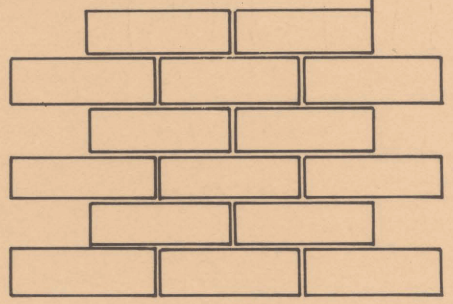
State Actions 1974:
BUILDING ON INNOVATION



Advisory Commission on Intergovernmental Relations
WASHINGTON, D.C. 20575 • FEBRUARY 1975

M-90

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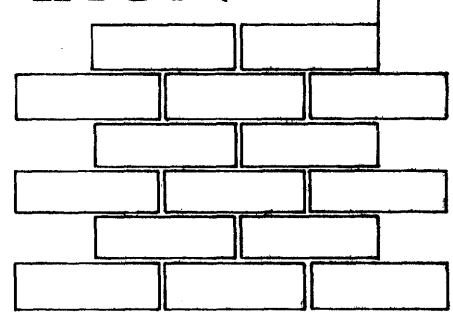

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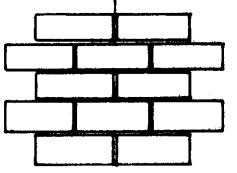
Preface

From its first years, the Advisory Commission on Intergovernmental Relations has studied the actions States have taken as they seek to solve problems and strengthen relationships in our increasingly complex society. Balance in the American federal system can only be achieved if there is a continuing process of adjustment in relationships and responsibilities among the levels of government as new intergovernmental problems emerge.

This information report provides a selective summary of State constitutional, legislative, and executive actions during 1974 with emphasis on those with strong intergovernmental implications.

For the most part, this report concentrates on subjects where the Commission has made policy recommendations for strengthening the performance of the States, but it does not contain new suggestions of a policy nature. It is issued strictly as an information and reference report.

Robert E. Merriam
Chairman



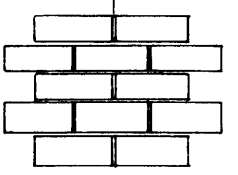
Acknowledgements

While the ACIR staff relied heavily on the Commission's own information sources in preparing this edition of *State Action,* the job of assembling and verifying the information contained herein could not have been done without the assistance of many other organizations and individuals.

The ACIR staff drew freely upon the legislative summaries and other information provided by state legislative service agencies and state libraries. Press releases and other materials furnished by governors' offices were also very helpful. In addition we gratefully acknowledge the information provided by state municipal and county league journals and publications of the Council of State Governments, Commerce Clearing House, and the Federation of Tax Administrators. Staff members of the National Association of Counties, Common Cause, and various federal, state, and local agencies and associations were also helpful.

This report was researched and written by staff member Lynn D. Ferrell. Jack P. Suyderhoud wrote the chapter on "State Fiscal Actions." Major typing burdens were borne by Elizabeth A. Bunn and Marinda T. Davis; Franklin A. Steinko was responsible for the printing of the report. Overall supervision was provided by Lawrence D. Gilson, Director of Policy Implementation. Numerous other ACIR staff members contributed to the preparation of *State Action.*

Wayne F. Anderson
Executive Director



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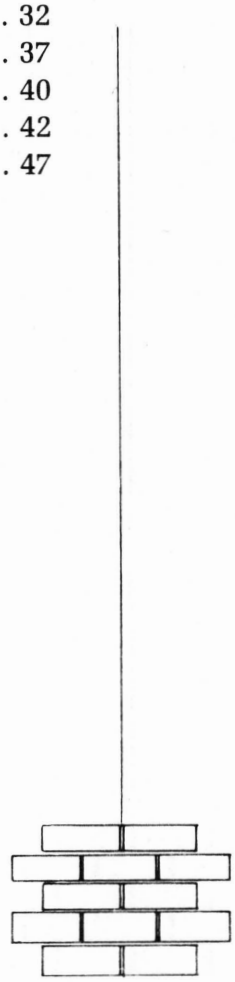


COMMENTARY
ABC EVENING NEWS
OCTOBER 30, 1974
BY HOWARD K. SMITH

With elections six days away, we here are up to our arm-pits researching the politics of every state in the union.

One remarkable thing stands out in all I read. Since the New Deal, the federal government has been the fount of reform and innovation.

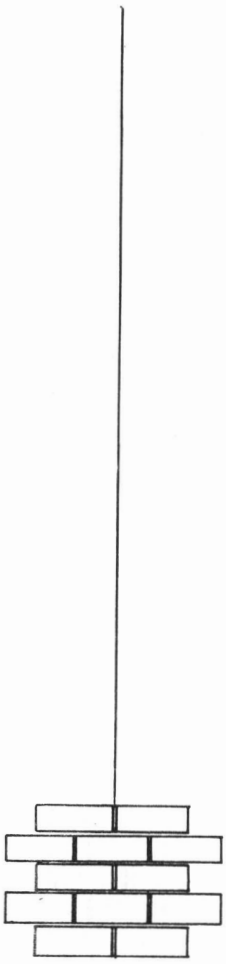
Well, that's changed. Suddenly the state governments are doing relatively much better.

While Washington fights budget deficits, more and more states show handsome surpluses: California 350 million dollars in the black; Minnesota 300 millions; others relative to size doing almost as well.

This month Congress finally passed a campaign reform bill. Well, 24 of the 50 states passed them long ago, California in the lead with its stringent Proposition nine. Governor Askew of Florida has carried out a tax reform that makes Wilbur Mills' dawdling efforts in that realm look sick.

While federal agencies proliferate, state after state has re-organized and stripped down—Idaho reducing 270 agencies to 20, Maryland 248 of them to 12, and so with others too.

So with environmental protection. States like Oregon and Colorado are way ahead of Washington with their laws. . . .



State Actions 1974: Building on Innovation

Even more than in previous years, events at the national level dominated America's headlines. The President resigned less than two years after his overwhelming reelection. For the first time ever, the incoming President was a man who had never run for national office. Inflation went unchecked. Signs of a serious recession appeared as the unemployment rate reached a 25-year high. While gas lines disappeared, energy problems persisted.

Yet despite all these national problems, the states were able to act decisively in many areas to meet the needs of their citizens. As has occurred in the past, they were the first to perceive citizen desires and translate them into legislative or executive action.

The Advisory Commission on Intergovernmental Relations prepares an annual summary of state actions in selected policy areas. Frequently the experimental state efforts described in these volumes prove to be the forerunner of accepted state practice or national policy. Some of the major trends observed in the states in 1974 follow.

With Watergate capturing the headlines for most of the year, the states passed numerous new laws aimed at increasing government accountability.

- 31 states passed legislation governing the financing of political campaigns.
- Four states (Maryland, Massachusetts, Minnesota, and Montana) instituted systems which allow a citizen to contribute to a political campaign fund by checking a box on the state income tax form.
- 18 states created agencies to enforce the laws regulating political campaigns.
- 14 states enacted requirements that public officials disclose their financial interests.
- The passage of open meetings laws in several states brought to 48 the number of states with some requirement that meetings of government agencies and bodies be open to the public.

In contrast to the Federal government, the states were quick to act on at least the short term challenges posed by the energy shortage.

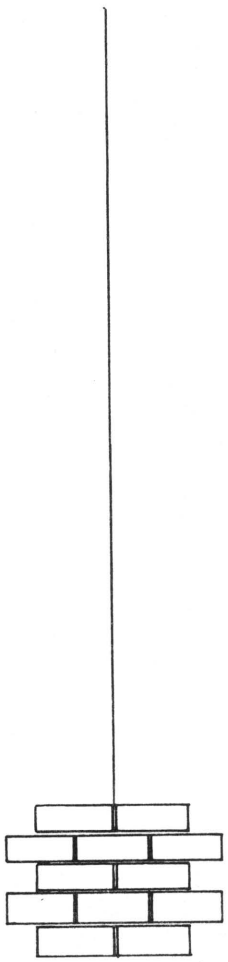
- 16 states adopted gasoline rationing plans to help alleviate long lines at gas stations at the height of the crisis.

- 15 states granted their Governors emergency powers to deal with energy problems.
- 19 states created councils, commissions, agencies, committees, or boards to coordinate the supply and demand of energy within the state.

For the first time in over two decades, the aggregate state revenues derived from new political action declined in 1974. Still, economic growth assured a larger total state tax take. During 1974, the states began to reap the rewards of actions taken over the previous few years to strengthen their tax systems.

- Only three states adopted significant tax increases during 1974.
- Seven states took action to reduce sales taxes, either by reducing the tax rate, by exempting food and prescription drugs, or by increasing certain sales tax credits.
- Five states reduced their individual and corporate income taxes by reducing rates or increasing exemptions.
- Circuit-breaker property tax relief was adopted in three states and the District of Columbia, and three other states broadened the coverage of existing circuit-breakers to provide more relief.

The following summary highlights these and other actions taken by the states in 1974 to make government more accessible, accountable, and effective.



Government Accountability

At least 25 states took some significant action in 1973 to make governments more accountable to the people. Just as the first revelations led to state actions in 1973, so, too, the growth of the national political scandal increased the pressure for further government reform in 1974. Following is a listing of the most significant state actions taken during the year in the crucial accountability fields of open meetings and campaign finance.

OPEN MEETINGS LAWS

A new **Arizona** law (SB 1059) requires meetings of tax-supported governing bodies of the state and its political subdivisions to be open where action is taken or decisions are made, except in the case of a judicial proceeding or any political caucus. Executive sessions are permissible for such specified purposes as discussions of personnel matters. The act also requires public notice at least 24 hours prior to any meetings.

At the primary election on June 4, the voters of **California** approved an amendment that requires proceedings of the legislature to be open to the public unless a two-thirds legislative majority votes otherwise.

The **Colorado** legislature adopted a resolution (SJR 11) which requires that all meetings of both houses of the General Assembly are to be recorded. The resolution also provides policies and procedures for the storage of the tapes.

A new **Georgia** statute (SB 441) requires the recording of every vote taken by each house of the General Assembly on any bill or resolution fixing the compensation or allowances of any official, except county and municipal officials.

The Fulton County superior court found that **Georgia's** 1972 "sunshine" law is applicable to the legislature and its committees. That decision is being appealed by the state.

Idaho (H 602) requires that meetings of governing bodies, including the legislature and its committees, be open to the public. Excepted from coverage are party caucuses, personnel decisions, and property or trade deliberations.

The **Kentucky** legislature enacted the state's first open meetings law by requiring most state and local agencies to open their meetings to the public and to provide notification of the meeting in advance (HB 100).

New legislative rules in **Maryland** require committee votes to be recorded on the request of any one committee member.

In March, **Michigan** Governor Milliken notified all department heads and members of state boards and commissions that they were to

comply fully with the state open meetings statute, even though they are not legally required to do so by the law.

The **Minnesota** Supreme Court ruled that the public must be notified in advance of government meetings, although the open meetings law did not specifically make such a requirement.

In the absence of a state statute requiring open meetings, Governor Waller urged the state boards and agencies of **Mississippi** to open their meetings to the public and the media.

The **New Jersey** State Assembly adopted rules requiring that committee meeting deliberations be opened up to the public.

A **New Mexico** enactment (HB 63) strengthens the state's open meetings law by requiring that not just final actions, but that all deliberations preceeding a public policy decision, be open to the public. The law covers standing committees of the legislature and state and local bodies, and requires that advance notice of meetings be given and public records be kept of the meetings.

A 1974 **New York** freedom of information act requires that all records of state and local government agencies and legislative bodies be open for public inspection. The act also creates a Committee on Access to Public Records to advise agencies and municipalities on the requirements of the new law by formulating guidelines and regulations. The same body is mandated to recommend changes in the law which would further the public's access to records.

The **Pennsylvania** legislature expanded the state's open meetings law by requiring that meetings of any agency of the state or any of its political subdivisions, including the legislature and the boards of trustees of state owned or state related colleges, be open to the public (Act 175). Governor Shapp also established a committee to develop guidelines for use by the executive branch to insure that the government is accessible to the public and the press.

Tennessee law (SB 1351) requires that all meetings of any governing body be public at all times. The act further provides for adequate public notice for special meetings and requires that the minutes of all meetings be open for public inspection. Any actions taken at a meeting held in violation of the act will be void.

New State Senate rules in **West Virginia** require that committee meetings be open.

Wisconsin officials who knowingly violate the open meetings law may now be fined up to $200 (Chapter 297). The new law applies to all governmental bodies, including the agencies, boards, and commissions of state and local governments. Legislative party caucuses are specifically excluded from the law, along with exemptions for personnel matters and consultation with legal counsel. However, the act requires an announcement of the purpose of closed sessions and prohibits the reconvening of an open session within 12 hours after a closed session, unless public notice of the subsequent open session was given at the time of the notice of the initial open meeting. The law further prohibits the casting of secret ballots in government meetings.

As a continued reaction to the national and state political scandals of 1973 and 1974, 31 states took action in 1974 relating to campaign finance. Three states set up legislative committees to study campaign finance issues and to recommend legislation. (They are **Indiana, Massachusetts,** and **West Virginia.)**

Following are summaries of campaign reform and lobbying disclosure actions taken in 1974.

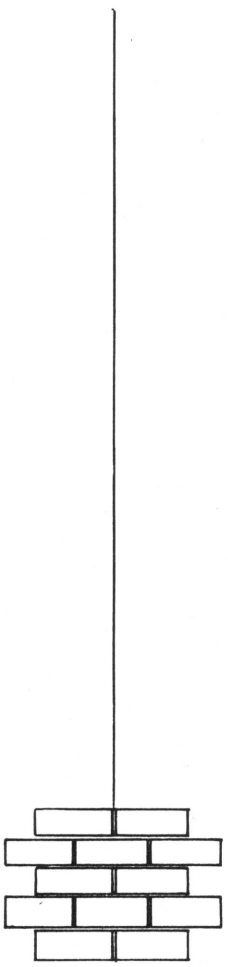


TABLE I

1974 State Actions Regulating Activities of Lobbyists

	Required to Register	Required to Report Receipts	Required to Report Expenditures	Cite
ARIZONA	X		X	SB 1122
CALIFORNIA	X	X		PROP. 9
FLORIDA	X			HB 2375
IOWA			X	SB 1200
KANSAS	X		X	SB 689
MINNESOTA	X		X	HF 951
WISCONSIN	X			SB 5

Case Studies

INITIATIVE MEASURES INTRODUCE COMPREHENSIVE POLITICAL REFORMS

In 1972, the voters of the State of Washington adopted a proposition dealing with a wide range of government accountability questions. In 1974, three states — California, Missouri, and Oregon — followed suit when similar measures were approved at the polls.

The prominence in the news of a wide range of abuses of public trust and the public sense of urgency in seeking a remedy has led to this phenomenon of adopting an omnibus act rather than dealing with each issue separately.

The topics covered by Proposition 9 in California, Proposition 1 in Missouri, and Proposition 14 in Oregon run from reporting and disclosure of contributions and expenditures; to open meetings; to reporting, disclosure, and regulation of the activities of lobbyists. Each proposition also established an independent commission to administer and enforce the act and to investigate complaints of violations.

Particularly noteworthy is Oregon's local option provision. On November 5, 1974, all cities and counties submitted to the voters the question of extending the provisions of the state act to cover the officials of those local governments. Local voters approved the extension in 158 cities and in 30 of the 36 counties in the state.

TABLE 2

State Campaign Reform Actions of 1974

STATES	Require Single Campaign Treasurer	Restrictions on Campaign Contributions and Expenditures: Limits on Individual Contributions	Prohibit Corporate Contributions	Prohibit Contributions by Unions	Campaign Spending Limits	Disclosure and Reporting: Contributions & Expenditures	Applies to In-Kind Contributions	No. of Reports to be Made Before Elections	Public Subsidies: Tax Credits or Deductions for Contributions	Tax Check-Off System[i]	Disclosure and Reporting of Assets of Candidates and Officeholders	Enforcement Agency Created	Cite[m]
ALABAMA													
ALASKA	x	x				x	x	2	x			x	SB 388
ARIZONA				x	x	x	x	3			x	x	SB 1121, 1138
ARKANSAS													
CALIFORNIA					x	x		2			x	x	PROP. 9
COLORADO						x	x	1			j	x	SB 28; EO
CONNECTICUT	x	x			x	x	x	4-5				x	SB 212, 298, 401; HB 5469
DELAWARE		x			x	x		1					HB 822
FLORIDA											x	x	HB 3418
GEORGIA	x					x		4				x	SB 454
HAWAII													
IDAHO													
ILLINOIS						x	x	2			j	x	SB 1568; EO
INDIANA						x					x	x	SB 245
IOWA						x		4					SB 1200
KANSAS	x	x			x	x					x	x	SB 656, 689, 1020
KENTUCKY		x				x		2					HB 68, 220
LOUISIANA													
MAINE					x						k		HB 2054-X
MARYLAND		x	c		x	x	x			F		x	SB 456; HB 510
MASSACHUSETTS													
MICHIGAN	x				x	x	x	2					SB 1016
MINNESOTA					x	x	x	3	x	P	x	x	HB 951
MISSISSIPPI													
MISSOURI		x	x	x	x	x	x	2			x	x	PROP 1
MONTANA									x	F			HB 890, 1081
NEBRASKA													
NEVADA													
NEW HAMPSHIRE													

		Restrictions on Campaign Contributions and Expenditures				Disclosure and Reporting			Public Subsidies				
STATES	Require Single Campaign Treasurer	Limits on Individual Contributions	Prohibit Corporate Contributions	Prohibit Contributions by Unions	Campaign Spending Limits	Contributions & Expenditures	Applies to In-Kind Contributions	No. of Reports to be Made Before Elections	Tax Credits or Deductions for Contributions	Tax Check-Off System[i]	Disclosure and Reporting of Assets of Candidates and Officeholders	Enforcement Agency Created	Cite[m]
NEW JERSEY		x			x	e	x						AB 1246
NEW MEXICO													
NEW YORK		x	c		x	x	x	1-4f				x	AB 12071, 12485
NORTH CAROLINA		x	x	x		x		4					SB 978
NORTH DAKOTA													
OHIO	x				x	x		1			x	x	SB 46
OKLAHOMA	x	x	x			x		2	x		x		SB 534
OREGON	xa				x						x	x	PROP 14
PENNSYLVANIA	x												HB 2219
RHODE ISLAND		b			x	e		1					HB 7829
SOUTH CAROLINA													
SOUTH DAKOTA											l	x	HB 828, 507
TENNESSEE													
TEXAS													
UTAH													
VERMONT													
VIRGINIA													
WASHINGTON													
WEST VIRGINIA													
WISCONSIN	x	x	x		x	x		g				x	SB 5
WYOMING		x	d		x	x		h					HEA 14

FOOTNOTES

a. The single campaign treasurer provision of the 1973 Oregon law was voided by a circuit court judge in 1974. The decision is being appealed.

b. No candidate may spend personal or family funds in excess of 10% of the overall spending limits.

c. The statute limits, but does not prohibit, corporate contributions.

d. Union and other membership group contributions to a candidate are limited to 5% of the overall spending limit. No contribution may be made by such a group without approval by two-thirds of the group's membership.

e. Reporting of contributions, but not expenditures, is required.

f. Four reports per year, with the first one to be 15-25 days before the election.

g. Reports required, but no timetable is prescribed in the law.

h. Reports required within 20 days after each election (i.e. special, primary, general, and run-off).

i. No additional tax liability is incurred except in Maryland.
P= taxpayer may designate which political party is to receive his check-off money.
F= general fund disbursed by the state. Individual taxpayers may not make a party designation.

j. Executive Branch officeholders.

k. Legislators.

l. Candidates for state office.

m. In some cases 1974 rules or regulations were promulgated by the Governor in an Executive Order, designated below by "EO".

State Fiscal Actions

In spite of the deepening recession at the end of the year, 1974 marked the second consecutive year of relative fiscal ease for state governments, and the tax reduction movement launched in 1973 continued.

The bright fiscal picture for the states in 1974 stemmed mainly from changes over the past decade in state tax structures. The demand for increased state services in the 1960's caused many legislatures to adopt new taxes to support those public programs. The need for adequate revenues and the public desire for equitable taxes forced states (and increasingly localities) to turn to the use of income and sales taxes, the two taxes most responsive to real and inflationary growth in the economy. The trend toward new tax adoptions was so substantial that by 1973 fully 40 states utilized broad based individual income taxes, 45 employed general sales taxes, and 36 states relied on both.

The introduction of Federal general revenue sharing dollars during the 1973-74 biennium further eased fiscal pressures on the states. During this two-year period, the Federal government transferred $3.3-billion to state governments for their virtually unrestricted use. As a result of both the tax changes and revenue sharing, over 40 states reported surpluses for fiscal 1974.

For the states, tax reform and relief occurs more readily in times of fiscal ease, and in 1974 the states continued the tax reform efforts commenced in 1973. New actions were taken to provide relief to taxpayers and to introduce reform and greater equity into the tax systems of both state and local governments. Six states and the District of Columbia expanded property tax relief via new or amended "circuit-breaker" legislation, and several states imposed restrictions on the amounts local governments may spend or levy in taxes. The states further eased pressure on the local property tax by assuming a larger role in financing local education.

TAXES REDUCED

In 1974, for the first time in 25 years, the net result of tax changes previously enacted by state legislatures was a small cut in 50-state aggregate revenues. Still, the absolute number of state tax dollars collected in 1974 continued to increase since the voted tax cuts were more than offset by automatic revenue increases associated with inflation and real economic growth *(see Table 3)*.

ACIR has surveyed state revenue departments each year since 1966 to determine the nature of state revenue growth. *Table 4* gives the results: every year prior to 1974 was marked

by an increase in state revenues caused by *both* economic growth and explicit political actions to introduce new taxes, to increase the effective tax rates, or to broaden the base of a tax. In 1974, however, state political action reduced taxes by approximately $160-million.

The discretionary tax cuts reflected in fiscal 1974 tax collections were largely the result of 1973 changes in state tax laws, primarily in individual income taxes. While the states, *in toto*, took political actions to increase general and selective sales tax collections by approximately

TABLE 3

State-Local Taxes: 1969-74

Fiscal Year	State-Local Taxes (millions)	Percent Change Over Previous Fiscal Year
1969	$ 77,451	11.1%
1970	88,128	13.8
1971	94,279	7.0
1972	108,570	15.2
1973	119,508	10.1
1974	130,126	8.9

Source: U.S. Bureau of the Census, "Quarterly Summary of State and Local Tax Revenue," various issues.

TABLE 4

Sources of Increased Collections, Major State Government Taxes*

		Amount Due to:		Amount Per Capita:			Proportion Due to:	
Fiscal Year	Total Increase (millions)	Economic Growth (millions)	Political Action (millions)	Total	Economic Growth	Political Action	Economic Growth	Political Action
1966	$ 2,700	$ 1,800	$ 900	$13.96	$ 9.31	$ 4.65	67%	33%
1967	2,300	1,500	800	11.78	7.69	4.10	65	35
1968	4,100	1,700	2,400	20.80	8.62	12.18	41	59
1969	4,400	2,600	1,800	22.09	13.06	9.04	59	41
1970	4,900	2,200	2,700	24.29	10.91	13.38	45	55
1971	2,900	2,300	600	14.20	11.26	2.94	79	21
1972	5,700	3,400	2,300	27.61	16.47	11.14	60	40
1973	7,000	5,100	1,900	33.48	24.39	9.09	73	27
1974	5,000	5,200	—200	23.91	24.87	—0.96	104	—4

*Taxes included are general sales tax, individual income tax, corporate income tax and selective sales taxes.
Source: ACIR survey of annual state revenue growth in cooperation with state revenue departments.

TABLE 5

Sources of Increased State Tax Collections by Major State Tax*: Fiscal 1974

	Amount Due To:		
	Economic Growth (millions)	Political Action (millions)	Total Increase (millions)
General sales tax	$ 2,120	$ 170	$ 2,290
Selective sales tax	530	70	600
Individual income tax	2,040	-500	1,540
Corporate income tax	510	100	610
Total	$ 5,200	$-160	$5,040

*Taxes included are general sales tax, individual income tax, corporate income tax and selective sales taxes.
Source: ACIR survey of annual state revenue growth in cooperation with state revenue departments.

$240-million and corporate income tax collections by $100-million, individual income tax collections were reduced $500-million, offsetting not only other legislated tax increases but also nearly 25 percent of the economic growth of the individual income tax *(see Table 5)*.

In 1974, a relatively quiet year for state fiscal actions, legislative actions to cut taxes outnumbered tax increases. Only three states took actions to significantly increase one or more of the major state taxes: individual income, corporate income, general sales, and selective sales. **Arizona,** in a special session of its *1973 legislature* meeting in 1974, raised its sales tax rate from 3 to 4 percent and upped the corporate income tax rates as well (HB 2001). A proposition to exempt food from the general sales tax while increasing the rate to 5 percent was rejected by voters on the November ballot. **South Dakota** (Ch. 97; SB 96) expanded the base of its sales tax by subjecting telephone and teletype services to the 4 percent general sales tax rate. **Vermont** (Ch. 202) raised its corporate income tax rate from a flat 5 percent to a graduated schedule ranging from 5 to 7.5 percent.

Numerous tax reducing measures were enacted during calendar 1974. **Connecticut** (Ch. 73) lowered its sales tax rate for the second time in two years to 6 percent, by 0.5 percent. **Iowa** (SF 1055) exempted food and prescription drugs from its sales tax. **Colorado** (HB 1056) and **Nebraska** (LB 632) increased food sales tax credits taken against income tax liabilities. **South Dakota** (Ch. 98; HB 509) and **Washington** (Ch. 185; HB 1) exempted prescription drugs. **Michigan** voters in November approved constitutional amendments that paved the way for exempting food and prescription drugs from the sales tax. The exemptions adopted by the legislature (HB 5182 and HB 5183) take effect in 1975, and will replace income tax credits that had gone into effect in 1974.

Numerous states reduced individual and corporate income taxes. **Montana** (Ch. 363; HB 211) reduced income tax liabilities by raising personal deductions from $600 to $650. The **Nebraska** Board of Equalization reduced individual income tax rates for calendar 1975 from 11 to 10 percent of Federal income tax liability and the corporate rate from 2.75 to 2.5 percent of Federal liability. **New**

Mexico (Ch. 88; HB 37) reduced its individual income tax rates and **Ohio** (HB 476) increased personal exemptions from $500 to $650 effective January 1, 1975. **Pennsylvania** (HB 1190) increased personal income tax exemptions and cut its flat rate for personal income taxes to 2 percent from 2.3 percent and from 11 to 9.5 percent for corporate income.

A BETTER FISCAL BALANCE

The trend toward a more balanced use of state and local tax sources continued in 1974. The "Big Three" revenue generators for the states and their subdivisions have been and remain general sales, individual income, and property taxes. Of the three, the state-local sector has historically utilized property taxes most extensively. Though this reliance on the property tax has steadily diminished over the past 30 years, the levy remains the single greatest state-local source, accounting for 37.5 percent of total state and local tax revenue.[1]

Accordingly, general sales and individual income taxes have grown in relative importance. Over the last three years, the individual income tax and the general sales tax have grown significantly faster than property tax revenues *(see Table 6)* and in 1974 accounted for 35.2 percent of all state-local tax revenues. This tendency is slightly understated in aggregate tax collection figures since numerous states finance property tax relief *via* income tax credits.

The movement to a more balanced utilization of revenue sources is both the cause and effect of the tax reform and relief. The increased reliance on sales and income taxes has provided states with sufficient revenues to allow them to achieve greater equity in their fiscal systems by legislating increased state assumption of local school costs, circuit-breaker property tax relief, and/or sales and income tax changes. At the same time, the continuing unpopularity of the property tax, which ACIR has documented in recent public opinion polls,[2] has forced legislators to turn to greater use of the sales and income taxes to finance property tax relief *(see Chart 1)*.

PROVIDING PROPERTY TAX RELIEF

The property tax circuit-breaker has become the favored means by

1. ACIR, *Federal-State-Local Finances: Significant Features of Fiscal Federalism, 1973-74 Edition*, M-79, February 1974.

2. ACIR, *Changing Public Attitudes on Governments and Taxes*, S-3, June 1974.

TABLE 6

Growth of the Big Three State-Local Taxes: 1971-1974

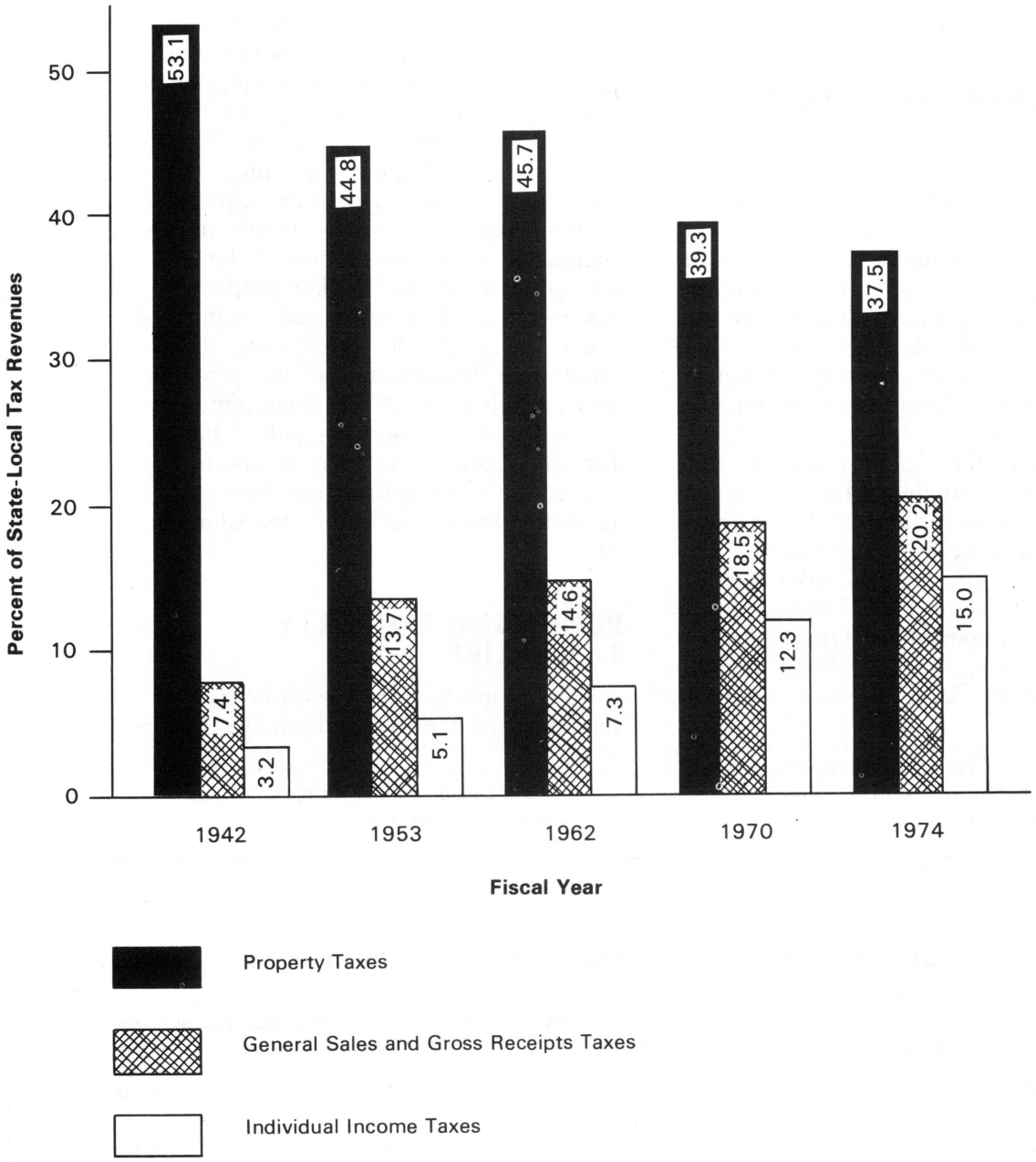
Revenue	Percentage Growth Over the Previous Fiscal Year 1972	1973	1974
Total Big Three	15.2%	10.1%	8.9%
Property tax	11.6	6.6	7.8
General sales tax	15.3	12.1	14.8
Individual income tax	33.5	16.6	8.8*

*The declining growth of the income tax yield reflects significant tax cuts (see Table 3) as well as property tax relief provided through income tax deductions and credits.

Source: ACIR staff compilations based on U.S. Bureau of the Census data.

CHART 1

The Big Three's Contribution to State-Local Tax Revenue, Selected Years: 1942-1974



Source: ACIR staff compilation based on U.S. Bureau of the Census data.

which state legislatures protect families from undue property tax burdens.[3] Circuit-breaker programs are designed to go into effect when the property tax bill exceeds a legislatively established percentage of household income. The actual relief usually granted is in the form of a direct reduction in the property tax bill, a refundable credit against state income tax liabilities, or a cash rebate. A number of states use a slight variant by granting tax relief equal to a given percentage of the property tax bill, no matter what its size, with the percentage depending upon the level of household income.

ACIR has long advocated the adoption of such relief[4] and has provided policymakers with model structures to implement such programs.[5] Though the relief is for taxes owed to local jurisdictions, in most states it is the state government that finances and administers the programs. This has the advantages of (a) not interrupting the flow of property tax funds to those units levying the tax, (b) not interfering with local property assessment practices, and (c) providing relief to residents of all jurisdictions irrespective of the community's capacity to afford such relief.

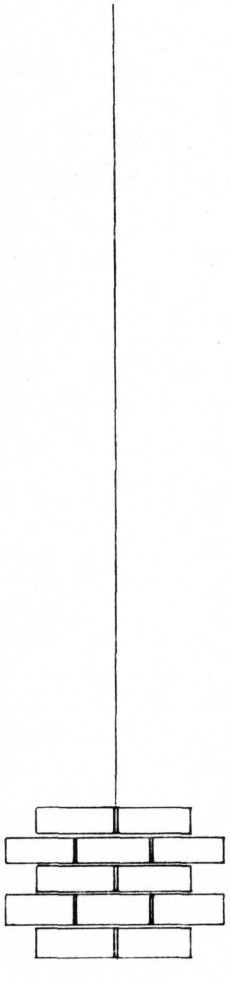
In 1973, nine states enacted new circuit-breaker programs while three additional states extensively revised already existing circuit-breaker schemes to broaden benefits to eligible recipients.[6]

In 1974, circuit-breaker legislation was adopted for the first time for the **District of Columbia** (PL 93-407, Title IV), **Idaho** (Sec. 63-117 thru 63-125), **Maryland** (Ch. 750; Art. 81, Sec. 12D and 12F), and **Oklahoma** (HB 1658). In addition, **Colorado** (HB 1023), **Connecticut** (PA 74-55), **Illinois** (PA 78-1249), and **Maine** (Ch. 771) amended previously existing circuit-breaker relief programs.

The new **District of Columbia** program provides a refundable credit against personal income tax liabilities for homeowners and renters of age 65 or more. The credit varies: from 80 percent of property tax liabilities in excess of 2 percent of household income for those households receiving an annual income of not more than $3,000, to 60 percent of liabilities in excess of 4 percent of household income if household income is greater than $5,000. In no event will a household whose income exceeds $7,000 be eligible for relief.

In **Idaho,** the income ceiling for participants is $5,000 and only homeowners at least 65 years old qualify for relief. The relief is in the form of a reduction in property tax bills where the reduction varies from the lesser of either $200 or actual taxes for households with incomes under $3,000, to the lesser of $100 or actual taxes for those having incomes of not more than $5,000.

The **Maryland** circuit-breaker makes relief available to all homeowners and renters regardless of age or income. The relief, capped at $750, is equal to the property tax in excess of a percentage of household income. The percentage is determined on a sliding scale ranging from 3 percent of the first $3,000 of income to 9 percent of income over $18,000. Renters receive a cash rebate and homeowners a reduction of their property tax bills.



3. For a detailed analysis of circuit-breaker theory and practice see the ACIR report, *Property Tax Circuit-Breakers: Current Status and Policy Issues*, M-87, February 1975.
4. ACIR, *Fiscal Balance in the American Federal System*, Vol. 1, A-31, October 1967.
5. ACIR, *The Property Tax—Reform and Relief: A Legislator's Guide*, AP-2, November 1973.
6. Last year's publication by ACIR, *State Actions 1973: Toward Full Partnership*, M-82, January 1974, outlines these and other legislative activities.

Case Study

ASSESSMENT REFORM IN MARYLAND*

In 1974, Maryland continued the phased implementation of HB 531 enacted by the 1973 General Assembly. The act mandates full state assumption of responsibility for all aspects of property assessment by mid-1975. When accomplished, Maryland will be the second state (after Hawaii) to take on this task. The legislation provides that the state appoint the county supervisor of assessment from lists of five qualified applicants submitted by each of the counties and by Baltimore City. In addition to other duties, each supervisor will oversee a staff of professional assessors, all of whom are state employees. The state's financial involvement in the assessment of properties is being phased-in as follows:

1. Effective July 1, 1973, the state began to pay the annual salaries and other expenses of the supervisors of assessment in each county and Baltimore City.

2. Effective July 1, 1974, the state began to pay the annual salaries and administrative costs of the assessors of each county and Baltimore City.

3. Effective July 1, 1975, the state will pay all remaining costs relating to personnel, administration, operation, and maintenance of the assessment system of each county and Baltimore City.

4. Effective July 1, 1975, the state will pay the data processing costs relating to the assessing functions in each county and Baltimore City.

As a companion to the state assumption of assessing costs, the State Department of Assessment and Taxation developed more rigorous hiring and training standards for new assessors in 1974. For the first time, applicants must possess bachelor's degrees. Training was expanded to 70 hours of classroom instruction followed by on-the-job training and evaluation before assessors begin to work independently. The department is also establishing and training a team of specialists to assess large commercial-industrial properties.

A comprehensive reassessment project was undertaken by the Department of Assessment and Taxation in 1974. With the exception of some parts of Baltimore City, all properties in the state were reassessed. The task was accomplished by physically inspecting one-third of the properties in each county. The remaining two-thirds were reassessed utilizing records of prior physical examinations, sales analyses, and estimates of building costs. Prior to 1974, reassessment was required only once every three years. Under the new, more vigorous program all properties will be reassessed annually, either physically or by estimate.

*For a more complete treatment of the issues of property tax administration and how the tax is applied in selected states, see ACIR, *The Property Tax in a Changing Environment—Selected State Studies*, M-83, March 1974.

The new **Oklahoma** legislation, effective January 1975 for taxes paid in 1974, is much less complicated but not as broad in coverage. Homeowners aged 65 or older and all disabled homeowners qualify for refundable income tax credits equal to property taxes paid in excess of 1 percent of household income. Relief may not exceed $200 annually and households with income in excess of $6,000 do not qualify for the program.

In 1974, **Colorado** liberalized relief by increasing the income ceilings for eligibility from $5,400 to $5,900 for single persons and from $6,300 to $6,900 for married couples, while the maximum rebate was raised from $270 to $400. Disabled persons are now also eligible for relief. **Connecticut** revised its circuit-breaker program by decreasing the coverage. The household income ceiling for eligibility was lowered from $7,500 to $6,000 and the maximum allowable tax credit was lowered from $500 to $400. **Illinois** simplified its relief formula by granting relief for property taxes paid in excess of 4 percent of all income instead of a percentage varying with household income. **Maine** removed a provision which had previously restricted eligibility to those whose net assets were less than $20,000. It also changed its rebate formula to provide relief to low-income elderly homeowners and renters that is equal to the property tax liability in excess of 21 percent of income above $3,000; previously, tax liabilities in excess of variable percentages of income had been rebatable.

In response to an ACIR questionnaire, 21 states revealed that for the fiscal year 1974, their state circuit-breaker programs provided a total of $447-million in relief to 3.02-million claimants. The costs of the programs in these 21 states ranged from $.08 per capita in **Arkansas** to $31.78 per capita in **Oregon.** Estimates of the participation rates (percent of eligibles claiming relief) ranged from 15 percent in **West Virginia** to 97 percent in **Vermont.**

LOCAL SCHOOL PROPERTY TAX DISPLACEMENT

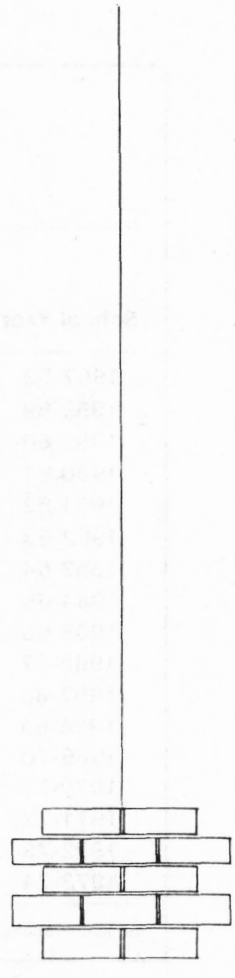
The 1974 school year marked the first time ever that aggregate local revenue accounted for less than half of the aggregate receipts for the operation of local schools. The contribution of local jurisdictions to primary and secondary school expenses accounted for only 49.5 percent of all receipts, down from 51.5 percent the year before *(see Table 7)*. The Federal share dipped slightly as well. The state share, however, increased more than it had in any other year since the National Education Association began recording such data, largely due to earlier state school finance action.

In order to improve equality of educational opportunities and to lessen the burden of the local school property tax levy, ACIR has recommended that states accept greater responsibility for the financing of educational costs.[7]

State legislatures increasingly have become the forum for the resolution of school finance issues. The **California** legislature is under a court mandated, 6-year deadline to eliminate any significant school finance disparities. That deadline is the result of the Los Angeles superior court ruling in *Serrano vs. Priest.* The 1974 California legislature was not able to agree upon an acceptable remedy.

In **Florida**, the legislature amended (Ch. 74-227; HB 3692) the state's education finance program, raising state support and lowering the local millage rate from 10 to 8. The legislature also eliminated local effort from the

7. ACIR, *State Aid to Local Government,* A-34, April 1969.



formula distribution scheme. The voters in **Florida** also passed, by a 2-to-1 margin, a measure that would earmark utility sales tax revenue to finance school capital expenditures (HJR 2289 and 2984).

Nebraska voters overturned an action of the legislature (LB 772) that would have shifted approximately 50 percent of school revenues from local property tax sources to state sales and income taxes and would have provided an equalization thrust in the distribution of the newly generated funds. Opposition to the measure was based on the fear of higher sales and income taxes dampening business activity and the fear of an erosion of local control over education due to the infusion of state funds. Supporters of the bill saw it as an opportunity to introduce greater equity into the school finance system and to improve the quality of education without affecting local control. The **Nebraska** legislature also passed an expenditure "lid" bill (LB 984) that will limit school district expenditures through a formula based on the consumer and wholesale price indices.

Facing a December 31, 1974, court ordered deadline, the **New Jersey** legislature failed to produce a school finance program that will meet the "thorough and efficient" standards prescribed by the state constitution. The state legislature rejected two income tax proposals in 1974, one of which would have piggybacked state income taxes on Federal income tax liabilities. The proceeds would have been used largely to finance education in accordance with judicially acceptable state norms.

The **New York** legislature enacted

TABLE 7

Contributions to Local Education Expense by Level of Government: 1957-74

School Year	Percent of School Revenue Derived From: Federal Sources	State Sources	Local and Other Sources
1957-58	4.0%	39.4%	56.6%
1958-59	3.6	39.5	56.9
1959-60	4.4	39.1	56.5
1960-61	3.8	39.8	56.4
1961-62	4.3	38.7	56.9
1962-63	3.6	39.3	57.1
1963-64	4.4	39.3	56.4
1964-65	3.8	39.7	56.5
1965-66	7.9	39.1	53.0
1966-67	7.9	39.1	53.0
1967-68	8.8	38.5	52.7
1968-69	7.4	40.0	52.6
1969-70	8.0	39.9	52.1
1970-71	7.2	40.0	52.8
1971-72	8.0	40.2	51.8
1972-73	7.9	40.6	51.5
1973-74	7.5	43.0	49.5

Source: National Education Association, Research Division, "Estimates of School Statistics," various issues.

a bill (SB 10539-A) that increases state support to education to a level of 41 percent, the first such increase since the school year ending in 1969. **Wyoming** voters rejected a proposal (SJR 1) that would have amended the constitution to replace a 12 mill county property tax levy with a 12 mill statewide levy.

LOCAL REVENUE DIVERSIFICATION

With the benefit of a new study, ACIR revised its previous policy stand against the local use of non-property taxes to recommend the use of local sales and income taxes to underwrite the expenditure requirements of local government, provided certain safeguard conditions are met.[8] The safeguards recommended by the Commission include: a uniform local tax base consistent with the appropriate state tax base; state collection and administration of local sales and income taxes; broad based coverage; origin rule for determining local sales tax liability, coupled with prohibition of local use taxes for in-state purchases; limits on the extent of local flexibility in setting local tax rates; and, in order to minimize local fiscal disparities, adoption of an equalizing formula to distribute local non-property tax revenues among constituent units within the local taxing authority.

The trend toward local revenue diversification has gained favor because of the desire of local officials to reduce the dominant role of the locally administered property tax, a levy that burdens some households quite heavily, taxes unrealized capital gains when assessments increase,

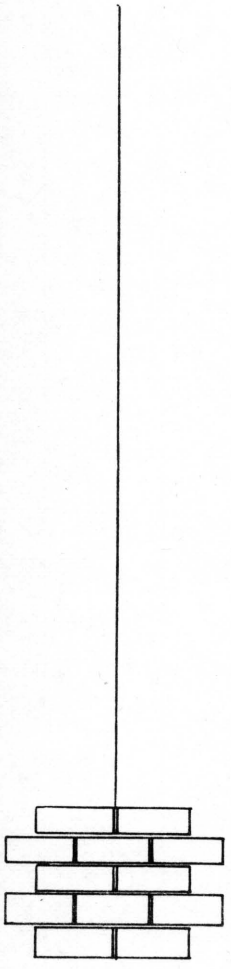
8. For a complete discussion regarding local revenue diversification, ACIR recommendations, and model legislation, see the ACIR report, *Local Revenue Diversification: Income, Sales Taxes, and User Charges*, A-47, October 1974.

Case Study

METROPOLITAN TAX-BASE SHARING PLAN UPHELD IN MINNESOTA

After more than two years of litigation, the Minnesota Supreme Court upheld the constitutionality of the innovative plan to "share-the-growth" in the seven-county Twin Cities area in September 1974. Adopted as the Fiscal Disparities Act (Ch. 24; SF 10) by the state legislature in 1971, share-the-growth provides for pooling 40 percent of the growth in commercial and industrial property values. The pool is to be used as a metropolitan tax base which each general and special purpose taxing district will share. Those units with lower per capita valuation will receive proportionately greater shares of the pool.

A lower court voided the act, asserting that it violated constitutional uniformity standards because "some districts were taxed for the benefit of others." The Minnesota Supreme Court in a 4-3 decision reversed the lower court and upheld the act. The higher court used a broader interpretation of "benefit" noting that "the payment of taxes in a metropolitan area may have only slight relationships to use and enjoyment which residents make of other areas in the district. . . . The Fiscal Disparities Act recognizes that to some extent the location of commercial-industrial development may be irrelevant to the question of the cost of services which are added to a municipality's budget occasioned by the location of such a development within its boundaries." With this ruling, the act will finally be implemented in 1975.



has only a tenuous relationship to either ability to pay or benefits received, and is often administered poorly and inequitably.

Though these criticisms have been raised repeatedly over many years, the property tax remains the single most important source of local revenue. In fiscal 1973, it accounted for 62.4 percent of local general revenue from own sources. Yet, its unpopularity plus the fact that it often does not effectively meet the revenue needs of localities, forces taxing jurisdictions to turn to other revenues. Still, local governments can adopt sales or income taxes only when permitted by state law. By 1974, 25 states permitted local sales taxes and 11 states allowed the use of local income taxes.

In 1973, **Indiana** acted to allow counties to adopt a state administered local income tax at rates of 0.5, 0.75, or 1.0 percent. Revenues are to be returned to the county and other local governments on the basis of property tax collections; part of the revenues from the income tax must be used to lower property tax bills. In 1974, five counties joined the 31 counties which had opted for the local income tax in 1973. (Fifty-six Indiana counties have not adopted the local income tax.)

In 1974, the **Utah** legislature passed a bill (HB 13) allowing local imposition of a 0.25 percent sales tax to fund "no fare" public transportation within the taxing jurisdiction, but the legislature later removed the "no fare" restriction so that the funds may now be used to finance public transportation generally (HB 2).

TAX AND EXPENDITURE CONTROLS

In attempting to come to grips with the increasing burden on those who pay the property tax, some states have adopted programs that limit the amount of property tax that can be collected by a taxing jurisdiction rather than substituting non-property taxes for property taxes. In 1973, Kansas set a permanent ceiling on local property tax collections (not rates). Other states have developed similar plans.

In **Florida**, the 1974 legislature enacted a novel property tax lid law which acts to restrain the property tax burden as well as to put the accountability for increased property taxes with the local officials responsible for spending the money. The law (Ch. 74-234) requires the local assessor to certify a millage rate which, when applied to 95 percent of the new taxable valuation for previously existing property, will provide the same tax revenue as was raised the previous year. If the officials of a locality feel such a rate will generate insufficient revenues, the jurisdiction must place a quarter-page advertisement in a local paper of general circulation announcing a public meeting at which a higher than certified rate is to be discussed.[9] After the initial meeting, another meeting similarly announced must be held within two weeks in order to take official action on the higher rate.

In **Arizona**, the discontent with tax levels went beyond the property tax. The state legislature passed a resolution (SCR 1012) which proposed a constitutional amendment limiting state government expenditures, and hence taxes, to 8.4 percent of Arizona's total personal income. On November 5, the electorate voted 51

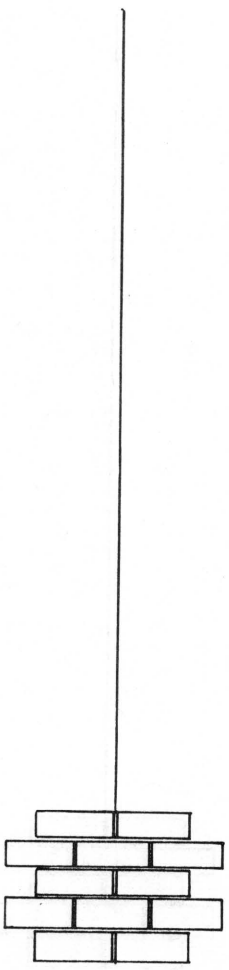
9. Using only 95 percent of the newly determined taxable value of old property in calculating the certified millage allows revenue growth of just over 5 percent (in addition to any growth due to new construction and improvements) since the certified rate so calculated is then applied to 100 percent of the current tax base.

to 49 percent not to adopt the expenditure ceiling. A similar but more complicated proposition failed to carry in California a year earlier.

CLOUDS ON THE HORIZON

Though fiscal year 1974 proved more or less trouble-free for most state fiscal systems, 1975 may provide some severe shocks. To maintain a fixed level of real government services in the face of double-digit inflation, states may need to increase expenditures dramatically. Inflation results in increased wage and benefit demands by government employees and, in those cases where wages and non-wage benefits are tied to an index of prices, personnel costs go up automatically. Non-payroll costs faced by the government sector also have risen substantially in the past few years.

Moreover, the recession and unemployment that coexists with inflation had by year-end already begun to reduce many states' revenues, push up costs for welfare and other unemployment impacted programs, and cut into surpluses. And most economists forecast that the first half of 1975 will be worse.



Energy

Many Americans ushered in 1974 while waiting in long lines to get gasoline for the family car. This symbol of a more general crisis provoked a flurry of action by the states in 1974. In general, state governments showed their flexibility and ability to adapt quickly to meet previously unknown challenges. The Governors of 15 states were granted emergency powers to deal with the problems of the energy shortage. Sixteen states responded to the dilemma of the long gas lines by instituting some form of the so-called "Oregon plan" for quasi-rationing based on license plate numbers and the date.

State actions in other energy fields were numerous and varied. Energy councils or standing legislative committees on energy were established in 24 states to monitor the state's energy demands and supplies and to make recommendations for future action. Eighteen states appropriated funds for research for alternatives to oil based energy. Such projects call for the study of a wide range of potential alternatives from "gasoline" refined from coal, to the harnessing of solar and geothermal energy. And in recognizing the necessity to promote conservation, six states expanded the scope of their state building codes to include requirements for evaluation of the energy use of a proposed structure. Florida, for example, will require that all new homes constructed in the future be equipped for conversion to the use of solar energy.

The following table summarizes 1974 state legislative action designed to meet the energy crisis. (Policies were effected by executive order in some cases.)

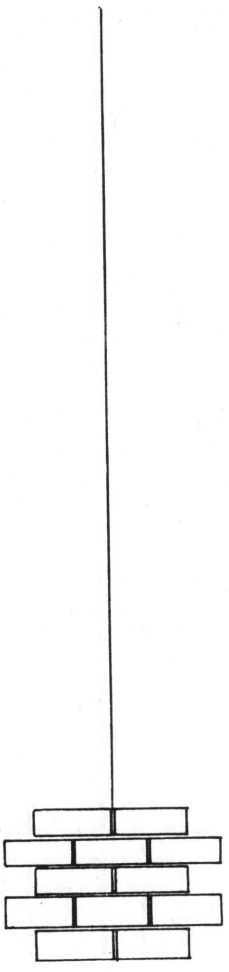


TABLE 8

State Energy Actions of 1974

STATES	Energy Council Created to Coordinate Supply and Demand [1]	State Building Codes Expanded to Include Energy Efficiency	Emergency Energy Powers Granted to Governor	Regulation and Support of Research and Development of Alternative Sources of Energy [2]	State Gas Rationing Plans on Even-Odd Basis
ALABAMA	X				
ALASKA					
ARIZONA				X	
ARKANSAS	X				
CALIFORNIA	X				3
COLORADO				X	
CONNECTICUT	X				X
DELAWARE	X		X		X
FLORIDA	X	X		X	X
GEORGIA					
HAWAII	X		X	X	X
IDAHO				X	
ILLINOIS				X	
INDIANA				X	
IOWA	X		X	X	
KANSAS					
KENTUCKY	X			X	3
LOUISIANA					
MAINE	X			X	
MARYLAND		X	X		
MASSACHUSETTS					X
MICHIGAN	X		X	X	
MINNESOTA	X	X			
MISSISSIPPI					
MISSOURI					
MONTANA					
NEBRASKA				X	
NEVADA					
NEW HAMPSHIRE	X				X
NEW JERSEY	X		X		X
NEW MEXICO		X			
NEW YORK		X	X		X
NORTH CAROLINA	X				X
NORTH DAKOTA	X			X	
OHIO	X			X	
OKLAHOMA	X			X	
OREGON		X	X		X
PENNSYLVANIA	X				X
RHODE ISLAND			X		
SOUTH CAROLINA	X				X
SOUTH DAKOTA	X		X		
TENNESSEE					
TEXAS	X				
UTAH					
VERMONT			X	X	
VIRGINIA					X
WASHINGTON			X	X	X
WEST VIRGINIA	X		X	X	
WISCONSIN	X		X		
WYOMING			X		

[1] E.g., state energy commission, standing legislative committee, cabinet post, position on Governor's staff, etc. (in some cases the energy regulation and coordination tasks were given to an already-existing state agency).

[2] E.G., solar energy, geothemal energy, coal gassification, grain alcohol in motor fuels, etc.

[3] Rationing used in only some areas of the state.

Environment, Land Use, and Growth

The character of state enactments in the environmental field slowed during 1974. Most states had already adopted basic minimum guidelines for environmental pollution and had created administrative structures to monitor and meet state goals. And many states were particularly concerned in 1974 with spending and conserving energy, objectives which sometimes compete with environmental goals. Thus, while several states created councils of environmental quality, most states dealt with environmental matters of special interest within the state, such as strip mining, protection of beaches, or urban open space rehabilitation legislation.

Also noteworthy was the general confirmation by the states of an appropriate local role in both land use planning and in achieving compliance with state environmental guidelines.

A new **Alaska** law (SCS CSHB 804) requires that any real property of the state which is sold, leased, or transferred for private use must meet local planning and zoning ordinances and regulations if those local standards are higher than those of the state.

In **Arizona** a program requiring inspections of motor vehicle emissions under the direction of the State Department of Health Services was established by HB 2319.

The **California** Supreme Court ruled on June 27 that requirements for antismog devices on automobiles cannot be delayed in order to save fuel. The decision overturned a one-year postponement of the statewide installation of smog controls on 1966-70 automobiles. The devices had been ordered in December 1973 by the State Air Resources Board.

The **Colorado** legislature granted land use control powers to local governments (HB 1034). Under the act, local governments will be given $2-million by the state to develop comprehensive plans with goals ranging from the preservation of areas of archaeological importance, to the planned and orderly use of land to protect the environment. Local governments are encouraged to cooperate and contract with other units of government for land use planning and control purposes.

A related new **Colorado** law (HB 1041) declares that local governments may designate certain areas of state land use interest which they wish to administer. Some examples of areas of state interest which a local government may designate are mineral resource areas, natural hazard areas, site selection of airports and rapid or mass transit terminals. The local governments are permitted to administer such areas as long as they respect guidelines set forth in the act. The

state will lend technical assistance to local governments in identifying and managing land use problems pursuant to the administration of the act. Back-up power is also given to the state to force local governments to deal with land use problems.

In response to the widespread interest in developing **Colorado's** vast shale oil deposits to help alleviate the energy crisis, Governor Vanderhoof stressed that the new land use controls would be used to prevent the indiscriminate development of western slope oil shale lands. Similar scrutiny will be applied to any housing and commercial development designed to serve the anticipated influx of oil shale workers.

Connecticut has strengthened the State Council on Environmental Protection by expanding its staff and requiring it to make an annual report to the Governor evaluating the progress of existing environmental programs (PA 271). In the annual report, the council will also be responsible for making recommendations for new programs. Beginning in 1975, the state CEP will be charged with the task of reviewing environmental impact statements.

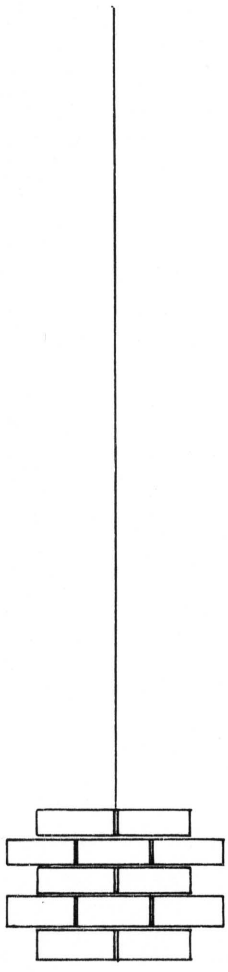
To encourage industrial investment in pollution abatement facilities, **Connecticut** now requires the commissioner of environmental protection to determine the portion of such expenditures which shall be exempt from the state sales and use tax. Moreover, the state's commissioner of environmental protection now is required to develop and enforce a comprehensive program of noise regulations for the state according to a law enacted in 1974 (PA 328).

The **Connecticut** legislature also repealed the ban on the sale of phosphate detergents in the state. However, the act (PA 311) requires manufacturers of detergents to submit information regarding the use and weight of the ingredients in their products to the commissioner of environmental protection. The commissioner will then be authorized to ban or restrict the sale or use of any detergent in the state, or in any particular area of the state, in order to protect the quality of the state's waters.

The **Delaware** legislature authorized the Department of Natural Resources and Environmental Control to expend funds for extending approved watershed projects into an adjoining state when such work is required for the effective functioning of Delaware projects (HR 829). The legislature also enacted HB 968 which authorizes the establishment of an Office of Environmental Protection. The office is charged with the task of specifying the powers, duties, and responsibilities of the state's environmental protection officers.

In Executive Order No. 48 (June 19, 1974), **Delaware** Governor Tribbitt created the "Delaware Tomorrow Commission." The commission will be formulating a comprehensive state development policy after considering the interests and recommendations of representatives of government, business, industry, labor, environmental groups, and the people of Delaware. The commission is to report its recommendations, including draft legislation to implement its findings, to the General Assembly by June 1, 1975. In creating the 27-member commission, the Governor said that citizen input would be the most important aspect of the project.

A general policy for future development was set forth by the **Florida** legislature in HCR 2800. The resolution established guidelines for potential future legislative action in six areas by stating that: (1) it is not the state's policy to stimulate further growth generally, but to plan for and distribute what growth may develop; (2) the modernization of local government is to be encouraged; (3) the im-



pact of new residents is to be reviewed regarding the equitable allocation of tax charges and revenues; (4) comprehensive land use planning is to be encouraged; (5) a balanced, statewide transportation system is to be developed on a priority by needs basis; and (6) the coordination of state government and other efforts is to be sought in order to maintain a high quality of life.

The **Florida** Governor and cabinet are authorized to set out development principles in newly designated areas of critical state concern according to the provisions of HB 3767. The principles are to apply prior to the adoption of formal land development regulations for the area. The act also makes detailed changes in the procedures relating to the determination of proposed developments with a regional impact.

A new council was created by the **Florida** legislature (HB 2837 and 2280) to advise the Department of Pollution Control in the development of guidelines for the collection, transportation, storage, processing, recycling, and disposal of solid waste throughout the state. The acts further require local units of government to develop economically practical recycling plans within the next two

Case Study

WASHINGTON CITIZENS PLAN FOR THE FUTURE

The citizens of the state of Washington are taking an active part in a grass-roots effort to plan the future of their state. This lesson in participatory democracy, called the "Alternatives for Washington Program in 1974," is expected to involve input from 250,000 citizens.

During the spring a broad based, 150-member task force consisting of housewives, students, laborers, and corporate executives met to identify the problems of the state's future and to formulate policy alternatives in response.

The opinions of the task force were supplemented by the circulation of a questionnaire to several thousand more Washingtonians.

Nine public meetings were held across the state in June, July, and August. About 100 to 150 people participated in each meeting, discussing and refining the task force's policy options.

The mass media of Washington conducted a statewide information campaign during the fall to inform the state's citizens of the policy options which had been formulated throughout the nearly year-long process. Polls were then taken to assess public reaction to the various alternatives. During October, the public television stations solicited further citizen comment by conducting a series of phone-in programs.

This extensive effort will culminate in the implementation of the policy options in 1975 through gubernatorial and legislative initiatives.

The anticipated result will be a development and growth policy for the state. The method used to formulate those options — a 20th century "town meeting" — has given the average citizen frequent opportunities to participate in making the decisions which will affect the future quality of his life.

years. Local governments are preempted from passing ordinances on non-returnable containers.

Another new **Florida** law (HB 3365) requires that the Department of Pollution Control, in cooperation with the Department of Highway Safety and Motor Vehicles, develop regulations providing test procedures with a new schedule of vehicle noise level limits. In a further effort to control noise pollution, the Department of Transportation is directed by a new law (HB 584) to utilize vegetative noise control barriers (tree, shrubs, etc.) along new highways which border urban or residential developments.

The **Hawaii** Department of Planning and Economic Development prepared a series of recommendations that would reduce in-migration, slow growth encouraging facilities, and direct new growth from Oahu to the smaller neighboring islands.

The **Hawaii** legislature enacted a law (HB 2067) creating an Environmental Quality Commission. The commission is directed to establish and administer a system of environmental impact statements. The preparation of the statements and their review by county governments and the commission are required before public or private actions which would significantly affect the quality of the environment can proceed.

Another new **Hawaii** law (SB 1397) calls for the State Environmental Quality Commission to monitor the progress of state, county, and Federal agencies in achieving the environmental goals and policies of the state. The commission must also submit to the Governor, the legislature, and the public, an annual report with recommendations for improvement in efforts to protect the environment.

Increased strip mining acreage fees in **Indiana** are to be deposited in a reclamation fund within the Department of Natural Resources under the provisions of SB 66. The legislature also created a rural development fund with money available to cities and towns with a population of less than 10,000.

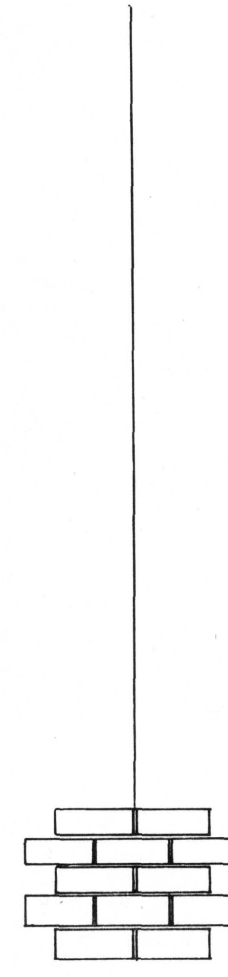
In 1974, **Iowa** citizens had a chance to participate in a long range planning project for the state. The goals of the program were to create a statewide awareness of the factors, trends, and problems affecting the future and to determine strategies for improving the future. The discussions centered around four major themes — economic development, energy, life enhancement, and natural resources. About 50,000 people participated in the local, regional, and state wide meetings.

The **Kentucky** legislature took actions requiring a new council to compile data on land use. Another new law requires environmental impact statements prior to the construction of new power plants. The legislature (HB 121) also assigned to the commissioner of the Department of Natural Resources and Environmental Protection the task of establishing a comprehensive statewide program of noise regulations. The law further permits local governments to establish their own noise controls.

A new **Maryland** statute (SB 870) directs the Department of Health and Mental Hygiene to develop environmental noise standards.

The **Maryland** legislature also enacted a bill (HB 807) which requires local subdivisions to designate areas of critical state concern as part of comprehensive plans submitted to the secretary of state planning. The act also authorizes the Department of State Planning to intervene as a party in administrative and judicial proceedings under certain circumstances.

The **Maryland** court of special appeals upheld a 1972 ban on strip-mining on state owned land. Two companies which had been mining on state owned land before the law took



effect were ordered to abandon the mines.

The scope of a **Massachusetts** special commission studying the effect of present growth patterns on the quality of life has been expanded by the legislature to include land use planning and related matters (H 5935).

Also in **Massachusetts,** the "Martha's Vineyard Land Use Bill" (H 6513) was enacted to create a 21-member Martha's Vineyard Commission. The commission is directed to regulate any development which affects more than one community in such a way as to protect the areas of that island most threatened by development. In signing the law, Governor Sargent called it a prototype for land use across the state.

To help check growth which retires valuable farm land, the **Michigan** legislature passed a law granting tax subsidies to farmers who sign a ten-year agreement to limit development on their property strictly to farming related structures and improvement.

The State Department of Natural Resources prepared a report which identified **Michigan's** major land use problems as a tool for resolving competing land use objectives.

The **Montana** Natural Areas Act acknowledges the existence of and need to protect natural areas. Another new act requires the submission of surety bonds and reclamation plans before the issuance of a permit to operate a strip mine. According to a third 1974 law, local governments must adopt regulations requiring subdividers to provide or conduct a survey and an environmental assessment.

The **New Hampshire** legislature enacted a law (HB 18) which requires local approval in the siting of oil refineries.

New Jersey voters approved a "Green Acres" bond issue at the November 5, 1974, general election. The funds will be split between the state and local governments to purchase farm and other rural land and to develop such areas for recreational use. Under two similar bond issues passed since 1961, the state has spent $138,063,000 to develop 148,087 acres of recreational land. The latest bond issue provides $275,197,000 for the purchase and development of an additional 180,855 acres.

A **New Jersey** superior court voided a 1973 ban on the dumping of out-of-state garbage in New Jersey. The ban was struck down on the grounds that it is an unlawful interference with interstate commerce.

In order to provide for the orderly development of mineral resources and to promote environmental management practices, the **New York** legislature voted to require that all major mining activities initiated or continued after April 1, 1975, obtain a permit from the Department of Environmental Conservation.

A new emphasis will be placed on controlling beach erosion in **North Carolina.** Current state aid for beach erosion control will be halted in undeveloped coastal areas and in developed areas with erosion problems so serious that structural techniques would be inadequate. Rather, the Environmental Management Commission will rely increasingly on land use controls rather than structural methods to reduce property damage from erosion.

The State Environmental Quality Commission of **Oregon** has adopted regulations that generally limit allowable industrial and commercial noise.

The **Oregon** state court of appeals found that the ban on non-returnable beverage containers is a valid exercise of the state's police power.

Legislative action in **South Carolina** has broadened the definition of pollution to encompass the environment as a whole instead of just air and water.

The sale of non-returnable beverage containers in **South Dakota** will be prohibited after July, 1976. A comprehensive state litter control program is established, environmental impact statements are required for state projects, and counties are to prepare land use plans by 1976 in accordance with the provisions of the new law (HB 501). Moreover, a special legislative research committee is to study state land use planning legislation.

In 1974, the **Utah** legislature voted to adopt a land use act (SB 23) creating a State Land Use Commission. Given the legislation's controversial nature, the act was placed on the November 5 ballot, and the voters overturned the legislature and defeated the act. The proposed law would have required the designation of critical areas of more than local concern within prescribed time limits, as well as the development of a comprehensive state land use plan.

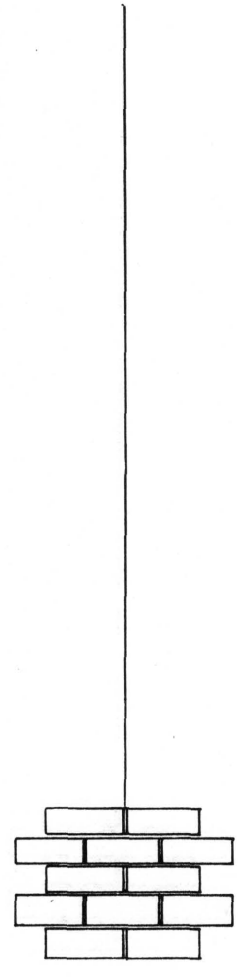
After defeating a proposed land use bill, the **Vermont** legislature created a special committee composed of legislators and members from environmental and planning commissions to prepare a new bill for the next session of the legislature.

A new **Virginia** statute (HB 664) requires that the State Corporation Commission take local comprehensive plans into account when considering the environmental impact of proposed electrical utility facilities. Also in Virginia, the Condominium Act (HB 46) provides a strong set of controls over the development and management of condominiums. Cities, towns, and counties may require that the use of condominiums comply with local zoning, land use, and site plan regulations.

The **Washington** Department of Ecology is empowered by a new law (SB 2906) to adopt maximum permissible noise levels. The department also is authorized to adopt rules for noise abatement and control in order to achieve compliance with the new standards.

A Council on Environmental Policy, created by the **Washington** legislature (SB 3277), is to formulate a state environmental policy. When the council has finished its work on June 30, 1976, the powers and duties of the council will be transferred to the Department of Ecology.

A new **West Virginia** law authorizes county courts (commissions) to establish and operate garbage and refuse collection and disposal services (S 367).



Transportation

The states responded to the energy crisis in 1974 not only through direct programs to increase supply, improve distribution, and promote conservation, but also by looking anew at one of the major kinds of energy use — transportation. The outgrowth of this review was substantial state action in the transportation field. Most action centered around questions of mass transportation. Encouraging were the number of states which took action promoting transportation planning or operations on a regionwide and in some cases, interstate basis.

At the primary election on June 4, **California** voters approved a proposal to permit some state gasoline tax revenue to be used for the development of mass transit systems.

The **California** legislature also enacted a law (SB 2411) which authorizes counties to operate public transit services in unincorporated areas or, with the consent of a city, within that city.

The **Connecticut** Transportation Institute will be established at the University of Connecticut under the provisions of a 1974 law (PA 323). The purpose of the institute will be to provide training in transportation technology and to formulate recommendations for the participation of the other New England states in transportation projects.

The **Florida** legislature, by passage of HCR 2562, created a select legislative committee to study present and future transportation needs of the "Florida east coast transportation corridor." The committee is to study and recommend appropriate action as to the necessity and feasibility of a rapid transit system along any or all of the corridor.

Idaho Governor Andrus invited 100 government, business, and community leaders to participate in a discussion to help determine what kind of rail passenger service would best help the state, and to study how such service could be maintained without a serious financial loss.

A comprehensive operating subsidy program for existing and new mass transit systems in rural areas was approved by the **Illinois** legislature (HB 2722). (See the case study for details.)

A new **Indiana** law (SB 90) creates a Mass Transportation Study Commission to develop recommendations for a comprehensive state mass transportation policy.

The **Iowa** legislature created a new Department of Transportation (SF 1141). (See the section on **State Government Reorganization** for details.)

Kentucky law (HB 469) authorizes the Department of Human Resources to contract with local boards of education for the use of school buses to transport eligible elderly, handi-

capped, and other designated persons for transportation services at times when the buses are not needed to transport students to or from school or school events. Another new law (HB 392) authorizes cities of the first three classes to obtain certificates to operate city owned bus systems.

Also in **Kentucky,** the Legislative Research Commission will study the financing and support of the Road Fund and the state transportation system of highways, mass transit, air service, railways, and water transportation (HJR 41).

Michigan took action on several transportation matters during 1974. A new statute (SB 1364) allows the Department of State Highways and Transportation to set aside special highway lanes for use by buses and car pool vehicles with three or more passengers in them. An emergency transit law provided $1.75-million to assist cities in rehabilitating older buses, buying used buses, and running park-and-ride programs. Governor Milliken sponsored a series of fact finding meetings in ten communities to help establish possible routes for new or expanded air commuter service in northern Michigan. State assistance made possible the inauguration of Amtrak service between Niles and Kalamazoo, as well as "Dial-A-Ride" systems in Alpena, Midland, and Houghton.

Two transportation proposals were on the general election ballot in **Michigan,** but both were defeated.

Case Study

THE NEW LAW IN ILLINOIS

The Illinois legislature passed, and Governor Walker signed a significant transportation bill in 1974 (HB 2722) which is applicable to the entire state except for the six-county area of metropolitan Chicago. That area is currently served by a new Regional Transportation Authority. The new law establishes an extensive program of operating subsidies for existing mass transit systems. The law will also create a new program for public transportation in rural areas which presently have no service.

The new program provides $6-million in state funds to cover two-thirds of the estimated 1975 operating deficits of existing public transportation systems. Local governments will be required to cover the other one-third of the deficits. The one exception to this formula is that no matching local funds will be required in the Bi-State Mass Transit System (East St. Louis)—the state will cover the deficit.

In addition to covering operating deficits of existing systems, the act provides $1-million to establish new rural transit projects. Those new projects will be required to offer reduced or free fares for the elderly, disabled, and handicapped. (Earlier in the year, legislation was approved which earmarked $2-million in state funds to cover the cost of half-fare arrangements for students and the elderly.)

The state will also be encouraging the use of an untapped transportation resource in rural areas — school buses which are now idle for long periods of each day.

In signing the new law, the Governor echoed a feeling which has grown markedly in recent years — "that public transportation is an essential service of government."

One of the proposals would have authorized the state to issue $1.1-billion in bonds to finance public transportation projects in all parts of the state. The other would have placed a limit on the amount of gasoline tax revenues that could be diverted from road building to public transportation.

Michigan and **New York** agreed to share the costs of reviving Amtrak service between Detroit and New York City.

A new **Missouri** law permits cities with a population of 500 or more to levy an additional ½ cent sales tax to fund buses or other transportation.

A Public Utilities Commission was created by the **New Hampshire** legislature. The commission was granted the power to acquire railroad properties within the state which are deemed to be necessary for continued and future railroad operations. The 1974 State Constitutional Convention defeated proposals to permit the diversion of highway-user tax revenues to projects other than road building. New Hampshire law (HB 7) now permits municipalities to establish, acquire, and operate public transportation facilities in cooperation with governmental units of adjoining states.

New Mexico action in 1974 allows local school districts to operate school buses for general public transportation, with certain limitations. The local school district must receive permission from the State Corporation Commission, and the operation of the buses may occur only during a public transportation emergency and must not adversely affect existing transportation systems (SB 42).

Rail passenger service from New York City to Montreal was made possible with $30-million from the new "Essential Rail Services Fund" created in 1974 by the **New York** legislature.

New York enacted a $100-million state subsidy for mass transportation which is expected to produce a total aid program of $400-million when matched by local and federal aid. On November 5, the voters also approved a $250-million transportation bond issue.

A new **Oregon** law (SB 967) provides for the organization of transportation districts and authorizes them to develop and operate public transportation systems. The districts are authorized to assume by contract certain functions of cities and counties within the district. Voters rejected a referendum proposal that would have allowed gas tax revenues to be diverted to mass transportation systems.

A comprehensive transportation assistance program for employers was started in **Rhode Island** in 1974. The program includes the implementation of car pool/bus pool locator systems, review of existing public transit routes and schedules, investigation of van pool type operations, and other transportation service improvements. The program is designed to provide employers with a computer analysis of their company's existing commuting characteristics and, wherever possible, to make specific recommendations on how conditions can be improved.

The **Utah** legislature authorized counties within a transit district to impose an additional sales tax levy of .25 percent to finance a no fare transportation system. The levy must be approved by the local voters (HB 13).

Another new **Utah** law permits counties to levy up to two mills in property taxes for public transportation upon voter approval, and mandates that $1-million from state liquor profits will be used on a per capita basis to finance transit districts in cities and counties.

Virginia counties which are not members of a transportation district are now permitted to create and op-

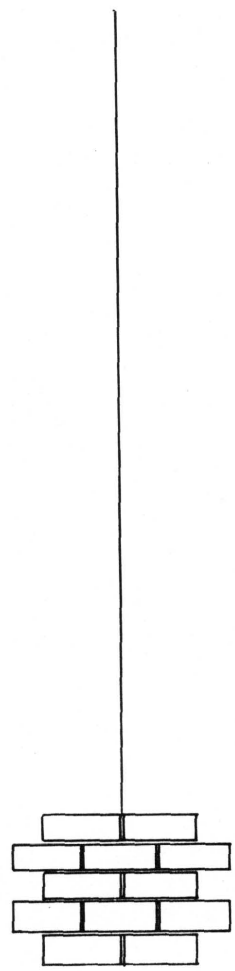
erate a public transportation system (SB 335). Counties operating such systems may contract with any contiguous locality to provide continuous service between the localities.

Another new **Virginia** law (HB 667) changes the State Highway Commission to the State Highway and Transportation Commission with the responsibility of developing and coordinating a balanced transportation system. Certain lanes of state highways in the state were designated as commuter lanes for the exclusive use of buses and other multiple-occupant vehicles.

Washington law (SB 3338) permits the designation of exclusive bus and car pool lanes.

Washington counties in which no metropolitan municipal corporation is operating a transit system may create a county transit authority to provide public transportation (HB 670).

In addition to these state actions, one particularly significant local innovation occurred during the year. Nashville-Davidson County, **Tennessee,** inaugurated RUSH (Rapid Urban Short Hop), a free downtown loop bus serving a 60-block loop in the city. During the trial period of three months, ridership increased 400 percent. The service is being used mostly by shoppers, persons parking on the fringe of the business area, and attorneys with business in both the Metro and Federal courthouses.



The Rights of Citizens

State action to protect citizens' rights focused in nearly every state on one or more of three categories of citizens: consumers, women, and the mentally ill. Specific legislation to combat discrimination on the basis of race and age were conspicuous topics in 1974.

Consumer legislation was most frequently designed to protect the citizen from false advertising promises, to clarify landlord-tenant relations, to regulate condominiums, and to ease the problems of the purchaser of pharmaceuticals.

As in 1973, much legislation was passed to protect against sex discrimination. In many instances, the new laws apply comprehensively to prohibit discrimination on the basis of sex, age, or national origin. Most new laws in this field dealt with the extension of credit, home ownership, or employment.

Many states passed laws expanding or defining the rights of the mentally ill. This development, when coupled with similar action of the past couple of years, reinforces the view that the states are revising their long standing views with regard to treatment of the mentally ill.

EQUAL OPPORTUNITY, EQUAL PROTECTION

In **Alaska** a new statute (SB 168) prohibits any advertising relating to employment which directly expresses a limitation, specification, or discrimination based on sex, age, religion, color, or national origin unless based upon a bona fide occupational qualification. Another new act (SCS CS HB 226) revised the law governing tenant-landlord relations.

The **Arizona** legislature enacted a bill which establishes stringent new mental commitment procedures and which spells out the civil and legal rights of mentally ill patients.

Colorado Governor Vanderhoof created a Task Force on Mental Health Service Standards in Health Care Facilities to develop coordinated state standards and programs in the provision of mental health services.

A **Connecticut** enactment (HB 5778) prohibits discrimination, segregation, or separation in the use of public facilities for reasons of marital status. Two other new laws prohibit the deprivation of any constitutional or legal rights, privileges, or immunities of any individual on the basis of sex (HR 5700) and require that all contracts with the state contain a clause prohibiting discrimination on the basis of sex (HR 5666).

The **Delaware** legislature enacted a bill of rights for patients in hospitals for the mentally ill (HB 854).

In another action, the **Delaware** legislature enacted a law regulating insurance trade practices to pro-

hibit unfair age discrimination in health insurance, group health insurance, and health service corporation contracts (HB 402).

An amendment to the **Florida** constitution was adopted in November which makes it illegal to discriminate against the physically handicapped.

A new **Florida** statute (HB 2155) establishes a bill of rights for condominium owners and buyers. The legislature also made it illegal to discriminate against the blind in employment practices or in housing accommodations (HB 3016). In other actions designed to protect the consumer, the legislature passed a law (HB 2802) that permits a pharmacist to substitute a less expensive generic or brand name drug in lieu of a prescribed drug under certain circumstances. Pharmacies are required to post signs indicating that a less expensive drug may be available. Yet another 1974 law (SB 77) requires the public schools to conduct a consumer education program for all students.

Hawaii prohibited the sale of any consumer commodity which is misrepresented or misbranded (HB 135). Another new law removes the restrictions on prescription drug advertising, making it possible for the elderly and chronically ill to shop for drugs by phone.

Idaho enacted a law providing for equality between the husband and wife over the management of community property. The state legislature defeated a resolution to rescind its earlier ratification of the Equal Rights Amendment to the U.S. Constitution.

Through a series of statutory enactments, **Iowa** prohibited discrimination on the basis of sex in the selling, renting, or leasing of property (SF 487). The legislature also removed the prohibition against conscientious objectors' being employed under the classified service of a city civil service system (HR 4); and provided that landlords must hold all security deposits in a trust account (SF 1004).

The **Kentucky** legislature enacted a law (HB 529) which prohibits discrimination based on sex in credit and housing transactions, and repealed a law which prohibited serving alcoholic beverages by or to females at bars (HB 31). Another new law mandates that high schools which maintain basketball teams for boys must also offer basketball for girls.

The Equal Rights Amendment to the U.S. Constitution was approved by the **Maine** legislature. A resolution to ratify the amendment had failed in 1973.

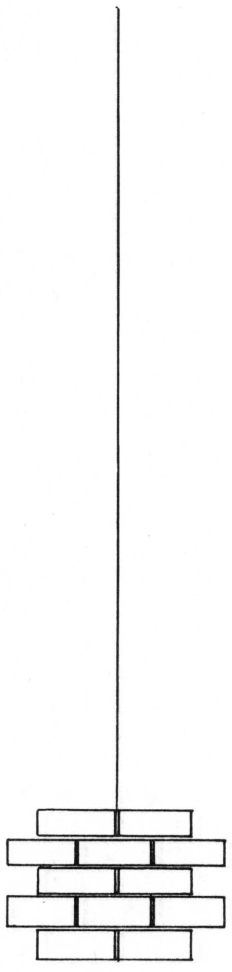
Maine also enacted a controversial new consumer credit code to give consumers more protection when they borrow money or buy goods or services on time. The act establishes a Bureau of Consumer Protection within the Department of Business Protection.

Maryland prohibited discrimination in housing on the basis of marital status or sex (HB 390). Another new statute (SB 277) provides protection for tenants in the negotiation of leases with landlords.

The **Massachusetts** legislature banned discrimination because of sex or marital status in providing credit or services.

The **Michigan** legislature passed a new state mental health code (HB 5684) which lists a bill of rights for the mentally ill and mentally retarded. The law is the result of nearly five years of study and research by the Mental Health Program and Statute Review Commission.

A new **Michigan** law prohibits discrimination based on sex, marital status, physical handicap, race, color, religion, or national origin in extending credit, granting a loan, or rating a person's credit worthiness (HB 4639). In another move to pro-



tect the consumer, a new law (HB 5047) requires all auto repair facilities to be registered with the secretary of state. The act requires written estimates before repairs are begun and provides that the repairs not exceed the estimate unless approved by the customer. The act also gives the customer the right to look at all parts which were repaired.

Other new **Michigan** legislation permits pharmacists to substitute generically equivalent drug products for brand-name products. The act (HB 4145) also requires pharmacies to post a list of the prices of the 100 most frequently prescribed drugs at each counter over which drugs are sold. And Governor Milliken urged prosecutors to create consumer protection units within their offices.

The 1974 session of the **Minnesota** legislature enacted new housing laws to provide tough new absentee landlord regulations.

Missouri law prohibits discrimination on the basis of sex in retail credit matters. Another new statute gives consumers three days to cancel at-home sales, while a third new law gives a consumer 90 days to return defective goods. The legislature defeated a resolution to ratify the U.S. Equal Rights Amendment.

A new **Montana** law establishes the rights and obligations of landlords and tenants in security deposits (HB 672).

In January the **Montana** legislature ratified the U.S. Equal Rights Amendment after having declined to do so in 1973. An initiative petition to rescind that ratification gathered enough signatures to place the measure on the November ballot. However, the Montana Supreme Court ordered the measure off the ballot on the grounds that a public expression of opinion could not affect the legislature's ratification of an amendment to the U.S. Constitution. The opinion also stated that even if the state's ratification were rescinded, Congress would not recognize the nullification.

The **Nebraska** legislature (LB 292) enacted extensive new definitions of landlord-tenant relations.

A bill passed by the **New Jersey** legislature prohibits discrimination on the basis of sex in jury selection.

In **New Mexico** the legislature created a State Commission on the status of Women to consist of 15 members, the majority women, appointed by the Governor (HB 22).

New York prohibited discrimination on the basis of sex in the extension of credit. The act permits the compilation of statistics for the purpose of establishing and evaluating "objective criteria of credit worthiness." It also requires that creditors furnish a rejected applicant, upon request, with a statement of the specific reason for rejection of a credit application (AB 9359).

Another 1974 **New York** statute allows the election of tenant representatives on municipal housing authorities.

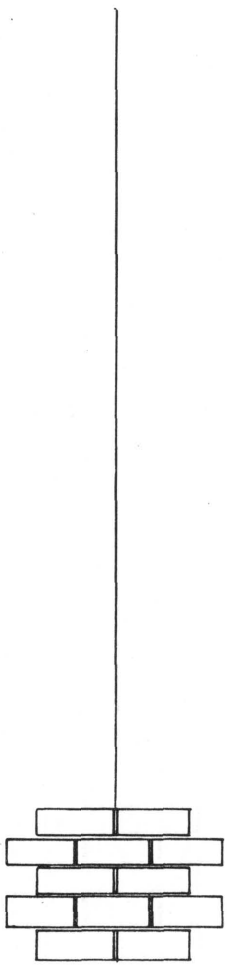
A new law in **North Carolina** prohibits discrimination on the basis of sex in credit extension (H 1873).

Ohio law (SB 103) defines the legal rights of both landlords and tenants. A series of other new laws prohibits discrimination on the basis of sex in jobs, pay, and housing.

The **Oklahoma** legislature passed a bill (HB 1507) which prohibits discrimination on the basis of sex or marital status in the extension of credit.

Tennessee action prohibits pay discrimination on the basis of sex (HB 1452), and makes it illegal for creditors or credit card issuers to discriminate against an individual because of sex or marital status (HB 1371).

The **Tennessee** legislature also became the second to vote to rescind its earlier passage of the Equal Rights Amendment.



A new **Virginia** statute (HB 813) prohibits any employer from paying a lesser wage to an employee on the basis of sex alone. Any such money withheld is to be considered unpaid wages and the employee may recover twice the amount.

Virginia passed a law which enables cities and counties to establish a local office of consumer affairs to receive and investigate citizen complaints (HB 706).

The **Virginia** legislature also established minimum conditions to be met by both parties in any rental agreement. The act (HB 220) sets a ceiling on the amount of money that can be required as a security deposit, requires the payment of 3 percent interest on all security deposits held more than 13 months, protects against arbitrary eviction, and sets rules governing access to dwellings. Another new law (HB 46) spells out rules governing the sale of condominium units. Landlords must give prospective buyers a detailed list of the operating expenses, provide warrantees covering major items which come with the property, and give tenants at least 90 days notice before conversion from rental to ownership units.

Washington (SB 2226) provided rules governing the landlord-tenant relationship, with disputes between landlords and tenants to be settled by arbitration.

The **West Virginia** legislature passed a bill which will phase out the holder in due course doctrine, increase warranty protection, and restructure interest rates.

Case Study

CONNECTICUT: EDUCATIONAL FINANCE AND EQUAL PROTECTION

One of the major recent developments in state government has been a series of court decisions relating to the equitable financing of public schools. With the support of education coming primarily from property tax revenues, the cases have centered on the equity questions involved in educational financing differences between rich and poor school districts.

In 1971, the California Supreme Court ruled that the students (and their parents) in districts with lower property values were deprived of the equal protection of laws guaranteed by both the California and U.S. Constitutions *(Serrano v. Priest).*

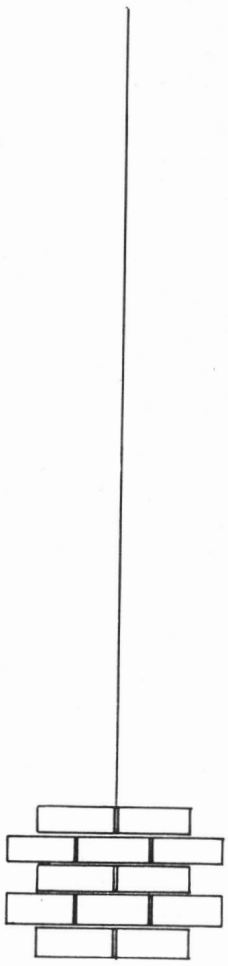
Educational financing formulae were challenged in court in more than 30 other states. Following closely on the heels of the *Serrano* **decision, courts invalidated the educational finance systems of Texas, Minnesota, Kansas, New Jersey, Arizona, and Michigan. In only two states—New York and Indiana—did the courts uphold contested existing school finance statutes.**

On December 26, 1974, a superior court in Connecticut ruled that the state's method for financing public education was in violation of both the education and the equal protection clauses of the state constitution. The decision *(Horton v. Meskill)* **differed from most of its predecessors in other states, however, in that the court made only slight reference to quantitative inequalities in expenditures and services among**

districts. The decision stated that education is a fundamental right guaranteed by the state constitution, and that the disparities inherent in the present financing method therefore denied equal protection. Quoting from the decision,

> The complaint about the present system is that the amount of money presently available for educating public school pupils in Connecticut is determined significantly by the town's grant list, which is totally unrelated to either the needs or wants of those pupils. . . . To the extent that lack of local property tax money imposes . . . deficiencies [in educational programs] upon the pupils in one town to a substantially greater degree than upon the pupils in another town, the pupils in the former are being denied these educational advantages, not because the present method of raising funds to provide for their education is not related to either their educational needs or their wants. . . . The evidence in this case is that, as a result of [the state delegated duty to one Connecticut town] without regard to [its] financial capabilities, pupils in [that town] receive an education that is in a substantial degree lower in both breadth and quality than that received by pupils in municipalities with a greater financial capability, even though there is no difference between the constitutional duty of the state to the children in [the town] and the constitutional duty of the state to the children in other towns. . . .

Thus, at year's end the state was faced with the task of devising a new method for financing public education. The state is appealing the decision to the State Supreme Court. A special commission on educational finance which was appointed by Governor Meskill was scheduled to submit its findings and recommendations during the opening days of the 1975 state legislative session.



Criminal Justice

The judicial system of the country has often been criticized as being slow, inefficient, and directed more toward punishment than rehabilitation of criminal offenders.

In the past decade many groups have urged that structural and procedural changes be made to improve the criminal justice system.

ACIR has recommended several reforms. To take politics out of the court room, the Commission recommended the adoption of the "Missouri Plan" under which judges are appointed solely on the basis of merit. Forty-one states have adopted procedures for judicial appointments under a merit system.

ACIR suggested that states adopt a simple unified court system composed of trial and appellate courts and a State Supreme Court in order to help the judicial system run more smoothly. Thirteen states have adopted such systems, and 17 others have some elements of it.

Other ACIR recommendations flow from the Commission's view that the criminal justice system should be viewed as an integrated system involving police, prosecutor, courts, and corrections. Similarly, many of the elements of the Commission's recommendations on substate regionalism apply to the criminal justice field — regional correctional facilities may be more economical, regional police forces may avoid duplication of effort and thus promote efficiency.

But beyond these structural and efficiency questions, many states have taken action to assure due process, to rehabilitate rather than just punish, and to assure that indigent persons are adequately represented in judicial hearings.

The actions described below reflect the wide range of criminal justice questions. Included are programs to ease the post-imprisonment problems of convicts, to assure a speedy trial, and to guarantee adequate legal aid for low-income persons. For a discussion of 1974 actions dealing with structural reforms in the criminal justice system, see the **State Government Modernization** section.

A new **Arizona** statute increases the amount of time a prisoner must serve before becoming eligible for parole. The law also requires that inmates be released under supervision for at least 180 days before absolute release.

Colorado has established a program for the evaluation of sentenced criminals to determine appropriate programs for maximum rehabilitation and preparation for post-imprisonment employment (SB 11).

The State Department of Institu-

tions and local governments in **Colorado** are authorized to establish, maintain, and operate community correctional facilities for offenders who are deemed by the department to have potential for rehabilitation justifying assignment to such a facility (SB 55). The legislature enacted another law (HB 1123) which allows a defendant who is appealing his conviction to stay his sentence and remain in a county jail pending the outcome of his appeal. He would be entitled to receive good time credits for such time.

The **Connecticut** legislature enacted a law (PA 71) which extends the power of police participating in regional crime squads by allowing them to act in *any* municipality with an organized police department rather than limiting their activities to those municipalities participating in the regional crime squad.

The **Florida** legislature passed a "bill of rights" for law enforcement officers. The act establishes a separate set of rights and privileges for all law enforcement officers at the time of any investigation or interrogation involving complaints or disciplinary action. The act also requires the creation of a "complaint review board."

The **Florida** legislature also has charged the Department of Health and Rehabilitative Services and the Parole and Probation Commission with the task of developing a detailed plan for the operation of a state correctional system. The plan is to emphasize, among other things, the decentralization of correctional facilities by implementing regional facilities (SB 215).

A 1974 **Georgia** law seeks greater uniformity in sentencing convicted persons by requiring judges rather than juries to sentence persons convicted of crimes other than capital felonies. The act also establishes a three-judge committee to review each sentence which exceeds five years. The board may affirm or reduce sentences, but it may not increase them.

Also in **Georgia,** county sheriffs are now authorized to contract with any municipal corporation within their county to provide law enforcement services to that corporation (HB 1425).

A new **Iowa** statute (SF 182) allows a county board of supervisors to abolish the office of public defender by resolution, deleting a previous provision that such an action require a vote of the people.

A new **Maine** law (Sec. 2161-A, Title 15) provides for the nullification of the criminal records of pardoned offenders. For all purposes the pardoned person is to be considered as never having been arrested or convicted of the offense for which he was pardoned.

The **Minnesota** legislature completed the regionalization of state correctional juvenile institutions. The act (SF 1174) also provides that the regional facilities may perform any required psychiatric diagnoses of juvenile offenders.

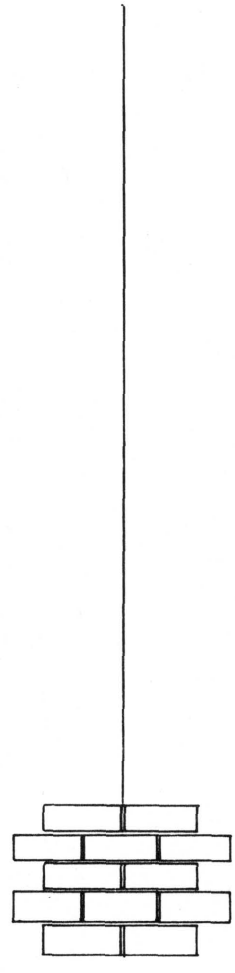
In **Mississippi** a new law allows certain counties to join together for the purpose of remodeling and expanding jails (HB 302).

The 1974 **New Mexico** "Criminal Offender Employment Act" removes some of the barriers to the employment of criminal offenders. The act provides that the state or its political subdivisions may take into consideration an applicant's criminal conviction in determining his eligibility for employment or the granting of a license. However, a conviction may not be an automatic bar to public employment or license to practice in a trade, business, or profession.

The **New York** legislature amended the criminal procedure law to provide for the release of a defendant upon the failure of timely grand jury action (AB 19767).

A new "shock treatment" plan was initiated in **Ohio** in 1974. Criminals are being sent to prison for short periods of time in the hope that this will provide enough of an emotional shock to induce an offender to abandon crime. It is also thought that a criminal imprisoned for the shorter time will be less likely to turn into a hardened criminal. Early evaluation of the plan revealed a recidivism rate of about 10 percent, much lower than the normal.

Governor Moore announced the establishment of a state legal aid program in **West Virginia.** Under the new procedures, a person who qualifies for state legal assistance chooses his own attorney. The standards for the assistance are essentially the same as those for receiving state medical assistance.



Human Services

In order to improve the quality of all their citizens, the states have in recent years taken an active role in the area of social and protective services. States have adopted minimum statewide building codes to assure safe housing; they have enacted programs for financial assistance to guarantee that low-income persons can live in decent homes; they have developed manpower programs to assist local governments in integrating employment and social service needs; and they have taken action to guarantee adequate health care services to all.

Though there were perhaps fewer such actions in 1974 than in other recent years, some innovations were made. Many of the year's laws are aimed at promoting efficiency by empowering local governments to take necessary actions independent of the state. Similarly, many state directed programs were changed to be administered on a regional basis. Both types of action reflect ACIR's view that, to a point, decentralization is desirable because it puts the administration of human service programs closer to the people who are supposed to benefit from them.

The **Connecticut** commissioner of mental health is now required to designate mental health service regions within the state and to appoint a regional mental health services director for each region (PA 224).

Another new **Connecticut** law (PA 305) establishes a regional system for the delivery of emergency medical services throughout the state.

A **Florida** law enacted in 1974 (HB 3231) creates the Board of Building Codes and Standards within the Department of Community Affairs. The board will be responsible for the adoption and enforcement of state minimum building codes.

Another **Florida** statute (HB 2894) creates a State Manpower Services Council within the Department of Commerce to develop overall state manpower policies. The act establishes regional manpower planning districts to coordinate manpower planning with related social services, to identify regional needs, and to develop a regional manpower plan.

The **Hawaii** legislature passed a law (HB 92) which encourages the development and construction of low-income housing. The act grants counties the same powers as the state regarding housing project provisions. Specifically, the new law gives counties the authority to acquire necessary land to develop and construct dwelling units and to provide assistance and aid to a person or public agency in developing or rehabilitating housing for persons with low incomes.

Hawaii also created an advisory

council to establish state assisted areawide health planning councils. (SB 1658).

Idaho enacted SB 1296, authorizing the formation of regional library systems.

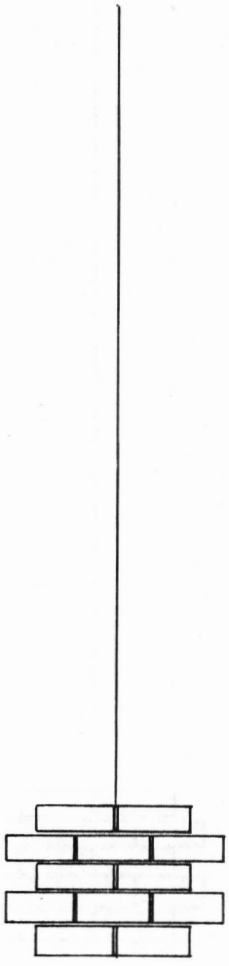
In **Minnesota** a new law (HF 2950) provides financial support for persons who might not otherwise be able to afford to bring their homes up to code specifications. The act also empowers the Minnesota Housing Agency to establish standards for rural areas where there are presently no housing codes.

The nation's first statewide urban homesteading plan was established by the 1974 **Minnesota** legislature (SF 3068). Under the act, communities may acquire vacant substandard properties by eminent domain and then resell them at prices varying from market value to $1.00. The purchasers must have either the financial ability or the building trades skills to assure that the houses are brought into conformance with housing codes.

Ten public jurisdictions in the Salt Lake City, **Utah,** area created an intergovernmental personnel agency. Job opportunities with each participating government, including the state and federal governments, are listed in the joint job bank.

Washington passed the State Building Code Act (SB 2634). The law allows each local government to amend the state code as it applies within its jurisdiction so long as the local regulations are consistent with the standards and objectives of the state act.

A new regional approach to medical education was begun in **West Virginia** in 1974. $150,000 of Appalachian Regional Commission funds will be spent to fund the Marshall University Medical School Demonstration Project. Rather than building extensive new medical facilities, the university program will utilize existing community hospital facilities for instruction. The hospitals, in turn, will serve as regional health care facilities.



State Government Modernization

The efficient operation of the federal system depends to a great extent upon the effective performance of the legislative, executive, and judicial functions of state governments.

As recently as the mid-1960's, the structures of many state governments were woefully outdated. Most executive branches were mazes of departments, agencies, and commissions, sometimes numbering in the hundreds. Governors had no effective way of administering their own executive branches. Most legislators were low paid, part time, understaffed — therefore hindered in handling increasingly complex problems of the state. State judicial systems were fragmented, frequently run by part time amateurs. In too many cases the role of the local courts was that of raising revenues rather than of impartially administering justice. To treat some of these basic ills, ACIR has suggested that the modernization of state governments take place in four main areas.

First, the office of the Governor should be strengthened. This would be accomplished by lengthening his term, by permitting him to succeed himself, and by giving him the authority to reorganize the executive branch subject to legislative veto.

Second, ACIR suggests that the streamlining of the state executive branch be accomplished by shortening the ballot. This would also increase the accountability of the Governor by having the cabinet appointed rather than independently elected. The state agencies, commissions, and departments would be restructured to establish clear lines of authority and to prevent duplication and waste.

Legislative modernization, the third component of the package, would be partially achieved by providing for annual sessions and funding legislative staff on a year-round basis.

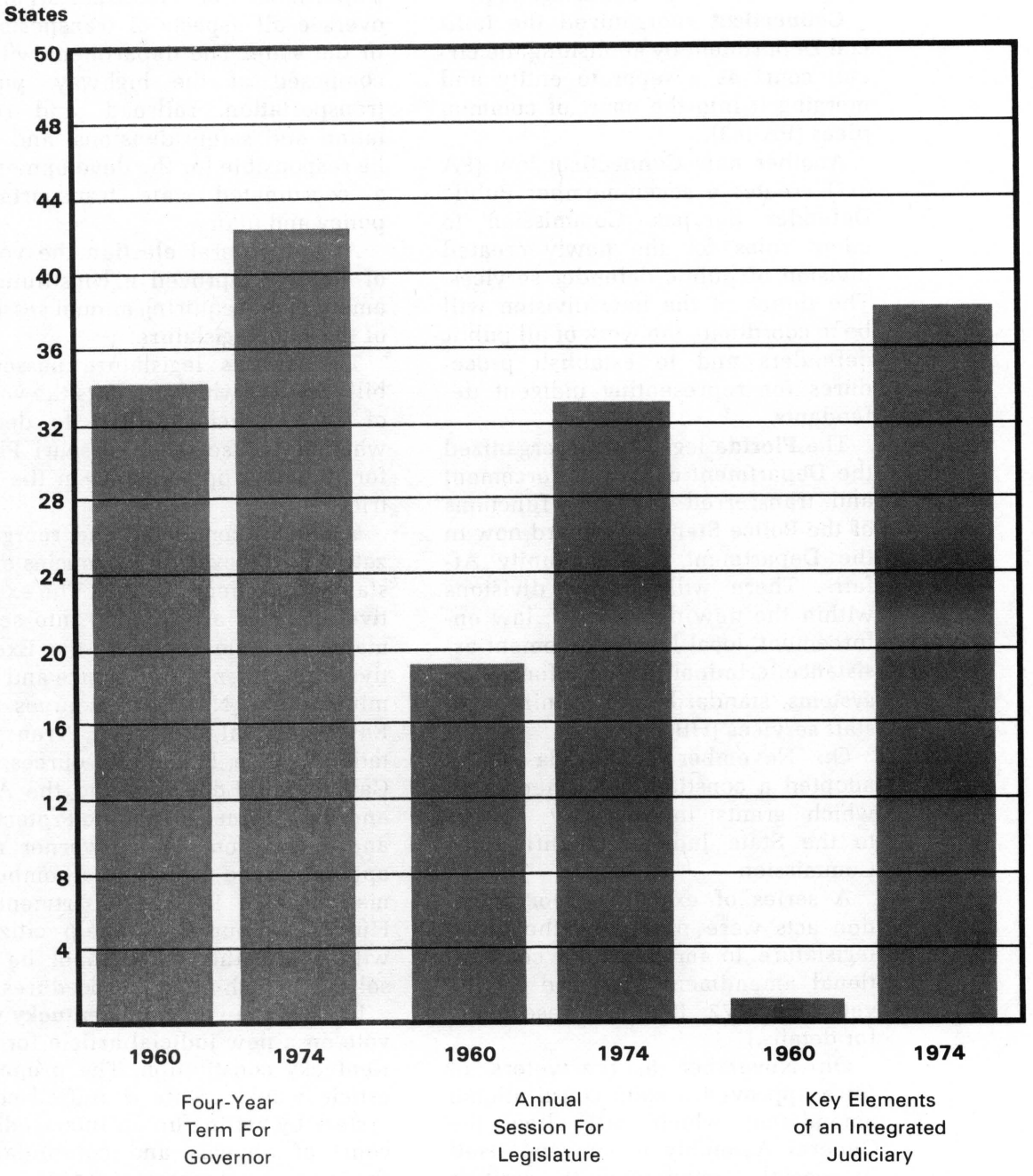
Fourth, a state judicial system should be reorganized into a unified court system, the overall administration of which would be placed in the office of the chief justice of the state supreme court. ACIR has also recommended that judicial selections be made by using the "Missouri Plan." That plan calls for a judicial nominating commission to recommend candidates for appointment to vacancies. Those recommendations would be based solely on merit.

The movement toward state government reorganization has been dramatic in recent years. Chart 2 shows how significant those changes have been.

Over the past dozen years most states have made substantial strides toward reorganization. In 1974 the movement to reorganize continued.

CHART 2

Modernizing State Government



Following is a summary of the year's major reorganization and modernization actions.

A 1974 **Colorado** law (SB 22) creates an Office of State Planning and Budgeting as a new principal department in the executive branch. The department is to be composed of two divisions, the division of state planning and the division of budgeting.

Connecticut reorganized the Judicial Department by abolishing the circuit court as a separate entity and merging it into the court of common pleas (PA 183).

Another new **Connecticut** law (PA 317) creates a seven-member Public Defender Services Commission to adopt rules for the newly created division of public defender services. The duties of the new division will be to coordinate the work of all public defenders and to establish procedures for representing indigent defendants.

The **Florida** legislature reorganized the Department of Law Enforcement and transferred to it the functions of the Police Standards Board now in the Department of Community Affairs. There will be five divisions within the new department: law enforcement, local law enforcement assistance, criminal justice information systems, standards and training, and staff services (HB 3740).

On November 5, **Florida** voters adopted a constitutional amendment which grants investigatory powers to the State Judicial Qualifications Commission.

A series of executive reorganization acts were passed by the **Idaho** legislature to implement a constitutional amendment approved by the voters in 1972. (See the case study for details.)

On November 5, the voters of **Iowa** approved a state constitutional amendment which will allow the General Assembly to convene itself in special session upon the written request of two-thirds of the members of each house. Also on November 5, the voters elected a Governor to a four-year term, implementing a constitutional amendment adopted in 1972. Previously, the Governor's term was two years.

The **Iowa** legislature enacted a bill (SF 1141) which creates a new Department of Transportation to oversee all aspects of transportation in the state. The department will be composed of the highway, public transportation, railroad, and regulation and safety divisions, and will be responsible for the development of a coordinated state transportation policy and plan.

At the general election the voters of **Kansas** approved a constitutional amendment requiring annual sessions of the state legislature.

The **Kansas** legislature passed a bill (SB 946) which permits the voters of each judicial district to decide whether to use the "Missouri Plan" for judicial appointments in the district.

Kentucky completed the reorganization of the executive agencies of its state government (SB 112). The executive agencies are divided into seven major program cabinets: the Executive Departments for Finance and Administration, Natural Resources and Environmental Protection, Transportation, Justice, Human Resources, the Cabinet for Education and the Arts, and the Cabinet for Public Protection and Regulation. The Governor also appointed the state's first ombudsman, located in the Department of Human Resources, to help citizens with complaints that cannot be resolved through normal procedures.

In 1975, the voters of **Kentucky** will vote on a new judicial article for the Kentucky constitution. The proposed article would create a unified court system by setting up an intermediate court of appeals and consolidating the lower court system (SB 183).

After the failure of the **Michigan** legislature to pass legislation creating a Department of Human Services, Governor Milliken issued an executive order creating the position of executive assistant for human services within his personal office.

Minnesota now provides for the election of the Governor and the lieutenant governor as a team (SB 3408).

Meeting in a special session, the **Missouri** legislature enacted a governmental reorganization measure consolidating numerous state agencies into 14 departments.

In **Montana** the position of budget director was re-established within the Office of the Governor, and a Commission on Human Rights was established with the authorization to create local commissions.

Nebraska law (LB 785) places county judges under the merit plan now used for the district judges. Under the new plan, county judges will serve six-year terms with the approval of the electorate. The commissions that presently serves as the judicial nominating commission for district judges will also nominate for county judgeships.

In May, the voters of **Nebraska** defeated a proposed constitutional amendment that would have removed the lieutenant governor as the presiding officer of the legislature. Under the proposal, the legislature would have been empowered to choose its own presiding officer.

The **New Jersey** legislature (A 1409) created a Department of Public Advocates with six major divisions—public defender, inmate advocacy and parole revocation defense, mental health advocacy, public interest advocacy, rate counsel, and citizen complaints and dispute settlement. The cabinet level agency was created to give a public voice in areas where there have been none and to seek answers for citizens who are trapped in bureaucratic red tape.

In May, voters in **Ohio** approved a measure to provide for annual sessions of the legislature.

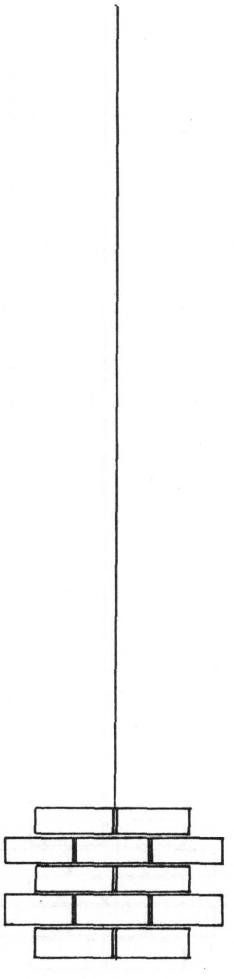
Under an executive reorganization measure, the **Ohio** Departments of Finance, Public Works, and State Personnel were eliminated. Their powers were transferred to two new agencies — the Office of the Budget and the Department of Administrative Services.

A proposed constitutional amendment which called for the reorganization of the executive branch of the state government was defeated in August in **Oklahoma.** The amendment would have required the legislature to group all present executive branch agencies, departments, boards, and commissions into not more than 20 executive departments. After that initial reorganization, the Governor would have had the authority to consolidate, transfer, and abolish by executive order the departments not created by the constitution.

At the primary election in **Oregon** the voters defeated a measure which would have allowed the legislature to call itself into special session.

The existing **South Carolina** Pollution Control Authority and Health Department were merged into a new Department of Health and Environment with expanded powers to enforce pollution laws.

On November 5, the voters of **South Dakota** defeated a proposed new legislative article for the state constitution. The article was drawn up by the South Dakota Constitutional Revision Commission which had been created in 1969 to modernize the state's 1889 constitution. In 1972, the electorate approved the commission's recommended new executive and judicial articles. The legislature enacted a bill (HB 679) which establishes courts of limited jurisdiction in conformity with the judicial re-



organization article of the state constitution. In August, a circuit court ruled that the 1972 constitutional amendment authorizing executive reorganization was invalid.

A new **Tennessee** law (HB 230. repeals the "Missouri Plan" for appointments to the State Supreme Court.

The voters of **Utah** defeated a proposed constitutional amendment which would have called for the lieutenant governor to be jointly elected with the Governor. The amendment would also have deleted the office of secretary of state as an elected constitutional office.

Case Study

IDAHO MODERNIZES ITS EXECUTIVE BRANCH AND LIMITS USE OF ADVISORY COUNCILS

In 1972, Idaho's voters approved a constitutional amendment calling for the reorganization of the executive branch of the state government. In response to that amendment, the 1974 session of the legislature set up the machinery to effect the change.

The new section of the state constitution (Article IV Section 20) limits the number of state executive departments to 20 and calls for the reorganization and consolidation of existing departments and agencies.

The legislature passed several laws which took effect July 1, 1974. Under the provisions of those new laws, more than 260 state agencies and boards were consolidated into 19 executive agencies. An Executive Office of the Governor was also created. The reorganization plan to implement the constitutional amendment was drawn up by the Governor and a bipartisan commission.

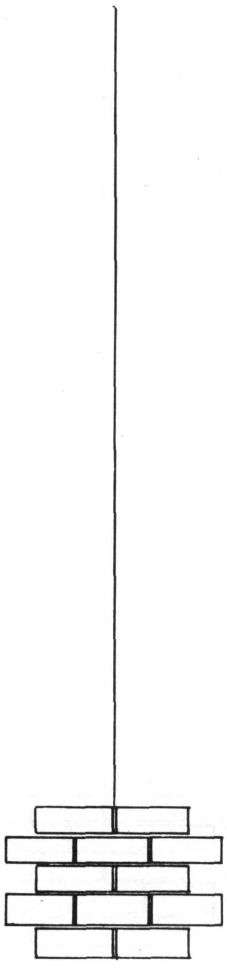
Stating in September that "it is our responsibility to see that the new structure is such that proliferation in government agencies cannot occur in the future," Governor Andrus issued strict guidelines regarding the creation of advisory councils.

Under the guidelines, advisory councils may be created only with the Governor's approval and with that, may exist for no more than two years without an explicit extension by the Governor. If an advisory council is approved, it is placed under the purview of the director of an existing department. Those directors are to be held accountable for the actions of the councils.

Advisory groups are to be staffed by existing departmental personnel in order to limit the hiring of new employees.

The director of each department is to be the final authority for policy, funding, and administration.

In issuing the new guidelines, Governor Andrus pointed out that advisory councils can serve the worthwhile purpose of providing citizen input in establishing policy. But at the same time the Governor restated the objectives of reorganization — reducing the size of government — and stressed that advisory councils must not be allowed to become extensions of the state bureaucracy.



Local Government Modernization

States and local governments have acted to provide more and better public services in response to an increase in public expectation over the past decade. This increase in service delivery, the accompanying increase in spending, and the geographical rigidities of most local governments have, too often, led to the creation of special districts, substate regions, and public authorities. This proliferation of new governments must be rationalized while existing governments modernize themselves in order to minimize the need for new governments.

To help local governments respond to this challenge, The Advisory Commission on Intergovernmental Relations has recommended that the states adopt a two-pronged strategy —modernization of county governments and creation of umbrella multijurisdictional organizations (UMJOs).* Because of the importance of these issues, a table presenting the status of county powers under current state laws is presented *(see Table 9)*. A summary of 1974 actions follows the comprehensive table.

COUNTY MODERNIZATION

The ACIR recommendations for the modernization of county governments are based on the observation that most of the governmental responses to the demand for more services have overlooked the county, despite the fact that it is ideally suited to perform many tasks. Many counties have the geographic scope, the tax base, and the potential authority to provide the needed services, and to provide them economically on an areawide basis. Yet despite this great potential, the powers of too many counties are limited. Either because of these limits or their own inaction, many counties remain structurally stagnant, fiscally dependent on a regressive tax source, and functionally

*See ACIR publications A-41, A-43, A-43a, A-44, A-45, A-46, *Substate Regionalism and the Federal System*, 1973-74.

unable to respond to the challenges of service provision.

Residual Powers. Local governments are creatures of the states. Traditionally, in the absence of a residual powers or home rule provision, local governments have been permitted to exercise only those powers which are affirmatively conferred by their state's constitution or statutes. The home rule movement of recent years has resulted in the easing of these limitations on many municipalities. But, by and large, similar home rule grants have not been forthcoming for counties – the counties are still frequently seen as little more than administrative arms of the state. As a result, those problems which could often be solved by the local governments result in the formation of special districts or authorities or are dealt with by the states. This diffusion of responsibility results in unnecessary diseconomies in service delivery and a loss of control by local general purpose governments.

Optional Forms of County Government. The commission or plural executive form of government is the structure still used by the overwhelming majority of counties in the country. Such a structure, however, diffuses executive authority and responsibility and makes the supervision and provision of regional or urban-type services difficult. ACIR recommends that states permit two alternatives to the commission form of government: the council-manager (appointed professional) and the council-elected executive. Under the council-manager form the elected county commissioners would appoint a county manager solely on the basis of training and experience. The council-elected executive form would put the administrative responsibilities in the office of the county executive, who would be elected by the voters of the county.

Constitutional Protection of County Offices/Consolidation of Offices. A streamlined government structure would have little impact, however, if the county government were still run by an excessive number of elected officers in positions established by the state constitution. ACIR recommends giving counties flexibility in this area through two steps. The first is the elimination of the constitutional protection of county offices other than those of the governing body. This would give the legislature and the county commission a role in deciding what offices a county needs rather than having the decision mandated in the state constitution.

The second step in this ACIR proposal would be to permit the consolidation of county offices. It is both uneconomical and inefficient for sparsely settled, relatively small rural counties to maintain a full range of county offices. The ACIR draft bill would permit a county to consolidate functionally similar offices. Further, two or more counties could consolidate identical or similar offices.

Local Government Consolidation. In some cases it is desirable to go beyond consolidation of county offices and to consolidate local governments. This could be either city-county or county-county consolidation. City-county consolidation is particularly appropriate in metropolitan areas. While about 100 of the nation's 250 metropolitan areas are within one county, the others have grown beyond the boundaries of their original

county, expanding to include a patchwork of several counties and cities. In such cases city-county or county-county consolidations would create a new government encompassing the majority of the population of the metropolitan area, bringing some order to the chaos. Such consolidations would likely offer the advantage of strengthening executive management coordination, allowing more effective use of tax money, and making possible a higher level of public services. Experiments at city-county metropolitan governments are working in such places as Lexington, Kentucky; Nashville, Tennessee; Jacksonville, Florida; and Indianapolis, Indiana.

The consolidation of two or more counties also has special relevance in small, rural, sparsely populated counties. These counties may lack the fiscal resources necessary to do more than support the traditional county services mandated by the state. A merged county would have a broader tax base while supporting only one government. And even more so than in the case of city-county consolidation, the consolidated counties would have the geographic scope to handle regional problems.

Transfer of Functions. In addition to these authorizations for local governments to make structural changes, one other method of meeting changing patterns of demands for local services and of dealing with certain problems would be to authorize counties and cities to transfer functions between and among themselves. If such an approach were taken, responsibility for the provision of services could be adjusted to assure that the appropriate units of government—close to the people where the source of problems lies, yet with the requisite geographic scope, administrative structure, and resources to achieve economical and effective service delivery—perform each function.

UMBRELLA MULTIJURISDICTIONAL ORGANIZATIONS

While the adoption of these ACIR recommendations for local government reorganization would greatly enhance the ability of counties to provide needed services, the Commission has noted that there are several types of problems that extend beyond county boundaries. These problems call for solutions on a regional basis.

ACIR has noted four objectives in reducing the costly fragmentation that results from several localities' trying to cope with regional problems: to coordinate areawide agencies and reduce their proliferation; to develop a framework for responsive decision making at the areawide level; to curb special districts; and to establish an environment of cooperation between regional agencies and local governments that will facilitate long range local government modernization and reorganization.

An encouraging development of recent years is the creation of substate districting systems. Forty-four states have been officially divided into state planning districts; 20 of the state systems have been created by legislation and 24 by executive order of the Governor.

ACIR has pointed out the potential of these substate districting systems, but much of that potential remains unrealized: 25 percent of the districts have not been organized with a governing body and staff to carry out functions assigned by the state, and most of the substate districts continue to function only as planning agencies.

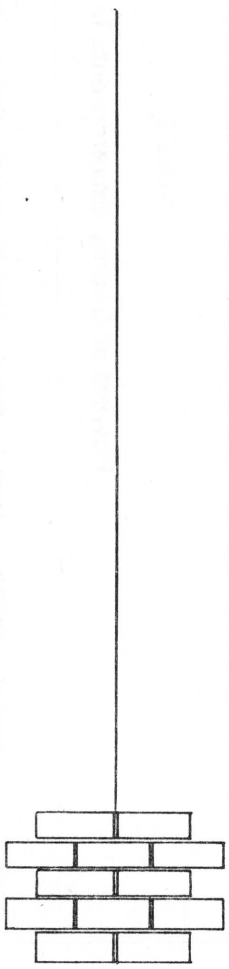


TABLE 9

Powers of County Governments in the States

State	Residual Powers	Number Optional Forms of Government	Number Constitutionally Protected Offices	Consolidation of County Offices	Local Government Consolidation		General Authorization for Transfer of Functions	1974 County Modernization Efforts					
					City-County	County-County		Number County Charter Commissions	Number County Charter Referenda	Number New Charters Adopted	Areas Considering Consolidation	Number Consolidation Referenda[k]	Number Consolidations Approved
Alabama			1								3		
Alaska	X	2			X	X	X						
Arizona		2	6					1					
Arkansas		a.	3										
California		b.		g.	X	X	X	1			1	1	0
Colorado			8					1			1		
Connecticut													
Delaware			6										
Florida		3	6[e]		X		X	4	1	1	1		
Georgia		1	1	h.		X		1			6		
Hawaii		1				X							
Idaho			5										
Illinois		1	3			X	X	1					
Indiana		1	6								1	1	0
Iowa											1		
Kansas	X							1					
Kentucky	X	a.	9		X	X		1			2		
Louisiana		b.				X	X						
Maine			1										
Maryland		1,b.	3					1					
Massachusetts													
Michigan		2	4			X	X						
Minnesota		5				X		3					
Mississippi			5			X							
Missouri		b.			X	X							

Montana		3			X	X							
Nebraksa		c.		i.		X					1		
Nevada		1									1		
New Hampshire			5										
New Jersey		5						9	8[j]	4			
New Mexico		1			X			1					
New York		b.	4[f]				X	1	2	0	1		
North Carolina		1	2		X	X		1			4	1	0
North Dakota		2	7	h.		X					1		
Ohio		b.					X						
Oklahoma			8										
Oregon		b.			X			5	1	0	1	1	0
Pennsylvania		b.	9		X	X	X	11	7	0			
Rhode Island													
South Carolina		5				X		1			1	1	0
South Dakota	X	b.	7			X	X	1					
Tennessee		1	5		X		X						
Texas	X		5										
Utah		12						3			1		
Vermont			3				X						
Virginia		5	5		X	X	X						
Washington		d.	2		X	X					3		
West Virginia			5								1		
Wisconsin		2				X	X						
Wyoming													

a. None available, but county judge may serve as weak executive in some cases.
b. Adoption of optional forms permitted, though none are specifically designated in statutes.
c. No specific optional forms, but county commission may hire administrative assistant.
d. Optional forms available only by adoption of county charter.
e. Office of County Court Clerk is protected except where otherwise provided by charter.
f. County offices may be abolished by voter approval of optional form of county government.
g. Permitted, but must be approved by legislature.
h. County Superintendent of Schools only.
i. Charter counties only.
j. Nine charter commissions conducted studies during 1974, but one commission recommended no changes from the existing form of government.
k. All consolidation proposals were city-county.

1974 ACTION

Actions to deal with these problems of local government powers took place at two levels within the states during 1974: at the state level through legislative or executive action, and at the local level through the work of county charter and study commissions. Forty-eight county charter commissions presented 19 proposals to the voters in referenda, and five were adopted. City-county consolidation proposals were being discussed or actively studied in 33 areas. All five consolidation plans which went to a referendum were defeated (Portland, Oregon; Sacramento, California; Durham, North Carolina; Evansville, Indiana; and Charleston, South Carolina).

States also acted to promote or clarify regional organization of specific functional programs in such areas as land use, manpower, energy, criminal justice, transportation, health care, and libraries, as indicated in earlier sections of this report.

State legislative action on the general issues of local government powers and regionalism was more extensive. The significance and scope of that activity can be seen in the following state-by-state summary.

A constitutional amendment approved by the voters of **Arkansas** on November 5 extends residual home rule powers to the counties. The county quorum court (county commission) has the power to consolidate county offices subject to voter approval. In addition, the county judge serves as an elected executive with general administrative duties and veto powers over the actions of the quorum court. The residual powers provisions of this amendment will take effect on January 1, 1977.

A new **California** statute (AB 4270) established procedures for the consolidation of two or more counties. Such consolidations may be initiated by a petition of the electorate or by resolution of the respective county boards of supervisors.

On November 5, **California** voters approved Proposition 2 which permits cities and counties to amend their charters without having to get approval of the changes by the legislature. However, on the negative side, another 1974 action provides that, if a local government assumes responsibility through government reorganization for providing a program or service it did not previously provide, the maximum property tax rate must remain the same as it was prior to the reorganization (AB 3670).

By executive order, a new **Colorado** state planning system based on the 13 existing planning and management regions was developed to decentralize state government. The Governor expects to develop centers for state government activities in many of the regions. As an example of state use of the regions, plans were developed for a coordinated statewide career information system to provide Colorado citizens with a single source of accurate and current job opportunity information and to prevent duplication of effort and data by various agencies and educational institutions. Computer terminals are to be placed in the 13 state planning regions to provide easy access to the needed information.

In **Florida** the legislature enacted a law (HB 3378) which provides that a county charter may prescribe one of three optional forms of county government (county executive, county manager, or county chairman-administrator). The act also allows non-charter counties to adopt the county administrator form of government by ordinance. Another new law further authorized counties to establish subordinate service areas in unincorporated areas (HB 3280). The

municipal services provided to those areas will be financed by service charges, special assessments, or ad valorem taxes imposed only within

Two or more cities in **Florida** may now merge by adoption of a concurrent ordinance by the governing bodies and by a majority vote of the electors of each municipality (HB 3266).

A newly enacted **Georgia** law (SB 120) permits any county board of commissioners to create the office of county manager without the need for legislative action or voter approval. The act does not apply to counties with a population of more than 40,000, nor to counties which have consolidated with all their municipalities.

In **Kansas** the legislature passed a law which grants counties the power of home rule, subject to eight limitations (SF 175). Another 1974 law (SB 59) authorizes two or more local governmental units to consolidate or jointly perform any administrative procedures or functions. Any one local governmental unit may consolidate administrative operations within the governmental unit itself. Only if the proposed consolidation involves the elimination of an elective office must it be approved by the voters. A petition procedure provides that 10 percent of the qualified electors may initiate any such consolidation.

A new **Kentucky** law permits urban county governments to exercise county home rule statutory powers. The act also defines what constitutes a conflict between state statutes and urban county ordinances (HB 800). A separate statute (HB 633) authorizes urban county governments to create separate taxing and service districts.

Also in **Kentucky** (HB 634), the chief executives of counties are required to notify affected property owners of any intentions to extend urban services if such an extension is likely to result in a tax increase. Further, an urban county government may not increase taxes in any district unless it has expanded services so as to justify such an increase.

The **Massachusetts** legislature enacted a bill (HB 5489) which authorizes cities and towns to purchase services collectively.

Michigan now allows a city located in two or more counties to place on the ballot the question of adjusting county boundaries to include the entire city within one county (SB 387).

Nebraska law (LB 744) provides that county attorneys must be full time. Two or more counties may agree by resolution to hire a full time county attorney for all of the area. To consolidate the office, however, the counties must be contiguous and have a combined population of over 20,000.

The **New York** legislature amended the state's village law to allow the adoption of a village manager form of government (AB 11418).

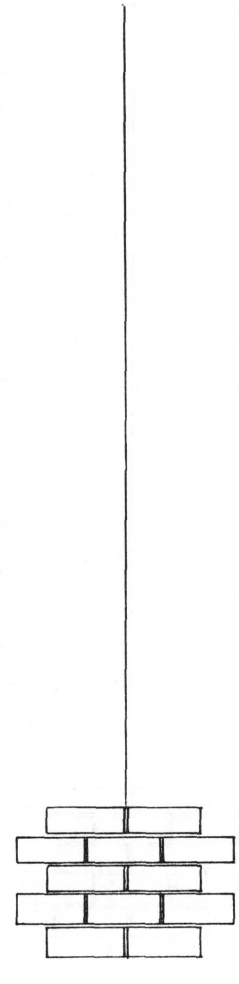
The **South Dakota** legislature expanded the powers and duties of the Local Government Study Commission to include the collection and dissemination of material and information on home rule charters (SB 31). Companion legislation (SB 32) established procedures for the adoption of home rule charters.

The **South Dakota** Joint Exercise of Government Powers Act was expanded to include adjacent political subdivisions of another state (HB 651).

A consolidation of two cities took place in **Virginia** in 1974. The cities of Suffolk and Nansemond merged into one new city named Suffolk.

A new **West Virginia** law gives county courts (commissions) the authority to employ a county administrator (S 258).

A **Wyoming** statute (SEA #8) empowers local units of government to



enter into agreements for the cooperative provision of urban services. Joint powers boards will be created to govern these joint activities where a separate governmental unit is not created.

Case Study

NEW JERSEY VOTERS ADOPT COUNTY CHARTERS

On November 5, the voters of eight New Jersey counties voted for the first time on proposed charters containing optional forms of county government.

Nine county charter commissions had conducted studies in 1974. Of these, only one — the Essex County Charter Commission — did not recommend any changes from the present form of government.

Of the eight proposed new charters, four recommended the elected county executive form of government, three recommended the council-manager form, and one recommended a council-board president form.

Voters in Atlantic, Hudson, and Mercer Counties approved the elected county executive form. That form was turned down in Bergen County. The council-manager form was adopted in Union County, and defeated in Camden and Middlesex Counties. A council-board president form proposed for Passaic County was not approved.

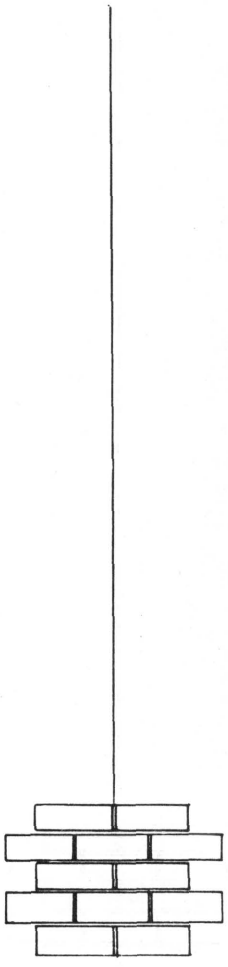
Atlantic County's charter enjoyed the biggest margin of victory. The new charter was approved by nearly 70 percent of the voters. Both political parties, all of the county's newspapers, and the entire study commission had endorsed the charter.

These new charters in New Jersey were the first proposed in the state since legislation permitting optional forms of county government was passed in 1972.

While New Jersey was the most visibly active state on this front in 1974, there were other charter proposals on ballots in 18 counties around the nation. However, the only other charter approved calls for Broward County, Florida, to switch to the council-elected executive plan.

Sixty-five counties in the United States have now adopted home rule charters. Thirty-eight of them have a county-executive form of government, 24 a county-manager form, and three have retained the commission plan.

In total, 58 counties in 20 states have adopted the council-elected executive form of government. The population of those counties totals nearly 30-million. And about 500 counties in 30 states have a council-manager form of government. Of those, 45 percent have a population of less than 50,000 people.



what is acir?

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

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

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