

AN INFORMATION REPORT

state  
action  
on local  
problems  
1972

ADVISORY  
COMMISSION ON  
INTERGOVERNMENTAL  
RELATIONS



Washington, D. C. 20575 • April 1973





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A Summary of  
New State Laws, Programs and Constitutional Amendments  
Designed to Strengthen the Response of States  
To the Needs of Their Local Governments and Citizenry

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## preface

For more than a dozen years, the Advisory Commission on Intergovernmental Relations has strongly advocated aggressive and imaginative State action to help local governments cope with the problems of a complex and increasingly urbanized society. The essential balance in the American federal system can only be achieved if there is a continuing process of adjustment in relationships and responsibilities among the levels of government as new intergovernmental problems emerge.

This information report provides a selective summary of State constitutional and legislative actions during 1972 that were directed toward local governments, particularly those in urban areas. The intent is to provide a reference of major developments that highlight current broad trends in State-local relationships.

The State actions are summarized in five major categories: strengthening local government, assisting in specific program areas, action on areawide problems, improving State and local revenue systems, and constitutional revision activity. Important efforts which were defeated by legislatures or the voters also are included.

For the most part, the report concentrates on areas where the Commission has long-standing recommendations for strengthening the response of States to local needs, but it contains no new suggestions of a policy nature. It is issued strictly as an information and reference document.



Robert E. Merriam  
Chairman

## acknowledgements

During 1972, this Commission made a concerted effort to improve and systematize its methods of gathering information on constitutional, administrative and legislative developments in the States. While this edition of *State Action* may rely somewhat more heavily than its annual predecessors on the Commission's own direct information sources, the job of assembling and verifying the information contained herein still could not have been done without the assistance of many other organizations and individuals.

The ACIR staff drew freely upon the excellent legislative summaries and other information provided by State legislative service agencies throughout the country. We also gratefully acknowledge the information provided by municipal and county league journals, publications of the Council of State Governments, the *National Civic Review*, *State Tax Review* and the *Journal of Housing*, and by staff members of a number of Federal and State agencies and the various State and local government associations. Nevertheless, the Commission readily concedes that some important 1972 State actions may inadvertently have been omitted.

This report was compiled and written by staff member Peter S. O'Donnell and edited by Dwight E. Jensen, State-Local Services Director.



Wm. R. MacDougall  
Executive Director



## introduction

The role of the States has never been more significant than at this time when there is a concerted effort to devolve governmental power and authority from Washington to the other partners in our federal system. A basic responsibility for the fate of the system itself has been passed to the governors and legislatures. In the process, new attention has been focused on the capability of the States and localities to respond to the needs of their citizens.

Because of the strategic position which the States occupy, the Advisory Commission on Intergovernmental Relations has consistently advocated bold and innovative State action to meet urgent domestic problems. Although they have made notable progress, the States have yet to close the gap between challenge and accomplishment. Whether they can narrow this distance between need and response depends in large measure on how well they exercise their parental role with respect to local governments.



For the sixth consecutive year, ACIR offers a selective summary of State constitutional and statutory action on local problems. In assessing 1972 activities, the following general observations are worth noting:

- Legislatures in all but six States met at some time during the year. There were regular sessions in 37, although Ohio's was a continuation of the 1971 session. Seven of these States had at least one special session in addition to their regular session. In seven others, the legislature met in special session only.
- State and local governments as a whole found themselves in a somewhat more comfortable fiscal situation than usual. Along with the first Federal revenue sharing funds distributed at the end of the year, there was an over-all State-local surplus brought about largely by increased revenues during a period of national economic recovery. Nonetheless, more than a third of the States found it necessary to enact tax increases. No new income or sales taxes were adopted, however.
- The crisis over school financing and property taxes remained unsettled during the year, with States waiting for a U.S. Supreme Court ruling in the *Rodriguez* case. Most efforts to restrict or eliminate the use of the local property tax for schools were unsuccessful, but there was action in at least 17 States to provide or expand property tax relief for the elderly.
- The States continued during 1972 to give their cities and counties more discretion, with at least 10 granting some form of local home rule or flexibility in structure.

- State attention remained focused on the problems of health, education, welfare, housing, criminal justice and transportation. A number of massive programs which rely heavily on local participation were approved. Virtually every State took some form of environmental action, either by legislation or by constitutional amendment, although administrative and regulatory changes far outdistanced financial support.
- A legislative package adopted in Florida was the most comprehensive State effort to date to come to grips with the problems of growth, planning and land use. Over-all, however, there was no real State leadership in dealing with structural reorganization in metropolitan areas or curbing the growth of special districts.
- As is the usual pattern in general election years, constitutional revision activity mushroomed in 1972. More than 450 proposed changes were submitted to voters in 45 States, and nearly three-fourths were approved. Completely new constitutions were adopted in Montana and rejected in North Dakota. Wholesale changes also were approved in South Carolina and South Dakota. Three States took action to hold constitutional conventions in 1973 and 1974.

## strengthening local government

In order to respond effectively to the wide range of problems that confront them, local governments need a clear grant of authority, sound organizational structure, a capacity to work collaboratively with the State and other local jurisdictions on areawide problems, and adequate fiscal resources.

There was a significant increase during 1972 in the level of State response to these local government needs. Much of the State activity reflected continuing concern with providing new jurisdictional options.

### **HOME RULE**

At least 10 States granted some form of home rule or local flexibility in governmental structure to their counties or other units of local government. Two of those States—**Pennsylvania** and **Montana**—took action during the year that was more comprehensive than any to date.

#### **Pennsylvania Plan**

The “Home Rule Charter and Optional Plans Law” enacted by the Pennsylvania legislature implements the home rule section that was added to the Commonwealth’s constitution in 1968. That section stipulates, “A municipality which has a home rule charter may exercise any power or perform any function not denied by this constitution, by its home rule charter or by the General Assembly at any time.” The new legislation establishes the procedures by which Pennsylvania’s 2,600 political subdivisions (counties, cities, boroughs, and incorporated towns and townships) can carry out the mandate of the constitution.

This sweeping reversal of the old Pennsylvania constitution’s “Dillon Rule” approach to local governance is based on the concept that the



decision-making process on matters of local affairs and government should be vested directly in the locality.

In that spirit, a local unit of government under the new law may choose to do nothing and simply retain its present form of government. If change is desired it must be initiated by the people. This is to be accomplished through election of a local study commission which will consider the advisability of adoption of one of the optional forms of government or a home rule charter for that locality. The commission's recommendation will then be placed on the ballot for the approval of the local electorate.

In addition to the home rule charter, there are five optional plans of government – three variations of a mayor-council form, a council-manager plan and a small municipality plan which is limited to units under 7,500 population. Counties have all these options plus an additional plan, similar to existing county government, which permits three county commissioners, controller or auditor, district attorney, public defender, treasurer, sheriff, register of wills, recorder of deeds, and clerk of the courts—all elected except the public defender.

One of the most innovative aspects of the legislation is its attempt to resolve the problems of overlapping powers among the different levels of local government. Under the act, a community is given the power to opt in or out of any county program or service adopted as part of a county home rule charter. There are, however, two major stipulations: a community may exempt itself from a county program or service only if it already has a similar program or service in operation and only if the county has adopted a home rule charter.

The legislature did place some limitations on the powers of local governments in Pennsylvania. Primarily, the State retains power to decide what is to be taxed, although home rule units may set local tax rates. The State also will continue to control the filing and collection of municipal tax claims and liens, the power of eminent domain, boundary changes, the establishment of minimum requirements for public schools, voter registration and the conduct of elections, rates of nonproperty or personal taxes levied on nonresidents of communities, assess-



ment of real or personal property taxes, punishment for felonies or misdemeanors, and regulations concerning food preparation and food packaging.

At the November 7 election, 69 local governments took the first step toward home rule by asking their voters to approve the establishment of governmental study groups. In 66 of these cases, the proposal passed and recommendations are due sometime in 1973.

### Montana Amendment

The local government article in the new **Montana** constitution that was ratified during 1972 is one of the most progressive in the nation.

It is similar in scope and thrust to Pennsylvania's in that it reverses the old constitutional mandate of local government dependence on the State. The new article says essentially that local governments have all powers except those specifically prohibited by legislation. Montana has also directed its legislature to enact the necessary implementing legislation within two years (Pennsylvania lawmakers beat their deadline by only a few days) or else the localities will be able to set up their own procedures.

There are a number of areas in which the Montana measure differs from that of Pennsylvania.

- It does not limit the definition of local governments, thus allowing "other local government units established by law" to come under the umbrella of the article.
- It stipulates that the board of county commissioners may consolidate two or more

offices and allows the boards of two or more counties to provide for a joint office and for the election of one official to perform the duties of the office.

- It instructs the legislature to set procedures which will permit "a local government unit or combination of units to frame, adopt, amend, revise or abandon a self-government charter with the approval of a majority of those voting on the question."

- It contains a requirement that the legislature, within four years of ratification, provide procedures directing each local government unit or combination of units to review its structure and submit an alternative form of government to the qualified electors at the next general or special election. A review procedure is also required once every 10 years after the first election.

## Other Major Actions

Voters in **South Dakota** endorsed a new local government article for their constitution at the November election. The new article allows cities and counties to have home rule charters which may provide for any form of executive, legislative and administrative structure the local units decide best fits their needs. Home rule units may exercise any power and perform any function that is not specifically denied by general law or the constitution. The article also states that the powers and functions of home rule units "shall be construed liberally."

Intergovernmental cooperation is encouraged between cities and counties, which also are authorized to fund projects jointly and to transfer governmental functions between each other.

A home rule bill affecting cities and towns in **Iowa** was enacted to implement a constitutional amendment approved by the voters in 1968. It returns to the local governments all

power and authority not inconsistent with the laws and the constitution of the State, except in the area of taxation. The Iowa approach to limiting local powers took the form of 200 pages of restrictions on and guidelines to cities and towns. The new legislation applies to all cities and towns regardless of size and applies automatically, although a two-year changeover period is authorized.

In order to prevent haphazard growth, the Iowa act established a State-level City Development Board to guide and control the creation and expansion of municipalities and to assure adequate public services. A State-level City Finance Committee was also established to advise and assist cities in budgeting and accounting in order to promote financial integrity at the local government level.

**Wyoming's** voters also passed a home rule measure for their cities and towns at the November general election. Although the new law grants authority directly to cities and towns for the governing of their own affairs, legislative control over localities is retained on statewide matters. The legislation provides that any law applicable to all cities and towns cannot be changed or ignored under home rule. The State also limited home rule authority by retaining the power to establish debt limits, control boundary changes and determine methods by which localities may be merged, consolidated or dissolved.

Local units may adopt home rule by charter ordinance and voters may petition for a referendum on such an ordinance.

## Alternatives for Counties

The **New Jersey** legislature enacted an "Optional County Charter Law" which the Municipal Government Study Commission had spent two years studying and drafting. Under the new law, counties will be able to adopt one of four optional forms of government after a charter study and a public referendum. Each of the alternatives converts the board of freeholders (county governing body) into a legislative body and assigns operational responsibility to one of the following:

- a strong elected county executive,
- a county manager appointed by the board,



- an elected county supervisor with limited executive powers and a chief administrator responsible to the board, or
- a board president chosen by his fellow board members and an appointed county administrator.

A similar measure was authorized by the electorate in **Utah**. The amendment provides for optional forms of county government where before only a single form was permitted (even though Utah counties range in population from 600 to a half million). There are three major structural forms—general county, urban county and community council—with four administrative variations permitted under each, for a total of 12 county options. Counties may also choose simply to retain their present governmental structure.

A **Wisconsin** constitutional amendment, ratified in April, repealed the requirement of county government uniformity and directed the legislature to establish one or more systems of government from which counties may choose.

**Georgia** voters narrowly passed an amendment in November which provides functional and financial flexibility for county and municipal governments. It authorizes the creation of multipurpose districts to provide services and specifies that “. . . the powers of taxation and assessment may be exercised by any county, municipality or any combination thereof, or by any such [multipurpose] district . . . in order to provide such services.”

Legislators in **Kentucky** granted functional home rule to counties and to the city of Louisville. The legislation authorizes the fiscal courts (county governing body) to exercise all the rights, powers, privileges and franchises that are not in conflict with the constitution or the laws of the State. This includes the power to levy taxes. The legislation further stipulates that the fiscal courts are to act “as if the General Assembly had expressly granted all such authority within its power to grant.” The legislation that applies to Louisville is similar.

Proposals to adopt home rule and the county executive form of government were submitted to voters in nine **Illinois** counties in March, and were soundly defeated in all nine. Under the 1970 Illinois constitution, the issue may be re-submitted at a future referendum.

## NEW JURISDICTIONAL OPTIONS

In 1972 a number of States moved to provide new or expanded jurisdictional options for their local governments.

### Multipurpose and Old Style Districts

A law authorizing the creation and operation of local government service authorities was enacted in **Colorado**. Its stated purpose was to reduce the proliferation of other types of quasi-municipal government.

The service authorities, which must consist of two or more whole counties, are permitted to offer any of a number of services including water collection, treatment and distribution; sewage collection, treatment and disposal; public surface transportation; parks and recreational facilities; libraries; fire protection; hospitals; gas and electric services; and jails and rehabilitation. They may be formed at the initiative of the local governments involved (county and municipal) or by petition of five percent of the qualified voters of the area in question. The new districts must then be approved by a majority of the electors voting in each county within the authority.

The powers of service authority boards are substantially the same as those granted regular special districts along with specific powers relating to the planning function. Procedures are



established for the addition of other whole counties or parts of municipalities having territory in two or more counties. Special taxing districts for the levying of ad valorem taxes at different rates are also authorized upon voter approval.

In **Ohio**, a successful 1972 bill authorized the establishment of new community districts and provided for the organization, operation and financing of new community authorities. "New community" is defined by the act as one including facilities for the conduct of industrial, commercial, residential, cultural, educational and recreational activities, and designed in accordance with planning concepts for the placement of utilities, open space and other supportive facilities.

The purpose of this legislation is to facilitate the development of new towns and to give new-town residents more control, through their chosen representatives, over the planning and development of community facilities and services.

Two States, **Indiana** and **Kentucky**, passed laws relating to the formation of fire protection districts. The Indiana legislation amends a 1971 law by restricting the creation of fire protection districts to those counties in which rural water systems are already established. The new Kentucky law permits water districts to create and administer fire protection districts, but only in areas where no such district previously existed.

## Counties

The **Indiana** legislature enacted a measure requiring county planning commissions and zoning boards to continue jurisdiction over geographic areas in which new towns are proposed until the new town officials take office.

A constitutional amendment approved by the voters of **Nevada** repeals the legislature's power to "increase, diminish, consolidate or abolish" the offices of county surveyor and superintendent of schools. The administration of these offices will now be under the control of the various local governments.

In **Ohio** an act of the 1972 legislature permits a county or township to establish or modify

planned-unit development regulations by zoning resolution or amendment. This will allow for the establishment of residential development districts in which various types of regulations affecting land use would not be required to be uniform, thus permitting greater flexibility and efficiency in the pattern of land use.

## Municipalities and Townships

A new **Indiana** law authorizes the subdivision of Indianapolis' consolidated city-county government (Unigov) into communities to be governed by elected community councils with powers similar to those of town trustees. These include the power to spend funds received from the consolidated city-county council, certain hiring and contractual authority and limited powers to enact transportation ordinances. The law that merged the City of Indianapolis and Marion County in 1969 authorized these neighborhood subunits in each of the city-county council's 25 election districts. That aspect of the 1969 law, however, was not implemented at the time that Unigov was established.

**North Carolina's** voters approved a constitutional amendment, which had been passed by the State legislature in 1971, prohibiting the incorporation of new cities and towns within a prescribed distance of existing municipalities. The general assembly, however, may incorporate a city or town by vote of three-fifths of the members of each house.

**Ohio** lawmakers authorized a village authority, if it is in a county with no city or county subdivision regulations in effect, to establish a street and public area plan for the unincorporated territory within one and one-half miles of the village's boundaries. The purpose of this act is to control "strip" developments that are situated immediately outside village boundaries.

## INTERLOCAL COOPERATION

In 1972, no new States were added to the list of 42 with some form of general legislation authorizing and encouraging interlocal cooperative actions and services. A number of changes were made in specific functional areas, or in amendments to old acts.

**Indiana** passed a new law which, in essence, is a more explicit version of its 1957 intergovernmental cooperation act. The intent of this



legislation was to encourage more local government units to take advantage of the provisions for interlocal cooperation. Local governments may choose, however, to act under either law since the powers given in each are essentially the same.

**Kansas** lawmakers amended their State's intergovernmental cooperation act to include sewage disposal and refuse disposal among those services that may be provided jointly. In addition, the bill provides that agreements establishing councils of local governments do not need to be submitted to the attorney general for approval.

The **Louisiana** legislature approved three separate bills which relate to interlocal cooperation.

The first, an amendment to the original interlocal cooperation legislation, requires that only one of the local governmental units (parish, municipality or political subdivision) must be authorized by general or special law to exercise the power or perform the activity to be jointly undertaken. Previously, all partners in the agreement had to meet such standards. The amendment also expressly authorizes the joint use of funds, facilities, personnel or property to accomplish the purposes of agreements.

A second Louisiana act allows parish school boards to enter into voluntary compacts with other parish school boards to provide multi-parish educational programs for public school children. The legislation authorizes the boards to pool administrative, instructional or other resources, and to allocate funds for these purposes, provided the contribution of each board is proportioned according to the number of its students.

The final act permits any two or more political corporations or subdivisions in Louisiana to contract with each other to combine the use of administrative and operative personnel and equipment.

Closely allied with **Pennsylvania's** new home rule legislation (see *Home Rule*) is the "Environmental Improvement Compact" signed into law

early in 1972. This legislation establishes the right of two or more counties, cities, boroughs, towns or townships to adopt compacts which would provide a structure of government with powers, including taxing powers, over one or more local functions. This bill implements the area government section of the State's 1968 constitution.

The new local government articles adopted in both **Montana** and **South Dakota** (see *Home Rule*) encourage intergovernmental cooperation.

Montana's new constitution provides that any local government, unless prohibited by law or charter, may "(a) cooperate in the exercise of any function, power or responsibility with, (b) share the services of any officer or facilities with, and (c) transfer or delegate any function, power, responsibility, or duty of any officer to one or more local government units, school districts, the State, or the United States."

South Dakota's constitution now permits every local government to "exercise, perform or transfer any of its powers or functions, including financing the same, jointly or in cooperation with any other governmental entities, either within or without the State, except as the legislature shall provide otherwise by law."

## CONSOLIDATION

There was action in at least five States on city-county consolidation, but only one actual consolidation proposal was passed.

Voters in Lexington and Fayette County, **Kentucky**, overwhelmingly approved a city-county consolidation charter in November. There have been 13 such consolidations since World War II, all but two of them since 1962.

The new charter for the “Lexington-Fayette Urban County Government,” which will go into effect on January 1, 1974, is based on the recommendations of a city-county merger commission.

It provides for an elected city-county executive and a council-appointed administrator who attains job tenure after one year. Lexington chose to follow the consolidation recommended by the commission instead of accepting the home rule status to which it would have been entitled as a first-class city based on 1970 population. (Louisville thus became the only Kentucky city to gain home rule under the 1972 law for first-class cities. *See Home Rule.*)

While consolidation was winning by a two-to-one vote in Lexington-Fayette, merger efforts were defeated in Columbia-Richland County, **South Carolina**, Macon-Bibb County, **Georgia**, and Tampa-Hillsborough County, **Florida**. It was the third time the latter two proposals had failed.

Two other consolidation questions were on city-county ballots in Georgia, with mixed results. Voters approved the creation of a committee to study the possibility of merging Savannah and all local governments in Chatham County into a single unit, but an effort to establish a similar study commission in Albany and Dougherty County failed.

In **Washington**, a constitutional amendment authorizing city-county consolidation throughout the State was approved by the voters. A 1948 amendment permitted the formation of such governments but only in those areas which would result in a combined population of at least 300,000. The new amendment expands this old provision by allowing the formation of a consolidated government in any county, regardless of population, upon approval of a home rule charter by a majority of the voters of such a county voting on the proposition. The new measure also authorizes the retention or establishment of other municipal corporations within the city-county with powers and duties as prescribed in the charter. A city-county consolidated government is authorized to have a debt limit no higher than the combined debt permitted for the individual municipal corporations—“such as county, city, fire and other special districts”—existing prior to consolidation.

assisting  
in  
specific  
program areas





State actions to assist local governments in specific program areas were characterized most prominently during 1972 by developments in the field of criminal justice, an increasing emphasis on health and a surge of activity in housing. Although educational finance was still possibly the most potentially explosive issue, the year ended with State officials waiting for Supreme Court decisions on the *Serrano* type cases and private school aid. In welfare, there were indications of a reversal of the trend toward cut-backs. There also were significant, though less striking, State activities in transportation, relocation and public labor-management relations.

## **LAW ENFORCEMENT AND CRIMINAL JUSTICE**

The high level of activity in State legislatures in the field of criminal justice so apparent in 1971 became even more pronounced during the 1972 sessions. Added to this were the numerous constitutional amendments voted upon at the November general election which dealt with reform of courts, corrections and judicial tenure.

### **Court Reform**

At least 12 States took major actions during 1972 to reform their court systems. The most comprehensive reforms occurred in **Florida, Minnesota and South Carolina.**

The Florida reorganization was based on the new judicial article of the constitution approved by the voters at the primary election in March. Legislative implementing measures enacted later in the year established four uniform levels of courts in the States—the supreme court, district court of appeals, circuit court and county court—provided for the filling of judicial vacancies by the governor based on recommendations of judicial nominating commissions composed of both laymen and lawyers, and designated all judgeships as full-time positions to be filled, in most cases, by qualified lawyers.

Financially, Florida counties will begin receiving benefits upon implementation. By 1977, the State will be paying the salaries of judges who were formerly performing their services in courts of record and juvenile courts, along with the salaries of all judges of the county courts. Counties and municipalities will also be receiving the income from court fees, fines and forfeitures—the source of funds heretofore used for salaries of judges of the minor courts.

A successful constitutional amendment in Minnesota created a unified court system consisting of a supreme court, district courts and other courts to be provided by law. The amendment specifically abolished the probate court and gave its responsibilities to the district court.

In South Carolina, the electorate approved a new judicial article for the constitution which unifies the court system under the supreme court, establishes a circuit court and permits the legislature to establish such other courts as may be necessary. The chief justice is also directed to appoint court administrators. The new law allows flexibility to create an intermediate appellate court.

Other States which took action to reform their State court systems included **Virginia**, where the legislature began to implement recommendations of the Virginia Courts Study Commission by reorganizing and combining lower courts (municipal courts, juvenile courts and other courts “not-of-record”). The assembly deferred until the 1973 session action on other commission recommendations to create an intermediate appellate court between the supreme court and the trial courts and to organize a district court system.

In **Massachusetts**, the legislature did establish an intermediate appellate court which will have jurisdiction in all civil proceedings and will review superior court proceedings and criminal cases except convictions for first-degree murder. The new court, whose actions will be supervised by the supreme judicial court, will be composed of a chief justice and five full-time associate justices.

The **New York** legislature adopted several measures aimed at speeding up trials in criminal cases, such as a limit on pre-trial delays of 60-90 days for misdemeanors and six months for felonies except homicides. The powers of the State court administrator of the unified court system were also expanded.

**Iowa** restructured its minor courts by abolishing the justice of the peace courts, mayors' and police courts, and phasing out municipal courts. These courts will be replaced with appointed judicial magistrates who, in addition to regular duties, will hear small claims cases filed by citizens without attorneys.

In **Kansas**, a constitutional amendment passed in November revised the existing judicial article by eliminating all references to the probate courts and the office of justice of the peace. The new article also authorizes the legislature to determine the size of the State Supreme Court (with a minimum of seven justices), prohibits the hearing of a case with fewer than four justices, and requires that district judges be selected for four-year terms either by election or by non-partisan appointment.

The office of justice of the peace also was abolished by constitutional amendment in **Alabama**, and the **Nebraska** legislature passed a court reform measure that abolished the police magistrate and justice of the peace functions.

**Maryland** revised and modernized its district court system by statute. **Ohio** legislators passed a resolution to study the reorganization of the courts below the appeals level.

However, **Nevada** voters in November defeated a proposed court reform amendment that would have revised the State judicial system and would have changed the method of select-

ing judges from direct election to gubernatorial appointment.

An increasing number of States now have some formal method for disciplining or removing judges. At least 10 States were added to this list during 1972—many of them in conjunction with action on judicial retirement or other court reform legislation or amendments.

The voters of **Wyoming** authorized a modified "Missouri plan" for the selection and election of judges. The amendment created a judicial supervisory commission for the removal and compulsory retirement of judges, and mandated that judges retire at age 70. It also directed the legislature to provide for their voluntary retirement.

An amendment ratified by the **Alabama** electorate created a judicial commission to investigate complaints against judges and recommend disciplinary action, removal or retirement where warranted. **Georgia** and **South Dakota** created judicial qualifications commissions by constitutional amendment for similar purposes.

**Minnesota's** court reform amendment directed the legislature to establish qualifications for judges and to provide for discipline, removal and compulsory retirement for cause. **South Carolina's** court reform measure established methods for the selection and removal of judges. The new judicial article requires that judges be licensed attorneys.

In **North Carolina**, voters ratified a constitutional amendment giving the legislature authority to prescribe procedures for the censure and removal of judges. Another successful North Carolina amendment requires the legislature to set a mandatory retirement age for judges.

Constitutional amendments also were approved requiring the retirement of judges at age 70 in **Massachusetts** and giving the authority to discipline, remove or retire judges to the supreme court in **Iowa**. The successful **Kansas**



judicial amendment empowered the supreme court nominating commission to retire judges for incapacity and to discipline, suspend or remove them for cause.

Finally, the chief justices of the **Alaska, Maryland, Oklahoma** and **Kansas** supreme courts made "State of the Courts" addresses to their respective legislatures.

## Correctional Reform

State legislatures in 1972 continued to devote considerable attention to correctional reform.

**Massachusetts** legislators passed the Omnibus Corrections Reform Act of 1972, possibly the most comprehensive measure enacted in this area during the year. The act changed corrections laws in five areas—administration, community services, employment programs, security and State-county relations.

- It strengthened the powers of the commissioner of corrections;
- established community-based correctional programs, work-release, training and employment programs outside correctional facilities;
- revised correctional employment programs to emphasize their training value;
- set State standards for local correctional facilities; and
- increased the State's financial role in the correctional system.

Three other measures enacted in Massachusetts expanded the eligibility of certain prisoners sentenced to life to serve part of their sentence at a prison camp, upgraded the educational requirements of corrections officers, and provided for the appointment of school teachers to the Department of Corrections to increase educational opportunities for inmates.

The **Kansas** legislature passed a penal reform bill which elevated the Division of Corrections to department status. As of July 1, 1974, the department will have six divisions—professional services, research and planning, legal services, operations, public information and facilities and jail standards.

The act also established a new statement of goals of rehabilitation which requires the keeping of records on the behavior of inmates in

order to follow their progress and calls for new programs of work, education, and training. Included are statements of principles concerning minimum staffing standards, training for correctional officers, extended use of halfway houses, and the creation of a citizen's advisory board to involve the public. The new law also redefined the authority of the State Board of Probation and Parole.

**New York** lawmakers appropriated \$12 million for reforms and improvements in the State prison system. They also created a Prison Review Board to investigate deaths of inmates, adopted legislation permitting inmates of New York City jails to receive 72-hour furloughs for job and family reasons, and acted to eliminate the inequities in parole eligibility.

At least three States—**Kansas, Indiana** and **Illinois**—acted to join the interstate corrections compact which was formed to coordinate the confinement, treatment and rehabilitation of persons convicted of criminal offenses in the member States.

**Indiana** legislators also enacted a new State aid law for probation services, repealing an old statute and establishing a probation standards and practices committee and a probation service fund.

New **Kentucky** legislation requires members of the parole board to have had at least five years of actual experience in penology or in other related fields and directs the Department of Corrections to provide expert assistance to the parole board.

**Louisiana** and **Washington** both established commissions to study correctional institutions and jail reform. **Rhode Island** established a sep-

arate Department of Corrections which is directed to emphasize rehabilitation of prisoners rather than punishment.

An innovative action taken in **Minnesota** by the Governor established the office of ombudsman for that State's corrections department. The new office will handle grievance procedures along with other duties.

Legislatures in a number of States—including **Kentucky, Maryland** and **Virginia**—authorized the establishment of community-based corrections centers. The Maryland law requires approval of the local government of the area in which the facility is to be built. **Tennessee** lawmakers set up a work-release program for county prisoners.

## Other Changes

At least eight States reported some form of criminal code revision during 1972.

- **Colorado's** legislature substantially recodified sections of that State's criminal code which deal with procedures.
- **Illinois** passed a comprehensive codification of laws and their interpretation especially as they related to the functions of the Department of Corrections, sentencing, probation, correctional institutions and all the laws and programs concerning custody of committed offenders.
- After seven years of study, **Hawaii's** legislature enacted a new penal code which recodifies all criminal offenses and penalties.
- **Rhode Island** adopted modern rules of criminal procedures and practices.
- A new corrections code passed in **Vermont** emphasizes rehabilitation rather than punishment and expands the authority of the corrections commissioner. **Kentucky** lawmakers also enacted a new penal code, and

**Delaware** legislators revised their State's criminal code.

- The **Idaho** legislature repealed the new criminal code enacted in 1971 and reinstated the code which preceded it.

**New Mexico** passed a Children's Code which revised and codified existing laws relating to delinquency and neglect, and a number of other States expanded or initiated child abuse laws.

**Kentucky, Louisiana, Missouri** and **Vermont** acted to expand or initiate public defender systems. The Kentucky legislation created an Office of Public Defender as an independent State agency, with the public defender appointed by the governor for a four-year term. The act also requires the establishment of district public defender offices in circuit court districts with 10 or more judges—and permits such an office in a district with fewer than 10 judges.

Changes in statutes and constitutional provisions regarding juries were adopted in several States.

- **Arizona** voters approved a constitutional amendment requiring a unanimous verdict of jurors in criminal cases, permitting not less than six jurors in civil and specified criminal cases, and requiring that the number of jurors permitted to render civil case verdicts be specified by law.
- An amendment approved at the general election in **Connecticut** provides for trials with six jurors except for capital offenses.
- In **Michigan**, a successful amendment now allows juries of less than 12 members in misdemeanor cases.
- New legislation in **Washington** allows for six-member juries in civil cases, and a **New York** measure limits juries in civil trials to six members.
- In **Oregon**, the electorate approved an amendment making six the minimum jury size.

The basic need for adequate police services in every area of the State spurred activity in the legislatures in 1972.

New legislation in **Missouri** requires each city, town or village in St. Louis County to provide 24-hour police service, or to contract with the county for such service.



The **Washington** legislature created a criminal identification section within the State patrol.

**Illinois** lawmakers provided new State aid for police training, and the **Kentucky** legislature established a law enforcement foundation program to aid local law enforcement efforts. In **North Carolina**, the Human Relations Commission set up a program to train law enforcement officers to deal more positively with the public. An **Alaska** Police Standards Council was set up in the Governor's office to establish minimum standards for training and education of all law enforcement personnel in the State. **New Jersey** and **Washington** removed residency requirements for police.

In actions taken to modernize the office of sheriff, the **Kansas** legislature required sheriffs to attend law enforcement training schools and established minimum qualifications for the office. **Iowa** legislators directed an interim committee to study the possibilities of sheriff-police mutual aid. The **Wisconsin** legislature abolished the office of coroner.

Both **Rhode Island** and **Alaska** passed legislation to provide compensation to victims of crime.

**New York** legislation created a Division of Criminal Justice in the executive department which consolidates three units previously scattered through the State government. The new division will oversee planning, analysis, training and standard-setting for local police, information gathering and dissemination.

## HEALTH

State efforts in the health field during 1972 increased significantly over the previous year. While the action was directed largely toward better planning and administration (including new "certificate of need" legislation), new trends toward the care of the aged and youth also surfaced. A number of States addressed themselves to the financial plight of health care institutions by authorizing the use of State funds for permanent as well as short-term construction and improvement financing.

## Facilities and Planning

Three States enacted health facilities acts during the year. In **Illinois**, legislators established the Illinois Health Facilities Authority to provide funds for projects leased to private nonprofit health service entities. The authority is also empowered to make loans to participating institutions in order to refinance indebtedness, alleviate hardships on the institutions or reduce rates. **New Jersey's** legislature passed a Health Care Facilities Financing Act to aid in the construction and modernization of hospitals and other health care facilities. **Idaho's** new Health Authority Act empowers the authority to issue revenue bonds to aid nonprofit hospitals.

Action at the State level to improve statewide health planning and coordination continued in 1972.

Following the recommendations of a health study commission, the Governor of **Delaware** created a State health services authority in the Department of Health and Social Services. The new agency is designated as the ultimate coordinating body on all matters pertaining to health. The act also charges the authority with the task of establishing priorities and improving the delivery of health care services throughout the State. Its jurisdiction includes programs receiving Federal funds for health and related functions.

**Maryland** lawmakers authorized the State Comprehensive Health Planning Agency to designate local agencies to take on a regional health planning function.

At least four States—**Massachusetts, Kentucky, Kansas** and **Florida**—took similar action during

the year to hold down health costs through "certificate of need" legislation. In general, this type of law gives the State the power to stop unnecessary health facility construction or services by requiring all such moves to be approved by a central agency which will then give a certificate of need to those projects approved.

- The Massachusetts measure authorized the Department of Public Health to approve or disapprove new construction or changes in services by all health facilities in the Commonwealth, whether publicly or privately owned, including mental health facilities. The existing Public Health Council, the governing body of the department, was reconstituted to give it a consumer majority rather than a physician majority.

- In Kentucky, a Health Facilities and Health Services Certificate of Need Board is authorized to approve or stop projects after they have been approved by a regional health planning council. Approval from the board will be required of all projects that deal with the expansion, construction or modification of any health facility or service. This group will also license, regulate and inspect health facilities.

- The Kansas legislation requires a certificate of need from "an approved areawide comprehensive health planning group or appeals panel" for health facilities (other than mental health facilities) prior to the issuance of a license.

- Advisory certificates of need will be required in Florida after July 1, 1973, for any hospital or nursing home construction involving an increase in beds and for any increases in expenditures of more than \$100,000 for hospitals and \$50,000 for nursing homes. Certificates will be issued by the Bureau of Community Medical Facilities Planning in the State Division of Planning and Evaluation, upon the recommendation of the advisory comprehensive health planning council of the appropriate areawide health system.

At least two other States—**Georgia** and **Idaho**—reorganized their departments of health in 1972.

## Drug and Alcohol Abuse

In the area of drug control and prevention, a growing number of States took action that reflected their increasing recognition of the problem as a health issue as much as a criminal issue.

**Arkansas** legislators established, within the Department of Health, a Drug Abuse Authority to administer the State Drug Abuse Act which was passed in 1971 and amended during the 1972 session.

In **New York**, an Advisory Council on Drug Abuse was created within the Department of Mental Hygiene and a detailed local drug abuse plan was enacted.

**Pennsylvania** set up a Governor's Drug and Alcohol Abuse Council by legislative enactment. The council consolidates responsibility for drug control in one agency instead of having separate functions spread out in a number of different governmental departments. The legislation charges the council with coordinating activities in the State in the areas of health and rehabilitation programs, prevention, treatment and emergency medical care for drug or alcohol dependent persons. The new agency is also directed to investigate alternatives to the criminal procedures now established for such individuals. Funds have been appropriated for distribution by the council to private and public agencies working in this area.

Other States enacted or expanded programs relating to drug and alcohol abuse.

**Virginia** lawmakers created a Bureau of Drug Rehabilitation Programs under the Department of Mental Hygiene and Hospitals and authorized the commitment of drug addicts to State hospitals or other treatment centers provided both the addict and the hospital are willing. **South Carolina's** legislators created a Council for the Control of Methadone Programs.

**Ohio** passed a bill to provide comprehensive alcohol treatment and control services and facilities. The act requires that the State be di-





vided into not more than 15 regions and calls for the establishment of regional plans. In **Washington**, new legislation requires each city and county to devote two percent or more of its share of liquor taxes and profits to the support of State-approved alcoholism programs. If a city or county does not have its own program, it may join with another. **Tennessee** enacted a comprehensive alcohol treatment and control program.

## Mental Health

There was also activity in the area of mental health legislation during the year—most of it centering around community services for the mentally ill.

The **Connecticut** legislature gave the mental health commissioner new authority to contract with private, nonprofit agencies for the care of patients in halfway houses in order to ease the transition back into the community for patients who have been institutionalized.

In **Georgia**, the new Community Services Act for the Mentally Retarded directs county boards of health to provide community services, including education, training, rehabilitation and care, to mentally retarded individuals.

**Maryland** lawmakers authorized a State debt of up to \$1 million to supplement grants made to the State Department of Health by the Federal government for nonprofit community mental health centers.

**Michigan** enacted a law which will provide outpatient care for the mentally ill. **New York** and **Louisiana** revised their mental health laws. **Virginia** created a commission to study mental institutions. **West Virginia** has a new law which establishes a central mental health facility and comprehensive community regional mental health centers.

## The Young and the Old

The problems of both the very young and the elderly evoked increased legislative activity in 1972.

**Massachusetts**, in one of the more innovative actions of the year, created an Office for Children within the Executive Office of Human Services. The new office is directed to promulgate licensing regulations for day care and family care

centers, evaluate all children's services and all budget requests for such services made by State agencies, and prepare an annual report on the state of services to children in the Commonwealth. In addition, the office is directed to promote the development of programs and services to children, to facilitate the creation of local consumer, parent and professional advisory councils, and to seek and encourage the use of Federal funds for children's services. It will also provide training programs for day care, family day care and family foster care providers.

At least three States—**Delaware**, **Louisiana**, and **Washington**—enacted or expanded child abuse laws. Louisiana also added, as a duty of the State Department of Public Welfare, the establishment of child protection centers for the care, treatment and protection of abused children.

**Florida** authorized the Department of Health and Rehabilitative Services to develop and implement State-operated, regionally administered detention and shelter care services for children.

**Connecticut** increased State aid to day care centers from two-thirds to 80 percent of total cost.

Legislators in at least seven States turned their attention to the problems of the aged in 1972.

**Florida** and **Vermont** created States offices for the aging and **New Mexico** established a legislative interim commission on aging. The Florida legislation establishes the Bureau on Aging in the Department of Health and Rehabilitative Services and prescribes its duties. The Vermont statute established an office on aging in the Agency of Human Services and discontinued the interdepartmental office of aging.

In other related actions, **Kentucky** enacted two bills which will benefit the elderly. The first

permits State participation in any Federal program concerning the nutritional health of the aged, while the second law adds hospitals and facilities for the elderly to the purposes for which cities and counties may issue revenue bonds.

**Kansas** increased the categories of adult care homes established by law and more clearly defined the level of care each is licensed to provide. **Hawaii** authorized the State Department of Social Services and Housing to recruit and license day care centers for the aged and disabled, to develop and publish rules and regulations and to negotiate the purchase of day care services. **Michigan** passed a law permitting counties to expend funds for the operation of centers for the elderly.

### Other Legislation

At least four more States—**Delaware, Indiana, Ohio** and **South Carolina**—enacted measures concerning testing and treatment for sickle-cell anemia. **Florida** and **Virginia** adopted legislation allowing health maintenance organizations in their respective States. **Florida, Oklahoma, South Dakota** and **New York** passed laws relating to the training, licensing or use of paramedics.

## HOUSING

Probably the most comprehensive housing action taken by any State in 1972 occurred in **Virginia**. Acting on the recommendations of the Virginia Housing Study Commission, established by the General Assembly in 1970, the legislators passed a broad package of housing bills that essentially covers the field of housing advances.

The first of these bills established a uniform statewide building code which will cover all types of structures, both private and public. The new code will supercede all existing State and local building codes and regulations, including those of school boards and similar governmental units.

The second act created an Office of Housing within the Division of State Planning and Community Affairs. The new office will set policies, objectives and goals for housing in the Commonwealth and coordinate the development of new programs. A State Board of Housing appointed by the governor, primarily from the private sector in fields related to housing, will guide the development of housing policy. The legislation

also established within the Office of Housing a State code review board to act as a board of appeals and interpreter of the new building code, with subpoena power and authority to levy fines.

A third Virginia measure established a seven-member housing development authority empowered to sell tax-exempt bonds to finance housing for families with low or moderate incomes. The authority is empowered to provide pre-development money, seed money, construction loans and permanent loans to individuals for terms of up to 40 years. This group is also authorized to insure and buy mortgages.

The assembly also approved a fair housing law, making Virginia the first State of the old Confederacy to enact open housing legislation.

In addition, the Virginia Housing Study Commission was extended for two years and was expected to submit a number of bills during the 1973 session.

### Housing Finance Agencies

A number of other State legislatures proposed measures to provide permanent as well as short-term mortgage financing for low- and moderate-income housing developments.

**Alaska** legislators authorized the existing Alaska Housing Finance Corporation to assist in the acquisition and development of land and with the construction, rehabilitation, financing, management, maintenance, sale and rental of dwelling units for families with low or moderate incomes or for people in remote, underdeveloped areas. The housing corporation's program also was broadened to include individual owners and purchasers of residential housing with those previously eligible (i.e., sponsors, developers and builders). The act allows for the investment of funds by the corporation in certain obligations, securities and other investments.

The powers of the **Connecticut** mortgage authority were greatly expanded by legislative action and its name was changed to the Connecticut Housing Finance Authority. The new agency



will be able to lend money directly to eligible sponsors and will have the powers of review, processing and technical assistance associated with other State housing finance agencies.

The **Florida** legislature enacted a law requiring the governor to prepare a 12-year plan for the elimination of substandard housing. This plan is to be updated each November until 1986. The act provides for the creation of housing development corporations to finance new or rehabilitated housing for persons of low or moderate income. Procedures and regulations for the establishment of these private corporations were included in the legislation.

An act of the **Kentucky** legislature established the Kentucky Housing Corporation to finance low-income housing through the issuance of \$200 million in revenue bonds. The legislation sets requirements for developers, builders and sponsors of lower-income housing and exempts the corporation from Kentucky taxes including the sales tax and local taxes on its real property.

The newly created housing finance agency in **Idaho** went into operation July 1 with powers to finance low-income housing through the sale of bonds. The agency is specifically oriented toward supplementing the efforts of local housing authorities and stimulating the development of low-income housing.

In **Louisiana**, legislators created the Louisiana Development Authority for Housing Finance "to purchase federally secured mortgages from lending institutions within the State which shall in turn reinvest the proceeds in new residential mortgage loans as rapidly as possible." The legislation provides for the issuance of up to 30 million dollars in revenue bonds to make funds available to lending institutions. The authority cannot, however, propose a project without the approval of the local community in which it is to be situated.

The **West Virginia** legislature authorized the existing West Virginia Housing Development Fund to make uninsured construction loans and uninsured mortgage loans to sponsors of housing for low- and moderate-income families. The act also allows the housing development agency to waive income limitations consistent with Federal programs, and empowers it to acquire, hold, develop and dispose of real estate. The types of investment securities in which the fund could invest were expanded.

The creation of a housing finance agency for **Wisconsin** was approved by the legislature on the last day of its 1972 session. The agency can issue long-term revenue bonds to finance its projects, serve as a secondary mortgage market and acquire property under certain conditions, although the agency lacks the power of eminent domain.

Late in the year, the **Pennsylvania** legislature expanded the existing State housing agency and renamed it the Pennsylvania Housing Finance Agency. Under the new legislation, it will offer low-interest loans to private developers or to individuals for construction of single or multi-family housing for families with low or moderate incomes. The money will come from selling tax-exempt bonds. A "moral commitment" clause requested by the Governor provides an implied guarantee that the State would reimburse the fund for any deficiencies that might occur as a result of delinquent loan payments.

Lawmakers in **Hawaii** provided for the issuance of interim loans for construction of new housing, rehabilitation of old housing or aiding in acquisition of housing for displaced persons. The act also prohibits use of the Hawaii housing

authority's power of eminent domain in cases where it would endanger the receipt of Federal funds by any public body or impair any agreement between the State or county and its bondholders.

**Maryland** legislators passed two new housing acts in 1972. The first created a Division of Home Financing within the Department of Economic and Community Development to establish a program for the financing and purchase of homes by disadvantaged and low-income citizens. The second authorized the State to borrow up to \$10 million to fund the program.

In **Mississippi**, the Governor, by executive order, created a State Housing and Community Development Division in the executive office to coordinate and assist local governmental units in the area of housing.

In three other States—**California, Ohio** and **Rhode Island**—efforts to establish similar agencies failed.

## Building Codes

By the end of 1971, 13 States had adopted various forms of a uniform statewide building code. Action in **Iowa, Massachusetts** and **Michigan**, as well as Virginia, during 1972 brought the total to 17.

- Iowa passed enabling legislation for the promulgation of a State building code. The code is to be developed by a Building Code Commission and Advisory Council. That portion of the code relating to factory-built structures will apply statewide. Local governmental units may decide whether to adopt the remainder of the code as written, but they may not change it.
- Massachusetts lawmakers enacted a State-wide building code which will supercede all local building codes previously in effect.
- Michigan adopted a State construction code

act, under which a commission is to be created to draw up regulations governing the construction of any structure—public or private—including pre-fabricated buildings and mobile homes. The regulations are to be consistent with national model building codes.

In related action, **Indiana** enacted a new law permitting the board of county commissioners of any county having a department of buildings and an office of building commissioners and inspectors to adopt by ordinance a minimum housing code for unincorporated areas within the county.

**South Carolina** legislators passed three housing code measures in 1972. The first authorizes the state fire marshal to declare certain buildings unsafe for human occupancy. The second authorizes the governing bodies of counties and municipal corporations to adopt building, housing, electrical, plumbing and gas codes. The third gives the county governing bodies the power to adopt ordinances covering the repair, closing and demolition of dwellings considered unfit for human habitation.

Six more States—**Arizona, New York, Idaho, Iowa, Michigan** and **Pennsylvania**—passed codes for factory-built housing in 1972, bringing the list of States that have enacted legislation in this area to 27.

## Fair Housing Laws

Legislatures in three other States besides Virginia enacted new laws in the area of fair housing. **Wisconsin** and **Massachusetts** supplemented their existing fair housing laws with new provisions and **Missouri** passed an entirely new open housing law.

## EDUCATION

The problems facing State legislatures across the nation in the field of educational finance remained unresolved as 1972 came to an end. What began with the 1971 *Serrano v. Priest* decision in California had spread by the end of 1972 to more than 30 other States. Over 50 separate court cases were involved, about half of them in Federal courts and half in State courts.

The basic argument, that the quality of public education may not be a function of wealth other than the wealth of the entire State, ulti-



mately resulted in the issue being appealed to the U.S. Supreme Court. The Texas case—*Rodriguez v. The San Antonio Independent School District*—was before the Court at year’s end. (The Court’s 5-4 decision, late in March 1973, upheld the use of the local property tax for public schools and placed the responsibility for reform on the States.)

A number of States did attempt to resolve the crisis during 1972 but were resoundly unsuccessful. At the November election, voters in four States—**California, Colorado, Michigan** and **Oregon**—rejected constitutional amendments that would have limited the use of the property tax for educational financing.

Following the defeat of their proposed constitutional amendment, **California** legislators passed a major educational finance reform bill during the last days of the 1972 session in December.

The tax-shift measure, which provides more than \$1.1 billion in new school funding and property tax relief, was strongly supported by Governor Ronald Reagan and school authorities. About half the total was designated for local school districts—to roll back school tax rates and to raise the State’s share of local school support from 32 to 43 percent. Most of the remaining funds will be used to provide property tax relief to homeowners and renters, especially those with low incomes, and to reduce the local property tax on business inventories. At the same time, restrictions were placed on future property tax increases. Without voter approval, school taxes may only be raised to offset inflation and enrollment growth. Cities, counties and special districts face similar restrictions, with increases tied to a formula based on growth in property values, or population and price levels.

The money to finance the new California package is to come from a one-cent sales tax increase (to 6 percent) and 1.4-percent increases in the corporate income tax (to 9 percent) and the tax on banks and financial institutions (to a

maximum of 13 percent), together with some surplus State revenues and Federal revenue sharing funds.

In a climate of uncertainty, many States turned to study commissions to look at the problem of school finance equalization.

Blue-ribbon panels in **New York** and **New Jersey** proposed broad schemes for full State takeover of education costs, but neither recommendation yielded positive action during 1972. The \$1.5-billion proposal of the New Jersey Tax Policy Committee was rejected by the legislature. The recommendations of the Fleischmann Commission in New York had not been acted upon by the end of the year.

A Commission on Tax Reform appointed by the Governor of **Connecticut** recommended that the State equalize property tax assessment and distribution of funds to school districts. A Commission on Schools appointed by the Governor of **Illinois** recommended less reliance on local property taxes for education and allocation of much of the growth in State revenues to schools. The **New Hampshire, Oklahoma, Rhode Island** and **Virginia** legislatures all passed bills creating educational financing study groups or commissions.

A number of other States took action in the area of education and educational finance in 1972.

- **Colorado** legislators increased the support of local schools from \$460 to \$518 per pupil and an additional \$12 million was provided for the education of children with learning disabilities.
- **Arizona** lawmakers passed a series of bills to evaluate public schools. The Department

of Education was directed to develop cost accounting manuals for the schools as a step in achieving uniform methods.

- **New Mexico** passed two laws in this field. One implements a constitutional amendment passed in 1971 to abolish the “current school fund distribution” and provides for the transfer of funds in the current school fund to the public school equalization fund along with repealing the requirements for a school census. The other measure increased State support for public schools by 8.8 percent over the previous year.

States continued to enact laws for aid to nonpublic schools despite discouraging court decisions. Major new programs to aid private and church-related schools were passed in six States.

The newest form of aid, passed by **Louisiana, New York** and **Ohio**, gives tax credits, deductions or direct grants to the parents of nonpublic school children. The Louisiana law allows a maximum \$50 credit or 50 percent of tuition paid, but as of the end of the year the measure had not been funded. The plans enacted in New York and Ohio were both declared unconstitutional by Federal district courts, but the rulings were appealed to the U.S. Supreme Court. The New York legislation would allow graduated income tax deductions for nonpublic school tuition paid by families with incomes under \$25,000. Ohio’s tax-credit plan would provide \$61 million over two years with a maximum tax credit per pupil of \$90.

**Connecticut’s** 1972 law providing grants to parents of nonpublic school children was still before a Federal court at the end of the year and none of the \$4.3 million available had been paid out.

**Illinois** passed two new laws in 1972, one giving State grants to low-income parents of private school students and another providing \$20.5 million in books and services for private schools and \$5 million for cooperative private-public school programs. An Illinois circuit

court upheld the portions dealing with books and services but voided the money earmarked for needy parents.

**Maryland** voters in November rejected a measure which would have allowed grants to parents of private school pupils.

A successful 1972 **Nebraska** amendment and the new **Montana** constitution both allow busing of nonpublic school children. A similar proposal failed in **Idaho** and a proposal to lift specific restrictions in this area from **Oregon’s** constitution also was defeated.

At least three States took action in 1972 relating to the early development of children.

**Florida’s** legislature created an office of early childhood development in the governor’s office to promote, plan, coordinate and administer a program of early childhood training. The new office will consolidate a number of functions previously handled by separate agencies and is directed to meet the educational, social, health and psychological needs of the very young.

**Georgia** enacted a similar measure, the Early Childhood Development Act, to provide for programs and to authorize State grants to local school systems for the establishment of such programs.

**California** passed an early education act which will be “phased in” over five years. The program is designed to start public school instruction with four-year-olds and to provide new educational and social services to all children four through eight years of age. Each school district is directed to prepare an early childhood education master plan to be approved by the State and to provide for parent education and participation.

At least four States – **Connecticut, Georgia, Louisiana** and **West Virginia** – acted to authorize cooperative educational services between and among local units of government. (*See Interlocal Cooperation, for other laws that effectively do the same thing but are broader in scope.*)

- Georgia’s new Cooperative Educational Service Agencies Act directs the State board of education to adopt rules, regulations and pro-



cedures for the establishment and operation of cooperative educational service agencies.

- The Connecticut act creates regional education service centers to promote cooperative efforts among school districts.

- Louisiana's 1972 session authorized parish school boards to enter into voluntary compacts with other school boards for the purpose of providing multi-parish educational programs.

- West Virginia's new law establishes multi-county regional education service agencies.

Programs to provide for or expand educational services to exceptional or handicapped children were enacted in 1972 by at least 10 states—**Idaho, Kentucky, Massachusetts, Missouri, South Carolina, Vermont, Illinois, Ohio, Iowa** and **Virginia**.

The Massachusetts law, probably the most comprehensive of the year, is a sweeping revision of the statutes relating to children with learning disabilities. Its primary goal is to provide quality education to all children regardless of their individual special needs. The new law increases State aid to localities and removes the statutory label "uneducable," thus opening up opportunities for children who previously had been excluded from formal training.

A number of States also moved to improve the administration of educational programs. **Idaho** lawmakers established a new State Department of Education. **Illinois** legislators created an education development board to encourage innovation and provide grants, authorized State funds to implement financial management and planning, and directed the Governor's commission on schools to develop models of high-quality education and provides procedures for implementation. **Kentucky's** legislature set up an interim study commission on educational organization in the State.

## WELFARE

The trend toward cutbacks in welfare appropriations and eligibility requirements, so apparent in 1971, appeared to have been turned around in 1972. No new residency laws were placed on State welfare recipients during the year and most of those States which had passed such laws saw the courts declare them unconstitutional.

Much of the action at the State level resulted

in more money or else a restoration of cuts made the previous year.

- Rhode Island** legislators raised that State's welfare appropriation by \$7.2 million.

- Missouri** passed an emergency appropriation to restore the cuts in welfare payments initiated in 1971.

- In **Florida**, Aid to Families with Dependent Children (AFDC) was liberalized so that recipients will receive 65 percent of unmet needs rather than 60 percent.

- Nebraska** legislators, overriding the Governor's veto, appropriated \$1.4 million to restore cuts made in welfare grants. In another move, the legislature repealed authorization for the Welfare Department to cut aid to dependent children when funds were short.

- A \$10.7-million appropriation in **Kansas** restored a decrease made in welfare grants in 1971.

- The 1972 budget session of the **Utah** legislature increased public assistance grants from 70 to 73 percent of standard needs and authorized an increase to 75 percent during fiscal 1973.

In **Vermont**, the State legislature prohibited the welfare department from taking liens against the property of people receiving old-age assistance. The legislators also authorized the State welfare commissioner to make selective cuts in welfare funding, instead of the prior rule of cutting across-the-board, if he wanted to reduce the expenditures in any particular program. Day care centers were permitted to spend up to 20 percent of their State and Fed-

eral funds to care for children from homes where illness had kept one of the parents from working.

There also was a spate of court action on State efforts to cut welfare costs. Two of the most significant cases originated in **Texas** and **California**.

- In *Jefferson v. Hackney*, the U.S. Supreme Court ruled that States may pay lower welfare benefits to families with dependent children than are paid to the aged and disabled. The Court refused to overturn the Texas system of paying AFDC recipients 75 percent of estimated need while giving the aged and disabled 95-100 percent, and upheld the reduction of welfare benefits to families with outside income.

- California's method of calculating welfare benefits for the working poor was voided by the U.S. Supreme Court when it let a California State Supreme Court ruling stand. The California court had struck down the 1971 State law which determined welfare benefits by subtracting job income from the State grant level rather than the higher established standard of need. The law had resulted in reduced welfare benefits.

As in past years, States continued to take steps to decrease fraud and to encourage or require welfare recipients to join the labor force.

**Colorado**, while increasing State welfare aid to counties by \$6.5 million, moved to decrease waste in their programs. Parents receiving aid to families with dependent children may be removed from grant participation if they refuse, without good cause, to work or to take training. Protective payments for the remaining family members would be continued. The Department of Social Services was directed to apply for a waiver of Federal requirements so that special work experience programs could be conducted for unemployable parents of AFDC recipients. Other new Colorado legislation requires government agencies to cooperate in finding deserting parents of dependent children and requires welfare recipients to report within 30 days any increase in income of more than \$90 in any one quarter. The legislature also revised penalties for fraudulently obtaining aid, making a violation where more than \$500 was involved a felony and any lesser violation a misdemeanor.

**Hawaii** passed a law requiring all able-bodied welfare recipients to work on public projects or lose their monthly stipend. **Ohio** legislators approved a State work-relief program for employable welfare recipients. Those on welfare must pick up their checks at the employment office and will be denied welfare if they refuse work or training. The act also authorized the issuance of identification cards in order to reduce fraud. **Kansas** lawmakers required counties to have mandatory work programs for eligible welfare recipients.

**New York** released a Federal-State study of work requirements for welfare recipients. The study showed that only 10 percent were employable. Of those employable, only 10 percent had failed to comply with a 1971 State law which required them to accept work.

A new **Virginia** welfare law requires that, under certain conditions, the man who lives with a woman is responsible for the support of her children.

**New Hampshire** increased its Department of Welfare staff by approximately 100 for better administration, while **Kansas** authorized 55 additional eligibility workers to be distributed in heavy caseload counties and 25 more investigators for its State Welfare Department.

**Connecticut** implemented a controversial new flat-grant welfare aid plan designed to give families new fiscal freedom but requiring new financial responsibilities. The base payments to recipients in the Aid to Families with Dependent Children category are now figured solely on a family's size, rather than on individual needs. The amount of rent a family must pay, for instance, will no longer be considered in computing its payments. Welfare officials have said a majority of the approximately 30,000 families covered by the plan will actually receive higher payments.

The 1972 **Alaska** legislature approved that State's participation in the Medicaid program.





## TRANSPORTATION

Following a 33-month transportation planning study, **Massachusetts** Governor Francis W. Sargent in late November announced a complete halt of all new highway construction in and around Boston (there had been a temporary moratorium during the study) and proposed a new transportation program for the urban area. The plan calls for a commitment of nearly \$2 billion to commuter rail, public transit and road improvement over the next few years, thus changing the State's priorities from building highways to building mass transportation systems in the Greater Metropolitan Boston Area. The new plan comes after years of active involvement of citizen and environmental groups opposed to further highway construction.

The **Michigan** legislature passed a transportation package which raised the gasoline tax from 7 to 9 cents a gallon to produce an estimated \$80 million annually in additional revenue. Part of the new money will be used for construction and maintenance of county and city roads and part for the completion of the State highway system. One-half cent of the 2-cent increase, or about \$20 million annually, will go to a general transportation fund, which is to be divided equally between grants to State urban areas to support effective bus transit systems and grants to urban areas to improve highway-related mass transit systems.

Michigan legislators also approved a proposed constitutional amendment, to be submitted to the voters in November 1974, which would put a ceiling on the amount of highway funds that may be used for public transportation.

**Hawaii's** legislature appropriated funds for research and development of mass transit systems and established an Interdepartmental Transportation Control Commission. The new commission includes the director of environmental quality control, the director of health, the director of transportation, and the director of planning and economic development (see *Developmental Policies*). **Rhode Island** lawmakers created a legislative commission to study rapid transit.

In three other States, transportation bond issues were defeated at the polls in November. A \$50-million proposal for public transportation in **Washington** was turned down by the electorate, and plans to sell bonds to improve both highway and mass transit construction in **New Jersey** and **Rhode Island** met similar fates.

In **Florida**, the legislature declared a transportation system to be a valid county function for which funds may be spent and for which a county may enact a 1-cent gas tax. **Georgia** lawmakers directed the Department of Transportation to develop and coordinate long-range comprehensive transportation plans for all standard metropolitan statistical areas and for those areas which may become SMSA's within 20 years. **New York** enacted legislation to permit Port Authority revenues to be used for mass transit purposes.

Five more States—**California, Ohio, Maine, Tennessee** and **Georgia**—established departments of transportation, bringing to 20 the number of States with separate transportation agencies. Georgia's was created by constitutional amendment.

## RELOCATION

The development of State programs to assist persons and businesses forced to relocate because of government construction projects accelerated during the year. Actions of the States in this area have been prompted by passage of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which calls for such assistance in all federally aided programs. At least 17 States passed relocation measures in 1972.

**Kansas** legislators enacted two laws—the first providing for relocation assistance to persons displaced by highway, road or street construction, and the second providing for replacement housing by local governmental units involved in road construction.

**New York** set up new procedures for compensating owners of property condemned for urban renewal projects. The **South Carolina** legislature passed three relocation acts, one of which will require State agencies and political subdivisions to provide relocation assistance when any program or project involving highway construction results in the displacement of any person or “other legal entity.” The second act requires assistance for persons displaced because of airport construction, and the third further protects people whose property has been acquired for public use.

**Delaware, Florida, Idaho, Kentucky, Michigan, New Hampshire, New Mexico, South Dakota, Tennessee, Utah, Virginia, West Virginia** and **Washington** all passed relocation regulations based on the Federal law.

Voters in **Louisiana** approved a constitutional amendment which provides for the payment of relocation costs whenever property is acquired for public purposes.

## **PUBLIC LABOR-MANAGEMENT RELATIONS**

A new State Employee Relations Act which provides for collective bargaining rights for State employees on wages, hours, terms and conditions of employment was passed by the **Connecticut** legislature in 1972. Judicial and legislative employees, however, are not included in the legislation. Bargaining units are to be determined on a statewide basis by the State Board of Labor Relations. Recognized employee organizations will have exclusive representation rights, and prohibited practices will be enumerated (strikes are specifically banned the act) for the employee organization and the employer.

A number of other States also enacted new public labor relations laws.

In **Wisconsin**, a municipal employment relations act expands prohibited practices; limits collective bargaining agreements to a maximum of three years; establishes methods of dispute

settlement including arbitration, fact-finding and mediation; and revises the selection of representatives and appropriate bargaining units. The act also establishes a system of “fair share” agreements for municipal workers whereby nonunion members of a unit may be required to contribute to the union a portion of the union cost of collective bargaining.

Other new Wisconsin legislation permits the establishment of compulsory arbitration for police department personnel in Milwaukee, for law enforcement personnel in any municipality having a population less than 500,000 but more than 5,000, and for firefighters in all municipalities. The State employment relations law and the powers and duties of the State personnel board were also altered considerably. The revised law includes provisions for fair-share agreements for State employees, and for arbitration, mediation and factfinding, and sets out proper subjects for collective bargaining between the State and its employees.

Police in **New Hampshire** cities with a force of over 15 have the right to organize and to “meet and confer” with their employers as a result of legislation passed during the year.

A **Kentucky** measure which would have allowed collective bargaining for professional employees such as teachers was vetoed, but two laws did pass permitting collective bargaining for firefighters, the creation of a State board of labor relations, and authorization for collective bargaining for county police in large (over 300,000 population) counties. Under a new **Florida** law allowing collective bargaining for firemen, no contract may be made for more than two years and issues unresolved after a month of bargaining are to be submitted to advisory arbitration.



Three laws were passed by the **Vermont** legislature in the area of public labor-management relations. The new legislation established a State employee's compensation board, clarified the status of the State labor relations board in a collective bargaining impasse and authorized the board to hear grievances of State police, and made it State policy to defend State employees sued for acts performed in the line of duty.

**California** legislators approved an act which permits a school board to set up a separate negotiating unit for school administrators and other certified non-teaching management personnel.

**Virginia's** legislature created a commission to study the rights of public employees.

At least eight other States expanded or amended their laws in this field.

- **Alaska's** lawmakers changed their State's permissive collective bargaining system so that the State and all public employers now operate under mandatory provisions similar to a "small National Labor Relations Act." A State Personnel Board administers disputes; collective bargaining is required; recognition is exclusive; the administering State agency conducts elections where there is a question of representation and designates the bargaining unit in each case; mediation is compulsory; strikes are prohibited for essential employees and limited for semi-essential employees; bargaining covers wages, hours and other terms and conditions of employment; and grievance procedures with binding arbitration are allowed as a final step. The legislature also amended the penalty for violation of the Alaska wage and hour act so that it is no longer necessary for the violation to be "willful" in order to get a conviction.

- **Oklahoma's** public sector labor relations law, which went into effect last year providing bargaining rights for firefighters and police, was extended to cover all municipal employees in jurisdictions over 25,000 in population. The amendment also set up a three-member

Public Employee Relations Board to oversee the program.

- In **Rhode Island**, the labor relations law for State employees was amended to permit collective bargaining on wages, hours and working conditions and to provide for all unresolved bargaining impasses, except wages, to be submitted to binding arbitration.

- The 1971 **Kansas** law which covered employees of local government was liberalized to include county welfare workers and 35,000 State employees.

- An amended **Nebraska** public sector bargaining law now covers State employees and allows unions to be certified as exclusively representative by a majority of employees who vote.

- The **Maine** Labor Relations Act was amended to provide for a Public Employee Relations Board to review unit determinations and to decide upon prohibited practices.

- **Massachusetts** legislators amended their State's 1965 public labor relations statute.

- Finally, **New Jersey** extended the powers of the public employee relations commission by allowing it to act upon charges of unfair labor practices and to enforce its decisions. The attorney general was authorized to represent State employees in suits arising out of actions taken in the course of their duties.

In **New Mexico**, the State Personnel Board regulations were revised to provide a legal framework for State agencies in labor relations and new legislation was passed concerning workmen's compensation and retirement benefits for public employees.

## action on areawide problems

### SUBSTATE DISTRICTS

As Federal and local pressures for substate regional organizations have grown over the past few years, the States have become increasingly involved.

By the end of 1972, 39 of the States had officially delineated statewide systems of substate regional planning and development districts. Four other States had made tentative delineations, while the remaining seven had taken no action. Two of the States with substate regions—**Idaho** and **Maine**—had acted during the year to designate them.

Idaho established State districts by executive order, partly to coordinate State activities and partly as a result of the Federal impetus in this direction. The districts are to be used for collection of basic data and for planning purposes. State agencies were instructed to bring their planning, programming and service functions into conformity with these district boundaries.

Maine established State districts by a combination of legislation and executive order. Lawmakers enacted the bill that created the districts in 1969 and the executive order, delineating the boundaries, was issued in 1972. The criteria used in drawing the boundaries were urbanization, demographic considerations, natural features and interstate areas. As in the case of Idaho, one of the primary reasons for the districting was the Federal impetus. The new districts are also to be used for planning with the State agencies directed to conform their activities to these boundaries.

In a related action the **Kentucky** legislature gave statutory force to the 15 Area Development Districts established by executive order in 1965 and 1968. The legislation defined the boundaries of the districts and set up guidelines for action. Under the act, each district is to have its own board of directors authorized to assist planning units, administer loans and grants, make interlocal agreements, assist special districts and develop district development plans. The measure also empowers the administrator of the Kentucky Program Development Office (the State planning agency) to establish guidelines for the selection of the lay members of the district boards in an attempt to assure that



all interest groups will have a decision-making input on the boards. The 15 districts include all of the geographic area of the State.

A new act authorizing the creation and operation of local government service authorities was signed into law in **Colorado**. The stated purpose of the legislation is to reduce the proliferation of other types of quasi-municipal government (see *New Jurisdictional Options*).

The **Indiana** legislature authorized the Indiana Port Commission to grant options to persons to lease property for the development of the ports and terminal facilities under the Commission's authority. **Washington** legislators created a regional economic development authority to "encourage, assist, develop and evaluate projects and proposals which will stimulate the expansion of economic opportunities in the private sector."

## DEVELOPMENTAL POLICIES

The **Florida** legislature gave its approval to the adoption of a State comprehensive plan. The measure, the Florida State Comprehensive Planning Act of 1972, changes the structure of the Department of Administration by making the Division of Planning a separate entity apart from the Division of Budgeting (previously the two functions were combined). The Act directs the Division of State Planning to develop a State comprehensive plan, the object of which is to provide long-range guidance for the orderly social, economic and physical growth of the State. (*This act is part of a comprehensive planning, land use and environmental package. For information on related bills, see Land Use, also Environmental Quality.*)

**Hawaii's** legislature enacted a State Quality Growth Policy and provided for the development by the governor's office of a growth policy for the State. Under the statute, considerations in the development of the policy should include the examination of impact of proposed urban development, the relationship between short-term and long-term environmental quality, the irretrievable commitment of resources

through urban development and the alternatives available to minimize adverse environmental effects as balanced against economic development. The act also calls for the inclusion of a comprehensive framework for future growth and identification of growth objectives along with operational constraints to further such objectives.

The related Hawaii legislation which created an Interdepartmental Transportation Control Commission (see *Transportation*) was termed the "anti-crowding" bill because it will allow limits to be set on the number of autos permitted in the State, on incoming airplanes and on ships bringing passengers. The limits, which are to be proposed by the Commission, will require the approval of the legislature.

The **Tennessee** legislature abolished the old State planning commission which had been in operation since the 1930s and created a new State Planning Office in the executive branch. A local planning section of the new office provides coordination and assistance to local units of government through approximately 100 staff members in four regional offices. This group is also authorized to contract out developmental and planning services to localities. The State planning division, another section of the office, is the heart of the executive function. The division has been directed to prepare a State developmental plan as well as to provide special study projects for the governor. The State plan, similar to those being developed in Florida and Hawaii, is to be a policy statement and framework for long-range guidelines concerning orderly growth in the State. Emphasis is to be placed on the coordination of State agencies, departments and facilities.

These were among the other leading State actions in the area of growth, planning and development:

- **Colorado** appropriated funds for the division of commerce and development to promote economic development, particularly in the non-urban areas which desire such aid and in areas of chronic unemployment. The goal of the program is to achieve a balanced State economy.
- **Kentucky** authorized counties of the first and second classes to develop community improvement districts.
- **Oklahoma** lawmakers established the Oklahoma Industrial Development Commission in the office of the governor to serve as a planning and coordinating body for the governor and the Department of Industrial Development.
- The **Rhode Island** legislature enacted a new statute which requires towns and cities to establish planning boards.

## LAND USE

The implications of uncontrolled land use drew increased attention at the State level during the year.

**Florida's** legislators produced the most comprehensive and far-reaching legislation to date with the passage of the "Florida Environmental Land and Water Management Act of 1972." The new act puts the State government in a position to exercise a limited degree of control over the growth and development of the State, while preserving the processes of local government agencies and rights of private landowners. The role of the State is focused on those land-use decisions which will have a substantial impact outside the boundaries of the local government in which the land is located.

Under this act, the governor and the cabinet are empowered to designate specific geographical areas as "areas of critical State concern." Local governments are then authorized to adopt appropriate land development regulations for these areas, with guidelines being supplied by the State if the local unit fails to do so. To concentrate the program on the most endangered regions, the act specifies that no more than 5 percent of the total State land area can be designated as "areas of critical State concern."

A second provision of the Florida legislation gives the governor and the cabinet the power to adopt guidelines and standards to be used in deciding whether certain land developments are "developments of regional impact." These guidelines and standards will be subject to review and approval by the State legislature at the 1973 session and if approved, will become effective July 1, 1973. In general, "developments of regional impact" will be those which, because of their character, magnitude or location, would have a substantial effect upon the health, safety or welfare of the citizens of more than one county.

To administer this act, the Division of State Planning is given the responsibility for making recommendations to the governor and the cabinet regarding both "areas of critical State concern" and "developments of regional impact" in Florida. Also, this division will approve local land development regulations in "areas of critical State concern;" give technical assistance to local government agencies; and write the development regulations in the event the local government fails to respond with suitable regulations.

At least seven States initiated land-use studies during 1972.

- **Virginia** enacted a land-use policy act which covers areas of critical environmental concern. Under the act, the Division of State Planning and Community Affairs will study this subject with a view towards designating critical environmental areas. A Land-Use Committee in the Virginia Advisory Legislative Committee is also studying the problem with recommendations due in 1974.

- A subcommittee of the **Georgia** House Committee on State Planning and Community Affairs conducted a series of public



hearings around the State to disseminate information about land use and to gather public reaction to potential statewide land-use planning. A final legislative proposal was to be presented to the General Assembly in early 1973.

- **Rhode Island's** Division of Statewide Planning undertook an environmental inventory at the direction of the Governor to gather information needed to make public decisions on land use and development in the State. On the basis of the report, the Governor proposed legislation to coordinate existing State and local laws and programs which influence future development and land use. The legislation, which would require that all actions taken by the State and local governments conform to State land-use and development policies, was to be considered in early 1973.

- An interim land-use policy for **Michigan** was adopted by the special commission on land use which had been formed in 1971 to study the problems of land abuse. This plan will be the guide for the State's action until a formal program is adopted. The objective of the policy is to insure that all future development and use of land and water resources are orderly and carefully controlled and in harmony with fundamental environmental values.

- The **Massachusetts** legislature set up a legislative committee to study land-use problems.

- In **New Mexico**, legislators made the environmental improvement board responsible for development of a rational land-use policy and a comprehensive land-use law.

- **Arizona** began a land-use experiment to develop a comprehensive land-use classification and inventory system and a complete orthophoto base map of the State along with

a computerized information retrieval system for the land-use inventory. The experiment was being conducted in cooperation with the U.S. Department of the Interior and the National Aeronautics and Space Administration. Another Arizona project, funded by the Four Corners Regional Commission and the U.S. Department of Commerce, was undertaken by the State Department of Economic Planning and Development. The department will devise a computer model which relates economic growth to environmental quality so that the answers to environmental impact questions can be quickly provided to policymakers, industry and organizations with a strong environmental concern.

In other related action, **California** lawmakers wrote into the statutes the State Supreme Court's September 1972 ruling that all major developments, public or private, must be scrutinized for their effects on the environment before approval is given. An adverse environmental impact report will not automatically kill a proposed project; it will, however, be used as one of the determining factors for local agencies.

**Hawaii's** legislature established forest and water conservation zones.

At least four States moved to protect endangered shorelines. **California** voters, at the November election, approved the Coastal Zone Conservation Act which is designed to regulate development along the coastline and which provides \$5 million for implementation between 1973 and 1976. **Washington** voters, also in No-

member, endorsed a 1971 coastal protection law which gives local governments authority to protect shorelines. **Rhode Island** established a Coastal Resources Management Council to safeguard Narragansett Bay and provided for research services for the council. **Virginia** passed a Wetlands Protection Bill.

## **PRESERVING ENVIRONMENTAL QUALITY**

There was an increasing amount of State action in 1972 directed at solving the problems of a polluted environment as well as insuring some type of orderly growth in the future. During the year, States continued to bring more resources and imaginative thought to bear on environmental programs. Almost every State in the nation passed some form of environmental law—either by legislation or by constitutional amendment. A majority of these measures concentrated on such traditional areas of concern as air and water quality, although a growing number of States enacted legislation in other environmental problem areas.

A great deal of the State activity during the year centered around the setting and enforcing of standards, and appropriations in many cases did not keep up with the rising needs.

Voters in two States, **Massachusetts** and **North Carolina**, approved broad environmental policy amendments to their constitutions at the November general election.

- In Massachusetts, the electorate endorsed a proposal establishing “the right of the people to clean air and water, freedom from excessive and unnecessary noise and the natural, scenic, historic and esthetic qualities of their environment.” The amendment also prescribes new stringent procedures for legislative approval of diversion of conservation lands to other uses.

- The North Carolina amendment declares it State policy to conserve and protect lands and waters in the State for the benefit of all citizens. This includes the acquisition and

preservation of parks, recreational and scenic areas along with the control of air, water and noise pollution.

Both of these acts are significant, not only because of their clear statements of constitutional authority, but also because they give individuals and groups legal standing in the courts and in administrative actions. In conjunction with the Massachusetts amendment, the legislature further strengthened the 1971 “citizens right to sue polluters” law by expressly including governmental entities among those potential polluters liable for citizens’ suits.

The form and structure of the machinery to deal with environmental problems also seemed to command greater attention than funding in State capitols.

**Hawaii** enacted an environmental quality act which gives the director of health the authority to control air, water, noise and other forms of pollution found in the State. **Wisconsin** legislators established a State environmental policy patterned after Federal environmental protection legislation. The measure requires every State agency to include an environmental impact statement in all recommendations and reports on legislation and in other major actions affecting the environment.

### **New Agencies**

The number of State environmental agencies was more than doubled during 1972.

- **Idaho’s** legislature created a Department of Environmental Protection and Health. The act establishes the powers, duties and regulations for the new department, including the transfer of existing powers from other agencies.





- **Indiana** created an environmental coordination board to set policy and supervise the operations of the stream and air pollution control boards. The legislation also requires the board to make environmental impact evaluations.

- The **Iowa** legislature established a new department of environmental quality to consolidate the administrative authority of the State relating to air and water quality, solid waste disposal and chemical technology.

- A new **Kentucky** Pollution Abatement Authority was created by legislative action and was given the power as an independent taxing district to provide funds to governmental units for waste water treatment projects and other related programs.

- **Louisiana** lawmakers established the Governor's Council on Environmental Quality to advise the governor, to serve as a coordinating body, to act as a clearinghouse for all environmental impact statements and to function in conjunction with all State and Federal agencies to develop interrelated environmental quality criteria and long-range environmental quality goals.

- In **Michigan**, an executive order centralized various environmental agencies under the Department of Natural Resources. The goal is better coordination and enforcement. An environmental division was set up in the office of the attorney general to provide legal counsel on environmental matters.

- **Massachusetts** legislators passed the Environmental Policy Act which established a powerful Division of Environmental Protection within the office of the attorney general. All State agencies are required to formulate reports detailing the environmental effects of all major proposals prior to construction.

- **Minnesota** established an Environmental Quality Council and a 24-member Citizens Advisory Committee to the council by executive order. The order authorized the council and its advisory committee to ensure a "continuous, comprehensive evaluation of the quality of the environment" and directed them to provide maximum coordination among State

agencies in activities affecting the environment. Environmental impact statements are required of all agencies.

- **Maine** legislators, after passing enabling legislation in 1971, implemented a reorganization of agencies to coordinate environmental programs. The act placed the existing Bureaus of Air, Water and Land under a Department of Environmental Protection and directed the new agency to protect and improve the quality of the natural environment and the resources of the State.

- **Missouri** created a State environmental improvement authority to provide for the conservation of air, land and water resources along with methods for the disposal of solid wastes.

- In **New Hampshire**, a Division of Environmental Affairs was created in the office of the attorney general and a new assistant attorney general was hired to head the enforcement staff.

- **Ohio** legislators created an Environmental Protection Agency and gave the director power to administer the laws governing air and water pollution, solid waste disposal, public water supplies, sewage disposal and industrial wastes. The new legislation provides for citizen participation in the agency's proceedings and for a Board of Review to hear appeals from actions of the director. The act essentially transfers all environmental functions previously held by a number of State agencies to the new agency.

- **Virginia** lawmakers set up a Council on the Environment to coordinate the policies, plans

and programs needed to protect the State's air, water and land resources from pollution.

## Enforcement

Apart from the enforcement aspects of the new administrative agencies, a number of States passed separate laws specifically designed to strengthen the enforcement of environmental regulations.

**Missouri** expanded the duties and powers of the air conservation commission by adding investigative powers and penalty provisions, while **Wisconsin** initiated a monitoring program that covers industrial wastes, hazardous substances and air contaminants.

**Connecticut** legislators passed a measure making anyone responsible for oil pollution causing damages of more than \$5,000 (as estimated by the Commissioner of Environmental Protection) liable for all costs and expenses incurred by the pollution. If negligence is found, the responsible party may be liable for one and one-half times the costs and expenses.

The **Georgia** legislature passed a series of bills that strengthen the enforcement powers of the Division of Environmental Protection in relation to the Georgia Water Quality Control Act of 1964.

## Air

In the area of air pollution, **Colorado** passed a new voluntary and mandatory control plan which affects industries and traffic. **Massachusetts** enacted legislation which clarifies the "cease to pollute" order procedures and prohibits unnecessary emissions by motor vehicles. A tax incentive for industrial efforts to abate air pollution was also passed. A new air pollution law in **Michigan** requires the reporting of pollutants and sets surveillance fees which industry must pay. It also eliminates the need to show injury to human health or natural resources for action to be taken by the Air Pollution Control Commission.

By the end of 1972, all of the States had submitted implementation plans to the Federal Environmental Protection Agency for meeting the standards under the Federal Clean Air Act, but

only about 30 of the plans had been completely approved.

## Water

The largest number of State actions occurred in the area of water pollution control and regulation.

**Florida** enacted a Water Resources Act of 1972 as part of that State's over-all environmental package (see *Developmental Policies*). The legislation provides for comprehensive management of the State's water resources, the development of a State water-use plan, taxing powers and enforcement authority.

**Louisiana** legislators adopted a ground water conservation act which provides for the efficient administration, conservation and orderly development of ground water resources in the State.

The **Michigan** legislature enacted a water pollution bill which stresses the regulation of sewage discharges and a second act increasing the penalties for water pollution.

**Missouri** legislation established a Clean Water Commission, re-enacted the water pollution law and strengthened penalties for violation.

**South Dakota** amended its law relating to uses of ground water and provided for new rules and regulations to be adopted. The legislature also created a water projects formulation and finance committee to provide South Dakota with water resources planning.

**West Virginia** lawmakers created the Water Development Authority to establish, fund, operate and maintain water development projects throughout the State.

**New Hampshire** passed a bill to develop a regional approach to water pollution abatement.



**Maryland** authorized the Environmental Service to plan and provide water supply projects in the same general manner as it provides waste water purification projects. The legislators also directed the agency to consider the effects of public versus private ownership of water and waste water facilities.

**Oklahoma** passed four major laws which re-codified and updated that State's water laws. The measures allow for the establishment of a Water Resources Board which will centrally administer water laws, creation of regional water districts, formulation of programs for pollution control and abatement, and establishment of water quality standards. The laws also prescribe penalties for violators of the regulations.

**Pennsylvania** strengthened its water regulations.

## Funding

Despite the seeming emphasis on form, standards and enforcement, States continued to increase their direct fiscal support for environmental programs and pollution control in 1972. A number passed substantial environmental bond issues and others appropriated funds for specific programs.

**New York** voters, in November, endorsed a \$1.15-billion environmental quality bond issue to provide money for the "preservation, enhancement, restoration and improvement of the quality of the State's environment." The funds will be used to provide State grants to municipalities and other governmental units and to match Federal funds.

The **Florida** electorate passed a \$240-million bond issue for the acquisition of environmentally endangered lands under that State's massive new land-use act (see *Land Use*).

In **North Carolina**, voters approved a \$150-million general obligation bond issue for clean water projects. **Washington's** electorate endorsed bond issues totaling \$265 million for facilities for waste disposal, water supply and recreation.

The **Missouri, New Hampshire, South Dakota** and **Kentucky** legislatures authorized new or increased appropriations for water pollution control. **Arkansas, Colorado, New Hampshire, Washington, Nebraska, South Carolina** and **Kansas** did the same for sewage disposal and treatment.

**Connecticut** approved State grants to municipalities for pollution abatement and **Iowa** allowed the issuance of revenue bonds by municipalities for pollution control. **Hawaii's** legislature appropriated moneys for improving the "quality of life."

## Other Actions

In the field of noise pollution, **Connecticut** enacted a measure permitting the establishment of maximum noise levels and authorized the Commissioner of Motor Vehicles, with the advice of the environment commissioner, to set maximum decibel levels for all vehicles. **Louisiana** lawmakers authorized the State Board of Health to develop and enforce standards to regulate noise pollution. The standards are to include provisions developed in cooperation with the department of highways and the department of public safety.

At least five States—**Kentucky, Maryland, New Jersey, Pennsylvania** and **Tennessee**—passed legislation to join the interstate environmental compact.

At least six States passed legislation controlling and regulating strip mining or reclaiming land ruined by strip mining. Nine enacted laws to establish recreational or park lands or to preserve scenic areas. Six States moved to protect endangered species and a number of others enacted regulations on chemicals.

## improving state and local revenue systems

Unlike the previous year, no new income or sales taxes were enacted during 1972. The year ended with the same totals as when it began—40 States with a full-fledged personal income tax, 45 with a broad-based sales tax and 36 with tax systems that included both. Only **New Hampshire** has neither.

However, more than a third of the States reacted to fiscal pressures by raising existing taxes. A total of 17 States increased at least one of the five principal taxes—income, sales, motor fuel, tobacco and alcoholic beverage—or extended temporary increases, and nearly a dozen raised two or more.

In contrast, income tax rates were reduced in three States.

### INCOME AND SALES TAXES

Three proposals to adopt or modify State income taxes failed during the year. In **New Jersey**, which has no statewide personal income tax, Governor William T. Cahill recommended that one be enacted to replace a significant part of the school property tax, but the legislature defeated his plan. Voters in **Massachusetts** and **Michigan** turned down constitutional amendments in November that would have replaced their flat-rate income taxes with graduated rate schedules.

On the other hand, the **Ohio** electorate rejected an initiative to repeal the personal income tax adopted in 1971.

Income tax rates were raised in six States—**California, Idaho, Nebraska, New Jersey, New York** and **Virginia**—compared with 15 the previous year.

- **Virginia** adopted increases in both personal and corporate income taxes, boosting the personal tax rate on taxable incomes over \$12,000 from 5 to 5.75 percent and the rate for corporations from 5 to 6 percent.



● **California** raised the general corporate income tax to 9 percent and the maximum tax on banks and financial institutions to 13 percent, both of which were increases of 1.5 percent.

● **Idaho's** 6-percent corporate income tax was increased to 6.5 percent.

● **Nebraska** legislators raised their corporate tax level to 25 percent of the personal income tax rate, instead of 20 percent, making a new effective corporate rate of 3.75 percent.

● **New Jersey** increased its tax rate on net corporate income to 5.5 percent from 4.25 percent.

● **New York** imposed a new 15-percent tax bracket on incomes over \$25,000, raising the rate on upper-income taxpayers by 1 percent. The tax on minimum taxable income was increased to 6 percent from 3 percent, and a 2.5-percent surtax on incomes of individuals, estates and trusts was adopted for taxable years 1972 through 1976. The low-income allowance, below which no tax is due, was raised to \$2,500 for single taxpayers and \$5,000 for married couples and heads of households.

New York's income tax increase would have affected New York residents working in New Jersey. In response, the **New Jersey** legislature adopted an almost identical increase, adding to its "emergency transportation" tax a 15-percent bracket on incomes over \$25,000 and a surtax, minimum income rate and low-income allowance to correspond with New York's. The tax applies to New Jersey residents working in New York and New York residents working in New Jersey. With the increase, it diverts to New Jersey revenue from such commuters that otherwise would have gone to New York.

In addition, **Connecticut** and **Michigan** indefinitely extended temporary income tax increases that were due to expire. The increases apply to corporate incomes in Connecticut and to both personal and corporate incomes in Michigan.

Although most State tax actions were on the increase side, income tax rates were lowered in **Idaho, Kentucky** and **Vermont**.

Idaho legislators reduced the personal income tax rate in each bracket. Rates, formerly

2.5 to 9 percent, now range from 2 percent to 7.5 percent. Idaho compensated for the decrease by eliminating Federal income taxes as a deduction on the State tax return and by raising several other taxes.

In Vermont, the 15-percent personal income tax surcharge, levied since 1969, was reduced to 12 percent for 1973 and to 9 percent thereafter.

Kentucky lowered its corporate income tax rates from 5 to 4 percent on the first \$25,000 of taxable income and from 7 to 5.8 percent above that amount.

Although no new State sales taxes were enacted, sales tax rates were increased in **California** and **Connecticut**. California's rate was boosted by one cent to 4.75 percent. The new 7-percent Connecticut sales tax rate, up from 6.5 percent, is the highest in the nation.

A third State, **Tennessee**, continued the temporary increase in its sales tax until June 30, 1973, after which the rate will drop from 3.5 percent back to 3 percent. The **District of Columbia** sales tax was increased to 5 percent from 4 percent by Congress, which a year earlier had raised the District's income tax.

## FUEL, TOBACCO AND ALCOHOL TAXES

Other major State revenue actions of the year included these:

- Gasoline taxes were increased in 10 States — **Idaho, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, South Carolina** and **Virginia**. The increases were all 1 to 2 cents per gallon, with the new rates ranging from 7 to 9 cents.

- Cigarette taxes were increased in five States and the **District of Columbia**. Two increases in Idaho during the year raised the rate to 9.1 cents per pack. The tax per pack of cigarettes also went up to 11 cents in **Mississippi**, to 19 cents in **New Jersey**, to 15 cents in **New York** and to 9 cents in **Oregon**, as well as to 6 cents in the District of Columbia. The Oregon increase, proposed earlier by the legislature, was approved by the voters in January 1972. New tobacco products taxes also were levied in **Idaho** and **Kansas**.

- Alcoholic beverage taxes were increased or expanded in nine States—**Florida, Idaho, Maryland, Michigan, Nebraska, New Jersey, New York, South Carolina** and **South Dakota**. The Idaho increase is a temporary surcharge through June 30, 1974. In **Delaware**, the tax on wine was cut in half, from 80 cents to 40 cents per gallon.

## REVENUE SHARING

By the end of 1972, three States had already obligated by law the use of their Federal revenue sharing moneys. Although most States were scheduled to allocate their revenue sharing funds in 1973 sessions, the **California, New York** and **Pennsylvania** legislatures had already acted by the time the first checks were mailed in December. Among other things, the California share will help finance a comprehensive program of school aid and property tax relief that was enacted by the legislature in December with the support of the Governor after voters defeated a proposal to place constitutional limits on the use of the local property tax (see *Education*).

State revenue sharing plans were initiated during the year in **Arizona** and **Florida**.

In November, Arizona voters approved a State revenue sharing proposal similar to one which had been defeated in the final hours of the 1972 legislative session. The successful "revenue sharing and tax stabilization" plan sets aside 15 percent of the State's annual income tax collections for an Urban Revenue Sharing Fund which is to be distributed to incorporated cities and towns according to population. Based on 1970 collections, the fund would amount to approximately \$15 million annually. In return, the State rescinded the authority of cities and towns to levy income and luxury taxes. The State was also authorized to contract with cities and towns for the uniform collection of local sales and use taxes.

A revenue sharing act passed by the Florida legislature established separate trust funds for counties and municipalities, both to be administered by the Department of Revenue. The county fund will come from one cent of the cigarette tax, the portion of road taxes already allocated to counties and 55 percent of the tax on stocks and bonds and other intangible personal property. It will be distributed among counties on the basis of a formula giving equal weight to population, unincorporated area population and sales tax collections. The fund for municipalities will be fed by 11 cents of the cigarette tax, all of the 8-cent motor fuel tax and the existing municipal share of road taxes. Distribution will be determined by a formula containing elements of population, sales tax collections and assessed property values.

## THE PROPERTY TAX

Although there was no wholesale reform, a number of States took action during 1972 to improve real property tax administration. The most extensive changes were made in **Montana** and **Alabama**.

Montana voters took a significant step in June when they approved a new constitution that includes provisions for statewide property assessment, appraisal and equalization.

A constitutional amendment approved by the Alabama electorate in May divides all property



into three categories for assessment purposes, with utilities to be assessed at 30 percent of market value, farms and homes at 15 percent and other property at 25 percent. The amendment limits the amount of tax that may be levied on any property in a single year to 1.5 percent of its market value. In addition, legislation calling for statewide reappraisal of all property in Alabama became effective in January 1972.

Proposals that would have placed constitutional limits on the use of the local property tax and would have required new methods of financing education were defeated by the voters in four States—**California, Colorado, Michigan** and **Oregon**.

However, other ballot propositions during the year were more successful.

- Statewide property taxes in **Louisiana** were repealed at the November general election.
- In **Oklahoma**, a constitutional amendment limiting the assessed value of real property to 35 percent of its fair cash value was approved.
- **Washington** voters ratified an initiative lowering the constitutional limit on property taxes from 2 percent to 1 percent of fair market value.
- The **Tennessee** electorate approved a constitutional amendment aimed at shifting the property tax burden to utilities, business and industry by assessing utilities at 55 percent of fair value, business and industry at 40 percent and farms and residences at 25 percent.

In other action, legislation was enacted in **Maryland** to require reassessment of all real property at least once every three years. Methods were provided for spreading increases in both assessments and taxes over a three-year period

whenever assessments are raised by more than 36 percent.

**Missouri** lawmakers repealed their State's 4-percent tax on bonds, notes, debentures and other intangible personal property, effective January 1, 1975. The **New Mexico** legislature limited the taxable value of personal property kept by a homeowner in his home to 10 percent of the taxable value of the home exclusive of homesite.

Statewide property tax levies were approved by legislation for water pollution control purposes in **Idaho** and for general appropriations in **New Mexico**.

## TAX RELIEF PROGRAMS

Continued concern over the impact of property taxes on the poor and the elderly led to significant action in the State capitols on property tax relief.

Three States—**Illinois, New Mexico** and **West Virginia**—enacted State-financed "circuit breaker" programs. New Mexico's program applies to all low-income taxpayers; the Illinois and West Virginia plans aid only low-income homeowners and renters over 65.

With the three new circuit-breaker plans, a total of 13 States had this kind of property tax relief program by the end of the year. Similar in principle to the circuit breaker that prevents electrical overload, the property tax circuit breaker prevents a family's property tax from exceeding a percentage of income that the

State considers an “overload.” The tax relief, generally in the form of a State rebate or income tax credit, protects those hard-pressed by the property tax without interrupting the flow of revenue from those able to pay. The two most important characteristics of the true property tax circuit breaker are that it is State-financed and that it phases out as income rises.

**Colorado, Kansas and Ohio** revised or expanded their existing “circuit breaker” plans during the year.

At the November general election, voters in **Missouri** approved a constitutional amendment to allow property tax relief by means of either a homestead exemption or a tax credit, to permit the relief plan to include renters and to require the State to reimburse the local government for any loss of revenue.

Nearly a dozen other States acted to provide or expand property tax relief for the elderly.

New State-financed programs were adopted in **Alaska, Nebraska and Tennessee**. The Alaska legislation eliminated all property taxes for homeowners 65 and older with incomes under \$10,000. Nebraska cut property taxes for elderly homeowners with low incomes by 25 percent for 1973 and by 50 percent for 1974. Tennessee provided a State rebate equal to a \$5,000 reduction in assessment for homeowners 65 and older with incomes under \$4,800.

At the close of the year, a total of 24 States – including the 13 with “circuit breakers” – had some form of State-financed property tax relief for low-income elderly homeowners. Twenty-one others had locally financed programs, 15 of them mandated by the State and six others authorized by the State and implemented at the option of the localities.

constitutional  
revision



If local governments are to meet the challenges of the Seventies, they must have the benefit of modernized State constitutions which do not unduly restrict them. Removal of constitutional barriers to effective local response—outdated restrictions on a wide range of local powers from governmental structure, annexation and consolidation, to areawide cooperation, and taxation and finance—remained a subject of prime concern in State capitols.

During the previous five years, more than two-thirds of the States had taken some action toward general constitutional revision. In 1972, proposals ranging from minor amendments to completely new constitutions were voted on in 46 States.

In **Montana** and **North Dakota**, proposed new constitutions produced by constitutional conventions were submitted to the voters, with differing results.

- The Montana constitutional convention, which had been authorized in 1970, submitted a new document to the voters on June 6. A slender majority of those voting approved the new constitution, but opponents appealed to the courts. In mid-August, the Montana Supreme Court upheld the ratification. The new constitution, the first major revision since Montana became a State in 1889, enlarges citizen rights, strengthens legislative powers, makes government more responsible to the people, provides for more flexible use of highway funds and lifts limits on the State property tax. It also simplified the amendment process by permitting initiative petitions and by removing the limit on the number of amendments which may be submitted at each election. It requires that the question of whether to call a constitutional convention be on the ballot every 20 years. (Other specific provisions of the new document are described in earlier sections of this report.)

- North Dakota voters, at a special election April 28, turned down a proposed new constitution by a 5-3 margin. The defeated document would have allowed the legislature to meet for a total of 80 days throughout the biennium, rather than for 60 consecutive days in odd-numbered years as is now required. Other major proposed changes involved leg-



islative size, open meetings, reapportionment, post auditing, terms and qualifications of legislators and legislative compensation.

A second approach to constitutional revision in 1972 involved the phased and piecemeal method successful in both **South Carolina** and **South Dakota**.

- South Dakota substantially changed its constitution when the voters approved four broad amendments at the November general election. Drafted by the State Constitutional Revision Commission—established in 1969—and modified by the legislature, the amendments streamline the executive and the judiciary, strengthen local government and liberalize the amending process by allowing popular initiation of constitutional amendments.

- In South Carolina, eight proposals were successful in November: a separate amendment to permit liquor-by-the-drink and seven propositions submitted by the Constitutional Revision Study Committee. The study committee's proposals make editorial rather than substantive changes, consolidating scattered provisions, clarifying language and dropping irrelevant or outdated provisions. New executive and judicial articles were passed, as well as ones dealing with public "officers," local government and public education.

Both the piecemeal and new document approaches benefit from background work, analysis and over-all coordination afforded by a constitutional study committee, constitutional revision commission or constitutional convention. In 1972, three more States took steps in this

direction in an effort to bring about wholesale modernization of their constitutions.

- In **New Hampshire**, voters authorized the calling of a constitutional convention to convene in 1974.

- In **Texas**, a constitutional amendment approved in November granted the legislature the authority to establish a constitutional revision commission which is to submit its recommendations no later than November 1, 1973. The legislature will then be convened as a constitutional convention for 60 days beginning in January 1974 to draft a new constitution for submission to the Texas electorate.

- **Louisiana** voters in November approved a convention call, with delegates to meet first in January 1973. A complete proposal is due no later than January 4, 1974.

There also were some rejections in 1972. Citizens in both **Alaska** and **Ohio** voted resoundingly against calling constitutional conventions. The convention question is required to be on the ballot every 10 years in Alaska and every 20 years in Ohio.

In other related action, **Florida** voters approved an amendment to allow constitutional changes to be proposed by initiative. A successful **West Virginia** measure authorized the submission of constitutional amendments at special elections. **Texas** and **Maryland** voters also revised the constitutional amendment process in their States, while the **New York** electorate rejected a proposal to do so.

Voters in two more States—**Minnesota** and **Wyoming**—approved annual legislative sessions in 1972, but similar proposals were rejected in **Alabama**, **Louisiana** and **New Hampshire**. The **California** electorate approved a single two-year session for legislators to replace unlimited annual sessions.

In all, 455 proposed constitutional changes were submitted to the voters in 45 States. A total of 326, or 71.6 percent, were adopted. In addition, the legislature in **Delaware**, where voter approval of constitutional change is not required, endorsed a proposed new constitution for that State. A second legislative approval will be required before the new document becomes effective.

## THE STATE-LOCAL SURPLUS

During the last several years, State and local governments have improved their budgetary posture. Surpluses for the State-local sector in the national income accounts were registered in each of the three previous years, 1969-71. State and local governments showed up particularly well in the second quarter of 1972, registering a record \$14.8-billion surplus. While this figure promptly attracted much attention, less notice was paid to the special circumstances that led to it.

The surplus refers to all State and local government fiscal activity. The aggregate figure includes both current operations and social insurance, as well as retirement fund operations. Thus, the national income accounts figures can mask the fiscal stringency individual States and localities may encounter if current operations are considered separately.

Further, the over-all magnitude of the surplus was achieved, in part, by two non-recurring factors—a \$4.0 billion advance payment of public assistance grants and \$0.8-billion of unusually high income tax settlements in Pennsylvania. Coupled with these nonrecurring items has been the steady increase in surpluses registered for the social insurance funds and shrinking deficits in other, mainly operating, funds.

The \$14.8-billion State-local surplus is really composed of two parts—an estimated \$8.4-billion surplus in social insurance funds and an estimated \$6.4-billion surplus in all other funds. If the \$4.8 billion of nonrecurring items is subtracted from the latter figure, the surplus registered by the State-local sector as a whole, is a more modest figure—\$1.6 billion.

Even this \$1.6-billion surplus should be viewed with caution, particularly as an indication of future developments.

In recent years, the fiscal position of State and local governments as a whole has been strengthened by the rapid growth of Federal grants-in-aid and by adoption of new and in-

creased State and local taxes. By their own actions, State and local governments have made their tax systems more buoyant, enabling them to ride the crest of the sharp recovery in the national economy during 1972. As a result, revenues received frequently exceeded State-local spending plans for 1972, which had been formulated well in advance of this recovery and had been influenced by more conservative revenue anticipations. Thus, the surplus may have resulted largely from special circumstances, not necessarily to be repeated in the near future.

What then of the 1972 record State-local surplus? While its magnitude is temporarily exaggerated and it serves to conceal rather than reveal the operating budget stringency of individual governmental units, it also indicates a basic strengthening of the State-local sector.

Although modest surpluses are certainly possible in the future, it is equally likely that the pace of State-local expenditures will accelerate and the spurt of automatic revenue growth accompanying economic recovery will taper off. Construction expenditures, for example, may be expected to grow as governmental liquidity positions are built up from the levels of the 1969-70 credit crunch. In addition, expenditures seem likely to increase as demands for salary adjustments and quality increases re-surface, partly spurred by the growth of public employee unions.

On the revenue side, political officials at all levels continue to give credence to the idea of an incipient taxpayer revolt. As State-local taxes increase, and their burden on individuals heightens, each additional tax action becomes that much more difficult for officials who must answer to the electorate. State-local revenues will almost certainly fail to maintain their present rate of increase if revenue sharing provides the rationale for cutting back other Federal grants and growth in Federal grants-in-aid is not maintained.



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<sup>1</sup>Appointed May 11, 1972, to succeed Senator Karl E. Mundt of South Dakota.

<sup>2</sup>Appointed December 16, 1972, to succeed Robert H. Finch, Counsellor to the President.

<sup>3</sup>Appointed March 31, 1972, to succeed Governor Warren E. Hearnes of Missouri.

<sup>4</sup>Appointed March 31, 1972, to succeed Lawrence F. Kramer, Jr., former Mayor of Paterson, New Jersey.



# what is acir?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. ACIR is a permanent national bipartisan body representing the executive and legislative branches of Federal, State and local government and the public.

Of the 26 Commission members, nine represent the Federal government, 14 represent State and local governments and three represent the general public. Twenty members are appointed by the President. He names three private citizens and three Federal executive officials directly and selects four governors, three State legislators, four mayors and three elected county officials from slates nominated, respectively, by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The other six are Members of Congress—three Senators appointed by the President of the Senate and three Representatives appointed by the Speaker of the House. Commission members serve two-year terms and may be reappointed. The Commission names an Executive Director who heads the small professional staff.

After selecting specific intergovernmental issues for investigation, ACIR follows a multi-step procedure that assures review and comment by representatives of all points of view, all affected levels of government, technical experts and interested groups. The Commission then debates each issue and formulates its policy positions. Commission findings and recommendations are published and draft bills and executive orders are developed to assist in implementing ACIR policies.

