I was asked to speak about shifting responsibilities and resources. I think probably that it’s more appropriate to talk about shifting responsibilities, liabilities, risks, and burdens from the federal level to the state and local level. Some speakers say that this is a nation built through transportation. Today, after two hundred years of our Constitution, we’ve built a massive infrastructure for transportation in the air. We’re talking about building a new nuclear infrastructure in space for weapons, one of the most technologically-advanced forms of transportation mankind has ever created -- and one of the most expensive. We’ve built a surface transportation network and a water transportation network. The transportation infrastructure made this the richest and most powerful nation on earth. It was built first by cities and towns, then by states, and finally, with the post roads beginning, by the federal government.

In 1981, the president proposed a “New Federalism” in which resources as well as responsibilities would be turned back to state and local governments. Indeed, today in 1987, we do see increasing responsibilities, including some new responsibilities mandated on state and local governments by the federal government, but we see an erosion of resources. We have more to do and less with which to do it.

Today, we see the fruits of a policy wherein government in many instances is regarded as part of a problem rather than part of a solution. Nowhere is that more apparent than the field of transportation where today, in 1987, fewer Americans have access to transportation than in any year in the past decade. More cities and towns than ever before in the history of this nation are isolated. The nation is clearly less competitive in the world economy.

The New Federalism is supposed to turn over federal resources, as well as responsibilities. It has instead imposed or mandated more costly responsibilities, while it has eroded and preempted more and more physical resources at the state and local level.

With the public and the federal roles, one of the questions raised more frequently in Washington these days is, “Is there a public or federal role in transportation?” One of the previous speakers talked about engineers, which I began as, and lawyers, which I ended as, and the relationship from Japan to the United States. In Japan over the
last three years, the federal Japanese government has increased investment in public transportation infrastructure because they recognize the key to getting into the world market is infrastructure. During that same period of time, the federal investment in our transportation infrastructure has declined. So, there is a critical federal role that affects all of us.

The first federal role I would define as the Commerce role. Any concept that the Commerce role is something that can be handled by state and local governments pale when you think about it. Imagine if Kentucky said, "All trucks had to have round wheels painted day-glow orange;" and Illinois says, "We prefer to have round wheels like Kentucky, but they must be green;" and Indiana says, "We're not particularly fond of round wheels; we've designed a new more efficient oblong wheel." The fact of the matter is that getting a thoroughbred from Lexington to Des Moines would be a profoundly difficult process and very expensive.

There clearly is a critical federal role and a need for some uniformity and efficiency. It cannot be denied.

There is a Trade role. We can no longer be an isolated nation. We're part of the whole world of nations. The Trade role is critical in terms of poverty in this nation. In 1980, we had the greatest trade surplus of any nation on earth. Last year, in 1986, for the first time in this country the United States became a net debtor nation -- and not just a net debtor nation -- but we have the largest international trade debt of any nation on earth. Only if we have a sound, efficient, effective, updated transportation system, do we stand any chance of coming back and competing with the West Germans, with the Koreans, or the Japanese.

We have a third federal concern at issue. That is, there ought to be some basic right of access to transportation for all Americans.

Fourth, we have under federal law, two sets of trust funds specifically to provide a dedicated source of funding for transportation, specifically for air transportation and surface transportation. It is interesting to note how those federal roles have been abused. Last year, interest on the surplus in the highway trust fund exceeded $1 billion. The surplus in the airport trust fund exceeded $4 billion. That's money that we set up through federal law to dedicate to our federal and national air and ground transportation and infrastructure that was not spent. It was siphoned out of the dedicated uses to help deal with a growing, a radically growing, deficit.

Let's think what the evolution has been here. Why are we in some of these problems that I've been talking about? Since 1979, federal assistance to priority municipal programs, from my perspective, has declined, has been cut sixty-six percent. We've been told that it's been cut to help deal with the federal deficit. The federal deficit in 1979 was $27 billion dollars. The federal deficit last year, in 1986, after seven consecutive years of cuts, including our most important transportation programs, hit a level of $221 billion. Interest on the federal debt last year was one hundred $75 billion. That's just interest on the debt; that's money that cannot be spent for jobs; it cannot be spent for tax cuts; it cannot be spent for highways; it's money right down the drain. Just to give you a comparison, last year the federal government spent just under $100 billion for all state and local programs combined. It spent $175 billion to pay interest on the debt. This year the budget sent to the Congress proposes to spend more in foreign aid, more of your tax money for foreign aid than all direct assistance to cities, towns, and counties together for all purposes.

Now someone might ask, "What kind of priorities do we have? How is it, at a time when we're having a more and more difficult time competing in the international market place, that the federal government's priorities are greater to send assistance to foreign cities and towns than to our own cities and towns in this country?"

This was the year in which some governors, some members of the Congress, proposed a massive, revolutionary theory which comes under the banner of Welfare
Reform. That proposal would propose trading in state and local discretionary programs, including all transportation programs, to provide a minimum level of welfare benefits to all welfare clients throughout this country. There's an important message within that. That message seems to be that transportation has no relationship to economic opportunity, to employment, to quality, to unemployment, and to poverty.

It's interesting. I called up New York City and I said, "Tell me, where is Mayor Koch on this issue?" The answer was, "Mayor Koch is very supportive of a mandatory fair-type proposal where anyone eligible for welfare benefits in the city of New York would be required to sign a contract to enter a training course to receive education or to work. In return for which the city of New York would guarantee child care and transportation to and from, either the place of training, work, or the child care delivery system." But when they ran those numbers through the computer, they found that the cost of the public transportation alone would sink the ship.

During the past seven years, there has been a growing disparity within the role dealing with transportation and other state and local issues. The President's budget submitted to the Congress on January 5, proposes to spend, through the federal tax code, $288 billion. Some of that $288 billion is going to subsidize corporations for their ownership of private planes. It will subsidize some corporate presidents who have very nice cars.

Yet, on the other side, his budget proposes deep cuts in public transportation. There is more in tax benefits and tax subsidies than direct assistance for public transportation. It's a change that's been occurring where the presumption is the only thing that affects the federal deficit is direct spending. But in this country there are two ways you can affect the budget.

Anyone who runs a business, anyone who is involved in state or local government, knows that what you've got to do in the end is to decide how much money you're going to spend and how much money you're going to collect. The federal government has a different system. They decide how much money they're going to spend, and they decide that in one room; and in another room they decide how little they want to collect; and then in the third room, they pull out the VISA Card.

That VISA Card, this year, is worth $175 billion. Imagine, if we could take just part of that money and spend it on engineering.

A significant contradiction resulting from the federal role and what it means for state and local governments is, instead of greater state and local flexibility, there is less.

There are three areas of transportation which can depict the situation:

Airports. The federal government is in the business of saying people, that is cities and states, who manage airports, may not make their own determinations about hours for landings and takeoffs. They may not take actions to restrict the noise impact on the people of the surrounding communities. In effect, the federal government has been involved in preempting state and local rights and how to manage and run their own airports. The federal government has, however, maintained one certain element of generosity in this proposal. They have said that if a neighborhood organization decides to sue on a noise damage tort case, they may sue the city or the state, or whoever owns the airport; but they may not sue the federal government. It's a wonderful sort of situation. You, as a municipality or a state, may not control your risk of liability. The federal government is going to preempt your authority, but you will bear the entire risk of liability.

Hazardous Materials Transportation. Theoretically you would like to know if a truck carrying highly toxic materials is going to enter your city and traverse it in the middle of the Girl Scouts' jamboree parade. If so, you might want to take some precautions. You might want to decide that there is a different way to route either
the parade or those materials. So, you might want some prenotification; you might want to notify your hazardous materials team or your fire department: "We expect these materials to be transiting the city at such and such an hour; you might want to be on alert; you might want to have the appropriate chemicals for a response prepared." But of course the federal government preempts the rights of state and local governments to determine routing, preempts their right to having prenotification.

In a specific example, in Ohio last year, a train derailed, spilling toxic clouds of hazardous chemicals, forcing the evacuation of the entire town. We had something resembling Barnum & Bailey for a little while. We had people from the United States Department of Transportation, people from the Federal Emergency Management Agency, and last but perhaps best, the Regional Director of EPA came in three days later and announced he was now taking over the entire emergency. He indicated he didn't really know what had happened, but he had a better plan for dealing with it.

So, we had three federal agencies which basically prohibited that city from having any real rights to protect itself, squabbling over their own lack of preparation. You have a federal government which said, "No, we are not going to provide any assistance to state and local governments for emergency response preparedness," yet the entire risk was born by this small town. The mayor said later, "Had that train derailed fifty yards further from where it did, there would have been hundreds and hundreds of people killed in that small town."

Public Transportation. The Administration has proposed now for seven consecutive years to terminate all operating assistance, to leave alone capital assistance. I talked two years ago to the Director of Public Transportation in North Carolina. I said, "Tell me what you think of this?" She said, "Frank, it's great; we're going to have to spend more capital than we can efficiently spend, and we're not going to be able to spend any operating. So, what's going to be cut is the efficiency of our fleet, because we're not going to be able to maintain it the way it should be maintained. We will be under pressure from our elected officials to make sure we don't send a dime back to Washington, and", she said, "we have two solutions. We can put toilets in our buses, or we can install gold handrails. We can overcapitalize."

Now the problem here is that the federal government keeps saying we ought to leave these decisions to local governments to determine what the most efficient way to spend the money is, but then they come in and say, "However, you may only spend this money for capital. You may not spend the money to maintain and operate the fleet even though that might be a far more efficient investment of resources; it might preserve capital already invested, and far more effectively."

The President's budget this year goes a new step, a step further. It says, in the area of preemption, that it would like to propose to repeal the exemption for all state and local vehicles from the federal gas tax. Now I don't know how many cities, or towns, or counties exist. I don't know whether the Secretary knows how many state vehicles exist; however, you have to figure what the cost is. It is a cost that nobody can handle by reducing your costs. You cannot tell your 911 emergency vehicle, "Sorry, because now we have to pay the federal gas tax, we can only fill up the tank ninety percent." If that 911 call has come at a ninety-two percent level of your tank capacity, and you don't reach that person who has a heart attack or has a gun shot wound or whatever, you might as well submit your letter of resignation. The only way to deal with this is to raise state and local taxes. It's a pure shifting of burdens from the federal government to state and local taxpayers. What about mandates? Instead of proposing greater local autonomy, in addition to preemption, the federal government has made flexibility a more difficult proposition for state and local governments.

Airports. Last year the Administration was concerned about air traffic. Most people who fly out of Lexington know that to get to Lexington from anywhere else,
they must go through a hub airport. If you manage to get to your final destination on time, you are very lucky. Most flights in this country now are late. In fact, anyone who has the great joy and excitement of going through Chicago or Atlanta knows your chances of getting your next connection are slim to none. The Administration’s response was, “Let’s require cities and states to expand their airports. We won’t give them money to do it; we will require them to expand their airports, so that they can accommodate more flights.”

**Public Transportation.** We have heard repeatedly that Public Transportation is a local, not a federal, responsibility. We heard that all the way — until the United States Justice Department took the city of San Antonio, Texas, to the United States Supreme Court, and said that the federal labor prevailing wage rates applied to all employees of San Antonio’s transit system. So, the federal government said, “It’s your responsibility. We don’t like how much you’re spending for labor on your public transportation system. But by the way, you must comply with federal wage rates for your transportation system because there is a direct implied federal role.”

The federal highway tax is not only a preemption of local resources but is a new mandate on state and local governments. One of the responses we received from the federal, which will interest many tax payers, is that the answer, when you have less federal resources and less local tax and public resources, is to turn to privatization.

At the San Antonio Congress of Cities, last December, our meeting was the largest meeting of municipal elected officials ever held in this country. It began the day after Thanksgiving. For me it began the day before Thanksgiving. Wednesday morning at 8:07, I got a call from Mayor Koch’s office. Mayor Koch was coming down; and since New York City policemen did not have jurisdiction in the state of Texas, could I make sure there were two policemen, provided by the Texas Highway Patrol or the San Antonio Police Department, to escort him in case someone decided to take a pot-shot at him.

At about 8:17, the city of San Antonio called. They said they had a problem. I said, "What’s the problem?” They said, "Well, the Urban Mass Transit Administration called this morning and said that our system, our shuttle system for transporting ten thousand elected officials to the convention, did not comply with the privatization regulations of the Federal Government.”

Now think about this. The city of San Antonio spent five years preparing. They used twenty-seven hotels in the metropolitan area and had set up a shuttle system to begin at 7:00 a.m. the morning after Thanksgiving to transport ten thousand elected officials to and from various events; and here it is one day before Thanksgiving, and UMTA said, “Oh no, you did not comply with the U.S. Federal Government’s privatization regulations.” So, between Mayor Koch and San Antonio, I tried to call the director of UMTA. The Director of UMTA could not be found on the day before Thanksgiving. He was not in his office. He was on vacation.

**Privatization.** The city of San Antonio spent five years, and an awful lot of local money coming from mostly local businesses, as well as taxpayers, to prepare for this meeting. They made sure they provided the best service at the lowest cost. At the last minute, that wonderful privatization, theoretically intended to help cities and states save money, boomeranged.

In 1984, we passed a tax bill in this country. I went over to the Treasury Department and said, "I’m a little confused. The people over at Transportation are saying, ‘We need to privatize.’ You’ve got a tax bill that penalizes any state or local government that privatizes. Could you explain to me, if the right hand and the left hand are talking?” The assistant of the Treasury turned to me and said, "Frank, you don’t understand.” I said, "That’s why I’m asking the question, because I don’t understand.” He said, "Well, Frank you don’t understand.” I said, "Well, tell me what it is I don’t understand.” He said, "Over here at the Treasury, we are engaged in one
business. We collect revenues. The Department of Transportation sets transportation policies." I said, "Thank you, but I still don't understand. Why can't you talk to them, so that if they're going to say we have to privatize, they talk to you instead of me talking to you, and we don't penalize anyone that privatizes." No answer.

Again, last year, a new and even more wonderful tax bill comes, which they now sell instead of sleeping pills in Washington for people who have difficulty sleeping. It was to simplify the tax code and I know most taxpayers have filled out the new W-4's and understand how simple it is. There are provisions in it saying that if more than ten percent of state or local tax exempt bonds issued for transportation-related purposes benefit any private party, then that bond was no longer going to be considered a public purpose bond. It would be treated as what's called a private activity bond, even if it was for a facility or operation owned or operated by a state or local government. So, once again the Treasury stepped in, and said, "If you privatize, we will define it as a private activity and we will penalize it from a tax perspective." After two years, we still were unable to get that telephone connection between the Treasury and the Department of Transportation.

Now, with all this shifting, with all these new opportunities for state and local governments in the private sector, fiscal disparities are concerns because: How are states and local governments going to pick up these new opportunities? Last year, the Federal Government terminated a program called General Revenue Sharing.

Because the first state or local dollar in is going to go for education, for police, and for fire, it is these visible signs that voters are going to think about. The Mayor of Chicago, and the Mayor of Denver indicate that the first dollar is going to make sure that every last bit of snow is removed every time it snows. That is a more important dollar, because when the voters go to the polls, that's the dollar they are going to remember, and they can't see maintenance on highways, public transportation systems, and airports. Thus, when the federal government terminated Revenue Sharing -- and Revenue Sharing was a program meant to even up fiscal capacities of states and local governments --it was certain to exacerbate physical deterioration.

The city of Detroit received eight dollars more per taxpayer than the outlying wealthy suburbs of Detroit. General Revenue Sharing was simply a recognition that Detroit has far greater levels of poverty, and therefore, greater demands on the local government, and far less in resources and tax base. Therefore, it was a program designed to give cities like Detroit some better ability to provide minimum public services, including public transportation. If you make no commitment at the federal level to physical capacity, are you setting in concrete some system where suburbs and states that are in better fiscal condition than others have a better transportation system, and are able to make themselves better to get more businesses to locate within their boundaries, and cities and states that don't have the same physical capacity are put in a second generation? They're put at a lower level. Is that the sort of system that we ought to have in this country?

Likewise, can we have a system which connects only certain cities and towns in the nation, and not others? There are now 3700 cities and towns that no longer have any access to an inter-city bus system. That not only affects people who wish to get to and from those towns, but those who do not have access to an automobile. What kind of a public transportation system do we have in this country that says, "We no longer see any federal need or public need to link up three thousand seven hundred communities with the rest of the nation?"

Deregulation. Our vice president, who is with the City Council of Portland, Maine, was asked to speak to the West Virginia league of cities and towns. She found out that it was a lot cheaper to fly from Portland, Maine to San Diego, California than
from Portland, Maine to Charleston, West Virginia. They couldn't afford to have her go.

Can we have a federal system which subsidizes transportation for those least in need, but provides no assistance to those who are most in need? In 1982, the United States Department of Transportation reported that forty percent of the people that ride public transportation in this country have annual incomes under the federal poverty level. Seventy-one percent of the people who ride public transportation have incomes under $20,000 a year. Public Transportation is the part of the transportation budget that is being cut the most.

Can we have a strong economy built upon a deteriorating infrastructure? That's the most important question there is. It's a question that affects cities, counties, and states. In my state, we have seen just in the past few months a growing number of headquarters moving out. The highway system simply cannot accommodate their need to get workers to their headquarters, and they're moving to regions and states that don't have congested highways or that have highways in ill-repair.

So, where are we today? Today, the Senate, I hope, shortly will finally release more than $12 billion for the Surface Transportation Program. My understanding is that the President's Office of Management and Budget will neither support nor oppose that legislation. My understanding is that Kentucky might receive a so-called private call from the United States Department of Transportation saying if Kentucky does not get enough projects, demonstration projects, Kentucky ought to lobby to have the President veto the bill.

The law expired last September 30. The most powerful and wealthy nation on earth has gone without a surface transportation program for over six months. The airport program is set to expire on September 30 of this year.

Hazardous Materials Transportation. I met with Secretary Dole four years ago. I said to her, "I have the Chemicals Manufacturer Association, the oil and gas interests, the American Trucking Association, the National Tank Truck Carriers, the National Conference of State Legislatures, and the National League of Cities. We have worked for two years to come up with a plan that will not increase the federal deficit but will provide some means for cities and states to have some funds, so they have an emergency response capacity, and the organizations represented here are prepared to pay. The people, the industries that will pay, are seated around this room with you, Mrs. Dole. What do you say?"

She said, "It's a terrific plan, but we can't talk about anything that sounds like a tax. So, I'll support everything except for the money to pay for this proposal."

No proposal. We are no further today than we were four years ago, except there are an awful lot more hazardous and toxic materials, and railroads, and planes, and trucks going through this country, and we have far less capacity to deal with it today than we did then.

The absence of a clearly-defined and constructive federal role and policy creates a nation of small islands, unequipped to finance public and economic needs, one with increasing safety problems, and one with increasing disparities with regard to who is served and who is not. I don't think we can have it both ways.

My recommendations are that we ought to take the trust funds, the highway trust fund and the airport trust fund, out of the federal budget processes. We had a commitment when we set up those trust funds. Every single dollar that you pay to the gas pump, every single dollar that you paid on your airline ticket taxes would be invested in those systems, to make them work. Instead, for six years now, we've played fun and games in politics. We've used your taxes that have gone to transportation to help bail out the federal deficit.

We cannot have the federal government unilaterally preempting state and local rights. It has to be a partnership. If the federal government is going to insist upon
imposing mandates of any kind on states and on local governments, because it feels they are in the national interest, and they're so important, then the federal government ought to pay for it. It's not enough to talk about providing states and local governments rights and flexibilities and privatization. It ought to be the case. We ought to allow public transportation money to go to units of local government to be used in the most efficient way possible. We should not tie a lot of strings to it. We need to go back. We have to have the federal government working with rather than against state and local governments.

I think at this conference and with more and more states and local governments, they are finding the federal government is turning its back on transportation infrastructure. The private sector is either coming to state and local governments, or state and local governments are going to the private sector, and looking at innovative ways to finance what is critical to this nation. We cannot have a National Transportation Policy unless we take some recognition of different needs and different fiscal capacities. I think that this nation will only be as great as those of you here, and those that are willing to invest their time, their ingenuity, their creativity, and their care into looking for better solutions. I don't think cities and towns are islands that ought to be isolated from this country. If those talents, if their partnership with the rest of the nation, is cut off, I think our ability as a country, will be less. This nation has been built upon cities. Eighty percent of the economic revenue that flows to the federal government, eighty percent of the Gross National Product of this country, comes from cities. Unless we make sure that those cities have a well built efficient transportation system that connects them all, it's clearly going to impact every business and every individual. I think it would be a shame to turn our backs on what we've managed to build in two hundred years.