Approved 2-3-83
Date

MINUTES OF THE House COMMITTEE ON Transportation.

The meeting was called to order by Representative Rex Crowell at
Chairperson

1:35 ~~a.m.~~/p.m. on January 19, 1983 in room 519-S of the Capitol.

All members were present ~~except~~

Committee staff present:
Hank Avila, Legislative Research Department
Fred Carman, Office of the Revisor of Statutes
Pam Somerville, Committee Secretary

Conferees appearing before the committee:
Secretary John Kemp, Kansas Department of Transportation
Michael O'Keefe, Director, Division of Planning and Development, Kansas Department of Transportation

Others present: See Attachment 1.

Chairman Crowell opened the meeting by distributing the Agenda for next week. Additional handouts were distributed including (1) Battle-Weary Senate Clears Highway-Public Transit Bill Raising Fuel and Truck Taxes, Congressional Quarterly, provided by Hank Avila for informational purposes; (2) Funding the Nation's Highways, Kansas Good Roads Association; and (3) several tables depicting authorizations of the Highway Improvement Act of 1982, and the Highway Safety Act of 1982, Highway Users Federation, (Attachments 2, 3, and 4, respectively).

Secretary Kemp was introduced and gave a presentation on the Governor's Highway Finance Proposal. Secretary Kemp reviewed a handout entitled Governor's Budget Recommenation, Supplemental Explanation: State and Local Highway Funding (See Attachment 5).

The briefing then turned to a more detailed discussion of the Freeway Program Transfer for which another handout was provided. (See Attachment 6)

Questions began with the Chairman asking Secretary Kemp to explain the difference between the Freeway Fund and the Freeway Construction Fund. Secretary Kemp explained that the Freeway Construction Fund was created by the sale of bonds and the Freeway Fund was created to meet the debt service for the Freeway Construction Fund. Once the debt service requirement is met, 69.23% of those funds then flow to the Highway Fund. Chairman Crowell asked how monies in the Freeway Fund get transferred over to Freeway Construction projects such as the candidate projects. Secretary Kemp responded that monies in the Freeway Fund can be expended for projects on the freeway system after the debt service is met.

The Chairman then asked whether the only restriction on the freeway fund was that it be adequate to meet debt service and if the freeway fund were not adequate what is then obligated. Secretary Kemp explained that the motor fuel tax is the source of revenue to insure funds are available for debt service obligation.

Rep. Charlton asked Secretary Kemp how much revenue would be generated by a 2-3¢/gallon motor fuel tax increase. Sec. Kemp replied that it would generate approximately $14.07 million per cent.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

The discussion then turned to the Governor's Proposal with questions by the Chairman and other committee members as to what the Governor wanted and would he consider a tax package. Secretary Kemp chose to be noncommittal stating he did not have the authority to speak for the governor and was not a budget analyst. However, he said he would speak with the Governor, serve as an intermediary and present any package the committee presented.

Secretary Kemp then presented the Excess Right of Way Report (Attachment 7). No questions were directed to Secretary Kemp regarding the report. The meeting was adjourned at 2:45 pm

Rex Crowell

Rex Crowell, Chairman

GUEST LIST

COMMITTEE: Transportation DATE: 1-19-83

PLEASE PRINT

NAME	ADDRESS	COMPANY/ORGANIZATION
John D McNeal	Topeka	self
Merle Hill	Topeka	KS Good Roads Assn.
Dan Ramlow	"	KS. Contractors Assn.
JIM SULLINS	TOPEKA	KS. MOTOR CAR DEALERS ASSN.
Marilyn Hinchee	"	Ks Good Roads Assn
Michael C. Germann	"	Ks Railroad Association
Bill Reece	SCANDIA	self
Dale Busby	Concordia Ks	Intern/Rep B. Fuller
Mary Ellen Conlee	Wichita	City of Wichita
Steven C Montgomery	S.O.B.	Dept. of Rev.
Tom Whitaker	TOPEKA	Ks Motor Carriers Assn.
CHARLES ANDERSON	LAWRENCE	KANSAS U.
Charles Nicolay	Topeka	Ks Oil Marketers Ass'n
George Barbee	Topeka	Ks Consulting Engrs.
S. D. [illegible]	Topeka	AFSCME
Pat Hubbell	Topeka	KS. RR ASSN.
SCOTT LAMBERS	CITY OF OVERLAND PARK	CITY OF OVERLAND PARK
Mary Turkington	Topeka	Kans. Motor Carriers Assn.
DAVID FURNAS	Wichita	Chamber of Commerce
Jim Edwards	Topeka	KACI

Transportation Committee
January 19, 1983

Others present:

John D. McNeal, Topeka, Kansas
Merle Hill, Kansas Good Roads Association
Dan Ramlow, Kansas Contractors Association
Jim Sullins, Kansas Motor Car Dealers Association
Marilyn Heineken, Kansas Good Roads Association
Michael C. Germann, Kansas Railroad Association
Bill Reece, Scandia
Dale Busby, Intern, Representative Bill Fuller
Mary Ellen Corlee, City of Wichita
Steven C. Montgomery, Department of Revenue
Tom Whitaker, Kansas Motor Carriers Association
Charles Anderson, Kansas University
Charles Nicolay, Kansas Oil Marketers Association
George Barbee, Kansas Consulting Engineers
S. D. Balhn, AFS CME
Pat Hubbell, Kansas Railroad Association
Scott Lambers, City of Overland Park
Mary Turkington, Kansas Motor Carriers Association
David Furnas, Chamber of Commerce, Wichita
Jim Edwards, Kansas Association of Commerce and Industry

Attachment 1

Anti-Recession Jobs Measure:

Battle-Weary Senate Clears Highway-Public Transit Bill Raising Fuel and Truck Taxes

A battle-weary and bitter Senate cleared legislation Dec. 23 authorizing more than $71 billion for highway construction, road repairs and mass transit, and increasing the gasoline tax by a nickel a gallon.

The bill (HR 6211) was sent to President Reagan after the Senate adopted the conference report (H Rept 97-987) by a vote of 54-33. Twenty Democrats joined the Republicans in clearing the bill.

The House Dec. 21 had adopted the conference report 180-87 and adjourned. The compromise was approved by House and Senate conferees earlier that day. *(Vote 459, p. 3126)*

Senate action, however, continued to be delayed by filibusters by conservative Republicans who opposed the tax increase. The Senate invoked cloture for a final time Dec. 23 by a vote of 81-5, and adopted the conference report.

By then, the delaying tactics that had forced weekend and early morning sessions over the two-week period the Senate considered the legislation had left tempers frayed. *(Story, p. 3087)*

The frustration and anger was expressed by S. I. "Sam" Hayakawa, R-Calif., to John P. East, R-N.C, as East filibustered during the Dec. 18 session.

"Does the senator from North Carolina believe that his own wisdom is so great that no opinions on this matter on this floor matter but his own.... Why does he demean himself by associating himself with clods and peasants and idiots like us?" Hayakawa said.

Opponents contended they had a responsibility to fight what they called bad legislation. "I know that tempers of senators under the circumstances have been frayed, but I hope upon reflection during the holiday season they realize that on some future occasions they may be in the same position," said Jesse Helms, R-N.C., who spearheaded the opposition.

The bill was a bipartisan effort to repair the nation's deteriorating roads and transit systems, finish the Interstate Highway System and provide jobs for some of the 12 million unemployed Americans. Supporters said it would create more than 300,000 jobs.

While Reagan insisted that the measure was not a jobs bill, he supported it at the urging of Transportation Secretary Drew Lewis as a vitally needed start in repairing the country's crumbling transportation infrastructure. He opposed other jobs-creation measures. *(Story, p. 3092; Weekly Report pp. 2871, 2875, 2914)*

The increase in the gasoline tax to a total of 9-cents-a-gallon is expected to raise $5.5 billion a year in additional revenues. The truck taxes were changed to increase the levies on the heavier vehicles, which administration officials say do not pay their share of the cost of highway damage, and to lower the burden on lighter trucks.

Although the bill allowed for bigger and heavier trucks on the highways to offset the cost of the tax increases, the trucking industry lobbied intensely against the measure. Trucking officials contended that some companies will go out of business because of the new tax burden. The American Trucking Associations said it would try to seek relief from Congress next year.

Agreement

The House-passed bill authorized $71.3 billion over four years for highways and transit systems. The Senate version authorized $70.4 billion over five years for highways and $12.3 billion over three years for transit.

The bill, as cleared, authorized $53.6 billion for fiscal 1983-1986 to complete the Interstate Highway System and make major highway and bridge repairs.

A non-specified amount also was authorized to ensure that each state receive at least 85 percent of the

House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., (left) and Senate Finance Committee Chairman Robert Dole, R-Kan., during conference negotiations on the highway/gas tax bill.

—*By Judy Sarasohn*

ATTACHMENT 2

highway tax revenues in federal highway apportionments that its motorists pay.

That provision, along with allowing states to defer the payment of the local share of highway funding, helped deflect opposition from the states.

The legislation set a $12.1 billion ceiling on obligations from the Highway Trust Fund for highway construction and related programs for fiscal 1983, increasing to $14.45 billion in fiscal 1986. The trust fund is comprised of highway taxes.

Although billed as a highway and transit repair measure, the bill authorized $4 billion annually for new Interstate Highway construction in fiscal 1984-1987.

Conferees bogged down over the insistence by House members that the formula for allocating funds for Primary Highways — major urban and rural roads — be based on population.

The House formula would have favored the urbanized Eastern states and California, at the expense of the large but sparsely populated Western states. The conferees adopted a compromise that administration officials said leaned toward the Western states by allowing factors based on land area and highway miles to be considered.

Administration officials said rural states also benefited from the conferees' decision not to accept the House changes in the formula for allocating major repair monies for the Interstates. The House had wanted to focus on car and truck use, which would have benefited the urbanized states. The existing formula is based on traffic and lane miles.

In addition, the measure authorized $17.76 billion for mass transit systems in fiscal 1983-1986 and created a new block grant program for capital and operating expenses.

While the funds available for transit subsidies were cut by 20 percent from the fiscal 1982 level for the largest cities, Congress did not allow the even deeper cuts sought by the administration.

The bill provided for 1-cent-per-gallon of the gas tax increase to be funneled to mass transit, the first major diversion of Trust Fund monies to public transportation systems.

It also hiked the highway use taxes of heavy trucks. The maximum tax for an 80,000-pound truck would increase from $240 a year to $1,600, July 1, 1984. The tax would hit $1,900 July 1, 1988.

The administration had called for a maximum tax of $2,700. The House bill provided for a maximum levy of $2,000, while the Senate version set a limit of $1,200.

In addition to the highway provisions, the bill appropriated $475 million from the Airport and Airway Trust Fund balance, along with earlier appropriations, for airport development projects in fiscal 1983-1985. And it mandated the spending of another $400 million from various trust funds for forest development, state boating safety programs and fisheries development. *(Weekly Report p. 2046)*

Opposition

The House had passed its version of the bill Dec. 7, but quick Senate action was delayed by the series of filibusters and by a host of amendments by senators who would eventually support the bill. *(Weekly Report pp. 2991, 3047)*

When the Senate first began consideration of the legislation Dec. 10, GOP leaders expected the most in-

Sen. Jesse Helms

transigent opposition would come from Helms, Gordon J. Humphrey, R-N.H., and Don Nickles, R-Okla.

East took on the battle Dec. 18 in an unusual Saturday session. He argued that while the bill might create new jobs in the construction industry, the tax increases would cost jobs in other fields. He called it a "jobs transfer bill."

In their efforts to win their own way, both opponents and supporters of the legislation held up action on the continuing resolution (H J Res 631) to appropriate funds for the government.

Majority Leader Howard H. Baker Jr., R-Tenn., saying he was determined to keep the Senate in session to act on the bill, delayed consideration of the resolution at one point. He was forced, however, to proceed to the resolution late in the evening, Dec. 16. Funding for much of the government expired midnight Dec. 17. *(Story, p. 3092)*

Then on Dec. 18, East delayed passage of the continuing resolution to prevent the Senate from finishing that bill and going to the road measure.

East contended that he was not obstructing the orderly consideration of business. He said the Senate had failed to invoke cloture on the bill Dec. 16, and thus should not return to the issue. *(Weekly Report p. 3048)*

"I refuse, Mr. President, to let it be implied that in some way or another, I am the one who has been dilatory, that I am the one who is obstructing," he said.

By a vote of 89-5, the Senate Dec. 19 invoked cloture on Baker's substitute amendment to HR 6211, which packaged legislation approved by the Finance, Environment and Public Works, Banking and Commerce committees. The original HR 6211, as reported by the Finance Committee, included only the tax provisions. *(Vote 252, p. 3124)*

In a Dec. 20 session that extended beyond midnight, the Senate by a vote of 71-24 adopted the Baker substitute as amended. *(Vote 457, p. 3125)*

Senate leaders said 400 amendments had been filed on the Baker substitute. But time ran out on most of them because of the limits set by cloture rules and unanimous consent agreements.

One of the major amendments lost in the crunch was one by Banking Committee Chairman Jake Garn, R-Utah, that would have made further cuts in mass transit operating subsidies. Transportation Department officials had said that the deeper cuts were necessary to avoid a presidential veto, but, in the end, they said they were satisfied with the bill.

Garn withdrew his amendment Dec. 20, in exchange for an agreement by Bill Bradley, D-N.J., to drop an amendment that would have modified penalties for transit systems using certain federal funds for operating costs.

"This late in the lame-duck session, it is far more important that we have a mass transit bill than to lose it at this point," Garn said.

Other amendments considered by

could use up to 90 percent of the 1982 level; and cities under 200,000 could use up to 95 percent. Cities could use some of the capital funds for operating expenses under limited circumstances.

Taxes

- Increased the federal 4-cents-a-gallon fuel tax to 9-cents-a-gallon for gas, diesel fuel and motorboat fuel. The tax would be effective from April 1, 1983, through Sept. 30, 1988.
- Exempted gasohol, a mixture of alcohol and gasoline, from 5-cents-a-gallon of the tax.
- Exempted state and local governments, private buses and farm vehicles from the gas tax. HR 6211 continued the 4-cents-a-gallon exemption for taxis through Sept. 30, 1984.
- Repealed taxes on lubricating oil, truck parts and tread rubber.
- Set a 12 percent tax on the retail sale price of trucks over 33,000 pounds and truck trailers over 26,000 pounds, effective April 1, 1983. The tax under existing law was 10 percent of manufacturer's sale price for trucks and trailers over 10,000 pounds.
- Set new graduated road use taxes for trucks, generally effective July 1, 1984, through June 30, 1988. The maximum tax for 80,000-pound trucks was increased from $240 to $1,600 July 1, 1984; $1,700, July 1, 1986; $1,800, July 1, 1987; and $1,900, July 1, 1988.
- Set higher, graduated taxes for tires over 40 pounds, exempting most passenger car tires.
- Extended authority for the Highway Trust Fund through Sept. 30, 1988, from Sept. 30, 1984.
- Created an account in the trust fund for monies from 1 cent of the fuel tax hike for transit capital projects.
- Allowed certain tax deductions for business conventions held on U.S. cruise ships, as long as they stopped at U.S. ports or those of U.S. possessions. The deduction was limited to $2,000 for most individuals and $1,000 for a married individual filing a separate return. *(Weekly Report p. 3082)*
- Forgave three California utility companies of over $2 billion in tax liability, which they are required to pass on to consumers. The measure, resulting from a California court case, was bogged down earlier this year because of controversy over unrelated provisions, not in the highway bill, to shorten the required holding period for special capital gains tax treatment. *(Weekly Report pp. 2853, 2620)* ∎

Maritime Authorization:

Ship-Buying Aid Founders In Waning Days of Session

Legislation that would have allowed U.S.-flag ship operators to buy foreign vessels without losing their federal operating subsidies died because Congress was unable to clear it before the lame-duck session ended.

Sen. Howard M. Metzenbaum, D-Ohio, blocked consideration of a compromise (S 2336 — H Rept 97-961) approved by Senate and House conferees because he opposed providing operating subsidies to companies that buy foreign-built ships.

The House adjourned Dec. 21 without acting on the conference report, which had been filed Dec. 13, because the Senate was required to accept the report first. The Senate had passed its bill June 24, and the House had approved its version of the measure Sept. 28. *(House action, Weekly Report p. 2443; Senate, Weekly Report p. 1590)*

Temporary Program Stops

The lack of a new law leaves U.S.-flag operators without construction subsidies to acquire U.S.-built ships or to buy foreign ships, without losing their operating subsidies.

The domestic construction subsidies were eliminated in 1981 in the budget reconciliation act (PL 97-35). The act also established a temporary program allowing U.S. companies to buy foreign vessels or ships rebuilt in foreign yards and continue to receive federal operating subsidies. *(1981 Almanac p. 570)*

Prior to the 1981 change in law, ships had to be built in domestic yards to qualify for operating subsidies.

Congressional staffers said the old law effectively meant that an American company accepting operating subsidies had to own only American-built ships.

The subsidies were intended to help U.S.-flag companies and yards to compete with foreign operators and shipbuilders.

The Senate bill extended the buy-foreign provision for fiscal 1983, while the House bill did not change the law.

A Senate Commerce Committee aide said the panel likely will take up new legislation early next year.

Operating subsidies for domestically built ships will continue, however. The $454.01 million in operating subsidies authorized by the bill was included in the continuing appropriations resolution (H J Res 631). *(Story p. 3092)*

Conference Agreement

The conference agreement authorized $572.423 million in fiscal 1983 for maritime programs, the same as provided by the House bill and $30.6 million more than requested by President Reagan. The Senate bill authorized $541.8 million.

As approved by the conferees, the compromise would have:

- Authorized $454.01 million for operating subsidies.
- Authorized $15.3 million for research and development.
- Authorized $78.1 million for operations and training, including $17.3 million for the U.S. Merchant Marine Academy at Kings Point, N.Y., and $17.8 million for state maritime academies.
- Authorized $25 million for the acquisition of three ships for the National Defense Reserve Fleet. Under this program, the administration acquires obsolete commercial vessels from companies for the fleet in exchange for a credit against the construction or purchase of a new U.S. vessel.
- Allowed U.S.-flag ship operators to build, reconstruct or acquire ships outside the United States until Oct. 1, 1983 and be able to receive operating subsidies.

The compromise did not include a Senate provision that would have allowed the operators to benefit from a tax deferral program now allowed only for American-built ships.

- Limited the administration's authority to deny or defer requests for construction loan guarantees that meet the legislated criteria of existing law.
- Required annual authorizations for the Federal Maritime Commission beginning in fiscal 1984. ∎

—By Judy Sarasohn

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820 QUINCY, SUITE 512
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To: Newly-elected Representatives

From: Merle Hill

Re: Funding The Nation's Highways

Date: December 20, 1982

In an earlier letter to you I indicated that I would prepare for you some background information on highway funding. The enclosed booklet contains a lot of information you will be able to use in the up-coming legislative session when funding for Kansas highways and bridges is discussed in committee and/or debated on the floor of the House.

Some things you will want to commit to memory, perhaps, are the following:

- The Kansas gas tax per gallon is 8¢. It was last increased in 1976.
- Forty states have a higher gas tax per gallon than does Kansas. The national average is 11.01¢ per gallon, as of July 1, 1982.
- The gas tax per gallon amounts to 50.02% of highway revenue in Kansas.
- Vehicle registration fees have not increased since 1973.
- Vehicle registration fees amount to 42.48% of highway revenue in Kansas.
- The proposed 5¢ federal gas tax increase makes it even more imperative for the Kansas legislature to provide more adequate highway funding NOW. If Kansas cannot match the federal funds with revenue of its own, the state will lose the federal funds.

ATTACH 3

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FUNDING THE NATION'S HIGHWAYS

AN OVERVIEW

PREPARED FOR NEWLY-ELECTED MEMBERS OF

THE KANSAS HOUSE OF REPRESENTATIVES

MERLE HILL, PRESIDENT

KANSAS GOOD ROADS ASSOCIATION

DECEMBER, 1982

KANSAS
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FUNDING THE NATION'S HIGHWAYS

FEDERAL HIGHWAY-FUNDING METHODS

The various states rely heavily on the federal government to meet highway needs. Federal funding for roads and bridges comes from the Federal Highway Trust Fund which was established by the Highway Revenue Act of 1956.

Trust Fund revenues are generated by a number of highway-user fees, including:

- A 4¢-per-gallon tax on gasoline, diesel and special fuels used in highway vehicles.
- A 2¢-per-gallon tax on diesel fuel for highway vehicles not registered and not required to be registered for highway use (farm vehicles, for example).
- A 10¢-per-pound fee on highway tires and innertubes.
- A 5¢-per-pound fee on non-highway tires and tread rubber.
- A 10¢-per-pound fee on new trucks, buses and trailers over 10,000 pounds in gross weight.
- An 8% fee on truck parts and accessories.
- A 6¢-per-gallon fee on lubricating oil used in highways and the annual-use tax of $3.00 per 1,000 pounds on vehicles of more than 26,000 pounds gross weight.

In 1959, revenues from the motor fuel tax amounted to 79% of all the funds collected by the Highway Trust Fund. By 1980, however, motor fuel taxes amounted to only 58% of the Highway Trust Fund's total revenue. Fuel-efficient vehicles and changing driving habits have eroded this highway funding source.

STATE HIGHWAY FUNDING METHODS

States fund their highways in a variety of ways. (There are no federal highways.)

- Cents-per-gallon motor fuel taxes: The most traditional funding mechanism is a cents-per-gallon user fee on the sale of gasoline and diesel fuel. This rate needs to be adjusted continually by a legislature to allow revenues to keep pace with inflation.

  The increases in Kansas have not kept up with inflation, as the table below shows:

Year	Average Cost of Gasoline	Tax Per Gallon	Percentage
1925	22.2¢	2¢	9.01%
1929	21.4¢	3¢	14.02%
1936	19.5¢	4¢	20.51%
1949	26.8¢	5¢	18.66%
1969	35.1¢	7¢	19.94%
1976	65.2¢	8¢	12.23%
1982	$1.28	8¢	6.25%

  Even if the Kansas motor fuel tax were 14¢ per gallon, as is the case in Nebraska, Kansans would still be paying a smaller percentage of the cost of gasoline than they were in 1976, the last time the motor fuel tax was increased by the Kansas Legislature (1976: 8¢/65.2¢ = 12.23%; 14¢/$1.28 = 10.94%.)

- Variable motor fuel taxes: Looking for a solution to the traditional, fixed, cents-per-gallon motor fuel tax, eight states have opted for a variable or percentage motor fuel tax that adjusts automatically to several possible variables.

  When first introduced, the variable tax was considered an acceptable alternative to the traditional cents-per-gallon tax. Changes in motor fuel consumption and in price, however, have clouded the variable-tax picture.

  As fuel consumption continued sliding at record rates, about 6% nation-wide last year, fuel prices have dropped and moderated. The taxing method that was to assure a steady increase in revenues, in several states, is now doing just the reverse.

  The states using a variable tax are: Ohio, Indiana, Rhode Island, Washington, Kentucky, Massachusetts, Nebraska and New Mexico.

  The Ohio tax plan appears to be the most innovative and creative variable tax on the books. The tax takes into account drops in motor fuel consumption as well as inflationary effects on the highway industry.

oo The Ohio Plan: Effective July 1, 1982, the Ohio law set motor fuel taxes based on a formula that takes into account the following:

- o Gasoline consumption for fiscal year 1975 against consumption for fiscal years 1980, 1981 and 1982.

- o The Federal Highway Maintenance and Operations Index in fiscal years 1980, 1981 and 1982 in comparison to the index for 1975.

The Ohio formula is calculated once each year for three years. It resulted in an immediate increase of 3.3¢ per gallon the day it went into effect. In 1982, the tax was increased another 1.4¢ per gallon.

There is a 5¢-per-gallon ceiling on increases for the 3-year period. As of July, 1982, the total tax increases under this plan amounted to 4.7¢.

- o Sales tax: Nine states obtain some benefits of a variable tax by applying existing state sales taxes (from which motor fuel is usually exempted as it is in Kansas) to the wholesale or retail price of gasoline. In states where the public has been "promised" no tax increases, this approach is politically and publicly more palatable since it "removes an exemption" from an existing sales tax rather than "adding a new tax" or increasing an existing tax.

  According to a survey of state and District of Columbia highway departments, however, sales taxes collected on gasoline and diesel fuel rarely go directly to fund road work. Only Georgia has a permanent dedication of its motor fuel sales tax revenues to roads; Hawaii is dedicating its sales tax revenue only until 1984; partial dedication of motor fuel sales taxes exists in Illinois, Michigan and Mississippi; and North Dakota dedicates a sales tax on home heating oil, agricultural diesel, industrial and railroad fuel to its highway fund. The other states charging a sales tax on motor fuel allow those revenues to flow directly into the states' general funds. Road users in these states have no assurance that this portion of their motor fuel taxes will be used to maintain and upgrade the road networks.

  States collecting this sales tax are:

o California	6%
o Illinois	5%
o Mississippi	5%
o Hawaii	4%
o Indiana	4%
o Michigan	4%
o New York	4%
o Georgia	3%
o North Dakota	2%

- o Tolls: One of the oldest methods of funding highway construction and upkeep is through tolls. On public roadways, traditionally, tolls have been collected to repay outstanding loans used to construct the highway or bridges. Some states have continued toll collection after original construction loans have been paid.

  The toll revenue from the Kansas Turnpike is not considered a part of the

Kansas Department of Transportation's budget, since toll revenues are strictly dedicated to funding the needs of the Turnpike.

Wisconsin, South Carolina, Maine, Pennsylvania and New Jersey are all studying ways to make greater use of tolls for highway and bridge maintenance; South Carolina is considering imposing tolls on bridges; Maine passed a law in 1982 that allows $4.7 million from the Maine Turnpike to go toward maintaining other roads in the state; New Jersey is studying a measure similar to the one in Maine; Pennsylvania is studying how tolls could be used most effectively to raise funds for road repairs; and Wisconsin is conducting a major study on imposing tolls on its Interstate highways.

- General funds: Twenty-two states will receive some revenue from their general funds this year to supplement the highway monies generated from user fees. Unless these funds are permanently dedicated to maintain roads and bridges, however, the allocations of general fund revenues require annual legislative action.

  Since road and bridge construction and repair programs are generally long-range projects, an annual request for general funds often fails to provide the stable and predictable revenue source necessary, and relying on money from the general fund would probably necessitate an increase in other taxes.

  Not many states have looked to their general funds to provide a permanent source of road financing. An exception to this is Budget Indexing.

- Budget indexing: This method is used most frequently when a state legislature agrees to satisfy specific needs over a period of time. Several states use this method.

  In Texas, for example, the legislature identified highway construction needs for a twenty-year period and agreed to fund them. It uses an existing Tax Clearance Fund to make up the shortfall between the cost of each year's highway work and the revenues from dedicated highway-user fees.

  Each year, the Texas highway department's budget includes an estimate for the cost of the highway program, adjusted for inflation. At the end of the year, the actual cost of the program is calculated and the difference made up by general fund revenues through the Tax Clearance Fund.

- License and registration fees: In Kansas in 1981, vehicle registration fees accounted for 42% of gross highway fund revenues. The following table gives the sources of income for the highway fund:

Source	Revenue	Percent of Total
Motor Fuel Tax (Freeway Fund)	$17,425,000	11.15%
Motor Fuel Tax (Highway Fund)	$61,490,000	39.33%
Vehicle Registration Fees	$65,702,000	42.02%
Miscellaneous Fees	$ 8,958,000	5.73%

o License and registration fees - (Cont'd)

Source	Revenue	Percent of Total
Drivers License Fees	$ 2,407,000	1.54%
Special Fees	$ 365,000	.23%
Total	$156,347,000	100.00%

Since most fees are set at a flat rate, they are not proportional to highway use unless they consider the weight of the vehicle and the mileage driven (i.e., weight-distance taxes and ton-mile taxes).*

* The American Trucking Association, Inc. suggests that the "ton-mile theory is unrelated to road construction or maintenance cost. Neither the required thickness or the cost of the surfacing or maintenance vary directly with vehicle gross weight... The Cost Allocation Study submitted to the Congress in 1965 found that more than 80 percent of the total federal highway expenditures were not related to the weight of the vehicles using the road. The ton-mile tax disregards the fact that many construction costs such as purchase of right-of-way, drainage, landscaping, etc., are not related to weight at all." ("The Truth About Ton-Mile Taxes: A Record of Failure," American Trucking Association, Inc., July, 1981)

o Franchise taxes: A franchise or excise tax is a direct tax on the oil companies in the state. Three states (Virginia, Rhode Island and Pennsylvania) have enacted franchise taxes.

Virginia passed a 3% oil company excise tax in 1982 and expects to receive $131.5 million in new revenue for fiscal year 1982-85. Rhode Island passed a 1% tax on oil company gross profits and dedicated 6% of the revenues from this tax for highway repairs. Pennsylvania has opted for a 3.5% franchise tax on receipts of oil companies doing business in the state.

Although some critics have labeled taxing oil companies rather than taxing citizens as being politically expedient, oil companies quickly passed their additional costs on to consumers by boosting motor fuel prices at the retail level by an average of 4¢ per gallon.

o Severance taxes: These taxes, imposed on producers of coal, natural gas, minerals, petroleum, timber, etc., are levied in 31 states. The tax is levied as "compensation" for natural resources removed from the state's land or waterways.

These taxes are aften not considered as potential sources for revenue to road and bridge needs because they are not strictly user fees, and the amounts generated are unpredictable.

In 26 states the severance tax revenues go into the general funds. The other 5 states dedicate a portion of their severance tax revenues to roads, but the revenue is generally restricted to maintaining roads used in extracting and hauling the products.

- o <u>Energy road taxes</u>: An energy road tax is levied against energy producers, especially coal producers, whose heavy trucks haul the energy materials to utility plants or rail stations. Although no state now imposes such a tax, several states are studying the concept.

- o <u>Bonding</u>: Some states are now using bonds to finance their road and bridge needs. Missouri recently passed a bond issue granting approximately $18 million for roads, and Washington passed a bill making bonding authority available for Interstate construction prior to receipt of federal funds. Many states consider bonding to be the only source of funds for major new construction or reconstruction.

- o <u>Lottery or gambling taxes</u>: Some states are studying the feasibility of having portions of lottery proceedings or gambling taxes to aid the funding of highways.

- o <u>Alternative-fuel tax breaks</u>: Twenty-eight states now offer some kind of tax advantage to users of gasohol. These tax reductions and, in some cases, total tax exemptions have been designed to encourage the use of gasohol by reducing its cost at the pump.

  The results can be devastating to state transportation programs, however. Iowa, after exempting gasohol from its state motor fuel tax, lost more than $14 million in revenue in 1980 to gasohol sales. Iowa is currently phasing out its tax reduction for gasohol and now taxes it at 8¢ per gallon.

  The highest gasohol tax break is in Arkansas (9.5¢ per gallon), and the lowest is in Connecticut (1¢ per gallon). The <u>Kansas</u> tax break for gasohol <u>was 3¢ per gallon less</u>, became 2¢ on July 1, 1982, becomes 1¢ on July 1, 1983 and is eliminated after June 30, 1984.

Table I

AUTHORIZATIONS

HIGHWAY IMPROVEMENT ACT OF 1982, HIGHWAY SAFETY ACT OF 1982

(covering Fiscal Years 1983-1986)

(millions of dollars)

HIGHWAY DEVELOPMENT	FY 1982		FY 1983	FY 1984	FY 1985	FY 1986	Four-year Total
	HTF	GF					
Interstate Construction 1/	$ 3,241		$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 16,000
Interstate 4R 1/	800		1,950	2,400	2,800	3,150	10,300
Primary System	1,500		1,850	2,100	2,300	2,450	8,700
Secondary (Rural)	400		650	650	650	650	2,600
Urban System	800		800	800	800	800	3,200
Interstate Substitute Highways		437	775 2/	700	700	725	2,900 2/
Emergency Relief	100		100	100	100	100	400
Forest Highways	33		50	50	50	50	200
Public Lands Highways	16		50	50	50	50	200
Parkways and Park Highways		75	75	100	100	100	375
Indian Reservation Roads		83	75	100	100	100	375
Demonstration Projects	67	33	224	131	157	75	587
By-Pass Highway Demonstration			55 3/				55
Econ. Growth Center Dev. Hwys	50		11 4/				11
Great River Road	25	10	5 5/				5
Minimum Allocations to states			(As needed to return at least 85 % of taxes collected)				
Other Categorical Programs	10	419					
TOTAL FISCAL YEAR AUTHORIZATIONS HIGHWAY DEVELOPMENT	$ 7,042	$ 1,057	$ 10,670	$ 11,181	$ 11,807	$ 12,250	$ 45,908

ATTACHMENT (5)

Highway Users Federation
FOR SAFETY AND MOBILITY
1776 Massachusetts Avenue, N.W.
Washington D.C. 20036

Table 1 continued on reverse.

Atch. 4

HIGHWAY SAFETY

	FY 1982 HTF	FY 1982 GF	FY 1983	FY 1984	FY 1985	FY 1986	Four-year Total
State & Community Grants							
NHTSA	$ 100		$ 100 5/	$ 100 5/	$ 100	$ 100	$ 400
FHWA	10		10 5/	10 5/	10	10	40
Research & Development Grants							
NHTSA	31		31 5/	31 5/	31	31	12[illegible]
FHWA	13		13 5/	13 5/	13	13	52
Bridge Replacement & Rehabilitation	900		1,600	1,650	1,750	2,050	7,050
Elimination of Hazards	200		200	200	200	200	800
Rail-Highway Crossings	190		190	190	190	190	760
School Bus Driver Training (Sec. 406)	2.5		1.5 5/				1.5
Alcohol Traffic Safety (Sec. 408)			25 6/	50 6/	50 6/		125
Commercial Motor Veh. Safety Grants			-	10	20	30	60
TOTAL FISCAL YEAR AUTHORIZATIONS HIGHWAY SAFETY	$ 1,446.5		$ 2,170.5	$ 2,254	$ 2,364	$ 2,624	$ 9,412.5
GRAND TOTAL	$ 8,488.5	$ 1,057	$ 12,840.5	$ 13,435	$ 14,171	$ 14,874	$ 55,320.5

1/ FY 1983-1986 Interstate funds apportioned one year in advance of fiscal year authorization.

2/ Includes $518 million from General Fund, (P. L. 97-276) Continuing Resolution for FY 1983.

3/ Provided by Federal-Aid Highway Act of 1981 (P. L. 97-134)

4/ Provided by Federal-Aid Highway Act of 1982 (P. L. 97-276)

5/ Provided by Omnibus Budget Reconciliation Act of 1981.

6/ Provided by NHTSA Act of 1982.

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Table II

COMPARISON OF CURRENT AND NEW USER FEE STRUCTURES 1/

User Fee Type	Current Rate	New Rate
Gasoline	4¢/gallon	9¢/gallon
Diesel	4¢/gallon	9¢/gallon
Gasohol	0	4¢/gallon
Tires	9.75¢/lb, all tires	No tax for tires under 40 lbs. 15¢/lb for tires 40-70 lbs. 30¢/lb for tires 70-90 lbs. 90¢/lb for tires 90 lbs and over.
Tread Rubber	5¢/lb	0
Innertubes	10¢/lb	0
Lubricating Oil	6¢/gallon	0
Truck Parts	8 percent, all trucks	0
Truck Sales	10 percent for trucks 10,000 lbs GVW	12 percent on truck chassis and bodies over 33,000 lbs GVW, and 26,000 lbs for truck trailer and semi-trailer chassis and bodies.
Heavy Vehicle Use Fee	$3/1000 lbs GVW for trucks 26,000 lbs GVW	At least 33,000 lbs but less than 55,000 lbs GVW $50 per year, plus $25 for each 1,000 lbs or fraction thereof in excess of 33,000 lbs. At least 55,000 lbs but less than 80,000 lbs GVW $600 per year, plus the applicable rate for each 1,000 lbs or fraction thereof in excess of 55,000 lbs. At least 80,000 lbs, the maximum amount.

Rate and Maximum Amount

Beginning July 1	Applicable Rate	Maximum Amount
1984	$40	$1,600
1985	$40	$1,600
1986	$44	$1,700
1987	$48	$1,800
1988 or thereafter	$52	$1,900

1/ Elimination of current rates and imposition of new rates fall on a variety of dates.

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Table III

AUTHORIZATIONS

PUBLIC TRANSPORTATION ACT OF 1982

(covering Fiscal Years 1983-1986)

(millions of dollars)

	FY 1982	FY 1983	FY 1984	FY 1985	FY 1986	Four-year Total
Capital Grants (Discretionary)	$1,414	$1,556	$1,200*	$1,050*	$1,050*	$ 4,856
Operating Assistance & Bus Grants	1,365	1,200	-	-	-	1,200
Block Grants for Capital Improvements and Operating Assistance	-	756*	2,669	2,864	2,961	9,250
Rural Improvements	68	23* 69	81	86	89	279 69
Research, Training & Administrative Expenses	76	86	86	90	90	352
Planning	50	50	50*	50*	50*	200
Interstate Transfer for Transit Capital Improvements	560	365	380	390	400	1,535
	$ 3,533	$ 4,105	$ 4,466	$ 4,530	$ 4,640	$ 17,741

1982 and most 1983 funds previously appropriated.

*From Mass Transit Account of the Highway Trust Fund; limited to capital grants.

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Governor's Budget Recommendation
Supplemental Explanation

STATE AND LOCAL HIGHWAY FUNDING

Division of the Budget
January 17, 1983

Attachment 5

GOVERNOR'S BUDGET RECOMMENDATIONS
Supplemental Explanation

SUBJECT: State and Local Highway Funding

SUMMARY

Governor Carlin's budget recommendations for FY 1984 provide increased funding for state and local highway programs without an additional tax levy directly on road users. It does, however, continue the principle of financing state and local highway programs from user-related revenues. The Governor's highway funding proposal contains two components: (1) a phased in transfer of retail sales tax receipts from the sale of new and used motor vehicles, parts, accessories, and services from the State General Fund to state and local highway programs; and (2) the release of funds currently dedicated to the freeway program for use as system-wide priorities dictate. The sales tax transfer is phased in by 25 percent annual increments over four years. The Freeway Fund release is phased over three years. Funds are distributed between state and local units on a 65-35 percent basis, except that local units may not receive more than 100 percent of the sales tax transfer in any one year.

The financial impact of the Governor's proposal is summarized below:

Governor Carlin's Highway Funding Proposal
(Millions of Constant 1984 Dollars)

	Fiscal Years			
Measure	FY 1984	FY 1985	FY 1986	FY 1987
Sales Tax Revenue	$84.5	$84.5	$84.5	$ 84.5
Percent to Highways	25.0%	50.0%	75.0%	100.0%
Yield to Highways	$21.1	$42.3	$63.4	$ 84.5
Freeway Transfer	50.0	40.0	20.0	--
Total to be Distributed	$71.1	$82.3	$83.4	$ 84.5
Local Share	$21.1	$28.8	$29.2	$ 29.6
State Share	50.0	53.5	54.2	54.9
TOTAL	$71.1	$82.3	$83.4	$ 84.5

BACKGROUND

State Highway Needs

There is general agreement that highway needs far exceed available funds. For four years, the Governor has recommended major highway funding increases. Two legislative interim committees (1980 and 1981) have studied highway needs and concluded that current funding for state and local roads and bridges is inadequate. Both committees recommended that additional funds be appropriated to meet highway needs.

Estimates of funding needs prepared by the Department of Transportation for previous Legislatures have ranged from \$152 million to over \$250 million. After application of available federal funds to meet these needs, a funding shortfall of \$110 to \$215 million for non-interstate roads and bridges remained. As explained below, aid from the newly enacted federal gasoline tax increase will reduce this shortfall only modestly.

Available revenue under the current funding structure is inadequate to finance even a minimal maintenance and preservation program. Only about \$7 million in state funds from current sources is available for improvements to the state highway system and to match federal funds in FY 1984.

Despite recent reductions in the rate of inflation, the bid price index for 1981 is 57% higher than it was in 1977. During the same period, collections from the motor fuel tax have stabilized; estimated FY 1984 collections are projected to be roughly \$4 million less than those in 1977. The continued popularity of small cars and development of more efficient engines makes future increases unlikely.

Local Needs

Cities and counties are responsible for 20,477 bridges and approximately 125,000 miles of roads and streets. The city/county rehabilitation and replacement needs have been studied by the Road Information Program (1982), the Kansas Engineering Society (1981) and Wilbur Smith and Associates (1962). In addition, the Federal Highway Administration annually publishes a national bridge inventory listing substandard Kansas bridges. Although their estimates of needs and corresponding costs vary, all conclude that a significant portion of local roads are considered as fair or poor and a large percentage of bridges are classified as functionally obsolete or structurally deficient. Virtually every highway funding proposal in recent years has earmarked a portion of any new source of funds to assist local governments in meeting road and bridge needs.

Federal Funding

The 1982 Surface Transportation Assistance Act (STAA), signed by the President on January 6, 1983, provides federal-aid highway authorizations for federal fiscal years 1983-1986. The Kansas share of federal construction aid is compared with prior years in the following tables.

1982 SURFACE TRANSPORTATION ASSISTANCE ACT (STAA)
ACTUAL (1981-1982) AND ESTIMATED (1983-1986)
FEDERAL CONSTRUCTION APPORTIONMENTS
(Dollars in Millions)

		Actual		STAA 1982 Estimates			
Category	Match Ratio	1981	1982	1983	1984	1985	1986
Interstate Completion	90-10	30.7	23.1	26.0	26.0	26.0	26.0
Interstate 4R	90-10	3.7*	9.6	21.6	26.6	31.0	34.9
Primary	75-25	27.7	22.3	26.1	29.6	32.4	34.5
Secondary-State(20%)	75-25	2.4	1.6	2.6	2.6	2.6	2.6
Secondary-Local(80%)	75-25	9.8	6.4	10.3	10.3	10.3	10.3
Urban-Local	75-25	6.9	6.5	6.5	6.5	6.5	6.5
Bridge-State(55%)	80-20	13.6	10.0	23.5	24.3	26.0	31.0
Bridge-Local(45%)	80-20	11.2	8.2	19.2	19.9	21.3	25.4
Other-Local	Varied (90-10)	10.0	9.6	8.6	8.6	8.6	8.6
Subtotal - State		78.1	66.7	99.7	109.1	118.0	129.0
Subtotal - Local		37.9	30.8	44.6	45.3	46.7	50.8
TOTAL		116.0	97.5	144.4	154.4	164.7	179.9

* Matching Ratio 75-25 for 1981
Note: Detail may not add to totals due to rounding

FEDERAL CONSTRUCTION CATEGORY APPORTIONMENTS COMPARISON
(Dollars in Millions)

Category	Average 1979-1982	Estimated Average 1983-1986	Per year Average Gain (Loss)
Interstate Completion	30.6	26.0	(4.6)
Interstate 4R	4.5	28.5	24.0
Primary	24.9	30.7	5.7
Secondary-State(20%)	2.1	2.6	.5
Secondary-Local(80%)	8.4	10.3	2.0
Urban-Local	6.8	6.5	(.3)
Bridge-State(55%)	11.4	26.2	14.7
Bridge-Local(45%)	9.4	21.4	12.1
Other-Local	9.9	8.6	(1.2)
Subtotal-State	73.6	114.0	40.3
Subtotal-Local	34.4	46.9	12.5
TOTAL	108.0	160.8	52.8

NOTE: Detail may not add due to rounding.

The new Act provides an average of approximately $52.8 million per year in additional construction funds to state and local units over the 1979-1982 average. Of the $52.8 million increase, $40.3 is available for state use and $12.5 for local units of government. The funding emphasis in the new Act is on (1) the interstate system ($19.4 million average difference); and (2) replacement and rehabilitation of deficient bridges ($14.7 million for the state system and $12.1 million for local units).

At the state level, the new non-interstate (primary, secondary and bridge) funding level of $59.4 million per year represents a $20.9 million increase over $38.5 million average estimated as available in previous analyses of needed funding. Consequently, the state funding shortfall is reduced by $20.9 million to a level of approximately $90-195 million.

(a) As can be seen from the table, state match requirements vary by category. Interstate funds require that 10 percent of the project be paid by the state; primary and secondary aid require 25 percent and bridge funds 20 percent. The average state match required for the state system share of the construction funds in the new bill is $23.7 million per year. An additional $2.8 million per year is required to match accumulated federal apportionments from previous years which could not be spent due to the low federal obligation ceiling. Taken together, a total of $26.5 million per year is needed to match new and unused federal-aid construction apportionments. However, it must be remembered that designing a state highway program solely around federal match requirements substitutes federal priorities for state priorities to the detriment of the total state highway system.

As the table shows, local units make significant gains in bridge funding under the new Act, but receive somewhat lower levels of funding in the federal-aid urban and "other" categories and receive only slightly more in federal-aid secondary. It is estimated that local units will require $13.7 million to match their share of federal funds (including unused balances) under the new bill, or approximately $9.2 million more than required under the former act.

In summary, while the new federal Act will improve the total revenue situation, little is provided to assist the state and local units with primary, secondary or urban system needs. Moreover, additional state and local resources are necessary to match the new federal assistance, and even with the added federal aid, a sizeable gap remains between needs and resources.

Governor's Proposal

The Governor's proposal to assign sales tax revenues from the sale of new and used motor vehicles, parts, accessories, and services to streets and highways and to release $110 million in Freeway Fund resources for system-wide use is based on the following premises:

(1) An adequate long-term funding plan must be established by the 1983 Legislature to respond to the pavement preservation backlog and to allow for the orderly development of road and bridge projects.

(2) The Department of Transportation must have maximum flexibility to use existing state highway resources as statewide priorities dictate.

(3) Transportation funding should continue from user related revenues and should, to the extent possible, contain reasonable prospects for growth on a year to year basis.

(4) Sufficient state resources must be provided to match available federal funds.

(5) The state should continue to share any additional fiscal resources with local units of government.

The Governor's proposal provides an additional $211.3 million over a four year period for state and local road, street and bridge improvements. In addition, the proposal redirects $110 million of existing dedicated funds to use as statewide priorities require. Over the period of FY 1984-1987, the program provides an average of over $80 million annually in resources.

State-Local Split. The Governor's proposal provides that the new resources will be shared between state and local governments on a 65-35 percent basis. A 65-35 split is proposed because it has been the approximate basis of distribution for motor fuel tax receipts since 1970 and was recommended by both the 1980 and 1981 interim legislative committees. The proposal does limit local units to no more than the sales tax transfer in any one year; this affects the distribution in the first year only and is necessary because most of the revenue to the State Freeway Fund comes from the motor fuel tax which has already been shared with local units.

Sales Tax Transfer. The Governor has proposed the transfer of vehicle-related sales tax revenue from the State General Fund to road and bridge purposes for two years. This transfer was also recommended by former Governor

Bennett's Task Force on the Future of the Kansas Transportation System (Recommendation No. 32). Due to the shortfalls in State General Fund revenues in the current year, the Governor's FY 1984 proposal phases in the transfer over four years. Because revenues must be phased in, resources to meet statewide system needs must be supplemented until the transfer is fully implemented.

Freeway Fund Release. In order to raise the FY 1984, FY 1985 and FY 1986 program to an adequate level, the Governor's proposal calls for the release of $110 million from the State Freeway Fund for use on the statewide system. This release will balance the program over the four year period and allow the department to meet statewide needs on a priority basis. Analysis shows that it is possible to release $50 million in FY 1984, $40 million in FY 1985, and $20 million in FY 1986 without jeopardizing the ability of the Freeway Fund to meet debt service requirements or complete projects currently programmed. Candidate projects currently proposed for implementation with freeway funds will, however, be removed from consideration as freeway funded projects and compete with other state projects on a system-wide priority basis. The proposal also anticipates continuation of the existing policy of using federal primary and bridge funds for programmed freeway projects and use of state freeway funds for freeway maintenance through FY 1986.

Kansas Department of Transportation
January 17, 1983

FREEWAY PROGRAM TRANSFER

INTRODUCTION

The State System of Express Highways and Freeways, commonly referred to as the freeway system, was designated with the passage of 1969 House Bill 1142. This bill provided for a separate construction program for modern express highways and freeways to link the principal population centers of the state to each other and major cities in the surrounding states. A map showing this system is attached.

Prior to the authorization of bond sales of $320 million for the freeway system by the 1972 Legislature, funding was from the motor fuel tax and federal funds. The last bonds were sold in FY 1979. Revenue from the bond sales was deposited to the Freeway Construction Fund and is used for construction.

The Secretary of Transportation presented the 1982 Legislature with a report on the freeway program, arguing for the transfer of funds from the Freeway Fund to the Highway Fund as a stopgap funding measure. A number of options were presented -- none were acted upon. During the summer of 1982, the Secretary directed that the Freeway Fund pay for maintenance of the freeway system. This action freed approximately $13 million for FY 1982 and FY 1983 to allow an improvement program on the state system outside the freeway system to occur.

It now appears that the possibility of sufficient new funding for highways for FY 1984 is waning as the economy worsens. Any new state revenue would likely be required to meet other needs. Therefore, the Governor has recommended a transfer from the Freeway Fund to the Highway Fund to meet statewide needs on a priority basis. Analysis shows that it is possible to make transfers of $50 million in FY 1984, $40 million in FY 1985, and $20 million in FY 1986.

ANALYSIS ASSUMPTIONS

The assumptions in the analysis are:

1. The Freeway Fund must be able to meet all debt service requirements through "normal" revenue proceeds. An alternative would be to "force" the Highway Fund to make the debt service payments. That appears undesirable given that a purpose of the Freeway Fund is "for the retirement of highway bonds and highway refunding bond issued under the provisions of this Act" (KSA 68-2301).

2. All revenue sources currently in force will continue. The State Freeway Fund was established to pay the principal and interest on the bonds. The State Freeway Fund money can be used to either reduce debt or for construction projects. However, the first priority must be the debt.

ATTACHMENT 6

Prior to FY 1980, the State Freeway Fund received some of the motor fuel tax revenue and the interest on the invested State Freeway Funds and State Freeway Construction Funds. However, the 1979 Legislature transferred $35 million from the State Freeway Fund to the State Highway Fund. In order to provide for the payback of those funds, the interest from the State Highway Fund and various percentages of the motor fuel taxes that had traditionally gone to the State General Fund (not the State Highway Fund) were dedicated to the State Freeway Fund. Under current law this transfer would continue after the payback (with interest) of the $35 million. While 1981 Senate Bill 9 contained provisions to divert the payback funds after tne payback to the State Highway Fund, it did not become law. That bill did not receive even first committee discussion; the provisions were not incorporated in any other proposed legislation.

Previous analyses presented to the Legislature were based upon these revenue sources to the Freeway Fund terminating after the payback is complete. This analysis takes the opposite approach, i.e. that these sources will continue to the Freeway Fund. The difference in the two approaches centers on when the payback source receipts would be available to the Highway Fund. If we assume that the Legislature would pass legislation similar to 1981 S.B. 9, then the Highway Fund would begin receiving these revenues sometime after 1987. If we assume that the sources will remain to the Freeway Fund, the size of the Freeway Fund balances necessary <u>now</u> to supplement fuel tax revenues for debt service can be decreased. The impact is a greater amount available for transfer.

3. <u>Projects currently programmed will be completed.</u> The analysis holds sufficient funds available to meet the payouts on <u>all</u> projects currently programmed. Those projects are shown in the attached table taken from the Annual Freeway Report.

Candidate projects would <u>not</u> be completed using <u>freeway</u> program funds. These five projects are:

Freeway Priority No.	Route	Co.	Description	Est. Cost
1	US-73	LV	NW of Leavenworth, NW to Jct. K-192 (7.0 miles)	$17 million
2	US-54	KM	W. Jct. K-14 E. to 2.5 miles NE of Kingman (8.0 miles)	$16 million
3	K-96	BU	1 mile E. of Leon East to BU-GW Co. Line (14.0 miles)	$12 million
4	US-54	KM	PR-KM Co. Line, East to West Jct. K-14 (15.0 miles)	$13 million
5	US-36	DP	1 mile E. of BR-DP Co. line, SE to E. of Troy (14.0 miles)	$32 million

Source: KDOT March 1, 1982 Memo to House Transportation Committee.

Under the Governor's proposal, these 5 projects would compete with all other state projects for priority. While the uncertainty of funds makes it impossible to predict how soon these projects could be programmed, if the Governor's proposal is passed, it appears likely that contracts will be let within the next 3-5 years.

If the candidate projects were completed with freeway program funds, then the result would be one, or a combination of the following:

(1) decrease the amount available for transfer; (2) decrease ability of the Freeway Fund to pay for freeway system maintenance; (3) increase the need to program federal-aid funds for freeway, as opposed to statewide projects; (4) provide for a "payback" mechanism from the Highway Fund.

4. Federal-aid is used. The 1980 Legislature established a restriction on the use of federal-aid for freeway construction projects contained in Chapter 11 of the 1980 Session Laws:

> (e) On and after July 1, 1980, the Department of Transportation shall discontinue expenditures of federal-aid primary funds for freeway construction projects other than those projects for which construction contracts were awarded prior to July 1, 1980. No expenditures of federal-aid primary funds shall be made for acquisition of right-of-way for freeway construction projects initiated on and after July 1, 1980, or for engineering or design of freeway construction projects initiated on and after July 1, 1980.

KDOT believes that federal-aid primary funds can still be used for preliminary engineering and right-of-way on projects in the current program since the law states "construction projects initiated on and after July 1, 1980." KDOT also believes that the restriction does not relate to federal funds other than primary funds. This allows the use of bridge funds with the State Freeway Construction Fund. Since the restriction was part of the FY 1981 appropriation bill and did not become part of the Kansas Statutes Annotated, it appears that the limitation actually applied only to FY 1981. However, there is still a question of legislative intent. Should it be necessary to use primary funds on freeway projects, KDOT believes it has the option to use the funds for the freeway projects.

The analysis is based upon the use of federal-aid primary funds approximately equivalent to 20% of Federal-Aid Primary apportionments and bridge funds on project bases. The funds are programmed so that the Freeway Construction Fund will zero out at the end of the last project. Stated differently, enough federal aid is programmed so that Freeway Funds are not used on projects.

5. Freeway Maintenance is paid from Freeway Fund. On May 14, 1982, the Secretary of Transportation announced to the Highway State Advisory Commission that he was directing approximately $10 million in maintenance expenditures on the state's freeway systems to be charged to the state's Freeway Fund, thus releasing an equal amount of State Highway Fund monies for preservation projects on the total system. The Secretary noted that this represented a major change in departmental policy. Previously, freeway system maintenance has been paid from the Highway Fund. The FY 1982 - FY 1985 program is based upon this policy. Sufficient funds would be available to continue this policy through the transfer years (FY 1984, FY 1985, and FY 1986) when the Freeway Fund will have revenues sufficient for debt service only.

TABLE 1

ADJUSTED BALANCES ENDING FY 1982 OF THE
STATE FREEWAY FUND & THE FREEWAY CONSTRUCTION FUND

	State Freeway Fund ($1,000)	Freeway Const. Fund ($1,000)
Cash Balances	1,144	795
Invested Funds	121,579	109,144
Interest Earnings Transfer (est.)	250	-250
Due State Hwy. Fund for FY 1982 Exp.	-657	-306
Due from FHWA for FY 1982 unpaid	11	39
Due State Highway Fund for June Maint.	-776	0
	121,551	109,442

TABLE 2: INVESTMENT EARNINGS TO FREEWAY FUND

Fiscal Year	State Highway Fund Avg. Annual Balance ($1,000)	State Highway Fund Investment Percent	State Highway Fund Yield ($1,000)	Freeway Const. Fund Funds ($1,000)	Freeway Const. Fund Investment Percent	Freeway Const. Fund Yield ($1,000)	State Freeway Fund Funds ($1,000)	State Freeway Fund Investment Percent	State Freeway Fund Yield ($1,000)
1983	36,380*	9.5%	3,456	96,868	9.0%	8,718	120,407	8.5%	10,235
1984	39,177*	8.5%	3,330	67,419	8.5%	5,731	104,773	8.0%	8,382
1985	20,000	8.0%	1,600	30,851	7.5%	2,314	63,115	7.5%	4,734
1986	20,000	7.5%	1,500	7,286	7.5%	546	29,404	7.5%	2,205
1987	20,000	7.5%	1,500	1,197	7.5%	90	15,641	7.5%	1,173
1988	20,000	7.5%	1,500	-	-	-	14,878	7.5%	1,116
1989	20,000	7.5%	1,500	-	-	-	13,798	7.5%	1,035
1990	20,000	7.5%	1,500	-	-	-	12,626	7.5%	947
1991	20,000	7.0%	1,400	-	-	-	11,288	7.0%	790
1992	20,000	7.0%	1,400	-	-	-	9,710	7.0%	680
1993	20,000	7.0%	1,400	-	-	-	7,980	7.0%	559
1994	20,000	7.0%	1,400	-	-	-	6,082	7.0%	426
1995	20,000	7.0%	1,400	-	-	-	3,998	7.0%	280
1996	20,000	7.0%	1,400	-	-	-	3,953	7.0%	277
1997	20,000	7.0%	1,400	-	-	-	6,089	7.0%	426
1998	20,000	7.0%	1,400	-	-	-	9,968	7.0%	698
1999	20,000	7.0%	1,400	-	-	-	15,739	7.0%	1,102
2000	20,000	7.0%	1,400	-	-	-	21,904	7.0%	1,533
2001	20,000	7.0%	1,400	-	-	-	28,488	6.5%	1,852
2002	20,000	7.0%	1,400	-	-	-	39,545	6.5%	2,570
2003	20,000	7.0%	1,400	-	-	-	56,860	6.5%	3,696
2004	20,000	7.0%	1,400	-	-	-	78,035	6.5%	5,072
2005	20,000	7.0%	1,400	-	-	-	101,983	6.5%	8,029

*Based on budget level "B"

TABLE 3
FEDERAL AID (PE, R/W, BR & $21 MILLION THRU FY 1983;
MAXIMUM PRIMARY & BR STARTING IN FY 1984)

Fiscal Year	Project Payouts ($1,000)	Uncollected on PE & RW ($1,000)	Federal-Aid Project Payouts ($1,000)	Total ($1,000)	Net Project Payouts ($1,000)
		Freeway Construction Fund			
1983	39,795*	3,535	12,153	15,688	24,107*
1984	53,074*	3,534	14,748	18,282	34,792*
1985	45,161	0	6,807	6,807	38,344
1986	10,724	0	1,939	1,939	8,785
1987	4,984	0	1,590	1,590	3,394
Totals	153,728	7,069	37,237	44,306	109,422
		State Freeway Fund			
1983	2,355	0	1,513	1,513	842
1984	3,972	0	3,060	3,060	912
1985	2,511	0	1,894	1,894	617
1986	101	0	76	76	25
1987	1,915	0	1,436	1,436	479
Totals	10,854	0	7,979	7,979	2,875
Grand Totals	164,582	7,069	45,216	52,285	112,297

*Corrected by shifting $302,000 from FY 1983 to FY 1984

Table 4

FREEWAY CONSTRUCTION FUND
CASH TRANSACTIONS

	Beginning Balance (Table 1)	Net Project Payouts (Table 3)	Ending Balance
FY 1983	$109,422	$24,107	$83,315
FY 1984	83,315	34,792	50,523
FY 1985	50,523	38,344	12,179
FY 1986	12,179	8,785	3,394
FY 1987	3,394	3,394	--

STATEWIDE INVENTORY

OF EXCESS RIGHT OF WAY

January 17, 1983

Prepared by The

Bureau of Right of Way

Kansas Department of Transportation

ATTACHMENT 7

KANSAS DEPARTMENT OF TRANSPORTATION

STATEWIDE INVENTORY OF EXCESS RIGHT OF WAY

January 17, 1983

INTRODUCTION

The purpose of this study was to identify saleable and releasable excess right of way under the jurisdiction of the Kansas Department of Transportation. The information from the study has been compiled in a statewide inventory of excess right of way. This memorandum describes the study's findings, the methodology and criteria used to determine which right of way is excess, and the procedure for releasing excess right of way.

The inventory is available upon request.

STUDY FINDINGS

The statewide inventory identified 5,152 locations as excess and, therefore, appropriate for disposal.

The total locations listed for disposal include: (1) 1,788 locations containing a total of 5,940 acres that were acquired as highway right of way, and (2) 3,364 locations containing a total of 11,061 acres that were acquired as permanent easements for channel and borrow.

INVENTORY PROCEDURE AND CLASSIFICATION

The data for the inventory was gathered by the district engineers for their respective districts. The inventory includes all state routes in Kansas.

Area engineers reviewed the plans for each specific road section and then field-checked each mile of state-designated highway. Using the criteria listed below, the areas identified as excess were noted. These areas were classified by the district engineers into eight categories:

1. Dispose by sale.
2. Retain for current or potential use for highway purposes.
3. Lease for planting and harvesting of grass or legume crops.
4. Release or consider retention for wildlife habitat or conservation.
5. Suitable for recreational or park purposes.
6. Retain for erosion control.
7. Possible lease for exploration of oil, gas or other minerals.
8. Other.

Category number one - dispose by sale - is the area of most concern. The primary criterion used to identify land in this category was the following:

> Right of way, uneconomic remnants and permanent easements located beyond a standard design right of way width not needed for drainage, borrow, utilities or the operation of the highway facility are excess right of way. Typically, this boundary lies approximately 15 feet beyond the backslope of the ditch or the toe of the embankment.

Right of way locations within the above area boundaries, but which are needed for beautification, conservation, park or recreational purposes, erosion control, or current and potential use for highway purposes were listed to be retained.

It should be noted that right of way listed as excess is potentially excess. There is still the possibility that during final review prior to disposal it may be determined that some tracts should be retained for highway purposes, but the department believes that this will only occur in a few cases.

ANALYSIS OF DATA

A considerable portion of the excess areas identified during the inventory was originally acquired as permanent easements for borrow. Most of these areas are outside the normal right of way corridor. There is also a considerable amount of excess right of way of irregular configuration that, in most cases, is outside the normal right of way corridor. Only a small number of long, narrow strips of right of way were identified as potentially excess.

Areas of wide right of way at locations where there are two parallel roadbeds, but where only the new roadbed is in use, were listed in the inventory report. A majority of this right of way is located in Districts II and III along US-36 and US-24. This right of way, when not needed for drainage and utilities, was listed as excess right of way.

Right of way for the approximately 61 miles of two-lane pavement on the state freeway system was acquired for four-lane construction. Construction of the additional lanes may occur as traffic volumes warrant and as funding allows. The right of way available for the possible future construction of the additional lanes on these sections was therefore recommended to be retained.

Most excess right of way and permanent easements suitable for harvesting of grass were generally given multiple classifications. In these cases, the disposal classification was given first priority. Crop harvest on right of way recommended for retention because it is needed for highway purposes will be encouraged. Since 1979, KDOT has allowed the harvesting of grass from the right of way on a permit basis. This program has been favorably accepted, and the number of permits issued has ranged from 475 in 1979 to a high of 690 in 1981. In 1978, prior to the start of the program, only 13 permits were issued.

RELEASE OF EXCESS RIGHT OF WAY

The release and sale of excess right of way are coordinated by the Bureau of Right of Way and are handled in addition to its normally assigned tasks of acquiring right of way for the Department's construction program. The equivalent of three to five full-time Bureau of Right of Way personnel will be committed to the release of the excess right of way listed in this inventory.

The release of right of way will be in accordance with provisions of K.S.A. 68-413, revised July 1, 1981. Sale of KDOT interests will be either by public auction or, when public auction is not appropriate, sold in the manner deemed most expedient by the Secretary. In most cases, the excess areas can only be sold to the owners of the land adjacent to the highway right of way. Since KDOT will be initiating the release, the owners will need to be located to determine their interest in acquiring the excess right of way. In many cases, the ground has been used by the adjacent landowner for years or has sat idle, and he or she may, therefore, not be receptive to paying the appraisal value.

The following steps will be taken to dispose of each excess right of way location.

1. Determination is made as to the type of title held by KDOT.
    a. Fee title.
    b. Easement.
2. KDOT engineering sections and governmental entities are queried for recommendations regarding future need.
    a. Bureaus of Design, Construction and Maintenance, Planning, and Traffic Engineering.
    b. City or county, when appropriate.
    c. Federal Highway Administration, when appropriate.
3. Bureau of Right of Way prepares legal description and quitclaim deed.
4. District Engineer stakes property boundary.

When a private sale is determined to be appropriate, the following steps are taken.

1. Property is appraised.
2. Property owner is contacted.

When a public sale is determined to be appropriate, the following steps need to be accomplished.

1. Property is appraised.
2. Sale is advertised in the newspaper for three consecutive weeks.
3. Arrangements are completed for the auctioneer.
4. Land is sold to the highest bidder at not less than two-thirds the appraised price.

Over the last 5 years, the Bureau of Right of Way has disposed of approximately 954 acres of excess right of way and easements. During this period and prior to July 1, 1981, only land for which KDOT held fee title could be sold. Consequently, only 183 acres of the total 954 acres were sold; the remaining 771 acres were returned to the adjacent landowner with no compensation. The department received $242,250 for tracts sold.

KDOT occasionally receives requests for excess right of way from local units of government to use for public purposes. In these cases, it is our policy to convey title for the excess right of way without remuneration.

Most of the above transactions were initiated by citizens that expressed an interest in acquiring a portion of the right of way. Included were several large dollar amount sales in the metropolitan area of Kansas City. There were many other smaller sales and releases.

Total Number of Tracts Released by Year

1978	-	22
1979	-	24
1980	-	24
1981	-	40
1982	-	108

With increased public interest and completion of the inventory, it is believed that the number of tracts released will continue to increase each year.

POLICY OF ISSUING QUITCLAIM DEEDS FOR STATE HIGHWAYS RETURNED TO COUNTY AUTHORITY

The state highway system is made up of right of way that was acquired by counties and right of way that more recently was acquired by the state. Over the life of the state highway system, there have been 698 resolutions transferring former state roads to county authority.

A significant change between our present and past policy when returning a road to local authority is the conveyance of the old right of way by deed or disclaimer. This new procedure was incorporated into the policy statement (S.O.M. 3230.00/01, April 1981) because the previous policy of not preparing deeds or disclaimers left ownership of the right of way unclear and exposed KDOT to lawsuits arising from occurrences on roads where KDOT remained the owner of record but no longer had responsibility for the operation or maintenance of the road.

In cases of an existing state highway being relocated, the old road is now returned to county authority by resolution and, in the future, will be accompanied by a deed or disclaimer. As time permits, the Bureau of Right of Way will be following up these former actions with deeds. This task will be a major undertaking.

ATTACHMENTS

Attachment A: Case Studies. Attachment A is a set of drawings showing right of way sections and easements and the Department's recommendation regarding their release. They provide a visual illustration of the variety of types of right of way and easements in which the Department has an interest. The drawings are of actual cases listed in the inventory. The symbol PL means property line and SL means section line. They are drawn to approximate scale.

Attachment B: Classification of Property. This attachment lists right of way and easements as they were classified by the districts. For the purpose of the inventory, all multiple classifications which include a dispose by sale classification are listed as appropriate for sale, regardless of the other classifications listed for that location.

Attachment B: Classification of Property.

The right of way and easements are listed below by classification. They are:

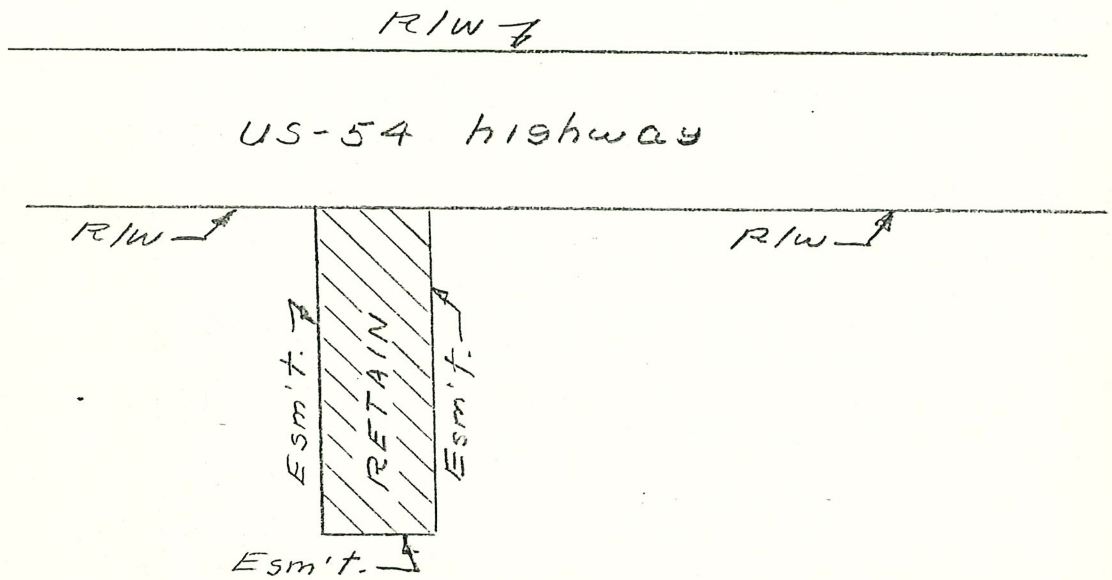
1. Dispose by sale.
2. Retain for current or potential use for highway purposes.
3. Lease for planting and harvesting of grass or legume crops.
4. Release or consider retention for wildlife habitat or conservation.
5. Suitable for recreational or park purposes.
6. Retain for erosion control.
7. Possible lease for exploration of oil, gas or other minerals.
8. Other.

Right of Way and Easements by Classification

Classification	Locations	Acres
1	5,006	15,932.18
1 & 3	100	702.71
1 & 4	35	224.67
1 & 5	3	31.76
1 & 6	3	4.00
1 & 7	2	68.40
1 & 8	1	24.00
1, 3 & 5	1	3.30
1, 4 & 7	1	10.40
2	1,113	2,642.76
2 & 3	16	109.71
2 & 4	4	42.60
2 & 6	37	149.71
2 & 7	1	12.60
2, 3 & 6	121	483.32
2, 4 & 6	1	5.57
2, 4 & 7	1	11.00
3	32	498.92
3 & 4	3	19.32
4	237	638.17
5	2	2.00
6	142	317.55
7	1	0.25
8	45	95.46

ATTACHMENT B: CLASSIFICATION OF PROPERTY

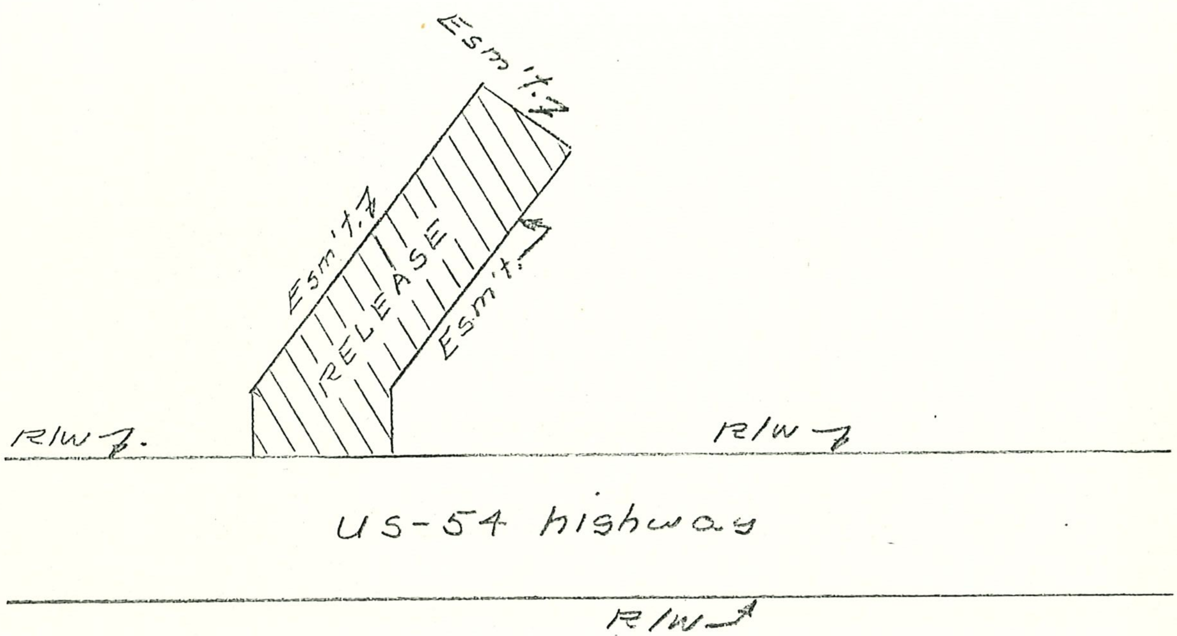
Channel Easement



Meade County on US-54
NW 1/4, Sec. 29, T31S, R 27 W
Retain 1.20 acres of channel change

C/A 7514

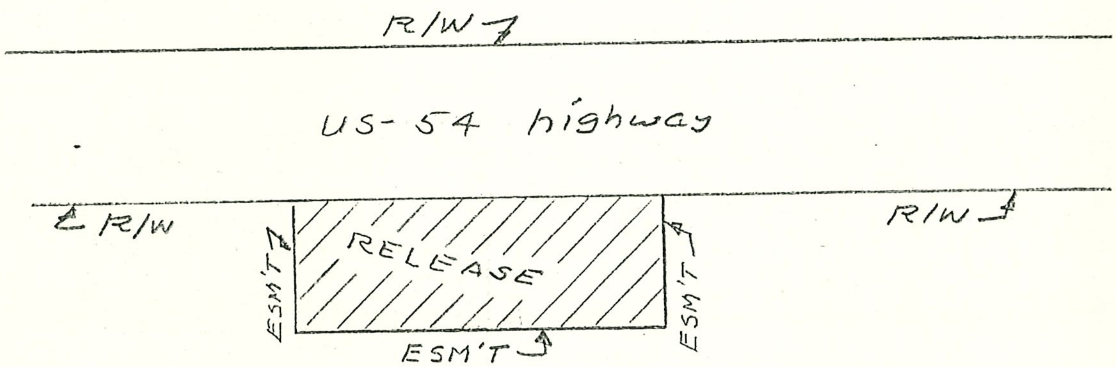
Channel Easement



Mead County on US-54
SW 1/4, Sec. 1, T 32 S, R 28 W
Release 2.10 acres of channel easement

C/A 7514

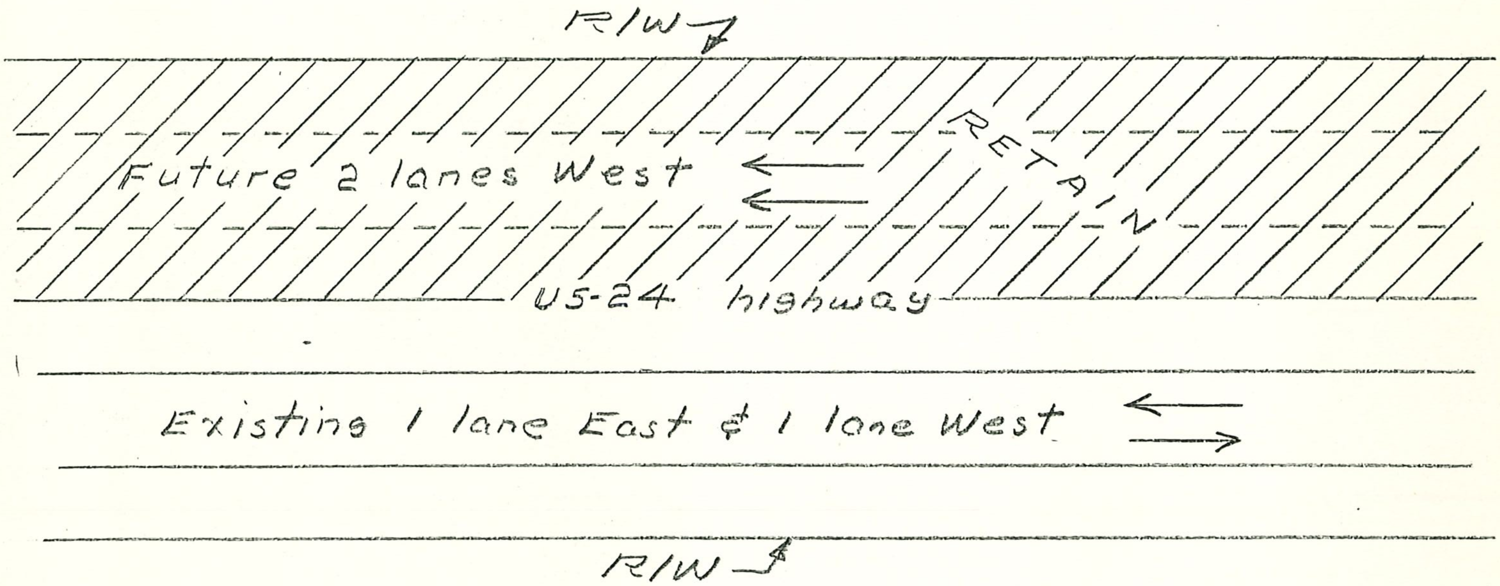
Borrow Easement



Mead County on US-54
SW 1/4, Sec. 34, T30S, R26W
Release 1.60 acres of borrow easement.

C/A 7514

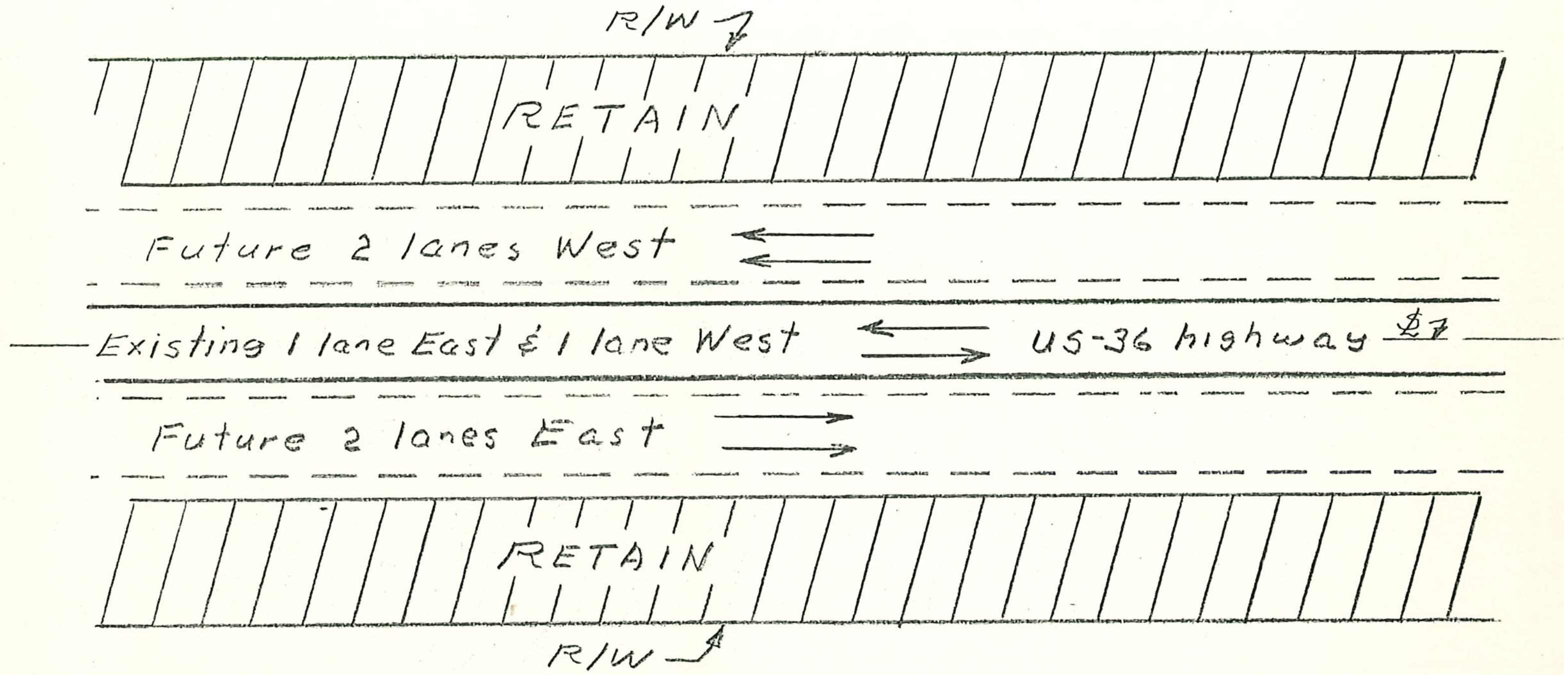
Wide R/W



Leavenworth County on US-24
Beginning at Tonganoxie, thence East 7 miles.
Retain 95 acres of R/W

C/A 7436

Wide R/W



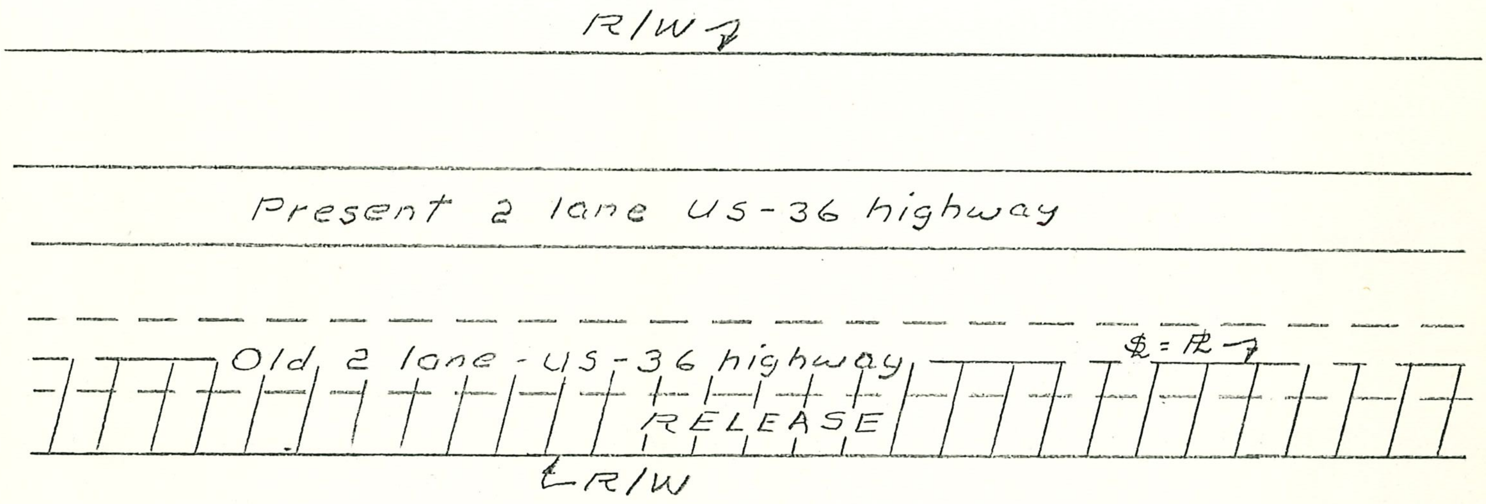
Doniphan County on US-36

SW¼, Sec. 29, T2S, R19E & NW¼, Sec. 32, T2S, R19E

Retain 31.6 acres of R/W

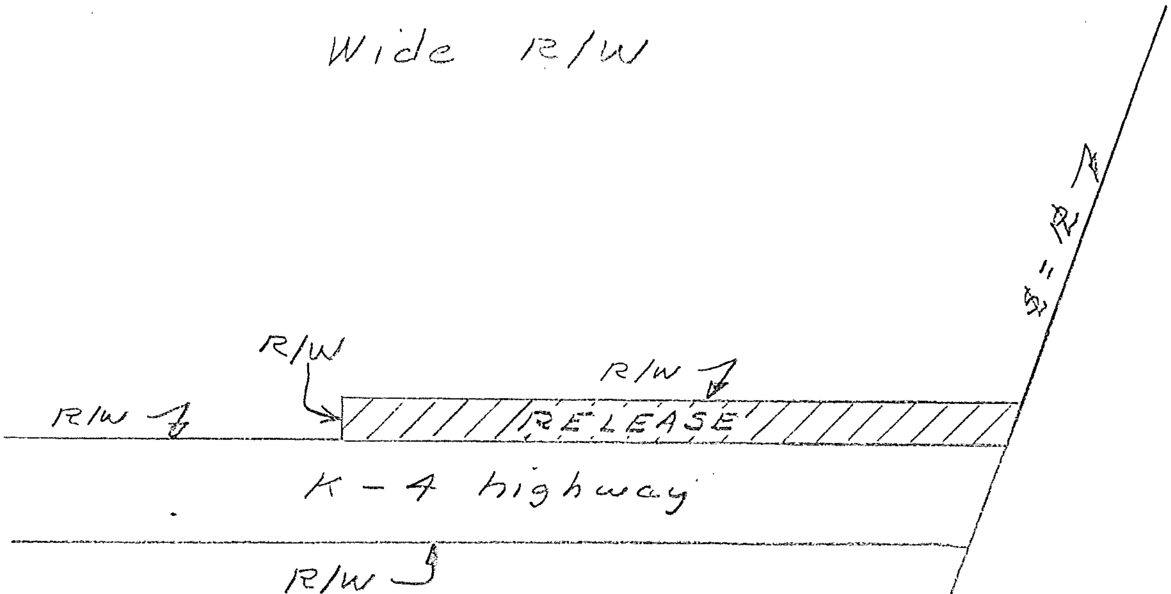
C/A 1335

Wide R/W



Decatur County on US-36
NW 1/4, Sec. 2, T3S, R30W
Release 5.96 acres of R/W

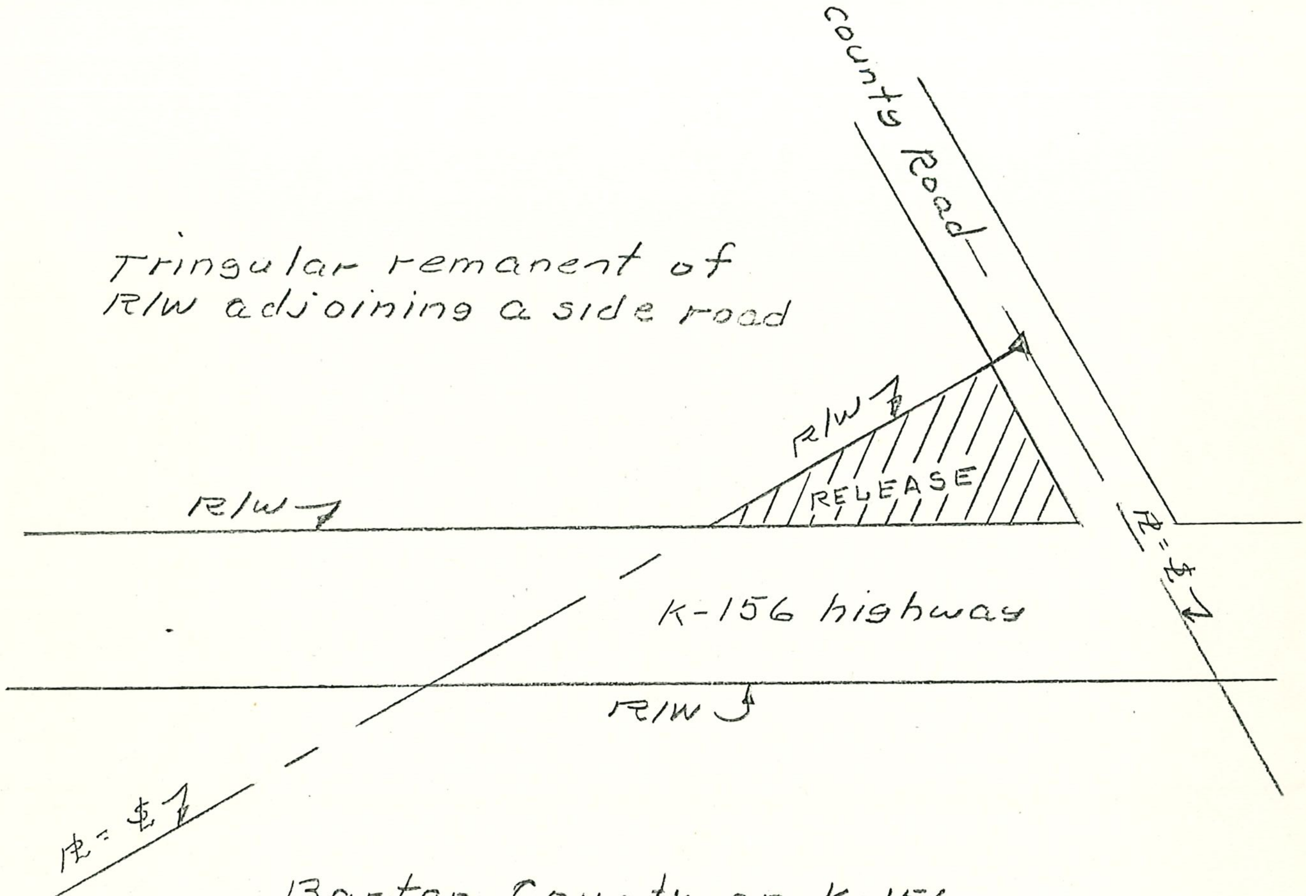
C/A 7220



Scott County on K-4
SE 1/4, Sec 5, T17S, R32W
Release 1.29 acres
of R/W.

C/A 7929

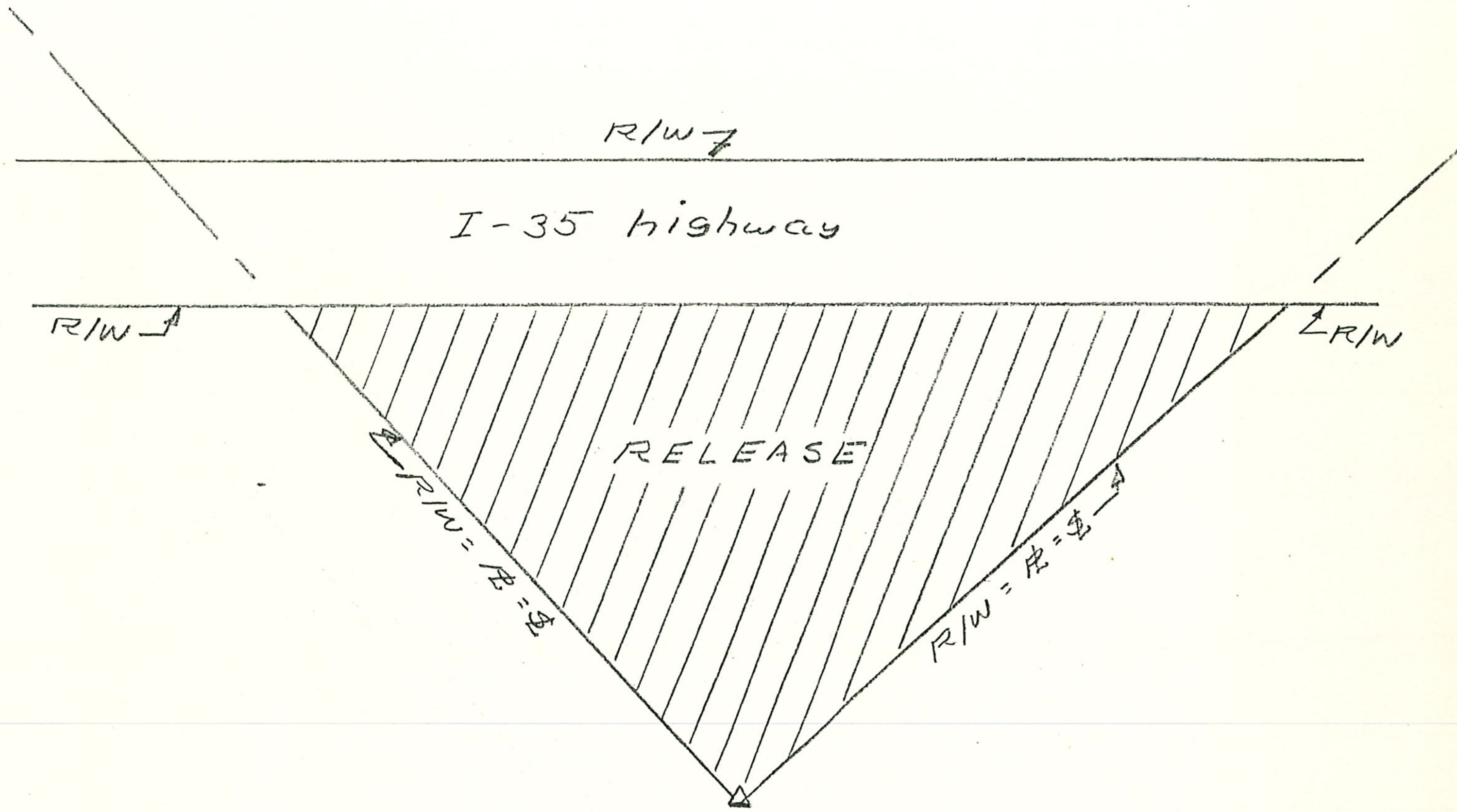
Tringular remanent of
R/W adjoining a side road



Barton County on K-156
NW1/4, Sec. 20, T18S, R11W
Release 0.71 acres of R/W.

C/A 353

Triangular remanent of R/W



Franklin County on I-35
NW 1/4, Sec. 21, T 16 S, R 20 E
Release 17.0 acres of R/W

C/A 116

ATTACHMENT A: CASE STUDIES