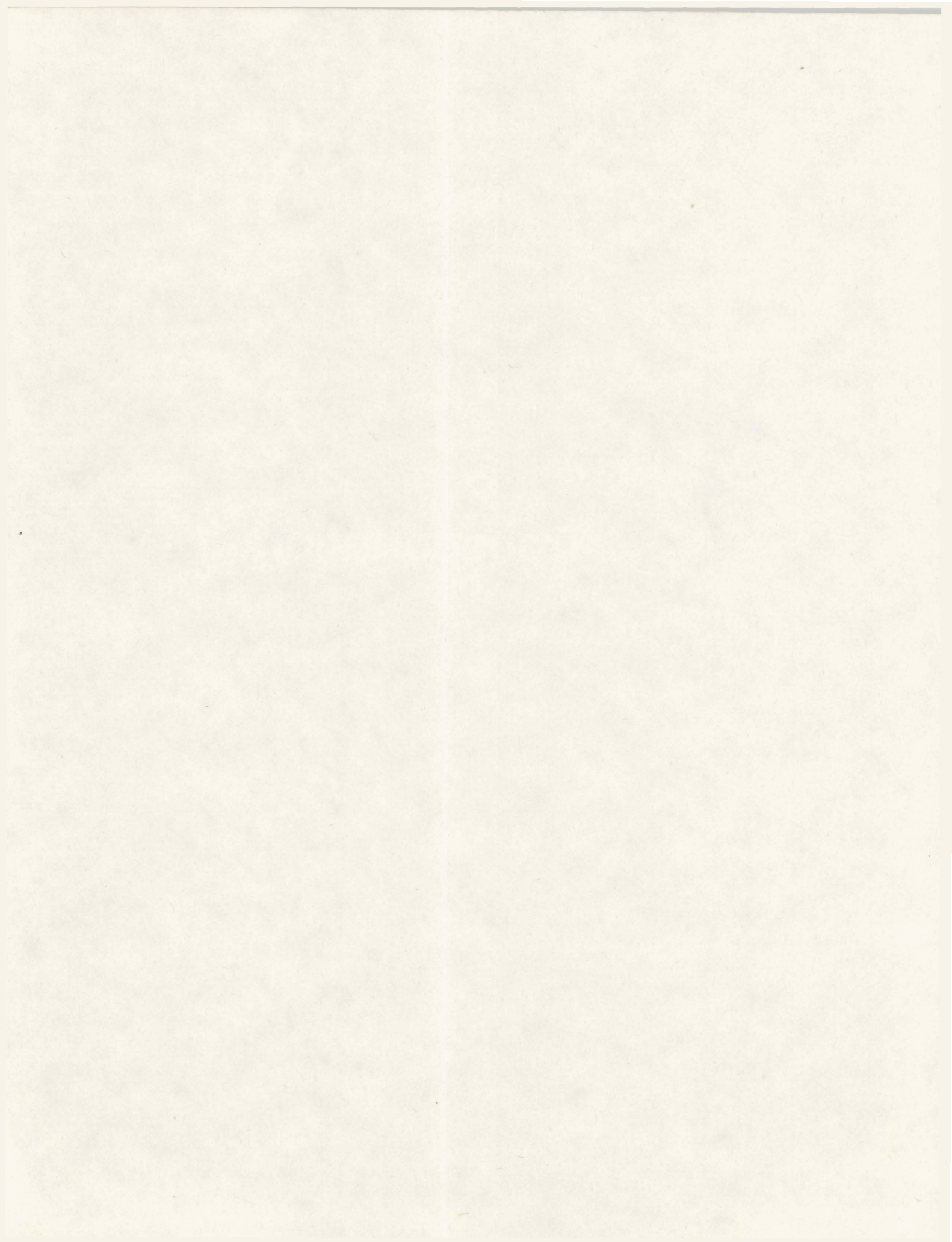


ACIR State Legislative Program

7.

Transportation



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7.

Transportation

October 1975
Advisory Commission on Intergovernmental Relations
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FOREWORD

ACIR's Legislative Program

The Advisory Commission on Intergovernmental Relations is a permanent, national bipartisan body established by Act of Congress in 1959 to give continuing study to the relationships among local, state, and national levels of government. The Commission does not function as a typical Federal agency, because a majority of Commission members come from state and local government. The Commission functions as an intergovernmental body responsible and responsive to all three levels of government.

It should not be inferred, however, that the Commission is a direct spokesman for any single level or branch of government — whether the Congress, the Federal Executive Branch, or state and local government. Nevertheless, many of the Commission's policy recommendations are paralleled by policies of the organizations of state and local government — including the National League of Cities, U.S. Conference of Mayors, and National Association of Counties — and a substantial number of the Commission's draft legislative proposals are disseminated by the Council of State Governments in its annual volume entitled *Suggested State Legislation*. The National Governors' Conference in its report of the 67th Annual Meeting carries 38 of ACIR's legislative proposals as an appendix entitled *State Responsibilities to Local Governments: Model Legislation from the Advisory Commission on Intergovernmental Relations*.

The Commission recognizes that its contribution to strengthening the federal system will be measured, in part, in terms of its role in fostering significant improvements in the relationships between and among Federal, state, and local governments. It therefore devotes a considerable share of its resources to encouraging the consideration of its recommendations for legislative and administrative action by government at all levels, with considerable emphasis upon the strengthening of state and local governments.

ACIR's *State Legislative Program* represents those recommendations of the Commission for state action which have been translated into legislative language for consideration by the state legislatures. Though ACIR has drafted individual bills from time-to-time following the adoption of various policy reports, its suggested state legislation was brought together into a cumulative *State Legislative Program* initially in 1970. This 1975 edition is the first complete updating of the original cumulative program. It contains a number of new bills as well as major rewrites and minor updatings of previously suggested legislation.

Scope of the Legislative Program. ACIR's reports, over the years, have dealt with state and local government modernization and finances, as well as a variety of functional activities. Commission recommendations to the states, contained in these reports, have addressed all of these subjects. The suggested legislation contained in the Commission's *State Legislative Program* has been organized into ten booklets (parts) in which the draft bills are grouped logically by subject matter. The groupings for all ten booklets are listed in the summary contents of the full legislative program which follows this foreword. Then, the detailed contents of this booklet, including the title of all bills, are listed with the page numbers where they can be found.

Process for Developing Suggested Legislation. Most of the proposals in the *State Legislative Program* are based on existing state statutes and constitutional provisions. Initial drafts were prepared by the ACIR staff or consultants. Individual proposals were reviewed by state officials and others with special knowledge in the subject matter fields involved. The staff, however, takes full responsibility for the final form of these proposals.

How to Use the Suggested Legislation

The Commission presents its proposals for state legislation in the hope that they will serve as useful references for state legislators, state legislative service agencies, and others interested in strengthening the legislative framework of intergovernmental relations. Additional copies of this booklet and the other booklets in the full *Program* are available upon request. Any of the materials in the *Program* may be reproduced without limitation.

The Commission emphasizes that legislation which fits one state may not fit another. Therefore, the following advice is offered to users of the Commission's suggested state legislation.

Fit Proposals to Each State. Many states have standard definitions, administrative procedures acts, standard practices in legislative draftsmanship, and established legislation and constitutional provisions related to new proposals. These differ widely from one state to another, yet they vitally affect the drafting of new proposals for state legislation. No model legislation can possibly reflect the variations which apply in all 50 states. Thus, ACIR strongly recommends that any user of its suggested state legislation seek the advice of legislative draftsmen familiar with the state or states in which such proposals are to be introduced.

Alternative Provisions and Optional Policies. Likewise, the Commission recognizes that uniform policies are frequently not appropriate for application nationwide. Accordingly, its adopted recommendations frequently include alternative procedures and optional policies among which the states should make conscious choices as they legislate. Consequently, the suggested legislation which follows includes bracketed language which alerts the users of these materials to the choices which are to be made. In many cases, the bracketed language is also labeled as an alternative or an option. In the case of alternatives, one (or in some cases more than one) should be chosen and the others rejected. In the case of options, the suggested language may be included or deleted without reference to other provisions unless otherwise noted.

Three types of bracketed information [] are provided in the suggested legislation. Brackets containing *italicized* information indicate wording that is essential to the legislation, but must be rewritten to conform to each particular state's terminology and legal references. Information in regular type within brackets presents alternative or optional language. The third type of brackets contains blank space and requires the insertion of a date, amount, time span, quantity, or the like, as required by each state to comply with its individual circumstances or recommendations.

Caution About Excerpting. Frequently one provision in the suggested legislation may be related to another in the same bill. Thus, any state wishing to en-

act only certain portions of the suggested legislation should check carefully to make sure that essential definitions and related provisions are taken into account in the process of excerpting those portions desired for enactment.

ACIR Assistance

Each item of suggested state legislation in this *Program* is referenced to the ACIR policy report upon which it is based. These reports may be obtained free of charge in most cases, by writing to ACIR, and usually may also be purchased from the U.S. Government Printing Office (especially if multiple copies are required). In those cases where a policy report is out of print, copies may be found in ACIR's numerous depository libraries throughout the nation as well as in many other libraries. In addition, where copies are otherwise unavailable, the ACIR library will arrange to loan a copy.

The ACIR staff, though limited in size, is available upon request to answer questions about the suggested legislation, to help explain it to legislators and others in states where it is under active consideration, and to assist the legislative process in other appropriate ways.

September 1975

**Robert E. Merriam
Chairman**

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ACKNOWLEDGMENTS

The suggested state legislation in this Part of ACIR's *State Legislative Program* is based largely upon existing state statutes. Robert N. Alcock acted as consultant to the commission in tailoring these enactments to ACIR policy.

The following persons served diligently on a panel which reviewed each proposal: Richard Carlson, director of research, Council of State Governments; Honorable Charles A. Docter, Maryland House of Delegates; Marcus Halbrook, director, Arkansas Legislative Council; David Johnston, director, Ohio Legislative Service Commission; William J. Pierce, executive director, National Conference of Commissioners for Uniform State Laws; Bonnie Reese, executive secretary, Wisconsin Joint Legislative Council; Honorable Karl Snow, Utah state senator; and Troy R. Westmeyer, director, New York Legislative Commission on Expenditure Review.

The suggested legislation was also circulated in draft form to the following national organizations for their review and comment:

Council of State Governments
International City Management Association
National Association of Counties
National Conference of State Legislatures
National Governors' Conference
National League of Cities
U.S. Conference of Mayors

The Commission acknowledges the financial assistance of the U.S. Department of Housing and Urban Development in updating and publishing this new edition of the *State Legislative Program*.

The Commission is grateful to all who helped to produce this volume, but the Commission alone takes responsibility for the policies expressed herein and any errors of commission or omission in the draftsmanship.

Wayne F. Anderson
Executive Director

Part VII

TRANSPORTATION

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INTRODUCTION

For several years it has been clear to public officials and citizens alike that transportation policies and planning at national, state, and local levels need to be brought into closer harmony with other public policies and programs, especially those concerned with urban growth and development. Air pollution, and the energy crisis have combined to press home the necessity of lessening automobile congestion on highways and streets by increasing the use of mass transportation modes. The financial collapse of privately owned transit companies has propelled many local governments into directly providing public transportation to their citizens. As a consequence, public transportation has become a priority to many local and state legislative bodies, with major controversies arising over organization, financing, accountability, and flexibility in the use of funds for the various modes and for operations or capital projects.¹

In its review of intergovernmental issues associated with metropolitan transportation, the Advisory Commission on Intergovernmental Relations has recommended a series of actions by national, state, and local governments. These include: (1) strengthening transportation planning and decision making, including the establishment of multimodal state transportation agencies and the creation of mechanisms for areawide transportation planning and policy making; (2) improving areawide transportation services and delivery in metropolitan areas by authorizing cities and counties to engage in public transportation activities and by establishing regional transportation authorities; (3) providing a more balanced and flexible Federal financing system for regional transportation systems; (4) improving state and local transportation financing policies through a more flexible use of state highway-user revenues and through an expansion of the state financial role in aiding non-highway transportation services; (5) modernizing state transportation planning and decision making; and (6) reforming independent regulatory bodies to better serve areawide intermodal transportation needs.

Draft measures to implement the recommendations which apply to state and local government are; (1) creation of a state multimodal department of transportation; (2) establishment of regional transportation planning and policy organizations; (3) creation of subordinate regional transportation authorities; (4) authorization for local government transportation activities; and (5) state fiscal and operating roles in transportation.

¹See Smith, S. J., "State Transportation in Transition," *State Government*, Spring, 1975, pp. 67-73.

7.001 STATE DEPARTMENT OF TRANSPORTATION¹

Twenty-seven states have departments of transportation (as of 1974). While these departments vary considerably from state-to-state in the degree to which they integrate all transportation programs, experience has shown that broad intermodal departments can have a significant impact on the quality of transportation planning and service delivery. For example, those states with some form of a department of transportation were found by the United States Department of Transportation to have performed better in the National Transportation Needs Study than those states without departments of transportation. Usually, the department of transportation states also provide a wider range of transportation programs.

The suggested legislation presented here considers the formation and duties of a state department of transportation as an individual unit. Some states may wish to consider formation of a department of transportation not by itself, but as a part of general state government reorganization. This approach has been taken in several states.² In either case, the pivotal question has often been not so much whether to have a department of transportation but what form it should take and how its programs should be financed. Often the question of whether mass transit operations should be partially financed from traditional highway trust fund sources has been critical. This bill does not assume the existence of any specific internal structure or financing program. However, it does call for (1) intermodal state funds for transportation from which the construction, operation, and planning for all modes may be financed, and (2) assignment of basic planning, budgeting, and policymaking functions to the director of the department rather than to any modal administrations which may constitute the department.

Section 1 states the purpose of the suggested legislation. When considering whether to form a state department of transportation, the logical existing agencies to include are the departments of highways, mass transit, motor vehicles, airports, and ports (if the state has major water borne traffic). Other transportation operating agencies may also be included, but aviation, pipeline, and railroad agencies of an independent regulatory nature may not be included in reorganizations. Experience has shown, however, that the regulatory function may be critical to developing smoothly functioning intermodal transportation systems. Thus, *Section 2* of the bill recommends inclusion, in the state department of transportation, of all agencies of the state which have jurisdiction over any mode of transportation.

Sections 3 and 4 of the bill provide for the appointment, duties, and salaries of the director and the deputy director of the department of transportation.

Section 5 of the bill outlines two possible forms of internal organization of the state department of transportation. Some states, to the extent that the legislature wishes to specify the internal structure of the department of transportation, may wish to organize on the basis of different modes. Other states may wish to take a functional approach. The latter is more conducive to intermodal planning and operations. Still other states may wish to authorize the head of the department to organize its internal divisions at his own discretion. The two lists are only illustrative of the approaches taken by some states. Further, they are not mutually exclusive.

Section 6 outlines the broad powers and duties of the department of transportation.

Section 7 mandates the department of transportation to develop, implement, and revise the state transportation plan. Subject to approval by the governor, the state plan is assumed to guide the state department of transportation in the development and operation of all transportation facilities in the state.

Sections 8 and 9, respectively, enumerate the responsibilities of the department's director and fiscal officer.

Section 10 makes provisions for transferring to the department of transportation the duties, functions, and powers of agencies that it is appropriating.

Sections 11, 12, and 13 provide for separability, repeal, and effective date clauses, respectively.

This bill is modeled after enactments in California, Maine, Maryland, New York, and Oregon.

¹Derived from: Advisory Commission on Intergovernmental Relations, *Toward More Balanced Transportation: New Intergovernmental Proposals*, Report A-49 (Washington, D.C.: U.S. Government Printing Office, August, 1975).

²Whether as a part of general state government reorganization or as a single unit, the creation of a state department of transportation must be preceded by a constitutional amendment in some states.

Suggested Legislation

[AN ACT CREATING A DEPARTMENT OF TRANSPORTATION]

(Be it enacted, etc.)

1 SECTION 1. *Purpose.* The purpose of this act is to:

2 (a) create a broad intermodal department of transportation to be headed by a single director:

3 (1) appointed by, and responsible to, the governor [with appointment subject to confirmation
4 by the senate];

5 (2) directly vested with strong and effective intermodal planning, policymaking, and budget-
6 ing capabilities;

7 (3) supported by adequate staff to enable the director to carry out these responsibilities;

8 (b) establish a transportation planning and policy implementation system in which regional trans-
9 portation plans and projects of the department shall be subject to the approval of the governor; and

10 (c) establish a coordinated system in which applications may be submitted to the Federal gov-
11 ernment for Federal regional transportation funds with the approval of the governor.

12 SECTION 2. *Establishment of a Department of Transportation.* A department of transporta-
13 tion is established in the executive branch. There is transferred to the department of transportation
14 all powers and duties formally vested by law, regulation, and executive order in [*here list the state*
15 *agencies, parts thereof or functions to be consolidated; the following is suggested:*

16 (a) *state highway agency;*

17 (b) *state mass transit agency;*

18 (c) *state aeronautics agency;*

19 (d) *state agency of motor vehicles;*

20 (e) *state ports agency;*

21 (f) *state agency of railroads;*

22 (g) *state pipeline agency;*

23 (h) *state toll road and turnpike agency; and*

24 (i) *office of transportation planning*].

25 SECTION 3. *Director of Transportation.*

26 (a) The department of transportation shall be under the supervision of a director of transporta-
27 tion who shall be appointed by, and shall hold his office at, the pleasure of the governor. [The ap-
28 pointment of the director of transportation shall be subject to confirmation by the [*senate*] in the
29 manner provided by [*cite applicable constitutional provision or law*].]

1 (b) The annual salary of the director of transportation is provided for in [*cite applicable state*
2 *law*].

3 (c) The director of transportation shall perform all duties, exercise all powers and jurisdiction,
4 assume and discharge all responsibilities, and carry out and effect all purposes vested by law in the
5 department of transportation, except as otherwise expressly provided by law.

6 (d) For the purpose of administration, the director of transportation shall organize the depart-
7 ment of transportation with the approval of the governor, in the manner that they deem necessary
8 to properly conduct the work of the department of transportation.¹

9 SECTION 4. *Deputy Director of Transportation.*

10 (a) There shall be within the department of transportation the position of deputy director of
11 transportation. The deputy director of transportation shall be appointed by the governor upon rec-
12 ommendation by the director of transportation, and shall serve at the pleasure of the director of
13 transportation.

14 (b) The annual salary of the deputy director of transportation is provided for in [*cite applicable*
15 *state law*].

16 (c) The deputy director of transportation shall have such duties as may be assigned to him by the
17 director of transportation and he shall be responsible to the director of transportation for the per-
18 formance of those duties.

19 [Optional Section.]

20 [SECTION 5. *Organization of the Department of Transportation.*²

21 (a) The department of transportation shall consist of the following administrative divisions:

22 [Alternative 1.]³

- 23 [(1) planning division;
24 (2) design and construction division;
25 (3) real property division;
26 (4) maintenance division;
27 (5) safety division;
28 (6) intergovernmental aid division;
29 (7) management and finance division; and
30 (8) public affairs division]

31 [OR]

32 [Alternative 2.]³

¹In states which already provide gubernatorial executive reorganization powers, this language may need modification.

²General powers to organize and reorganize the department are given to the director in Section 3(d). However, if the legislature wishes to take on this basic responsibility itself, this section provides the means.

³These alternatives are only illustrative. In practice, most states have adopted a combination of these two approaches.

- 1 [(1) aeronautics division;
- 2 (2) highway division;
- 3 (3) motor vehicle division;
- 4 (4) ports division; and
- 5 (5) mass transit division].

6 (b) Each division shall be under the supervision and control of a chief administrative officer ap-
7 pointed by the director of transportation. A division administrator, with the approval of the director
8 of transportation, may organize and reorganize a division to improve the administration of the work
9 of the division.

10 (c) Subsequent to the establishment of the department and with the approval of the governor,
11 the director may create, change, or abolish such other divisions as may be necessary.]

12 SECTION 6. *Powers and Duties of the Department of Transportation.* The powers and duties
13 of the department shall include, but not be limited to, the following activities:

14 (a) coordinating and developing, in cooperation with local and regional entities, comprehensive
15 balanced transportation planning and policy for the movement of people and goods within the state;

16 (b) coordinating and assisting the various public and private transportation entities in strength-
17 ing their development and operation of balanced integrated mass transportation, highway, aviation,
18 maritime, railroad, and other transportation facilities and services in support of statewide and regional
19 goals;

20 (c) developing, in cooperation with local [and regional] transportation entities, the full potential
21 of all resources and opportunities which are now, and may become, available to the state and to [re-
22 gional and] local agencies for meeting the state's transportation needs, as provided by statute, tem-
23 pered by consideration of other relevant factors, including social, environmental, and community plan-
24 ning;

25 (d) planning, designing, constructing, operating, and maintaining those transportation systems
26 which the [legislature] has made, or may make, the responsibility of the department;

27 (e) coordinating and developing transportation research projects of statewide interest; and

28 (f) coordinating, in concert with other states and with the Federal government, the planning, con-
29 struction, operation and maintenance of transportation facilities in the state having an interstate
30 impact.

31 (g) exercising such other functions, powers, duties as are or may be provided for by law.

32 SECTION 7. *Transportation Plan.*

33 (a) The department shall prepare the transportation plan. This plan shall be directed at the
34 achievement of a coordinated and balanced transportation system for the state, including, but not lim-
35 ited to, mass transportation, highway, aviation, pipeline, maritime, and railroad facilities and services,

1 whether public or private, that is consistent with the state's social, economic, and environmental needs
2 and goals.

3 (b) The transportation plan shall include regional transportation plans as prepared by regional
4 transportation planning agencies [pursuant to *[insert reference to appropriate regional planning or sub-*
5 *state districting legislation]*]. The narratives of the regional transportation plans may be summarized
6 in the transportation plan in the interest of readability and brevity. The transportation plan may
7 include alternative recommendations for resolving issues of statewide interregional interest, including
8 resource allocation where differences exist between regional transportation plans or where, within a
9 regional transportation plan, a matter of statewide or interregional interest has been omitted. Addi-
10 tionally, the department may make recommendations to promote consistency among regional transpor-
11 tation plans to the end that the [state] transportation plan will provide total system integration, con-
12 tinuity, and balance, and achieve equity on a statewide basis.

13 (c) The transportation plan shall be submitted by the director to the governor. Prior to trans-
14 mission to the [legislature], the governor or his designee shall hold public hearings on the plan, and
15 shall solicit the views of the general public and of the various public and private entities affected.
16 Any objections raised, including, but not limited to, inconsistencies, conflicts, or disagreements be-
17 tween regional transportation plans and the [state] transportation plan shall be resolved by the gov-
18 ernor.

19 (d) The plan, when approved by the governor, shall be transmitted to the [secretary of the Senate
20 and the clerk of the house of representatives] for presentation to the [legislature]. [Alternative 1.]
21 [Unless this plan is amended or specific provisions repealed by concurrent resolution of the [legisla-
22 ture] within [90] days of transmission, the plan shall become effective as state policy]. [Alternative 2.]
23 [The provisions of the plan shall become effective as state policy upon adoption by the [legislature]
24 of a concurrent resolution approving the plan]. Once adopted, the plan shall be used by all state
25 agencies and officers to guide and coordinate transportation activities and to insure that transporta-
26 tion planning utilizes the potential of all existing and developing modes of transportation.

27 (e) After the plan is approved by the governor and adopted by the [legislature], the director shall
28 prepare and submit implementation programs to the governor for approval. Work approved by the
29 governor in accordance with state law to carry out the plan shall be assigned to the appropriate divi-
30 sion for design, construction, maintenance, and operation of the facility.

31 (f) After adoption of the plan in accordance with subsection (c) and (d) of this section but
32 prior to the governor's review of the department's budget, the director shall submit to the governor
33 annually a proposed updating of the transportation plan which includes the updated regional trans-
34 portation plans along with a multiyear planning program. The governor or his designee shall hold
35 public hearings and the [legislature] shall adopt an updated transportation plan in the same manner

1 as required for the original plan.

2 (g) The transportation plan shall include, but not be limited to, the following:

3 (1) [regional transportation plans as provided in];

4 (2) statewide transportation goals, objectives, and policies for all forms of transportation
5 services, both public and private;

6 (3) statewide forecasts of transportation needs and deficiencies;

7 (4) general transportation system of the state, including land, water, and air transportation,
8 based on the studies of alternative plans and their evaluation as required by paragraphs (6) and (7)
9 of subsection (h) of this section;

10 (5) environmental impact statements for system planning as required by state and Federal
11 law; and

12 (6) statewide implementation program, including a schedule of improvement programs, an
13 operations program, a financial plan, necessary policies and legislation for implementation of the
14 transportation plan, and the assignment of responsibilities and development of procedures for com-
15 pliance with requirements of state and Federal law regarding the preparation of environmental impact
16 statements for project development.

17 (h) The transportation plan shall be based on studies including, but not limited to, the following
18 transportation planning practices:

19 (1) inventories of travel desires, goods movements, and transportation facilities and equip-
20 ment;

21 (2) statutory requirements affecting transportation services;

22 (3) financial resources for transportation planning, development, and operation;

23 (4) plans and programs adopted by state agencies which affect transportation planning;

24 (5) advanced concepts for transportation systems for consideration in alternative plans;

25 (6) alternative plans based on varying assumptions of financial resources, levels of trans-
26 portation services, and proper utilization of various modes; and

27 (7) an evaluation of alternative plans considering the relationships between transportation
28 and land use, taxation, environment, energy, economics, and social factors, policies, and goals includ-
29 ing the relationship of costs among classes of users.

30 (i) in evaluating alternative plans, the following criteria shall be among those used:

31 (1) economic, including operating costs, capital costs, revenues, impact on local economy
32 and employment, and related public service costs;

33 (2) land use, including support for development pattern policies, land absorption, and mul-
34 tiple use of corridors;

35 (3) taxation, including tax base and equity;

1 (4) environmental, including air and water quality, impact on soil, weather, landscape,
2 wildlife, and natural resources, and energy consumption, noise, vibration, glare, and other effects;

3 (5) social, including displacement, disruption and relocation, consistency with social objec-
4 tives, and usability by various groups; and

5 (6) system performance and level of service, including technological feasibility, flexibility, re-
6 liability, safety, mobility, accessibility, induced demand, amenity, and convenience.

7 SECTION 8. *Responsibilities of the Director of Transportation.* It is the responsibility of the
8 director of transportation, in consultation with the governor, to establish the policies for the op-
9 eration of the department of transportation in a manner consistent with the policies and purposes of
10 this act. In addition, the director of transportation:

11 (a) shall be the administrative head of the department of transportation;

12 (b) shall have power, within applicable budgetary limitations, and in accordance with [*cite state*
13 *merit system law*], to hire, assign, reassign, and coordinate personnel of the department of transporta-
14 tion and prescribe their duties and fix their compensation;

15 (c) shall administer the laws of the state concerning transportation;

16 (d) may intervene, as he deems appropriate and as authorized by the governor, pursuant to
17 relevant rules of practice and procedure, in any regulatory proceedings of local, state, and Federal
18 agencies which may substantially affect the interests of the consumers and providers of transporta-
19 tion within the state;

20 (e) shall prescribe regulations for the government of the department of transportation, the con-
21 duct of its employees, the assignment and performance of its business, and the custody, use, and
22 preservation of its records, papers, and property in a manner consistent with law;

23 (f) may delegate to any of the employees of the department of transportation the exercise or dis-
24 charge of any power, duty, or function of whatever character, vested in, or imposed by, law upon the
25 director. The official act of any such person so acting in the director's name and by his authority shall
26 be considered to be an official act of the director;

27 (g) may require a fidelity bond of any officer or employee of the department of transportation
28 who has charge of, handles, or has access to any state money or property, and who is not other-
29 wise required by law to give a bond. The amounts of the bond shall be fixed by the director, except as
30 otherwise provided by law, and the sureties shall be approved by him. The department shall pay the
31 premiums on the bonds;

32 (h) may hold public hearings, consult with and use the services and cooperation of other state
33 and Federal agencies, employ consultants, and appoint advisory and technical committees to assist in
34 the work of the department of transportation;

35 (i) may cause a public hearing to be held on any proposed rule prior to its adoption;

1 (j) may apply for and receive, with the approval of the governor, in the name of the department of
2 transportation, all Federal funds paid to, or to be paid to, the state to enable the state to provide the
3 programs and services assigned to the department of transportation;

4 (k) shall review the annual budget of the department of transportation for consistency with the
5 transportation plan and transmit the budget to the [*department of finance*]; and

6 (l) shall assist any appropriate committee of the [*legislature*] whose activities relate to the transpor-
7 tation field, if requested, in the field of overall balanced transportation, or any segment thereof.

8 SECTION 9. *Transportation Fiscal Officer.* The director of transportation shall designate a fiscal
9 officer for the department of transportation who shall:

10 (a) forecast the total resources required to provide for transportation needs for the department;

11 (b) identify alternative means of funding for the state's transportation programs;

12 (c) plan for the administration and utilization of all available resources, including Federal,
13 state, and local funds in the most efficient and effective manner;

14 (d) provide for sound financial management systems, including all accounting, budgetary, and
15 financial control functions for the department;

16 (e) perform the financial internal audit of all divisions of the department and report any dis-
17 crepancies to the director;

18 (f) prepare financial reports as required by statute or as required by the director; and

19 (g) act in an advisory capacity to the director in all financial matters and perform such other duties
20 and responsibilities with respect to audits, accounting procedures, and other like duties and respon-
21 sibilities as the director considers advisable.

22 SECTION 10. *Transitional Provisions.*

23 (a) Each agency whose duties, functions, and powers are by this act assigned and transferred to
24 the department of transportation shall transfer and deliver to the department of transportation all
25 supplies, materials, equipment, facilities, contracts, books, maps, plans, papers, records, and prop-
26 erty of every description within its jurisdiction or control which relate to the duties, functions, and
27 powers so transferred and shall also transfer thereto those employees engaged primarily in the exer-
28 cise of the duties, functions, and powers so transferred. The director of transportation shall take pos-
29 session of such property and shall take charge of such employee and, except as provided in subsec-
30 tion (b) of this section, shall employ them in the exercise of their respective duties, functions, and
31 powers assigned or transferred by this act, without reduction of compensation.

32 (b) The director of transportation may abolish positions and change duties to the extent that he
33 finds it desirable for the sound, efficient, and economical administration and enforcement of the
34 duties, functions, and powers transferred by this act. However, in the case of any transfer of personnel
35 made pursuant to this section, any employee occupying a classified position under the [*state merit sys-*

1 *tem law*] who is so transferred shall, so far as possible, retain the same salary classification and merit
2 system status.

3 (c) Any disputes as to the transfers of property and employee made by this section shall be re-
4 solved by the governor.

5 (d) The unexpended balances of those amounts authorized to be expended for the fiscal year
6 beginning [*date*], from revenues dedicated, continuously appropriated, or otherwise made available to
7 any agency for the purpose of administering and enforcing the duties, functions, and powers trans-
8 ferred by this act, respectively, to the department of transportation are appropriated and transferred
9 to and shall be available for expenditure by the department of transportation.

10 (e) Nothing in this act shall relieve any person of any obligation with respect to any tax, fee, fine,
11 or other charge, interest, penalty, forfeiture, or other liability, duty, or obligations accruing under, or
12 with respect to, the duties, functions, and powers transferred by this act. After the effective date of
13 this act the department of transportation may undertake the collection or enforcement of such tax,
14 fee, fine, charge, interest, penalty, forfeiture, or other liability, duty, or obligation; but such liability,
15 duty, or obligation shall not be increased or decreased or continued beyond the period authorized by
16 law for its existence or beyond the time when it would have terminated if this act had not been
17 passed.

18 (f) The department of transportation shall be considered and held to constitute a continuation of
19 the former agencies with respect to powers, functions, and duties transferred by this act, and not a new
20 authority, for the purpose of succession to all rights, powers, duties, and obligations of the former
21 agencies legally incurred under contracts, leases, and business transactions, executed, entered into, or
22 commenced prior to the effective date of this act. The department of transportation shall exercise the
23 rights, powers, duties, and obligations transferred to it by this act with the same force and effect as
24 if they had not been transferred; but such right, power, duty, or obligation shall not be continued be-
25 yond the period authorized by law for its existence or beyond the time when it would have terminated
26 if this act had not been passed.

27 (g) Any proceeding, court action, prosecution, or other business or matter undertaken or com-
28 menced prior to the effective date of this act by agencies, with respect to the duties, functions, or
29 powers which are by this act assigned and transferred to the department of transportation, and still
30 pending on the effective date of this act, may be conducted and completed by the department of
31 transportation in the same manner and under the same terms and conditions and with the same ef-
32 fect as though it were undertaken or commenced and were conducted or completed by the former
33 agencies prior to the transfer.

34 (h) Notwithstanding the transfer of duties, functions, and powers by this act, any lawful author-
35 ization, designation, determination, directive, license, order, permit, policy, privilege, regulation, rule,

1 or other action of agencies whose powers, functions, and duties are by this act assigned and trans-
2 ferred to the department of transportation in effect on the effective date of this act, shall continue in
3 effect until superseded by, or repealed by, the lawful action of the department of transportation; but
4 the department of transportation shall not continue any such action beyond the period authorized by
5 law for its existence or beyond the time when it would have terminated if this act had not been
6 passed.

7 SECTION 11. *Separability.* [Insert separability clause.]

8 SECTION 12. *Repeal.* [Insert repeal clause.]

9 SECTION 13. *Effective Date.* [Insert effective date.]

7.002 REGIONAL TRANSPORTATION PLANNING ACT¹

Comprehensive areawide transportation planning encompassing multiple transportation modes and related land use planning, has been required in every metropolitan area in the nation since 1965, under the provisions of the *1962 Highway Act*. However, such planning has not been very effective in influencing the implementation of metropolitan transportation systems. Hence, there is a need for states to reevaluate the institutional structures by which transportation planning is accomplished on an areawide basis.

In its 1975 report on transportation, the Advisory Commission on Intergovernmental Relations found that most transportation planning in metropolitan areas is done inconsistently and in isolation from several types of related transportation planning. For instance,

- Almost all metropolitan areas are served by at least four modes of transportation (highways, transit, railroads, and airports), and about one-third are served by a fifth (waterports). Yet, present "comprehensive" urban transportation planning includes as many as two modes (usually highways and transit) in only 44 percent of the cases; it incorporates an airport element in only 11 percent of the cases; railroad and water elements in only 3 percent; and still other elements in less than 2 percent of the cases. This situation exists despite the obvious need for planning modes together in the case of highways and transit, since both generally use the highway network, and the growing recognition that new hybrid transportation systems involving the minibus and jitney also require intermodal planning. In addition, intercity transportation involving trucking, railroads, airports, and waterports depends heavily upon efficient interconnections with local transportation and can often benefit from coordinated use of rights-of-way.
- Until 1974 (when the Department of Transportation required a single recipient, preferably an A-95 agency, designated by the governor for urban planning funds from its highway, mass transportation, and airport programs), over two-thirds of the designated urban mass transportation bodies were different from the comprehensive transportation planning groups designated under the *Federal Aid Highway Act*, and almost one-third of the airport planning groups were also different. These designation difficulties were largely resolved by the Department of Transportation's 1974 actions. Yet, virtually all detailed project planning for individual implementation activities is still being done by the implementation bodies themselves, rather than by the designated areawide transportation planning body, and it is frequently this project planning which is most crucial when it comes to actually improving transportation systems.
- As of July 1, 1974, 68 percent of the designated transportation planning bodies were A-95 bodies and another 10 percent were comparable general purpose areawide regional planning bodies, leaving about 20 percent of the designees in the special purpose agency or city government categories.

To correct this planning situation there is a need for states to consider legislation which will establish effective transportation planning bodies for metropolitan and non-metropolitan areas. Such planning units should be given adequate authority to plan for all transportation modes, including pedestrian and water borne transportation. It is the intent of this legislation that the states designate the areawide planning units established by substate districting or other regional planning agency legislation to do the transportation planning for that area. In most instances, it would not be productive for the state to set up entirely new units for transportation planning alone. Such a system would almost necessarily create situations in

¹Derived from: Advisory Commission on Intergovernmental Relations, *Toward More Balanced Transportation: New Intergovernmental Proposals* (Washington, D.C.: U.S. Government Printing Office, August, 1975).

which transportation planning would not be coordinated with community development, health, or other local planning functions.

Section 1 states the purpose of the proposed legislation. *Section 2* assumes the existence of regional planning units throughout the state which can be designated for purposes of the act.

Section 3 of the suggested bill empowers the areawide transportation planning units to develop comprehensive transportation plans for all modes. Regional units which elect not to prepare the plan by themselves, because of a lack of funds, for instance, may request that the state help prepare the plan with them.

Section 4 sets out the details of the elements of the transportation plan. Although each individual state may wish to vary the elements according to the unique problems of its economic structure and topography, it is important that the state legislature give clear and concise guidance to the regional planning units concerning the content of the transportation plans. Some local units will use their own initiative and go beyond state requirements, and they should be encouraged to do so. However, unless specific minimum requirements are established, the variance among the quality of local transportation plans may be a detriment to effective statewide allocation of transportation construction funds, subsidies, and other resources.

In *Section 5*, the state department of transportation is given authority to review the areawide plans for consistency with the state's own transportation plan. It is intended that state review be limited to this function alone. *Section 6* prohibits the construction or operation of a transportation facility not in conformance with the areawide plan.

Section 7 authorizes regional transportation planning units to participate in cases coming before local, state, or Federal regulatory agencies whose activities affect transportation, so that their independent actions may be taken with at least some knowledge and recognition of regional planning policies.

Sections 8 and 9 provide for separability and effective date clauses, respectively.

The suggested bill is modeled after legislation in California, Connecticut, and Indiana.

Suggested Legislation

[REGIONAL TRANSPORTATION PLANNING ACT]

(Be it enacted, etc.)

1 SECTION 1. *Purpose.* The purpose of this act is to empower regional planning units of the
2 state to:

3 (a) develop a unified intermodal transportation planning and decisionmaking work program in
4 conjunction with other appropriate planning and implementation agencies;

5 (b) plan all transportation facilities, routes, services, and operations — of whatever mode —
6 within its geographic jurisdiction which have multijurisdictional or areawide impact, including annual
7 revision and adoption or readoption of such plans;

8 (c) resolve any inconsistencies between such transportation plans and other areawide plans for
9 community development, public facilities, and related servicing programs;

10 (d) develop a multi-year program of specific transportation projects and services which would
11 implement the transportation plans;

12 (e) initiate, review, approve or disapprove, and/or modify all transportation projects of whatever
13 mode having multijurisdictional or areawide impact which are not part of a statewide or national
14 system of transportation before such projects may be funded or implemented;

15 (f) review and concur in any transportation project proposed for the area which would be part of
16 a statewide or national system of transportation, provided, however, that the governor may override
17 an adverse decision of the areawide body by a written finding;

18 (g) monitor and participate in regulatory proceedings affecting the provision of transportation
19 services in its area and related development, mobility, and accessibility issues; and

20 (h) study and consider the present and potential roles of private sector transportation providers
21 — including transit, taxi, trucking, parking, railroad, airline, shipping, and pipeline companies — as
22 well as public implementation and finance units, and provide for their needs as may be appropriate
23 to encourage and facilitate needed and desirable participation by them in the coordinated provision of
24 transportation services in the area.

25 SECTION 2. *Designation of Regional Transportation Policy Planning Units.* The regional policy
26 planning units in the state established pursuant to [*cite applicable state regional planning or substate*
27 *districting legislation*] are hereby designated as the units responsible for comprehensive regional
28 transportation planning. In any region where two or more such units overlap in jurisdiction, the
29 governor, after consultation with the affected local governments and regional units, and after one or
30 more public hearings in the area, shall designate a single unit responsible for performing the duties

1 assigned by this act.

2 SECTION 3. *Duties of Regional Transportation Policy Planning Units.*

3 (a) Except as provided in subsection (c) of this section, each unit shall prepare a proposed
4 regional transportation plan directed at the achievement of a coordinated and balanced regional
5 transportation system, including, but not limited to, mass transportation, highway, railroad, maritime,
6 and aviation facilities and services, whether public or private, that is consistent with the region's and
7 state's social, economic, and environmental needs and goals and which have a multijurisdictional or
8 areawide impact. Each unit shall consider and incorporate, as appropriate, the transportation plans of
9 cities, counties, special districts, private organizations, and state and Federal agencies.

10 (b) The proposed regional transportation plan shall be submitted to the governing body or
11 designated policy committee of the transportation planning unit for adoption. No plan shall be
12 adopted unless it conforms with the provisions of this act. Prior to adoption, a public hearing shall be
13 held, after the giving of notice of such hearing by publication in the affected county or counties. The
14 adopted plan shall be transmitted to the [state department of transportation] not later than [].
15 Thereafter, each transportation planning unit shall adopt annually, not later than [], an updated
16 transportation plan, along with the program described in Section 4(a)(5) of this act, and transmit it to
17 the [state department of transportation] for review pursuant to Section 5 of this act.

18 (c) (1) A transportation planning unit may have the regional transportation plan for the area
19 under its jurisdiction prepared by the [state department of transportation] by adopting a resolution to
20 that effect prior to [].

21 (2) For each region for which a transportation planning unit adopts a resolution pursuant to
22 paragraph (1) of this subsection, the [state department of transportation], in cooperation with the
23 transportation planning unit, and subject to subsection (d) of this section, shall prepare the regional
24 transportation plan, and the updating thereof, for that region and submit it to the governing body or
25 designated policy committee of the transportation planning unit for adoption. Prior to adoption, a
26 public hearing shall be held, after the giving of notice of such hearing by publication in the affected
27 county or counties. The adopted plan, and the updating thereof, shall be submitted to the [depart-
28 ment] pursuant to subsection (b) of this section.

29 (3) Any transportation planning unit which does not elect to prepare the initial regional
30 transportation plan for the region under its jurisdiction may prepare the updated proposed regional
31 transportation plan if it adopts a resolution of intention to do so at least one year prior to the date
32 when the updated regional transportation plan is to be submitted to the [department].

33 (d) If the [department] prepares or updates a regional transportation plan pursuant to this
34 section, the state-local shares of funding the preparation or updating of the plan shall be calculated on
35 the same basis as though the preparation or updating were to be performed by the transportation

1 planning unit.

2 SECTION 4. *Regional Transportation Plan.*

3 (a) A regional transportation plan shall include, but not be limited to, the following:

4 (1) regional transportation goals, objectives, and policies for all forms of transportation
5 services, both public and private;

6 (2) forecasts of transportation needs and deficiencies;

7 (3) the general transportation system of the region, including land, water, and air transpor-
8 tation, based on the studies of alternative plans and their evaluation as required by subsections (b)(4)
9 and (b)(5) of this section;

10 (4) an environmental impact statement for system planning as required by state and Federal
11 law; and

12 (5) a program to carry out the items of areawide regional transportation interest formulated
13 in a cooperative effort by cities, counties, and special districts within the region, including a schedule
14 of improvements, an operations program, a financial plan, recommendations for any policies,
15 ordinances, and legislation necessary for implementation of the regional transportation plan, and the
16 assignment of responsibilities and development of procedures for compliance with requirements of
17 Federal and state law regarding the preparation of environmental impact statements for project
18 development.

19 (b) A regional transportation plan shall be based on studies including, but not limited to, the
20 following factors:

21 (1) inventories of travel demands, goods movements, and transportation facilities and
22 equipment;

23 (2) financial resources for transportation planning, development, and operation;

24 (3) advanced concepts for transportation systems for consideration in alternative plans;

25 (4) alternative plans based on varying assumptions of financial resources, levels of trans-
26 portation services, energy consumption, and proper utilization of various modes;

27 (5) an evaluation of alternative plans considering the relationships between transportation
28 and economic, land use, taxation, environment, energy, and social factors, policies, and goals. Among
29 the criteria to be used in plan evaluation shall be the following:

30 (i) economic, including operating costs, capital costs, revenues, impact on local economy
31 and employment, and related public service costs;

32 (ii) land use, including support for development pattern policies, land absorption, and
33 multiple use of corridor;

34 (iii) taxation, including tax base and equity;

35 (iv) environmental, including air and water quality; impact on soil, weather, landscape,

1 wildlife, and natural resources, and energy conservation, noise, vibration, glare, and other effects;
2 (v) social, including displacement, disruption and relocation, consistency with social
3 objectives, and usability by various groups; and

4 (vi) system performance and level of service, including technological feasibility, flexi-
5 bility, reliability, safety, mobility, accessibility, induced demand, amenity, and convenience.

6 (c) A report containing the following shall be submitted by each transportation planning unit to
7 the [state department of transportation] not later than []:

8 (1) information required by subsection (a)(1) of this section adopted by resolution of the
9 policymaking body;

10 (2) a work program for preparing the regional transportation plan;

11 (3) a proposal for development of an effective regional transportation decisionmaking
12 process; and

13 (4) recommendations concerning relationships between the transportation planning unit and
14 the [department].

15 (d) The [director of the state department of transportation] may adopt policy guidelines for the
16 use of regional transportation planning units in the preparation of the regional transportation plans.

17 SECTION 5. *Plans Transmitted to the State.*

18 (a) A transportation policy plan adopted by a unit and transmitted to the [state department of
19 transportation] pursuant to Section 3(b) of this act shall be reviewed by the [department] within
20 [] days of the receipt of such plan.

21 (b) The [state department of transportation] may accept a plan adopted and transmitted by a
22 unit if it finds that such plan is in conformance with the state transportation plan adopted pursuant
23 to [cite applicable state transportation planning legislation].

24 (c) If the [state department of transportation] finds that a plan adopted and transmitted by a unit
25 is not in conformance with the state transportation plan, the [department] shall request the transmit-
26 ting unit to modify its plan.

27 (d) The [state department of transportation] shall transmit to the governor, for his adoption,
28 regional transportation policy plans accepted by the [department] in accordance with this section.

29 SECTION 6. *Implementation of Regional Transportation Plans.*

30 (a) After adoption by the governor of the regional transportation plan in accordance with
31 [cite applicable statewide transportation policy planning law], no state agency or political subdivision
32 may cause funds to be expended for any transportation project in the area of the unit which is not in
33 conformance with the regional transportation policy plan, unless the governor finds, in writing, that
34 this plan is in conflict with one or more specific provisions of the transportation policy plan of
35 another region of the state or with related state or regional development policies. In such cases, the

1 governor may approve projects in accordance with subsection (c) of this section.

2 (b) The governing body or designated policy committee of the regional transportation planning
3 unit shall have the authority to require timely submission of transportation projects to the unit by
4 state agencies, political subdivisions, and private operators licensed under the laws of this state in
5 accordance with rules and regulations established by the [*director of the state department of trans-*
6 *portation*].

7 (c) A transportation project not approved by the unit in accordance with subsection (a) of this
8 section may be approved by the governor if he makes a written finding that:

9 (1) the proposed project would have a statewide or interregional impact beyond the juris-
10 diction of the applicable unit; and

11 (2) the proposed project is in conformance with officially adopted state plans or officially
12 adopted plans of other affected regional policy units.

13 SECTION 7. *Participation in Regulatory Proceedings.* The [*head*] of each designated regional
14 transportation planning unit may intervene, pursuant to the rules of practice and procedure, in any
15 regulatory proceedings of local, state, and Federal agencies which may substantially affect the interest
16 of the consumers and providers of transportation within the jurisdiction of the area comprised by
17 the unit.

18 SECTION 8. *Separability.* [*Insert separability clause.*]

19 SECTION 9. *Effective Date.* [*Insert effective date.*]

7.003 ESTABLISHMENT OF REGIONAL TRANSPORTATION AUTHORITIES¹

The institutional means of delivery of transportation services are critical to both the quality of the services provided and the cost of the services to consumers. If, as is the case in most metropolitan and rural areas, there is an overreliance on automobiles, and transfers between modes of transportation are costly and time consuming, the question arises whether these areas need an areawide mechanism to coordinate and fill gaps in the delivery of transportation services.

In its 1975 report on transportation, the Advisory Commission on Intergovernmental Relations found that there is often an abundance of transportation providers, but they frequently are fragmented, leave gaps in services, and are handicapped in improving services. In most areas, transportation responsibilities are divided among county and municipal governments, special districts, and private operators, which often show little awareness of the intermodal impact of their individual operational policies and procedures. Highways and mass transit operations are not always interconnected to encourage transit usage. Airports frequently are not connected with convenient, inexpensive ground transportation. Counties and special districts in many areas do not have the legal authority to expand their transportation services.

In a few of the larger metropolitan areas — such as Chicago, San Francisco, Denver, New York, Minneapolis, and Detroit — regional transportation authorities have been created or are being expanded to develop coordinated areawide intermodal transportation systems. In some cases, such as in Boston, Baltimore, Hartford, Harrisburg, and New York, states are directly providing regional services through state subordinate service agencies. In Nebraska and some other areas, counties are being used to provide rural public transportation.

The suggested legislation would authorize an entire state to be blanketed with regional transportation authorities tailored to the specific needs of each area of the state. The bill offers several alternative forms of such authorities:

- A city or county could be designated as the regional transportation authority under certain circumstances;
- A group of cities and counties could enter into a cooperative arrangement and form a regional authority;
- A separate regional authority could be established;
- A regional council could take on the authority role; or
- A state agency could be designated.

In any event, the bill has the effect of assuring that a regional transportation authority with adequate powers and a broad financial base will be available to any area of the state desiring it, whether urban or rural.

Although the suggested bill does not impose any fixed limitations upon the taxing authority of regional transportation entities, it does impose the requirement for approval by two-thirds of the governing body of the regional transportation policy unit which usually will be composed primarily of local elected officials from the region.

The membership of the regional transportation authority will vary according to the form selected in the designation process, but in all cases will be as established by state law.

All powers of the authority could be exercised only with the concurrence of the regional transportation policy unit, and the extensive contracting powers provided would allow a wide range of mutually supportive arrangements among local, regional and state units charged with interrelated transportation responsibilities.

This legislation is modeled after enactments in California, Florida, Illinois, Massachusetts, Oregon, and Texas.

¹Derived from: Advisory Commission on Intergovernmental Relations, *Toward More Balanced Transportation: New Intergovernmental Proposals*, Report A-49 (Washington, D.C.: U.S. Government Printing Office, August, 1975).

Suggested Legislation

[AUTHORIZATION OF REGIONAL TRANSPORTATION AUTHORITIES]

(Be it enacted, etc.)

1 SECTION 1. *Purpose.* It is the purpose of this act to authorize regional transportation authori-
2 ties empowered to provide directly, coordinate, or assist in financing the region's transportation serv-
3 ices in accordance with official regional transportation plans and policies.

4 SECTION 2. *Definitions.*

5 (a) "Region means any area of the state for which areawide transportation policy planning is
6 being done in accordance with [*cite applicable state regional planning, transportation planning or*
7 *substate districting legislation*].

8 (b) "Regional significance" means any service or facility having substantial effect on the whole
9 area encompassed by a region on or any two or more local governmental jurisdictions within such
10 region.

11 (c) "Regional transportation policy unit" means any public body responsible for planning and
12 determining transportation policy for a region in accordance with [*cite applicable state regional*
13 *planning, transportation planning, or substate districting legislation*].

14 (d) "Subordinate service area" means an area within a region in which one or more transportation
15 services or additions to regionwide transportation services are provided by the regional transportation
16 authority and financed from revenues secured from within that area.

17 SECTION 3. *Regional Transportation Authorities.*

18 (a) Regional transportation authorities are authorized to be created or designated for each region
19 in the state by the regional transportation policy unit [subject to gubernatorial approval] [subject to
20 referendum] from any of the following:

21 (1) a county or municipality constituting more than 70 percent of the population of the
22 region in which the regional transportation authority is to be located;

23 (2) a city acting extraterritorially when it already performs the bulk of the region's non-
24 highway transportation services;

25 (3) any two or more contiguous counties, municipalities, other political subdivisions, or
26 combinations thereof which constitute more than 70 percent of the population of the region in which
27 the regional transportation authority is to be located;¹

28 (4) a new regional multimodal transportation authority established by state law or in accord-

¹This option assumes the prior enactment of a state law similar to ACIR's suggested legislation entitled *Interlocal Contracting and Joint Enterprises*.

1 ance with [*cite applicable state enabling legislation*];¹ or

2 (5) a regional transportation policy planning unit created pursuant to [*cite applicable state*
3 *law establishing regional transportation policy planning bodies or other similar regional planning*
4 *entities*].

5 If no such organization is appropriate for designation, the regional transportation policy unit may
6 request the governor to designate a unit of the [*state department of transportation*] to act as the
7 regional transportation authority or to request new state legislation to establish a state subordinate
8 multimodal regional transportation agency to serve this function for the region.

9 SECTION 4. *Powers of Regional Transportation Authorities.* A regional transportation authority,
10 designated under this act, shall constitute a public body corporate and politic, exercising public and
11 essential government functions and having all the powers necessary or convenient to carry out and
12 effectuate the purposes and provisions of this act within the region for which it is designated or
13 within a subordinate service area,² including, but not limited to, the following powers herein granted:

14 (a) to employ an executive director and such other employees as may be necessary;

15 (b) to contract for the services of attorneys, engineers, consultants, and agents for any purpose
16 of the authority, including engineering, architectural design, management, feasibility, transportation
17 planning, and other studies concerning the acquisition, design of facilities, construction, extension,
18 operation, maintenance, regulation, consolidation, and financing of transportation systems in
19 the area;

20 (c) to sue and be sued;

21 (d) to adopt, use, and alter at will a corporate seal;

22 (e) to acquire, purchase, hold, lease as a lessee, and use any franchise, property, real, personal or
23 mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the pur-
24 poses of the authority, and to sell, lease as lessor, transfer, and dispose of any property or interest
25 therein acquired by it;

26 (f) to fix, alter, charge, and establish rates, fares, and other charges for the services and facilities
27 within the area to produce revenues in order to:

28 (1) pay expenses necessary to the operation and maintenance of the properties and facilities
29 of the authority;

30 (2) pay the interest on and principal of bonds issued by the authority under this act which
31 are payable in whole or in part from such revenues, when and as the same shall become due and
32 payable;

33 (3) pay sinking fund and reserve fund payments agreed to be made in respect to any such

¹See ACIR suggested state legislation entitled *Regional Service Corporation*.

²For details about how these areas can be used; see ACIR suggested state legislation entitled *County Modernization*.

1 bonds, and payable out of such taxes and revenues, when and as the same shall become due and
2 payable; and

3 (4) fulfill the terms of any agreements made with the holders of such bonds or with any
4 person in their behalf;

5 (g) to acquire and operate, or provide for the operation of local transportation systems, public or
6 private, within the area; the acquisition of such system to be by negotiation and agreement between
7 the authority and the operator of the system to be acquired;

8 (h) to make contracts of every name and nature and to execute all instruments necessary or
9 convenient for the carrying on of its business;

10 (i) to enter into management contracts with any person or persons for the management of a
11 public transportation system owned or controlled by the authority for such period or periods of time,
12 and under such compensation and other terms and conditions as shall be deemed advisable by the
13 authority;

14 (j) to borrow money and issue evidence of indebtedness and to accept gifts or grants or loans of
15 money or other property and to enter into contracts, leases, or other transactions with any Federal
16 agency, the state, any agency of the state, or with any other public body of the states;

17 (k) to levy and collect taxes pursuant to Section 5;

18 (l) to apply for and receive grants or loans from state or Federal government;

19 (m) to have the right of eminent domain to acquire lands in fee simple and any interest less than
20 fee simple in, on, under, and above lands, including, without limitation, easements, rights-of-way,
21 rights of use of air space or subsurface space, or any combination thereof;

22 (n) to develop transportation plans, and to coordinate its planning and programs with those of
23 appropriate municipal, county, regional, and state agencies and other political subdivisions of the
24 state. All transportation plans are subject to review and approval by the regional transportation policy
25 unit for consistency with programs or planning for the area and region; and

26 (o) to prescribe and promulgate necessary rules and regulations consistent with the provisions
27 of this act.

28 SECTION 5. *Taxes.*

29 (a) In order to carry out any of the powers or purposes of this act, a regional transportation
30 authority may, by ordinance, impose throughout the region or within any subordinate service area¹
31 any or all of the taxes provided in this section. All taxes authorized by this section may be imposed
32 in addition to any other taxes of whatever kind, but may be levied only with approval by a two-thirds
33 majority of the governing body of the regional transportation policy unit. Except as otherwise pro-

¹See ACIR suggested state legislation entitled *County Modernization*.

1 vided in this act, taxes imposed pursuant to this section and civil penalties imposed incident thereto
2 shall be collected and enforced by the [state department of revenue]. The department shall have the
3 power to administer and enforce such taxes and to determine all rights for refunds for erroneous
4 payments of such taxes. The regional transportation authority shall be subject to the provisions of
5 [cite state law establishing state agency for improved local fiscal management].¹

6 (b) A regional transportation authority may impose a public transportation tax upon all persons
7 in the region engaged in the business of selling at retail motor fuel for operation of motor vehicles
8 upon public highways.

9 (c) In connection with the tax imposed pursuant to subsection (b) of this section, a regional
10 transportation authority may impose a tax upon the privilege of using in the region motor fuel for the
11 operation of a motor vehicle upon public highways.

12 (d) A regional transportation authority may impose a motor vehicle parking tax upon the
13 privilege of parking motor vehicles at parking facilities in the region, and may provide for reasonable
14 classifications in and exemptions to such tax, for administration and enforcement thereof and for
15 civil penalties and refunds thereunder. An authority may collect and enforce such tax itself or by
16 contract with any unit of local government. The [state department of revenue] shall have no respon-
17 sibility for such collection and enforcement unless such department agrees with the authority to
18 undertake such collection and enforcement.

19 (e) A regional transportation authority may levy an ad valorem tax on the taxable real property
20 in the areas affected by such authority. Property taxes determined and levied under this subsection
21 shall be certified by the authority to the appropriate auditor, extended, assessed, and collected in
22 like manner as provided by general law for political subdivisions. The proceeds under this subsection
23 shall be remitted by the tax collector to the authority.

24 (f) A regional transportation authority may levy a sales tax on goods sold at retail in the region.

25 (g) A regional transportation authority may assess and collect, from counties, municipalities, or
26 other political subdivisions within the regions, payments that may be necessary for effectuating the
27 purposes of this act; provided such payments are assessed among the counties, municipalities, or other
28 political subdivisions on the basis of the transportation services provided each specific area by the
29 regional transportation authority.

30 SECTION 6. *Issuance of Bonds.* A regional transportation authority may issue bonds to carry
31 out the authorized powers or purposes of this act; provided, that in the creation of bonded indebted-
32 ness the procedure therefore shall be in conformity with the constitution and laws of the state.

33 SECTION 7. *Limitations on Powers.* All plans, budgets, expenditure programs and projects of

¹See ACIR suggested state legislation entitled *State Study Committee on Local Fiscal Management*.

1 any regional transportation authority designated under this act shall be approved by the regional
2 transportation policy unit, and no powers granted by this act shall be exercised by the regional trans-
3 portation authority except in conformance with such approval.

4 SECTION 8. *Separability.* [Insert separability clause.]

5 SECTION 9. *Effective Date.* [Insert effect date.]

7.004 AUTHORIZATION OF LOCAL GOVERNMENT TRANSPORTATION ACTIVITIES¹

Concomitant with a need for establishment of regional transportation delivery systems (see draft legislation on *Regional Transportation Planning* and *Regional Transportation Authorities*), states should also reevaluate the extent to which limitations on the powers of local governments hamper the provision of supplementary transportation services. If local governments have adequate authority to provide transportation services in their own areas and to institute taxing and pricing policies to encourage more efficient use of existing transportation facilities, the public is likely to be well served locally, leaving only areawide transportation to be provided by regional units. Within this concept, existing providers, whether private companies, local governments, special districts, or state agencies, would be expected to continue their transportation functions while striving for better coordination under the guidance of a regional transportation planning unit and regional transportation authority.

Creation of regional entities to provide transportation services does not exclude the need for local governments to continue to serve a vital role in transportation. Often political consideration will deny powers and authority to a regional unit, but the same powers and authority can be entrusted to local units of government. In addition, if a local unit of government has a proven record of providing effective transportation services and such services contribute toward meeting regional transportation objectives, states may not wish to preclude the continued functioning of present providers.

The suggested bill is designed to empower local governments, within the structure of regional transportation plans, to initiate and provide a variety of transportation programs and pricing policies. Although the bill does not assume any legal barriers, it may be necessary for some states to remove constitutional or statutory limitations on the powers of local governments before considering this measure.

Section 1 states the purpose of the suggested legislation.

Section 2 of the bill authorizes local governments to provide supplementary transportation services which are not duplicative of services provided by a regional authority, the state, or a private operator.

Section 3 authorizes local governments to pay transportation subsidies to private operators and in some cases also to individuals. This section is necessary in order to assure that local governments can receive from the Federal government operating subsidies made available under Federal programs.

Section 4 of the bill authorizes local governments to institute a series of transportation pricing policies to encourage efficient use of transportation facilities. It is anticipated that the local government would periodically reevaluate its transportation pricing policies to ascertain whether or not they were achieving the goals for which they were instituted. The bill provides for this periodic review.

Section 5 of the bill requires local governments to submit proposals for supplementary service, subsidy payments, or pricing policies to regional transportation policy planning units for approval prior to initiation. If the service, subsidy, or pricing policy is in conformance with the regional transportation plan, the regional planning unit is directed to approve the proposal.

In order to achieve uniformity among regions of the state, the director of the state department of transportation is given authority, in *Section 5*, to promulgate rules and regulations governing the submittal of proposals to regional planning units.

Sections 6 and 7, respectively, provide for separability and effective date clauses.

The suggested bill is modeled after enactments in California and Colorado.

¹Derived from: Advisory Commission on Intergovernmental Relations, *Toward More Balanced Transportation: New Intergovernmental Proposals*, Report A-49 (Washington, D.C.: U.S. Government Printing Office, September 1975).

Suggested Legislation

**[AN ACT AUTHORIZING
LOCAL GOVERNMENT TRANSPORTATION ACTIVITIES]**

(Be it enacted, etc.)

1 SECTION 1. *Purpose.* It is the purpose of this act to authorize delivery of supplementary local
2 transportation services, payment of subsidies to private transportation operators, and adoption of
3 transportation pricing policies by all units of general purpose local government in metropolitan and
4 rural areas either directly, jointly, or by contract, provided that such services, subsidies, or pricing pol-
5 icies have not been assumed by the designated regional transportation authority, if any. The transpor-
6 tation plans and programs authorized by this act are to be reviewed by the applicable regional trans-
7 portation policy planning unit in order to resolve any inconsistencies between such plans and pro-
8 grams and the officially adopted regional transportation policy plans.

9 SECTION 2. *Local Transportation Services Authorized.*

10 (a) Any county or municipality of this state may provide, by resolution of the governing body
11 of such jurisdiction, and subject to the provisions of Section 5, such transportation services to its
12 residents as it deems necessary, provided that:

13 (1) such services are not provided by any regional transportation authority in which the
14 county or municipality is included;

15 (2) such services are not provided by the state; and

16 (3) such services are not, or will not continue to be, provided by any private operator licensed
17 to operate under the laws of this state.

18 (b) Any resolution adopted by a county or municipal governing body for the provision of any
19 transportation service shall include, but not be limited to, the following:

20 (1) a description of the service to be provided;

21 (2) the means by which the service shall be financed; and

22 (3) the designation of the agency providing the service.

23 SECTION 3. *Payment of Subsidies.*

24 (a) Any county or municipality of this state may make, by resolution of the governing body of
25 such jurisdiction, and subject to the provisions of Section 5, payment of subsidies to private transpor-
26 tation operators licensed to operate under the laws of this state, and to private individuals provided
27 that:

28 (1) such payments are not duplicative of payments made by any regional transportation
29 authority;

- 1 (2) such payments are not duplicative of payments made by the state; and
2 (3) such payments do not create a competitive advantage for one private operator over an-
3 other.

4 (b) Any resolution adopted by a county or municipal governing body for the payment of trans-
5 portation subsidies shall include, but not be limited to, the following:

- 6 (1) designation of the corporate entity or individuals to which payments are to be made;
7 (2) a schedule of payments for the fiscal year; and
8 (3) a description of the means by which the payments will be audited by the county or
9 municipality.

10 SECTION 4. *Transportation Pricing Policies.*

11 (a) Any county or municipality of this state may adopt, by resolution of the governing body of
12 such jurisdiction, and subject to the provisions of Section 5, such transportation pricing policies as
13 would reduce congestion, protect the environment, or conserve energy resources. Transportation
14 pricing policies may include, but not be limited to, parking taxes, group fares for taxis, airport landing
15 fees, road tolls, mass transit variable fees, and car pool incentives.

16 (b) Any resolution adopted by a county or municipal governing body for the adoption of a trans-
17 portation pricing policy shall include, but not be limited to, the following:

- 18 (1) a description of the goal which the transportation pricing policy is designed to achieve;
19 (2) a schedule for periodic review by the county or municipal governing body to determine
20 whether the transportation pricing policy has achieved the goal for which it was instituted;
21 (3) a schedule of the fees to be collected or discounts to be provided; and
22 (4) designation of the county or municipal agency responsible for the enforcement of the
23 transportation pricing policy.

24 SECTION 5. *Approval of Local Transportation Services, Subsidies, or Policies.*

25 (a) Any county or municipality having approved a resolution pursuant to Sections 2, 3, or 4 of
26 this act shall submit such resolution to the regional transportation policy planning units having jur-
27 isdiction over the area of the submitting county or municipality for its approval, disapproval, or mod-
28 ification prior to the initiation of any transportation service, subsidy, or pricing policy by such
29 county or municipality.

30 (b) Within 60 days of the receipt of a resolution from a county or municipality, the regional trans-
31 portation policy planning unit, or a designated employee of such unit, must either approve, dis-
32 approve, or request modification of the resolution.

33 (c) The unit, or its designated employee, shall approve the resolution if the service, subsidy, or
34 pricing policy described therein is in conformance with any applicable regional transportation policy
35 plans established pursuant to [insert reference to appropriate state regional transportation policy plan-

1 *ning law*].

2 (d) The [*director*] of the state [*department of transportation*] shall promulgate, after consultation
3 with the regional transportation policy planning units in the state, rules and regulations governing
4 the submittal and review of resolutions authorized to be adopted pursuant to this act.

5 SECTION 6. *Separability Clause*. [*Insert separability clause.*]

6 SECTION 7. *Effective Date*. [*Insert effective date.*]

7.005 STATE FISCAL AND OPERATING ROLES IN TRANSPORTATION

As the intermodal transportation needs of the nation become recognized, the Federal government and the states have adopted a variety of new measures to cope with today's problems. The Federal government now permits states and cities to use funds from the Highway Trust Fund for the purchase of mass transit facilities. Fifteen states permit diversion of highway revenues for non-highway transportation purposes. Direct state non-highway expenditures are also significant in Connecticut, Georgia, Hawaii, Maryland, Massachusetts, North Carolina, Rhode Island, and Virginia. The structural and legal constraints of traditional transportation finance practices have caused all levels of government to realize now that past patterns of funding have favored highways at the expense of other transportation modes, and resulted in an overemphasis on the use of higher level funds for capital rather than operating purposes.

Even the strongest proponents of increased expenditures of traditional highway fund revenues for mass transit and other modes would concede that mass transit systems are expensive to build and operate. The experience of new systems in the San Francisco Bay Area and Washington, D.C., are examples. However, the movement of people and goods on highways is directly related to the movement of people and goods on other modes. This realization has contributed to the justification for states to revise their systems of financing transportation construction and operations.

Although the political difficulty of changing a state's highway trust fund to a more comprehensive urban oriented, multimodal fund may be substantial in some states, the recent trend is clear: gasoline tax formulas have been revised to channel more money into heavily populated areas in 23 cases, and 13 states have developed transit aid formulas which largely benefit urban areas. Yet, most states still fund their entire transportation appropriations solely from earmarked revenues and intergovernmental aid. Only about ten states have used their general revenue sharing funds for transportation purposes. Increased use of general funds for transportation, then, has not yet occurred in many states. At the same time, non-highway earmarking of the gasoline tax now is a frequent occurrence. In the long run, states may have to increase their general revenue appropriations, or share more fully in the Federal gasoline tax if they are to increase their financial commitments to multimodal urban and regional transportation.

The suggested bill outlines the broadest possible transportation fund concept. The bill allows the collection of revenues from whatever transportation related source, together with funds appropriated from general revenues and the sale of bonds, to become a part of the general transportation fund. Moneys from the fund may be spent on a variety of transportation construction, maintenance, operating, and planning projects, regardless of the mode.

Section 1 sets forth the purpose of the legislation and *Section 2* is concerned with definitions.

Section 3 of the bill sets out the traditional trust fund revenues which are to be consolidated into a comprehensive fund. If in addition to those cited, a state considering the enactment of this bill has other trust funds related to transportation, it should consider including them also. Appropriations from general revenues to the transportation fund also are specifically provided in *Section 3*.

Section 4 allows state agencies, regional transportation authorities, and local units of government to apply to the state department of transportation for moneys from the transportation fund. The state department is expected under the bill to review and amalgamate the proposals into a list of priority projects for review by other state agencies and the governor. The governor is authorized to submit the priority list to the legislature at the beginning of each legislative session and to certify that the list is in conformance with applicable state, regional, and local transportation plans. It is anticipated that the governor would submit the priority list as a part of the budget message.

Section 5 automatically appropriates from the transportation fund, subject to a limitation certified by the state treasurer as available for expenditure, such funds as may be necessary to fund the projects approved by the legislature.

¹Derived from: Advisory Commission on Intergovernmental Relations, *Toward More Balanced Transportation: New Intergovernmental Proposals*, Report A-49 (Washington, D.C.: U.S. Government Printing Office, August, 1975).

Section 6 authorizes payment to eligible recipients of the transportation funds in accordance with the approved priority project list. Failure of a recipient to use the funds allocated to it over a period of two successive fiscal years shall cause the funds to revert to the transportation fund.

Section 7 of the bill is designed to minimize the accumulation in revenue bond sinking funds of amounts which could be better utilized to either reduce interest rates or pay for construction or operating costs of ongoing projects.

Sections 8, 9, and 10 provide for repeal, separability, and effective date clauses, respectively.

Suggested Legislation

[AN ACT PROVIDING FOR STATE FISCAL AND OPERATING ROLES IN TRANSPORTATION]

(Be it enacted, etc.)

1 SECTION 1. *Purpose.* It is the purpose of this act to:

2 (a) create a multimodal transportation fund;

3 (b) authorize payment to local units of government, regional transportation authorities, and state
4 agencies of moneys from the transportation fund as approved by the governor and the [legislature]
5 for projects consistent with applicable local, regional, or state transportation policy plans;

6 (c) authorize local units of government and regional transportation authorities and state agencies
7 to use funds appropriated from the transportation fund for approved projects; and

8 (d) provide for review and approval by the state [department of transportation] [finance agency]
9 of sales of revenue bonds or securities by units of local government or regional transportation authori-
10 ties the proceeds of which are to be used in conjunction with approved transportation projects and for
11 the diversion of surpluses from revenue bond sinking funds to other approved transportation proj-
12 ects.

13 SECTION 2. *Definitions.*

14 (a) "Project(s)" shall mean the construction, maintenance, and renovation of transportation facili-
15 ties of all modes; the provision of operating subsidies for transportation services; and the manage-
16 ment and planning of transportation programs.

17 (b) "Regional transportation authority(ies)" shall mean units established pursuant to [cite ap-
18 plicable state law designating regional transportation authorities].

19 SECTION 3. *Transportation Fund.*¹ A transportation fund is established which shall contain
20 proceeds of bonds or other securities of the state and any other moneys provided for in this act, and
21 shall be held, separate and apart from all other moneys, funds, and accounts by the [treasurer]. Not-
22 withstanding subsections (a) and (b) of this section, no money shall be placed in the transportation
23 fund which would place the state in default of any payments because of outstanding obligations in
24 existence on the effective date of this act. The transportation fund shall consist of the following
25 moneys.²

26 (a) On the effective date of this act:

27 (1) all moneys in the state highway trust fund;

¹Some states may need to enact constitutional amendments prior to the adoption of this section.

²The sources of funds listed below are illustrative, and should be conformed to the sources actually available in any state contemplating enactment of this law.

- 1 (2) all moneys in the highway debt service fund;
- 2 (3) all moneys in the toll roads trust fund; and
- 3 (4) all moneys in the airport trust fund.

4 (b) On and after the effective date of this act:

- 5 (1) all moneys received or collected by the state on account of motor fuel taxes;
- 6 (2) all moneys received or collected by the state on account of motor vehicle taxes;
- 7 (3) all moneys received or collected by the state on account of toll road revenues;
- 8 (4) all moneys received or collected by the state on account of aviation fuel taxes and airport
- 9 landing fees; and

10 (5) all moneys received or collected by the state and required to be paid into the highway or avi-
11 ation trust funds, including proceeds of bonds or other securities of the state or of Federal grants
12 under the provisions of Federal law.

13 (c) All proceeds of bonds or other securities or of Federal grants, and moneys constituting or de-
14 rived from any such proceeds, paid into and credited to the transportation fund pursuant to this act,
15 shall be applied and used only as provided by or pursuant to the laws, proceedings, and agreements of
16 the state authorizing or respecting such bonds, securities, or grants.

17 (d) The [legislature] may appropriate from the [general fund], or such other funds it may from
18 time-to-time establish, moneys to the transportation fund.

19 SECTION 4. *Projects Funded From the Transportation Fund.*

20 (a) State agencies, regional transportation authorities, and units of local government may apply
21 for state financial assistance under this act for transportation projects by submitting statements of
22 proposed activities to the state [department of transportation] at a time and in a manner prescribed
23 by the governor. Such statements shall include the consideration given by the sponsoring unit to the
24 need of all segments of the public for a safe and efficient transportation system and the significant
25 economic, social, and environmental effects of the proposed project or projects. The statements shall,
26 within the capability of the sponsoring units, include an analysis of:

- 27 (1) the contribution of the project to local, regional, statewide, or national objectives, including
- 28 any growth and energy conservation objectives;
- 29 (2) the accessibility of existing public facilities and services;
- 30 (3) the effect of the project on the cohesion of affected neighborhoods and communities;
- 31 (4) the displacement of people, businesses, and farms that would be caused by the project;
- 32 (5) the impact of the project on the ability to maintain relevant local, regional, state, or national
- 33 air, noise, and water pollution objectives and standards; and
- 34 (6) the impact of the project on the ability of affected communities to retain or enhance com-
35 munity values and objectives.

1 (b) Prior to the submission of a statement, a sponsoring unit or units may request technical re-
2 view and assistance from the state [*department of transportation*] in designing systems to accomplish
3 stated mobility objectives. When requested to do so, and within its capability to do so, the state
4 [*department of transportation*] shall furnish such assistance.

5 (c) The state [*department of transportation*] shall prepare a priority list of transportation projects
6 submitted by state agencies, regional transportation authorities, and units of local government in
7 accordance with applicable local, regional, or state transportation policy plans. In assigning priorities,
8 the state agency shall evaluate each project, considering such factors as the benefits claimed for the
9 project by the sponsoring unit and the relative contribution of the project to the transportation system
10 of the local area, the region, the state, and the nation.

11 (d) In addition to the general review of projects prior to determination of priorities under subsec-
12 tion (c) of this section, the state [*department of transportation*] shall review proposed projects for
13 economic, engineering, and environmental feasibility and consider, or ensure that there has been con-
14 sideration of:

15 (1) technically feasible transportation alternatives involving all surface and air modes;

16 (2) non-transportation components such as land use, population redistribution, new communi-
17 ty development, replacement housing, joint development, multiple use of rights-of-way and energy
18 conservation;

19 (3) suggestions from all interested parties, including affected local, regional, state, and Federal
20 agencies; and

21 (4) adequacy of public participation in the process of project identification and development.

22 (e) The state [*department of transportation*] shall submit the priority list of transportation proj-
23 ects to [*other appropriate state agencies*] for review and comment prior to any final decision on pri-
24 orities by the state [*department of transportation*].

25 (f) After considering all the factors and comments called for in this section, the state [*department*
26 *of transportation*] shall recommend a final list of priorities of transportation projects to the governor
27 for his approval, disapproval, or modification. The governor shall submit the priority list of trans-
28 portation projects to the [*legislature*] by [*insert date on which each annual legislative session be-*
29 *gins*] of each year and he shall certify that such list is consistent with applicable local, regional, and
30 state transportation policy plans.

31 SECTION 5. *Appropriation of Moneys in the Transportation Fund.* There is hereby appropri-
32 ated from the transportation fund such sums as may be necessary for the funding and execution of
33 projects approved by the [*legislature*] in the priority list of transportation projects for each fiscal year.
34 The amount appropriated shall not exceed in any fiscal year the amount certified by the state
35 [*treasurer*] as available for expenditure in the transportation fund.

1 SECTION 6. *Payment of Transportation Funds.*

2 (a) The funds available within the limits of the sum appropriated pursuant to Section 5 of this act
3 for transportation projects shall be paid by warrant to the appropriate local unit of government,
4 regional transportation authority, or state agency.

5 (b) Money paid to units of local government, regional transportation authorities, or state agencies
6 under this section shall be used only for transportation purposes as specified in such agreements as
7 the [director] of the state [department of transportation] may specify.

8 (c) No unit of local government, regional transportation authority, or state agency may be al-
9 lowed to accumulate over two successive fiscal years funds received under this act unless the state
10 [department of transportation] has approved plans for construction and implementation of the project
11 approved pursuant to Sections 4 and 5 of this act. If a unit of local government, a regional transporta-
12 tion authority, or a state agency accumulates payments for over two fiscal years, and a construction
13 program is not implemented, the accumulated payments shall revert to the transportation fund to be
14 available under Section 3 of this act.

15 SECTION 7. *Review of Local and Regional Transportation Bonds.*

16 (a) Whenever a unit of local government or regional transportation authority expects to use the
17 proceeds from the sale of revenue bonds in conjunction with a transportation project approved under
18 this act, sale of such bonds shall have the approval of the [director] of the state [department of trans-
19 portation] in conjunction with the state [department of finance].

20 (b) The [director] of the state [department of transportation] shall, by regulation, establish the
21 procedures whereby units of local government and regional transportation authorities may submit to
22 the state [department of transportation] statements of proposed sales of revenue bonds.

23 (c) The [director] of the state [department of transportation] shall approve a proposed sale of
24 revenue bonds if he finds that such sale will not cause either excessive service charges for the use of
25 any transportation facilities financed by revenue bonds, or impediments to the use of any surpluses
26 generated by such charges for the development of any transportation project, either in whole or in
27 part, other than the facility which produced the surplus revenue.

28 (d) The [director] of the state [department of transportation] may, at the request of a unit of local
29 government or regional transportation authority seeking approval of a sale of revenue bonds pursu-
30 ant to this section, and upon approval of the state [department of finance] pursuant to [cite applicable
31 state law relating to state guarantee and local borrowing], pledge the revenues of the state to guarantee
32 payment, either in whole or in part, of the principal and interest of such revenue bonds.

33 SECTION 8. *Repeal.* [Insert repeal clause].

34 SECTION 9. *Separability.* [Insert separability clause.]

35 SECTION 10. *Effective date.* [Insert effective date.]

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what is acir?

The Advisory Commission on Intergovernmental Relations (ACIR) was created by the 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.

The Commission is composed of 26 members — nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20 — three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from slates nominated 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 three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House. Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning

of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

Studies undertaken by the Commission have dealt with subjects as diverse as transportation and as specific as state taxation of out-of-state depositories; as wide ranging as sub-state regionalism to the more specialized issue of local revenue diversification. In selecting items for the work program, the Commission considers the relative importance and urgency of the problem, its manageability from the point of view of finances and staff available to ACIR and the extent to which the Commission can make a fruitful contribution toward the solution of the problem.

After selecting specific intergovernmental issues for investigation, ACIR follows a multistep 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 position. Commission findings and recommendations are published and draft bills and executive orders developed to assist in implementing ACIR policies.

