Mr. R. H. Harrell  
Executive Director  
Indiana State Highway Commission  
1101 State Office Building  
Indianapolis, Indiana 46204

Dear Mr. Harrell:

This is in response to your request to render my Official Opinion as to whether the Indiana State Highway Commission has authority under Acts of 1969, Ch. 435, Sec. 1, as found in Burns' (1969 Supp.), Section 36-2970, to make relocation payments in excess of the restrictions set on such payments in the Indiana "Relocation Assistance Act," Acts of 1967, Ch. 316, as found in Burns' (1968 Repl.), Section 3-1751 through 3-1770.

ANALYSIS

Burns' Section 36-2970, supra, reads as follows:

"The state highway commission is hereby authorized to make such contracts and expenditures and do such acts and make such rules, orders and findings as may be necessary to comply with the provisions of chapter 5, title 23, United States Code [F. C. A. tit. 23, §§ 501-511], pertaining to highway relocation assistance, and the rules, interpretations and regulations pertaining thereto, as promulgated by the appropriate federal administration agencies, as the same affect and control the compliance, execution and administration of chapter 1 through 5 of title 23, United States Code [F. C. A., tit. 23, §§ 101 et seq.], pertaining to federal aid highway assistance, and the states agreements and rights thereunder and declaring an emergency."

The "Relocation Assistance Act," Burns' Section 3-1751—3-1770 (hereinafter called "1967 Act"), placed maximums on the payments to be made by the State Highway Commission. In 1968, a federal act was passed, Chapter 5, Title 23, United
States Code [F. C. A. Title 23, §§ 501-511]. This Act will hereinafter be referred to as "Federal Act." It provided for relocation payments in excess of the maximums set by the Indiana "1967 Act," but was permissive and did not preempt the state law (see § 503).

The 1969 Act, Burns' 36-2970, supra, authorizes the Highway Commission "* * * to make such contracts and expenditures and do such acts and make such rules, orders and findings as may be necessary to comply with the provisions * * * [of the 'Federal Act'] * * *"

The 1969 Act, Burns' 36-2970, supra, should prevail over the "1967 Act," since it is the later legislative expression.

"When a subsequent enactment covering a field of operation coterminous with a prior statute cannot by any reasonable construction be given effect while the prior law remains in operative existence because of irreconcilable conflict between the two acts, the latest legislative expression prevails, and the prior law yields to the extent of the conflict." Sutherland, Statutory Construction (1943) Vol. 1, § 2012, P. 463.

CONCLUSION

It is, therefore, my opinion that the State Highway Commission is required by statute to abide by the provisions of the "Federal Act," and to the extent that the "Federal Act" conflicts with the "1967 Act," the State Highway Commission is authorized to make relocation payments in excess of the maximums set by the "1967 Act."