such funding should be consistent with other national transportation needs and priorities, and not determined on the basis of gasoline tax revenues." He was hopeful that Congress would act favorably on one of the cornerstones for transportation improvements, "which is increased flexibility in planning and implementing local transportation concerns."

He did not want to leave AASHTO with the impression that he believed the last urban highway had been built. They were appropriate if they fit within a metropolitan transportation plan:

> New urban highways may be the best solution to a particular transportation need when they close a loop, complete a traffic pattern, or incorporate express lanes for high-occupancy vehicles.
>
> But new urban highways, I caution, are *inappropriate* where they induce greater automobile commuter traffic, contribute to suburban sprawl, unnecessarily divert passengers from public transit, or violate environmental standards. Under these conditions, the highway is as unwelcome on the urban scene as it is essential to the rural resident or traveler.

In planning transportation networks, he told AASHTO:

> Our transportation policies must reflect the consciousness that we no longer have energy to burn—that fuel efficiency must enter into our transportation plans and programs along with environmental, economic and social considerations. There's simply no way of doing highway business the "old way" any more. But there is still highway business to be done.

> And I am confident that the highways built or improved according to today's higher standards and ideals will be the best highways we have yet produced.

Elizabeth Parker summarized the fate of the Ford proposal:

> In addition to being ignored by Congress, the administration's proposal had little support at the state and local level because it would have required state and local officials in each state to support enacting taxes to substitute for federal taxes. Another significant reason the administration's proposal was such a colossal failure is that it offered no real improvements and because it asked state and local officials to assume responsibility for programs that would have cost more than the tax money they would get. It also suffered from the unfortunate name association with UTAP. [Parker, p. 59]

On December 18, 1975, the House of Representatives approved the Federal-Aid Highway Act of 1975 by voice vote. On a procedural vote to recommit the bill to the Committee on Public Works, the House rejected the motion by a vote of 410 to 7. The Senate approved its version of the legislation, 86 to 13, on December 12.

Conferees reconciled the House and Senate bills and issued a conference report on April 7, 1976. The House and Senate approved the conference report on the Federal-Aid Highway Act of 1976 by voice votes on April 13.

On May 5, 1976, President Ford appeared in the Rose Garden at 3 p.m. for the signing ceremony. In brief remarks, he said, "Many, many thousands of jobs will be directly as well as indirectly supported by the legislation, which will provide for key links in the Interstate Highway System, upgrade existing highways, and develop public transit facilities." He conceded that "this act does not include everything that this administration proposed to the Congress," but it was nevertheless "an important step toward meeting America's transportation needs." He singled out for praise the fact that the primary responsibility for selecting projects would "continue to rest with State and local authorities."

Saying, "I am very pleased to sign this legislation," he signed Public Law 94-280 surrounded by Secretary Coleman, Administrator Tiemann, and the Members of Congress who had largely ignored his July 1975 proposals for transforming the Highway Trust Fund.

The new law retained the structure of the Federal-aid highway program, including the Federal-aid primary, secondary, and urban systems, and authorized funds for the program's array of categories. It consolidated the primary system to incorporate its urban extensions rather than fund the extensions separately. It increased flexibility for transfer of funds among the consolidated primary. secondary, and urban systems.

It extended the completion date for the Interstate System to 1990 and authorized $3.25 billion for Interstate construction for FYs 1978 and 1979 and $3.625 billion for each of FY's 1980 through 1990. At least 30 percent of the funds for FYs 1978 and 1979 were to be expended for construction of intercity portions (including beltways) to close essential gaps in the System. For the first time, the legislation authorized $175 million a year for FYs 1978 and 1979 "for projects for resurfacing, restoring, and rehabilitating portions of the Interstate System which have been in use for more than 5 years and which are not toll roads." Although maintenance of Federal-aid highways, including the Interstate System, had always been a State funding responsibility, declining State highway user revenue prompted Congress to take this step to protect the Federal taxpayers' investment in the Interstate System.

The legislation modified how State and local officials could address controversial Interstate segments. It extended the Howard-Cramer transfer provision, which had been limited to segments approved "prior to the enactment of this program," to any route on the Interstate System except routes built without Interstate construction funds but given an Interstate number.

The 1976 Act increased the widths of buses allowed on the Interstate System from 96 inches to 102 inches, but did not modify size and weight requirements for trucks.

The legislation also:

- Repealed the Special Urban High Density Program but authorized funds to complete projects already approved.
- Funded priority primary projects from the consolidated primary system funding. The Federal share could not exceed 70 percent. All Title 23 provisions applicable to Federal-aid primary projects applied to priority primary projects.
- Modified Certification Acceptance by deleting the the phrase "establishing requirements at least equivalent to those contained in, or issued pursuant to, this title" and substituting "which will accomplish the policies and objectives contained in or issued pursuant to this title." It also reinstated the Secondary Road Plan.
- Modified the Emergency Highway Energy Conservation Act by expanding the carpool program to make it permanent and establish eligibility for van pools and the purchase of vehicles for them as well as carpooling opportunities for the elderly and handicapped. Funds could come from the Federal-aid primary and urban system apportionments.
- Eliminated separate funding for landscaping and scenic enhancement, but allowed expenditures for this purpose from Federal-aid construction funding.
- Increased funding for bicycle transportation and pedestrian walkways from $40 million to $45 million and the ceiling on expenditures for this purpose in any State from $2 million to $2.5 million.
- Funded an Acceleration of Projects initiative "to demonstrate the feasibility of reducing the time required to complete a highway project in areas severely impacted as a result of recent or imminent change in population or traffic flow resulting from the construction of Federal projects." (Representative Shuster included this language to cover the Everett Bypass project in his district. Secretary of Transportation Neil Goldschmidt transmitted the report to Congress on the Everett Bypass demonstration project on January 16, 1981. The lessons learned, such as concurrent review, would be the foundation for the 1983 FAST program to Facilitate Acceleration through Special Techniques.)
- Expanded the railroad-relocation demonstration program to four additional central city areas (Metairie, Louisiana; Augusta, Georgia; Pine Bluff, Arkansas; and Sherman, Texas).

- Authorized the Secretary to carry out a traffic control signalization demonstration project to "demonstrate increasing traffic capacity, conserving fuel, decreasing congestion, improving air and noise quality, with priority to projects providing corrdinated signalization."
- Authorized the use of Federal-aid highway funds for construction of access ramps from bridges to public boat launching areas adjacent to such bridges.
- Authorized funds for an ongoing Automated Guideway Transit System at the Dallas/Ft. Worth Regional Airport.
- Extended to Puerto Rico the provision making ferry boats that traverse international waters eligible for Federal-aid highway funds.
- Gave the Secretary of Transportation authority to cooperate with the Secretary of the Interior to study the most feasible Federal-aid routes to move motor vehicles to and around National Parks and thereby best serve the needs of the traveling public while taking into account the national policy of making a special effort to preserve the natural beauty of the areas being traversed.
- Directed the Secretary to submit a report to Congress on ways of funding completion of the Interstate System, including bonds, and another report on resurfacing, restoration, and rehabilitation (3R) of the Interstate System.
- Called for a study of the cost of repairing roads in Alaska damaged due to construction of the Alaska Pipeline.
- Established the National Transportation Policy Study Commission to study transportation problems and the resources necessary to ensure that adequate transportation systems are in place to meet the needs for safe and efficient movement of of goods and people.

Safety programs included highway safety funds, rail-highway crossings, incentive safety grants for reduction in fatalities, school bus driver training, pavement marking, a National Highway Safety Advisory Committee, and an investigation into the relationship between the gross load on front steering axles of truck tractors and the safety of operators of vehicle combinations of which such truck tractors are a part.

(Although the Nixon and Ford proposals failed to make large amounts of Highway Trust Fund revenues available for mass transit, they reflected a continuing trend. The Surface Transportation Assistance Act of 1982 would enact a breakthrough. It authorized a 5-cent increase in the gas tax and directed that 1 cent of the increase go to a new Transit Account in the Highway Trust Fund. The 1982 Act also increased taxes on trucks. For a detailed account of how this legislation came about, see "Palace Coup: President Ronald Reagan and the Surface Transportation Assistance Act of 1982" at http://www.fhwa.dot.gov/highwayhistory/reagan_staa.cfm.)

Increasing the Gas Tax to Conserve Energy

Following the October 1973 oil boycott, Nixon Administration officials considered increasing the gas tax by as much as 50 cents to cut the public's appetitive for energy consumption. The House Ways and Means Committee would have to approve any change in highway user taxes, whatever the reason. As *The Wall Street Journal* reported on December 7, 1973, Chairman Mills strongly opposed an increase, which he thought would be "disastrous." He explained that, "For many working people, cars aren't a luxury, and they couldn't afford this no matter how it's designed." He was willing to consider a small increase, perhaps 4 cents, if the revenue went to energy research and development.

At the same time, he was concerned that as the price of oil rose, the increase might result in exorbitant profits. He was willing to consider an excess-profits tax on oil and gas companies. He also favored requiring oil companies to use the money saved from tax write-offs, such as the oil depletion allowance, in new exploration. "The problem is to develop new supplies, and this would be one way to go about it." He added, "we just can't let profits become exorbitant."

The *Journal*'s editorial page agreed with the idea of doubling the gas tax to 8 cents, saying, "the higher rates being considered in the Nixon administration to discourage demand would be 'disastrous,'" as Mills had put it. The editorial continued:

> Doubling the excise tax would raise an additional $4 billion annually that he would earmark for energy research and development. The proposals kicking around in the administration range from a 10-cent-per-gallon increase up to a 50 cent boost, the latter figure offset by a cumbersome scheme to give every American over 16 so many coupons a week worth 50 cents at the gas pump, or redeemable in cash at any bank.

Everyone, the editorial said, agreed on the need for research and development, including an effort to develop nuclear fusion ("the hope for the next century") and coal liquefaction and gasification:

> Friday, the Senate unanimously passed Senator Jackson's program to spend $20 billion over 10 years. Mr. Nixon talks of a five-year program of $10 billion. It's one thing to propose spending money, another to raise it. Raising the gasoline tax is at least one way to do it . . . .
>
> An eight-cent gasoline tax is not necessarily the magic figure, nor has Mr. Mills implied as much. But there are good uses that can be made of those revenues deriving from a tax at that rate beyond the R & D effort.

Some of the new revenue could be returned to the States in the form of revenue sharing to offset tax losses that were devastating State budgets. "The mass-transit efforts at the federal level, just beginning to take hold through the highway trust fund, could also be accelerated." ["Mills Would Fight Big Gasoline-Tax Rise But Might Back Increase of 4 Cents a Gallon," *The Wall Street Journal*, December 7, 1973; "Doubling the Gas Tax," *The Wall Street Journal*, December 10, 1973]

EPA Administrator Train agreed with the idea of using an excess profits tax on oil to expand mass transit. In an Atlantic City speech, he explained to the American Farm Bureau Federation that the Nation faced "a crisis of demand rather than supply." He said, "we are doing almost nothing in either the public or the private sector to encourage the basic changes we must make to bring demand down to life-size levels."

The most likely way "by far" to reduce demand was to invest revenue from an excess-profit tax in "the growth and development of genuine mass transit alternatives to the urban automobile." Using the revenue exclusively for this purpose would offer the Nation "substantial returns in reduced energy demand."

The Nixon Administration appeared to be leaning toward the use of revenue for research and development. On the same day that Train addressed the federation, the Federal Energy Office said that "we would prefer" the revenue be used for Project Independence to make the United States self-sufficient ini energy. Train commented that "almost every day I read or hear about some marvelous new proposal for a Manhattan-type project that will assure us all an open sesame to endless supplies of cheap energy." Instead of a project equivalent to the Manhattan Project, he said, he would be "a lot more impressed by a far more modest proposal" that would "enable us to get around Manhattan and our other metropolitan areas without wasting so much energy and time and land and air . . . ."

He was concerned that the Federal emphasis appeared to be on finding more energy rather than on conservation:

> We need leadership with the courage to tell the American people the truth. The real cause of our energy problems is runaway and wasteful growth in demand: there is no quick fix to these problems; we will never resolve them without very real changes in our way of life. [Wilson, George C., "Oil Taxes Sought to Aid Transit," *The Washington Post*, January 16, 1974]

In late January 1974, President Nixon took steps to address the energy crisis. On January 19, he delivered a radio address reporting on the progress made since, 10 weeks earlier, he had called on "all Americans to accept some sacrifices in comfort and convenience so that no American would have to suffer real hardship." He said the individual actions of every American to conserve energy were an important factor in the success the Nation had achieved in facing the crisis thus far.

At the government level, he promised to do everything he could to reduce the price of foreign oil. "Scare stories that the American people will soon be paying a dollar for a gallon of gas are just as ridiculous as the stories that will say that we will be paying a dollar for a loaf of bread." He urged Congress to act immediately on a windfall profits tax that would require windfall profits to be "turned over to the Government or be invested in the development of new supplies" of oil. He said that private profiteering must not be tolerated.

If his Project Independence initiative were to succeed, the private sector would have to contribute revenue and initiative, but the Federal Government had a role to play as well. He would submit a legislative package of energy initiatives that he expected Congress to act on promptly. "If we are to be successful in dealing with our long-term energy needs, the Congress must play its part, and I believe that the Congress, after returning from their districts over the Christmas holidays, will agree that the people want them to play their part along with the Administration."

On January 23, he sent a special message to Congress on the energy crisis. Although much progress had been made since the October boycott, he recommended additional actions, including a windfall profits tax consisting of "a tax of up to 85 percent on receipts from sales of crude oil above the ceiling set by the Cost of Living Council in December of 1973." Among many other ideas, some pending, some new, President Nixon called for changes to the Clean Air Act "to provide greater flexibility in deadlines and other requirements." He said, "I hope the Congress will move quickly to grant authority for temporary relaxation of requirements and freeze the standards for auto emissions—now applicable to 1975 model cars—for two additional years." This action would allow the auto companies to focus on improving fuel economy.

He also was concerned that "the reductions of nitrogen oxides from automobiles as required by the Clean Air Act are unnecessarily stringent and that technology to achieve the reductions is not yet practicable. EPA had already advised Congress that many metropolitan areas could not meet current air quality standards "without drastically curtailing the use of motor vehicles. For instance, these deadlines would require that motor vehicle usage in Los Angeles be reduced by as much as 87 percent." The impact of actions required by the Clean Air Act must be assessed "so that there will be a basis for sound decisions that provide an appropriate balance among our objectives for environmental quality, economic and social growth, energy supply and national security."

In addition to locating new sources of oil and increasing energy research and development, the President said, improved urban transportation must be part of the response to the crisis:

> It is widely recognized now that the development of better mass transit systems may be one of the key solutions to both our energy and environmental problems. My budget for fiscal year 1975 . . . gives priority to the improvement of urban transportation, especially transit bus fleets. In addition, I will soon propose legislation to increase the amount and flexibility of Federal transportation aid which is available to local communities.

He was referring to the UTAP proposal that Congress would ignore in developing the Federal-Aid Highway Amendments of 1974.

On February 27, 1974, Congress completed work on the Energy Emergency Act, despite a promise from the President that he would veto it, as he did on March 6. He particularly objected to a rollback provision that would set the price of oil produced in the United States at $5.25 a barrel and establish a ceiling price of $7.09 per barrel unless the Administration could justify a higher price and a congressional review concurred. In his veto message, President Nixon said of the rollback provision that it would reduce oil company incentives to produce oil from new and future sources:

> It would result in reduced energy supplies, longer lines at the gas pump, minimal, if any, reduction in gasoline prices, and worst of all, serious damage to jobs in America. Unemployment would go up, and incomes would go down . . . .

He objected to other features of the legislation, such as its "unworkable and inequitable program of unemployment payments" to those who lost their jobs for "energy related" reasons.

He reiterated his earlier legislative proposals and pledged his Administration's full cooperation "in the effort to provide energy legislation which is responsive to the problems we face and responsible in its impact on the economy and on the American people."

Within hours, the Senate attempted to override the veto, but secured only 58 votes to override, 8 short of the two-thirds majority needed. The House, which could not override the veto on its own, did not need to vote.

Although the end of the OPEC oil boycott would reduce pressure for drastic action, the idea of increasing the gas tax to encourage energy conservation remained alive. On October 8, 1974, President Ford delivered an address to a joint session of Congress on the economy. He would outline his recommendations, but he said, "There is only one point on which all advisers have agreed: We must stop inflation right now." To achieve this goal, one area that must be addressed was the ongoing energy problem. He announced that he would reorganize Federal efforts by establishing an Energy Resources Council with Secretary of the Interior Morton taking the lead "to reduce imports of foreign oil by 1 million barrels per day by the end of 1975, whether by savings here at home, or by increasing our own sources."

He called for measures to increase the energy supply, including changes in the Clean Air Act, and said, "I will meet with top management of the automobile industry to assure, either by agreement or by law, a firm program aimed at achieving a 40 percent increase in gasoline mileage within a 4-year development deadline." He added that if these measures failed, "I will not hesitate to ask for tougher measures," but he did not specify what they might be. He supported a tax reform measure before the House Ways and Means Committee to reduce taxes on hard-hit low and middle income Americans, with compensating new revenues, including a windfall profits tax on oil producers, to avoid adding to the deficit.

During a press conference the next day, President Ford answered a question about a gas tax hike:

> Q. Mr. President, some people think—a great many people, in fact—think that your proposals were not tough enough, or at least tough on the wrong people. In view of your somewhat apocalyptic vision of what will happen to this country if we don't lick inflation, why didn't you propose mandatory gasoline taxes or gasoline rationing in order to conserve fuel, for example?
>
> THE PRESIDENT. We believe that the surtax charges that we have recommended are a more equitable approach to the achievement of greater income so we could give some relief to the less well-off, the people who are suffering greater hardship.
>
> We took a look at the gasoline tax recommendations, and we found that this might be harmful to people, and it would be more harmful to the people less able to pay. And in balancing out all of the tax proposals, we came to the conclusion that what we have recommended, which affects only 28 percent of the personal income tax payers in this country, was the appropriate way to raise the revenue and dampen inflation.

He also rejected gasoline rationing to conserve fuel, saying, "We believe that the American people will respond to our volunteer program." If the American people responded as he thought they would, "I don't think we have to put a tax on gasoline users to achieve our objective."

On October 16, while in Sioux Falls, South Dakota, campaigning for Republican candidates in the upcoming mid-term election, President Ford again addressed the issue of a gas tax hike for conservation, saying:

> And let me add one other thing while I am talking about fuel. Prior to my speech a week ago, everybody else but myself was telling the American people what I was going to say about gasoline taxes. Well, I have now said or given my own views, but I want to reiterate it right here to you in South Dakota: I am vigously opposed to any additional Federal tax on gasoline, and I will fight it as hard as I possibly can.
>
> We want to keep this country rolling, not parked on a dead-end street.
>
> Let me add one special concern that I had for the people of South Dakota when this issue was presented to me and I rejected it. I thought of the people of South Dakota and other States who have to travel not a couple of miles but many miles to go to the doctor or to the hospital. I thought about the people in South Dakota who have to go from their farms or their ranch to the implement dealer or to the community where they trade.
>
> A gasoline tax would unfairly, in my judgment, penalize those people. And for that reason, among many others, I rejected it. And we are not going to have it as long as I am in the White House.

Although the Ford Administration was relying on voluntary measures to reduce energy consumption, Secretary Brinegar, Secretary Morton, and other government officials met with Big Four auto company executives at the White House on October 29. After the 1-hour meeting, Secretary Brinegar said he had told the executives that President Ford was “dead serious” about a 40-percent average increase in fuel efficiency by 1980. He hoped to achieve that goal by the industry’s “voluntary, cooperative response,” but Secretary Brinegar intended to seek a commitment from industry leaders.

The auto executives were noncommital during the meeting, but Thomas A. Murphy, General Motors’ vice chairman, told reporters he expected resistance from the industry unless the government offered some trade-offs, such as a pause in safety and anti-pollution regulations and a review of the cost-benefit of meeting standards in both areas. [Kenworthy, E. W., “Auto Men Hear U.S. Plea on 40% Gas Mileage Rise,” *The New York Times*, October 30, 1974]

In an address to the National Highway Users Federation in Chicago the following day, Secretary Brinegar said the energy crisis was “potentially the most serious threat to our way of life since Pearl Harbor.” It was a “ticking time bomb” and “we must stop ignoring it, stop hoping that it will go away, and get on with solving it.” Despite voluntary efforts following the long gas lines at the height of the crisis, “we seem to be settling back into the old energy spendthrift ways.”

To reduce dependence on foreign oil, the transportation sector must do its part:

> Since the nation's transportation system uses nearly 60 per cent of all liquid oil consumed in the United States, meeting that challenge clearly is going to require some changes in our travel and shipping habits.

Among the immediate steps was to encourage drivers to cut total driving by 10 percent, encourage carpooling, and enforce the 55 m.p.h. speed limit.

On November 1, Rand Corporation researchers announced that short of rationing supply, the only way to significantly reduce gasoline consumption was to increase fuel prices through higher taxes. Research and development might pay off in a decade or more, but the impact of an increase in fuel taxes would be immediate. Sorrel Wildhorn, senior Rand researcher, said, "if we are to save gasoline from here on out, what seems to make the most sense is a combination of short and long-term policies." In the short term, a 15-cent gas tax increase would reduce gasoline use by 16 percent or 700,000 barrels of oil daily. A 30-cent increase would result in a 34-percent saving (1,260,000 barrels), while a 45-cent increase would result in a 40-percent saving (1,750,000 barrels). While conceding that the impact would be greatest on lower income motorists, the researchers said the tax could be decreased as longer term measures became effective. [Fisher, Dan, "Rand Study Urges Gasoline Tax Hike to Cut Consumption," *The Los Angeles Times*, November 1, 1974]

Secretary Morton briefly reopened the idea of a gas tax increase on November 13 by telling reporters that a hefty increase was again under consideration within the Ford Administration. "It's on my burner." Voluntary fuel conservation may prove to be a "Mexican standoff" because "there are 300,000 filling stations operating out there working against it." A 4-cent gas tax increase was among the options being considered for short-term relief. Reminded of the President's remarks in Sious Falls, Secretary Morton said, "I don't feel the President has foreclosed any" options.

A report on the breakfast meeting with Secretary Morton in *The Wall Street Journal* said of the "on-again, off-again idea" that:

> The gasoline-tax boost idea was forcefully pushed by [Federal Energy Administration] Administrator John Sawhill right before the elections, and is believed to have been a big factor in his forced resignation. Indications are that the gasoline-tax boost was dropped last month for political reasons only after many Republican congressional candidates complained to the White House that the proposal would hurt their campaigns.

Secretary Morton said that officials had not settled on an amount of tax increase, but said that if an increase significantly reduced oil consumption, it could "break the cartel price" of oil. "That's what this is all about." Officials had not decided what they might do with the added revenue, although they had considered recycling the revenue back into the economy by a rebate.

By day's end, the White House reminded the press that President Ford was opposed to a gas tax hike. Press secretary Nessen said, "This is the position now" and indicated that Secretary Morton was considering a "number of options." Reporters speculated that this meant the President might change his mind. Asked about the White House statement, Secretary Morton's spokesman said that the Secretary was not endorsing a gas tax hike, but felt he must study all options. ["Morton Revives Idea of Gasoline-Tax Rise as a Possible Way to Cut Energy Use," *The Wall Street Journal*, November 14, 1974]

(John C. Sawhill departed as Federal Energy Administrator on October 29, 1974. A *Times* account of the forced resignation said that he had "overreached himself." It explained, "He tried to send too many memorandums directly to Presidents Nixon and Ford, according to a Sawhill associate, failing to appreciate that most of them would be diverted to [Treasury Secretary William E.] Simon's in-basket because Mr. Simon was chairman of the inter-agency energy committee (until Mr. Morton became 'boss.')"

(He had lost Simon's confidence and alienated other Administration officials by his outspoken views and advocacy of views that were not part of Administration policy. Recently, "Sawhill has emerged as an ardent advocate of energy conservation, as a way to diminish this country's need for imported oil." Although conservation was an element of Project Independence, Sawhill had made one last blunder. "Mr. Sawhill recommended on national television specific measures—an increased tax on gasoline, perhaps a general surtax on excessive energy use—only days before a major Presidential economic message." Soon thereafter, in a White House meeting on October 25, President Ford requested Sawhill's resignation so he could appoint Secretary Morton as the new "energy czar" in a shakeup of the energy team. Where "Sawhill was not a good soldier," according to a Morton associate, the Interior Secretary was "a professional politician" who "often seemed primarily concerned with the politics of the situation." [Cowan, Edward, "Energy-Policy Search: Sawhill vs. Morton," *The New York Times*, October 31, 1974])

In case Secretary Morton was in any doubt, the President reiterated his position the day after the Secretary's remarks. During a news conference in Phoenix at the annual convention of the Society of Professional Journalists, Jules Witcover of *The Washington Post* raised the subject:

> Q. Mr. President, Secretary of Interior Morton told reporters yesterday he is still interested in the possibility of a new gasoline tax as a weapon to fight the energy crisis and inflation. Your Press Secretary on your behalf has repeatedly said that you are not considering it. Can you clear up exactly what the Administration's position is on a new gas tax?
> A. I certainly will, Jules. I don't know how many times I have to say that we are not considering an additional gasoline tax. I said it the first time, I think out in Sioux City [Falls], South Dakota, and I repeated it many times thereafter. I thought that others in the executive branch got the word, and I hope this word is conveyed to my good friend, the Secretary of the Interior. [Laughter] We are not considering an increase in the gasoline tax.

Secretary Morton ordered energy officials to stop considering the idea.

Testifying before a House Interior subcommittee on November 21, Secretary Morton said that while a tax hike was out, he was still considering the idea of a tax on crude oil that might have the same effect of reducing consumption. Also under study were gasoline rationing and an embargo on oil imports if voluntary conservation "doesn't prove adequate to reduce demand." A Ford Administration energy official, speaking anonymously, told reporters, "The President ruled out a gasoline tax increase but he didn't say anything about a tax on crude oil." The immediate concern was the impact of a fuel hike, whatever the source, on the weakened economy. Nevertheless, Secretary Morton told the subcommittee, "I feel strongly we are going to have to impose a new ethic on conservation of energy in this country." ["Tax on Crude Oil Possible Option to Cut Use of Fuel, Interior Secretary Says," *The Wall Street Journal*, November 22, 1974]

Despite President Ford's repeated rejection of a gas tax hike, the idea remained alive. On November 22, Henry Ford II endorsed a 10-cent gas tax increase. The increase "should at least be considered, mainly as a means of giving the Federal Government the revenues it needs to provide the various forms of assistance to the people most directly affected in this deepening economic slump." The auto industry, he acknowledged, would suffer a drop in sales, which already were in a slump. Nevertheless, the idea deserved consideration, he said, adding that "the fact is that we will never get a full-fledged recovery in the auto industry if we don't give the nation some elbow room in its effort to fight its way out of a recession."

He recognized that, "Many people in our industry, including some at Ford Motor Company, don't share my views on this matter." Richard C. Gerstenberg, outgoing chairman of the General Motors Corporation, said a gas tax hike was a "terrible" idea, with the impact falling on the people who could least afford it. A spokesman for the Chrysler Corporation said a gas tax hike would not be in the "best interests" of the country. [Salpukas, Agis, "Henry Ford Urges a 10-Cent Increase in Tax on Gasoline," *The New York Times*, November 23, 1974]

Gerstenberg's successor, Thomas A. Murphy, reversed the company's position, saying he would support higher gas taxes if they were necessary to reduce dependence on petroleum imports. "If in the judgment of the [Ford] Administration it looks like a gasoline tax is necessary, I think we ought to consider it." Reporter Robert Lindsey said, "Mr. Murphy's endorsement of the idea appeared to be reluctant. He said it should be done only 'if it's necessary.'" [Lindsey, Robert, "G.M. Would Back Gasoline Tax Rise," *The New York Times*, December 3, 1974]

On December 13, Senator Edward M. Brooke (R-Ma.), the first African-American popularly elected to the Senate, introduced two bills:

> S. 4234 – A bill to increase the Federal excise tax on gasoline, to terminate the Highway Trust Fund, and to provide a refundable tax credit with respect to the increased tax paid on no more than 700 gallons of gasoline purchased each year.
> S. 4235 – A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its weight, and for other purposes.

Senator Brooke explained that the oil embargo 1 year earlier "underscored the urgent need for this country to develop a national energy policy." Despite a great deal of talk about energy policy, "the Nation drifts toward economic and energy chaos." He offered his bills "with no joy" because "they entail hardship, sacrifice, and dislocation." But he saw no alternative "to this kind of tough, mandatory action." His bills offered "the most sensible, equitable approach to curing our paralysis and forging a rational energy policy.

A key element was to curb auto use:

> We are hooked on the automobile and the habit spreads despite the many problems it now presents to our society. It is nearly impossible to overstate America's love affair with the automobile . . . . But it may just be that the luxuries offered by the private automobile are something we can no longer afford.

Given the automobile's many deficiencies, the "time has come to face the music," beginning with the gas tax, which S. 4234 would raise by 20 cents. The revenue would go into the general Treasury and "could then be put toward the task of providing for those most burdened by our current economic woes. The increased tax would curb driving, reduce oil demand by a million barrels a day, and improve the country's balance-of-payments picture by as much as $3.6 billion a year. "In addition to these crucial energy and economic benefits, there will be attendant environmental and social benefits of less automobile driving." These additional benefits included fewer deaths and fatalities on the roads and reduced emissions.

Although objections could be raised to his proposal, Senator Brooke said, the lack of alternatives to reduce oil dependency made his plan fair and equitable. Rationing, which was often offered as a solution, would be difficult to administer, was susceptible to political pressures, had regressive tendencies, and would cut into travel by low income citizens and those with large cars—"and this without any of the attendant economic benefits supplied by the gas tax." It was "a short-term solution to what is definitely a long-term problem."

His plan began by ending the Highway Trust Fund:

> Not only is this desirable from a procedural standpoint since all revenues generated by gasoline taxes must now go directly into the fund; but, from the even more important standpoint of social policy, the proliferation of highway construction is contrary to the needs manifested by our energy problems. Highway construction is simply no longer a high priority item for this country. If future moneys are needed for highway construction—and I assume they will be—then I say let the case be made before the Public Works and Appropriations Committees and let them compete actively with other social programs such as health care, defense, education, veterans' benefits and mass transit, to name a few.

His "progressively stringent tax on automobile weight" was needed to "ensure that a growing trend toward producing smaller cars becomes the norm among all auto manufacturers."

He recognized that rhetoric was "a politician's stock-in-trade," adding:

> But no amount of rhetoric can bring home the need for tough, mandatory energy conservation steps.

Congress, "paralyzed by opinion polls, steadfastly refuses to act." He knew his bills would not be popular. This legislation "will jar; it will jolt; it will inconvenience." If anyone else had a better idea, "let them come forth." He concluded:

> Let them put their proposals before the people and let us debate them on their merits. This is our responsibility. We must insure that our citizenry understands fully the seriousness of our energy crisis and what can be done about it. Only then can they make the informed decisions that are so desperately needed. ["Statement on Introduced Bills and Joint Resolutions," *Congressional Record-Senate*, December 13, 1974, p. 39709-39712]

(Both bills were referred to the Committee on Finance. Neither bill progressed out of committee. Senator Brooke, who had first won election to the Senate in 1966, was defeated for reelection in 1978 by Democrat Paul Tsongas for reasons unrelated to his stance on the Highway Trust Fund.)

As 1974 ended, *Washington Post* columnist Hobart Rowen looked back on the energy crisis debate:

> One way or another, the average American's love affair with his car is going to go through a crisis in 1975. By raising the price of gasoline through direct or indirect taxes, or by an allocation or a rationing system of some sort, the government is likely to make an effort to reduce the amount of gasoline available for business and pleasure driving.

He said that Ford Administration officials "privately confess what they should have known in the first place," namely that voluntary measures were not going to be sufficient. A strong conservation program would be needed:

> In a thoughtful speech, Sen. Edward M. Brooke (R-Mass.) recently proposed a 20-cent federal tax on gasoline, along with a graduated tax on auto weight, a plan for gas tax refunds to those making less than $15,000 a year, so as to make the system less burdensome, and an end to the Highway Trust Fund.
>
> The Joint Economic Committee of Congress, after debating the merits of a rationing system versus a gas tax, leaned toward a 30-cent tax, which would push the price up to 85-90 cents a gallon, also with a rebate plan for the money so collected.

Given President Ford's clear rejection of a gas tax increase, "his energy advisers have concocted an alternate plan that would raise the price of all petroleum products indirectly by imposing a tariff of from $1 to $3 a barrel on imports." This plan would impose a great burden on the Northeast, which needed fuel for heating. Moreover, Secretary of the Treasury Simon "who shudders at the thought of a coupon rationing system" had suggested a mandatory allocation system, possibly coupled with import quotas:

> Simon is still pushing for a gasoline tax increase and, within the private councils of government, it also has the backing of Economic Council Chairman Alan Greenspan and Interior Secretary Rogers Morton.

The advantage of a gas tax increase was clear:

> Under a gas tax increase plan, those who consciously cut their driving below the national average would be money ahead. There would be the incentive to drive less for pocketbook

> as well as patriotic reasons. Essentially, the formula is similar to one that helped get former energy czar John Sawhill fired from his job a few weeks ago.

The disadvantages also were clear:

> First of all, no one really knows how effective a higher price would be in cutting consumption. Even 85 or 90 cents a gallon is far below the gas price commonly paid in Europe. Pleasure driving hasn't been inhibited by gasoline prices of $1.35 a gallon in London and $1.50 in Paris.
>
> But what is certain is that the tax would raise the cost of living, and put most of the burden on those who need their cars for work—doctors, traveling salesmen, commuters without mass transit alternatives. It would be a hardship for truckers and bus companies. And if the tax is coupled with a rebate plan, many who don't drive much (and therefore contribute little to conservation) would get a windfall tax bonus.

Still, "Vice President Nelson Rockefeller wisely put the No. 1 tag on the problem." The "desperate" situation called for "bold measures." As a result, "if there were no other way to cut gasoline consumption, a new tax would have to be seriously considered even though it would exacerbate the recessionary trend in the automobile industry." [Rowen, Hobart, "Driving Toward a Crisis," *The Washington Post*, December 29, 1974]

A New Direction

In January 1975, President Ford launched initiatives to address economic and energy problems. On January 13, he addressed the Nation on his plans. "We must turn America in a new direction," he said, and "reverse the current recession, reduce unemployment, and create more jobs." What was needed was "a simultaneous three-front campaign against recession, inflation, and energy dependence." The campaign must include "within 90 days, the strongest and most far-reaching energy conservation program we have ever had." The price of gasoline and oil might increase, but his program would "discourage the unnecessary use of petroleum products, and it will encourage the development and substitution of other fuels and newer sources of energy."

He would begin by using his emergency powers to increase "import fees on each barrel of foreign crude oil by $1 to $3 over the next 3 months." Beyond that, he would call on Congress to enact energy conservation taxes on "oil and natural gas to reduce consumption substantially." The revenue would be "returned to the economy." The plan would prevent windfall profits by producers while calling on voluntary efforts to cut gasoline and other energy use. He would use his authority to allocate fuel resources to areas such as New England that had unique needs during part of the year:

> My national energy conservation plan will urge Congress to grant a 5-year delay on highway automobile pollution standards in order to achieve a 40-percent improvement in miles per gallon . . . .

> If Congress speedily enacts this national energy program, there will be no need for compulsory rationing or long waiting lines at the service station. Yes, gasoline prices will go up, thought not as much as will a 20-cent-a-gallon tax. Furthermore, the burden of the conservation taxes on oil will be shared by all petroleum users, not just motorists.

The President summarized his energy proposals during his State of the Union Address on January 15. "I am recommending a plan to make us invulnerable to cutoffs of foreign oil. It will require sacrifices, but it—and this is most important—it will work." He called for legislation to allow commercial production at the Naval Petroleum Reserve, to encourage powerplants to use coal instead of oil, and to increase import fees and enact a natural gas excise tax and a windfall profits tax. He also wanted to increase oil exploration, including "on those frontier areas of the Outer Continental Shelf where the environmental risks are acceptable," and increased use of "our most abundant domestic resource—coal." The latter would require changes in the Clean Air Act to "strike a reasonable compromise on environmental concerns with coal." Further, he planned to submit legislation to "energize our nuclear power program."

He added:

> I want you to know that before deciding on my energy conservation program, I considered rationing and higher gasoline taxes as alternatives. In my judgment, neither would achieve the desired results and bother would produce unacceptable inequities.

He submitted the Administration's Energy Independence Act of 1975 on January 30. The program was designed to increase domestic energy resources while discouraging reliance on oil imports. The tax measures reflected his recent announcements, with revenue returned to the economy "to offset higher energy costs, particularly for low and middle income citizens, and to help restore jobs and production." His message to Congress concluded:

> I cannot stress too much the sense of urgency I feel about these proposals and the need for their swift consideration by the Congress as a basis for the earliest possible enactment into law. Without these measures, we face a future of shortages and dependency which the Nation cannot tolerate and the American people will not accept.

By then, leaders of the Democratic controlled Congress had made clear they had their own ideas. Senator Jackson, chairman of the Committee on Interior and Insular Affairs, disagreed with the proposed levies on imported and domestic oil. They would, he said, boost energy bills for consumers by $52 billion a year, thus "taking away more than they're giving. It's merely rearranging the deck chairs on the Titanic." The House Ways and Means Committee had a new chairman, Representative Al Ullman (D-Or.) a businessman from Baker who won his first election to the House in November 1956. He said he did not "differ too much with the overall size of the President's program, but I do differ strongly with many of the components." [Hunt, Albert R., and Large, Arlen J., "Congress Likely to Pursue Its Own Plans on Taxes and Energy Instead of Ford's," *The Wall Street Journal*, January 15, 1975]

(Representative Mills, who had been in the House since 1939 and became chairman of the Ways and Means Committee in 1958, had stepped down as chairman on December 10, 1974, after a series of drunken incidents involving an Argentine stripper known as Fanne Foxe.)

Chairman Ullman followed through by announcing on February 25 that his comprehensive energy bill would include deregulation of oil and natural gas, an excess profits tax, and an increase in the gasoline tax as high as 40 to 50 cents a gallon. The plan involved a 10-cent a year increase each year for 4 or 5 years, and a coupon system to allot each vehicle a basic amount of gasoline per week at lower prices. The revenue would go into an Energy Trust Fund for developing domestic energy sources. An oil import quota would be imposed as the economy permitted and gas and oil would be deregulated. [Rowe, James L., Jr., "40-50-Cent Gas Tax Sought by Hill Unit." *The Washington Post*, February 26, 1975]

Vice President Rockefeller was in Detroit on February 26 to reinforce the President's position. Addressing 2,700 members of the Society of Automotive Engineers in Cobo Hall, the new Vice President, making only his fourth speech since taking office, said the energy problem would not be solved by a "downgrade" of the auto industry, but by adapting the automobile to the "new energy realities." He assured the engineers that the coming years would a "golden age" for them as they found ways to improve gas mileage, reduce emissions, and develop alternative energy sources.

He urged Congress to act on President Ford's economic and energy proposals, which he said were "a Swiss watch" with interrelated parts. "This country doesn't have too much time to waste. So we've got to get going."

In an impromptu news conference at the Detroit airport, the Vice President acknowledged that the city's unemployment rate of 14.2 percent was one of the Nation's highest (the national average was 3.2 percent). About 263,000 of the industry's 700,000 auto workers had been laid off. The President and he were "deeply concerned about the unemployment situation here." Reversing the trend was "the first and most important thing on the President's mind." Asked when Detroit could expect improvement, he replied, "When the people start buying cars again." [Madden, Richard L., "Rockefeller Poses Energy Solutions," *The New York Times*, February 27, 1975]

House and Senate leaders on the energy issue differed on the value of a gas tax increase:

> The Senate group leaned toward a gasoline tax increase of no more than five cents, earmarked for conservation and energy research. The House panel favored a gasoline tax increase of 16 cents by 1977 aimed at discouraging consumption.

Senator Magnuson, who chaired the Commerce Committee, said, "I don't know why everybody suddenly seized upon an increase in the gas price to solve our energy problem." Representative Wright, who headed the House energy group, favored an 8-cent increase in the gas tax, with additional 4-cent increases in 1976 and 1977. [United Press International, "Democrats in House and Senate are Divided Over Energy Plans," *The New York Times*, February 27, 1975]

The President noted the differences when asked about energy issues at his February 27 news conference. "I wish there was a single plan proposed by the majority party in the Congress." He called on the Democrats to develop a single plan. "And then we can sit down and hopefully negotiate."

The following day, House and Senate Democrats, in separate caucus meetings, agreed on a 3-page plan titled *The Economy and Energy, a Congressional Program of Action* that included an increase of 5 cents a gallon in the excise tax on gasoline, excise taxes on high gas mileage new vehicles and rebates for new vehicles with lower fuel consumption, mandatory mileage performance standards, and the withholding of Federal-aid highway funds from States that did not enforce the 55 m.ph. Edward Cowan of the *Times* said:

> It was plain that the Democrats regarded the package, expressed for the most part in general statements of principle, as a starting point for negotiations with the White House rather than as a definitive legislative program . . . .
>
> If these and other fuel conservation measures do not bring about a sufficient drop in imports, the Democratic statement said, "stand-by authority should be invoked to require Sunday closings" of service stations and the curtailment of deliveries, and import "quotas" should be imposed. But these measures, like rationing found little favor with most Democrats.

Regarding the gas tax hike, Cowan reported:

> The range of feelings about increasing the gasoline tax was reflected in the senators' comments. Mr. Jackson, who has been portrayed by aides as deeply opposed to any rise in the present levy of 4 cents a gallon, said he could vote for an increase only if Congress prevented price increases by defeating Mr. Ford's import fee and proposed decontrol of crude oil prices.
>
> Senator J. Bennett Johnston, Jr. of Louisiana said, after leaving the caucus, "I would like to see a couple of cents a gallon less this year." [Cowan, Edward, "Democrats Fashion an Energy Package," *The New York Times*, February 28, 1975]

When Chairman Ullman unveiled the tax portion of the plan, he had modified it to provide a better basis for negotiation with the White House. The plan included a gradual tax increase on "excess" use of gasoline defined as over nine gallons a week per motorist. The tax would start at 5 cents a gallon and increase to 40 cents by 1979. The bill also included a gradual increase in the import quota, a windfall profits tax, and creation of a Federal petroleum purchasing agency to deal directly with OPEC and other foreign oil producers. [Shabecoff, Philip, "Democrats Offer New Energy Plan; Ford May Accept," *The New York Times*, March 3, 1975]

Appearing before the House Ways and Means Committee's new Subcommittee on Energy and Power on March 3, Administration officials indicated willingness to consider the new plan, including the gas tax hike. Secretary Simon said the committee' proposal was "a sound basis for discussion" and one he preferred over the earlier joint Democratic plan. The proposed increase in the gas tax, he said, "takes the market approach" toward conservation. [Cowan, Edward, "House Democrats Seek Broad Plan for Energy Use," *The New York Times*, March 4, 1975]

Despite Chairman Ullman's confidence in his plan and the Administration's willingness to consider it, opposition to the gas tax increase was evident. On March 14, five freshman Democrats announced they had sent a letter to the chairman, signed by more than 100 Representatives, opposing any increase in the gas tax. Their letter favored a government-ordered reduction in gasoline supplies of 5 to 8 percent. One of the five, Representative Anthony J. Moffet (D-Ct.), said that increasing the tax to discourage consumption was typical of "the oil-company thinking that permeates the thinking of this government." Representative Andrew Maguire (D-NJ) added, "Congress has been wrapped around the finger of the oil companies and utilities industry for some time."

Chairman Ullman responded to reporters that, "There's too many people trying to find easy answers. We have to face the hard alternatives. If we go to allocation, it will just be a matter of time before we go to rationing." [Cowan, Edward, "New Gasoline Tax is Opposed by 102," *The New York Times*, March 15, 1975]

He introduced his comprehensive bill on March 17. It included a gradual excise tax increase of 37 cents a gallon by 1980, with cash rebates to all residents of the United States, 18 or older, based on nine gallons a week. Excise taxes would be imposed on new cars if they fell below a gradually rising standard of mileage per gallon. It also would impose light taxes on industrial use of petroleum products and natural gas.

Later that day, on Air Force One as the President headed to South Bend, Indiana, his chief energy spokesman, Frank G. Zarb, told reporters that the Administration and the Ways and Means Committee had achieved "60 per cent agreement" on a compromise program to discourage energy consumption and reduce oil imports. The President, Zarb said, had abandoned the goal of cutting oil imports by 1 million barrels in 1975, but now favored a cut of 2 million in 1977. Zarb emphasized that the compromise agreement with the committee did not include the gasoline tax proposals, which were already facing stiff Democratic resistance. This position was reflected in Secretary Simon's testimony before the Ways and Means Committee earlier in the day. He reiterated President Ford's view that taxing all petroleum products would be better than taxing just gasoline. [Cowan, Edward, "Ullman Would Tax Gasoline 37c More," *The New York Times*, March 18, 1975]

During a news conference at University of Notre Dame, that evening, President Ford was asked if he was softening his opposition to a gasoline tax increase. He replied:

> I couldn't help but notice that over the weekend 102 Democrats joined in a statement in the House of Representatives condemning a gasoline tax. I think a gasoline tax of the magnitude that several have proposed is not the right approach and I don't think the Congress will approve it . . . .

> I have grave doubts that the Congress would pass a gasoline tax, and certainly my feeling in that regard was reaffirmed by 102 Democrats putting their name on the line, saying they wouldn't vote for one. And I think there's a better way to do it and we're going to work with the Chairman of the Committee on Ways and Means hoping to find an answer that is more like the approach that I have recommended.

Asked if he might consider a lower increase, say 20 cents, President Ford said:

> I read a news report a few minutes ago which said that the bill that he [Chairman Ullman] had introduced included a gas tax up to 37 cents over a three or four-year span. I don't think that's the right approach, and I don't think it's feasible in trying to get the Congress to act. Therefore I go back to a program that we proposed, which I think will be the answer, which I think the Congress eventually will buy substantially.

By early April, the Democrats had modified the plan after difficult negotiations with the Administration. Democrats rejected the President's plan, saying it was "an obstacle to economic recovery and, as such, it is self-defeating." The new plan included a 5-year phasing in of a gasoline tax increase to fund energy projects, discourage consumption, and finance mass transit. [Associated Press, "Democrats Offer New Energy Plan," *The New York Times*, April 6, 1975]

On April 18, the House Ways and Means Committee voted 11 to 5 to add 3 cents to the gas tax in January 1976 with an additional 20 cents possible in 1977 or later. The 3-cent increase would not be subject to rebate, but any increase above that amount would include a refund formula to ease the impact on motorists. In the absence of a quorum, the vote was unofficial, but members thought the tax might be acceptable to President Ford if coupled with other measures he supported, such as taxes on industrial use of oil and natural gas and continuation of the import fee of $1 a barrel on crude oil. ["House Panel Approves 3c Rise in Gasoline Tax Next January," *The New York Times*, April 19, 1975]

The committee completed its energy conservation bill on May 8, voting 20 to 16 to send the bill to the House floor. The bill included the measure approved tentatively on April 18 to increase the gas tax by 3 cents in January 1976 and up to 20 cents more in 1977 or later. It included a tax credit to all residents of the United States 16 years or older, including those who do not drive. An explanation in the *Times* said:

> The credit would be calculated on the basis of 40 gallons a month times however much of the tax in excess of the first 3 cents is in effect. For example, if in 1977 an additional 10 cents a gallon went into effect, the tax credit for each eligible person would be $4 a month.

The tax was expected to raise $25.5 billion in 1980, but the tax credit would return $16 billion to the economy.

Other measures in the bill included an import quota subject to presidential adjustment; tax credits to households for installing insulation, storm windors, or solar heating equipment; an excise tax on new automobiles based on their fuel consumption; and excise taxes on some business uses of petroleum and natural gas. The bill also established an Energy Trust Fund to increase energy supplies, develop technologies such as solar power and nuclear fusion, and a more efficient way to reduce auto emissions. Revenue from the new fund also could finance demonstration projects for mass transit by bus, commuter, and intercity rail transportation. [Cowan, Edward, "Energy Conservation Bill Drafted by House Panel," *The New York Times*, May 9, 1975]

The bill was scheduled for consideration on the House floor the week of May 19, but leadership pulled it from consideration when vote counts showed it would fail. With Congress departing for its 10-day Memorial Day recess, President Ford went on television to blast the lack of action. Referring to his January proposal, he said that "Congress did nothing." Holding up the Democrats' 3-page outline submitted to him in March, he said, "What did the Congress do in March and April about energy? Congress did nothing." Acknowledging Chairman Ullman's efforts, the President said, "So what has the Congress done in May about energy? Congress did nothing and went home for a 10-day recess." As he spoke, he tore months off a calendar to illustrate the passage of time without congressional action.

He announced he would act by imposing a second $1 a barrel fee on imported oil beginning the following Sunday and would start phasing out price control on domestic oil supplies later in June. "I cannot sit here idly while nothing is done. We must get on with the job right now." The White House estimated the additional import fee would add 1.5 cents to the price of a gallon of gas or home heating fuel while deregulation could add another 5 or 6 cents a gallon. "When I talk about energy," the President said, "I am talking about jobs. Our American economy runs on energy. No energy, no jobs. In the long run it is just that simple." He told the American people that "the Congress cannot drift, dawdle and debate forever with America's future."

Chairman Ullman responded to the President's criticism. "The nation does not need what the President is prescribing, which is just a bulge of inflation through increasing the prices." [Naughton, James M., "$1 Oil Import Fee Doubled by Ford; Gas Price to Rise," *The New York Times*, May 28, 1975]

On June 11, votes on the House floor killed any increase in the gas tax. *The Washington Post* described the series:

> First, by a vote of 345 to 72, the House rejected a possible 20-cent-a-gallon gasoline tax increase that was intended to reduce consumption. Most of the tax would have been returned to individuals in tax rebates.
>
> Then it rejected, by a standing vote of 74 to 25, an attempt to recoup up to half of the 20 cents and to save another 3-cent gas tax increase imposed by the bill to finance research on new energy sources by giving one of the three cents to the states.
>
> Finally, the House voted 209 to 187 to kill the 3-cent tax. This left little in the bill except import quotas and auto efficiency taxes as tools to reduce consumption of oil and make the United States self-sufficient.

> Majority Leader Thomas P. O'Neill (D.-Mass.) pleaded with the House to save the 3-cent tax to fund the research program. The issue, he said, was: "Have we got the guts to stand up and vote for the future of America?"

One supporter of the increase, Representative Joseph E. Karth (D-Mn.), told his colleagues that if they "can't vote to raise taxes we don't deserve to sit here as leaders of the nation."

In the wake of the votes, an unnamed Administration planner said, "I really am surprised at the extent to which this has crumbled."

The votes revealed divisions among Democrats, splitting even the leadership. For example, on the vote to retain the 3-cent increase, Speaker Albert voted for it, while Representative John J. McFall (D-Ca.), the Majority Whip, and Representative John Brademas (D-In.), Chief Deputy Whip, voted against it. The *Times* reported:

> An aide said Mr. Brademas had opposed the tax in the conviction that a rise in prices was the wrong way to discourage gasoline consumption and that the tax would hit poor people harder than others.
>
> Mr. McFall offers a very different reason. The House, he noted today, had rejected an amendment offered by Representative Gunn McKay, Democrat of Utah, to allocate one-third of the revenue—about $1-billion a year—to the states to replenish their highway construction funds.
>
> In his home town of Manteca, Calif., Mr. McFall explained[,] "My people are screaming for a bypass." He said San Franciscans driving to and from the Sierra Nevada recreation area choke the road through Manteca every Friday night and Sunday afternoon.
>
> But California lacks the funds to pay all of its 20 per cent state share of the proposed $4-million bypass, with Washington paying the rest.
>
> Had the House earmarked one cent of the tax for the states, Mr. McFall said, he would not have opposed it.

Another factor against the gas tax increase involved the rebate feature. It would return tax credits to everyone 16 years and older, drivers and nondrivers, but would not reach those without an income tax liability. "An aide to a prominent Democrat cited this as a reason for opposing the tax." [Lyons, Richard L, "House Bars All Rises in Gasoline Tax," *The Washington Post*, June 12, 1975; Rosenbaum, David E., "House Rejects a Stiff Tax on Low-Gas-Mileage Cars," *The New York Times*, June 13, 1975; Cowan, Edward, " 'Gas' Tax Votes Reflected Mixed Needs," *The New York Times*, June 13, 1975]

The House completed work on its scaled-down bill on June 19, by a 219-130 vote, after 9 days of debate. Major provisions of the bill included quotas on oil imports, penalties for gas guzzlers, an Energy Trust Fund, tax incentives for homeowners who reduce energy consumption, and taxes to penalize industries that do not convert from oil to coal or other fuels available domestically. Chairman Ullman acknowledged that many of his provisions had been stripped from the bill, but said:

> By contrast, the President wants to cut back consumption all at once with jarring price hikes. The President's way is wrong—economically and politically. The cost in jobs and inflation is more than we can bear as we struggle out of a severe recession.

All recognized that when the Senate acted on its version of the energy bill, many of the House measures would be eliminated or altered. [Rosenbaum, David E., "Scaled-Down Energy Bill Voted by House, 291-130," *The New York Times*, June 20, 1975]

Senator Russell E. Long (D-La.) had become Chairman of the Senate Finance Committee in 1965, and his committee would now consider the surviving tax measures in the House bill. (During final consideration of the Federal-Aid Highway Act of 1956, Senator Long had been the only Senator who voted against the bill. He opposed financing construction of the Interstate System by increasing the gas tax. As Daniel Yergin explained, Senator Long would not do anything that he thought would harm his home-State oil production. He would tell oil company executives, "It is very much to your advantage to have a very healthy domestic industry and to do everything within your power to cooperate to that end." [Yergin, p. 540])

The proposed gas tax increase to discourage consumption had not survived the House and would not be revived in the Senate Finance Committee. Moreover, with the 1976 elections on the political horizon, Congress was hesitant to do anything that would increase oil prices or curtail usage. As the Finance Committee began considering the energy bill, Senator Long predicted, "In due time, this'll start losing ground." ["Proposals to Tax Gasoline-Guzzling Cars, Curb Imports Are Voted by Senate Panel," *The Wall Street Journal*, July 25, 1975]

The Democratic Congress and the Republican President would battle the rest of the year over legislation on price controls and, to a lesser extent, energy policy. As the *The New York Times* explained on July 16:

> There is a basic philosophical difference between the President and Congressional Democrats on energy policy.
>
> Mr. Ford believes that the country faces a serious energy crisis and that higher fuel prices are the only way to limit consumption, increase domestic production and reduce reliance on foreign oil.
>
> The Democrats prefer to attack the long-range problem through import quotas and other forms of regulation.
>
> The impasse between Congress and the President has occurred because the Democrats have large enough majorities in the House and Senate to block the President's proposal but

> insufficient strength to override his vetoes of Democratic legislation. [Rosenbaum, David E., "Senate Votes to Keep Oil Curbs," *The New York Times*, July 16, 1975]

On December 15, 1975, the House voted 236-to-160 to approve the energy bill. The Senate followed on December 17 by a vote of 58 to 40 vote.

Neither vote would be sufficient to override a presidential veto. President Ford was not certain he would sign the bill. His advisers were divided. His chief rival for the Republican Party's presidential nomination in 1976, former Governor Reagan, said that if he were President, he would veto the bill. The *Times* summarized the debate:

> Mr. Ford faced pressures from both directions in deciding whether to sign or veto the energy bill. He was lobbied intensively by oil and automobile companies who strongly urged a complete removal of price controls, mandatory standards and other restraints. Many of the Southern conservatives in the Republican Party, whose support he needs to win the nomination next year, had urged a veto.
>
> A number of his own aides reportedly wanted him to allow the price mechanism of the free market to determine fuel prices, a position that Mr. Ford is sympathetic to ideologically.
>
> But if he vetoed the bill and allowed fuel costs to jump, the results could have helped touch off a new wave of inflation. In the Northeastern states, including New Hampshire, where he faces an important primary election in February, passage of the energy bill was a major issue.

Finally, on December 22, 1975, President Ford signed the Energy Policy and Conservation Act (Public Law 94-163). Its major provisions included mandatory gasoline mileage standards, known as Corporate Average Fuel Economy or CAFE, with a goal of 27.5 miles a gallon for 1985-model cars; efficiency standards for manufacturers and labels showing fuel consumption; establishment of "strategic petroleum reserves" of at least 150 million barrels of petroleum in 3 years and up to 500 million barrels in 7 years; loan guarantees for coal operators investing in new underground mines; and authority for the President to develop contingency plans such as fuel rationing for energy emergencies.

Speaking to reporters in the White House Briefing Room a little after 3 p.m., President Ford said:

> The time has come to end the long debate over national energy policy in the United States and to put ourselves solidly on the road to energy independence. We cannot afford continued delays. We cannot afford prolonged vulnerability to foreign products. We must act.

For that reason, he had decided to sign the bill. It was "only a beginning," but it did include several of his objectives:

> It opens the way to an orderly phasing out of controls on domestic oil, thereby stimulating our own oil production. As I requested earlier this year, it will enable us to set up a strategic oil storage system, convert more utility and industrial plants to coal, and take other steps to increase production and promote energy conservation. It makes possible the removal of the oil import fee of $2 per barrel. And finally, it provides a foundation upon which we can build a more comprehensive program for the future.

Departing from his formal statement, the President told the reporters that "the single most important energy objective for the United States today is to resolve our internal differences and put ourselves on the road toward energy independence." He conceded that "this legislation is by no means perfect. It does not provide all the essential measures that the nation needs to achieve energy independence as quickly as I would like."

The Independent Petroleum Association of America, which represented small producers, called the President's decision to sign the bill "unfortunate for consumers and the economy." The association said President Ford had "compromised his firmly stated concept of relying on the free market as the best allocator, conserver and solicitor of energy supplies and has gone along with this unwise decision by Congress." The Exxon Company said the President's decision "may hinder efforts to increase domestic oil and gas production and lead to increased dependence on foreign oil imports." [Shabecoff, Philip, "Ford Signs Bill on Energy Policy," *The New York Times*, December 23, 1975]

The gas tax increase, considered in the summer as part of the bill, had been left out. It would remain 4 cents until enactment of the Surface Transportation Assistance Act of 1982. As noted, the tax was increased by 5 cents, with 4 cents going to improve aging highways and bridges and 1 cent for a new Mass Transit Account in the Highway Trust Fund.

(Vice President Rockefeller's longtime speechwriter, Joseph E. Persico, recalled an anecdote to summarize his boss's experience as an uncharacteristic number two:

> As he wandered through his suite [at the Old Executive Office Building], he turned to Mrs. Whitman, his chief of staff, who had spent eight years as President Eisenhower's personal assistant. "Annie, you've had more White House experience than any of us down here. When I do something wrong, I want you to tell me about it."
>
> "Then he proceeded to do everything wrong," Mrs. Whitman observed, "And he got annoyed if I pointed it out."
>
> What Rockefeller expected to achieve as Vice-President was extraordinary, given his foreknowledge of the job. His protégé, Henry Kissinger, had effectively taken control of U.S. foreign policy in the Ford Administration. Why should Nelson not handle domestic policy? Who was better prepared?

(He thought he had succeeded when his aide, Jim Cannon, became executive director of the White House Domestic Council and brought on three Rockefeller aides from Albany:

> Thus Nelson and his people appeared to have gained control over the domestic-policy machinery. For Nelson, it was only an appearance. His post was largely ceremonial. Cannon had difficulty getting it through Nelson's head that his primary duty now lay with the President. [Persico, Joseph E., *The Imperial Rockefeller*, Simon and Schuster, 1982, p. 260-261]

(In November 1975, President Ford asked Vice President Rockefeller to submit a letter declining to have his name placed in nomination for Vice President in 1976. [Persico, p. 272] Republican Party conservatives, who had despised the liberal Rockefeller since he had contested Senator Goldwater for the Republican nomination in 1964, had prevailed on President Ford to select a more conservative running mate.)

Right Turn on Red

Section 362 ("State Energy Conservation Plans") of the Energy Policy and Conservation Act called for guidelines for the preparation of a State energy conservation plan feasibility report. After considering the State submissions, the NHTSA Administrator was to "prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, State energy conservation plans. To be eligible for Federal-aid, the State energy conservation plan must include such items as "programs to promote the availability and use of carpools, vanpools, and public transportation (except that no Federal funds provided under this part shall be used for subsidizing fares for public transportation); mandatory lighting efficiency standards for public buildings (except buildings owned or leased by the United States); and "a traffic law or regulation which, to the maximum extent practicable consistent with safety, permits the operator of a motor vehicle to turn such vehicle right at a red stop light after stopping."

Right turn on red or RTOR has been traced to New York City in the 1910s during the era of manually operated traffic signals. The city adopted a permissive RTOR regulation on January 1, 1924, that allowed motorists to employ RTOR at any intersection. The practice changed in February 1937 when the city allowed RTOR only at intersections posted for RTOR.

Other jurisdictions, including Detroit and California, adopted RTOR, some with permissive and others with sign-permissive rules. As more States adopted RTOR, western States tended to adopt the permissive rule while eastern States, possibly because of a higher density of pedestrians and cars, adopted sign-permissive rules. The permissive rule became known as the "Western rule," while the rule permitting RTOR only at signed intersections became known as the "Eastern rule."

The energy crisis offered a new rationale for RTOR, namely the saving of fuel wasted at red lights when no cross-traffic is approaching the intersection. Senator Dale Bumpers (D-Ar.), the former Governor of Arkansas (1970-1974) serving his first term in Congress, introduced a measure on RTOR, S. 2049, that would have prohibited the use of Federal-aid highway funds in any State that did not adopt RTOR by June 30, 1976. In testimony before the Subcommittee on Transportation, Senate Committee on Public Works, Senator Bumpers recognized that RTOR raised safety concerns. Studies found that RTOR resulted in substantial time savings while "the safety factor is of minimal signification." He said:

> Without question, the uniformity of all States permitting right turn on red would further minimize whatever significance one attached to the safety factor.
>
> Moreover, every indication so far is that inducing the various States to adopt right turn on red systems would result in a substantial fuel savings. This is no real surprise, but essentially commonsense. If we eliminate the average idling time for cars turning right on red, which according to the Virginia study is 14 seconds, and when we consider the average gasoline consumed per hour at idling speeds is anywhere from 0.63 gallons to 1.2 gallons per hour, then by simple mathematics we can extrapolate impressive gasoline savings.

The Virginia study, by the Virginia Highway and Transportation Research Council, found that Virginia could save 3.1 million gallons of fuel each year by adopting the permissive rule. Preliminary results for an FHWA study projected a 3-percent minimum reduction on fuel consumption in urban areas:

> To date, 26 States have adopted the general permissive rule which in a nutshell provides that right turn on red is permissible, except at those intersections where signs specifically prohibit it . . . . Of the remaining States, 19 only permit right turn on red at intersections where a sign specifically authorizes it, and in these States, studies have shown that the percentage of jurisdictions that have permitted right turn on red at specific intersections is very small indeed. Of the remaining States, two permit right turn on red in all instances, two, with the District of Columbia, disallow it in all instances, and one permits it by a flashing red arrow. [Right Turn on Red Signal, Hearing for the Subcommittee on Transportation, Committee on Public Works, United States Senate, 94th Congress, 1st Session, Serial No. 94-H25, October 1, 1975, p. 3-5]

S. 2049 would not become law, but the provision in the Energy Policy and Conservation Act of 1975 was attributed to Senator Bumpers. When he retired from the Senate in 1998, some of his colleagues recalled his first legislative success. Senator Byrd said:

> He is the United States Senator responsible for "right-turn-on-red," his first legislative victory and one for which, I am told, he received devilish teasing from a colleague who warned that "many people might want to drive straight!" [Retirement of Dale Bumpers, *Congressional Record-Senate*, October 10, 1998, p. 25316]

Priority Primary Routes

Within highway circles, a 10,000-mile priority primary system was seen as the "junior Interstates" that former Federal Highway Administrator Frank Turner had proposed as a followup to the Interstate System. Highway opponents saw it in the same light and opposed it for that reason. Section 126 of the Federal-Aid Highway Act of 1973 was a compromise. It established Section 147 ("Priority Primary Routes") in Title 23. Section 147 began:

> High traffic sections of highways on the Federal-aid primary system which connect to the Interstate System shall be selected by each State highway department, in consultation with

> appropriate local officials, subject to approval by the Secretary, for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities.

Development of priority primary projects would be subject to the same requirements as all projects on the Federal-aid primary system, including the standard non-Interstate Federal-State matching ratio of 70-30.

The 1973 Act authorized $100 million out of the Highway Trust Fund for priority primary routes in FY 1974, $200 million for FY 1975, and $300 million for FY 1976. It also stated:

> The initial selection of the priority primary routes and the estimated cost of completing such routes shall be reported to Congress on or before July 1, 1974.

Secretary Brinegar submitted the *Primary Primary Route Cost Study Report to Congress* on August 14, 1974. The report summarized the extent and cost of the highest priority routes and described other mileage recommended by the States but that constituted a slightly lower priority. The Secretary's transmittal letter stated:

> Evaluation of the data submitted by the States indicates that the improvements required are already receiving relatively high priority. During the next five years under existing funding levels, more than 50 percent of the required improvements identified would be under contract. We see little need for a categorical grant program which superimposes Federal priorities on those of the States, particularly when State and Federal priorities seem to coincide. We recommend that present authorizations for the priority primary program be merged with the existing authorizations for primary routes and urban extensions of primary routes. We also recommend that, in the future, separate authorizations should not be provided for this program.

An FHWA news release summarized the major findings:

> the highest Priority Primary routes selected by the States totaled 11,122 miles, requiring $21.5 billion to complete, and approximated 5 percent of each State's 1972 non-Interstate Federal-aid Primary System mileage.
>
> 81 percent of the selected mileage and 60 percent of the total cost would be for improvements in rural areas.
>
> selected routes now consisting mostly of 2 or 3 lane facilities, currently carry 10 percent of the non-Interstate Federal-aid primary traffic.
>
> over 90 percent of the selected mileage is expected to be improved to 4 or more lanes with access control and carry twice the motor vehicle traffic recorded in 1972

> studies anticipate that 53 percent of all improvements would be completed or under contract by 1980 under existing funding conditions.

(The Committee Print for the report was House Document No. 93-332, 93d Congress, 2d Session, Committee on Public Works, August 8, 1974.)

Section 143 of the 1973 Act had called on the Secretary of Transportation to report to Congress on "the feasibility and necessity for constructing to appropriate standards" 10 routes specified in the provision. FHWA worked with the States and completed its report in December 1974. (One of the routes, from Waterloo, Iowa, to Rockford, Illinois, had two routings, so FHWA ultimately studied 11 routes.)

The routes totaled about 5,000 miles in 18 States, with a little over 3,000 miles designated priority primary routes. The routes would provide economic benefits within the corridors served, but FHWA's report concluded:

> From the nationwide perspective, there appears to be no reason to formulate any new Federal level initiatives or programs applicable to these specific routes. As the analyses herein indicate, these routes do not appear unique in any national sense. In terms of traffic volumes, accident experience, and deficiencies, they are typical of non-Interstate principal arterials in the States which they traverse . . . .
>
> More important than the factors discussed above is the fact that the best Federal mechanism for improving these or other similar routes is already available within existing Federal-aid highway laws and programs. Portions of these routes have been built or are being programmed with available Federal-aid funds on the basis of State priorities that consider all their highway needs. Considering the extremely high price tag attached to the higher cost alternative reported herein, there appears to be no way that a special Federal program for these routes could avoid distorting the Federal-aid highway program balance achieved by the Federal-Aid Highway Act of 1973, or avoid establishing a precedent of special funding for numerous similar routes in future legislation.

Enthusiasm for priority primary routes had diminished by the time Congress completed work on the Federal-Aid Highway Act of 1976, which combined most of the funding for the routes with the new consolidated primary system. However, the 1976 Act set aside $50 million of the priority primary funds authorized for FYs 1977-1978 for use at the discretion of the Secretary of Transportation for projects of unusually high cost which would require long periods of time for construction. This discretionary funding was used for projects, such as those listed in the 1973 Act, with a legislative history.

The Surface Transportation Assistance Act of 1978 set aside $125 million of Federal-aid primary funds to be used on the discretionary priority primary routes in each of FYs 1979 through 1982. The Surface Transportation Assistance Act of 1982 continued discretionary funding for the routes in FY 1982. However, Section 117(c) of the 1982 Act provided for continuing projects designated by the House Committee on Public Works and Transportation in Committee Print 97-61 using regular Federal-aid system funds at a 95 percent Federal share. The Surface Transportation and Uniform Relocation Assistance Act of 1987 continued this practice and added projects to the list of priority primary projects covered by the 95-percent Federal share.

The Intermodal Surface Transportation Efficiency Act of 1991 repealed the discretionary priority primary provision from Title 23. By then, the "junior Interstate" concept had evolved into a National Highway System that included the Interstate System, priority arterials, routes of importance to national defense, and numerous routes designated by Congress. For information on these changes, see "Creating a Landmark: The Intermodal Surface Transportation Efficiency Act of 1991" in the November/December 2001 issue of *Public Roads* magazine (http://www.fhwa.dot.gov/publications/publicroads/01novdec/istea.cfm). "What Happens After 1972?" on FHWA's Highway History Web site also discusses briefly the evolution of the "junior Interstate" concept into the National Highway System. (http://www.fhwa.dot.gov/infrastructure/50after1972.cfm).

John D. Kramer

By September 1973, John D. Kramer had left his low-paying job with the influential Highway Action Coalition to become Director of the Office of Planning, Policy, and Environmental Science with the Illinois Department of Transportation. In a November interview, he explained his "leap into respectability" by saying:

> One of the reasons I came to Springfield is that it affords the opportunity to actually accomplish many of the things we were calling for. We wanted local officials to have use of the Highway Trust Fund money. The problem is getting that option used.

Illinois, he explained, had every kind of transportation problem:

> I left Washington because I realized I was suffering from the illusion that it was really the center of things. But this is the real world.

He was heavily involved now in controversies over funding for Chicago transit and the State legislative action on bills to establish the Regional Transportation Authority (RTA) to operate the area's transit system:

> Much of the public attention has been on the political battles over funding, but there are many creative ideas and new initiatives in both bills. It could genuinely set the pace for the rest of the country.

(As private bus companies serving the Chicago area went out of business, the remaining companies sought increased fares. The CTA began service cuts in the wake of declining revenue, and local jurisdictions established their own mass transit authorities. The legislature authorized a referendum to establish RTA as a coordinating body for transit service in Cook, DePage, Kane, Lake, McHenry, and Will Counties. Voters approved the referendum by a narrow margin on March 19, 1974. The RTA, to be controlled by a nine-member board of directors, would have the power to levy special transit taxes to finance mass transit in the six counties. Mayor Daley, who had supported the RTA initiative, said, "I think we should get on with the job of creating the best mass transit facilities in the six counties." [Farrell, William E., "Chicago-Suburban Transit Plan Pushed by Daley, Wins Narrowly," *The New York Times*, March 21, 1974])

Kramer had fought in Washington to open the Highway Trust Fund to urban mass transit, but he recognized that working at the State level required a different focus:

> Public transportation is absolutely vital and essential to the life and vitality of northeastern Illinois. But improved highways are extremely important to rural and small town Illinois, and government ought to make it possible for people to live in rural areas.

In view of the energy crisis the Nation faced, he added:

> Every aspect of this department's operations will be examined in terms of how we can conserve energy. The possibilities are endless. [Sachs, Susan L., "Balance in Transportation Objective of DOT Innovator," *Springfield State Register-Journal*, November 3, 1973]

One of the issues Kramer would have to face was the fate of the Crosstown Expressway. Mayor Daley and his Department of Public Works supported construction. The Department's 1973 history of Chicago public works included a section on the Crosstown, which it called "the final link in the Comprehensive Superhighway System." It traced the expressway's origins to the 1909 plan created by David Burnham, an architect and early urban planner. The report explained:

> Burnham saw Chicago primarily as an industrial city and his plan was designed to free industry and commerce from the strangling effects of congestion while at the same time insuring Chicagoans of an agreeable place to work and live which would be aesthetically pleasing as well as practical and convenient.

The plan "included a series of diagonal highways leading from the core center to the outer borders of the city with concentric rings of outer drives at convenient distances."

One of the routes was a "carriage road" on the west side of Chicago "to connect the various arms of the radial road system and relieve congestion in the central Loop area." It continued:

> The persistent need for this final link in the roadway system as originally set forth by Burnham at the turn of the century has been recommended by all major transportation planning commissions including the Comprehensive Expressway Plan of 1946, the Chicago Area Transportation Study (CATS) released in 1962, indorsed in 1963 as part of the Federal Interstate System to serve as a by-pass of the Central Business District and was incorporated into the Basic Policies for the Comprehensive Plan for Chicago published in 1964.

A general study of traffic congestion had considered whether other types of improvements could be substituted for the expressway:

> The study convincingly demonstrated that if an expressway were not built within the next few years, traffic conditions on many adjacent streets would border on the intolerable. Not only would auto exhaust pollution reach critical levels, but the commercial and economic life of the city would be seriously impared [sic].

The city recognized that an expressway could not be designed simply to serve traffic. It had to consider social, psychological, and economic impacts on the communities it passed through. The current version of the Chicago Crosstown Expressway "affords the opportunity to attract new industries, stimulate commercial activity, remove blight and upgrade neighborhoods." The short chapter concluded:

> With these new modern approaches to planning, the Crosstown was designed not only as an accommodation to traffic demand, but as a contribution to improved community life by minimizing disruption to neighborhoods and by provision for long-range development. Detailed design and specific route selection for this final and vital link in Chicago's history cannot proceed until federal approval of the recommended route has been received. [*Chicago Public Works: A History*, Chicago Department of Public Works, 1973, p. 22 (Burnham plan), 166-167 (Crosstown Expressway)]

The expressway, bearing the designation I-494, followed a 19.9-mile L-shaped route connecting the Dan Ryan Expressway (I-94) on the south with the Kennedy (I-90) and Edens (I-94) Expressways on the north. From the Edens/Kennedy Expressways, the Crosstown followed Cicero Avenue to Midway Airport, then turned east to the Dan Ryan Expressway along 75th Street.

Mayor Daley, who had taken office in April 1955, strongly favored the expressway. Often called "the last of the big city bosses," he was accustomed to getting what he wanted. However, opposition to the Crosstown was growing and received a boost when Governor Daniel Walker, a Democrat, took office on January 8, 1973. He had opposed the Crosstown during his campaign to defeat incumbent Governor Richard Ogilvie, a Crosstown supporter. The incoming Governor had made a campaign issue of preserving the homes, churches, stores, and factories that would be displaced by construction of the expressway.

Governor Walker and Mayor Daley had many reasons for despising each other and would fight numerous frustrating political battles in coming years, not least over the Crosstown. After taking office in January 1973, Governor Walker reassured Crosstown opponents in March that, "The Crosstown Expressway will not be built, no matter what others may say, or hint, or hope." For emphasis, he added, "the Crosstown Expressway will not be built. I repeat—the Crosstown Expressway will not be built." (One of their few areas of agreement was creation of the RTA.) [Addie, Jean-Paul D., "A Century of Chicago's Crosstown Corridor: From Daniel Burnham's City Beautiful to Richard M. Daley's Global City," York University, p. 12] http://www.transportchicago.org/uploads/5/7/2/0/5720074/6-a_century_of_chicagos_crosstown_corridor.pdf)

As discussed earlier, the Crosstown was one of the projects generating controversy during development of the Federal-Aid Highway Act of 1973. At the insistence of Chicago's congressional delegation, Section 110 ("Removal of Designated Segments of the Interstate System") addressed the deadlines for completing Interstate segments by using generic language stating that for any segment "entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed." The provision did not mention Chicago, but as the legislative history of Section 110 and the floor debates made clear, the lawmakers aimed it directly at the Crosstown Expressway.

On August 20, 1973, shortly after President Nixon signed the 1973 Act, the *Chicago Tribune* published an interview with Administrator Tiemann, Deputy Administrator Bartelsmeyer, and Ted Lutz, the Deputy Under Secretary of Transportation. The introduction made clear that they had not yet received the city's assurance that it would provide the matching funds for the expressway. At this early date following enactment, they were not certain how to implement the provision, but they thought "there would have to be cooperation and some degree of agreement" between Mayor Daley and Governor Walker. (The article about the interview did not always specify which Federal official was responding to each question.) They were not willing to confirm Representative Wright's and Senator Bentsen's assertions that the provision gave Mayor Daley clear and unequivocal authority to go ahead with construction if the city was willing to provide the matching funds.

Bartelsmeyer, who had been involved in developing the expressway during his years with the Illinois Division of Highways and the Chicago Area Transportation Study, said the preliminary estimate for the expressway was $900 million. "But as plans are developed and right-of-way purchased, that might go up or down."

Governor Walker had suggested the city take advantage of the 1973 Act's transfer mechanism to use the funds for mass transit. For that to happen, the law provided that "Gov. Walker and Mayor Daley jointly would have to make that request. First a determination must be made whether the highway could be eliminated. If the answer were yes, then the $900 million would be the top amount available for mass transit." The Governor had suggested as an alternative that a west suburban Interstate could be substituted for the Crosstown. Bartelsmeyer, said:

> We received the Governor's request on that proposal June 30 and we haven't gone into details of analyzing it yet. Remember, the planning process must go into all these matters. The Crosstown has been located for quite a few years and planning has been on that basis. If you're going to move it from there, you have to do more planning.

They clearly preferred a cooperative solution by city and State officials. As Bartelsmeyer put it:

> You also must realize how impossible it would be for the governor to come in and build a project in Chicago that would not have the blessings of the mayor or the city government. By the same token, the reverse also is true. [Hutchinson, Louis, and Warden, Philip, "Q&A Crosstown Construction Still Up in Air, U.S. Says," *Chicago Tribune*, August 20, 1973]

The uncertainty the officials displayed during the interview was confirmed by Secretary Brinegar who said on September 6 that the 1973 Act's "language is somewhat confusing." He did not think "it unilaterally gave Chicago the right to do it," he said at a press conference in Chicago. He hoped that Governor Walker and Mayor Daley could work out a compromise, but he implied what he thought the compromise should involve:

> Highways alone are not solving our very serious urban congestion problems, and I believe the revival and growth of high-quality urban public transit is the necessary first step to lessening our excessive dependence on private automobiles.

He added that, "The necessity for this step has been made more urgent with the emergency of the national energy shortage." He was speaking before the oil boycott began the following month. ["U.S. Official Sees No Crosstown OK," *Chicago Tribune*, September 7, 1973; "Brinegar Urges End to Quarrel on Crosstown," *Chicago Sun-Times*, September 7, 1973]

By the end of the month, Tiemann was far enough along in review of the provision to say "in my judgment Mayor Daley cannot build the Crosstown without Gov. Walker's approval." At a Chicago press conference, he added that Illinois would lose the $900 million in Interstate funds earmarked for the Crosstown "unless Daley and Walker can agree on how the money should be spent." He said the Mayor and Governor had until July 1, 1974 (the statutory deadline for submitting plans and schedules), to reach agreement on whether to go ahead with construction, substitute Governor Walker's western expressway alternative, or request withdrawal of Interstate designation and use substitution funds for alternative projects, including mass transit.

In short, they must come up with a "mutually agreed upon proposal." Tiemann added that, "Neither the mayor's plan for the Crosstown nor Walker's substitute plan can go forward without concurrence by both." [Ziemba, Stanley, "Crosstown Needs Walker OK: U.S. Aide," *Chicago Tribune*, September 27, 1973]

Deputy Administrator Bartelsmeyer would not be part of the solution. He died unexpectedly on January 25, 1974, of kidney failure at the age of 64. Following the retirement of Administrator Turner, Bartelsmeyer had served as Acting Administrator for nearly a year, longer than anyone who has served in that acting capacity. Administrator Tiemann, expressing sadness at the unexpected death, said:

> He was well liked by all who knew him and he was highly respected as an authority in the highway field . . . . I found his advice and counsel to be extremely valuable." ["Deputy Federal Highway Administrator Ralph R. Bartelsmeyer Dies Unexpectedly," *FHWA News*, February 1974, p. 1]

With the State likely to lose $900 million if Governor Walker and Mayor Daley did not agree on building the Crosstown, State transportation officials began identifying substitute uses for the funds. With a deadline of July 1, 1974, to reach agreement, the *Chicago Tribune* reported in early February on some of the options:

> Among the alternatives . . . are the possibility of constructing a new subway under Archer Avenue past Midway Airport; reversible, high-speed bus lanes in the Stevenson Expressway, and truck-only lanes on Cicero Avenue and Pulaski Road.

Governor Walker had not reviewed the proposals, but said during his regular press conference that, "Using the money for improving mass transportation would be the best plan." [Ziemba, Stanley, "Crosstown Alternatives Sought," *Chicago Tribune*, February 4, 1974]

During a trip to Washington, Governor Walker told reporters that Secretary Brinegar had informed him that the deadline for a decision had been extended administratively to June 30, 1975. Because FHWA had not yet completed regulations for implementing Section 110 of the 1973 Act, the extension made sense. State and city officials did not know the factors they would have to consider.

Administrator Tiemann approved the proposed rules on April 22, 1974; they appeared for comment in the *Federal Register* on April 24. The introduction explained the problem FHWA had been alluding to in interviews. In short, "No provision of title 23 permits a city to construct Federal-aid highways." Section 110 "is a unique exception to title 23 provisions." The problem FHWA faced was to implement a law that gave a city authority that in every other element of Title 23 was assigned to the State, including the means of conveying funds. The provision "confers upon a city the right to make a decision (whether a segment of Interstate shall be constructed) that is normally made by a State."

The State would have to agree to undertake construction in accordance with the provisions of Title 23 and other applicable Federal laws and requirements. Neither the introduction nor the proposed rule noted that these requirements included the reimbursable nature of the Federal-aid highway program. FHWA did not simply send a check to the State transportation department. Rather, the State expended its own funds then requested reimbursement for the Federal share of the expenditures. For the Crosstown Expressway to be built under Section 110, the city or State would have to agree to that initial expenditure to trigger Federal reimbursements. However, financial arrangements existed only for reimbursing the State highway agency or transportation department, not a city. ["Interstate Highway System," *Federal Register*, Vol. 39, No. 80, April 24, 1974, p. 14517-14519]

FHWA officials realized that the proposed rules would not satisfy Governor Walker or Mayor Daley. The proposal did not allow Mayor Daley to begin construction without delay; the city still had to satisfy all requirements, including NEPA and the Uniform Act. At the same time, the proposal limited Governor Walker's ability to delay indefinitely. An unnamed FHWA official told a reporter:

> We deal with state departments of transportation or highway departments. So, when we allot federal funds, we allot them to the state. Even if Chicago has legal authority to build the Crosstown, its problem is how to do it if the state won't release the 90-per cent federal share.

Section 123 of the Federal-Aid Highway Act of 1973 had spelled out the Federal-State relationship by adding Section 145 to Title 23, United States Code:

> The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

Mayor Daley met with Secretary Brinegar in Washington on April 24 to discuss the proposed rules. He emerged from the meeting to tell reporters that the city could undertake the project "with no problems." Federal sources indicated they had gone "about as far as possible" to clear the path for the Mayor, but he still faced procedural hurdles and other difficulties because Section 110 had not exempted the Crosstown from all the provisions of Title 23 that gave authority to the State. Frank Calhoun of FHWA's Office of Chief Counsel said, "The regulations basically recognize the paramount role of the state in constructing federal-aid highways." [Gruenberg, Bob, "U.S. Hedging on Crosstown," *Chicago Daily News*, April 25, 1974]

Secretary Brinegar said of his meeting with Mayor Daley:

> I told him that our regulations required the city to give us notification by July 1 if it planned to go ahead with the proposal on its own. I told him that if he intended to do so, he should so notify me and it could start the process moving.

Secretary Brinegar recognized that the intent of the law was to allow Mayor Daley to build the Crosstown. "The bill was written to accommodate Chicago and we are proceeding in that fashion." He also recognized that President Nixon had told Mayor Daley during a visit to Chicago on March 15 that the provision would be implemented in a way to allow the city to begin construction. (The President and Mayor Daley had driven together to the Conrad Hilton Hotel for the President's nationally broadcast question-and-answer session with the Executives Club of Chicago.) Although Secretary Brinegar denied receiving any advice from the White House on the matter, he added that, "I do get some 'encouragement' from the Congress and the committee," in reference to Representative Kluczynski of the House Public Works Committee.

At the same time, Secretary Brinegar was open to listening to Governor Walker's views. "There is still the question of the State's role. I will still listen to Gov. Walker's position on the Crosstown. I hear both sides regularly." [Ramshaw, Greg, "U.S. is Willing to Hear Walker on Crosstown." *Chicago Today*, May 3, 1974]

FHWA completed the final rule on June 6 and published it in the *Federal Register* on June 12, 1974. The introduction said the proposed rule had prompted over 150 comments, most of them in opposition to construction of the Crosstown Expressway. "The great bulk of the comments were therefore not directly relevant to the proposed regulations." The Citizens Action Program, the group leading opposition to construction, had submitted comments suggesting that Section 110 did not apply to the Crosstown because it passed through the city of Cicero and was thus not a single Interstate segment within the boundaries of an incorporated city. FHWA dismissed this suggestion because "it is our interpretation of the statute, and that of the House Public Works Committee, that the statute is applicable to the Crosstown as would be the proposed regulations."

The city's comments to the rulemaking docket "objected generally to the proposed regulations on the grounds that they would not permit a full substitution of a city for the State, thus enabling the city to undertake the actual construction responsibilities normally performed by the state highway agency." Recognizing that the city may be capable of complying with all requirements, "we do not believe Title 23 permits such a substitution." The introduction continued:

> In the absence of an explicit exemption, responsibility for compliance with all the requirements of Title 23 and implementing regulations remains with the state, to which the matching 90 percent federal share is apportioned under 23 U.S.C. 104.

One of the Illinois Department of Transportation's significant suggestions was that "the regulation be amended to make explicit that the notice of intent, the agreement, and the schedule for the expenditure of funds would not impair the ability of the state, local governments, and responsible local officials to request an alternative Interstate segment of a mass transportation project." FHWA did not revise the regulation because those options would remain open to the State if the city agreed to a joint request to withdraw the Interstate segment. ["Interstate Highway System," *Federal Register*, Vol. 39, No. 114, June 12, 1974, p. 20666-20668]

The *Chicago Tribune*'s article about the regulations indicated that "both city and state officials said they knew exactly what the regulations meant." The article continued:

> But they came to opposite conclusions. Mayor Daley's men said the regulations clearly permit the city to build the controversial expressway, while Gov. Walker's men said they clearly allow the state to veto the proposal.

Neither was right, as Gregory D. Wolfe of Secretary Brinegar's Office of General Counsel explained:

> [Wolfe] said Walker has no power to veto the expressway which the city wants to build. But he suggested Walker and other state officials could prevent construction"by various kinds of delays." They could, for example, "try to mess up the environmental impact statements" required in connection with all federal projects, he said.

Secretary Langhorne Bond of the Illinois Department of Transportation interpreted the regulations as meaning the State could stall the project indefinitely. Marshall Suloway, acting commissioner of the city's public works department, shrugged off Wolfe's comments, saying he did not believe "the state will defy the federal government and Congress."

(Secretary Bond had served as Special Assistant to Under Secretary of Commerce for Transportation Alan S. Boyd (1965-1968), where Bond worked with Deputy Assistant Secretary Lowell K. Bridwell, the future Federal Highway Administrator. He also served as UMTA's

Assistant Administrator for Public Affairs (1968-1969) and executive director of the National Transportation Center in Pittsburgh (1969-1973) before becoming Secretary in 1973.)

Representative Wright, asserting that he and Representative Kluczynski had drafted Section 110 to give the city full authority to build the Crosstown over Governor Walker's objections, said new legislation might be needed if the regulations gave the State the power to stall construction. Since the 1973 Act gave cities the right to veto proposed Federal-aid highway proposals favored by the State transportation departments, he "thought it only fair, just, and equitable to also allow cities to build highways where they desire them."

According to Kramer, even if the State and city somehow agreed to build the Crosstown, construction could not begin before 1980. It would take that long, he said, to complete the NEPA review, acquire the right-of-way, and relocate homes and businesses in the path.

State objections aside, Mayor Daley wrote to Tiemann on June 20:

> I would like to reaffirm . . . the city of Chicago's intention to enter an agreement with the secretary of transportation to construct F.A.I. 494 and to pay the non-federal cost of such construction.

Governor Walker, meanwhile, had informed Federal officials that the State would not approve the Crosstown. ["City, State Aides at Odds on Crosstown Regulations," *Chicago Tribune*, June 7, 1974; David Robert, and Ziemba, Stanley, "City's Rights on Crosstown Told," *Chicago Tribune*, June 22, 1974; Warden, Philip, "Chicago Will Build Crosstown, Daley Tells U.S. in Letter," *Chicago Tribune*, June 27, 1974]

Kramer warned the city that not enough funding would be available for both the Crosstown and the mass transit projects, including the downtown subway system, that Mayor Daley wanted:

> Kramer listed urgent needs thru 1979 as: Chicago Transit Authority, $442 million; commuter railroads, $215 million; suburban bus lines, $52 million; commuter parking, $40 million; and stations, $72 million.
>
> Included are "improvements that just can't wait . . . .
>
> "The $900 million is earmarked for Chicago, and it won't lose the money if Mayor Daley compromises on either of the shorter Crosstown versions the state suggested and utilizes the remaining funds for transit projects. This is really the bottom line of the whole controversy. He will have to choose between the expressway and the O'Hare [International Airport] access and the downtown, Archer Avenue, and Lake Shore subways." [Shepherd, C. Owsley, "Crosstown, Transit Must Share Funds," *Chicago Today*, July 26, 1974]

In Kramer's view, by the time construction could begin, the Crosstown would cost more than $2 billion because of inflation. Despite such predictions, Mayor Daley issued a statement in early September that "the first work to make way for this construction should begin in the spring." He did not define “first work” but as Kramer had pointed out, the NEPA and right-of-way acquisition phases remained to be completed before construction could begin.

Under Secretary Barnum agreed that if the stalemate lasted much longer, construction of the Crosstown may not be possible:

> This is something that I hate to see—people just standing there staring at each other. There is a demonstrated transportation need, and the dollars are just sitting there waiting to be used. I’m for the transportation problem to be resolved. [Hirsley, Michael, “Daley Moves to Spur X-Town,” *Chicago Today*, September 4, 1974; Gilbert, David, “Crosstown Fued Could Cost Millions,” *Chicago Tribune*, September 5, 1974]

Right-of-way acquisition was a looming problem. Ray J. Bolin, director of FHWA’s regional Office of Right-of-Way, said that the Federal requirement to find comparable housing for displaced residents would have to be met. If it were not, “it simply will not be built—not with federal funds, anyway.” He was speaking at a public meeting in front of 200 people, many of them homeowners in the path of the Crosstown. Kramer told the crowd that State studies indicated that finding comparable housing for the estimated 10,400 people who would be displaced was impossible:

> “Businesses are already afraid to invest in the neighborhood. Homeowners are afraid to invest in improvements to their homes. Property values are going down.”

City officials had been invited to the meeting but did not attend. [Kromery, Keith, “Crosstown ‘Edict,’” *Chicago Daily News*, October 2, 1974]

The city was trying to finalize an agreement with FHWA that would allow city officials to begin acquiring land for the first phase of the project (from the Stevenson Expressway to 67th Street). Administrator Tiemann was awaiting additional information, which encouraged city officials to think that he was willing to approve the agreement. However, Tiemann had also pointed out that “cooperation with the state will be required, and responsibility for construction lies with the state unless it is delegated to the city by the state.” He did not have to add that the delegation was not likely.

Secretary Bond, in a letter to FHWA, explained that State studies suggested the city could not afford to pay the matching share for construction of the Crosstown, estimated by State transportation officials as $614.3 million of a total $2.7 billion cost. The estimate included inflation over a 10-year construction period and the cost of improvements to connecting expressways to accommodate additional traffic entering or leaving the Crosstown. [Byrne, Dennis, “Chicagoans Face Big Tax BiTe on Crosstown, State Warns,” *Chicago Daily News*, December 9, 1974]

The Illinois Department of Transportation issued another report in February 1975 demonstrating that the cost of the Crosstown had doubled to $2.6 billion and that construction would adversely affect more than 33,000 residents in its corridor. Court rulings, the report pointed out, prohibited “piece-mealing” that involved construction of one segment before NEPA reviews were completed for the entire route. "We believe," Kramer said, "the final nail is in the coffin . . . and the cost is just too prohibitive." He recommended transferring the funds to mass transit projecst, namely construction of the rapid-transit extension to O'Hare International Airport and the Loop subway and distributor system under Monroe and Franklin Streets. "It is readily apparent that currently there are not sufficient federal funds to finance these two projects without using the interstate transfer [mechanism authorized by the 1973 Act]."

The city denounced the State's "scare tactics." Commissioner of Public Works Suloway said, "We are planning to move ahead with construction to begin on the segment between the Stevenson Expressway and Midway Airport this year." [Gilbert, David, "New Round in Crosstown Fight," *Chicago Tribune*, February 23, 1975]

President Ford's proposal in July 1975 to alter the Federal-aid highway program gave the State additional evidence that the Crosstown could not be built. By proposing to drop most of the Highway Trust Fund and use the remaining funds to focus on intercity segments of the Interstate System, the State pointed out, the Ford Administration was relegating the Crosstown and other controversial urban segments to second-class status. Michael Finkelstein from Secretary Brinegar's office, explained that under the Ford proposal, the Crosstown and similar routes were "important on a regional scale, but not important as links in a federal system." Such projects could still be built, but the rate of completion would "have to be slowed." Kramer saw this proposal as offering Chicago the "very attractive proposition" of trading in the funds for mass transit. [Gruenberg, Robert, "Ford Proposal Cuts Priority of Crosstown," *Chicago Daily News*, July 8, 1975]

Ultimately, FHWA Executive Director Lester P. Lamm said, the fate of the Crosstown depended on State-city agreement, however improbable that seemed. "The federal government has made a commitment to fully fund the Crosstown when the city and state agree on what they want. But nothing will happen until there is agreement." He added:

> The impact of the President's program would be felt over the next few years but the federal government is still committed to completing all of the national interstate system and that includes the Crosstown. The plan does not penalize the Crosstown because it is not ready for construction. Federal money would still be available for design if the city and state can agree. [Gilbert, David, "Funds for Crosstown Fading Away as Daley, Walker Continue Fued," *Chicago Tribune*, July 13, 1975]

Mayor Daley said the Ford proposal "seems to be a reversal of everything that has taken place in the last 25 years." He objected to press coverage of how the Ford proposal might affect his plans:

> It's again a great error made by—what do ya call them—the guys who write the headlines and didn't read the story. The truth of the matter is that the late Lyndon Johnson—God love him—allocated $1 billion for the Crosstown in 1968 . . . . He had the vision which you and I are expressing now. He didn't know it would be this bad, that unemployment would be so general. We're not talking about an expressway as in the past, with concrete and steel. We're talking about neighborhoods and building new houses, new schools, and building new parks. This great corridor will have a depressed expressway underneath, and the people

> dispossessed will be paid for and put in better quarters and there's not many of them. [McCarron, John, "Ford's Highway Plans a Blow to Crosstown," *Chicago Tribune*, July 9, 1975; Randolph, Eleanor, and Orehek, Fred, "Ford Plan Won't Affect Crosstown, Daley Says," *Chicago Tribune*, July 10, 1975]

Mayor Daley had tried unsuccessfully to secure State legislation that would require the State to shift funds from downstate Interstates to the Crosstown. Governor Walker's press secretary, Norton Kay, said, "The day of the urban throughway has ended." He added, "The money is better spent on public transportation. You can't have both."

In August, State Attorney General William J. Scott ruled that under home rule provisions of the 1970 State constitution, the city had the legal authority to clear the way for construction. The ruling encouraged Mayor Daley, who said, "The people of Chicago want the crosstown, and this proves what has been said." As far as he was concerned, "construction could begin tomorrow."

In a telephone interview, Tiemann made clear that the Interstate funds would have to be channeled through the Illinois Department of Transportation and could not be made available directly to the city. "I'll stick with what we've been saying all along. The city and state will have to reach some sort of an agreement. The situation is unchanged."

Governor Walker agreed, "The situation is unchanged. I remain opposed to it. The state still must be the contracting party." [Thomas, Randy, "Crosstown Expressway Faces Long Battle," *Springfield State Journal-Register*, August 8, 1975]

President Ford was in Chicago on August 24 for brief remarks at a dinner for participants in the Annual World Championship of the International Star Class Racing Association. Mayor Daley rode to the event in the President's limousine, fueling speculation that they had discussed the Crosstown Expressway. According to one account, "Immediately after Ford's visit, Daley expressed confidence that the expressway would be built." [Schriber, Edward, "Council Unit OKs Proposal to U.S. for Crosstown," *Chicago Tribune*, October 7, 1975]

In September, Tiemann wrote to inform Mayor Daley that FHWA had accepted the city as the local financing agent under Section 110. Tiemann emphasized that the agreement "does not give federal approval for construction of the Crosstown." Mayor Daley was exultant:

> This action by the U.S. Department of Transportation is a very significant move forward toward building of the Crosstown corridor, which is so vitally needed to help the West Side and the entire Chicago area, as well as to provide thousands of jobs at this time of high unemployment."

Governor Walker was not convinced. "Under the law, the state must enter the contract and it will never do that under my administration." Secretary Bond agreed: "It is apparent that the mayor's effort has produced a piece of paper—not the Crosstown Expressway." John Kramer added that while the city was willing to pay 10 percent, 90 percent of the $2 billion cost of the project would have to be funneled through the State. "And we're not about to approve pumping that kind of

money into a Crosstown Expressway where there are so many other, higher priority projects in the state." ["Crosstown Hopes Diluted," *Chicago Daily News*, September 12, 1975]
On October 6, 1975, the Finance Committee of the City Council approved a proposed financial agreement with the Federal Government and Governor Walker. The approval did not specify where the city's 10-percent share would come from. Commissioner Suloway said, "That will come from the executive branch. The decision will be made there." He expected construction of the first leg of the Crosstown, the 3.4-mile section along Cicero Avenue between the Stevenson Expressway and 67th Street, to get underway in the spring. The full City Council approved the agreement on October 8.

Kramer dismissed the City Council's action, which he said "has nothing to do with constructing the Crosstown." It pertained "only to the city's paying the $600 million local share of construction. It's only a funding commitment and by no means represents any federal commitment to the project." Despite the city's optimism that construction could begin in the spring, Kramer pointed out that, "There are 21 major steps that have to be gone through, and the state is responsible for each of them," including the NEPA review and relocation activities. "It couldn't begin for five years, and not even then because of the state's objection and citizens' objections."

Suloway issued a new cost estimate, as described in a local news account:

> Suloway issued an updated report that showed the entire project—from a junction with the Kennedy and Edens expressways to about 75th St., then east to the Dan Ryan Expressway—would cost $1.34 billion in 1975 dollars.
>
> "That estimate doesn't include the cost of widening the Kennedy, Edens and Dan Ryan expressways," which transit experts said must be done to link up with the proposed Crosstown, Kramer said. He estimated the cost of the Crosstown, including inflation over the 10-year life of the project at $2.6 billion. "That's assuming a 6 per cent rate of inflation for highway construction and that is very conservative. Last year, we experienced a 25 per cent increase."

He also wondered where Chicago was going to find the $600 million local share. "Chicago only allocates $20 million a year for all street and highways construction, including repairs." [McElheny, Marge, "City Can't Start Crosstown Next Spring, State Says," *Chicago Daily News*, October 7, 1975]

Despite city assurances that it was prepared to begin construction, Federal officials were encouraging consideration of an Interstate withdrawal and the use of substitute funds for the new Loop and Distributor subways that were on hold pending approval of Federal transit funds. Jerome Premo, UMTA Associate Administrator, said, "Chicago has no guarantee that it is going to get anything from UMTA." Chicago had asked for $1.1 billion from a fund that had only $2 billion left. Premo said that "in each city proposing mass-transit projects, we are suggesting that local officials consider the transfer of highways funds."

Administrator Patricelli confirmed this view in a New Orleans speech. He said, "We will have to turn some of the less well-conceived funding requests down and perhaps some good ones." He added:

> We continue to be concerned with the fact that only a few urban areas have taken advantage of the 1973 highway amendments which permit transfers of funds from road construction to transit.

FHWA Executive Director Lamm added, "From the Federal Highway Administration's point of view, we have no grounds for forcing the state to put [Federal] money into the Crosstown."

Kramer estimated that if Governor Walker and Mayor Daley would agree to a transfer, the city would get about $1.5 billion.

Visiting Chicago on October 30, Secretary Coleman said:

> The federal government, under the Constitution and the statutes, can only make grants to the state, and it is up to the state to allocate the money.

He did not intend to mediate the dispute between Governor Walker and Mayor Daley. "The decision to build or not to build must be a joint decision by the state and the city." [Ingersoll, Bruce, "Use Federal X-Town Funds for Subway," *Chicago Sun-Times*, October 26, 1975; Ingersoll, Bruce, "City Must Clear Big Hurdles to Win Transit Funds," *Chicago Sun-Times*, October 31, 1975]

Unable to secure Governor Walker's approval, Mayor Daley undertook to ensure Walker's defeat in the 1976 gubernatorial election. The Mayor encouraged Michael J. Howlett, Illinois' Secretary of State, to run in the Democratic primary instead of seeking a second term as Secretary. In March, with strong support from Mayor Daley's political machine, Howlett defeated Governor Walker.

Whatever satisfaction Mayor Daley took in the defeat of his longtime foe was undercut in November when Republican James R. Thompson won the election to become Governor of Illinois. President Nixon had appointed Thompson to be U.S. Attorney for the Northern District of Illinois, a post he had used to convict not only a former Governor, Otto Kerner, Jr., of improper influence on behalf of the racetrack industry, but top aides to Mayor Daley.

Governor Thompson took office on January 10, 1977. Just a few weeks earlier, Mayor Daley had died of a heart attack on December 20, 1976. His successor, Michael A. Bilandic, lacked Daley's hold on the political machine and was surrounded by politicians who vied for control of the city.

At the national level, former Georgia Governor Jimmy Carter had defeated President Ford and became President on January 20, 1977. He brought in a new team at the Department of Transportation, including former Representative Brock Adams as Secretary of Transportation. Other appointees included Federal Highway Administrator William M. Cox, who had been senior vice-president of Ligon Specialized Hauler, a large trucking firm in Madisonville, Kentucky. He took his oath of office on April 7, 1977. Richard S. Page became UMTA Administrator on July 11, 1977. A former aide to Senator Jackson, Page had been executive director of the Municipality of Metropolitan Seattle, which operated the city's transit system and water pollution control facilities, and an APTA board member at the time of his nomination.

For FAA Administrator, President Carter nominated Secretary Bond of the Illinois Department of Transportation on March 30, 1977. The President's announcement pointed out that in addition to his work in the Departments of Commerce and Transportation, Bond had received a Bachelor of Arts degree from the University of Virginia (1959) and a degree from the University of Virginia Law School (1963). He also had studied international aviation law at the Institute of Air and Space Law at McGill University and the London School of Economics. Bond, who had been president of AASHTO (1975-1976), took the oath of office on May 4, 1977, and remained in his post for the remainder of the Carter Administration.

Governor Thompson decided to appoint 28-year old John D. Kramer to Bond's former post. The move, announced on July 6, 1977, was controversial because Kramer was a Democrat, but the Republican Governor decided to proceed.

In March 1977, Governor Thompson, who opposed the Crosstown, and Acting Mayor Bilandic agreed to discussions on funding the southern leg of the expressway, but to request withdrawal of the remaining portion of the expressway to secure funds for a Franklin Street subway. They submitted the joint proposal on May 19, 1977, to withdraw a 6.3-mile portion of I-494 between the Eisenhower Expressway and the Kennedy-Edens Expressways from the Interstate System. Administrators Cox and Page approved the withdrawal on September 30, 1977.

As Secretary Kramer had said many times, construction of the southern leg of the Crosstown could not proceed until NEPA and Uniform Act right-of-way requirements were met. Illinois asked for permission to resume right-of-way acquisition and planning/location studies that had been started with FHWA approval in 1968, but FHWA denied the request. NEPA had been approved since then, and an environmental impact statement along with public involvement would be needed.

While efforts were underway to reach agreement on routing, Mayor Bilandic lost his election bid to Jane Byrne. A former Daley Administration consumer affairs official who had been fired by Bilandic, her prospects in the Democratic primary were dim until January 12, 1977, when a blizzard dumped nearly 19 inches of snow on the city. Snow and freezing weather continued through February, disrupting roads and transit, while the city's snowplows proved ineffective. The public blamed Mayor Bilandic for the city's incompetent handling of the blizzard recovery effort, leading to his defeat by Byrne in the Democratic primary on February 27. After winning the general election, Mayor Byrne took office on April 16, 1979.

Within months, Mayor Byrne and Governor Thompson had agreed to withdraw the southern leg of the Crosstown Expressway and cancel the Franklin Street subway planned by Mayor Bilandic. Instead, substitution funds from the withdrawal would be used for mass transit by the financially troubled RTA and roadway improvements.

On September 26, 1979, Governor Thompson and Mayor Byrne submitted a joint request for withdrawal of the remaining 13.6-mile portion of I-494 between the Eisenhower and Dan Ryan Expressways. Deputy Federal Highway Administrator John S. Hassell and UMTA Acting Administrator Lillian C. Liburdi approved the request on October 1, 1979.

The Crosstown Expressway was dead. In calculating the substitution value, FHWA used the base cost shown in the most recent Interstate Cost Estimate at the time of the withdrawal, adjusted quarterly to reflect inflation in the cost of construction. Overall, the final withdrawal value of the Crosstown Expressway was $2.5 billion, with State and local officials using $1.6 billion for substitute highway projects and $880 million for transit.

John D. Kramer remained Secretary until 1984. As reflected in his effort to block Mayor Daley's Crosstown Expressway, Secretary Kramer continued to favor transit over roads, helping to turn around RTA's fiscal fortunes.

A future Deputy Federal Highway Administrator, Eugene R. McCormick (1989-1993), worked with Secretary Kramer in Illinois. McCormick, now Highway Market Leader with Parson Brinckerhoff, offered this comment in an e-mail for this article:

> It was a great opportunity and a continuous learning experience to work closely with John Kramer. Perhaps the greatest lesson learned was a disciplined persistence to continue to seek broad based consensus on major policy or political challenges as hurdles emerged on new initiatives and new ways to do business. The substitution program for completing the Crosstown Expressway in the City of Chicago as a part of the original Interstate System is a prime example. John was ultimately successful in substituting a program with a balance of public transportation and existing expressway/arterial investments . . . . Even more importantly, it initiated and encouraged a balanced transportation system investment approach in the long term.

After leaving State service, Kramer went into business, focusing on infrastructure investment.

Kramer, who had studied Political Science and International Relations at Stanford Univerity, met his wife Susan, a London native, while studying at Magdalen College, Oxford. They married in 1972. After the young couple moved to Chicago in 1973, Susan Kramer went into banking, eventually becoming a vice president of CitiBank.

The Kramers moved to London in 1992, initially as executive director of Goldman Sachs (1992-1995). The couple established International Capital Partners, which specializes in infrastructure projects in Central and Eastern Europe.

In May 2005, Susan Kramer won election to Parliament, serving through 2010. During these years, she specialized in transport issues.

John D. Kramer died on September 22, 2006, of melanoma at 57 years old. Baroness Sally Hamwee, one of Susan's Liberal Democrat colleagues in Parliament, wrote a memorial for *The Independent* on October 13, 2006. She said of his work in Chicago:

> Kramer restructured the Illinois transportation funding systems, with new transportation taxes and user charges, revenue bond financing and public-private partnership structures. The chairmanship and post of chief executive officer of the Chicago Regional Transportation Authority were added to his role, and he converted its $14.5m deficit to a $90m surplus. This was 1980s America, where car was king, and Kramer was moving money from roads and investing in trains and buses.

She said of his work in Europe:

> With typical enthusiasm, when the Berlin Wall came down John and Susan Kramer took their childred to be there. John Kramer's interest in Central and Eastern Europe had already led him to establish relationships with reform movements including Solidarity in Poland and the New Forum Movements in former East Germany and Czechoslovakia, and he advised these groups on development, transport and other infrastructure when they took over government in 1989/90 . . . .
>
> Moving to London in 1992, initially as an executive director of Goldman Sachs, Kramer made a tangible contribution to the task of creating a modern transport infrastructure that integrated Europe. He gave a lot of effort to the Central Railway rail freight project, linking the Channel Tunnel to the North of England, and served as lead banker/adviser on some of Europe's largest public-private transport projects, among them Berlin Airport, the Munich-Verona rail project and the Elb Tunnel project in Germany.

As for the man, Baroness Hamwee said:

> John Kramer was a big man, and especially big in spirit. Those who worked with him on political campaigns in London saw how he glowed with pride at his wife's achievements. They may have guessed that his support was in more than the practical things, though his ineptitude with a hammer ("The most feared words in the English language are 'Some self-assembly required," he said) did not stop him being a champion at erecting poster boards. . . . . John Kramer's family meant more to him than anything. His delight in his newly born granddaughter was very evident. His kindness and generosity to everyone could hardly be contained. Despite the pressures of work, when he arrived in London ahead of his family he spent time with Molly, the family dog, at her quarantine kennels. And always, when he met you, he would say, "Hi, great to see you"—as if you were the very person he had most wanted to see.

Although Susan Kramer lost an election in November 2010, she was raised to the peerage as Baroness Kramer, of Richmond Park in the London Borough of Richmond upon Thames in 2010.

Mayor Bradley's Fight for Mass Transit

Campaigning in 1973, Mayor Tom Bradley made transit one of his main themes. Shortly after taking office on July 1, 1973, he had said, "Number one, I want to see us build a rapid transit system."

On July 23, the Southern California RTD held a board meeting in Occidental Center Auditorium to unveil a $6.5-billion transit plan for the Los Angeles area. The proposal, developed by consultants over an 8-month period, included a 116-mile network of commuter trains, busways, and nearly 3,000 buses. The district estimated that the rail network, 30 percent of it to be built as a subway, could begin construction in 1976 and be completed by the late 1980s. The cost had not been a consideration hampering development of the plan to get people out of the 3.5 million cars using the area's freeways. "Hang the costs!" one planner said. "When you're under the gun—and when you're starting from scratch—billions of dollars are involved any way you look at it." [Hebert, Ray, "$6.5 Billion, 116-Mile Transit Network Proposed for L.A. Area," *The Los Angeles Times*, July 23, 1973]

Nevertheless, funding was the key. Planners thought the area was more receptive to transit than it had been in 1968, when the district had proposed an 89-mile downtown-oriented rail system that would be funded by a half-cent increase in the sales tax. Despite a strong campaign by downtown businesses and other supporters, the voters defeated a sales tax referendum by a wide margin. [Altshuler, *Mega-Projects*, p. 184]

The district proposed another referendum for a sales tax increase as part of an optimistic funding plan for a transit network. To pay off 30-year construction bonds, the district needed the sale tax increase, revenue from the State gas tax if voters approved a constitutional amendment to divert revenue from freeways, and a major contribution from UMTA. The district projected the UMTA share at $4.5 billion, a shaky projection. A planner said, "If the federal money we'll need isn't available, then . . . well, we'll trim back our program accordingly." [Quoted in Hebert, "$6.5 Billion, 116-Mile Transit Network Proposed for L.A. Area"]

Mayor Bradley took one step toward a funding package on July 30 by petitioning the State Supreme Court to open the State's highway trust fund to other types of transportation. Voters had turned down the idea in a 1970 referendum, but Mayor Bradley argued in the suit that the Clean Air Amendments of 1970 made a reduction in automobile traffic imperative to meet the stringent goals set for the Los Angeles Basin. One approach the suit took was to provide a broad definition of "highway" to include "any public way." [Hebert, Ray, "Bradley Asks High Court to OK Use of Road Fund for Transit," *The Los Angeles Times*, August 1, 1973]

Funding was very much on Mayor Bradley's mind on August 21 when he and Senator Cranston hosted metropolitan area mayors for a breakfast meeting at City Hall. Mayor Bradley said he hoped they would work with him so the plan "will not be destroyed by bickering or parochialism" among Los Angeles County's 77 cities. Although Los Angeles was by far the largest jurisdiction, Bradley assured the other Mayors:

> The attitude that Los Angeles is above other cities in the county is at an end. Our problems do not separate us. We'll expect the good neighbor policy to go both ways.

Senator Cranston offered a note of caution about the funding plan, pointing out that the area had no guarantee of $4.5 billion from UMTA. "In the long run, we'll get that much—but how long it will take I don't know." Although he endorsed the district's plan, he said it was "only a beginning . . . a thousand questions must be answered before the concept can become a plan." Because California was limited to receiving no more than 12.5 percent of available funds, the only way to increase the amount received was to "expand the pot." ["Bradley Urges County Unity on Transit Goals," *The Los Angeles Times*, August 22, 1973]

In September, the State legislature approved a referendum, similar to the one rejected in 1970, to open the State highway trust fund to transit. Senate President Pro Tempore James R. Mills (D-San Diego), who had advocated the 1970 measure, was optimistic the outcome would be different this time. He cited support from Governor Reagan, the energy crisis, the need to reduce emissions to meet EPA air quality standards, and less opposition from the oil and gas industry. He estimated that if the voters approved, about $50 million in gas tax revenue would be diverted for nonhighway purposes. The referendum, and a separate measure providing for a flat 25-cent fare, would go before voters during the primary election in June 1974.

The Southern California Automobile Association opposed the move, arguing that highway user taxes should be used for the intended purpose. Further, diverted funds would contribute little to the extensive transit plan while delaying needed highway improvements. [Gillam, Jerry, "Voters Will Get Second Chance to OK Gas Tax for Transit Use," *The Los Angeles Times*, September 14, 1973]

Senator Cranston's cautious comments at City Hall were reinforced by UMTA Administrator Herringer on September 13 during an address to the Southern California Association of Governments meeting at the Hyatt Regency. The Los Angeles area would have to bear much more of the cost of the district's transit plan because UMTA did not have enough funds for all the cities that wanted to begin or expand their transit networks. "I do not want to seem unduly pessimistic. I am only [giving you] my personal, straightforward assessment of the situation." He said that UMTA would need six times as much funding as it had to satisfy demand around the country. The district might want to reduce its reliance on rail transit to lower the overall cost. [Hebert, Ray, "L.A. Region to Get Less Transit Aid, U.S. Official Warns," *The Los Angeles Times*, September 15, 1973]

State Auditor General Harvey M. Rose emphasized the funding problem facing the district's plan in a report issued on November 14. He pointed out that the consultants who developed the plan had greatly overestimated UMTA's contribution, which Rose estimated might be $2.6 billion, and even that might be too high an estimate, he said. Further, the final plan failed to point out the operating deficits the proposed network would experience, which he estimated would increase from $6 million in 1977 to more than $1 billion in 2000. Over that 26-year span, the total operating deficit would be more than $10 billion. The plan released in July estimated a 4-year operating deficit of only $210.3 million. ["$10 Billion Deficit Predicted for Proposed L.A. Transit System," *The Los Angeles Times*, November 16, 1973]

Secretary Brinegar was in Los Angeles on January 21, 1974, for the launch of a computerized carpool program called Commuter-Computer. Asked about the district's plan to base financing on $4.5 billion from UMTA, he said, "We have no program that would guarantee that kind of money. Nor would I recommend it. The taxes of the whole nation are involved. It becomes a question of equity." He encouraged the Los Angeles area to consider smaller concepts, such as the new carpool program. The area could use up to $150 million a year from Federal-aid urban system funds for transit and up to $1 billion over a 5-year period for freeway bus lanes, jitney service, carpools, and other programs.

He seemed to reporter Ray Hebert annoyed with the district for assuming such a large UMTA contribution. Pulling the consultants' report out of his briefcase, Secretary Brinegar said:

> These things simply are not true. Don't misunderstand what Washington can do. If you are planning a rapid transit system because you think the federal government can finance it—don't do it.

In a Town Hall address the same day at the Holiday Inn in Westwood, he said the automobile "remains a very desirable and . . . the best means of personal transit" in the area. "Our love affair with the big car may have cooled but we clearly still love the services a car can offer." He explained that his concept for the area was based on taking advantage of what the region already had, namely a freeway network. [Hebert, Ray, "U.S. Won't Fund Rail Rapid Transit Here, Brinegar Says," *The Los Angeles Times*, January 22, 1974]

In February, Los Angeles County Supervisor James A. Hayes reported on a proposal to implement a 25-cent, flat-rate bus fare for a 3-month experimental period. The county would use up to $12 million of its General Revenue Sharing funds to subsidize the reduction. In late February, Hayes said he had met with Secretary Brinegar to ensure the experiment would not result in penalties for the county under pending Federal legislation that would penalize any local jurisdiction that reduces it own expenditures for public transportation. "I have received a commitment directly from Secretary Brinegar that Transportation Department rules implementing such legislation would exempt from the penalty expenditures made under experimental programs like the one contemplated by Los Angeles County." Hayes said the Secretary had encouraged the county to take other steps to increase bus ridership, such as reserving freeway lanes for express buses and providing park-and-ride lots for commuters. "We are going to develop" such a program, Hayes said.

A few days later, Hayes had to admit Secretary Brinegar had been unwilling to put his assurances in writing. Instead, Secretary Brinegar sent a telegram pledging to "make every effort to see that the legislation is written in such a way that the county would not be penalized." UMTA Administrator Herringer confirmed the Secretary's hesitance, pointing out that Congress, not the Secretary of Transportation, would decide the details of the final legislation. Herringer did, however, predict that the final bill would permit the Department to exempt experiments. "I can't imagine any way Los Angeles would be hurt," he said. [Steiger, Paul E., "25-Cent RTD Fare Gets U.S. Approval," *The Los Angeles Times*, February 28, 1974; "Hayes Fails to Get U.S. Pledge on Bus Subsidy," *The Los Angeles Times*, March 7, 1974]

The experiment, which began on April 1, proved successful in increasing ridership. By early May, the district designated Mrs. Kay Conley of Los Angeles as the 3 millionth patron to ride the county bus system for 25 cents. She was a special guest at a National Transportation Week luncheon on May 16 at the Los Angeles Convention Center. The featured speaker was Under Secretary of Transportation Barnum who told the audience that Los Angeles was far down the list of cities suited to a rail rapid-transit system. The area was the 21st among cities in population density, a key yardstick for suitability. Exclusive bus lanes, carpooling, and staggered work hours that took advantage of the freeway network were the best approach for cities that were not densely populated. [Hebert, Ray, "L.A. Low on List of Cities Suited for Rail Transit," *The Los Angeles Times*, May 17, 1974]

On June 4, voters approved Proposition 5, which amended the constitution to permit the use of up to 25 percent of gas tax revenues for construction of fixed public transit systems and guideways. Motor vehicle license fees and fuel taxes could be used to reduce noise and improve air quality.

The equally crucial vote would take place during the November 5 elections. The referendum measures called for twin half-cent increases in the Los Angeles County sales tax. The measures were expected to raise more than $100 million over the next 5 years. One of the half-cent increases would help finance construction of 145 miles of the planned rail rapid transit network. (The district was still projecting that 60 to 80 percent of construction funds would come from the Federal Government.) The other half-cent increase would be used to expand the bus system, other transit improvements, and continuation of the subsidized 25-cent fare.

Mayor Bradley launched an aggressive campaign to support the referendum. As chairman of a loose coalition called Citizens for Better Transportation, he said:

> We have talked about rapid transit for 50 years. Now the time to stop talking has come. This is a time for action. We have an opportunity to set a clear course for the future.

Despite talk for all those years, the county's proposed plan was the first "believable" transit plan prepared for the area:

> The passage of Proposition 5—the measure that opened California's highway trust fund for transit use—clearly indicated that the people support an alternative to the freeways. [Hebert, Ray, "Bradley Opens Drive for Transit Plan," *The Los Angeles Times*, August 7, 1974]

An editorial in *The Los Angeles Times* quoted Mayor Bradley's line about "This is a time for action," then concluded:

> In approving Proposition 5 at the June primary election—a measure opening California's highway funds for transit use—the voters gave a clear signal that they recognize the need for an alternative to the freeway system.

> That alternative is rapid transit. In November the voters will have an opportunity to move the best plan we have yet had off the drawing boards and into construction. Further delays can only multiply the eventual cost of a rapid transit system and increase the growing congestion on our freeways and surface streets.
>
> Bradley is right. The region can afford to wait no longer. ["Transit Can Wait No Longer," *The Los Angeles Times*, August 13, 1974]

As if to demonstrate the importance of mass transit, bus drivers and mechanics in a four-county area walked off their jobs on August 12 after their union representatives broke off negotiations with the district. The strike left transit riders scrambling to find another way to commute. The freeways were jammed with transit refugees. The strike also undercut the experimental 25-cent fare that had increased ridership from 550,000 to 650,000. Now those new riders, and any residents without a car, had to find some other way to get to work.

Aside from the difficulties the strike caused on the area's congested road network, officials feared it might undercut their campaign for the November vote, which would support existing transit service as well as the new transit plan. Jack R. Gilstrap, the district's general manager, said, "It's a terrible time. A long strike could sour the attitude of the public toward public transportation." He feared that resolving the strike would mean an increase in fares. Mayor Bradley acknowledged that people might "become frustrated and annoyed by the traffic on the roads and take it out on the [district] and vote 'no.'" He tried to take the positive view that the consequences of the strike would have the opposite effect. "The people who see the congestion on our streets may be more encouraged to vote for mass transit." ["Los Angeles Strike Puts New Bus Riders Back Into Their Cars," *The New York Times*, August 17, 1974]

To help relieve congestion as the strike went into its second week, the district opened the San Bernardino-El Monte Busway to carpools for the first time on August 19. Permits to use the busway were issued to carpools carrying three or more people.

The strike ended on the 68th day. When normal service resumed on Monday, October 21, the buses carried more than 600,000 passengers, offering renewed hope that county residents had not given up on mass transit. Gilstrap referred to the ridership as "dramatic evidence" of the importance of public transit. ["Public Transit: Voting for the Future," *The Los Angeles Times*, October 23, 1974]

On November 5, voters turned down Proposition A, with 53.7 percent of voters opposed. Neighboring Orange County turned down a similar measure by an even wider margin, with 63.4 percent of voters opposed. Mayor Bradley said he was "terribly disappointed," but added, "We're . . . still committed to improving public transportation. The need remains." Some observers thought the Southern California RTD deserved much of the blame. County Supervisor Pete Schabarum suggested that, "There has been almost tunnel vision on a fixed guideway system" and suggested that Gilstrap's resignation might be in order.

Mayor Bradley felt that restricting the district's 11-member board to give the city of Los Angeles a "more significant voice," might be appropriate, but he refused to blame the defeat entirely on the board. He also refused to blame the 68-day strike:

> You could pick a half dozen different arguments why people voted against the measure. But in the final analysis, it was this terrible inflation we are experiencing now. That persuaded the people. And it boiled down to a single issue . . . the added tax.

(Inflation was running at over 11 percent in 1974, up from 3.4 percent just a year earlier. The Nation's economy was still experiencing stagflation characterized by high inflation, low business activity, and an increasing unemployment rate. *Time* magazine for October 14, 1974, featured an illustration of President Ford, drawn by *Mad* magazine's Jack Davis, rolling up his sleeves next to the headline: "TRYING TO FIGHT BACK: Inflation, Recession, Oil")

With Governor Reagan unable to run for reelection due to term limits, the voters selected Edmund G. "Jerry" Brown, Jr., the son of a former Governor, to be the next Governor of California. Regarding the defeat of Proposition A, he said, "What we have to do is . . . pick up the pieces. The need for better transportation will not change. It's still there. The need to move people quickly and cheaply still exists." [Hebert, Ray, "Opposition to Tax Blamed for Defeat of Mass Transit Plan," *The Los Angeles Times*, November 7, 1974]

Despite the setback, Mayor Bradley and other local officials decided to focus on a "starter" line linking Los Angeles and Long Beach as an object lesson to build support for rail rapid transit. The National Mass Transportation Assistance Act of 1974, which President Ford signed on November 26, gave area officials hope. The area expected to receive $1.2 billion over 6 years, but they cited the discretionary transit funds now available to Secretary Brinegar as a source of funding for the single line despite the Secretary's preference for buses and better use of freeways to solve the area's problems. Gilstrap explained:

> The new transit bill not only gives us a chance to salvage our own corridor plan or part of it, but it also is the signal to get started on something. The monkey is on the Los Angeles area's back. Federal money is there. It's just a question of moving forward . . . . [Hebert, Ray, "U.S. Funds Revive L.A. Rapid Transit Plans," *The Los Angeles Times*, Dcember 2, 1974]

As the year ended, Mayor Bradley wrote an article for *The Los Angeles Times* issue of December 20. He said that in the wake of the defeat of Proposition A, people regularly asked him "Where does Los Angeles go from here on rapid transit?" His answer was simply: "We go forward."

The support for Proposition 5 in June, Mayor Bradley wrote, and opinion polls indicated support for mass transit, including fixed rail transit:

> How does one resolve this apparent contradiction in the voters' wishes? Quite easily.

> Rather than a rejection of rapid transit, the defeat of Proposition A was simply an expression of two very specific sentiments: an unwillingness to increase the sales tax in the face of unsettled economic conditions, and a lack of confidence in the Southern California Rapid Transit District as currently constituted.

Under Proposition 5, which voters had approved in June, Mayor Bradley expected the area to receive as much as $220 million by 1980 to match Federal transit funds for a fixed rail line. This was in addition to the $1.5 billion he expected the area to receive over 6 years under the 1974 Act:

> [T]hese funds should be put to work on the core of our system—a rapid transit project along a heavily traveled commuter route. We will, of course, require other sources of revenue. Among those we might consider are: public assessment districts; diversion of federal highway funds; and state oil and gas revenues. Indeed, I have asked the State Legislature to consider allocations for transit from the latter source as soon as possible.

In the meantime, the area should move forward to improve mass transit service. The bus fleet should be expanded by 300 buses and 40 minibuses while following through on plans for grid bus systems through South Central Los Angeles and the San Fernando Valley; implement an express system in which a large number of buses follow each other in the heavily traveled Beverly-Fairfax corridor; expand subscription bus and minibus services for downtown employees; continue the 25-cent fare; pursue the State's program for giving preferential treatment to buses and carpools on designated freeway lanes beginning with the Santa Monica and Hollywood Freeways; consider using existing railroad right-of-way as the foundation for light rail; and expand dial-a-ride services for the elderly and handicapped. He also advocated a "people mover" personal rapid transit system for the downtown area.

He had spoken with Governor-elect Brown about State-level initiates to promote balanced transportation. The Mayor suggested that the incoming Governor might, for example, "instill in the Highway Commission a new commitment to mass transit and thus induce it to release more state gas tax funds."

Mayor Bradley concluded:

> All around us we see the social, economic and environmental reasons for improving mass transit. If we make our institutions for planning and operating public transit more responsive and accountable; if we obtain new and equitable sources of funds; and if we carefully weigh the allocation of whatever funds are available, we can achieve a practical, efficient system.
>
> In the long run, then, the rejection of Proposition A was a detour, not a deadend. In one form or another, Los Angeles is going to see an improvement in mass transportation—a promise I've made before and still stand by. [Bradley, Tom, "Where Do We Go Now on Rapid Transit? Mayor Bradley Says: 'Forward,'" *The Los Angeles Times*, December 20, 1974]

To develop the starter line, officials needed consensus on financing and routing. Consensus became more urgent when Secretary Coleman informed area officials that he wanted a report by August 1, 1975, on the region's corridor consensus and how it would be financed. He did not expect a precise alignment, but wanted to ensure a broad consensus on the corridor.

On July 26, Byron E. Cook, president of the Southern California RTD, wrote to inform Secretary Coleman that Los Angeles County, the cities of Los Angeles, Long Beach, Burbank, and Glendale, and the RTD had reached consensus. Gasoline tax revenue of $200 million, freed by Proposition 5 in 1974, would pay the local share on a Federal-State 80-20 basis, matched to $800 million in UMTA funds. As for the corridor, Cook acknowledged that despite the consensus on financing, several technical and policy issues remained to be determined. "These include the specific route alignment, configuration, station locations and transit mode." He expected resolution of the issues by the end of the year. [Hebert, Ray, "Region Informs U.S. of Transit Accord," *The Los Angeles Times*, July 27, 1975]

The State legislature created the Los Angeles County Transportation Commission (LACTC) in 1976 to develop a rail transit plan for the region. County Supervisor Kenneth Hahn took the lead in developing a LACTC plan to go back to the voters for a half-cent sales tax increase worth about $225 million a year in November 1980. The money would be used for the top two rail priorities (lines from downtown to Wilshire and Long Beach), to lower bus fares for 3 years, and assist localities for transportation improvements of their choice. The voters approved the increase, with 54 percent approving.

The initial segment of the above-ground Blue Line opened on July 14, 1990, between downtown Los Angeles and Long Beach. The 22-mile, 22-station line cost $877 million, more than double estimates before construction began. Rides were free through July, but starting in August, the one-way fare was $1.10, which was expected to pay only about 5 percent of the projected $33 million annual operating budget. The percentage was speculative because the line was to run on an honor system, with only random checks to ensure passengers had purchased tickets. Much of the initial operating budget, $12 million, was for security because the line ran through hard-core gang territory. Sheriff Sherman Block predicted, "Of course, the gangs will view this system as part of their turf."

On opening day, neither end of the line had been completed, and was not expected to be completed until 1993, necessitating shuttle bus service. Ridership was expected to be low because the shuttle added 30 minutes to the 55-minute trip. However, opening day ridership exceeded expectations, with 15,000 passengers riding the Blue Line, about three times the expected number.

Mayor Bradley almost missed the Saturday opening of the Blue Line. He spent much of the day dealing with a fire in a tunnel under construction for a section of the Metro system that closed U.S. 101 and created day-long congestion. Nevertheless, he said:

> With the opening of the Metro Blue Line, public rail transit permanently comes back to Los Angeles.

[Armstrong, Scott, "Congested L.A. Looks to Light Rail," *The Christian Science Monitor*, July 13, 1990; Mathews, Jay, "Fiery Rebirth of Rail Mass Transit in Los Angeles," *The Washington Post*, July 14, 1990; Mydans, Seth, "Rail Line Makes Debut Where Car is Supreme," *The New York Times*, July 16, 1990; *The Los Angeles Times* News Service, "15,000 Ride New Calif. Rail Line," *The Philadelphia Inquirer*, July 17, 1990]

The Catalytic Converter

Through the mid-1970s, auto industry, EPA, urban officials, Members of Congress, the oil industry, and others considered how to meet the seemingly impossible air quality standards imposed by the Clean Air Amendments of 1970 in the face of the energy crisis. Drastic cuts in auto use appeared to be the best option, but they proved impossible to implement. As writer Tim Palucka put it:

> With the passage of the Clean Air Act of 1970, Congress threw down a gauntlet similar in spirit to President John F. Kennedy's 1961 challenge to put a man on the moon before the end of the decade. Both were bold strokes that placed a burden squarely on the shoulders of the nation's scientists and engineers. And both looked impossible . . . .
>
> In the race to clean up the air, no one knew if the goal, a 90 percent reduction in automobile emissions from pre-1968 levels by the 1975 model year, was even remotely possible. Moreover, Americans loved their thirsty automobiles; the petroleum industry depended on toxic lead in gasoline to increase octane; and automakers didn't want to add another costly device, especially one that would interfere with the cars' performance.

Although the manufacturers responded to the 1970 CAA "with a chorus of complaints," the government held firm. As Palucka pointed out, "It was 1975 or bust."

By then, however, several research efforts came together to enable the manufacturers to meet the EPA standards.

Eugene Houdry, a French engineer living in Pennsylvania, developed a "catalytic muffler" in 1959 that could be installed in the auto exhaust system to oxidize carbon monoxide into harmless carbon dioxide and convert unburned hydrocarbons into carbon dioxide and water. "Put them on all cars," he said, "and watch the lung cancer curve dip." Palucka described the invention:

> It consisted of a rectangular metal box containing 71 porcelain rods arranged in staggered rows among which exhaust gases would pass. The rods were coated with high-surface-area alumina containing tiny islands of platinum, which acted as an oxidation catalyst.

The time for Houdry's invention had not yet arrived because "there was little pressure yet from consumers to do anything about automobile emissions." Further, "the lead in gasoline would have 'poisoned' the catalyst, forming an alloy with the platinum atoms and preventing oxygen from bonding to them."

Houdry received a patent for his invention in 1962, but died later that year, even as, Palucka said, the publication of Rachel Carson's *Silent Spring* began the pressure that would create a market for his invention. (Like Helen Leavitt's *Superhighway-Superhoax*, *Silent Spring* was among the New York Public Library's Books of the Century. The "impassioned, carefully researched, and meticulously documented call to arms . . . alerted the general public to the growing danger—known already to ecologists and conservationists—from the careless and, in many cases, egregious poisoning of the earth's soil, water, air, creatures, and plants. [*The New York Public Library's Books of the Century*, p. 42])

Around the same time, Carl Keith of Engelhard Industries in New Jersey was working with 3M to find a way of reducing carbon monoxide emissions from forklifts in enclosed spaces such as mines and warehouses. 3M had developed a zirconia-mullite blend that improved on Houdry's porcelain rods to hold the platinum catalyst:

> [The] zirconia-mullite blend could be rolled up in corrugated sheets and then rolled up into a cylinder. The cylinder in effect formed a honeycomb that the exhaust gas could flow through, with abundant surface area available for catalytic conversion.

Keith "put a layer of high-surface-area alumina with platinum onto the honeycomb to convert carbon monoxide."

The catalyst was successful in the forklift market, but the market was too small to be profitable. Keith had not solved the problem of lead in gasoline that had also stymied Houdry. On an automobile, the catalytic converter would last only about 12,000 miles. "I was convinced," Keith said, "that nobody was going to pay $150 every 12,000 miles to replace a catalytic converter." Following enactment of the 1970 CAA, Engelhard Industries had the incentive to find a solution for automobiles even while the auto industry fought imposition of the stringent requirements and cities protested the transportation control plans they would need to meet ambient air quality standards.

A third company, Corning Glass Works in Corning, New York, had been working with the auto industry in other areas. "One was the development of a regenerator wheel for turbine engines, to carry hot exhaust gases back to the inlet side of an engine. The material it was made from was very similar to the 3M honeycomb structure used on forklifts." Auto-industry executives brought this similarity to Corning's attention. "At one meeting the representatives asked if the turbine regenerator's cellular concept might be used in a catalyst system." The company recognized the challenge and the potential rewards for meeting it.

Corning engineers developed a process for extrusion of the cellular structures on the honeycomb. (Palucka: "Extrusion involves pushing a soft, viscous material, like a clay, through a die to form a desired shape.") The extrusion method for thin-walled honeycomb structures received a patent in 1974. Even before the new process was perfected and a market assured, Corning began building a factory to manufacture catalytic converters.

One of the unresolved issues was identifying the best material for the honeycomb, with a goal of eliminating or reducing the need for expensive, scarce platinum and palladium. Base metals such as copper and iron were tested and rejected. "They were easily poisoned by sulfur, and attempts to remove the sulfur were unsuccessful."

Corning settled on a magnesium-aluminum-silicate compound called cordierite. Additional technological challenges remained to be solved, but EPA added a new challenge even as manufacturing was getting underway. It issued a new emissions standard for a significant reduction in mono-nitrogen oxides (NOx) gases:

> NOx reacts with oxygen and sunlight to form ground-level ozone, a major component of smog, and with water and unburned hydrocarbons to form nitric acid and other nasty chemicals. The EPA had left NOx standards out of the 1975 requirements so researchers could focus on carbon monoxide and hydrocarbons, but they were scheduled to take effect the following year. During the 1973-74 gas crisis, the EPA extended them to 1978, and in 1977 they were extended again, to 1981. When they took effect, the same catalyst system that added oxygen to carbon monoxide and hydrocarbons would have to remove oxygen from NOx, to leave nitrogen.

Engelhard researchers found the solution by inserting a small amount of rhodium into the platinum catalyst. Palucka explained that, "Now both oxidation and reduction could take place at the same time in the same catalytic converter." Three-way catalysts remain in use, modified over the years to meet changing needs. He added that, "This kind of control over chemical reactions wouldn't have been possible without the computing and sensing technology that was just emerging."

Even as the catalytic converter began to appear in cars, its impact was uncertain. In October 1974, The New York Times headlined an article:

Catalytic Converter: Big "If" of 1975

The article began:

> "This is a tremendous achievement on the part of all concerned," says Charles Heinen, Chrysler Corporation's emission expert, "something the industry can be proud of."
>
> "The dumbest thing that ever happened to the automobile," insists Alan Loofbourrow, Chrysler vice president.

The article explained that if the device worked, "two major auto emissions—carbon monoxide and unburned hydrocarbons—will be reduced sharply." If the device didn't work, "the clean air drive will be crippled, and a new pollutant, sulphuric acid, might slip into the atmosphere."

Some industry executives claimed that if they had 2 or 3 more years, they could have achieved the same result and fuel economy gains without the converter:

> But General Motors said it could cleanse the air with converters, and dragged the industry along. All 1975 G.M. models will use them, as will 70 per cent of the Ford and Chrysler autos and 35 per cent of A.M.C. cars.

Palucka summarized the importance of the catalytic converter:

> The catalytic converter is one of the great environmental success stories of the last century. When each goal was reached, the government raised the standards another notch, and the scientists kept meeting them. The result was automobiles that ran more efficiently with better gas mileage, confounding fears that environmentally friendly cars would be sluggish cars. [Palucka, Tim, "Doing the Impossible," *Invention and Technology*, Winter 2004, p. 22-31]

Since then, catalytic converters have been installed on millions of cars. In part because of the converters, the country has made significant progress in improving air quality despite a 41-percent increase in population, 167-percent growth in Gross Domestic Product, and 157-percent growth in Vehicle Miles Traveled since the 1970s. [*Transportation Air Quality Facts and Figures*, Office of Planning, Environment, and Realty, FHWA, January 2006, http://www.fhwa.dot.gov/environment/air_quality/publications/fact_book/page05.cfm]

Dwight D. Eisenhower Highway

Secretary Volpe initiated the idea of a transcontinental highway dedicated to President Eisenhower, and Congress designated it in Section 159 of the Federal-Aid Highway Act of 1973. As discussed earlier, the idea was to designate Interstate highways paralleling the route of the U.S. Army's first transcontinental motor vehicle convoy, which left the Ellipse south of the White House on July 7, 1919, headed to Gettysburg, Pennsylvania, then followed the Lincoln Highway west. The convoy reached San Francisco on September 6. President Eisenhower cited this trip as opening his eyes to the Nation's need for better roads, an understanding that, along with his experience on the German autobahn during and after World War II, led to his strong support for the Interstate System in the mid-1950s.

Under Section 159, the route did not follow one highway, but assembled a collection of route segments that parallel the 1919 journey:

(1) Interstate Route 70 between Washington, District of Columbia, and Denver, Colorado
(2) Interstate Route 25 between Denver, Colorado, and Cheyenne, Wyoming; and
(3) Interstate Route 80 between Cheyenne, Wyoming, and San Francisco, california

(As noted earlier, I-70S was intended to carry traffic from I-70/I-70N in Frederick, Maryland, into the District of Columbia's core. On October 3, 1975, Administrators Tiemann and Patricelli approved District Mayor Walter E. Washington's request to withdraw the District's highly controversial portion of the route. On May 18, 1975, FHWA approved Maryland's request to change I-70N (Frederick to Baltimore) to I-70 and I-70S to I-270. I-270 terminates at the Capital Beltway (I-495). With this change, the Dwight D. Eisenhower Highway was 2,942 miles long.)

Section 159 was clear on one point:

> Any law, regulation, map, document, record, or other paper of the United States in which such segments are designated or referred to shall be held to designate or refer to such segments as the "Dwight D. Eisenhower Highway."

The name never took hold along a disjointed route that made little transportation sense, and the States had little interest in paying for signs to let the public know the name of this "route." Mapmakers never adopted the idea, either, since the public was not aware of the name.

Finally, on October 14, 1986, TRIP sponsored installation of a commemorative sign in the tourist information center off I-70 (westbound) in Kansas City, Kansas. Susan Eisenhower, the former President's granddaughter, attended. "My grandfather considered the interstate system as among his most lasting achievements. Today, on what would have been his 96th birthday, we can be thankful for his foresight and perseverance" in pushing for the Interstate System. ["Eisenhower's Highway Role Honored," *The Washington Post*, October 15, 1986]

Congress tried again to honor President Eisenhower in 1990 in time for the centennial of his birth on October 14, 1890. On June 28, Senator H. John Heinz III (R-Pa.) introduced legislation to rename the National System of Interstate and Defense Highways, the name specified in the Federal-Aid Highway Act of 1956, to honor the former President. Senators Dole (R-Ks.), Nancy Landon Kassebaum (R-Ks.), Daniel Patrick Moynihan (D-NY), and Arlen Specter (R-Pa.) cosponsored the bill, which proposed the name: "Dwight D. Eisenhower Interstate Highway System."

After explaining how President Eisenhower pushed for the Interstate System, Senator Heinz said:

> President Eisenhower's adherence to the vision of American mobility was most certainly the main driving force behind the creation of the modern Interstate Highway System. The Federal Highway Acts of 1954, 1956, and 1958 had as their impetus Eisenhower's insistence that Congress and the administration act swiftly to address this Nation's severe infrastructure problems.
>
> October 14 of this year marks Dwight D. Eisenhower's centennial birthday . . . . As a Senator from Pennsylvania, where Eisenhower kept his Gettysburg home upon retiring from office, and privileged as I am to be a member of the Eisenhower Centennial Commission, I strongly believe it is befitting to pay tribute to and remember this great, late President by naming the Interstate Highway System after the man who strived so hard to make it reality. [Dwight D. Eisenhower Interstate Highway System, *Congressional Record-Senate*, p. 16444-16447]

On October 4, Senator John F. Kerry (D-Ma.) introduced an amendment changing the name to the "Dwight D. Eisenhower System of Interstate and Defense Highways." Senator Heinz again rose to speak on behalf of the new name:

> The late President demonstrated tremendous conviction to a vision of safe and expansive highways. From the moment he assumed the Presidency, Eisenhower's aspirations for an efficiently mobile America translated into . . . significant advances, paving the way toward a modern highway system. Among Ike's many, many lasting contributions to our Nation, none has more profoundly changed the shape of American life than the legacy of a modern system of highways.

The Senate approved the measure the same day without a recorded vote. *[*Dwight D. Eisenhower Interstate Highway System*, Congressional Record-Senate, p. 27484, 27493-27494]*

Representative Glenn Anderson introduced the measure in the House on October 10:

> This bill rightfully acknowledges the contribution of the Nation's 34th President in bringing about the enactment of the Federal-Aid Highway Act of 1956 that defined the purpose and extent of the Interstate System—the largest public works project ever undertaken in the United States.

Several Representatives offered their support in comments inserted into the record. Representative Hammerschmidt referred to the strain on the highway system during the Korean War:

> President Eisenhower responded to this crisis by going to the Congress and the Nation's Governors to ask for their cooperation in setting forth a grand plan. He drew a vision of an "articulated system to solve the problems of speedy, safe, transcontinental travel," including metropolitan area congestion, bottlenecks, access highways, and farm-to-market movement.
>
> Today, as the Interstate System nears completion, we reap the benefits of President Eisenhower's vision. It is clear that the Interstate System will continue to be the bulwark of our Nation's highway network into the 21st century.

Representative Shuster referred to the vision of President Eisenhower and the Congress in creating the Interstate Highway System and providing the Highway Trust Fund that gave the United States "the best highway system in the world." He continued:

> It is my hope, as I vigorously support this legislation and look forward to its passage, that we in this Congress have the same vision as we wrestle with the budget issues before us, the same vision to preserve and protect that highway trust fund so that 45 years from now those who stand in this well [where Representatives stand to address their colleagues] might be able to look back and say that Congress had the same vision, the same foresight as the earlier Congress and President Eisenhower did, and they provided for preserving that trust fund [so] that we were able in the 21st century to meet the awesome needs of continuing to provide the American people with the best highway system in the world.

Representative Norman Y. Mineta (D-Ca.), the former Mayor of San Jose who had won election to the House in the Democratic wave of 1974, also inserted comments into the record:

> President Eisenhower made the Interstate a reality by his support of user-fee funding, and creation of the Federal Highway Trust Fund . . . . Passage of this bill today is both a fitting and proper way to commemorate the 100th anniversary of President Eisenhower's birth.

Without further discussion, the bill passed without a recorded vote and was ready to go to the White House for signature. [The Dwight D. Eisenhower System of Interstate and Defense Highways, *Congressional Record-House*, p. 28401-28402]

President George H. W. Bush signed the legislation on October 15, 1990 (Public Law 101-427), one day after the centennial of Pesident Eisenhower's birth. The name was amended by later legislation to the Dwight D. Eisenhower National System of Interstate and Defense Highways.

During a Capitol Hill ceremony on July 29, 1993, Federal Highway Administrator Rodney E. Slater (1993-1997) unveiled the Eisenhower Interstate System sign. FHWA designed the sign in conjunction with AASHTO, the Eisenhower family, the Eisenhower Center, and the Eisenhower Society. The former President's son, John Eisenhower, was among the guests for the unveiling. Placement of the signs along the Interstate System was and remains voluntary. The States may, if they wish, place the signs along their Interstate highways, but are not required to do so.

Bicycles Roll On

Section 124 of the Federal-Aid Highway Act of 1973 established Title 23, United States Code, Section 217 ("Bicycle Transportation and Pedestrian Walkways"). It began:

> To encourage the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, on Federal-aid highway projects, include to the extent practicable, suitable, and feasible, the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, and pedestrian walkways in conjunction or connection with Federal-aid highways.

The States could use their non-Interstate formula funds for these purposes. The funds, from the Highway Trust Fund on a 70-30 matching basis, would come from the Federal-aid system on which the facility was located. However, the provision limited funds to $40 million nationwide each fiscal year, with a $2 million per State per year limit. Funds authorized for other Federal roads programs, such as Forest Highways, Public Lands Highways, and Parkways funds, also could be used for bicycle and pedestrian facilities.

The provision addressed the issue of motorized vehicle use of the trails:

> No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local government regulations permit, snowmobiles.

Section 124 originated in the House Committee on Public Works as Representative Koch's Bicycle Transportation Act of 1973. He had introduced a similar bill in 1972, which the committee had not included in its version of the Federal-Aid Highway Act of 1972. Senator Cranston had introduced the measure in the Senate, which included it in its version of the 1972 bill. In the House, the measure was undermined, as Representative Koch had explained during his testimony before the House committee on March 22, 1973:

> The real stumbling block came on the floor of the House . . . during consideration of the bill. There was then and is now a real need to have separate bicycle paths independent of regular vehicular traffic, simply to stop accidents from taking place and also encourage people to use bicycles. I had offered my amendment to the highway bill, namely, to provide funds out of the Highway Trust Fund for bicycle paths, and a member of the committee arose with an amendment to my amendment at that time. It appeared as though the committee were accepting my bicycle bill.
>
> But the amendment was very misleading since although it affirmed the committee's desire to have bicycle lanes and to provide moneys for bicycles, the moneys were to come out of the general treasury funds, not the Highway Trust Fund.
>
> The committee said they would provide money but it would have to be in the normal priority [of the Appropriations Committee] and you know and I know those moneys would never by forthcoming.
>
> You also provided that the committee would not have anything to do with the bicycle bill, but that you would turn it over to the Secretary of the Interior, as opposed to DOT, so as to remove any real oversight on the part of this committee. [*1973 Highway Legislation (Future Highway Needs)*, Hearings before the Subcommittee on Transportation, Committee on Public Works, U.S. House of Representatives, 93rd Congress, 1st Session, March 19-23, 1973, Report 93-5, p. 505]

With the failure of the 1972 legislation, bicycle advocates had another chance in 1973.

In adopting a bicycle trail provision in its version of the 1973 bill, the House Committee explained:

> Bicycling is a popular and healthful activity attracting ever increasing numbers of participants of all ages. Over 85 million Americans own bicycles, and for the first time last year, more bicycles than automobiles were sold.
>
> A cheap-non-polluting form of transportation, the bicycle can make a significant contribution to the solution of the urban transportation problem. Recently, there has been a significant increase in the use of the bicycle as transportation to and from work. Competing with other vehicles on already congested streets, however, bicycle operators tend to aggravate existing problems of traffic circulation and safety.

In 1972, the committee report noted, 1,000 bicycle riders died in crashes "and a significant proportion were related to vehicular traffic." As a result, "it seems logical and equitable that trust fund resources be used to finance safety improvements for bicycle transportation as well."

The House measure allowed the use of Federal-aid system funds to construct, in conjunction with Federal-aid projects, separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles. Funds for public lands projects could be used to construct bicycles routes in conjunction with trails, roads, highways, or parkways. The provision prohibited motorized vehicles except for maintenance purposes and, when conditions permit, snowmobiles. The report explained that, "If highway trust fund revenues are to be used to finance trails for bicyclists who pay no fuel taxes, such benefits should also be extended to snowmobiles who pay substantial fuel taxes. [sic]" [*Federal-Aid Highway Act of 1973*, Committee on Public Works, U.S. House of Representatives, 93rd Congress, 1st Session, House Report No. 93-118, April 10, 1973, p. 20-21]

The Senate Committee on Public Works also included a bicycle and pedestrian measure in its 1973 bill. After citing increased sales of bicycles, the committee report stated:

> As a non-polluting form of travel, it could, if properly accommodated, increase the passenger-carrying capacity of present highways. In competition with other vehicles on already congested streets, however, bicycle operators tend to aggravate existing problems of traffic circulation and safety. This bill would try to ameliorate these conditions and at the same time accommodate a highly useful and healthful activity as well.

The Senate measure allowed Federal-aid highway funds to be used for separate or preferential bicycle lanes or paths, bicycle traffic control devices, bicycle shelters and parking facilities, pedestrian walkways, and equestrian trails on or in conjunction with Federal-aid highway rights-of-way. Similarly, funds for public lands roads could be used for construction "of ancillary projects authorized under this section in conjunction with new highway projects" and the discretion of the Department charged with administering the programs. A network of bicycle trails would help reduce the tragic toll of bicycle fatalities, with an estimated 1,000 killed in 1972. The measure "also could serve to reduce the number of pedestrian casualties," estimated to be 400,000 injured annually with 10,000 of them killed:

> Where separate walkways are not provided along busy roads, traffic capacity is restricted and dangers to pedestrians multiply. Overpasses or underpasses might be appropriate at certain locations. Dangerous situations created by pedestrians, hikers or horseback riders along the roadside could be remedied by low-cost separate walkways, trails or paths. Consequently, the bill would make funds available for the construction of such walkways (including overpasses and underpasses) and equestrian trails in connection with new Federal-aid highway projects in both urban and rural areas.

The provision was not intended to fund construction of city sidewalks, "which traditionally has been and is a local responsibility." The committee also did not intend "that projects would be constructed for joint use—for example, a trail to be shared by bicycle riders, pedestrians and horseback riders." Each walkway, path, or trail "should serve only the type of transportation for which it would be built." No motorized vehicles would be permitted except for maintenance purposes; the Senate did not make an exception for snowmobiles. [*Federal-Aid Highway Act of 1973*, Committee on Public Works, United States Senate, 93rd Congress, 1st Session, Report No. 93-61, March 13, 1973, p. 18-19]

The Conference Committee adopted the House measure but incorporated pedestrian walkways, added the national and State funding limits, and provided that bicycle paths may be built off the right-of-way of Federal-aid highways only if they accommodated traffic that otherwise would have used the highway. [*Federal-Aid Highway Act of 1973*, Conference Report, 93rd Congress, 1st Session, Senate Report No. 93-355, July 27, 1973, p. 69-70] The conference provision generated little floor discussion and was included in Title I of the final bill.

The bicycle community greeted Section 124 with mixed feelings. It was a step forward, but bicyclists were tired of fighting automobiles for space on highway lanes, as the Knight News Service explained shortly after President Nixon signed the 1973 Act:

> To most side-swiped cyclists, that means a right to separate bike paths. So when the 1973 Highway Act this month first authorized federal funds for the construction of such corridors, it sounded like a great pedal forward. It wasn't, transportation officials say now. Instead of pumping more money into bikeways, they claim, the highway bill in effect clamps a lid on federal funds that were already being spent.
>
> "Maybe that's not what Congress intended," one cycling enthusiast in the Department of Transportation grumbled. "They said they wanted to promote bicycling, and all that. But that doesn't look like the way it's going to work out."

The new limits on spending were the problem:

> To the layman, that may sound like plenty of money.
>
> But to officials in the Federal Highway Administration—which has already been doling out bikeway money for several years without specific legislative authorization to do so—it's viewed as a pitifully low figure. "That spending ceiling includes other walkways and bikeways," one FHA [sic] planner said, "and you can't build a heck of a lot of walkways for $2 million. That just doesn't leave much for bike paths, or even marking off a bike lane on an existing highway. Frankly, the highway act is restrictive rather than promotional."

FHWA had permitted States to use Federal-aid highway funds for bike trails, without spending limits, since 1971:

> But the red tape is still tangled, requiring that the trails be built only in conjunction with a federal highway, that they be located only on the right-of-way, and that a public agency assume the trail's operation and maintenance.

The initiative to create these trails remained with the States, more than half of which had not pursued the option. For the most part, bicyclists had to fight for their space with multi-ton automobiles and other vehicles, as an FHWA official stated:

> It's a pretty bustling environment for a cyclist. And it doesn't say much for our conviction that bicycles are a healthful, pollution-free form of real transportation that should be promoted.

Birnbaum, the Department's urban systems specialist, said, "It's got to be worked on by all levels of government—and it isn't necessarily just a money thing. We've got to start identifying the problems of non-motorized vehicles in a world designed for motorized ones. We've got to stop looking at bicycles as toys and realize that millions of adults are riding them to work every day." [Knight News International, "It's All Uphill for Bikes in the 1973 Highway Act," *The Baltimore Sun*, August 28, 1973]

After the energy crisis hit the country in October 1973, the bicycle took on renewed importance. Section 119 of the Federal-Aid Highway Amendments of 1974 attempted to reflect this reality by authorizing $10 million in FY 1976 funds "to be appropriated" to the Secretary for a Bikeway Demonstration Program. The Secretary could use the funds on a discretionary basis for construction of bicycle paths "for commuting and for recreational purposes." The Federal share would be 80 percent. Congress appropriated only $6 million for FY 1976, the only year of the demonstration program. (Section 133(e)(2) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 repealed Section 119 of the 1974 Amendments.)

In Title II, the Highway Safety Act of 1973, the conferees included a provision calling on the Secretary of Transportation to make "a full and complete investigation and study of pedestrian and bicycle safety" in cooperation and consultation with the States, their political subdivisions, and other interested private organizations, groups, and individuals. This measure originated in the House version of the legislation as a study on pedestrian safety, but was broadened by conferees to include bicycle safety.

Colman McCarthy of *The Washington Post*, a columnist who occasionally wrote about bicycling issues, had highlighted the safety issue on July 9, 1974. Many communities were facing the complex issue of safety because "suddenly bicycles are no longer seen as sidewalk toys but as potentially dangerous machines in greater and greater use." During the energy shortage, motor vehicle and pedestrian deaths had decreased 25 percent "while bicyclist deaths increased 39 per cent." Colman pointed out:

> Despite this carnage, the Department of Transportation assigns no one to work full time on bike safety. Several workers of dedication do all they can between other assignments, but it is mostly personal interest, not agency policy, that moves them. An annual Congressional Bike Ride occurs—conveniently downhill—and newspapers make the mistake of sending photographers to snap pictures of the hearties. What is needed are pictures of the committee meetings in which Congress refuses to deal meaningfully with bike safety.

Bicycling safety was a complex issue, but in urban areas, the primary cause of crashes was the sharing of space by bicycles and motor vehicles:

> When cycling in urban traffic, the biker is most conscious of getting creamed from behind, but authorities say that most of the accidents between cars and bikes occur in crossways. Thus, the danger to a cyclist is not from behind, but from ahead or to the side. This suggests that the cyclist is deluded if he thinks motorists are automatically reckless menaces and bikers are pure and righteous. Many bikers see cars as their natural enemy, when actually the most monstrous threat on the road can be another bicyclist.

He quoted John Forester, described as "a California engineer and cyclist," who testified at a recent Washington hearing that about 80 percent of bicycle crashes were caused by misuse of the bicycle. After discussing the different types and age groups of bicyclists, Forester said:

> For the almost-adult and adult cyclist, so far as we know, most accidents are still caused by either improper use of the bicycles in traffic or lack of the training in evasive maneuvers which should enable the cyclist generally to avoid the errors of other road users.

McCarthy was uncertain that separate bike paths were the answer:

> Campaigns are currently on to lay down cement for bicycles. But there is no sound evidence that bikeways will lower the urban accident rate. Even if bikeways are available, it is open to question how many cyclists will use them.

He pointed out that a "natural bikeway exists along Massachusetts Avenue for nearly two miles" in Washington but "many cyclists avoid it, preferring to compete against cars for space on the road."

If only, McCarthy concluded, "bicycle safety could be kept as simple an issue as pedaling along on a summer afternoon on a rural road," but any problem involving human behavior was inevitably complex:

> For now it is not bikepaths or better bikes that will greatly increase safety, but only the extreme caution of the cyclist. His irresponsibility causes most crashes. Sadly, only a jolting flight over the handlebars, caused by a biker's own softheadedness or lack of skills, is likely to awaken him to that uphill truth. [McCarthy, Colman, "Pedaling Bike Safety," *The Washington Post*, July 9, 1974]

NHTSA completed the report on bicycle and pedestrian safety in March 1975. The bland introduction summarized the legislative requirement and explained that the Department of Transportation had jurisdiction over pedestrian and bicyclist safety, but the safety of the bicycle itself was within the jurisdiction of the Consumer Product Safety Commission. (As noted earlier, the commission had issued a bicycle safety standard in 1974, to become effective in 1975. A footnote in the report noted: "Effective date of standard suspended indefinitely by Consumer Product Safety Commission, December 1974.") [*Pedestrian and Bicycle Safety Study*, National Highway Traffic Safety Administration, March 1975, p. 1-2]

The largest section of NHTSA's report was devoted to pedestrian safety (pages 13-64). The lack of uniformity among pedestrian laws caused confusion, resulting in lack of police enforcement. Officials lacked detailed data on pedestrian accidents for analysis, while safety efforts were usually directed at children, not adults. Not enough attention was being paid to pedestrian safety, hampered in part by funding limitations and lack of planning and staff at the State and local level. The executive summary listed NHTSA's recommendations:

1) Effort should be made to provide uniform pedestrian laws across the nation to reflect the way "reasonable" pedestrians walk.
2) Statements of policy and/or directives relating to pedestrian should be established and police officers apprised of the importance of appropriate countermeasure activity. Pedestrian enforcement should be increased and made a higher priority item in traffic enforcement.
3) Accident records should be kept for pedestrians, and major epidemiological studies should be conducted to fill the gaps in knowledge on nonfatally injured pedestrians and victims of alcohol-related crashes.
4) Allocations of public funds for the creation and maintenance of pedestrian safety programs should be accelerated, and pedestrian safety should be made a significant component of all State highway safety programs.
5) Pedestrian-bicyclist safety educational programs should be broadened to include all ages and should be directed toward target groups with special messages for specific accident types.

The bicycle safety section (pages 65-101) reported that the legal status of bicycles and bicyclists should be defined more precisely to avoid confusion regarding rights-of-way and legal liabilities. Police needed more precise statements describing violations as well as policies and procedures for dealing with bicyclists. As with pedestrian crashes, data on bicycle crashes were inadequate for drawing conclusions on causes. Further, bicycle programs were typically a low priority in most States, cities, and counties as reflected in allocation of staff time and funding. The report recommended:

1) Police agencies should develop and promulgate written procedures describing methods of dealing with bicyclist violations and motorists who violate the rights of bicyclists. Police should be informed of the importance of their taking appropriate action against violations.
2) Uniform criteria for recording and reporting accident data should be established nationwide. This is particularly essential for the further study of patterns of alcohol usage and development of countermeasures.
3) Major emphasis should be placed on research designed to delineate specific causal/severity factors in bicyclist accidents and to devise effective, specific countermeasures where none currently exist.
4) A substantial commitment of funds should be made by all levels of government to establish and maintain a bicycle safety program, expand research, evaluate current activities, and plan future programs.

For pedestrian and bicycle safety, the study "did not reveal any voids that could be filled by national legislation." The problems were largely the responsibility of State and local officials, with solutions best "constructed around needs identified by analysis of traffic records and programmatic activities." [*Pedestrian and Bicycle Safety Study*, p, 2-4]

The Federal-Aid Highway Act of 1976 amended Section 217 of Title 23 to change the national dollar limit from $40 million to $45 million and the single State limit from $2 million to $2.5 million.

President Jimmy Carter

For President Ford to win a full term in the White House, he would have to overcome several obstacles, not the least of which was his pardon of President Nixon. In a televised Sunday morning address to the Nation just a month after taking office, President Ford explained on September 14, 1974, that he was granting a pardon that read:

> *Now, therefore, I, Gerald R. Ford*, President of the United States, pursuant to the pardon power conferred upon me by Article II, Section 2, of the Constitution, have granted and by these presents do grant a full, free, and absolute pardon unto Richard Nixon for all offenses against the United States which he, Richard Nixon, has committed or may have committed or taken part in during the period from January 20, 1969 through August 9, 1974.

President Ford explained that he was acting for "the greatest good of all the people of the United States whose servant I am." However, many suspected a deal had been concocted to ensure President Nixon's departure. Many people were angry that a trial of the former President had been averted.

He had other problems, including lukewarm support within the Republican Party. Because he had never campaigned for the presidency, he had not built support within the party across the country. Further, conservatives saw President Ford as likable but too moderate. They despised Vice President Rockefeller, a liberal who had alienated conservatives in previous presidential runs, particularly in 1964 when he lost the nomination to the conservative favorite, Senator Goldwater. Conservatives also criticized the President's foreign policy, including his work on an agreement that would turn the Panama Canal over to Panama.

President Ford's image, initially that of a man-next-door, had suffered, in part, from his portrayal on "Saturday Night Live." Comedian Chevy Chase's recurring and devastating portrayal of a bumbling, stumbling President Ford on the program—a portrayal that became for many a true portrait of the President who had once tried to halt stagflation with WIN buttons. When the President misspoke during one of the debates, claiming that Eastern Europe was not dominated by the Soviet Union, he confirmed Chase's portrayal.

Frustrated by the moderate leadership of Eisenhower and Ford, as well as President Nixon's approval of liberal legislation, conservatives threatened to form a third party that would unite rural southerners and northern blue-collar workers. At a meeting in Washington's Mayflower Hotel shortly after President Ford took office, the American Conservative Union and Young Americans for Freedom asked Governor Reagan to lead the effort. He declined, asking, "Is it a third party we need, or is it a new and revitalized second party . . . ?"

At the urging of conservatives, Governor Reagan took on President Ford in the 1976 Republican primaries, leaving the bitter fight between them too close to call when the Republican Party held its nominating convention. Trying to demonstrate his appeal to northern moderates, Reagan announced his choice of a running mate, the liberal Senator Richard S. Schweiker of Pennsylvania. The choice outraged conservatives without securing support for Governor Reagan from moderates. President Ford, who selected Senator Dole as the Vice Presidential nominee, won the nomination. Senator Dole took on a "hatchet man" role during the campaign that proved unpopular with voters.

By contrast, former Governor Jimmy Carter of Georgia (1971-1975) was a seemingly easygoing former Navy officer who had served under Admiral Hyman G. Rickover in his fledgling nuclear submarine program. (At the time, Georgia's Governors could not succeed themselves.) A Christian, peanut processor, State legislator, and Governor, Carter's image of honesty, decency, and intelligence was a welcome contrast to "Tricky Dick" Nixon and Spiro Agnew and the amiable current President. Carter easily won the Democratic nomination, in part by taking advantage of a reconfigured Democratic nominating system that had been put in place after the debacle of 1972 but that his better known opponents had overlooked. He chose Senator Walter F. "Fritz" Mondale of Minnesota as his running mate.

Transportation was not an issue in the campaign, but both parties adopted platforms that covered the subject. The Democratic platform said:

> An effective national transportation policy must be grounded in an understanding of all transportation systems and their consequences for costs, reliability, safety, environmental quality and energy savings. Without public transportation, the rights of all citizens to jobs and social services cannot be met.

It called for expanded flexibility in the use of Federal transportation funds for capital programs or operating expenses. "A greater share of Highway Trust Fund money should also be available on a flexible basis." The platform also promised to change "the current restrictive limits on the use of mass transit funds by urban and rural localities so that greater amounts can be used as operating subsidies; we emphatically oppose the Republican administration's efforts to reduce federal operating subsidies."

The platform called for completing the Interstate System in rural areas, upgrading secondary roads and bridges, assuring balanced transportation services for urban and rural areas, and taking whatever steps were necessary to reorganize and revitalize the Nation's railroads:

> A program of national rail and road rehabilitation and improved mass transit would not only mean better transportation for our people, but it would also put thousands of unemployed construction workers back to work and make them productive tax-paying citizens once again.

The Republican platform also addressed transportation:

> . . . encourage the greatest possible decision-making and flexibility on the part of state and local governments to spend funds in ways that make the best sense for each community. Thus all levels of government have an important role in providing a balanced and coordinated transportation network.

The Interstate System must be completed and maintained, but the platform added that the Republican Party "applauds the system under which state and local governments can divert funds from interstate highway mileage not essential to interstate commerce or national defense to other, more pressing community needs, such as urban mass transit."

The platform also supported "the concept of a surface transportation block grant which would include the various highway and mass transit programs now in existence [to] provide local elected officials maximum flexibility in selecting and implementing the balanced transportation systems best suited to each locality." The block grant program would cover capital costs and operating subsidies.

Further, Republicans called for research into more fuel-efficient automobile engines and more convenient, less expensive urban transportation, as well as correction of the "hopeless disjointed and disorganized" result when more than 50 congressional subcommittees have jurisdiction over parts of transportation legislation.

Carter would win the election in November with over 50 percent of the popular vote. Historian James MacGregor Burns discussed Carter's appeal:

> By inauguration day Carter had acquired a lustrous media image. After years of drift and deadlock in government, a leader of proved competence—competence at running a business and a state, a submarine and a tractor, and those tough primary campaigns, a demanding, clearheaded man—seemed to have stepped forward. Even his appearance—his bluff, open face creased by a wide smile, his hair style that looked both stylish and rustic, his quick, buoyant ways—set him off from the gray, sedate men in high office. [Burns, p. 521]

Smerk pointed out that transit interests were optimistic in 1977 as Congress worked on new legislation:

> Mr. Carter's victory was seen as good news for transit. Indeed, during the election process, a feeling emerged that the first year of the Carter administration would be a good one for transit. In his campaign, Mr. Carter had expressed support for mass transportation. For example, he informed the Democratic National Convention's Platform Committee that ". . . arresting this deterioration [of existing transit programs] and completing needed work on new urban transit systems must become the nation's first transportation priority." In remarks to the U.S. Conference of Mayors, Mr. Carter called for a substantial increase in the amount of money available for mass transportation from the Highway Trust Fund, a larger operating subsidy, and a study of the feasibility of utilizing the trust fund device to finance all transportation modes.

> After the election, the transit industry was also generally enthusiastic about the selection of former Congressman Brock Adams (D-Washington) as secretary of transportation. On Capital [sic] Hill, Adams was a strong supporter of public transit. In 1973, Congressman Adams had voted to open up the Highway Trust Fund for mass transportation; in 1973-74, he backed legislative efforts which eventually found their way into the operating provisions of the 1974 amendments to the Urban Mass Transportation Act of 1964.
>
> The industry was also pleased that the slow but apparently steady growth in transit ridership continued in 1975, despite the sharp downturn in the economy. This was seen as evidence that the rising federal expenditure on transit was bearing some fruit. [Smerk, 143-144]

While campaigning for President, Governor Carter had promised a national energy policy within 90 days of his Inauguration on January 20, 1977. To develop the plan, he selected James Schlesinger, a Ph.D economist who had served as chairman of the Atomic Energy Commission (1971-1973), Director of the Central Intelligence Agency (6 months in 1973 after Director Richard Helms had been fired on February 2 for not agreeing to block the FBI's Watergate investigation), and Secretary of Defense (1973-1975).

President Carter announced the energy plan in an address to the Nation on April 18, 1977, and an address to a joint session of Congress on the 20th. He called for the "moral equivalent of war" to "balance our demand for energy with our rapidly shrinking resources." He had borrowed the phrase "moral equivalent of war" from Dr. Schlesinger (who had borrowed it from 19th century philosopher, psychologist, Harvard professor, and author William James). We could, President Carter said, drift along as is for a few more years:

> Our consumption of oil would keep going up every year. Our cars would continue to be too large and inefficient. Three-quarters of them would carry only one person—the driver—while our public transportation system continues to decline. We can delay insulating our homes, and they will continue to lose about 50 percent of their heat in waste. We can continue using scarce oil and natural gas to generate electricity and continue wasting two-thirds of their fuel value in the process.
>
> If we do not act, then by 1985 we will be using 33 percent more energy than we use today . . . . If we fail to act soon, we will face an economic, social, and political crisis that will threaten our free institutions.

Rejecting the do-nothing approach, President Carter established 10 principles that he said should guide the struggle to reduce dependence on oil. Government must take responsibility for the struggle, and people must understand its importance. Only by saving energy could we have a healthy economy. We must protect the environment. We must reduce dependence on foreign oil by making the most of abundant resources such as coal and developing a strategic petroleum reserve. Everyone must share in the sacrifices. Price must reflect the true replacement cost of energy. Government policies must be predictable and certain. Conserve the scarcest fuels and use those that are most plentiful. We must start now to develop unconventional sources of energy.

The cornerstone of the policy was to reduce demand through conservation:

> Our emphasis on conservation is a clear difference between this plan and others which merely encouraged crash production efforts. Conservation is the quickest, cheapest, most practical source of energy. Conservation is the only way that we can buy a barrel of oil for about $2. It costs about $13 to waste it.

He also set goals to reduce the growth rate in energy demand to less than 2 percent, reduce gasoline consumption by 10 percent, cut oil imports in half, establish a strategic petroleum reserve, increase coal production by two-thirds to more than one billion tons a year, insulate 90 percent of American homes and all new buildings, and use solar energy in more than 2.5 million houses.

On April 20, he told a joint session of Congress that, "We must act now—together—to devise and to implement a comprehensive national energy plan to cope with a crisis that otherwise could overwhelm us." He reiterated many points from his address to the Nation, including the point that, "The two areas where we waste most of our energy are transportation and our heating and cooling systems." He said:

> Transportation consumes 26 percent of all our energy—and as much as half of that is waste. In Europe, the average automobile weighs 2,700 pounds; in our country, 4,100 pounds.
>
> Now, the Congress has taken fuel efficiency steps and set standards which will require new automobiles to have an average efficiency or mileage per gallon of 27.5 by 1985, instead of the 18 among new cars today. The entire fleet of cars is only 14 miles per gallon at this time.

To ensure the industry met these standards, President Carter said he would propose a graduated excise tax on new gas guzzlers. "We expect both better efficiency and also more automobile production and sales under this proposal."

He also discussed what he called "the most controversial and most misunderstood parts of the energy proposal—a standby tax on automobile gasoline." He explained:

> We simply must save gasoline, and I believe that the American people can meet this challenge. It's a matter of patriotism and a matter of commitment.
>
> Between now and 1980, we expect gasoline consumption to rise slightly above the present level. For the following 5 years, when we have the more efficient cars on the road, we need to reduce consumption each year to reach our targets for 1985. I propose that we commit ourselves to these fair, reasonable and necessary goals and, at the same time, write into law a gasoline tax of an additional 5 cents per gallon that will automatically take effect each year that we fail to meet our annual targets in the previous year. As an added incentive, if we miss one year, but are back on the track the next year, then the additional tax should come off.

He added:

> I will also propose a variety of other measures to make our transportation system more efficient. One of the side effects of conserving gasoline, for instance, is that State governments who have a limited amount of tax per gallon collect less money through gasoline taxes. To reduce their hardships and to insure adequate highway maintenance, we should compensate States for this loss through the Highway Trust Fund.

In addition, he supported creation of a U.S. Department of Energy, already under consideration in Congress. "Continued fragmentation of Government authority and responsibility of our energy program for this Nation is both dangerous and unnecessary."

Daniel Yergin pointed out that the 90-day time frame President Carter had given himself for announcing his energy plan worked against it. "Such haste did not leave enough time to build the requisite consensus and working relationships not just with committee chairmen in the Congress, but also with a broader base of interested Congressmen—or, indeed, even within the Administration." There was another problem:

> The Administration was proceeding as though there was a crisis that would rally the nation; the public, however, did not think there was a crisis. And, in the course of pushing his program, Carter received a firsthand education in how special interests operate in the American system, including liberals, conservatives, oil producers, consumer groups, automobile companies, pro- and-anti-nuclear activists, coal producers, utility companies and environmentalists—all with conflicting agendas.

President Carter did get an Energy Department, authorized by the Department of Energy Organization Act, which he approved on August 4, 1977. The Department began operations on October 1, 1977, with Dr. Schlesinger as the first Secretary of Energy. [Yergin, 662-664] Other measures proved more controversial, especially those that imposed burdens to force people to change their behavior.

New Thinking About Transportation

Early in 1977, Secretary of Transportation Brock Adams indicated that he would be looking for new ways to think about transportation. On February 10, in his first major speech, he told the Consumer Federation's Assembly in Washington that he would be holding a series of "Transportation Town Meetings" to talk with "government officials at the state and local level, the shippers and users of transportation and the people who travel the roads, the airways and the railways that are the department's responsibilities." He said President Carter had suggested the meetings. He also drew on his congressional experience:

> I learned as chairman of the Budget Committee the worth of the congressional budget process in setting priorities for spending within realistic estimates of revenue. This process permitted us to look at federal spending in terms of broad functional categories, rather than in a series of ad hoc decisions on authorizations and appropriations for individual programs.

> I believe we in the Executive Branch must begin to think in the same terms. Such an approach will enable us to decide how to shift the federal investment in transportation as the national needs change with time, rather than simply adding up the requests of each interest, even if they conflict.

He thought a combined transportation account would allow each mode to find the funding that suits it best and is fairest to the user and taxpayer

> For example, mass transit should not be considered a service to commerce but part of urban development—a public service needed to restore our cities. The farebox will clearly never pay the costs of mass transit and private enterprise does not want to be involved unless subsidized.

With Congress beginning consideration of transit legislation in 1977, the Senate Committee on Banking, Housing, and Urban Affairs held hearings on a new bill from Senator Williams. According to Smerk, the National Mass Transportation Assistance Act of 1977 (S. 208) reflected APTA's three principal goals for the legislation:

> The first was to increase the level of the major capital investment program in mass transportation to an average of $4.5 billion yearly over the next five years. The second goal was continued funding of the Section 5 formula grant program which was to end, under the existing law, in 1980. The APTA program called for $1.1 billion in Section 5 formula grant money in 1981 and approximately $1.25 billion in 1982. The third element in the program was for an effective urban street program as authorized under the Federal-Aid Highway Act of 1973. [Smerk, p. 144]

With the Carter Administration outreach just getting underway, Secretary Adams requested a delay in considering the transit bills. Smerk wrote:

> The first serious blow was the position taken by Secretary of Transportation Brock Adams in his testimony at the hearings on S. 208. Appearing before the subcommittee on housing and urban affairs of the Senate Committee on Banking on February 25, 1977, Adams told the group that the new administration wished to look at all issues and concerns insofar as transportation was concerned. The secretary made it clear that the administration did not wish to foreclose any options open to it in the future and that passage of S. 208 would do so. He also dropped a bombshell when he said: "Fortunately, there is no urgent need to provide additional or extended program authorizations for the mass transit program . . . ." In other words, there was already enough money for urban mass transportation. This was not the message that presidential candidate Jimmy Carter had given regarding transit. [Smerk, p. 147]

Secretary Adams's conclusion about the lack of urgency stemmed from a new way of thinking about Federal-aid for transit. The previous Administration, he said, used a method of accounting that required $1.1 billion in new appropriations for UMTA through 1980. This was because the entire cost of each mass transit project was set aside when the contract was approved even though the funds would be needed incrementally over several years, not all at once. If UMTA put aside only the funds needed for the current year, the funds already authorized would be sufficient for now. "Accordingly," he told the Subcommittee on Housing and Urban Affairs, "it is not necessary to provide new authorizations at this time." [National Mass Transportation Assistance Act of 1977, Hearings on S. 208, Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing, and Urban Affairs, United States Senate, 95th Congress, First Session, S-241-34, February 1977, p. 396-419, see p. 399-400 for the section on a new way of thinking]

In hearings on March 30 and April 6, the House Committee on Public Works and Transportation, now chaired by Representative "Bizz" Johnson, and its Subcommittee on Surface Transportation, headed by New Jersey's Representative Howard, considered amendments to the Urban Mass Transportation Act of 1964 to provide operating assistance outside urbanized areas and help meet the needs of elderly and handicapped persons.

When Secretary Adams testified before the subcommittee on April 6, he said the Carter Administration planned to take a close look at mass transit in the broader context of highways and railroads, as well as urban and rural needs. He said, "we really believe it is probably premature to do a piece of it since we are going to be doing the whole thing later." [Mass Transportation Assistance to Meet the Needs of Elderly and Handicapped Persons," Hearings on H.R. 5010, Subcommittee on Surface Transportation, Committee on Public Works and Transportation, U.S. House of Representatives, 95th Congress, First Session, March-April 1977, p. 102-107, see p. 103 for quote]

His request for a delay in congressional action left transit interests worried because it was inconsistent with expectations raised by the President's campaign statements. Their mood worsened when a handwritten note from President Carter to Secretary Adams became public. It was dated March 21, 1977:

> To Brock Adams: I suspect that many of the rapid transit systems are grossly over-designed. We should insist on: a) off-street parking, b) one-way streets, c) special bus lanes, d) surface rail-bus as preferable alternatives to subways. In urban areas, no construction at all would be needed if a. b. c are required.

Smerk described the reaction:

> To say the least, supporters of transit, especially rail lines, were dismayed. It was hard to believe that this President Carter was the same man as candidate Carter who had called for more funds for transit. From anyone else the memo would not have been much of a problem; but as a writing of the President of the United States it was extremely bad news for transit proponents. In the aftermath of the memo, charges were leveled that the Carter Administration was looking more toward holding down the budget than doing anything particularly creative in dealing with the problems of energy, the environment, or the transportation realities of metropolitan areas. For his part, Secretary Adams viewed the president's memo as nothing more than supporting the UMTA policy of examining alternatives before giving large grants for rail systems. [Smerk, p. 148-149]

Despite the President's note, or perhaps because of it, Secretary Adams and Senator Williams reached a compromise by mid-March on $5.7 billion for new projects over the next 5 years, compared with $11.4 billion in the Williams bill. *The Washington Post* reported:

> A Department of Transportation official emphasized last night that the administration has not yet "endorsed" the Senate aid plan but conceded that it is "moving a long ways toward . . . awfully close to" the Adams position. Enactment of such a program this year is uncertain because of a negative attitude toward a mass transit bill to date among House leaders.

Senator Williams said, "For states like my own, this legislation will mean the influx of millions of dollars to complete long-awaited and badly-needed projects." The prospects for passage were "fairly good given the level of support from the administration." He added:

> Even though this compromise legislation does not go as far as I hoped it would toward making mass transportation one of our nation's top priorities, I think it will make it far easier for us to begin structuring the efficient and modern transportation system we do desperately need." [Jones, William H., "Adams, Senate Find Compromise on Mass Transit," *The Washington Post*, March 18, 1977]

The Senate considered S. 208, the National Mass Transportation Assistance Act of 1977, on June 23, 1977. Senator Williams began consideration by recalling President Carter's April 18 speech to the Nation on energy. "The picture he painted was bleak indeed, a picture of the world's greatest power entering into perhaps the most difficult period in its glorious history without well-developed solutions to a problem of unprecedented magnitude." He quoted the section of the speech to the Nation about the waste of fuel by automobiles.

Given the magnitude of the problem President Carter described, Senator Williams said he had "eagerly awaited the subsequent energy message which was to be a Presidential blueprint for our national energy policy." While President Carter spelled out his energy policy in detail in his address to Congress, something was missing:

> I was more distressed over some of the omissions from the President's speech—omissions which I believe could prove fatal to any energy policy. Specifically, the President failed to include mass transportation in his program enunciated at that time.
>
> Mr. President [of the Senate], this neglect has triggered a storm of protest. The President has made a point of communicating with the American people and, in this case, they were listening carefully. In fact, almost two thirds of the American people agree that President Carter has failed to put enough emphasis on public transportation, according to a survey commissioned by a prominent magazine . . . . If public transportation—mass transit—is to gear up as the viable alternative to commuter use of the automobile, Congress must fill the gap left in the President's energy program, and we have an opportunity to fill that gap, so far as we in the Senate are concerned, with the legislation that is before us.

The bill had been modified for "the express purpose of" accommodating Secretary Adams' views. The Senate approved the bill without a recorded vote. Smerk described the amended bill:

> The bill authorized $4.75 billion for capital programs; $500 million in operating aid to non-urbanized areas was made available, utilizing funds already set aside for capital improvements in non-urbanized areas. Special aid was also provided to large cities and commuter railroads not operated by Conrail. The $125 million of Section 5 funds that had been "borrowed" for the 1977 transition quarter from fiscal year 1980 money was put back into the funds to be used in 1980.

The bill also addressed the concern of large, transit-oriented cities about the distribution of formula grant program funds under the 1974 legislation. By giving equal weight to population and population density, the formula gave much of the funding to large cities in the south and west that had little transit infrastructure and to small urbanized areas that could not use all the funds:

> Reflecting the concern of the larger cities, the Williams bill created a second "tier" of $295 million to aid transit in the nation's largest cities. The money was to be distributed under a formula to be devised by the secretary of transportation. It would be based on the share of the national total of revenue passengers, vehicle miles, and population, and it would be weighted by population density. The funds for this would come from recycling $145 million in unused Section 5 operating funds that would otherwise be returned to the Treasury; in addition there would be new authorizations of $50 million annually for 1978 through 1980. [Smerk, p. 153]

(The Budget and Impoundment Control Act of 1974 changed the start of the Federal fiscal year from July 1 to October 1 of each year. The "transition quarter," the period from July 1, 1976, to September 30, 1976, had its own 3-month appropriations.)

The Washington Star applauded the Senate action. Some critics called the legislation premature because "there still are unexpended funds of about $3.3 billion in the existing mass transit program." Further, "The House has given no indication that it will act on mass transit legislation before late this year and may put it off until next year." The *Star* added, "and the Carter administration has shown no great rush to develop a mass transit policy." Despite what it called, the "dilatoriness" in the White House, the *Star* said, "It's hardly premature to establish a federal policy that will assure federal aid for mass transit on a continuing basis." The *Star* editorial explained:

> There have been proposals to establish a mass transit fund, similar to the Highway Trust Fund, financed by federal taxes on gasoline, or from a portion of federal corporate profits tax, or from some other source. But this has not gotten off the ground.

By contrast, "Senator Williams' proposal is concrete." If the Carter Administration would care to suggest a better idea, "let's hear it." The point was that "the Carter administration needs to have its feet held to the fire on mass transit. Passage of the bill in the Senate will help do that." ["Mass Transit Legislation," *The Washington Star*, June 26, 1977]

For the remainder of the year, Secretary Adams worked with the White House on its surface transportation plans. An end of year retrospective in *The Wall Street Journal* illustrated the Carter Administration's difficulty in addressing mass transit as part of its energy conservation proposal:

> One day last July, President Carter and some Cabinet-level advisers met in the White House to consider a plan offered by Transportation Secretary Brock Adams. Mr. Adams wanted the administration to urge Congress to pass a five-cents-a-gallon gasoline tax that would, in part, help finance improved mass-transit systems.
>
> The President supported the idea, and told Mr. Adams to pursue it on Capitol Hill. So the Transportation Secretary phoned Rep. Thomas Ashley (D., Ohio), chairman of the special House committee writing an energy bill, to say the Carter administration would push the five-cent plan.
>
> A puzzled Mr. Ashley asked what was going on. Lieutenants of James Schlesinger, the President's energy chief, had already assured him that the administration would support Mr. Ashley's own plan for a four-cent gasoline tax with most of the money to be spent on energy research and hardly any on transit. The Democratic majority on the committee had just voted to go ahead with the idea. Mr. Adams said, okay, forget he'd called. [Karr, Albert R., "Mass Transit Gets Short Shrift," *The Wall Street Journal*, December 30, 1977]

By December, Secretary Adams was ready to announce the Department of Transportation's proposals. On December 7, 1977, he told the National League of Cities conference in San Francisco that the Nation's $10 billion annual investment of Federal transportation funds could be a powerful tool in urban revitalization, rural mobility, increased employment, and energy conservation. Federal transportation dollars, he said, should help spur private investment and development.

"But before we can begin using our funds in a more realistic and effective manner, we must alter the way in which transportation funds are distributed." He listed four goals to improve the effectiveness of the grant programs (as summarized in a press release):

- Greater flexibility in the use of funds by elected state and local officials.
- To the greatest degree possible, establish a uniform matching ratio for local assistance in all transportation programs to eliminate bias in favor of the program offering the largest federal share.
- To simplify and consolidate the transportation planning program to assure that capital programs have been developed and approved through a comprehensive process that evaluates their impact on the environment and society.
- To distribute a great portion of grant funds on a formula basis, thus eliminating the "grantsmanship game."

To achieve these goals, Secretary Adams outlined a five-step plan:

The first step, he said, would consolidate highway and transit planning grants and distribute them on a formula basis. This would enable state and local officials to complete plans for an entire transportation system.

Second, federal aid for urban systems to areas with more than one million people should be coordinated with existing public transit funding, the Secretary said. Local officials could tradeoff between highway and any transit projects, he said.

Third, discretionary transit funding should be continued for the nation's older cities in an effort to restore their economic vitality, Secretary Adams said. In addition, he said, most other transit capital and operating funds should be combined into a single grant that can be distributed on a formula basis.

As part of this revitalization program, the existing rail transit and commuter rail systems in New York City, northern New Jersey and Chicago should be modernized, the Secretary said. "An accelerated schedule of work on these systems would result in immediate employment benefits, and would provide tangible improvement to transit systems serving millions of daily riders," he said.

Fourth, if funds can be made available, a speedup in the construction of new rail transit projects should be considered to create increased economic benefits to these cities and complete the systems faster, Secretary Adams said. Construction of rail systems extensions [sic] are underway in Chicago and New York City, he pointed out, and commitments to new starts or major improvements have been made in Atlanta, Baltimore, Philadelphia, Buffalo, Detroit and Miami. First segments of new systems should be started in the central city to make sure the benefits of the federal investment go first to the part of the city needing the most help, the Secretary said.

Fifth, Adams said, a formula grant program should be developed to improve highways and mass transit in all areas with an urban population below 50,000. To make the grants an effective tool for these small cities and rural areas, he said, "all needs—including operating expenses for transit—should be covered."

With President Carter's approval, Secretary Adams circulated draft legislation to congressional committee staff in late December. News soon reached the press. In New York City, the initial reaction was favorable, especially since the proposal allowed substitute projects following Interstate withdrawals to be advanced at a 90-10 Federal-State matching ratio. Mayor-elect Koch said he was "delighted by the proposed legislation," calling it "long overdue." He added that it would "certainly have some impact on any decision on the Westway project." He favored withdrawing Westway (I-478), a proposed $1.16-billion replacement for the West Side Highway, and using the substitute funds for transit. As Mayor-elect, he and Governor Carey were studying which option, Westway or mass transit substitute projects, would produce the most jobs and greater economic impact.

The New York Times reported that the withdrawal-substitution aspect of the Carter Administration's proposal was "being greeted enthusiastically," but urban officials were disappointed in the funding level: 4-years at a total of $45 billion, only a 10-percent increase over present levels. The proposal would end the Interstate construction program in 1982, leaving State and local officials until then to decide whether to use the withdrawal-substitution mechanism.

The *Times* also discussed the Administration's strategy for selling the proposal to Congress:

> The job of selling the new transportation ideas, given the traditional power of the protective "highway lobby" in Congress, could be formidable, transportation officials said. But Secretary Adams, in his proposal to the White House, emphasized the need to build a broad Congressional constituency for the overall transportation program. He called, for instance, for a program to repair or replace deteriorated bridges. This has a high priority among Congressmen devoted to roads and public works. It is thought that proponents of public transit would support bridge programs in exchange for help in enacting programs for increased mass transit assistance. [Meislin, Richard J., "Carter Backs Plan to Increase Funds for Mass Transit," *The New York Times*, December 22, 1977]

(Westway was added to the Interstate System in 1971 as I-478, but it quickly became one of the most controversial projects in the country. On December 28, 1977, the Carey-Koch panel announced its conclusion that construction of I-478 would produce substantially more jobs than using Interstate substitution funds for substitute mass transit projects.

[Governor Carey and Mayor-elect Koch had differing motivations in considering Westway, as reporter Frank Lynn discussed in the *Times*:

> With the gubernatorial election coming up next year, Governor Carey needs Westway as evidence of his ability to provide strong economic leadership, especially after the recession that marked the first half of his term . . . . Mr. Koch, meanwhile, has had a difficult time with Westway as his constituency changed. As a United States Congressman living in Greenwich Village, he strongly opposed Westway on the ground that it would destroy some West Side neighborhoods and, by the very fact of its existence, attract more traffic to that part of the city.

(During the campaign, Representative Koch initially opposed Westway, but as his prospects improved and he needed city-wide support, he shaded his position by saying he would support Westway only if the funds could not be diverted to mass transit. Later, however, he said that Westway would be an "economic and environmental disaster" that would "never be built" while he was Mayor.

(On April 19, 1978, Mayor Koch dropped his opposition to Westway in return for Governor Carey's pledge to maintain the 50-cent transit fare through 1981 and contribute $800 million, mostly from Federal sources, for mass transit projects in the metropolitan area. Mayor Koch announced his reversal at a news conference with Governor Carey in Albany. The *Times* reported:

> Mr. Koch, his face grim, offered no praise at all for the highway, asserting that he still favored spending the money on mass transit. But he said the $800 million mass-transit

> package proposed by Mr. Carey—to be shared 80-20 by the Federal and state governments—"seems to me to be extremely important to the city and state of New York."

(On August 7, 1985, the U.S. District Court enjoined the U.S. Army Corps of Engineers from issuing a landfill permit and enjoined FHWA from approving funds for Westway. At the joint request of Governor Mario M. Cuomo and Mayor Koch, Secretary of Transportation Elizabeth Hanford Dole approved withdrawal of Westway from the Interstate System on September 30, 1985. The 50-cent fare remained in effect until June 28, 1980, when it went to 60 cents. Governor Carey was reelected in 1978 with 53 percent of the vote and left office in 1982 after deciding not to run for reelection. [Lynn, Frank, "Westway or Not—Many Votes Per Mile," *The New York Times*, December 25, 1977; Meislin, Richard J., "Study by Carey-Koch Panel Calls Westway Best for City's Economy," *The New York Times*, December 29, 1977; Weisman, Steven R., "Koch Backs Westway After Carey Pledges 50c Fare and More Aid," *The New York Times*, April 20, 1978])

Surface Transportation Assistance Act of 1978

In 1978, the Carter Administration continued its drive for energy conservation while focusing on decreasing the Federal budget. The President talked about his priorities in a speech on April 11, 1978, to the American Society of Newspaper Editors:

> Potential outlay increases in the 1979 budget which are now being considered seriously by congressional committees would add between $9 billion and $13 billion to spending levels next year. The price of some of these politically attractive programs would escalate rapidly in future years. I'm especially concerned about tuition tax credits, highway and urban transit programs, postal service financing, farm legislation, and defense spending. By every means at my disposal, I will resist these pressures and protect the integrity of the budget.
>
> Indeed, as opportunities arise, we must work to reduce the budget deficit and to ensure that beyond 1979 the deficit declines steadily and moves us toward a balanced budget. I will work closely with the Congress and if necessary, I will exercise my veto authority to keep the 1979 budget deficit at or below the limits that I've proposed.

During its first year in office, the Carter Administration considered ideas such as a tax turnback of all highway user taxes except revenue for the Interstate System. It also considered creating a Unified Transportation Block Grant similar to the popular Community Development Block Grant Program from HUD. Based on discussions with highway and transit interest groups, the Administration submitted a less radical proposal on January 26, 1978, that recalled attempts by Presidents Nixon and Ford to modify the surface transportation programs. [Major Proposals]

On January 26, 1978, President Carter sent a message to Congress proposing legislation for highway and transit programs. He proposed to consolidate more than 30 highway and public transportation grant programs into fewer and more flexible programs for urban and rural areas. He recommended a uniform Federal share for highway and transit projects, except the Interstate System. The proposal focused attention on closing essential gaps in the Interstate System, with 50 percent of Interstate construction funds apportioned accordingly. Routes that were not covered by a completed environmental review or an application for withdrawal by September 30, 1982, would be removed from the System. All remaining segments would have to be under construction by September 30, 1986.

In addition, the proposal consolidated six highway safety programs into one, while expanding the Special Bridge Replacement Program to include rehabilitation of deficient bridges as well as replacement. Planning funds authorized under the highway and transit programs would be consolidated to remove artificial barriers to transportation choice, with the planning funds going directly to MPO's in urban areas with 1 million or greater population, rather than through the State transportation departments.

President Carter said in a message to Congress about the proposal:

> One of the Administration's important goals is to develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities. The reforms which are proposed in this legislation are designed to make certain that the nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

He emphasized several features, including completion of essential gaps in the Interstate System. He said he proposed consolidating highway and transit planning funds as a single grant to "promote more efficient short-range and long-range planning by state and local officials." He said:

> The Secretary will review transportation plans for [MPOs] to ensure that they take reasonable account of such issues as air quality, energy conservation, environmental quality, accessibility to employment, effect on minorities, housing, land use and future development.

He also discussed the two "compatible programs" established for highways and transit in all urbanized areas with a population of 50,000 of more:

> The highway program will consolidate five categorical programs, and all urban roads not on the Interstate or primary systems will be eligible for assistance. The transit program will provide assistance for the acquisition, construction and improvement of facilities and equipment for use in public transportation services and the payment of operating expenses, including commuter rail operating expenses.
>
> Funds will be apportioned by formula and the federal share for capital projects will be eighty percent. The highway formula will be based on urbanized area population. Up to fifty percent of the urban highway funds may be transferred to the Primary program or to the small urban and rural program. Up to fifty percent of the transit funds may be transferred to the highway program. Highway funds will continue to be available for transit capital projects.

Urban discretionary grants would be focused on "major expansion of bus fleets and new fixed guideway projects, including extensions of existing systems, and joint development projects."

President Carter concluded his message by saying:

> In proposing the reforms contained in this legislation I recognize the critical relationship between transportation, energy and development in urban and rural areas. I believe that these proposals will lead toward energy conservation and better land use. The enactment of this legislation will bring new opportunities and responsibilities to State and local officials, will respond to the problems of the present . . . programs, and will help to place the surface transportation system on a sound financial basis.

The goal, Smerk pointed out, was "to set up a means by which, eventually, all transportation programs in the president's budget would be separated into a single, functional classification." Looking at it from a transit perspective, he continued:

> The key elements of Secretary Adams' proposed program would have brought about some major changes for transit. All routine bus and rail modernization and rail rolling stock grants would be shifted away from the discretionary program of Section 3 of the Act and be placed in the formula grant program of Section 5. The formula grant program was proposed for a two-year extension, with a funding limit of $1.9 billion in fiscal 1979 and $1.95 billion in fiscal 1980.
>
> At local initiative, up to half of the formula funds could be used for highway projects. Total authorizations would be based on a formula embracing population, population density, and commuter rail mileage, so that the sums would be equal to the amounts then available under the existing law in Sections 5, 17, and 18. Remaining funds would be allocated on the basis of rapid transit route miles, the number of buses over twelve years of age, and bus seat miles. No more than 50 percent of the formula funds could be used for operating assistance, and operating assistance projects would be limited to one-third of total operating expenses. This latter feature would replace the maintenance of effort and local share requirements of the existing Section 5 program.
>
> The secretary proposed that discretionary funds for capital improvements under Section 3 of the Mass Transit Act be limited to new systems, major extensions of existing transit systems, and very large bus projects. The Section 3 program was to be authorized for a five-year period, beginning at $1.65 billion in fiscal 1979 and rising to $1.85 billion by fiscal 1983. The authorization for Section 3 would include $775 million each year for Interstate substitution projects, with the federal share for the substitution increased to 90 percent (from 70 percent under the existing law. [Smerk, p. 153-154]

Secretary Adams emphasized an important point that would be repeated many times in coming years:

> In the past we spent federal tax funds to expand transportation. The Interstate system–more than 90 percent of which is now open–testifies to the success of that effort. Now we must redirect highway and public transportation programs toward making all our systems better, safer, longer-lasting and more efficient.
>
> This proposal represents a transition from policies and programs appropriate to the formative years of our highway network to those better geared to an era of scarce, costly energy and growing urban needs.

For that reason, the proposal, if enacted into law, would direct the Secretary to consolidate FHWA and UMTA, and possibly other elements of the Department, into a single transportation agency.

The Carter concept met the same fate as those of his Republican predecessors. As Elizabeth Parker observed, it made one mistake common to the earlier proposals. It "coupled flexibility with less money, which could hardly be viewed as attractive to any of the parties." Congress was not ready to combine highways and transit, nor were the interests backing the two modes. [Major Proposals to Restructure the Highway Program]

As for the transit interests, the Carter Administration's proposal was a disappointment, especially considering the funding levels. These interests much preferred the bill introduced by New Jersey's Representative James J. Howard, chairman of the Subcommittee on Transportation. The Surface Transportation Assistance Act of 1978 (STAA) called for $4.4 billion for transit and included the highway provisions Secretary Adams had proposed. [Smerk, p. 154]

Through the summer, the legislation was delayed by concerns over funding levels and the illness of Chairman Howard:

> Some delay was also caused by the combination of the highway and transit elements into one bill and by the fiscally conservative noises coming out of the White House, as the administration savored public thoughts and feelings on inflation and taxation. As an example, the Carter administration asked for $47 billion over a four-year period with a renewal of the Highway Trust Fund for four years; the House Public Works and Transportation Committee approved a bill for $66.5 billion that also extended the Highway Trust Fund for six years. Such discrepancies raised the obvious concern over a presidential veto at worst, and long sessions of a conference committee to iron out differences at best.
>
> A factor that was both good and bad for transit was its decision to combine forces with the highway interests to get a joint bill through Congress. The transit industry did not wish to compete with the highway interests because of the danger of losing in any serious confrontation. The argument that had successfully led to the opening of the Highway Trust Fund to transit use in 1973 was no longer valid. Thanks to inflation, the unexpectedly rapid deterioration of the Interstate Highways, and a growing problem with highway bridges, there was not enough money in the trust fund or in its future expected revenues to handle the job of rehabilitating the nation's road system, much less to provide a significant source of money for transit. [Smerk, p. 156]

Although Members of Congress were eager to adjourn by mid-October for the 1978 mid-term elections, neither House had approved a bill over the summer and into fall. In late September, the House and Senate committees began moving their bills.

The House bill, at $66.5 billion, exceeded not only the President's funding level but the capacity of the Highway Trust Fund. The bill also contained many earmarks, prompting *The Washington Post* to refer to this "awful piece of legislation" as the Pet Projects Protection Act. "Any member of the House who *doesn't* have a special project in this bill ought to feel shortchanged." As an example it cited:

> Among the more interesting pork-barrel projects in this bill is one of $30 million for a demonstration project involving the use of "high-speed water-borne transportation equipment" between Sandy Hook State Park in New Jersey and New YorkCity. The bill originally called for "jetfoil transportation" between the two points, one of which—Sandy Hook—just happens to be in Rep. Howard's district. ["The Pet Projects Protection Act," *The Washington Post*, September 14, 1978]

During House consideration of his bill on September 15, Representative Howard told his colleagues that the bill was "a wholly new approach" to meeting the Nation's surface transportation needs:

> For the first time in our history, we are addressing in a single legislative package the destructive congestion of our cities and the equally destructive isolation of small-town, rural America, where millions of people must travel daily over inadequate, dangerous roads and highway bridges to bring their goods to market, their children to school.

He acknowledged that the bill was ambitious:

> It is the largest highway/mass transit program ever presented to the Congress. It calls for the longest spending authorization period ever proposed for a total highway and safety program.

Despite "what you may have heard or will hear in the course of this debate," the legislation was not "a budget-busting bill." Representative Howard explained that two-thirds of the funds authorized by the bill "will come directly from the assured resources of the user-supported highway trust fund, without adding 1 cent to the present gasoline tax," while the remainder was within the congressional budget limits for general Treasury outlays.

Title I called for more than $8 billion a year from the Highway Trust Fund for the Federal-aid highway program in FYs 1979 through 1982. This amount included $3.625 billion to $4 billion a year for Interstate construction to speed completion. For Interstate 3R, Title I proposed $175 a year for FYs 1980 and 1981 and $275 million a year for FYs 1982 and 1983. The bill continued non-Interstate programs at essentially existing levels, but the funds could be used for 3R work on non-Interstate routes:

> I call particular attention to this provision because it marks a significant departure in our national highway policy, as a result of which greater emphasis will be placed on upgrading

> and improving the safety and efficiency of the roads we now have in place rather than on merely building more and more miles of new highways..

The bill also addressed safety concerns. Much progress had been made, he said, since passage of important vehicle and highway safety legislation in 1966, but with 47,000 people expected to lose their lives in 1977, "we still have a long way to go." The legislation funded FHWA's and NHTSA's permanent highway safety programs and provided funds "to help the States enforce the 55-mile-per-hour speed limit." In addition, the Secretary would have the authority to reduce any State's Federal-aid funds "for failure to comply with enforcement standards and guidelines."

Representative Howard said that "far and away the most significant safety measure" was the measure for bridge replacement, which was expanded to cover rehabilitation:

> In title II of this bill, we propose annual authorizations of $2 billion a year for the 4 fiscal years 1979 through 1982, with 90 percent of project cost to be funded out of the highway trust fund.

Title III retained the existing UMTA formula grant programs for capital and operating assistance at the existing levels of $850 million for FYs 1979 and $900 million in FY 1980, but provided an additional $900 million a year in FYs 1981 and 1982. The authorization retained the present apportionment formula based half on population and half on population density. In view of testimony that heavily urbanized areas needed greater help than possible under this formula, the bill added a "tier II" formula that authorized $250 million a year for FYs 1979 through 1982:

> Our committee agreed to continue the half-and-half population/population density for these "tier II" grants, with the proviso that 95 percent of the funds would go to the 33 urbanized areas in the United States that have populations of 750,000 and more and the remaining 15 percent to smaller urban centers.

In addition, Title III authorized $1.86 billion a year in discretionary grants for public transportation, "but tightens up on the Secretary of Transportation's authority by establishing specific categories with specific dollar amounts to be earmarked each year . . . ." The categories included bus and bus-related purchases, fixed-rail rolling stock, rail modernization, new starts and extensions, and planning and technical studies.

Title IV was a Buy America requirement for domestic acquisition of products and supplies used on Federal-aid projects.

The House passed the bill on September 28 by a 367-to-28 vote after adopting amendments that reduced total expenditures to $60.9 billion, still more than the President's fiscal demand. The bill authorized $11.1 billion a year for the Federal-aid highway program and $4.1 billion for capital and operating assistance for mass transit programs. The bill got around the problem of spending more than the Highway Trust Fund took in by authorizing the Federal-aid highway program to spend 5 years of income in 4 years. [Surface Transportation Assistance Act of 1978, *Congressional*

Record-House, September 15, 1978, p. 29602-29618; Surface Transportation Assistance Act of 1978, *Congressional Record-House*, p. 32293-32321]

The Senate had considered the Federal-Aid Highway Act of 1978, S. 3073, on August 18. Introducing the bill, Senator Bentsen described it as "a 2-year, $16 billion bill of direct and immediate importance to every State in this Nation." In view of needs, "S. 3073 is lean legislation; make no mistake about it." The focus was on accelerating completion of the Interstate System and continuing 3R funds to protect the taxpayers' investment in the System. It expanded the Special Bridge Replacement Program to cover rehabilitation of deficient bridges. [Federal-Aid Highway Act of 1978, *Congressional Record-Senate*, August 18, 1878, p. 26897-26949]

On September 28, the Senate considered the Federal Public Transportation Act of 1978, introduced by Senators Williams and Brooke of Massachusetts. After summarizing its provisions, Senator Williams said:

> Mr. President, this legislation marks the first reauthorization and major revision of the public transportation program since passage of the Landmark [sic] National Mass Transportation Assistance Act of 1974. Following a decade of experience in public transportation, that act signaled a substantial Federal commitment to the further development, improvement, and continued operation of mass transit systems in our urban areas.

He recalled Senate passage of the earlier version of the bill on July 23, 1977, but said he had introduced the public transit portion of President Carter's proposal as S. 2441. The committee held 3 days of hearings:

> The message at these hearings was clear: We must reaffirm and strengthen our commitment to public transit; we need a simplified program; we need funding levels that allow us to preserve and improve our existing systems, and we need to tighten up the administration of the program.

S. 2441 preserved the concepts in the original bill, while advancing the purposes the President identified and incorporating other measures that the Senate had approved in past years:

> In its totality, I believe the reported bill, S. 2441, reaffirms the Federal commitment to public transportation, responds to the increasing public acceptance of public transportation, and will maximize the potential role that public transportation services can have on solving the problems of energy conservation, urban development, and environment[al] preservation.

Senator Williams recalled the history of transit:

> In the last several years, the public transportation program has played an increasingly important and productive role in our total transportation system. Almost 30 postwar years of declining transit ridership have ended. In every year since 1973, ridership has increased.

> On a nationwide basis, ridership has increased 10 percent since 1973—an increase of almost 500 million riders annually . . . .
>
> [An] effective transit program is a critical element in any comprehensive plan to preserve our environment, conserve our energy resources and solve our urban problems. To make the transit program more effective, we need to make it more flexible and enhance its ability to help each community meet its own transportation and transportation related needs . . . . The catalog of mode and system choices has become much larger in recent years. In great measure, this is due to the 10 years of UMTA-assisted development of new methods and new technology, and the Federal commitment to improved transit that this program represents.

He said of S. 2441:

> This legislation—S. 2441—would vastly improve the framework in which these choices must be made. It would provide a more flexible program that allows our communities, regions and States to examine their transportation needs, plan a rational, balanced approach to meeting these needs, and, in partnership with the Federal Government, finance the programs and projects that are decided upon.

Because of committee jurisdiction issues, Senator Williams also let his colleagues know that the bill would be offered as an amendment to the Committee on Environment and Public Works' Federal-Aid Highway Act, S. 3073. [Federal Public Transportation Act of 1978, *Congressional Record-Senate*, September 28, 1978, p. 32135-32179]

On October 3, the Senate completed work on its combined bill by substituting S. 3073 for the approved House bill and calling for a conference to resolve differences. The Senate approved the bill without a recorded vote and designated Senators for the conference. [Federal-Aid Highway Act of 1978, *Congressional Record-Senate*, October 3, 1978, p. 33191-33195]

On October 12, *The Washington Post* reported that conferees had agreed on a $51-billion, 4-year surface transportation bill that cut $15 billion from the House bill:

> The final figure was agreed to last night after hours of hard bargaining and after President Carter personally met with key conferees to push for a lower authorization than the House side was considering. Although Carter never used the word veto in the Tuesday morning meeting, the possibility of such action clearly weighed heavily on the minds of conferees on both sides.
>
> Several conferees said the president told them he would sign a bill totaling $52.4 billion. Under a complex technicality it is possible to interpret the conference version as a $53.8 billion bill, which exceeds the level the president suggested. That is because the conferees agreed not to limit the amount of money that could be appropriated for transit projects funded through the abolition of planned interstate highway segments.

Senator Bentsen told reporters, "There is still an element of risk, but the Senate conferees will do our best to get the president to sign it. We're willing to take the risk." The risk was that if the President vetoed the bill, the Highway Trust Fund would run out of money in the absence of an extension, and 39 States would soon be without Federal-aid highway funds.

Representative Howard was not happy with the bill or the President's vigorous push to cut the funding level. He said, "We think this bill is responsive to the transportation needs of the country and we think it would be signed by any reasonable president."

He attributed some of the concern about the budget to the effect of California voters' approval of Proposition 13 on June 6, 1978. Officially called the "People's Initiative to Limit Property Taxation," Proposition 13 capped property taxes that were a major source of revenue for State and local officials. It also restricted statewide tax increases to those that could pass the State legislature by a two-thirds vote. Reduced taxation to support smaller government had been a battle cry of conservatives for many years, but the movement took on renewed public awareness when California voters approved Proposition 13. [Feaver, Douglas B., "Transit-Highway Conferees Agree," *The Washington Post*, October 12, 1978]

(The chief proponent of Proposition 13, Howard Jarvis, became an apostle of relief for taxpayers even as California officials decried the impact of the measure on services funded with general revenues rather than dedicated funds such as the State gas tax. It also had the unintended consequence of giving Republican legislators in California little incentive to compromise on tax issues since passing tax legislation was so difficult after Proposition 13.)

With Congress planning to adjourn on October 14, the future of the bill was unclear, as Smerk described:

> There was still serious concern over whether or not the president would sign the bill, because he was being advised by the Office of Management and Budget that the bill was too costly. On the other hand, the president was being advised by Secretary Adams and several White House aides to sign the bill . . . . As night fell on the Capitol, it was clear that Congress would have to run a marathon all-night session on October 14 in order to complete the necessary work on tax cuts and energy legislation. [Smerk, p. 157-158]

The energy legislation was in trouble in the House, as evidenced by an October 13 procedural vote that passed with only one vote to spare, 207-206.

Saturday, October 14, was a frantic day on Capitol Hill as the House and Senate raced through bills on their way to adjournment. The *Post* described one exchange that took place on October 14:

> It was late Saturday night, and the chief of President Carter's congressional liaison team, Frank Moore, and Carter's press secretary, Jody Powell, were making one last effort to win House votes for the president's energy program. Powell and Moore established themselves in an anteroom off the House floor, where they received a series of visitors. One was Rep.

> James Howard (D-N.J.), chairman of a subcommittee that had drafted a highway bill Carter deemed too expensive.
>
> Powell asked Howard how he was going to vote on the energy legislation.
>
> Howard asked Powell whether Carter would sign the highway bill.
>
> Powell and Moore both said they could not make a commitment for the president. At that, Howard turned to one of the House leadership's vote-counters to ask how he was being listed on the energy legislation.
>
> He was listed as a supporter of the energy package, the staff man replied.
>
> "Well, make that 'No'"—and I'll take three other New Jersey democrats with me," Howard huffed.
>
> Soon afterward Speaker Tip O'Neil [sic] placed a call to Carter. The president said he would sign Rep. Howard's highway bill. [Russell, Mary, and Kaiser, Robert G., "Nonstop 34 Houses of Waltzing, Stumbling, Struggling," *The Washington Post*, October 16, 1978]

The Senate approved the Surface Transportation Assistance Act of 1978 without a recorded vote. In the early morning hours of October 15, the House did the same. [Surface Transportation Assistance Act of 1978—Conference Report, *Congressional Record-Senate*, October 14, 1978, p. 37489-37498; Conference Report on H.R. 11733, Surface Transportation Assistance Act of 1978, *Congressional Record-House*, p. 38574-38581]

Congress also approved a series of energy bills.

President Carter approved the STAA without ceremony during the evening of November 6, 1978. As Elizabeth Parker said, the final legislation "bore little resemblance to the administration's proposals, although it did consolidate some programs to allow more flexible mass transit and highway funding and made some more progress toward the goal of combining highway and transit planning processes." [Major Proposals]

Secretary Adams, in a statement, called the legislation "a historic act, because it confirms as a matter of national policy that we are going to have public transportation in place as an alternative for the 1980's." The 1978 STAA "gives us the tools to provide alternatives to the automobile." He added, "It also allows us to shift to the problems of maintaining and improving the country's great Interstate Highway System. We will be streamlining the bureaucracy to meet these challenges," he added in reference to the plan to combine FHWA and UMTA into a single agency.

The 1978 STAA included:

- Title I – Federal-Aid Highway Act of 1978.
- Title II – Highway Safety Act of 1978.

- Title III – Federal Public Transportation Act of 1978.
- Title IV – Buy America.
- Title V – Highway Revenue Act of 1978.

It substituted a 4-year authorization period for the traditional 2-year authorization period of past Federal-aid highway bills. The 1978 STAA authorized $51.4 billion for FYs 1979 through 1982, with $30.6 billion for highways, $7.2 billion for highway safety, and $13.6 billion for public transportation. The Federal share for non-Interstate projects on the Federal-aid systems was increased to 75 percent (up from 70 percent).

For the Interstate System, the 1978 STAA authorized $3.5 billion a year for FYs 1981-1982 and $3.25 billion for FY 1983 (compared with $3.25 billion a year in FYs 1979-1980). Interstate authorizations continued at $3.625 billion for FYs 1984 through 1990, which was the new target date for completion. The legislation authorized separate funds for 3R work on Interstate routes in service over 5 years: $175 million a year in FYs 1980-1981 and $275 million a year in FYs 1982-1983. The Federal share for 3R work was reduced to 75 percent (down from 90 percent).

Congress included measures in the 1978 STAA to speed completion of the Interstate System, 92 percent of which was open to traffic (39,050 of 42,500 miles) at a cost thus far of about $63 billion. As described in an FHWA summary of the legislation:

> A significant change was made in the availability of Interstate apportionments. They are now available only until the end of the fiscal year for which they are authorized. Since Interstate authorizations are apportioned 1 year in advance, this provision means that Interstate apportionments are now available to a state for 2 years before they are subject to lapse, as compared to the previous 4-year availability. If a state does allow funds to lapse, those funds will be made available to other states who have used up their own apportionments and have additional Interstate projects ready to go.
>
> Under previous law, a state could replace one Interstate route with a substitute Interstate route, of increased mileage but at no increase in cost. This is no longer allowed as a result of the 1978 Act. However, the lid on the costs of the substitute routes already approved is lifted and full funding of those routes will be permitted.

The legislation let State and local officials retain the option of requesting withdrawal of controversial urban Interstate segments and committing funds in an equal amount for public transportation or other highway projects in the same area, but only until September 30, 1983:

> After that date, there can be no further transfer of Interstate credits except for routes under litigation on the deadline date. The federal share of the substitute projects is 85 percent. This is a change from previous law, which specified that the federal share would be whatever percentage was permitted for the particular substitute project, i.e., 80 percent for mass transit, 70 percent for primary, secondary, or urban highways.

> The act requires that all environmental impact statements for all routes or route sections to be constructed on the Interstate System must be submitted to the Secretary of Transportation by September 30, 1983. Further, all Interstate routes or substitute projects must be either under contract for construction or construction must be underway by September 30, 1986, if sufficient Federal funds are available. The consequences of not meeting these requirements will be removal of those routes from the Interstate System, or withdrawal of approval on substitute projects. Also under the law, states will be allowed to use abandoned Interstate rights-of-way on withdrawn routes for a wide variety of public purposes without the repayment of federal funds already received.

Public purposes included a transportation project eligible under Title 23, a public conservation or public recreation purposes, or other purposes that the Secretary of Transportation determined are in the public interest. Action on such uses must begin within 10 years of withdrawal.

(Westway was under court review on September 30, 1983, allowing for its withdrawal in 1985.)

Title II continued FHWA's and NHTSA's safety programs, but with significant changes in several programs. The most significant was replacement of the Special Bridge Replacement Program with a Highway Bridge Replacement and Rehabilitation Program:

> The federal share is raised from 75 percent to 80 percent, 5 percent higher than other major federal-aid categories. Major rehabilitation of unsafe bridges is permitted for the first time, in addition to replacement. Eligible for funding is the rehabilitation or replacement of highway bridges over waterways, topographical barriers, other highways and railroads. Off-system bridges are eligible for the first time—at least 15 percent and up to 35 percent of a state's bridge funds must be spent for off-system projects unless the Secretary grants a waiver in the case of a state that does not have sufficient needs off-system to justify such expenditures.

Most funds for the new bridge program were authorized for formula apportionment based on each State's inventoried bridge needs compared with the nationwide total. However, the legislation set aside $200 million a year that the Secretary could use on a discretionary basis for replacement or rehabilitation bridge projects costing over $10 million.

Title II also consolidated safety construction programs by establishing a Hazard Elimination Program combining the former roadside obstacles and high hazard programs. Hazard Elimination and Pavement Marking would continue until 1982 when Pavement Marking projects would be carried out under the Hazard Elimination Program. The Federal share would be 90 percent:

> The act also requires each state to inventory all hazards to motorists and pedestrians on public roads, set up a priority list and implement a schedule of projects. Also required of each state is an evaluation of the projects carried out under this program.

Similarly, Title II consolidated categories for reducing rail-highway crossing hazards on and off the Federal-aid systems. Eligible items included grade separations, highway relocation, and relocation of a segment of rail line when it is the least expensive alternative. At least half of the authorized $190 million a year had to be spent to install protective devices at rail-highway crossings.

Among other programs, Title II authorized funds to help States enforce the 55 m.p.h. speed limit ($50 million for FY 1979 and $67.5 million each for FYs 1980-1982).

For transit, Title III authorized a total of $13.58 billion over 4 years, plus $1.58 billion for the discretionary capital grant program for FY 1983 as well as an unspecified amount for substitute mass transit projects selected in place of Interstate highway projects. The legislation also restricted and refocused transit assistance, as the summary explained:

- Discretionary and formula grants are restricted, transferring routine bus capital and commuter rail needs to the formula program.
- The discretionary program is focused on major investment projects and incorporates provisions for urban initiatives and intermodal coordination.
- A new formula grant program is established for transit capital and operating assistance to rural and small urban areas.
- Funding for formula grants to urbanized areas is significantly increased.

Eligibility for the Discretionary Capital Grant Program (Section 3 of the Urban Mass Transportation Act of 1964, as amended) continued for new fixed guideways and extensions of existing ones, modernization of existing mass transit facilities and equipment, and construction of new facilities and equipment. In addition, Title III established eligibility for introducing new technology into public transportation services, joint development and urban initiatives projects, and commuter rail projects that would mitigate any adverse effects of the Northeast Corridor rail service project to upgrade the tracks for faster Amtrak service between Washington and Boston. Existing contract authority for this funding was cancelled, making the discretionary program subject to the appropriations process.

The legislation also changed the Urban Mass Transit Program for capital and operating formula grants (Section 5). The program for routine capital bus purchases was shifted from Section 3 to Section 5 and the categorical grants programs in Sections 17 and 18 for commuter rail operations were abolished. A new commuter rail/fixed guideway program was established in Section 5. The Section 5 programs retained contract authority and apportionment to all urbanized areas based on population and population density.

Further, the 1978 Act authorized a “second tier” of $250 million a year for operating and capital assistance under the Section 5 program. Eighty-five percent of the funds were to be apportioned to 33 urbanized areas over 750,000 in population, again based on a formula involving population and population density. The remaining funds were for smaller urbanized areas. As noted earlier, this tier was compensation for larger areas.

The 1978 STAA also added a program under Section 18 providing operating and capital assistance funds to establish and maintain transit programs in areas with fewer than 50,000 residents and two programs to assist intercity bus carriers in new Sections 21 and 22.

Title IV provided that with certain exceptions, any articles, materials, and supplies purchased with grant funds under the 1978 STAA for projects whose total cost exceeds $500,000 must have been mined, produced, or manufactured in the United States.

Title V extended highway user taxes to 1984 and the Highway Trust Fund to 1985. This section also modified the Byrd Amendment enacted as part of the Federal-Aid Highway Act of 1956:

> This refers to the previously required reduction in Interstate apportionments alone when anticipated Trust Fund revenues were inadequate to cover expenditures. Now, a pro-rata reduction of all apportioned Highway Trust Funded programs will be required.

[Source: *The Surface Transportation Assistance Act of 1978*, Federal Highway Administration, reprinted August 1979]

Section 141 of the 1978 STAA authorized $20 million a year (FYs 1979-1982) for the bicycle program, with half from the Highway Trust Fund and half subject to appropriation from the general Treasury. The funds could be used for construction of bikeways and "nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles." These grants, subject to a 75-25 matching ratio, were in addition to formula funds for projects that were eligible under Section 217 of Title 23. Section 141 also provided that the Secretary shall not approve any highway project "that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonable alternative route or such a route exists."

In addition, the provision modified the introductory sentence of Section 217 as proposed by the Senate Committee on Environment and Public Works (revised language in italics):

> To encourage *energy conservation and* the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, on Federal-aid highway projects, *construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles; and pedestrian walkways.*

The new language beginning "construct new or improved" replaced:

> . . . the States may, on Federal-aid highway projects, include to the extent practicable, suitable, and feasible, the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, and pedestrian walkways in conjunction or connection with Federal-aid highways.

The Senate committee's report indicated that its "bill amends existing law to make clear that projects to serve bicycle traffic may be approved as independent Federal-aid projects or as part of other improvements to a Federal-aid route, so long as the project enhances service provided by a

Federal-aid route." [Federal-Aid Highway Act of 1978, Report of the Committee on Environment and Public Works, United States Senate, 95th Congress, 2d Session, Report No, 95-833, May 15, 1978, p. 17]

The Washington Post had ridiculed Representative Howard's bill as the Pet Projects Protection Act. Earmarks had been growing for years. The 1978 STAA contained many special interest provisions affecting only one or a few projects. It also continued the proliferation of "demonstration projects" intended to demonstrate the value of some activity in a location specified in the law or the legislative history. For example, despite the *Post*'s ridicule of Representative Howard's earmark for his congressional district, he ensured its survival in Title III as a transit demonstration project:

> Section 320. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed water-borne transportation equipment and facilities and operating in, and in the vicinity of New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. The Secretary shall report to Congress the results of such project no later than September 30, 1981, together with his recommendation.
> (b) There is authorized to be appropriated to carry out the provisions of subsection (a) not to exceed $25,000,000

Other demonstration projects in the 1978 STAA included acceleration of bridge projects, access control, bypass highways, connector primaries, impact of increased unit train traffic, integrated motorist information systems, railroad highway crossings, and restricted access, to cite a few.

In later years, the "demonstration project" would become a standard feature of surface transportation legislation, with long lists of projects that would give the Federal-aid highway program a growing reputation as a pork barrel program.

Surface Transportation Administration

With the 1978 STAA a law, Secretary Adams held a November 9 press conference to release a draft proposal for a Surface Transportation Administration. The new agency would be headed by an Administrator, a Deputy Administrator, and an Assistant Administrator. Associate Administrators would head offices for Administration; Policy, Planning and Budget; Program Management (Delivery System); Technical Assistance; Safety; and Research, Development and Demonstrations. Staff offices included Legal, Public Affairs, Civil Rights, and the National Surface Transportation Institute (replacing the highway training program administered by FHWA's National Highway Institute).

The field structure included 10 region offices and 52 division offices in the States, the District of Columbia, and Puerto Rico. During the transition, requests for highway and public transportation funds would be handled as usual. Gradually, responsibility for decisions would be shifted to region and division officials. [Adam's [sic] Proposal for New Surface Transportation Administration to Combine FHWA and UMTA," *Better Roads*, December 1978, p. 14-15]

The new agency would have about 5,500 employees (4,900 from FHWA, 600 from UMTA) and a total budget of around $11 billion. In a joint statement, Federal Highway Administrator Karl S. Bowers and UMTA Administrator Richard S. Page endorsed the proposal, which would streamline the "grant delivery process and provide a more efficient use of federal manpower."

Secretary Adams explained that the merger would be "the culmination of an evolutionary process that has brought about the gradual convergence of highway and public transportation programs." He added:

> This Congress clearly recognized the need for a highway-mass transit partnership by this year addressing those programs in a single legislative package. The bill Congress produced—the Surface Transportation Assistance Act of 1978, signed by the President this week—gives us the final building block for a new surface transportation organization.

With the Interstate System nearing completion, "We must redirect our emphasis to maintaining this nationwide basic system and coordinate its use into a single surface transportation system." He added, "The restoration of public transit is not a subject of debate. It's a fact of national policy."

The proposal would not alter funding levels of the highway or transit program:

> I am committed to maintaining the integrity of the Highway Trust fund and to establishing a separate and dependable funding mechanism for public transportation.

Dealing With the Energy Crisis

On November 9, 1978, President Carter approved the energy bills that, as *The New York Times* put it, "should deliver about half of what the President asked for when he introduced the legislation as the 'moral equivalent of war.'" He signed the National Energy Conservation Policy Act, the Power Plant and Industrial Fuel Use Act, the Public Utilities Regulatory Policy Act, the Energy Tax Act, and the Natural Gas Policy Act.

Speaking in the East Room of the White House with Members of Congress and Secretary Schlesinger behind him, President Carter said, "This is a day of great progress for our Nation and of great personal satisfaction to me as President . . . . Today we can rightfully claim that we have a conscious national policy for dealing with the energy problems of the present and also to help us deal with them in the future." He recalled the challenges the Nation faced in recent months:

> Events of the past 18 months have underscored the importance of this legislation. A severe natural gas shortage during one of our more severe winters, a crippling and unpredictable coal strike [that began December 6, 1977, and lasted 110 days], the severe imbalance of payments in our Nation's trade, a deterioration in the value of the American dollar, and more recently in Iran a threat to a major source of world supplies—each of these problems has either aggravated or portends the aggravation of our domestic inflationary pressures. And each of them has made worse or would be making them worse in the future without this legislation on the desk before me.

The bills, he said, encompassed the major principles he had outlined in April 1977: use energy efficiently, encourage energy production in the United States, and shift the country toward more abundant energy supplies, including coal and renewable supplies such as solar energy.

The coal conversion and energy tax legislation would shift consumption away from oil to plentiful coal while using tax credits to encourage development of renewable energy sources. "The promise of solar energy, use of biomass and others has been too long neglected as a major source of supply."

The Natural Gas Policy Act of 1978 would end 30 years of controversy on how to regulate natural gas. "This act will for the first time provide a uniform national market for natural gas, with adequate incentives for producers to increase their production in a sustained and dependable and efficient way, and also to guarantee consumers increased long-range supplies of this valuable source of energy and also with predictable and moderate price increases." (James F. Flug of Energy Action described the removal of price controls from natural gas as "the functional equivalent of surrender in the moral equivalent of war.")

The utility rate bill would encourage State regulatory agencies to prescribe rates oriented toward conservation. The Department of Energy and interested citizens would be able to "intervene in protecting themselves and protecting the Nation's resources."

The gas-guzzler tax survived in the Energy Tax Act; it applied only to automobiles (defined in the law as four-wheeled, manufactured for use on public roads, and rated as at least 6,000 pounds gross vehicle weight). A 1980 model year car that failed to get at least 15 m.p.g. would be taxed $200-$550, depending on mileage rating. The tax would increase gradually until 1986 model year automobiles were subject to the tax if they did not get at least 22.5 m.p.g, with the tax ranging from $500 to $3,850 (less than 12.5 m.p.g.). The *Times* described the taxes as "milder than originally proposed."

President Carter praised the "conservation incentives that are embedded in this legislation," calling them "very substantial." He added:

> Mostly these incentives, as encompassed by the wisdom of the Congress, rely on natural market forces of a free enterprise system to accomplish the purpose. The government regulatory intrusion is minimized, and I hope and believe that with additional experience in the administration of these laws, this trend can be accentuated and made more rapid itself.

He concluded with a summary of the bills:

> I would like to say also that overall, these bills, the utility rate reform, energy taxes, energy conservation, coal conversion, natural gas bills which I am signing, will enable us to save by 1985 about 2½ million barrels of oil per day. This is not as great as the original goal in the proposals that we made to Congress, but it's a substantial basis on which we can predicate future achievements in additional conservation of energy.

After his statement, the President asked several of the assembled officials to say a few words. One was Representative Ashley. According to the transcript, he said,

> Representative Ashley. Well, thank you, Mr. President. I've got to be very candid with you. I hope you never send us a legislative package like the number you did on us last April. [Laughter]
> The President. You've got my promise. [Laughter]

Secretary Schlesinger, who spoke last, called the bills "the most massive legislative package ever to come out of the Congress." He added, "It is a good beginning . . . but we have received here about 60 to 65 percent of the savings in oil in 1985 that you originally suggested. And we will have to do better." (In a subsequent speech, he said, "The response was less close to William James' moral equivalent of war than to the political equivalent of the Chinese water torture.")

Later that day, President Carter was in Kansas City, Missouri, for a speech to the convention of the Future Farmers of America. In response to a question on the energy bills, he said he was sure additional legislation would be needed to achieve his goals:

> I've not given up on my original proposal that there should be a constraint on the excessive consumption of oil and therefore the excessive importation of oil. How we'll go about it, I don't yet know.

As the *Times* explained:

> The original energy legislation, intended to reduce America's dependence on imported oil, was to have cut oil imports by 4.9 million barrels a day from the 11.5 million barrels a day that might otherwise have been imported in 1985. By contrast, the legislation that Congress delivered after a year and a half of maneuvering, compromises, and lobbying by nearly every vested interest in the United States, can be expected to reduce oil imports by 2.4 million to 2.9 million barrels a day from what they might otherwise have been, the Department of Energy estimates.
>
> That official estimate, however, has been widely questioned by opponents of the legislation, who have flooded this city with their own projections, ranging from modest cuts to small increases in oil imports. And, privately, most Government officials and industry executives concede they don't really know what effect the bill will have on imports of oil.

At least, according to experts consulted by the *Times*, the legislation "strikes one generally positive note to the nation: It is unlikely to add much, if anything, to the inflation rate." (The rate was then about 7.6 percent.) [Yergin, 662-664; Halloran, Richard, "Energy Act is Signed; Limits Seen," *The New York Times*, November 10, 1978]

Despite President Carter's effort to address the country's energy needs, the Nation was not ready when the second energy crisis occurred in early 1979 following the revolution in Iran that replaced the Shah of Iran with Ayatollah Ruhollah Khomeini in February 1979. He transformed the country into an Islamic Republic. The change disrupted the flow of oil from Iran, previously the second largest oil supplier to the world. Worldwide supplies declined 4 to 5 percent, but the uncertainty of availability caused the price of oil to increase 150 percent. Yergin attributed the unusually large increase in price to panic resulting from growth in oil consumption; disruption of contractual agreements between the oil companies and Iran; the disparity between governmental actions to lower prices while oil companies bid them up; and increases by oil-producing nations in the "rent" they charged the companies pumping their oil. Yergin added:

> Finally, there was the sheer power of emotion. Uncertainty, anxiety, confusion, fear, pessimism—those were the sentiments that fueled and governed actions during the panic. After the fact, when all the numbers were sorted out, when the supply and demand balance was retrospectively dissected, such emotions seemed irrational; they didn't make sense. Yet at the time they were indubitably real. [Yergin, 685-686]

With the oil shock of 1973-1974 in mind, oil companies bought oil to stockpile in excess of immediate need while oil consumers, including motorists, began "hoarding" gasoline:

> Down the consumption chain, industrial users and utilities also furiously built inventories as insurance against rising prices and possible shortages. So did the motorist. Before 1979, the typical motorist in the Western world drove around with his tank only one-quarter full. Suddenly worried about gasoline shortages, he too started building inventories, which is another way of saying that he now kept his gas tank three-quarters full. And suddenly, almost overnight, upwards of a billion gallons of motor fuel were sucked out of gasoline station tanks by America's frightened motorists.

These and other factors increased the price of oil from $13 a barrel to $34 dollars. [Yergin, p. 687]

On March 28, 1979, in "one of those coincidental tricks of history," the Three Mile Island nuclear plant near Harrisburg, Pennsylvania, failed in a near-catastrophic manner. For those seeking alternatives to oil, the nuclear option now appeared doubtful. "Altogether, the accident contributed to the gloom, pessimism, and even fatalism that was now gripping the Western world." Yergin summarized the result:

> For consuming countries as well as for the oil companies, it appeared to be every man for himself. Prices continued to climb.
>
> To the American public the reemergence of gas lines, which snaked for blocks around gasoline stations, became the embodiment of the panic. The nightmare of 1973 had returned . . . . As gas lines spread across the country, the oil companies were once again public enemy number one. [Yergin, p. 691-692]

President Carter, who had come into office promising to implement an energy plan, quickly became the target of pleas and criticism from those seeking a quick end to the crisis:

> By mid-March of 1979, two months into the crisis, Eliot Cutler, his chief White House energy advisor, was already warning of the "darts and arrows coming at us from all directions—from people who want to get rid of the regulatory structure, from people concerned about inflation, from people who want a sexy and affirmative program, from

> people who don't want the oil companies to profiteer, and generally from people who want to make life politically miserable for us." [Yergin, p. 693]

On April 5, President Carter addressed the Nation, calling the energy problem "very serious—and it's getting worse." The country was not producing enough oil, gas, and coal; was buying too much from foreign countries; and was wasting too much energy. The energy legislation he had approved in November 1978 was already providing benefits, but his proposals for oil conservation had not been enacted. Now, the country had to act without delay:

> There is no single answer. We must produce more. We must conserve more. And now we must join together in a great national effort to use American technology to give us energy security in the years ahead.

He announced a series of steps, including decontrol of oil prices, coupled with a windfall profits tax on excess earnings of oil companies. He also called for conservation:

> I will set targets for our 50 States to reduce gasoline consumption and ask each State to meet its target. The timetable will be strict. If States fail to meet their targets when gasoline shortages exist, then I will order mandatory steps to achieve the needed savings, including the weekend closing of service stations . . . .
>
> In addition, I ask each of you to take an important action on behalf of our Nation. I ask you to drive 15 miles a week fewer than you do now. One way to do this is not to drive your own car to work every day. At least once a week take the bus, go by carpool or, if you work close enough to home, walk.
>
> This action can make a significant difference to our country. For each day that we do this, we can save hundreds of thousands of barrels of oil. This will help to hold down the prices of fuel, and you obviously will save money you otherwise would have spent on gasoline.
>
> As needed, on a temporary basis, I may extend certain environmental deadlines and make regulatory changes to help avoid serious shortages of gasoline.

He called for an Energy Security Fund with revenue from the windfall profit tax:

> The energy security fund will let us pursue a sound strategy of energy research and development. In years to come, we can then design automobiles, buildings, appliances, and engines that serve us better and use less energy.
>
> We can improve mass transit and make our entire transportation system cleaner, faster, and more efficient. We can broaden the use of our huge coal deposits by turning coal into clean gas, liquid, and solid fuels.

He took several steps to demonstrate his commitment to personal conservation. Among them, he installed solar panels on the White House roof and wore sweaters to encourage people to turn down their thermostats. For the American people, these efforts seemed trivial compared with the long, frustrating gas lines:

> Most of the nation now seemed to be in the grip of the gasoline shortage. A survey by the American Automobile Association of 6,286 service stations nationwide showed that 58 percent were closed Saturday, June 23, and 70 percent were closed on Sunday, June 24, leaving Americans with very little gasoline on the first weekend of the summer. Independent truckers were conducting a rowdy, violent nationwide strike, now three weeks old, to protest fuel shortages and rising prices. A hundred truckers snarled rush-hour traffic for thirty miles along the Long Island Expressway, infuriating tens of thousands of motorists. Soaring gas prices were not the only problem. Inflation was also moving up to an unprecedented level. [Yergin, p. 694]

In July, Saudi Arabia complied with the request from the United States to increase oil production, but the short-term impact did not solve the long-term problem:

> Nor could the extra supplies do much immediately to cool the hot temper of the American public. As a result, Carter was compelled to do something, and to be seen doing something—something big, something positive, something that seemed to offer the long-term solution. [Yergin, p. 695]

President Carter gave a fireside speech to the Nation on July 15, 1979, declaring:

> I want to talk to you right now about a fundamental threat to American democracy . . . . I do not refer to the outward strength of America, a nation that is at peace tonight everywhere in the world, with unmatched economic power and military might . . . .
> The threat is nearly invisible in ordinary ways. It is a crisis of confidence. It is a crisis that strikes at the very heart and soul and spirit of our national will. We can see this crisis in the growing doubt about the meaning of our own lives and in the loss of a unity of purpose for our nation . . . .

He said the "erosion of our confidence in the future is threatening to destroy the social and the political fabric of America." He continued:

> The confidence that we have always had as a people is not simply some romantic dream or a proverb in a dusty book that we read just on the Fourth of July. It is the idea which founded our Nation and has guided our development as a people. Confidence in the future has supported everything else: public institutions and private enterprise, our own families, and the very Constitution of the United States. Confidence has defined our course and has served as a link between generations. We've always believed in something called progress. We've always had a faith that the days of our children would be better than our own.
>
> Our people are losing that faith, not only in government itself but in the ability as citizens to serve as the ultimate rulers and shapers of our democracy. As a people we know our past and we are proud of it. Our progress has been part of the living history of America, even the

> world. We always believed that we were part of a great movement of humanity itself called democracy, involved in the search for freedom, and that belief has always strengthened us in our purpose. But just as we are losing our confidence in the future, we are also beginning to close the door on our past.
>
> In a nation that was proud of hard work, strong families, close-knit communities, and our faith in God, too many of us now tend to worship self-indulgence and consumption. Human identity is no longer defined by what one does, but by what one owns. But we've discovered that owning things and consuming things does not satisfy our longing for meaning. We've learned that piling up material goods cannot fill the emptiness of lives which have no confidence or purpose.
>
> The symptoms of this crisis of the American spirit are all around us. For the first time in the history of our country a majority of our people believe that the next 5 years will be worse than the past 5 years. Two-thirds of our people do not even vote. The productivity of American workers is actually dropping, and the willingness of Americans to save for the future has fallen below that of all other people in the Western world.
>
> As you know, there is a growing disrespect for government and for churches and for schools, the news media, and other institutions. This is not a message of happiness or reassurance, but it is the truth and it is a warning.
>
> These changes did not happen overnight. They've come upon us gradually over the last generation, years that were filled with shocks and tragedy.
>
> We were sure that ours was a nation of the ballot, not the bullet, until the murders of John Kennedy and Robert Kennedy and Martin Luther King, Jr. We were taught that our armies were always invincible and our causes were always just, only to suffer the agony of Vietnam. We respected the Presidency as a place of honor until the shock of Watergate.
>
> We remember when the phrase "sound as a dollar" was an expression of absolute dependability, until 10 years of inflation began to shrink our dollar and our savings. We believed that our Nation's resources were limitless until 1973, when we had to face a growing dependence on foreign oil.
>
> These wounds are still very deep. They have never been healed.

People looked to Washington for answers, but "found it isolated from the mainstream of our Nation's life." Washington, he said, had "become an island."

The energy crisis was, he said, real. "It is worldwide. It is a clear and present danger to our Nation. These are facts and we simply must face them." He reiterated his proposals for achieving energy independence, including his call for mass transit:

> I ask Congress to give me authority for mandatory conservation and for standby gasoline rationing. To further conserve energy, I'm proposing tonight an extra $10 billion over the next decade to strengthen our public transportation systems. And I'm asking you for your good and for your Nation's security to take no unnecessary trips, to use carpools or public

> transportation whenever you can, to park your car one extra day per week, to obey the speed limit, and to set your thermostats to save fuel. Every act of energy conservation . . . is an act of patriotism.

He proposed to commit $10 billion to mass transportation over the next 10 years and asked people "to take no unnecessary trips, to use carpools or public transportation whenever you can, to park your car one extra day per week, to obey the speed limit, and to set your thermostats to save fuel." He also directed Secretary of Transportation Brock Adams to develop proposals for reducing oil consumption through conservation measures as well as increased transit use. Further, he embraced a synthetic fuels plan, similar to the plan that Vice President Rockefeller had advocated in 1975.

To pay for the new initiatives, President Carter called for an energy security corporation to raise $5 billion by issuing bonds. He also sought a windfall profits tax on oil companies benefiting from the increased price of gasoline:

> These efforts will cost money, a lot of money, and that is why Congress must enact the windfall profits tax without delay. It will be money well spent. Unlike the billions of dollars that we ship to foreign countries to pay for foreign oil, these funds will be paid by Americans to Americans. These funds will go to fight, not to increase, inflation and unemployment.

On August 22, Vice President Mondale announced details of the plan during a speech in a historic train depot in Hoboken, New Jersey. The President's mass transit proposal had increased to $13 billion based on the windfall profits tax. Without the added revenue, the Vice President said "there will be no dough," adding, "Without the windfall profits tax, all this is just rhetoric." *Better Roads* summarized the proposal outlined by the Vice President:

> The administration "initiative" outlined by Vice President Mondale in a speech in Hoboken, N.J. provides for a $16.5 billion transportation energy program consisting of four components: a $13.5 billion public transportation investment to supplement UMTA's normal projected appropriations; a $2.5 billion auto-use management program [for car and vanpooling]; a $200 million fuel economy technology assessment program; and an $800 million basic automotive research program . . . .
>
> The administration initiative proposes to add $13 billion over a 10-year period to UMTA's normal projected appropriations of $27.5 billion and a projected $9.5 billion of state/local match to provide a $50 [b]illion 10-year capital funding program for transportation . . . . The intended goal is to increase public transportation capacity by up to 50% and accommodate up to 15 million more passengers per day by increasing local bus purchases, stepping up the pace of rail modernization, and expediting completion of new rail starts which already have been approved. [Waldron, Martin, "Mondale Offering Higher Transit Aid," *The New York Times*, August 23, 1979; Nickel, William J., "Transportation Energy Program Needs $16.5 Billion 'Initiative,'" *Better Roads*, October 1979, p. 14]

In an interview, Assistant Secretary of Transportation for Budget and Programs Mortimer L. Downey explained, "The overall strategy is to achieve energy savings in transportation while preserving mobility for essential travel." The plan had three major prongs: providing substitutes for automobiles, operating the existing fleet more efficiently, and improving the efficiency of the vehicles. He said the Administration expected the biggest boost from $5.4 billion for buses that "we can get produced and on the streets in the decade when we need the savings." [Wilkins, Roger, "Urban Officials Are Encouraged by Emerging U.S. Transit Policy," *The New York Times*, August 27, 1979]

The initial reaction to the July 15 speech had been favorable, but commentators soon came to refer to it as President Carter's "malaise speech." He had not used the word "malaise," but the descriptive word came to summarize the pessimistic tone of the speech. As Burns explained:

> In July 1979, thirty months after he entered the White House, Jimmy Carter faced a crisis of confidence. It was in part a lack of confidence in him, as people waited in gas lines, worried about energy supplies, and were squeezed by inflation rising toward an annual rate of more than 13 percent. It was even more the President's loss of confidence in himself, his leadership, his government. He suddenly postponed what was to have been his fifth speech on the energy crisis and repaired to Camp David to consult and to think. [*Crosswinds*, p. 591]

For 10 days he considered the future of his presidency, taking advice from over 130 people invited to meet with him in his retreat. He emerged with a plan to reorganize his Administration. To show he meant to shake things up, the President asked all his Cabinet Secretaries to submit their resignations. He accepted five of them, including those of Secretary of Health, Education, and Welfare Joseph A. Califano, Jr.; Secretary of the Treasury W. Michael Blumenthal; Attorney General Griffin B. Bell; Secretary of Energy Schlesinger, and Secretary Adams.

Adams had clashed with White House staff, in part over direct access to the President and White House dissatisfaction with his top aides. Secretary Adams also had objected to an OMB decision to reduce the President's $10 billion mass transit proposal by $350 million a year. After Hamilton Jordan, the President's Chief of Staff, told Adams he could stay if several of his aides left, Adams issued a statement on July 19, 1979, indicating he was thinking about whether he should stay:

> My decision depends on a number of factors, including the commitment of this administration to mass transportation and moving Detroit towards a fuel-efficient automobile, the direct accessibility of the president to the Cabinet, and the responsiveness of those with enhanced authority in the White House staff to the Congress and the American people.

The statement infuriated Jordan, who informed Adams he would have to meet with the President on July 20. The President accepted the resignation, telling his staff later that day that, "I strongly believe there must be direct Cabinet access to the President, a Cabinet officer must work directly for the President—not for the White House staff." ["Exit of a Cabinet Member," *Better Roads*, September 1979, p. 14, and Feaver, Douglas B., "Adams: Team Man Bucks the Squad," *The Washington Post*, July 20, 1979]

With the departure of Secretary Adams, the idea of following enactment of the 1978 STAA by creating a Surface Transportation Administration also came to an end. Smerk explained that on a theoretical level, the idea had some appeal:

> A prime argument for such an action was that, because of the federal hiring freeze imposed by President Carter to help cut down federal spending, it would be impossible to hire the additional personnel needed by UMTA to supervise the mass transportation program properly, as well as speed up delivery of federal transit funds. The proposal for joining the two agencies asserted that major efficiencies would be gained and that the delivery process would be accelerated. With the federal [Interstate] highway-construction program winding down, the FHWA was assumed to have excess personnel. By merging the FHWA and UMTA, it was expected that there would be sufficient personnel to handle both jobs. Moreover, the FHWA's delivery mechanism, with an office in each state, would be helpful in delivering transit funds. The mechanism would involve the Washington Headquarters, ten regional offices, and fifty-two divisional offices mainly located in state capitals . . . .
>
> As proposed, the Surface Transportation Administration (STA) was an excellent example of bureaucratic thinking: personnel were viewed as interchangeable blocks, with the expectation that arranging them in "neat stacks" would produce "neat results." Such naïve thinking entirely disregarded the delicate relationship that have to be developed between the staffs of bureaucracies on the local, state, and federal levels in order to make any program involving the three levels of government truly work effectively and efficiently. [Smerk 161-162]

Neither the highway nor transit interests thought the merger was in their interests:

> As a program it seemed to have academic promise, but not much more, because it neither reckoned with constituencies that had already developed nor did it figure out how to make the several programs work satisfactorily. Fear of the UMTA bureaucracy being swallowed by the FHWA bureaucracy was a factor; furthermore, both highway and transit proponents felt they would be hurt by the change. Change was a terrible thought to all participants in the programs. [Smerk, p. 170]

Given the lack of enthusiasm by highway and transit interests for the merger, the idea never gained traction in Congress.

According to news accounts at the time, President Carter considered several choices for Transportation Secretary, including Representatives Howard and Mineta and Massachusetts Lieutenant Governor Thomas P. O'Neill III, Speaker Tip O'Neill's son. [Walsh, Edward, "Administration Continues Its Search for Appointees to Fill Top Positions," *The Washington Post*, July 25, 1979]

On July 27, Jody Powell announced that President Carter had selected Mayor Neil E. Goldschmidt of Portland, Oregon, to be Secretary of Transportation. Powell quoted President Carter as saying:

> Mayor Goldschmidt is known as an aggressive and innovative mayor with outstanding administrative abilities. He understands from personal experience the transportation needs of local governments. [Walsh, Edward, "Carter Names Two Mayors to Cabinet," *The Washington Post*, July 28, 1979]

Mayor Goldschmidt, 39 years old, had long been an advocate for the poor and oppressed. In 1964, he had gone to Mississippi to help register rural African-Americans to vote. After serving on the Portland City Council, he ran for mayor in 1971 on a platform of neighborhood preservation and downtown revitalization. He took office in 1972 and was reelected in 1976. His staff included Ronald A. Buel as chief of staff. Buel was the author of the 1972 book *Dead End: The Automobile in Mass Transportation*, in which he said that freeways were "in a very important way, inherently destructive of the landscape through which they pass, be it urban or rural." [Buel, p. 78]

Mayor Goldschmidt was the only Secretary who, in his previous position, had used the withdrawal/substitution provision that originated in the Federal-Aid Highway Act of 1973. One of the most controversial highway proposals in Portland was the Mount Hood Freeway, a 5.1-mile connector in the Powell Boulevard corridor linking I-5 on the west and I-205. On February 24, 1976, the State amended its withdrawal request with the pending 1976 Act in mind. Administrators Tiemann and Patricelli approved the request on May 3, 1976, just 2 days before President Ford signed the 1976 Act. The letter acknowledged that the 1976 Act, which had not been enacted, provided that the provisions of Section 103(e)(4) were retroactive to 1973.

Mayor Goldschmidt also oversaw the withdrawal of I-505, a 3.17-mile route along U.S. 30 (Yeon Avenue) northwest out of Portland. In response to Governor Victor Atiyeh's request, Administrator Tiemann and UMTA Acting Deputy Lillian C. Liburdi approved withdrawal of the route from the Interstate System on December 14, 1979.

Mayor Goldschmidt was also known for the Portland Transit Mall. As *The New York Times* explained following his nomination:

> Mr. Goldschmidt overcame opposition from several downtown merchants and property owners to close parts of two major streets to private cars while providing exclusive lanes for transit buses and wide, tree-lined, brick-paved walkways for pedestrians. Now, most of the merchants who complained of the projects – what the city calls a "transit mall" – are saying it has been the catalyst for a strong resurgence in the area, including the construction of several major office buildings. [Lindsey, Robert, "New Transit Chief Praised for Role in Portland," The New York Times, August 2, 1979]

The mall opened on December 11, 1977, with a formal dedication in March 1978. Louis Scherzer, an official of a Portland savings and loan, said, "Goldschmidt was bucking both business and labor on that proposal, but the energy situation has proven him correct." [Feaver, Douglas B., "Goldschmidt: People-Mover and Shaker," *The Washington Post*, July 28, 1979]

When President Carter selected Mayor Goldschmidt to be the next Transportation Secretary, the transit community was delighted. APTA's Stokes had accompanied Mayor Goldschmidt on a 2-week trip to Europe with other local and Federal officials, headed by Assistant Secretary Downey, to study urban solutions. They had returned just days before the announcement. Stokes said of the secretary-designate, "He was such a shining light, he made us all look good." Neal R. Peirce, a columnist on urban affairs, wrote:

> Goldschmidt is a thoughtful student of government; his keen and exhaustive analyses, covering both the substance and politics of any issue, can leave a listener panting intellectually in an effort to keep up. Oddly enough, he combines that seriousness with an affable manner and capacity to be one of the funniest men in American politics. An inveterate prankster, he's been known to bring tedious meetings to a quick end by lobbing peanuts at windy speakers.
>
> Goldschmidt is new to the Transportation Department, but not to the issue. A decade ago he held the remarkably advanced view that mass-transit declines, freeways carving up neighborhoods and parks, and the suburban shift of jobs all contributed to inner-city poverty and were solvable only through an integrated, modern transit system.
>
> As mayor, Goldschmidt helped kill off two proposed inner-city freeways, and played a major hand in building Portland's remarkable transit mall, running 11 blocks each way on parallel downtown streets. Autos are almost entirely banned, buses move rapidly, and the scene is adorned with glass and bronze kiosks for shelter, handsome sidewalk bricking and sculpture, and the world's first closed-circuit television system to provide bus arrival and departure information.

Pierce thought "it would be surprising if he didn't use his position to give mass transit a major boost." He added:

> Americans, he thinks, talk too much of transit deficits and don't, as Europeans do, see transit as an integral part of a city's social context. He is impressed by Europeans' ability to get higher transit fares, thus cutting subsidies, by high-quality, reliable transit. Yet he thinks Americans, after a lag in the '50s and 60s, are building up cadres of mass-transit professionals the equal of those in Europe.
>
> If you detect in that analysis a thoughtful, questioning but fundamentally optimistic man, you understand Neil Goldschmidt. [Pierce, Neal R., "Cabinet Pair are Gilt-Edged Municipals," *The Los Angeles Times*, August 3, 1979]

President Carter approved a recess appointment for the new Secretary rather than waiting for Congress to return from its August recess. Mayor Goldschmidt took the oath of office as interim Secretary on August 15. The Senate later confirmed his appointment. With the Surface Transportation Assistance Act of 1978 having authorized funds through FY 1982, he would have little impact on the highway or transit programs during his short term in office.

(Secretary Goldschmidt served as Governor of Oregon from January 12, 1987, to January 14, 1991. On May 30, 1989, he requested withdrawal of the I-205 bus lanes and substitution of light-rail. Federal Highway Administrator Thomas D. Larson and UMTA Deputy Administrator Roland J. Mross approved the withdrawal on September 22, 1989. As noted earlier, this action was the final withdrawal-substitution under the program authorized by the Federal-Aid Highway Act of 1973.)

Meanwhile, as Congress and the Carter Administration became increasingly focused on balancing the budget, numerous proposals for increasing funds for mass transit, including ideas for establishing a mass transit trust fund, failed in the election year of 1980.

Whatever confidence the American people had in Carter in late 1979 was further undermined on November 4, 1979, when Iranians took over the American embassy in Tehran and held 52 U.S. diplomats hostage. The crisis would last 444 days, until January 20, 1981, and would be one more factor undermining President Carter in the 1980 presidential election.

His opponent, former Governor Reagan, offered an optimistic view of the Nation if he became President. On July 17, 1980, Governor Reagan's speech accepting the nomination of the Republican Party included these comments about the energy crisis:

> Those who preside over the worst energy shortage in our history tell us to use less, so that we will run out of oil, gasoline, and natural gas a little more slowly. Conservation is desirable, of course, for we must not waste energy. But conservation is not the sole answer to our energy needs.
>
> America must get to work producing more energy. The Republican program for solving economic problems is based on growth and productivity.
>
> Large amounts of oil and natural gas lay beneath our land and off our shores, untouched because the present administration seems to believe the American people would rather see more regulation, taxes and controls than more energy.
>
> Coal offers great potential. So does nuclear energy produced under rigorous safety standards. It could supply electricity for thousands of industries and millions of jobs and homes. It must not be thwarted by a tiny minority opposed to economic growth which often finds friendly ears in regulatory agencies for its obstructionist campaigns.
>
> Make no mistake. We will not permit the safety of our people or our environment heritage to be jeopardized, but we are going to reaffirm that the economic prosperity of our people is a fundamental part of our environment.

He picked primary campaign rival George H. W. Bush as the Vice Presidential candidate.

During the campaign, Governor Reagan asked voters, "Are you better off than you were four years ago?" Voters responded by giving Governor Reagan a landslide victory over President Carter.

Reagan won the popular vote by almost 10 percentage points (43.9 million to 35.4 million) and the electoral college by 489 votes (representing 44 States) to 49 for Carter.

In addition, the Republicans took over control of the Senate. Senator Williams was now part of the minority on the Committee on Banking, Housing, and Urban Affairs, the base for his longtime advocacy of mass transit. By then, Senator Williams' effectiveness in the Senate had been undermined by events unrelated to his years of effective mass transit advocacy.

Senator Harrison A. Williams

Senator Harrison "Pete" Williams, who did so much to address the need for mass transit in the Nation's cities, continued his advocacy through the 1970s. However, on February 2, 1980, law enforcement authorities revealed that he had been one of the targets of a 2-year undercover FBI investigation "in which agents posed as businessmen and Arab sheiks willing to pay bribes" to Members of Congress and State and local officials. The front page story in *The New York Times* the next day explained:

> The agents, claiming to represent a wealthy Arab sheik, and in some instances posing as Arab sheiks, met with the officials through 1979 in a variety of locations . . . . It was during these meetings, according to authorities, that undercover agents pretending to work for the sheik's business, called Abdul Enterprises Ltd., paid hundreds of thousands of dollars to the officials.

The operation, nicknamed Abscam, had caught Senator Williams in a plot involving a titanium mine. In May 1979, undercover agents agreed to lend $100 million to the mine if Senator Williams "would accept an interest in it – without paying for his share – and use political influence to obtain government contracts for the venture." In a June meeting in Arlington, Virginia, he agreed to the terms:

> According to authorities, the Senator personally took possession of stock certificates for the titanium mine last August at Kennedy International Airport, as he was about to catch a plane for Europe . . . .
>
> Senator Williams, a 60-year old Democrat, was apprised of the allegations through his press secretary yesterday.

The Senator told the press secretary, Michael McCurry, that he was not aware of the investigation. He added, "Honestly, I can say I don't have any comment on this."

All of the meetings between undercover agents and Senator Williams and other targets were videotaped, while telephone calls were wiretapped. The results were to be presented to a Federal grand jury. [Maitland, Leslie, "High Officials Are Termed Subjects of a Bribery Investigation by F.B.I.," *The New York Times*, February 3, 1980]

Senator Williams was indicted on October 30, 1980, for pledging to use his position to obtain government contracts for the titanium mine and accepting a concealed reward in the form of stock in his lawyer's name that the Senator personally accepted in the taped airport meeting in August 1979. He also was indicted for agreeing to help the sheik enter and remain in the United States.

On May 1, 1981, a jury found him guilty of each charge in a nine-count indictment, including bribery, conspiracy, unlawful gratuity, conflict of interest, and interstate travel in aid of a racketeering enterprise. The Senator told reporters, "Of course I'm very deeply disappointed at what we just received. In my heart I know I did no wrong." [Fried, Joseph P., "Williams is Guilty on All Nine Counts in Abscam Inquiry," *The New York Times*, May 2, 1981] He was fined $50,000 and sentenced to 3 years in prison, but was free on bail while he appealed the conviction.

Following an investigation by the Senate Ethics Committee, the Senate debated for 5 days in March 1982 whether to censure or expel Senator Williams. On March 11, 1982, Senator Williams dropped his defense against the ethics charges and resigned, telling reporters he did so only after Senators Inouye and Cranston promised they would ensure an investigation began of the FBI's conduct in the Abscam affair. During his resignation speech, he attempted to document the wrongdoing and entrapment that led to what he considered his improper conviction and that would lead to his vindication. "In considering this matter," he told his colleagues, "I did not want the Senate to bring dishonor to itself by expelling me." He concluded:

> I would say that my wife, almost daily, refers me to St. Paul's letter to Timothy and his description of his fight. My wife has described it in terms of a description of "our fight."
>
> "I have fought a good fight. I have finished my course. I have kept the faith."
>
> So it is with sorrow I leave friends here in the Senate that I have enjoyed so much . . . . I have given the best I had to the U.S. Senate. I leave with sorrow, yes, but resolve, too, to be with you, with all of you, as we continue our mission, public or private, to strengthen this land of ours and make it better—make it better for the people that we are elected to serve.
>
> I thank the Senate as I announce my intention to resign. I have made that decision. I leave in good spirit, good heart, and strong resolve to continue the things that I believe in and feel deeply about, worked all my life with, and enjoy. I feel no stain. I have been strengthened. I thank you, all of you. [Senator Harrison A. Williams, Jr., *Congressional Record-Senate*, March 11, 1982, p. 3973-4006]

On December 5, 1983, the U.S. Supreme Court unanimously refused to hear Senator Williams' appeal of his conviction. With rejection of his final appeal, he served 2 years in a Federal penitentiary in Newark and the remainder of his sentence in a halfway house.

(Also convicted were as a result of the Abscam sting were Representatives John W. Jenrette, Jr. (D-SC), Richard Kelly (R-Fl.), Raymond F. Lederer (D-Pa.), Michael J. "Ozzie" Myers (D-Pa.), and Frank Thompson, Jr. (D-NJ).)

Senator Harrison A. "Pete" Williams, Jr., died on November 17, 2001. His *Times* obituary began:

> Harrison A. Williams, Jr., the Democratic senator from New Jersey who used his considerable power to further the interests of labor and education before being convicted of bribery and conspiracy in the Abscam scandal, died on Saturday. He was 81 and lived in Bedminster.

To the end, he denied committing any crimes, arguing that the sting had entrapped him, a claim that failed to reverse his convictions on appeal. He had, he claimed, been convicted of "a dishonest crime," which he defined as "when somebody else creates the situation for which you are convicted." In 2000, President Bill Clinton denied the former Senator's request for a pardon.

The obituary cited his achievements in the Senate, including:

> In 1970 [he] became chairman of the Labor and Human Resources Committee. In that post, he backed the interests of migrant workers, women, coal miners, the disabled and the elderly. He wrote the Occupational Safety and Health Act and sponsored the creation of the federal urban transit program. He was the first chairman of the Select Committee on Aging. [Martin, Douglas, "Ex-Senator Harrison A. Williams Jr., 81, Dies; Went to Prison Over Abscam Scandal," *The New York Times*, November 20, 2001]

The Interstate Founding Fathers

On June 26, 1996, 450 highway boosters gathered on the Ellipse to celebrate the 40th anniversary of the Dwight D. Eisenhower National System of Interstate and Defense Highways. The event, sponsored by the American Highway Users Alliance, featured Vice President Al Gore honoring four Founding Fathers of the Interstate System: his father, Senator Al Gore, and Representative T. Hale Boggs, two of the authors of the Federal-Aid Highway Act of 1956; former Federal Highway Administrator Francis C. "Frank" Turner; and former President Eisenhower. Senator Gore and Frank Turner were on hand for the event, while Representative Boggs' wife, former Representative Lindy Boggs, appeared for him. Susan Eisenhower represented her grandfather.

The site had been selected because it had been the spot where the 1919 Army transcontinental motor convoy began its 2-month journey west. Each of the four founders or their representative received a crystal replica of the Zero Milestone marking the convoy's starting point

Vice President Gore said:

> Our nation's greatest accomplishments, whether the Interstate Highway System or the Marshall Plan or many others, are often those that receive bipartisan support. The Interstate Highway System has meant so much to America. It is virtually impossible to overstate the importance of this investment. Its creation led to an unprecedented period of national growth and prosperity. Simply because we cannot ever adequately measure all of the benefits which have come from this system, they will never all be fully recognized. But it dramatically improved transportation safety; it dramatically stimulated commerce; it

> enhanced our national defense and security. The Interstate Highway System has literally changed the way we work and the way we live.
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> It has done something else, too, something that cannot be measured by dollar signs or statistics. The Interstate Highway System unified our great and diverse nation in an era when social and cultural changes were speeding up so rapidly. The differences between different parts of America might well have been enhanced in ways that could have led to new divisions in our land except for this great, new unifying force. As President Clinton has said, "It did more to bring Americans together than any other law in this century." And by so doing, it gave our citizens and still gives our citizens . . . the very freedom that defines America.

Of President Eisenhower, Vice President Gore said:

> President Eisenhower, of course, holds a special place in all of our hearts because of his leadership in preserving our freedom in World War II and then his leadership during unusually challenging years when he served as President. He came home and then helped pave the way so Americans could be freer still, enjoying among other freedoms the freedom to travel America on modern highways that are safe and that are now the marvel of the world.

He said that Representative Boggs "led the way in the House of Representatives by taking on the gigantic task of creating a funding mechanism for the Interstate Highway System. " When he took on a task, "there was no question that he would get the job done. And he did, by crafting the Highway Trust Fund, the master financing plan for this historic project."

The Vice President recalled that in 1994, *American Heritage* magazine named Frank Turner one of 10 individuals who changed life for all Americans but whose names might not be widely known to their fellow citizens. He said that "those who worked on the Interstate Highway System certainly knew his name; and historians of the great project know and honor his name; and each and every one of us has benefited from his work."

As for his father, the Vice President had much to say:

> I was always amazed at how the voice that reminded me to do my homework could be the same voice that argued so eloquently in the Senate for the Interstate Highway System. I'm grateful that he did both. I remember vividly as a 10 year old, well even younger than that, going to the committee that he chaired and listening to the debates and discussions.

He recalled how their trips between Carthage, Tennessee, and Washington shortened from 18 hours to 11 as more and more of the Interstates opened. "I always believed that one of my father's principal motivations for playing the role he did was to shorten that trip—not a particularly profound observation." He was, he said, honored as Vice President to honor all four of these visionaries, but "you can imagine it gives me special pride to present him with this memento."

Despite several reminders from FHWA's unofficial historian, the gala organizers decided not to honor the other primary author of the 1956 Act, Representative George Hyde Fallon. Senator Gore and Representative Boggs accomplished many things in their long and varied careers in Congress and both are well known to historians for reasons other than highways, but Representative Fallon had focused all his energy on one topic: roads. He had done more than Senator Gore or Representative Boggs to develop the 1956 Act and secure its passage, but as they moved on to other issues, he continued to advance the cause of good roads and the "sanctity" of the Highway Trust Fund until he was defeated for reelection in 1970, partly because of that support.

The 6-foot, 2-inch Congressman was known as "The Big Man from Baltimore," where he was born, raised, married, and resided throughout his congressional career. Since his election to the House in 1944, he had commuted daily to Capitol Hill on the Pennsylvania Railroad. Although he would play a pivotal role in creation of the Interstate System, he disliked driving, especially freeway driving. [Schwartz, Gary T., "Urban Interstates and the Interstate System," *Southern California Law Review*, March 1976, p. 434, footnote based on interview with Fallon]

A graduate of Johns Hopkins University, he worked in the business his father had founded in 1904, the Fallon Sign Company. He won his first elected office in 1939 to become a member of Baltimore's City Council. Following his election to the House of Representatives in 1944, he devoted little time to the family business, which was later dissolved.

A transportation writer, Duane L. Cronk, described Fallon in 1957:

> [He] is surprisingly modest. He is courteous, but not suave. He is no orator, and couldn't make a soap-box speech if he had to. But he is relaxed and congenial, and makes friends easily. [Cronk, Duane L., "'Big Man' From Baltimore," *Highway Magazine*, November 1957, p. 214]

Highway construction was his primary issue, but he looked after his Baltimore District from his position on the Public Works Committee. For example, he obtained funds for development of Baltimore's port and was a strong backer of the Baltimore-Washington Parkway. (In the 1950s, BPR built the Federal portion of the parkway, from the District to Jessup, Maryland, for the National Park Service, with Maryland building the remainder of the route into Baltimore. It was completed in 1954.) When he ran for reelection in 1954, he was the only Democrat endorsed by *The Baltimore Sun*. "No apologies are necessary for this choice," the editorial said, "the good citizens of the Fourth district, whether Democrat or Republican, should vote for Fallon for Representative."

He was a workhorse, little known outside Washington and highway circles. One of the few times he was in the national spotlight occurred on March 2, 1954, when Puerto Rican nationalists opened fire on the House of Representatives from the House gallery. Representative Fallon was one of five Congressmen who were injured. Years later, he recalled that the House was debating a Mexican labor bill. When he heard shouting and shooting, he stood up and was shot in the hip. He fell to the ground where he remained until doorkeepers and visitors subdued the shooters. The five congressmen shot on that day survived. Fallon, the last of the five still in Congress, told a reporter in 1966 that they met for lunch each year on the anniversary of the shooting. It was, he said, an exclusive club. They had drawn straws for the four pistols and the flag used during the attack. Representative Fallon won a pistol that he kept in his office as a souvenir. [Flowers, Charles V., "Fallon Recalls House Shooting," *The Baltimore Sun*, February 26, 1966]

His greatest accomplishment, of course, was the Federal-Aid Highway Act of 1956. Cronk described the moment when the House, which had defeated Representative Fallon's bill in August 1955, approved his revised bill, including Representative Boggs' Highway Trust Fund in Title II:

> In the speaker's chair, Sam Rayburn announced the very significant results of the vote: "Yeas—388; Nays—19"
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> In the rear of the chamber a tall, balding, well-built legislator, rising to his feet, was immediately surrounded by colleagues, pressing in to congratulate him. It was a moment of well-deserved personal victory for George H. Fallon, Congressman from Maryland's Fourth District . . . . His colleagues were sincere in their praise for his efforts.
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> So was the entire nation. The next day hundreds of newspaper editors, lauding the program to free a congestion-bound America, also paid tribute to the Congressman whose leadership had helped to assure its success. The Pittsburgh *Sun-Telegraph*, speaking for grateful motorists across the country, declared: "Representative George H. Fallon, Democrat of Maryland, deserves a national round of applause." [Cronk, p. 212-213]

The Fallon Bill went to the Senate where it was modified by the Senate Committees on Public Works and Finance before the Senate approved it after a 14-hour session by a voice vote on May 29. A Conference Committee completed its work on June 25 and the following day, both Houses approved the measure, largely the work of Representative Fallon and Boggs and Senator Gore.

Senator Gore and Representative Fallon issued a joint statement, calling the bill "the greatest governmental construction program in the history of the world." Fallon added:

> The American people will ride safely upon many thousands of miles of broad, straight, trouble-free roads, four to eight lanes wide, criss-crossing America from coast to coast and border to border, built to the very highest standards that our highway engineers can devise.

In 1959, AASHO presented the George S. Bartlett Award to Representative Fallon, an honor bestowed by AASHO, ARBA, and the Highway Research Board on an individual who has made an outstanding contribution to highway progress. Presenter J. N. "Jack" Robertson, former Director of Highways for the District of Columbia, quoted the same *Sun-Telegraph* editorial as Cronk, but continuing its praise: "A less patient and fair legislator would have thrown up his hands weeks ago. Fallon's method was to give everybody concerned a hearing whether in or out of Congress, on or off of his committee."

After all his years of service, Representative Fallon was defeated in the Democratic primary on September 16, 1970, by Delegate Paul S. Sarbanes, 22,602 votes to 20,160. *The Baltimore Sun* reported the following day:

> Mr. Sarbanes had attacked Mr. Fallon on various fronts, including the Congressman's age and health (Mr. Fallon was hospitalized recently with a gall bladder ailment), criticizing what the delegate called Mr. Fallon's remoteness from his constituents, and scoring his close ties with the highway and transportation lobbies, and his support of the Nixon administration's Vietnam war policies.

Fallon conceded defeat, but a reporter interviewing Fallon the next day said:

> It was as if the veteran, 13-term, 68-year old Democratic lawmaker could not really believe his defeat in Tuesday's primary election . . . .

He did not know what he would do after leaving office and wasn't even sure what his pension would be. He was "surprised" by the upset, but conceded that, "Mr. Sarbanes put on a very vigorous campaign, the most vigorous I've ever seen in my district." He had "mixed emotions," adding, "you don't get into this to lose, but this does relieve me of a lot of pressure." In retrospect, he thought, perhaps he should have started campaigning sooner. Still, he said, "I have no regrets." [Samuel, Paul D., "Fallon Concedes, Admits Surprise," *The Baltimore Sun*, September 17, 1970]

AASHO, during its annual meeting later that year, honored Representative Fallon with a Certificate of Appreciation. Accepting the certificate on "George Fallon's Day," he said:

> I have no fears of what might happen to this great committee in the future because when I leave it, John Blatnik who has been sitting on my right and who has been on the committee for 24 years will take over as chairman. I don't know of anybody that is more competent and more knowledgeable of the public works committee than John Blatnik.

He continued:

> Along with subcommittee chairman John Kluczynski, Bob Jones and Jim Wright and the cooperation that we have always had from the republican side of the Committee, there is no task too great for them. I have no fear of the accomplishments that they will perform in the future.

He expressed his gratitude to AASHO:

> Over the years I have been involved in Congress with many people, but nowhere have I felt so much at home as being with the American Association of State Highway Officials; you represent America in the finest sense. ["Presentation of Certificate of Appreciation to Hon. George H. Fallon," *American Highways*, January 1971]

Years later, *The Baltimore Sun* reported:

> After leaving office in 1970, he stayed out of politics, tending mainly to leisure activities, lunching in downtown Baltimore with friends, and pursuing private business interests . . . . In an interview several years ago, Fallon said he had many offers after public office to return to politics or lobbying but that he turned them all down, saying, "I had 32 years in public office and that's enough."

The last few years of his life were dominated by the emphysema that would take his life at age 77 on March 21, 1980, at Union Memorial Hospital in Baltimore. Obituaries referred to his role in launching the Interstate System; *The New York Times* said in its March 24 obituary that his "advocacy of public works programs brought him the appellation of 'the father of the interstate highway system.'" But an obituary in the Baltimore *Evening Sun* on March 25 pointed out:

> At the close of his 13 terms in Congress, complete with major-committee chairmanships, Who's Who in America promptly dropped him (what had he done *lately*?)

An editorial in *The Baltimore Sun* on March 25, 1980, recalled his election defeat:

> The slight that most disillusioned Mr. Fallon was how voters in North and Northeast Baltimore could reject the father of the Interstate Highway System. "I thought I was helping people," he told a reporter shortly after his defeat.

Although largely forgotten today, Representative Fallon was honored in 1971 when President Nixon signed legislation naming the Federal Office Building (opened in 1967) at Hopkins Plaza in Baltimore's Charles Center the George H. Fallon Federal Office Building, a name it still bears. That same *Evening Sun* obituary said that, "After his help with bridges, harbor, the airport and other public works [in the city], the building they put his name on was Charles Center's least worthy, architecturally."

During the ceremony when that building was named in his honor, former Representative Fallon gave a brief speech: "It's nice to be remembered."

A Note on Sources

"Busting the Trust" contains citations on sources throughout the text. Unless otherwise noted, The American Presidency Project (http://www.presidency.ucsb.edu/) maintained on line by the University of California, Santa Barbara, is the source of presidential speeches, messages, and statements. Heinonline's U.S. Congressional Documents collection is the source of House and Senate debates (http://www.heinonline.org/HOL/Index?collection=congrec&set_as_cursor=clear).

The U.S. Department of Transportation's National Transportation Library was the source of many documents unique to the Department, such as press releases and speeches. The library also maintains congressional reports associated with Federal-aid highway legislation. The library's subscription to ProQuest – Legislative Insight supplemented these resources (http://www.conquest-leg-insight.com/legislativeinsight/LegHistMain.jsp;jsessionid=FD67F018F670E2118C128237DDFEEA9F).

These resources were essential to the research and writing of "Busting the Trust."