TAKING FEDERALISM ON THE ROAD: ONE STATE AND LOCAL GOVERNMENT'S REACTION TO THE REAGAN ADMINISTRATION'S HIGHWAY POLICY

What makes business? The roads! How do they move food they eat? The roads! How do they get to work? The roads! How do they get home to their wives? The roads![1]

The condition of our transportation system affects our commerce, our economy, and our future.[2] The nation's highways serve the dual purpose of meeting the personal transportation needs of our citizens and providing an essential component to the smooth working of a healthy national economy. Business productivity relies upon the quality of the nation's highway network. Ninety percent of everything we eat, wear, use, or produce moves on the nation's highways.[3]

Although the United States may have the finest highway transportation system in the world, that system faces the same crisis faced by our nation's railroads.[4] A growing concern exists that our highways, like the railroads before them, are deteriorating at an increasing rate because of deferred capital improvements.[5] Many parts of the Interstate highway system[6] are nearing the end of their designed lives,[7] and bridges have also deteriorated in serviceability.[8] Overall, we have 4,000 miles of Interstate Highway that need resurfacing and 23,000 bridges that need replacement or repair.[9] The Congressional Budget

1. Heinlein, *The Roads Must Roll* in SCIENCE FICTION HALL OF FAME 74 (R. Silverberg ed. 1970).
2. President's Remarks on Signing H.R. 6211 (Surface Transportation Assistance Act of 1982) Into Law, 19 WEEKLY COMP. PRES. DOC. 19 (Jan. 6, 1983).
3. Address by Ray A. Barnhart, Federal Highway Administrator, to the National Safety Council on the Future of the Federal Highway Program, Las Vegas, Nevada (July 1982). *See also* CONG. BUDGET OFF., FINANCING OPTIONS FOR THE HIGHWAY TRUST FUND 3 (Dec. 1982) [hereinafter cited as CBO OPTIONS], which states that the Federal-Aid system carries 80% of the nation's traffic on only about 20% of the highways.
4. *Examining the Nation's Immediate and Long-Term Surface Transportation Needs: Hearings Before the Subcomm. on Surface Transportation of the House Comm. on Public Works and Transportation*, 97th Cong., 1st Sess. 3 (1981) (statement by U.S. Rep. Bud Shuster) [hereinafter cited as *Examining Transportation Needs*].
5. *See id.* at 9 (statement by former Secretary of Transportation Drew Lewis).
6. *See infra* note 10. The Interstate system carries about 19% of all the nation's highway traffic on only one percent of the mileage. CBO OPTIONS, *supra* note 3, at 3.
7. *See generally* CONG. BUDGET OFF., THE INTERSTATE HIGHWAY SYSTEM: ISSUES AND OPTIONS 6 (June 1982), which states that the typical Interstate highway is designed to last 20 years before requiring major rehabilitation work. Since construction on the Interstate system began in 1956, over 41% of the system has already reached this milestone, and 75% of the system should reach it by 1990.
8. CBO OPTIONS, *supra* note 3, at ix.
9. President's Remarks on Signing H.R. 6211 Into Law, *supra* note 2, at 19.

Office estimates that the expenditures necessary to maintain the Federal-Aid system[10] would total $27.7 billion a year over the next four years, with the estimated federal share being fifteen billion dollars annually and the state share almost thirteen billion dollars.[11] The situation gets worse and more expensive each year that we defer necessary expenditures.[12]

As a result, the principal need of the highway system has shifted in recent years from new construction to repair.[13] The period of rapid construction and expansion is over and the emphasis for the 1980's and 1990's has to be focused on the preservation and improvement of our existing highway system.[14] President Reagan's goal of a revitalized and reindustralized America[15] depends upon whether new methods of highway financing[16] are developed and implemented to address the crucial problem of deteriorating highways.

This note will first analyze the evolution of the Reagan Administration highway policy under his "New Federalism" program, the effect of the Surface Transportation Assistance Act of 1982[17] on prior highway policy, and the interrelationship between highways and other major federal budget areas. This note will then focus on the State of Indiana, and St. Joseph County and South Bend, Indiana, to examine their highway revenue sources, their reaction to the Reagan Administration's highway policy, and possible alternative highway financing sources for state and local governments.

THE REAGAN ADMINISTRATION'S NEW FEDERALISM HIGHWAY POLICY

It is no longer possible simply to identify needs and say the Federal

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10. The Federal-Aid system consists of five programs financed through federal and state matching funds derived from fuel and excise taxes. These five programs consist of: 260,000 bridges; over 40,000 miles of expressways in the Interstate network; 260,000 miles of major arterials in the Primary system; and 520,000 miles of collector-routes in rural areas (called the Secondary system) and in urban areas (called the Urban system). *See* CBO OPTIONS, *supra* note 3, at 3. *See also* U.S. DEP'T OF TRANSP., FEDERAL HIGHWAY AD., THE STORY OF THE FEDERAL-AID HIGHWAY PROGRAM-AMERICA ON THE MOVE (Jan. 1980) [hereinafter cited as AMERICA ON THE MOVE].
11. CBO OPTIONS, *supra* note 3, at 15. Over the next 15 years, the total costs of preventing further deterioration in the Primary, Secondary, and Urban systems are estimated at $53 billion, $60 billion, and $42 billion, respectively. *See* U.S. DEP'T OF TRANSP., FEDERAL HIGHWAY AD., THE STATUS OF THE NATION'S HIGHWAYS: CONDITIONS AND PERFORMANCE (Jan. 1980) (estimates adjusted for inflation).
12. *Examining Transportation Needs*, *supra* note 4, at 3. Since 1970, highway construction and maintenance costs have increased 145% and 105%, respectively, while revenues have gone up by only 60%. (Statement by U.S. Rep. Glenn Anderson).
13. CBO OPTIONS, *supra* note 3, at ix.
14. *Examining Transportation Needs*, *supra* note 4, at 4.
15. *See* President's Address Before a Joint Session of the Congress (Program for Economic Recovery), 17 WEEKLY COMP. PRES. DOC. 130 (Feb. 18, 1981).
16. *See generally* CBO OPTIONS, *supra* note 3, which examines three choices in highway finance policy: 1) continuation of current (1982) policy; 2) increased program levels; and 3) redirected federal role.
17. The Surface Transportation Assistance Act of 1982, Pub. L. No. 97-424, 96 Stat. 2097 (1983) (to be codified at scattered sections of 23 U.S.C.) [hereinafter cited as Transportation Act].

Government is going to fund them. Our current function is to identify needs, prioritize them, and reexamine for the first time in 40 years whether those needs should be more appropriately addressed with Federal, state, local or private funds.[18]

New Federalism[19] represents the Reagan Administration's answer to decaying highways.[20] In an effort to give local and state governments more flexibility and control,[21] the Administration determined which highway programs are of national importance[22] and which are of local or regional character. In the Federal-Aid Highway Program, completion[23] and preservation of the Interstate System commands the highest national interest.[24] In addition, the Administration has a strong federal interest in, and commitment to, the Primary System.[25] The Administration also proposed to continue the Bridge Replacement and Rehabilitation Program.[26]

On the other hand, the Administration proposed to consolidate, phase out, or eliminate other highway programs that meet primarily state and local needs. Under the Federal-Aid Highway Program, the Administration would phase out all federal aid to urban, rural, and secondary roads and turn the responsibility for them over to the states.[27] To make the transition more workable at the state level, the Administration would turn part of the funds saved by program curtailments back to the states.[28] If funds were not turned back to the states, the sudden end of federal assistance for Urban and Secondary routes would place strong financial pressures on many states until they were able to enact new user fees and programs of their own.[29]

18. *Examining Transportation Needs*, *supra* note 4, at 4 (statement by U.S. Rep. Bud Shuster).
19. Under the New Federalism concept, the Federal government would accept full responsibility for programs like Medicare and Medicaid in return for the states taking control over certain transportation programs as well as a variety of other programs.
20. Stanfield, *The New Federalism is Reagan's Answer to Decaying Highways, Transit Systems*, NAT'L J., June 12, 1982, at 1040-1044.
21. President's Address, *supra* note 15.
22. Highway programs of national interest are those consisting of roads that link activities in different states and that contribute to interstate commerce. CBO OPTIONS, *supra* note 3, at 27.
23. *See generally* CBO OPTIONS, *supra* note 3, at x and 14-15. Less than five percent (1,575 miles) of the Interstate Highway System remains uncompleted. Completion will cost the federal government a total of $32.6 billion (1982 dollars) by 1990, the scheduled completion date.
24. *Examining Transportation Needs*, *supra* note 4, at 9-10 (statement by former Secretary of Transportation Drew Lewis).
25. *Id.* Together, the Interstate and Primary Systems handle about 50% of the nation's yearly traffic but accounts for only eight percent of the route miles.
26. *Id.*
27. *Transportation Policy*, TRANSP. Q., Oct. 28-29, 1981, at 167.
28. CBO OPTIONS, *supra* note 3, at 27. Federal spending accounts for only 20% of total government spending on the Secondary and Urban systems. Although projects on these systems that are eligible for federal funds may receive at least 75% federal match, the states build many projects using 100% state funds. Because states carry the bulk of the burden for these systems, federal aid has relatively little influence on the total amounts spent.
29. *Id.* A non-funded transfer would place a significant burden on the states, since they would need to offset almost $2.6 billion a year in federal funds either by way of tax increases or by reduced spending on these roads.

THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

[W]e have no intention of dumping responsibilities on other levels of government without providing the resources to pay for them.[30]

On January 6, 1983, President Reagan signed H.R. 6211,[31] the Surface Transportation Assistance Act of 1982,[32] into law.[33] The new law, which took effect on April 1, 1983,[34] increases the federal gasoline tax[35] by five cents a gallon, from four cents to nine cents.[36] Funds derived from the increased tax will be used for highway[37] construction, rehabilitation, and preservation and for the nation's transit system.[38] As a side effect, the law will create an estimated 320,000 jobs[39] and added additional weeks to Federal Supplemental Compensation.[40]

Under the law, authorizations from the Highway Trust Fund will start at $12.1 billion in 1983 increasing to $14.5 billion by 1986.[41] Repair and reconstruction of the Interstate System receives the largest increase, from $800 million to $1.95 billion by 1984.[42] Primary system funding also increases from $1.5 billion in 1982 to $1.85 billion in 1983.[43] The Secondary system will receive a smaller increase to $650 million and remain at that level.[44] The Urban system, however, will be held at its 1982 $800 million level.[45] While the new law, like New Fed-

30. President's Remarks at the White House Briefing Before the National Association of Counties, 18 WEEKLY COMP. PRES. DOC. 213 (Mar. 1, 1982).
31. The bill, H.R. 6211, was proposed by President Reagan on Nov. 30 when he submitted a special message to Congress on Highway Construction. A modified version of the bill was introduced in the House as H.R. 7360. Subsequent to the introduction of H.R. 7360, the House passed H.R. 6211 after amending its language to contain the next of H.R. 7360, as amended. H.R. 6211 became Public Law 97-424 on Jan. 6, 1983. *Id.* at xix.
32. Transportation Act, *supra* note 17.
33. President's Remarks on Signing H.R. 6211 Into Law, *supra* note 2, at 18.
34. Transportation Act, *supra* note 17, § 511(h)(1). Note that other parts of the act took effect the day after enactment (Jan. 7, 1983) while others do not take effect until July 1, 1984.
35. Termed "user fee" by President Reagan. President's Remarks on Signing H.R. 6211 Into Law, *supra* note 2, at 19.
36. Transportation Act, *supra* note 17, § 511(a)(1). In addition, excise taxes on trucks, truck parts, tires, tread rubber, inner tubes, and heavy vehicles were increased.
37. Overall, the law will increase current spending from the Highway Trust Fund for highway programs by over 50% through an increase in highway user fees of $4.4 billion a year (equal to about four cents per gallon of motor fuel). CBO OPTIONS, *supra* note 3, at 26.
38. The law will raise an additional $1.1 billion per year to finance mass transit capital grants. This additional increase, equivalent to a further increase of one cent per gallon in the tax on motor fuels, represents a major change from past uses of highway user fees. *Id.*
39. The estimated 320,000 jobs includes: 170,000 in the construction industry and 150,000 "induced" by the construction. *See supra* note 34.
40. Transportation Act, *supra* note 17, § 544.
41. *Id.* § 302(a). The Highway Trust Fund, supported by gasoline and other excise taxes on such items as trucks, tires, inner tubes and lubricating oil, provides funding for the Federal-Aid Highway Programs. Total High-Trust Fund revenues are projected to increase by $2.2 billion in fiscal year 1983, $4.9 billion in 1984, $5.2 billion during each of the next two years, and $5.4 billion in each 1987 and 1988. STAFF OF JOINT COMM. ON TAXATION, 97TH CONG., 2ND SESS., SUMMARY DESCRIPTION OF HIGHWAY-RELATED REVENUE PROVISIONS OF THE HIGHWAY REVENUE ACT OF 1982 12 (1982).
42. Transportation Act, *supra* note 17, § 106.
43. *Id.* § 105(a)(1).
44. *Id.*
45. *Id.* § 105(a)(2).

eralism, emphasizes the Interstate and Primary systems, it does not adhere to the proposed phase out of the Secondary and Urban systems.

STATE AND LOCAL GOVERNMENT

> We are concerned that other programs, such as Secondary roads, are proposed for termination at the expense of pouring money into the Interstate. We don't like the fact that one program is being played off against another.[46]

Although the Surface Transportation Assistance Act of 1982[47] substantially increases federal highway funding, state spending on the Federal-Aid system is assumed to increase by fifty percent.[48] States, which also face impressive demands to maintain non-Federal-Aid system roads and bridges, have continually raised their highway use taxes[49] to match federal funds.[50] What steps states will take to match these new federal funds has yet to be determined. In previous years, however, states deferred maintenance, reduced highway personnel, and reduced construction projects that were totally state financed.[51] Capital outlays for construction at the State level fell dramatically, while maintenance spending increased slightly.

State

Indiana, like the majority of other states,[52] recently increased motor fuel taxes.[53] In June, 1981, the Indiana Legislature increased the state per gallon motor fuel taxes from 8.5¢ to 10.5¢.[54] Currently, the Administrative head of the Indiana Department of State Revenue has authority to fix a new state gasoline tax rate annually.[55] Beyond increased motor fuel taxes, the Indiana Legislature created a ten million dollar Distressed Road Fund in 1981.[56] This fund provides interest-free loans to ten southwestern Indiana counties suffering severe deficiencies in

46. Sarasohn, *Highway Plan Would Drop Aid to Some Major Programs*, CONG. Q. WEEKLY REP., Apr. 25, 1981, at 699 (quoting John Murphy, Associate Director of the National Association of Counties).
47. Transportation Act, *supra* note 17.
48. CBO OPTIONS, *supra* note 3, at 35.
49. Like Federal revenues, state highway user fees include such things as fuel taxes, license fees, registration fees, and other motor vehicles and carrier taxes. *See generally* U.S. DEP'T OF TRANSP., FEDERAL HIGHWAY AD., HIGHWAY STATISTICS 1980 (Dec. 18, 1981).
50. *See Examining Transportation Needs*, *supra* note 4, at 39-66 (statement by Henry Eschwege, Dir. Community and Economic Dev. Div., GAO).
51. *Id.*
52. *See* CBO OPTIONS, *supra* note 3, at 57-59. Thirty-four states, including Indiana, increased state fuel taxes since 1977.
53. Motor fuel taxes include excise taxes on gasoline, diesel fuel, and special motor fuels (e.g., benzol, benzene, etc.)
54. *See generally Highway Finance*, HIGHWAY EXTENSION AND RESEARCH PROJECT FOR INDIANA COUNTIES, June 1981 [hereinafter cited as *Highway Finance*].
55. IND. CODE ANN. § 6.6-1.1-201.5 (Burns Supp. 1982) (the current rate is 11.1¢ per gallon). *See also* CBO OPTIONS, *supra* note 3, at 57.
56. IND. CODE ANN. §§ 8-14-8-1 to 8-14-8-9 (Burns Supp. 1982). *See Highway Finance*, *supra* note 55.

their county road system.[57]

Prior to the enactment of the Surface Transportation Assistance Act of 1982,[58] Indiana's total highway budget had been expected to decline by 4.4% because of decreased federal funding.[59] The financial outlook, however, changed dramatically with the enactment of the Surface Transportation Assistance Act of 1982. Indiana came up the "big winner" from the five cents a gallon federal gasoline tax increase.[60] Indiana will receive $237 million in federal highway funds in 1983 compared to only $109 million in 1982.[61] These 1983 federal funds amount to a 116% increase over the previous year and the largest percentage increase of any state.[62]

Nevertheless, state matching money necessary to secure these increased federal funds will continue to draw money away from maintaining non-Federal-Aid system roads and bridges. The state, therefore, should continue to seek alternative highway financing methods. As with the federal government,[63] the major highway financing options for states include: 1) maintaining current policy; 2) increasing program levels; and 3) redirecting the states' role.

Maintaining current policy would be inadequate and foolish. Recognizing current financial pressures on state budgets and the need to maintain non-Federal-Aid highways, the increased federal funding fails to adequately meet state highway needs. Moreover, costly and inefficient deferral of currently needed repairs results from inadequate funding. The state could, on the other hand, increase highway funding by increasing the gasoline tax,[64] changing from a fixed to a variable gasoline tax rate,[65] increasing learners permit fees[66] and license fees.[67]

57. *Id.* The ten counties are: Crawford, Davies, Dubous, Gibson, Martin, Perry, Posey, Spencer, and Warrick.
58. Transportation Act, *supra* note 17.
59. Letter from John J. Hohman, Budget Services Manager, Indiana Dept. of Highways, to author (Oct. 22, 1982).
60. Indianapolis Star, Jan. 7, 1983, at 6, col. 1. States will receive an average 43% boost in highway construction money because of the five cents a gallon increase in the federal gasoline tax. Indianapolis Star, Dec. 31, 1982, at 4, col. 1.
61. *Id.* Indiana is scheduled to receive $265 million in federal construction monies in 1984, $281 million in 1985, and $299 million in 1986.
62. *Id.*
63. *See generally* CBO OPTIONS, *supra* note 3.
64. The District of Columbia and Nebraska both have variable tax rates and a current tax of 14¢ per gallon. Because of the federal gasoline tax increase, the Governor's Fiscal Policy Advisory Council did not recommend an increase in the State gasoline tax unless absolutely necessary to provide matching funds for the increased distribution levels of federal funds. GOVERNOR'S FISCAL POLICY ADVISORY COUNCIL REPORT, Richard B. DeMars, Chairman, Presented to Indiana Governor Robert D. Orr, Feb. 1983, at 8 [hereinafter cited as ADVISORY COUNCIL].
65. *See supra* note 65.
66. Indiana charges $2.00 for learners permits, IND. CODE ANN. § 9-1-4-42(a) (Burns Supp. 1982) while other states have charged as much as $15.00 (Maryland) and others have charged no fee at all (Arkansas, New Hampshire and Rhode Island). U. S. DEP'T OF TRANSP., FEDERAL HIGHWAY AD., HIGHWAY STATISTICS 1980 25 (Dec. 18, 1981).
67. Indiana charges $5.00 for a basic operator's license. IND. CODE ANN. § 9-1-4-42(a) (Burns Supp. 1982). Other states have charged as much as $21.50 (Pennsylvania) and as little as

A state could redirect its role in highway financing by delegating additional responsibility to cities, towns, and counties. Indiana could, for example, provide authority for cities, towns, and counties to levy up to a twenty-five cent property tax rate outside the controls[68] for roads, streets, and highways.[69] The revenue would be deposited directly in their highway or in their road and street fund.[70]

County

Despite the federal gasoline tax increase, St. Joseph County, Indiana does not expect any significant highway funding increase.[71] This is due to a variety of factors. First, due to new standards for designating and defining standard metropolitan statistical areas (SMSA),[72] the South Bend SMSA[73] can no longer include residents of the newly created Elkhart SMSA.[74] This becomes important for highway funding purposes because federal and state allocation formulas include population as a critical factor.[75] Second, St. Joseph County may lose its 1983 federal highway money for failing to meet the Clear Air Standards.[76] Third, Indiana counties are essentially restricted to gas tax revenues to fund highway programs.[77]

Nevertheless, a county has the option to use federal general revenue sharing funds to compensate for insufficient gasoline revenues. In recent years, St. Joseph County has used federal revenue sharing for its

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$2.50 (Wyoming). Fees also vary for licensing other classes of motor vehicles. *Id. See also* IND. CODE ANN. § 9-7-2-1 (Burns 1980) ($12.00 passenger motor vehicle registration fee).

68. Indiana has a property tax "freeze" limiting the rate local governments can increase property taxes. IND. CODE ANN. §§ 6-1.1-18-1 to 6-1.1-18-11 (Burns 1978 & Supp. 1982).
69. ADVISORY COUNCIL, *supra* note 65, at 16.
70. *Id.*
71. According to St. Joseph County Engineer Robert Richardson, the new highway funds will be "insignificant" compared to the need. South Bend Tribune, Jan. 21, 1983, at 15, cols. 1 & 2.
72. The standard metropolitan statistical area (SMSA) classification is a statistical standard, developed for use by Federal agencies in the production, analysis, and publication of data on metropolitan areas. Each SMSA has one or more central counties containing the area's main population concentration: an urbanized area with at least 50,000 inhabitants. U.S. DEP'T OF COMMERCE, BUREAU OF CENSUS, PUB. NO. PC 80-1-B16, 1980 CENSUS OF POPULATION: GENERAL POPULATION CHARACTERISTICS INDIANA, Appendix A.
73. The South Bend SMSA includes Marshall and St. Joseph counties. *Id.*, at Table 14.
74. Elkhart, consisting of Elkhart County, was one of 36 new SMSA's recognized for the 1980 census based on population counts. *Id. See also* U.S. DEP'T OF COMMERCE, BUREAU OF THE CENSUS, 1970 CENSUS OF HOUSING-HOUSING CHARACTERISTICS FOR STATES, CITIES AND COUNTIES: INDIANA, vol. 1, pt. 16.
75. *See* AMERICA ON THE MOVE, *supra* note 10. *See also Highway Finance*, *supra* note 55. Beyond population, motor vehicle registration, local tax effort, and per capita income factor into state and federal highway funding distribution formulas.
76. *See* 42 U.S.C.A. § 7407 (West Supp. 1981). *See also* Indianapolis Star, Jan. 7, 1983, at 6, col. 1. A total of 472 counties in 44 states stand to lose federal highway money in 1983 because of failure to comply with air polution standards.
77. *See* IND. CODE ANN. §§ 6.6-1.1-801 to 805; 8-1-17-1-13 to 14; 8-17-1-43; 8-17-11-9; and 8-18-8-5 (Burns 1973 & Supp. 1982).

highways.[78] Some local officials[79] feel that if a fiscal emergency develops, revenue sharing funds should first be used on highways rather than other programs such as welfare. They argue that non-current operating expenses for welfare can be funded through bonds. Indiana law, however, essentially limits highway financing to the gasoline tax and, perhaps, revenue sharing funds.[80] Given these limitations, alternative financing methods need to be found to supplement county road funds. One viable alternative for St. Joseph County involves adopting a county adjusted gross income tax.[81] Already thirty-eight of Indiana's ninety-two counties have adopted such an income tax with 1982 rates ranging from 0.75% to 1.0% of a taxpayer's adjusted gross income.[82]

Municipality

Indiana municipalities, such as South Bend, have the authority to fund urban highway needs through property taxes and discretionary federal revenue sharing funds. Indiana has had, however, a property tax "freeze" for the last decade limiting the overall rate of property tax increase.[83] Nevertheless, Indiana municipalities have been able to shift funds around under the overall freeze to fund needed road and street maintenance. Although little shifting occurred, South Bend has decreased park funds and police and fire pension funds in order to shift money into needed street programs.[84]

78.

YEAR	REVENUE SHARING FUNDS	AMOUNT USED FOR COUNTY HIGHWAYS
1981	$1,192,000	$408,000
1982	$1,305,000	$317,000
1983	$1,268,000	$400,000-$500,000

Interview with John Lentz, St. Joseph County Chief Deputy Auditor, in South Bend (Aug. 4, 1982).

79. *Id.* Interviews with St. Joseph County Commissioners Henry R. Ferrettie, Richard L. Larrison, and Richard D. Jasinski (Aug. 4, 1982).
80. *See supra* note 78.
81. IND. CODE ANN. §§ 6-3.5-1-1 to 12 (Burns Supp. 1982).
82. *Id.*
83. IND. CODE ANN. §§ 6-1.1-18-1 to 11 (Burns 1978 & Supp. 1982).
84. Interview with Sherrie Petz, South Bend Deputy Controller in South Bend (Oct. 20, 1982).

SOUTH BEND FUNDING SOURCES FOR STREET PROGRAMS

YEAR	STATE MOTOR VEHICLE HIGHWAY FUNDS	PROPERTY TAX	GENERAL REVENUE SHARING FUNDS
1981	$1,545,852	$ 62,733	$1,772,901
1982	$1,623,399*	$262,600	$1,570,000
1983	$1,837,400	$395,220**	$1,585,000*

* Estimated
** Budgeted: More is budgeted for FY 83 than previous years because the Motor Vehicle Highway Funding level is expected to be less.

See also Herbers, *Congress Survey Finds Cities Using Property Tax to Absorb Losses in Aid*, N.Y. Times, Oct. 17, 1982, at Y 12, col. 1.

As a result of the decreased park funds, the City of South Bend closed a children's zoo.[85] The City also allowed reductions, through attrition, in the fire department to shift money into needed street repair. In addition to shifting funds, the City has used revenue sharing to fund street programs.[86]

Whether fewer parks can be attributed to the Reagan Administration's highway policy, the Indiana state property tax freeze, or both remains an open question. Nevertheless, this illustrates that state and local government support for non-essential services will decrease in order to maintain the highway system.

INTERRELATIONSHIP

Greater state and local emphasis on essential programs like highways has serious implications on other "less essential" budget areas. While rising energy prices cause higher construction costs, they also stimulate vehicular fuel efficiency. As a result, revenues from motor fuels taxes level off at a time when highway construction and repair costs rapidly increase.[87] These financial pressures have forced not only the federal government but many states to defer highway repairs.[88]

Deferring needed repairs results in increased cost. The federal, state, and local governments thereby take money away from "non-essential" programs such as Medicaid, child care programs, housing, and community development. Without a viable highway system, community development is doomed to failure since industry will not be able to locate any community that lacks that fundamental prerequisite.

The Surface Transportation Assistance Act of 1982,[89] however, represents a major change from past uses of highway user fees with respect to mass transit.[90] For the first time, the Highway Trust Fund will finance mass transit capital grants. This illustrates a sensible national transportation policy where highways are no longer pitted against mass transit for federal funds.

CONCLUSION

Representing a shift from the Administration's New Federalism, the Surface Transportation Assistance Act of 1982[91] offers the greatest aid to state highway departments since it provides continued funding for Secondary and Urban roads. Indiana was the "big winner" from the increased federal gasoline tax. In the long-term, everyone will be a winner because good road conditions result in decreased vehicle main-

85. Later a private non-profit organization called Orphan Animal Care leased the Storyland Zoo from the City and currently uses it to house injured, lost, and unwanted animals.
86. In 1981, for example, approximately $400,000 was used for street programs. Petz Interview, *supra* note 85.
87. CBO OPTIONS, *supra* note 3, at 9.
88. *Id.*
89. Transportation Act, *supra* note 17.
90. CBO OPTIONS, *supra* note 3, at 26 n.2.
91. Transportation Act, *supra* note 17.

tenance costs, shorter travel time and distances, fewer accidents, and lower operating costs.[92]

We are all, likewise, losers. Beyond the five cents a gallon federal gasoline tax increase we will have to pay, we will indirectly pay for increased excise taxes on petroleum products, trucks and truck parts, tires, tubes, and tread rubber.[93] Heavy vehicle operators lose the most under the Surface Transportation Assistance Act of 1982 which replaced the prior tax rate of $3 per 1,000 pounds of taxable gross weight with a tax rate graduated according to taxable gross weight.[94] States also lose by drawing state funds away from non-Interstate System Highways and other budgetary needs to match federal highway funds. This, in turn, reduces state grants-in-aid for local roads and streets.

Nevertheless, it is clear the nation's highways must be maintained.[95]

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92. CBO OPTIONS, *supra* note 3, at 10.
93. Transportation Act, *supra* note 17, § 514. Heavy trucks are those with a gross weight of more than 33,000 pounds.
94. *Id.* § 512.
95. Examining Transportation Needs, *supra* note 4, at 2 (statement by Rep. Glenn M. Anderson, D-Cal.).

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