

Any sums apportioned to any State under the provisions of this section shall be available—

Now the word "shall" is not a discretionary term. That is a mandatory term. I will continue with the quote:

shall be available for expenditure in that State for 2 years after the close of the fiscal year for which sums are authorized.

The fact that the Congress used the term "trust," to my mind at least, and I think in the minds of most lawyers, would certainly carry a very strong implication that these sums are to be used for one purpose and for one purpose only.

Along that line I would like to make this observation: In my correspondence with the Secretary of the Treasury and the Secretary of Transportation, it has developed that the Secretary of the Treasury is purchasing out of these funds general Treasury Bonds.

I have seen some figures which indicate that something like 25 percent of these funds have been used to purchase general Treasury Bonds.

Mr. Chairman, this is a device whereby these trust funds can be funneled into the general revenues of the Government.

This in turn, means that they are being used for purposes other than the construction of a highway system which, I think, violates the trust established by the Congress.

I want to make this further observation: I recognize that the Secretary of the Treasury is authorized in the act to invest these funds when he finds that he is going to have funds available.

I do not think it is proper to take that language which is, in effect, an economy gesture; in effect, what the Congress was telling the Secretary of the Treasury: When you find the States are not drawing down these funds as rapidly as you have apportioned them, rather than just let them lie, drawing no interest or anything, then you are authorized to invest these funds.

This does not give the Treasury Department or the Secretary of the Treasury the power to divert those funds. It merely gives them the authority to invest them, when the funds are otherwise going to be available.

I think what has happened now is we have created an availability of funds, when this creation of availability is not authorized by law.

This pretty well, I hope, summarizes the main thrust of my position, Mr. Chairman. I appreciate the committee giving me an opportunity to appear, and I certainly am available to answer any questions if any of the committee members are so disposed to ask them.

Mr. KLUCZYNSKI. We are glad to have you here, Mr. Blackburn.

You said that you did not know whether the freeze or the holdback was illegal.

The Associated General Contractors or the American Road Builders, I do not know which, made that same statement. I hope that we can do something in this legislation that we are working on now, and I hope we can put something in there, into the hands of the administration or whoever is administering this act, that there will be no further holdbacks or freezes, so the contractors know how to bid, and we do not want anybody to hold back the trust funds.

I am sure Mr. Denney would like to ask some questions.