STATE ACTIONS IN 1975

ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS

Washington, D.C. 20575
(202) 382-2114

July 1976

M—102

STATE ACTIONS IN 1975

ADVISORY COMMISSION
ON INTERGOVERNMENTAL RELATIONS

Washington, D.C. 20575
(202) 382-2114

M-102

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 1975.

To a great extent, 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.

A new feature which has been added to this year's issue of *State Actions* is a subject index. The index was compiled because the increasing complexity of issues in the states has required the enactment of statutes which could logically fit into more than one of the subjects we have chosen as chapter divisions. Further, we hope that the index will make this report easier to use for legislators, governors, and their staffs who are looking for ways other states have dealt with similar problems.

Robert E. Merriam
Chairman

ACKNOWLEDGEMENTS

While the ACIR staff relies heavily on the Commission's own information sources in preparing *State Actions* each year, the job of assembling and verifying the information in this report could not have been done without the help of many other organizations and individuals.

The ACIR staff drew freely from legislative summaries prepared by the state legislative service agencies and from press releases from the governors' offices. In addition, we gratefully acknowledge the cooperation of and information provided by state municipal and county associations as well as the publications of the Council of State Governments, Commerce Clearing House, the Federation of Tax Administrators, National Association of Counties, National Municipal League, and National League of Cities. Particular thanks are due to Common Cause, whose staff reviewed the chapter on "Government Accountability" for accuracy, and to the U.S. Department of Labor, Labor-Management Services Administration, Division of Public Employee Labor Relations, whose publications provided the major portion of the information in the "Public Sector Labor Relations" chapter.

This report was researched and written by Lynn D. Ferrell, State-Local Relations Associate. Ronald C. Fisher wrote the chapter on "State Fiscal Actions." Major typing burdens were borne by Elizabeth A. Bunn and Gloria D. Ward. Overall supervision was provided by Lawrence D. Gilson, Director of Policy Implementation. Numerous other ACIR staff members contributed to the preparation of *State Actions*.

Wayne F. Anderson
Executive Director

CONTENTS

INTRODUCTION

Fluctuations in the national economy were the pervasive influences on state actions in 1975. While inflation drove the price of running government up, the recession cut into revenues. Thus, many states had to choose between increasing taxes or cutting budgets in order to make ends meet. Further, the fiscal crisis in New York City and the overall public concern about the size and effectiveness of government seemed to have the effect of causing states to pay more attention to their tight budgets, to focus on perfecting existing programs, and to shy away from expensive new commitments.

The Advisory Commission on Intergovernmental Relations prepares this annual summary of state actions in policy areas which have been selected by the staff. This compendium is intended to fulfill two purposes: to draw a sketch of general developments in the states in 1975 and to serve as a clearinghouse which states, and perhaps the federal government, may use to find possible solutions to particular problems. Some of the major actions observed in the states in 1975 follow.

For the first time ever, aggregate state tax collections totaled more than $80 billion, the growth over 1974's collections being 8.3 percent. For many states, however, the revenue growth was considerably less than that national average and less than they had projected. Furthermore, inflation forced a growth in expenditures greater than the growth in revenues just to maintain services at existing levels.

* While only three states enacted

major tax increases in 1974, 13 states did so in 1975.

* Several states moved to reduce state taxes, but in many cases the reduction was only for certain income groups rather than a general reduction.
* Seven states expanded local revenue opportunities by permitting new or increased local sales or income taxes.
* 1975 saw only two new property tax relief programs enacted, but several states revised existing programs to afford greater relief.

States continued the move to reorganize and streamline state government to make it more efficient and economical. At the same time, legislatures continued to strengthen their roles *vis-a-vis* the executive branch.

* Two states went through complete reorganizations of their executive branches, and 16 others reorganized specific agencies or departments.
* One more state adopted a requirement that the legislature meet every year, leaving only 15 states with biennial sessions.
* Three states enacted provisions for the legislature to exercise controls over state administrative agency rules and regulations to guarantee that legislative intent is carried out.

In their continuing efforts to clean up the political process, the states revised their laws regulating campaign practices and opening government to public scrutiny.

* The passage by Mississippi of that state's first open meetings statute brought to 49 the number of states with some requirement that meetings of government bodies be open to the public. In addition, 15 states broadened existing open meetings requirements.
* Five states moved to guarantee public accessibility to government records.
* Requirements for the reporting of campaign contributions and expenditures or public officials' assets were expanded or strengthened in 12 states, adopted for the first time in 13 states, and extended to local officials in five states.
* Three states moved to permit state civil service employees to participate in partisan politics.
* Nine states adopted acts to make it easier to register to vote.

The attempt to resolve the sometimes conflicting objectives of developing energy supplies and protecting the environment continued. At the same time, the states moved toward developing comprehensive planning procedures at both the state and local levels to guarantee that growth is in conformance with state and local goals and objectives.

* Three states moved toward the development of comprehensive statewide land use plans, varying degrees of local planning were mandated by 12 states, and seven states expanded the capacity of local governments to meet local environmental and land use plans.
* Seven states enacted laws to encourage the exploration for alternative energy sources while controlling such exploration to protect the environment, and four granted tax breaks for converting to solar energy heating and cooling systems.
* Fourteen states adopted controls on strip mining, and four enacted restrictions on the siting of power plants.

This report summarizes these and other actions taken in 1975 to help state governments cope with the economy, protect the environment, and meet the challenges presented by the many other problems of the year.

STATE GOVERNMENT MODERNIZATION

Since the mid-1960's there has been a dramatic movement toward modernizing and restructuring state governments to make them more manageable and responsive to citizen needs. Among those changes are strengthening the governor by reorganizing the state executive departments and allowing him to succeed himself, strengthening the state legislature by holding annual sessions and by providing staff on a year-round basis, and reorganizing the judicial system into a unified court system and by providing for merit selection of judges.

By the beginning of 1975, 42 states had a four-year term for the governor, 35 provided for annual sessions of the legislature, and 38 had key elements of an integrated judiciary. Perhaps because of the flurry of activity in this area in recent years, such action seems to have tapered off in 1975. Only two states went through complete reorganizations of the executive branch. By contrast, 16 states enacted legislation which reorganized specific agencies or departments. Two more states adopted a constitutional article providing for annual legislative sessions.

Perhaps as a complement to the U.S. Congress' reasserting itself to regain powers abdicated to the Presidency in recent years, so, too, have state legislatures moved to strength-

en their role as an equal partner in government. In 1975, two more states adopted measures to allow the legislature to call itself into special session. Previously, only the governor could convene a special session. Two more states established veto sessions — a short session following adjournment at which the legislature reconsiders all measures vetoed or pocket vetoed by the governor. Two legislatures enacted measures requiring fiscal impact statements to be attached to certain types of bills. And growing out of increasing concern over what many have called executive branch law-making — regulations adopted by administrative agencies which may sometimes go contrary to legislative intent — three states adopted provisions which give the legislature the power to review and overturn administrative rules and regulations.

On June 10, **Alabama** voters approved a constitutional amendment providing for annual sessions of the state legislature. Sessions will begin in May of each year and will be limited to 30 days. However, the new constitutional article specifies that its provisions may be changed by statute. Thus, longer annual sessions may become possible without having to go the lengthy route of obtaining a constitutional amendment.

The **Alaska** Legislature created an office of ombudsman to help citizens in their complaints with the state government (Chap. 32). Another act (Chap. 207) dissolved the Department of Economic Development and Planning and created the Department of Commerce and Economic Development to replace it. The new department was given additional duties and functions.

Several 1975 enactments will serve to strengthen the role of the legislature in **Alaska.** Chapter 82 added some additional executive appointments, including deputy heads of principal agencies, which will be subject to legislative confirmation. The Administrative Regulation Review Committee was established as a permanent interim committee of the legislature "to examine all administrative regulations to determine if they properly implement legislative intent [and] to make recommendations for legislative annulment of administrative regulations" (SB 55). Veto sessions are now also required in Alaska. The law (HB 164) provides that any bill which is vetoed after the legislature has adjourned shall be reconsidered no later than the fifth day of the next regular or special session. To streamline the legislative process, members of the legislature are now permitted to prefile resolutions as well as bills (SB 58).

Arkansas created several new agencies to deal with problems facing the state. New agencies were established for health planning (Act 588), emergency medical services (Act 435), and poison control (Act 600). Act 278 was passed, creating the Planning Office in the Office of the Governor. The new office will have a Local Services Department which will be empowered to exercise the state's responsibility for certain federal programs. The act also created the Local Services Advisory Council consisting of 16 members from cities of various populations and selected municipal organizations. The council was created to represent citizens' interests at the state level.

The **Arkansas** Legislature also passed an act (SB 162) calling a constitutional convention which was to meet and submit a new constitution to the voters at a special election on September 13. However, on May 27, two days before the convention was scheduled to convene, the state supreme court voided the convention on the grounds that the limits placed on the convention by the legislature violated the state constitutional provision that "all political power is inherent in the people." The act calling the constitutional convention had provided that certain controversial sections of the constitution, including the new local government article approved in 1974, could not be changed by the convention.

In a reorganization predicted to save the state $70,000 to $200,000 per year, **California** Governor Edmund G. Brown, Jr., issued an executive order consolidating the Division of Labor Law Enforcement and the Division of Industrial Welfare into the new Division of Labor Standards within the Department of Industrial Relations. The consolidation is aimed at improving the effectiveness of the department and benefitting workers whose working conditions and wages are not protected by a union contract.

Colorado created a state officials' com-

pensation commission in the legislative branch as one of the service offices of the General Assembly (SB 169). The commission is to report to the legislature at the start of the 1976 session and to each subsequent odd-year session recommending salaries and other benefits for members of the legislature, judiciary, district attorneys, and executive branch officials who are not in the state personnel system.

In an effort to determine the performance of state programs, state auditors in **Connecticut** were directed in 1975 to conduct program effectiveness audits in addition to the financial audits which they had previously performed.

The **Delaware** Legislature enacted three legislative reform measures. Under the provisions of one of the new laws (HB 163) any bill which requires expenditures of state funds must have a fiscal projection for three years attached by the sponsor prior to the bill's consideration by a committee. The constitutional limitation on General Assembly members' salaries was stricken (SB 17 and HB 322). In the future, salaries will be set by statute. In an effort to perform an educational function and to enhance the expertise of the staff, the legislature accepted an offer made by the Delaware Law School to provide students to assist the legislature and its various committees in legal research.

In an executive branch reorganization, **Delaware** established the new Department of Corrections. In creating the new department, juvenile and adult corrections were removed from the Department of Health and Social Services and placed under the new department. The new agency has all of the powers and responsibilities of the previous Division of Corrections and the Youth Services Commission. The act also created the Advisory Council on Corrections to be appointed by the governor.

A new law permits the governor of **Florida** to assign the lieutenant governor, without Senate confirmation, to serve as the head of any one cabinet level department (HB 1975). The state also enacted some executive branch reorganization measures. SB 165 reorganized the Department of Health and Rehabilitative Services to insure the maximum integration of client services, to eliminate duplication of services, and to decentralize service delivery by creating common districts for all departmental programs. Three state departments and boards, the Department of Natural Resources, the Department of Pollution Control, and the Board of Trustees of Internal Improvement Trust Fund, were reorganized into two new departments: the Department of Environmental Regulation and the Department of Natural Resources (SB 123). And SB 169 created the new Department of Offender Rehabilitation comprised of the old Division of Corrections of the Department of Health and Rehabilitative Services, and the field staff and other services and resources of the Parole and Probation Commission. The intent of the reorganization is that the new department integrate the delivery of all offender rehabilitation and incarceration services deemed necessary for the rehabilitation of offenders and the protection of society.

Hawaii created a government organization commission to develop a plan or organization to improve the effectiveness of state and county government (HB 161). The commission is to report its findings and recommendations to the legislature in 1977. See the case study. Another 1975 law (HB 1870) reorganized the State Land Use Commission as a nine-member, quasi-judicial body. Its planning function was transferred to the Department of Planning and Economic Development.

In June, Governor Cecil D. Andrus issued executive orders eliminating the **Idaho** Human Resources Development Council and the State Department of Special Services. The essential services provided by each agency will be continued in a more efficient manner within other existing agencies and departments. The governor also dissolved the Idaho Energy Council which had been created in 1974. In dissolving the council and transferring the Office on Energy from the jurisdiction of the Energy Council to the Public Utilities Commission, Governor Andrus said that "citizens can best be served by consolidating those governmental entities which deal with energy problems, thus providing increased efficiency and accountability."

In order to promote adequate review of

existing programs the **Illinois** Legislature enacted a law (HB 612) which requires the eight social service agencies of the state government to issue annual plans detailing their accomplishments for the last year, their objectives for the coming year, and their long-term goals for a three-year period. The planning activities are to be coordinated by the Bureau of the Budget. The information in the plans must include program objectives, the cost of providing various services, the organization of the agency, the impact of federal programs and laws on the delivery of services, recommendations on needs that are not being filled, and an outline of the population served by the agency.

Kansas reorganized the state executive branch by merging several state agencies and by creating some new ones. Shortly after taking office in January, Governor Robert Bennett issued seven executive orders to reorganize the Offices of State Insurance Commissioner and State Treasurer, the Department of Economic Development, the Director of Economic Development, and the Economic Development Commission. The new cabinet level Department of Economic Development was created. The reorganized department will be composed of five divisions (development, research and publications, planning and community development, housing, and minority business enterprises) and an advisory commission.

The office of state auditor was ended in **Kansas** in January. A phase-out of the office had begun in 1971 when the legislature created the Legislative Post Audit Committee to audit the performance and expenditures of state agencies. The remainder of the auditor's duties were assigned to the state treasurer, the secretary of state, and the Department of Administration. The legislature also enacted a law to specifically provide that no bill ever be pocket vetoed. The enactment (HB 2031) stipulates that any law not signed by the governor automatically becomes a law, and that any adjournment resolution by the legislature must include provisions for the calling of a veto session.

Kentucky has a new Department of Energy responsible for energy conservation, allocation and management, planning, and resource development. The department was created by executive order. Governor Julian M. Carroll

Case Study

Hawaii Searches for More Effective Government Organization

Act 148 of the 1975 Hawaii Legislature created the State Government Organization Commission, a 12-member body charged with developing a plan of organization to improve the effectiveness of state and county government in Hawaii. The commission's report, including legislative recommendations, is to be submitted to the 1977 session of the legislature.

The subjects specifically earmarked for the commission to study include:

1) the definition and limitation of administrative responsibilities, services, activities, and functions of all state and county agencies;
2) the organization and distribution of all state and county financial powers, functions, and responsibilities;
3) ways to eliminate duplication and overlapping of services, activities, and functions; and
4) the consolidation of services, activities, and functions of a similar nature.

Representatives of business, state government, and organized labor were appointed to the commission. To insure comprehensiveness the commission was given subpoena powers and the power to examine all government records.

also issued a directive abolishing all government forms effective July 1, 1976. The interim time is to be used to review the 20,000 different state forms in order to weed out the unnecessary ones.

The **Louisiana** Legislature now has the power to call itself into special session (SB 18). SB 17 provides for veto sessions of the legislature unless a majority of either house declares the session to be unnecessary. The Compensation Review Commission was created (HB 1349) to study and review the state's laws pertaining to the salaries of state, parish, and district elected officials, members of the legislature, judges, and unclassified state employees. The commission is to make recommendations regarding equitable compensation and benefits and report its findings to the legislature each odd-numbered year.

Louisiana enacted the article of the 1974 constitution requiring a reorganization of the state government. The legislature approved the governor's reorganization plan (HB 1000) which transferred all existing executive branch agencies into 19 new departments, exclusive of the offices of governor and lieutenant governor. Secretaries of the new departments must be appointed by the governor in January, 1976.

Maine created the Office of Advocacy for the Department of Mental Health and Corrections (Chap. 507) to investigate claims and grievances of clients of the department and to assure state institution and agency compliance with applicable laws, rules, and administrative regulations relating to the rights and dignity of the department's clients. At the elections held in November, the voters also approved several revisions in the state constitution which were written to help modernize the state government. See the case study for details on those measures.

The Office on Aging and a Commission on Aging were created in 1975 by the **Maryland** Legislature (HB 485). HB 965 was also enacted to permit the prefiling of legislative bills during years in which elections for members of the legislature are held.

The Office of Legislative Ombudsman was created by the passage of SB 234 in **Michigan.** The ombudsman will have the authority to investigate, either upon receipt of a complaint or upon its own initiative, any act of the department or of an individual that is contrary to law, departmental policy, accompanied by inadequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds. The office, after conducting such investigations, will prepare a report with recommendations to be submitted to the Legislative Council.

Nebraska legislators approved three constitutional amendments to be submitted to the voters in November, 1976. LB 12CA would change the date when the legislature meets following an election from January to December. LB 17CA would give the legislature the power to override the governor's line item veto of appropriations bills by allowing the legislature to consider in whole or in part the items disapproved or reduced by the governor. The proposed amendment would maintain the requirement for a 3/5 majority of the legislature to override or revise the governor's action. LB 119CA would remove the lieutenant governor as the presiding officer of the legislature. The amendment would also eliminate the constitutional provision that the lieutenant governor may vote to break a tie in the legislature.

Bills having a financial impact on local governments must now have fiscal notes attached before being filed in the **Nevada** Legislature (AB 250). In addition, a constitutional amendment to permit the legislature to provide for a consent calendar was approved for submission to the electorate in 1976.

The new Office of Commissioner of Health and Welfare, to be appointed by the governor, was created in **New Hampshire.** Governor Meldrim Thomson, Jr., also appointed a committee to study the reorganization of the state government. The committee's report, due during the early part of 1976, is to contain recommendations on how to reduce future government costs. In announcing the creation of the committee, the governor stressed that no layoffs were contemplated, that the objective of the study is to cut red tape in the state government.

The legislature approved two amendments to the **New Mexico** constitution which will be on the ballot in November, 1976. CA 4 would

Case Study

Maine Voters Approve State Government Modernization Constitutional Amendment

On November 5, the voters of Maine approved four amendments to the state constitution. The new amendments address such questions as annual legislative sessions, reapportionment procedures, gubernatorial disability in office, and increased powers of the governor through the abolition of the Executive Council.

Constitutional Resolution Chapter 1 replaced the current 11 multi-member, state House of Representatives districts with 44 single-member districts. In addition, it established procedures to be followed every ten years to reapportion the legislature to meet the requirements of the one man-one vote decisions of the courts. A reapportionment commission must be created within the first three calendar days of the convening of a legislature which is required to reapportion. The commission will be made up of three members of the majority party of the House, appointed by the speaker; three members of the minority party of the House, appointed by their floor leader; two members of the majority party of the Senate, appointed by the president of the Senate; two members of the minority party of the Senate, appointed by their floor leader; the chairperson for each of the two major political parties in the state; and three members from the general public. The commission must submit an apportionment plan to the secretary of the Senate within 90 days. The legislature may enact that plan or a plan of its own by a two-thirds vote of each house. Legislative action must take place within 30 days after the submission of the plan by the commission. If the legislature fails to act, the supreme court must, within 60 days, draw up a plan. In addition, the supreme court was given original jurisdiction to hear any challenge to an apportionment law. If any challenge is upheld, the court draws up a new plan.

According to Constitutional Resolution Chapter 3, if, because of mental or physical disability, the governor cannot continue his job, the president of the Senate assumes authority until the gov-

repeal the constitutional provision requiring an elected state board of education and would provide instead for a nine-member board appointed by the governor. CA 2 would allow elected state officials, including the governor, to serve two consecutive four-year terms. Those officials were limited to two consecutive two-year terms until a 1970 amendment was passed allowing one four-year term.

Two state departments were reorganized in **New York** in 1975. In September, Governor Hugh L. Carey announced that the Department of Mental Hygiene would be reorganized to improve the delivery of services to those with mental disorders and other disabilities. Major features of the reorganized department include the creation of the Office of Social Rehabilitation which will direct the department's efforts to move persons out of institutions and into community-based programs; the creation of the Division of Internal Management to aid the commissioner of mental hygiene in developing plans, evaluating operations, and allocating resources; and a reduction of central office staff and an increase in the regional field staffs to enable the department to respond more effectively to area needs. Another 1975 law restructured the State Commission on Corrections and gave it expanded powers to set and enforce jail and prison standards statewide.

New York voters in November approved a constitutional amendment to permit the legislature to call itself into special session.

North Carolina completed the final reorganization of the state government, as mandated by a recent constitutional amendment, with the restructuring of the Departments of Administration (HB 1247), Commerce (HB 1035), and Transportation (HB 1194).

ernor has recovered. The governor may certify his disability in writing to the chief justice of the supreme court. If the governor has a mental or physical disability and fails to notify the chief justice himself, the secretary may notify the supreme court, stating his reasons. After giving notice to the governor, the court will hold a hearing. If a majority decides that the governor is unable to carry out his duties, the president of the Senate assumes authority until the recovery of the governor. If a governor has been continuously unable to discharge his duties for a period of six months, the legislature may, by a joint resolution approved by a two-thirds vote of both houses, petition the supreme court to declare the office vacant. At that time, the president of the Senate takes over as governor. In all of these procedures, the speaker of the House is the next in line should the office of president of the Senate be vacant.

Constitutional Resolution Chapter 4 abolished the Executive Council, a 155-year-old body, chosen by the legislature, with the power to confirm appointments to state offices. The power of appointment was given to the governor. The action by Maine leaves only New Hampshire and Massachusetts with executive councils, a vestige of the revolutionary period. The councils were built into early New England state governments when the founding fathers feared that an elected governor might be able to exercise tyrannical power in the same manner that the royal governors had. Modern day critics have cited that the council unnecessarily ties the hands of the governor, particularly when the legislature and the governor are controlled by different political parties.

Constitutional Resolution Chapter 5 was overwhelmingly approved by the voters to switch from biennial to annual sessions of the state legislature. The amendment requires that "appropriate statutory limits on the length" of each session be provided. The second session must be limited to budgetary matters, legislation in the governor's call, emergency legislation, bills which the first session referred to committees for study and report, or legislation presented to the legislature by petition of the voters through the initiative process.

On July 22, **Oklahoma** voters approved all eight questions which were submitted to them on the ballot. The reorganizations and changes in the structure of state government which were approved were: the elimination of the Office of Commissioner of Charities; the merging of the Offices of State Auditor and Examiner and Inspector; the change from election to appointment of the secretary of state, labor commissioner, and chief mine inspector; the replacement of some of those officials on various state boards and commissions; and the strengthening of the *State Budget-Balancing Amendment.*

The Division of Planning and Management Analysis was created in the **Oklahoma** governor's office (SB 58). The division is to provide technical assistance to the governor and the legislature in identifying the state's long-range goals and objectives and to assist state agencies in accomplishing any such approved goals.

Two other reorganization measures were adopted by the **Oklahoma** Legislature. The Office of Community Affairs and Planning, Division of Economic Opportunity, and State Manpower Planning Division were combined to create the new Department of Economic and Community Affairs (SB 187). The Special Commission on the Reorganization of State Government was created (SB 118) to study the organization, management, and operation of state government. The act requires the commission to submit recommendations to the governor, who may implement them by executive order unless either house of the legislature rejects them within 45 days of the convening of the next legislative session. The commission is further directed to submit recommendations for the amendment of the state

constitution.

To strengthen its own oversight role, the **Oklahoma** Legislature passed a bill (HB 1235) which permits either house of the legislature, by simple resolution, to disapprove rules and regulations promulgated by state agencies.

The **Pennsylvania** Revenue Department was reorganized to eliminate duplications of effort. It is estimated that the reorganization will save the state $60 million over the next five years. Another reorganization predicted to result in savings of up to $14 million per year created the new Department of General Services by merging the Department of Property and Supplies and the General State Authority (SB 360).

On May 20, **Pennsylvania** voters approved a constitutional amendment which requires the governor to fill vacancies promptly. Senate action on confirmation of gubernatorial appointments is required within 25 legislative days. The amendment also eliminated the use of the interim appointment to fill vacancies without Senate confirmation.

Rhode Island extended the time limit for approval or rejection of the governor's appointments from three to 12 days. If the Senate does not act within 12 days, the appointment is automatically confirmed.

A constitutional amendment which would help **South Carolina** citizens decide how to vote on constitutional amendments (S 34CA) will be submitted to the voters. The amendment would require that when the people are called upon to vote on constitutional amendments, a non-technical explanation of the proposed amendment must be on the ballot.

State agencies in **South Dakota** must now attach fiscal notes to proposed agency rules (HB 564). The legislature also approved several constitutional amendments for the 1976 ballot. Among the proposed changes are: creation of new state boards for elementary and secondary and higher education (Chap. 610); change of the length and dates of legislative sessions (Chap. 611); and other minor legislative changes (Chaps. 613, 614).

Tennessee acted to provide greater legislative oversight by giving legislative committees the power to reverse objectionable rules and regulations formulated by state agencies.

The **Texas** Legislature passed an act (HB 1172) which requires the governor to create within his office a division of planning coordination with the function of coordinating the activities of interagency planning councils and serving as the clearinghouse for applications by state agencies for grants or loans from agencies of the federal government. In November the voters overwhelmingly rejected a proposed new state constitution. Among its provisions were articles establishing annual sessions of the legislature, reorganizing the executive branch, creating a unified court system, and granting home rule to counties.

Utah (HB 140) merged the Offices of Lieutenant Governor and Secretary of State. Another act (HB 226) extended the Constitutional Revision Study Commission for an additional two years. The commission is to finish its work by July 1, 1977. The Legislative Management Committee was created to replace the Legislative Council. That new law also created separate management committees for the Senate and House and established interim legislative study committees.

Virginia enacted two reorganization measures. The functions of the Department of Welfare and Institutions were split by creating a separate Department of Corrections with its own policy board and director. SB 798 combined the positions of secretary of administration and secretary of finance into the new position of secretary of administration and finance. The secretary is also to serve as deputy budget officer and deputy personnel officer. Another 1975 act (HB 1776) requires that the comptroller and the auditor of public accounts, with the advice of the Joint Legislative Audit and Review Commission, develop a uniform bookkeeping system for state and local governments.

The **Wisconsin** Department of Health and Social Services was reorganized and converted to a cabinet agency. In announcing the reorganization plan, Governor Patrick Lucey said it was needed "not because [the department] is mismanaged but rather because it has become unmanageable." The reorganization is designed to make the department more responsive to local community programs and to better address individual needs while eliminating waste and overlap.

LOCAL GOVERNMENT MODERNIZATION

Recent years have seen a proliferation of special districts and considerable duplication of effort by local governments — wastes that could be at least partially eliminated if local governments were "modernized." In a 1974 report, *Substate Regionalism and the Federal System,* the Advisory Commission on Intergovernmental Relations made a series of recommendations for modernizing local governments. Briefly, those recommendations call for broad home rule powers to be granted to local governments, and for local governments to be given statutory authority to determine their own structure, to restructure themselves, to consolidate with other local governments, or to jointly provide government services with neighboring jurisdictions.

States continued to act on such matters in 1975 at about the same pace as in 1974. Two states extended home rule powers to their county governments, and two others were conducting major statewide studies of the structure and organization of their local governments. Three states enacted measures to lengthen the amount of time a charter study commission has to conduct its study. During 1974, only one of five local government consolidation proposals passed, while 1975 saw two consolidation successes out of three at-

Case Study

Montana Voter Review Program Looks at Local Government Forms and Functions

The 1972 Montana Constitution provided that all cities, counties, and incorporated towns must examine alternative structures for their governments at least once every ten years. That process began in 1974 and is continuing.

The 1974 session of the legislature created the State Commission on Local Government and set up the procedures for establishing local government study commissions in the state's 126 cities and 56 counties. In November, 1974, citizens elected the members of the study commissions.

This year, the legislature established a detailed procedure for those commissions to follow, and a timetable for the remainder of the review process was set up. At least one public hearing had to be held in each affected city or county to gather information by October 1, 1975. A tentative report and at least one hearing on the report must be held before June 1, 1976. By August 1, 1976, a final report must have been approved by a majority of the commission. The alternate form of government must be voted on by the general electorate by November 2, 1976. Any new forms of government which are adopted will become effective on May 2, 1977.

The legislature created five optional forms of government which localities may adopt. The commission-executive form has an elected commission to perform the legislative function of the locality, and an executive (mayor) responsible for administering the laws. The commission-manager form consists of an elected legislative council which hires a professional manager to administer its policies. The commission form combines the rule-making and administrative functions in a single elected board. The commission-chairman form of government has an elected legislative body which chooses one of its members to be a chairman responsible for administration. The fifth form, available to cities and towns with a population of less than 2,000, is the town meeting in which all qualified voters meet in an assembly at least once a year. The assembly is the legislative body, and it elects one of its members to be town chairman to administer policies.

A sixth major option is available. If none of the five forms fits, the city,

tempts. And, in order to promote more effective communication and coordination between state and local governments, five states established intergovernmental relations councils.

In addition to those general, structural measures, several actions were taken to rationalize the delivery of government services by promoting or permitting interlocal cooperation for those functions. State actions which address specific functional areas are found in the other chapters of this report if they are not included in this chapter.

Alaska Chapter 29 lowered from ⅔ to ½ the percentage required to approve a merger or consolidation of local government corporations if each corporation was organized under the *Alaska Native Claims Settlement Act,* or resulted from prior merger or consolidation of similarly organized corporations. A borough (county) and a city may agree to contract with a city manager to serve both as borough manager and city manager (SB 29).

At an **Alaska** election on September 9, voters approved by about 60 percent the creation of a metropolitan government in the Anchorage area, creating the Municipality of Anchorage. The manager of the municipality wrote of the merger, "I know of no precedence in the United States in terms of the scale and totality of the merger. There is now one government — no city, no borough, no county,

town, or county (or a combination of those units) may design its own charter selecting the governmental powers and structures which best fit the special needs of the area. This option gives municipalities and counties even greater freedom to choose a form of government that fits local conditions.

The legislature also prescribed a series of sub-options under each optional form of government. Each local government may choose between general government and self-government powers. General government powers give the local government any power granted by the legislature, while self-government powers (or home rule, residual powers) grant the local government any power not prohibited by its charter, or by the state constitution or laws. Only the commission form cannot choose self-government powers. Charter forms are required to adopt self-government powers.

Also among the sub-options are opportunities for areawide organization of local governments. A county and one or more cities and towns within the county may consolidate, or two or more contiguous counties and any city or town within those counties may consolidate and form a single unit of government. A county and any town or city in that county may also form a county-municipality confederation. That form of organization is a partial consolidation but the separate units retain their individual identities. Under the confederation form, government functions are to be assigned by the charter — with the county providing areawide services and cities and towns providing local services. The confederation charter may create separate legislative and administrative offices, or a joint legislative body and a single executive may be established for the confederated unit of government.

Service consolidations or transfers are also permitted between or among towns, cities, and counties. The commissions of the affected jurisdictions must get together and formulate separate plans for each such arrangement.

Finally, the option of disincorporation was created. If a city or town cannot carry out its functions, it may choose to go out of business, in which case the county assumes all the legislative and administrative functions of the former municipal government.

This Bicentennial Year the Montana Voter Review Project fulfills an idea proposed by Thomas Jefferson — that current generations should judge the form of government they have inherited.

just the Municipality of Anchorage. It embraces about 180,000 people and includes some 1,900 square miles. The population by conservative estimates is expected to double in about ten years."

Colorado SB 68 was enacted to increase the time limit from 180 to 240 days in which a charter commission may present to the board of county commissioners a proposed charter for county home rule.

A **Connecticut** law (HB 5422) gives a charter commission 18 months to prepare and submit a proposed charter. Previous law allowed one year to complete the task. HB 8059 similarly extends the deadline for the submission of a consolidation ordinance to the town electorate after the appointment of a consolidation commission. HB 6173 requires that any home rule charter become effective 30 days after approval by the electorate when no effective date is specified in the charter. And HB 5769 lowered, from 80,000 to 35,000, the minimum population of those municipalities which may establish special service districts.

A **Delaware** enactment (HB 470) provides that the legislature, by a ⅔ vote, as well as the citizens of the municipality, may amend the charter of a town or city incorporated under the home rule statute.

Florida Governor Reubin Askew established, by executive order, the Florida For-

mposed of the state's two U.S. Sena- d two members of the House delega- tate legislative and executive branch s, mayors, and county officials. The is to meet regularly to determine the t of federal and state programs on local nments.

orgia Governor George Busbee issued ecutive order establishing the Georgia overnmental Relations Council. The gov- serves as the chairman of the council was created "to serve as a forum for unication, especially on matters that traditionally been a source of conflict en the state and local governments."

Hawaii Legislature created a reorgan- n commission to develop a plan of or- ation for improved efficiency and ef- eness of state and county governments. he case study in the "State Government rnization" chapter for details on the ission's mandate.

iana counties were granted limited home rule powers (HB 1343). Powers may be exercised by counties if not pre-empted by law or if the power is not already vested by law in a city, county, or state entity, special purpose district, or municipal or school corporation.

Kansas SB 451 authorizes any county which has been declared to be an urban area (thus limiting it to only Johnson County) to adopt a charter. The charter is to provide for the exercise of powers of local legislation and administration. A charter commission was established to draft the charter which will be submitted to the voters for approval. The commission will be made up of one member appointed by each county commissioner, one by the central committee of each political party, one by the council of mayors of the incorporated cities in the county, and one appointed by each member of the legislative delegation from the county. Two areas were added to activities that may be engaged in under the interlocal cooperation law. HB 2381

ase Study

Las Vegas and Clark County, Nevada, Shift to Metropolitan Government

The 1975 Nevada Legislature man- dated a consolidation of Las Vegas and Clark County. Four studies of the prob- ems associated with urbanization in the Las Vegas Valley have been conducted since 1968. All four reports found that he creation of a single government would be the most efficient and rational approach to cope with growth in the val- ey. All four of the reports found that savings would result from eliminating nu- merous overlapping or duplicative serv- ices, from the benefits of coordinated planning for future growth, and from an increased government accountability. The problem faced by the legislature was to decide what legal device was both the most appropriate and the most acceptable means of accomplishing greater governmental unity in the area which is essentially a single urban area.

The legislature created an 11-member county commission. Eight of the county commissioners will also serve as the city commission. The present 22 state Assembly districts in the county were used as the foundation for apportioning the commission. Sixteen of the 22 districts are totally or predominantly within the new city boundaries, and the eight county commissioners who will also be city commissioners will be elected from those districts. A mayor of Las Vegas will be elected at-large from within the city boundaries. A county-city manager or administrator will be the chief administrative officer. The county commission will elect its own chairman, and the mayor of Las Vegas will have no active role in that body.

The reason for taking this approach was that governance and planning for most of the area could be brought under

adds educational services, and SB 419 adds weather modification. Weather modification activities may be exercised jointly by public or public and private agencies. And SB 543 abolished the Kansas Advisory Council on Intergovernmental Relations.

Massachusetts Governor Michael Dukakis created the Local Government Advisory Committee composed of mayors, selectmen, councilmen, and managers to provide a vehicle to improve communications between state and local government officials. In creating the committee, the governor said that he hoped the panel would help "bridge the gap between town hall and the state house" and that "all municipal officials . . . consider the panel their advocate in the governor's office."

The **Michigan** Council on Intergovernmental Relations was formed by the Michigan Association of Counties, the Michigan Association of Regions, the Michigan Municipal League, the Michigan Townships Association, and the state Office of Intergovernmental Relations "to serve as a forum for the discussion and coordinated action on mutual problems." Topics to be considered by the council are the renewal of federal revenue sharing, the coordination of local government training programs, procedures for conducting the 1980 census, and the establishment of joint relations with the Chicago Federal Regional Council.

The **Minnesota** Legislature (SB 583) authorized all townships to adopt one of three optional forms of government following approval by the electors at an annual township meeting. The forms are: (a) a five-member township board; (b) an administrator who would be hired to handle non-discretionary, ministerial duties; and (c) the appointment rather than election of the township clerk and treasurer. The act also authorized townships exercising the powers of a statutory city to combine the offices of clerk and treasurer following approval of the electors at an annual meeting. The law stipulates that only one

---

nearly unified control if the county and city commissions were largely identical. Both the county and the city will continue to exist, and each will have its own governing body. However, because of the overlapping, dual membership, the potential for coordinated planning, the elimination of duplication of government services, and an increase in the ability of citizens to fix responsibility have been greatly strengthened.

Because of its concern that the new government be readily accessible to citizens, the legislature provided for every two Assembly districts to have a five-member advisory council. The citizens advisory councils will be selected by the county commission from lists of nominees. The advisory groups will have similar functions to those of existing town boards in unincorporated towns (subordinate service areas).

The act also lists those services and functions which each unit of government is to perform. Clark County will provide airports, hospitals, juvenile institutions, countywide general planning, mass transportation, and regional sewage collection and treatment. The City of Las Vegas will administer community development block grants and provide fire protection, parking facilities, and parking meters. Joint city-county departments under the administrator or manager will be responsible for building inspection and code enforcement; finance; licensing of businesses, trades, and occupations, liquor and gaming control; automotive services; personnel; purchasing; public works and engineering; parks and recreation; solid waste; and planning and zoning. Any service or function not assigned by the act may be performed by the county, the city, or by joint city-county departments.

This approach to metropolitan consolidation — overlapping city and county governing bodies — is not entirely new. Baton Rouge and East Baton Rouge, Louisiana, have been operating under such a system since 1949. Both the Nevada and Louisiana metropolitan areas have comparable populations.

---

on may be submitted at an annual meet- and establishes procedures for the adop- of, and transition to, optional plans as as for the abandonment of optional plans eturn to the standard form of township ernment.

lissouri cities and counties may combine orm regional port authorities with the ap- /al of the State Transportation Commis- .

he **Montana** Legislature established al- ate forms of government for cities, towns, nties, and consolidated governments (HB), and established the powers and limita- s on local government units which adopt self-government powers authorized by Montana Constitution. HB 177 provides procedures for the submission to the voters by a local government study commission of alternative local government forms; provides procedures for consolidating city and county services; establishes a timetable for study commissions; and provides transition schedules when new forms of local government are adopted. And HB 230 assures tenure for firemen upon the consolidation or disincorporation of a city or town. These actions were anticipatory of the completion of the work of the 182 local study commissions which were working throughout the state during the year. See the case study.

Montana also enacted a statute (HB 76) which permits existing county, city-county, or city planning boards to join with other such boards to form a joint or consolidated planning board.

Nevada enacted the *Metropolitan Cities Incorporation Law* and the *Urban County Law* (SB 601) mandating the consolidation of the City of Las Vegas and Clark County. See the case study for details.

The voters of **New Mexico** will vote in 1976 on a constitutional amendment which would remove the two-term limitation on all county officers except those in Class A counties (CA 1). An amendment approved in 1974 provided for four-year terms for county officers in Class A counties.

North Dakota cities were given the authority to extend their planning and zoning outside the city boundaries (SB 2395). Cities of less than 5,000 may extend the boundaries one-half mile, and one member of the zoning commission must be from outside the city limits; cities between 5,000 and 25,000 may extend planning and zoning to one mile outside the city boundaries with two rural members on the zoning commission; and cities over 25,000 may extend planning and zoning boundaries two miles outside the city if three rural members are appointed to the zoning commission.

The **Pennsylvania** Intergovernmental Council was established in 1975. At its first annual session, Governor Shapp said that the "council was established to foster effective intergovernmental communication, distribution of information pertinent and related to that goal, as well as to encourage participation among the various levels of government in matters of similar interest."

A **South Carolina** *Home Rule Act* (SB 18) consists of two major parts: a municipal section and a county section. Each part provides for the selection of an optional form of government, determines the structure of the various optional government forms, and describes the powers and duties of local government bodies. Counties are required to select a form of government by referendum prior to July 1, 1976, or automatically have a form preselected for each county in the act. The act allows voters to petition for a referendum on a change of form of government. The legislature also approved a constitutional amendment for the ballot which would restore clerks of court, coroners, sheriffs, and solicitors to the status of elected constitutional officials (SB 77CA). The officers named in the amendment had been deleted as elected officers in a previous amendment.

The lieutenant governor and the speaker of the House were added as *ex officio* members of the **Texas** Advisory Commission on Intergovernmental Relations.

Utah SB 321 implemented the constitutional article authorizing counties, cities, and towns to establish special service districts. The act provides for the governance of the districts by a governing body having general legislative powers in the county, city, or town; and outlines the powers and duties of the districts, including the services to be performed (water, sewerage, drainage, flood control, garbage, hospital, transportation, recreation, or

fire protection). The law also provides for the discontinuance and dissolution of the districts, the issuing of bonds, and means for existing districts to become special service districts.

Utah also enacted an *Optional Forms of Municipal Government Act* (SB 179). The act provides three optional forms of government for cities and towns: council-mayor; council-mayor-chief administrative officer; and council-manager. A new form of government may be proposed by resolution of the governing body or by initiative petition. The proposed form of government must be voted on at a special election.

In addition, the **Utah** Legislature provided for the creation of a uniform system of budgeting, accounting, and reporting for counties. The act will be administered by the state auditor's office with the assistance of an advisory council. HB 116 allows a study commission 18 months to submit its final report. The act also provides for a new optional form of county government, known as the consolidated city and county. A proposed consolidation of Salt Lake City and County was defeated by the voters in March.

Wisconsin Governor Patrick Lucey acted to strengthen local participation in planning by expanding the influence of county boards in determining the members of regional planning commissions. The governor offered his proxy to appoint commission members to the county boards in each of the 65 counties that are members of regional planning bodies.

In a significant local action, the Metropolitan Study Commission in King County, **Washington,** issued a report calling for a new county charter and for an improvement and rationalization of the county government through a substantial change in the present government structure. The recommended government concept would be a two-tiered structure: the present city and town governments plus new, elected governments for urban service areas and rural service areas; and an areawide government to provide those services now performed by the county. An areawide council would be composed of the first-tier elected officials and directly elected representatives. The chairperson would be appointed by the areawide council, and an appointed chief administrative officer would carry out the council's policies.

STATE FISCAL ACTIONS

In the realm of state fiscal action, 1975 might best be characterized as a year of reaction; a period when all states were reacting to the national economic condition, to the attempts of the federal government to alleviate both the recession and the inflation, and to the growing concern, nourished at least in part by the recession, about the productivity of all levels of government. While 1974 was a year of relative fiscal ease for state governments and while that trend largely continued in the first half of 1975, by the latter months of 1975 more and more states were facing impending deficits that required a reaction: raising taxes or cutting expenditures.

Many individuals point to the national economic condition as an explanation for the state fiscal situation in 1975. Real GNP fell sharply — at an 11.5 percent annual rate — in the first quarter of 1975, much beyond any estimates of the likely size of the recession. Recovery in the last half of the year was gradual but not spectacular. During 1975, unemployment remained between 8.2 percent and 9.2 percent. These factors have obvious implications for state finances. Since such a large decline in economic growth was not anticipated, state revenues were often overestimated. At the same time, higher than anticipated unemployment was swelling state

Table 1

State - Local Taxes and Expenditures:[1] Fiscal Years 1971-75

Fiscal Year	State-Local Taxes (millions)	Percent Change Over Previous Fiscal Year	State Only Taxes (millions)	Percent Change Over Previous Fiscal Year	State-Local Expenditures[2] (millions)	Percent Change Over Previous Fiscal Year
1971	$ 94,279	7.0%	$ 50,974	6.6%	$141,675	13.7%
1972	108,570	15.2	59,940	17.6	154,525	9.1
1973	119,508	10.1	67,689	13.0	173,775	12.5
1974	130,126	8.9	73,966	9.3	194,900	12.2
1975	141,454	8.7	80,124	8.3	218,400	12.1

[1]Current dollars. [2]Including federal aid.

Source: U.S. Bureau of the Census, *Quarterly Summary of State and Local Tax Revenue*, various issues. *Survey of Current Business*, various issues.

public assistance budgets. Finally, the high inflation of 1974, though declining some now, remains a major factor in pushing state budgets higher even to maintain constant levels of service. These factors had a considerable impact on fiscal year 1975 budgets, but the effect on fiscal '76 budgets enacted in the spring and summer of the year appears to be more severe.

To end the story with this obvious explanation would be an error because there are additional forces in operation that must be recognized. Many of the reactions of previous years that one might expect in this fiscal condition have not been forthcoming. In contrast to the past, only 13 states have increased major taxes in response to this fiscal crunch. Rather, states are reacting by slowing the growth of their expenditures or even making absolute cuts in state spending. This form of reaction cannot be tied only to the national recession, but perhaps reflects a growing concern about government size, scope, and productivity. At a time of economic recession and the resulting uncertainty for individuals and families, it might be expected that taxpayers would desire to cut back or hold the line on government spending and taxes.

In ACIR's 1975 survey on public attitudes toward governments and taxes, over 70 percent of the respondents were against further increases in government services and the taxes that would be required to pay for them.[1]

It should however be borne in mind that strong general aversion to greater spending and taxes does not reveal public opinion on specific spending and tax proposals. It appears that many political officials — governors, legislators, mayors, and council members — perceive a political barrier to further tax increases. While the need for making hard economic choices is accentuated by the recession, the concern of individuals about high tax burdens is likely to continue and that political constraint will quickly become an economic constraint.

As one might expect from this overview of the 1975 situation, this has not been an attractive period for new state programs or for action on the tax reform and relief front. Still, 20 states have adopted or altered homestead property tax relief programs, and Michigan totally reformulated its taxation of business. Much more response to these budget strains occurred on the expenditure side of the fiscal picture. At least ten states have imposed spending restrictions or cutbacks to avoid potential deficits; new controls have been placed on the taxation and spending power of local governments; and, as a citizen reaction, state and local tax and debt referenda fared very poorly at the polls in 1975.

Finally, any review of state fiscal action in

Table 2

Changes in the Big Three State-Local Taxes:[1] Fiscal Years 1971-1975

Fiscal Year	Individual Income Tax (millions)	Percent Change Over Previous Fiscal Year	General Sales Tax (millions)	Percent Change Over Previous Fiscal Year	Property Tax (millions)	Percent Change Over Previous Fiscal Year
1971	$ 11,544	8.0%	$ 17,710	8.8%	$ 38,260	7.1%
1972	15,411	33.5	20,418	15.3	42,713	11.6
1973	17,977	16.6	22,884	12.1	45,302	6.1
1974	19,607	9.1	26,267	14.8	48,836	7.8
1975	21,782	11.1	29,075	10.7	51,792	6.0

[1]Current dollars.
Source: U.S. Bureau of the Census, *Quarterly Summary of State and Local Tax Revenue*, various issues.

1975 requires mention of the fiscal emergency in New York City, the attempts by New York State to assist itself and the city, and the implications of that crisis for all state and local governments.

Fiscal Overview

In fiscal year 1975, state tax collections exceeded $80 billion for the first time (see *Table 1)*. However, the growth in state taxes over the previous year, 8.3 percent, was the smallest it has been since fiscal year 1971 and continued the downward trend since that year. With an annual inflation rate of 7 to 8 percent, this growth in taxes would be necessary to maintain a constant real value of collections. The growth of state-local taxes also continued downward, though falling much slower than state taxes alone. Despite the decrease in the growth rate of state-local tax collections, state-local expenditures have increased at nearly a constant rate through the last three years. Much of the difference of state-local expenditure growth and tax growth can be attributed to the increasing lev-

Table 3

State-Local Sector Growth: 1929-1975

Fiscal Year	State-Local Expenditures[1] as a Percent of all Government Expenditures	State-Local Expenditures[1] as a Percent of GNP	State-Local Employment as a Percentage of the Labor Force
1929	75.7%	7.5%	5.1%
1939	54.2	10.6	5.6
1949	33.9	7.7	6.2
1959	35.7	9.6	8.3
1969	41.3	12.7	11.2
1974	44.7	14.7	12.4
1975	43.7	15.3	12.6

[1]Includes federal aid.
Source: ACIR staff compilation.

el of federal grants. In fiscal year 1975, federal grants increased by about 15 percent over the previous fiscal year.

As demonstrated in *Chart 1,* the improved balance in the state-local tax system that has developed over the last 25 years continued with only a slight adjustment. The property tax is still the largest contributor of tax revenue in the state-local sphere, though down slightly from 37.5 percent of all state-local taxes in 1974 to 36.6 percent this fiscal year. The general sales tax and the individual income tax followed closely behind, both increasing very slightly in importance in 1975, 20.2 to 20.5 percent and 15.0 to 15.4 percent, respectively. In considering the breakdown of tax revenue producers for the state-local sector, one should also note that the greatest increase in revenue from the big three taxes in 1975 occurred in the individual income tax *(see Table 2).* In contrast, the growth of sales tax collections was significantly lower in 1975 than in any of the previous three years when inflation was a primary factor.

The constraints imposed by the recession are forcing individuals and public officials to re-examine the issue of the desired size of government. *Table 3* offers some view of the change in the size of state-local government in the last half century. All state-local expenditures in fiscal 1975, including federal aid, now comprise 15.3 percent of GNP, a figure which has steadily risen since World War II. The significant influence of the state-local sector in our economy is further shown by an employment comparison; in 1975, state-local employees were 12.6 percent of the labor force, more than double the level of the late 1940's. Since 1948, the annual percentage increase of state-local expenditures, less federal aid, has exceeded the growth rate of GNP in 25 of these 28 years, including 1975.[2] From the previous fiscal year, however, the state-local share of all government expenditures has fallen by a percentage point. In addition, there is other current evidence that the growth trend is slowing; perhaps an immediate result of few tax increases and budget cutbacks. The increase in state-local expenditures, excluding federal aid, from the second to third quarters of 1975 was only .5 percent, so that real expenditures actually fell by .5 percent. As of the end of the third quarter, 1975, real state-local expenditures were increasing at an annual rate of only .3 percent, the smallest real growth in state-local government since 1951.[3]

State Tax Increases

In this year of reaction, 13 states moved to increase the major state taxes: individual income, corporate income, and general sales. In addition to changes increasing the three major taxes, many states increased excises on tobacco, liquor, and motor fuels. All state actions serving to increase state taxes are shown in *Table 4* on the next few pages, and the nature of the increase in the major taxes is explained briefly.

State Tax Reductions

Several states also took action in 1975 to reduce state taxes. In many cases these actions reduced tax liability only for certain income groups or placed certain types of personal expenditures in a preferred position. In addition, states were confronted with changes in federal tax laws that concerned state taxation in two areas: federal income tax rebates and changes in federal income tax laws regarding personal retirement schemes. In either case, state action could mitigate the impact of the change in federal law.

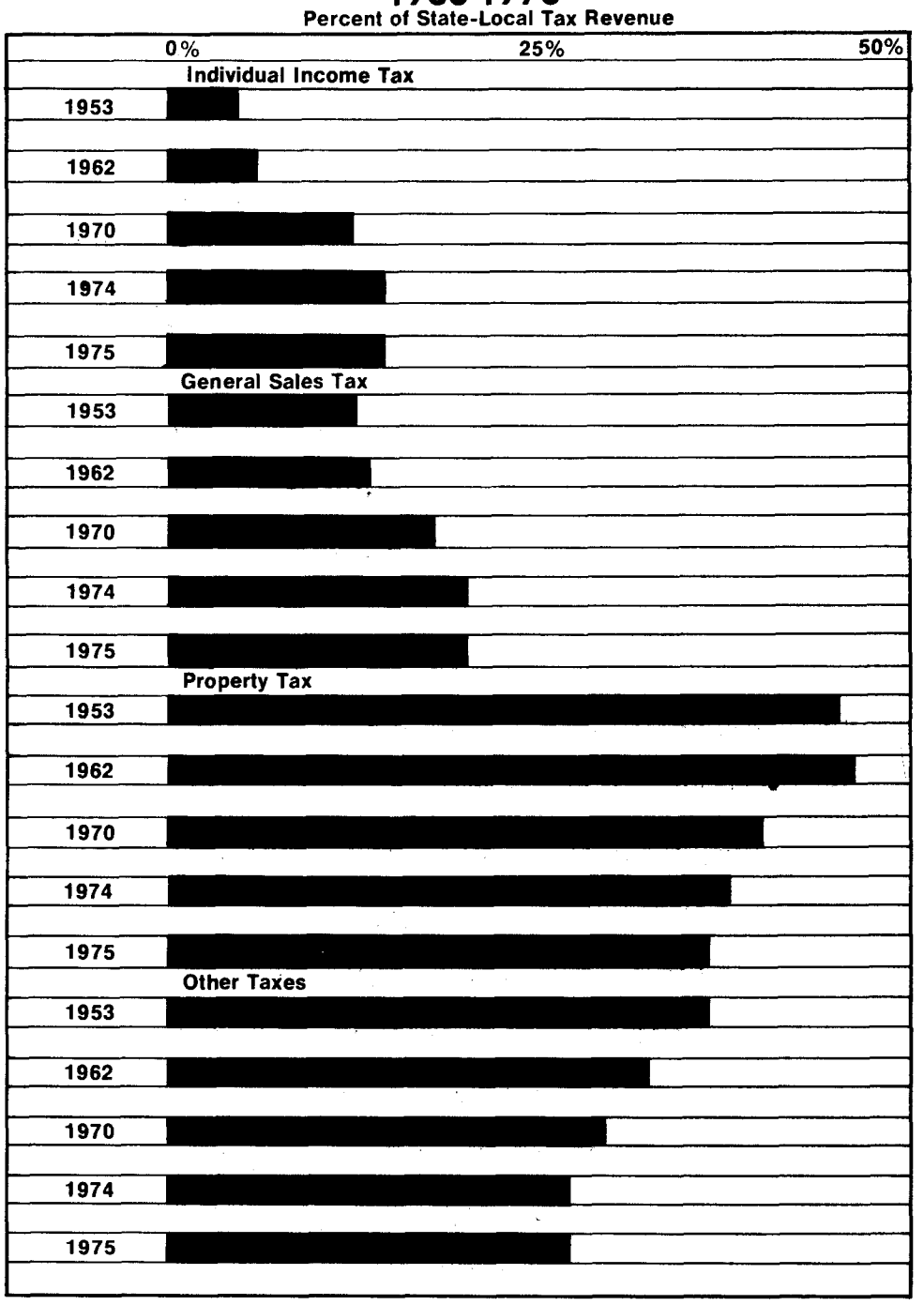
In format similar to that for tax increases, all state actions serving to reduce state taxes are catalogued and explained in *Table 5.*

State Aid to Localities

State fiscal assistance to local units of government takes many forms, but can be split into two primary categories: (1) state grants, including revenue sharing, and (2) state financial takeover of all or part of some expenditure functions previously financed entirely at the local level.[4] State action to increase aids was sparse in 1975, partly because of the recession and also partly because major action in this area, particularly in state school finance reform, had been heavy in the past few years. Still, there were

Chart 1

The Big Three's Contribution to State - Local Tax Revenue, Selected Years: 1953-1975



Source: ACIR Staff Compilation.

Table 4

State Tax Increases 1975

State	General Sales	Individual Income	Corporate Income	Motor Fuels	Alcohol	Tobacco	Other	Remarks
ALASKA		X						New rates range from 3% of federal taxable income below $2,000 to $25,000 plus 14.5% of taxable income above $200,000. Previous rate was 16% of federal tax liability calculated at 1963 federal rates.
CALIFORNIA		X	X					Oil depletion allowance was eliminated. Tax breaks on capital gains, stock options, and accelerated depreciation were tightened. "Gentleman Farmer" tax shelters were prohibited.
CONNECTICUT	X	X	X					Capital gains tax rates were increased from 6 to 7 percent. Dividends tax of 7% was reinstituted. Corporate income tax rates were increased from 8 to 10 percent. Sales tax rates were increased from 6 to 7 percent.
DELAWARE				X				
DISTRICT OF COLUMBIA		X	X			X[1]	X	Corporate income and unincorporated business tax rates were increased from 8 to 12% until June, 1976, 9% thereafter. The unincorporated business tax will apply to professional and personal service firms. For individual income taxes, personal exemptions equal to the federal exemptions are now allowed.
HAWAII				X[3]				
MARYLAND						X[1]		
MASSACHUSETTS	X	X	X	X[3]	X	X[1]		Individual income tax rates increased from 5 to 7% on earned income and from 9 to 11% on unearned income. Corporate income tax rates increased from 8.55 to 9%. A 20% surtax on all income taxes was imposed. Sales tax rates were increased from 3 to 5%.
MICHIGAN		X	X					Individual income tax rates were increased from 3.9 to 4.6% until July 1977; to be 4.4% thereafter. A single business tax was enacted to substitute for other business taxes (see case study).
MINNESOTA				X				

MONTANA				X[3]			X	A severance tax on the sales value of coal replaced a coal mine license tax. The rates for strip-mined coal are 20% for low grade and 30% for high grade. The rates for shaft-mined coal are 3% for low grade and 4% for high grade.
NEBRASKA		X	X					Individual income tax rates were raised from 10 to 12% for fiscal 1975 and to 15% for fiscal 1976. Corporate income tax rates were set at 25% of individual income tax rates for the first $25,000 and 27.5% of the remainder of corporate income.
NEW HAMPSHIRE						X		A tobacco products tax was replaced by a cigarette tax only.
NEW JERSEY		X	X					A tax on unearned income was instituted beginning at $1000 income with progressive rates. Unincorporated business tax rate was increased from 1/4 to 3/8 of a percent for fiscal 1976.
NORTH DAKOTA				X				
OREGON		X	X		X[2]			Corporate income tax rates were increased to 6.5% for 1976-77, increasing by an additional 1/2% the following two years. An 8% excise tax on financial institutions was repealed; they now will pay the corporate income tax. A tax on federal preference income was instituted.
RHODE ISLAND		X		X		X[1]		The income tax rate was increased from 15% to 17% of federal income tax liability.
SOUTH DAKOTA				X[3]				
TENNESSEE	X							A 3 1/2% sales tax rate was continued until July, 1976, when it is scheduled to fall to 3%.
UTAH		X						Rates were increased. The new range is: 2.5% for income not over $750 and $225 plus 8% of taxable income over $4,500.
WEST VIRGINIA							X	A tax on the value of coal produced was increased from 3.5% to 3.85%.
WISCONSIN	X							General Sales tax now applies to cigarette sales, telephone service, and cable television service.
WYOMING				X				

Footnotes:

[1]Cigarette taxes only increased.

[2]Malt beverages and wines only.

[3]These increases in motor fuel taxes have expiration dates attached and thus will be temporary unless through legislative action they are continued.

Table 5

State Tax Reductions 1975

State	General *Sales*	Individual *Income*	Corporate *Income*	Federal[1] *Tax Rebates*	Personal[2] *Retirement Plans*	*Remarks*
ARIZONA				X		
ARKANSAS					X	
CALIFORNIA					[3]	
COLORADO				X		
DISTRICT OF COLUMBIA	X	X				Purchases of food and non-prescription medicine were exempted from the sales tax base. The federal personal income tax exemptions were adopted.
DELAWARE					X	
IDAHO		X			X	Personal income tax credit for taxpayers and dependents was increased from $10 to $15.
INDIANA					X	
IOWA		X			X	Maximum standard deduction for individual income tax purposes was increased from $500 to $1,000. Income tax rates on incomes below $4,000 were decreased.
KANSAS				X		
LOUISIANA				X		
MAINE					X	

MINNESOTA		X		X	[3]	Individual income tax credit for low income was increased. The new range is: all tax due from unmarried taxpayers with income of $4,400 or less and all tax due from married taxpayers with five or more dependants and income of $7.800 or less. The income tax credit against sales tax paid was increased from $13 to $16 per exemption.
NEW HAMPSHIRE		X				A commuter tax, a 4 percent levy on non-residents' New Hampshire income in excess of $2,000 was found unconstitutional by the U.S. Supreme Court. The tax was also imposed on income earned in another state by New Hampshire residents. However such income was not included in the base if it was taxed in the other state or if it was exempt from taxation in the state earned or if it was not taxed by the other state. Consequently the court held that this tax treated residents and non-residents unequally.[4]
NEW MEXICO		X				
NORTH DAKOTA		X	X	X	X	A supplemental one percent individual and corporate income tax was repealed. A two-year tax credit of 25 percent of state individual income tax liability was adopted.
OKLAHOMA		X				A state individual income tax deduction for federal income tax liability was introduced.
OREGON		X			X	The personal exemption for individual income tax purposes was increased from $675 to $750.
WEST VIRGINIA					X	
WISCONSIN					[3]	
WYOMING	X					Prescription drug sales were exempted from tax liability A sales tax refund to individuals 65 years old and above and to the permanently disabled was enacted. The maximum refund is $100, reduced by percentages for income above $4000.

Footnotes:

[1]Federal individual income tax rebates were exempt from state taxation.
[2]Federal income definitions that allow tax preference treatment for personal retirement contributions were adopted.
[3]These states specifically prohibit state preferential income tax treatment of retirement contributions.
[4]In a similar case, New Jersey's 2 percent tax on the New Jersey income of Pennsylvanians has also been appealed to the U.S. Supreme Court.

several major developments.

Connecticut enacted a new school finance program that guarantees a tax base at the 85th percentile of the state's value distribution for all districts. In addition, a wealth measure of per capita valuation weighted by median family income was adopted as a possibly more accurate measure of tax capacity.

In **Kansas,** an additional $38.3 million over last year was added to state school aid for fiscal 1975-1976, raising state school financial aid to $239.8 million.

In **Kentucky,** a 1974 law authorizing a change in the state school aid formula substituting pupil-units for classroom units was made effective in 1975 by a $5.5 million appropriation to carry out the changeover.

The biggest news in this category in 1975 occurred in **Michigan.** Act 237 enables the state to assume complete financial responsibility for the general public assistance welfare program previously borne by counties. State takeover will be phased in over a five-year period through fiscal years 1976 to 1980. The cost to the state in 1976 will be over $5 million. In addition, $11 million in new money was added to the state revenue sharing program, the funds to be collected from the new state single business tax. The state is also shifting some shared state personal income tax revenues from counties to municipalities ($4 to $7 million in fiscal year 1976) and is granting $19 million to replace revenue lost when the property tax on business inventories was repealed. As a result, about $35 million will be distributed as state revenue sharing dollars in June, 1976.

In **Minnesota,** an additional $380 million was added to state aid for local public schools. Thus, state aid to schools will be $1.6 billion for the 1976-1977 biennium, comprising about 70 percent of elementary and secondary school finances in the state. In addition, the state assumed 80 percent of the costs of caring for the medically indigent that had previously been paid by local jurisdictions.

The state school financial aid issue is still not settled in **New Jersey.** Although the state supreme court ordered in May that $300 million in state aid funds be distributed among districts in a more equalizing manner in FY 1976-1977, no final plan has been approved to meet the requirement.

Ohio approved a new state aid plan to equalize school finances while in **Texas,** state aid to schools was increased by $983 million over the next two years and a new local wealth measure involving fair market property values was adopted.

Local Revenue Diversification

In 1974, ACIR revised a long-standing policy urging exclusive use of property taxes at the local level and reserving general sales and income taxes to the states. In changing the policy, the Commission offered these recommendations:

1) that local income and sales taxes (equipped with proper safeguards) be used as one of several appropriate measures for achieving a more balanced use of property, income, and sales taxes;
2) that states should simplify interstate sales tax liability for firms doing business in a state where no place of business is maintained;
3) that states should provide an affirmative policy regarding local user charges; and
4) that the federal government provide withholding for local income taxes.

The Commission felt that local sales and income taxes would be safeguarded if they closely conformed to the state tax base, were state administered and collected, and if local choice of rates was permitted only within a specified range.[5]

The empirical trend of the last 25 years toward local revenue diversification has been outlined in *Chart 1* and previously noted. Although the property tax remains the largest source of state-local revenue, the contribution of income and sales taxes has continually increased. Specifically for fiscal year 1975, from *Table 2,* one sees that the greatest percentage growth in state-local tax revenue

Case Study

The Michigan Single Business Tax

One of the most significant and unique state fiscal actions in 1975 is the new single business tax (SBT, H.B. 4640, *i.e.*) enacted in Michigan. The SBT is basically a consumption type value-added tax to be levied on all forms of business and professional activities, both incorporated and unincorporated. When the SBT becomes effective on January 1, 1976, eight current business taxes in Michigan will end. The SBT replaced the corporate and financial institution income tax, the franchise tax, domestic insurance company privilege tax, the savings and loan association privilege tax, the local personal property tax on inventories, the intangibles tax on business activity, and the business section of the personal income tax.

The tax is levied at a rate of 2.3 percent (except for transportation carriers who are taxed at .705 percent and subject to the condition that tax liability be no less than the average tax liability over the last five years) on a base equal to the sum of compensation, profits, depreciation, and interest paid. The tax base for multistate businesses is apportioned according to a three-factor formula involving the percentage of total property, payroll and sales relevant to Michigan. There is a 100 percent deduction for the cost of capital assets in Michigan granted the first year of acquisition. Businesses may select one of two special adjustments: either a deduction for compensation that exceeds 65 percent of the tax base, or a deduction that limits the adjusted tax base to 50 percent of the business' gross receipts attributed to Michigan. There is also a small business/low-profit exemption of $34,000 that is subject to a $2 reduction for each $1 of federal taxable income greater than $34,000; thus businesses with taxable income greater than $51,000 get no benefit from this exemption. Finally, individuals owning unincorporated businesses are granted a 10 to 20 percent credit of the SBT tax liability on the state personal income tax.

The set of business taxes the SBT replaces represented some $800 million in state revenue. In addition, since the franchise tax, intangibles tax, and income tax will hold on through the first half of 1976, this new single business tax program will yield an extra $180 million revenue windfall. A large share of the revenue from the SBT is earmarked for the state revenue sharing program. In addition, some of these funds will be distributed to local units of government to substitute for the local property tax on inventories that was repealed.

In signing the SBT into law in August, Michigan Governor William Milliken, noted that the SBT "represents a significant reform by making Michigan's business tax system simpler and more equitable." Said Milliken, "This tax differs from any other in use in the United States. Unlike familiar taxes on the sale of an item or service or on the receipt of certain types of income or the ownership of assets, the SBT is specifically designed for a modern, industrial market economy." The SBT value-added format is generally favored because it treats all businesses in a manner that is independent of their legal form, provides no tax distortions in favor of capital or labor inputs, may stabilize state tax revenue, and is neutral with respect to various types of capital financing.

occurred in the income tax, and that even the absolute change in revenue dollars from the property and income taxes was not much different ($2,956 million growth in property tax revenues versus $2,175 million in income tax revenue). Of course it would be incorrect to ignore federal aid as an additional major component of state-local revenue diversification. Federal aid to state and local governments was $47.8 billion in fiscal 1975, second only to the property tax as a source of revenue. Still, the growing importance of local sales and income taxes cannot be ignored. In 1975, there was action in several states expanding local revenue opportunities while in one instance a local income tax was struck down.

Arkansas authorized a local sales and use tax at either ½ or 1 percent when approved by a majority of voters for cities with populations greater than 30,000 and which adjoined other states. Because of the conditions, only Fayetteville and Ft. Smith are eligible.

Colorado authorized county use taxes to complement previous county sales tax authority. Again, voter approval is required for adoption.

In **Georgia,** approval for a 1 percent sales tax with local voter choice was enacted. This law complements and makes effective a 1974 provision authorizing a local income tax of 1 percent. Counties, and municipalities in counties which do not adopt, are allowed to levy either the sales or income tax but not both, provided that the revenue from the new

Case Study

New York City Financial Emergency

In any review of fiscal action in 1975, one event — the financial plight of New York City and the subsequent interaction of the city, New York State, and the federal government — is most important because it highlights recurrent fiscal problems of cities and identifies significant areas of concern in intergovernmental fiscal relations.

In 1972, ACIR considered many of these issues in its report, *City Financial Emergencies: The Intergovernmental Dimension,* which identified several early warning signals of city financial trouble and set out five recommendations for state and federal action. At that time, the Commission pointed out that recurring operating fund deficits and short-term operating loans outstanding at the end of a fiscal year were warning signs of a vulnerable fiscal situation or impending fiscal crisis. To prevent and deal with such crisis conditions, the Commission recommended establishing a single state agency to be responsible for improvement of local financial management and for early detection of local financial problems; that states enact and enforce legislation to regulate the use of short-term operating debt; that local retirement systems be strictly regulated by the states or replaced by centralized state systems; that since states are the logical providers of assistance in financial emergencies, guidelines to indicate when state action is necessary and procedures to carry out those actions be adopted; and that the federal bankruptcy laws relating to local governments be revised.

While a complete analysis of the financial problems of New York City and their causes is not possible here, some of the important intergovernmental aspects of both the problem and various solutions can be highlighted. The city's immediate problem has been an inability to borrow in the financial markets, including short-term obligations to smooth the revenue-expenditure flow problem.

Assistance from the state in the emergency has been varied in form and intensity. In April, the city was advanced $400 million in welfare aid payments due from July to December, 1975, and again in May the city received a $200

tax is used for property tax reduction. The total tax revenue in the adopting year can be no greater than the previous year's property tax revenue.

In **New Mexico,** a gross receipts tax of .25 percent was authorized for cities, towns, and villages. In all four of the above states, the local sales tax is to be administered by the state.

In addition, **New York** State continued a 4 percent sales tax for New York City, but required that it be paid to the state Municipal Assistance Corporation until all of its notes and bonds are paid. The state also authorized New York City to expand its sales tax coverage to include services until August, 1976, and approved an increase in the city corporate income tax rate from 6.7 percent to 10.5 percent until January, 1976, (for a complete review of the New York City situation, see the case study).

Utah authorized an increase in the local sales and use tax rate from .5 to .75 percent, effective January, 1975.

Washington expanded local authority to levy, upon voter approval, a sales and use tax at rates of .1, .2, and .3 percent to finance public transportation (formerly only .3 percent). Also, the list of eligible jurisdictions was expanded.

An approach to local revenue diversification in Oakland, **California,** was declared unconstitutional in California Superior Court. The city had enacted an employer license fee

---

million advance not expected until January-March, 1976. In June, the state passed the *New York State Municipal Assistance Corporation Act* authorizing the creation of an assistance corporation for any city that requests and requires financial assistance to meet the cost of essential services. The Municipal Assistance Corporation for New York City (MAC) was authorized to issue $3 billion in obligations to be used to assist the city and to receive the revenues from the citywide general sales tax. In exchange for the benefits from MAC, the city is required to meet a number of conditions and limitations on its financial activity. By November, more state action was required. The state legislature authorized a $205 million tax increase, including an increase in personal and corporate income tax rates, increased taxes on cigarettes, and added a 50 percent surcharge on the state estate tax for city residents. An agreement was reached that the major banks and city pension funds would delay collecting some $850 million in city notes they hold. In addition, the city employee unions agreed to purchase $2.5 billion of city and MAC securities over the next three years.

The most unique and controversial aspect of the state's assistance was a moratorium on the payment of principal on $1.6 billion of city notes due between December, 1975, and June, 1976, for at least three years and a reduction of interest after that period to 6 percent. As an alternative, noteholders were allowed to exchange those city notes for ten year, 8 percent MAC bonds. However, the moratorium plan is currently being contested in court by Flushing National Bank. The outcome of that case may determine the future of New York City's financial condition.

After this response by both the city and the state to the financial emergency, the federal government offered help in late November. President Ford proposed $2.3 billion in seasonal loans to the city over the next three years to smooth the revenue receipt flow. These loans must be repaid within each fiscal year. This plan was passed by Congress and signed by the President before year's end.

It is hoped that through this plan, along with major cutbacks in city spending, a hiring freeze, and no increase in welfare expenditures through 1978, the city may balance its budget for fiscal 1978.

of 1 percent on all salaries, wages, bonuses, and commissions in excess of $1,625, to become effective July 1, 1976. The court based a ruling of unconstitutionality on the fact that this was in reality an income tax which, without specific constitutional authorization, is reserved to the state. Oakland has argued that as a charter city, home rule provisions allowed such a tax. The case is being appealed to the state supreme court.

Property Tax Relief

Property tax relief has been a major concern of all state and local governments in recent years. Concern about the property tax has centered on its incidence, allegedly more regressive than other taxes at least at the low end of the income scale, and non-neutral in its effects on both residential and non-residential construction and maintenance. One of the most important programs states have used to ease the burden of property taxes for low-income individuals is the circuit breaker.[6] These programs provide property tax reductions, rebates, or credits tied to household income levels. As of 1975, 25 states and the District of Columbia have state-financed circuit breaker programs. In addition, all states have some type of property tax relief program, either a state-mandated reduction in valuation for special groups or state-authorized, but locally financed, relief programs. During 1975 only two new property tax relief programs were enacted, although a great number of states revised their programs to provide greater relief.

Washington enacted a new program, effective January 1, 1976. In addition to a state-mandated, locally financed property tax reduction for senior citizens and the disabled, these individuals can elect to defer property taxes up to 80 percent of equity. Deferred taxes are a lien on the property by the state. Local jurisdictions are reimbursed by the state for all deferred taxes. There is an $8,000 income limit in 1976, increased in each successive year by the consumer price index, and individuals are eligible as long as they continue to own their own residence. There is also a provision to allow surviving spouses to continue the deferral.

In **New Hampshire,** a new municipal homestead exemption was authorized for senior citizens. Municipalities can, with voter approval, provide the following exemptions to qualified senior citizens: for ages 65 to 75, $5,000; ages 76-80, $10,000; and for ages above 80, $20,000. Senior citizens qualify if they own their residences, have resided in New Hampshire for five years, have income net of business expenses, social security, asset sales, and life insurance payments of less than $7,000 ($9,000 if married) and have assets of not more than $35,000. This new law is similar to one enacted in 1973, which was ruled invalid by the New Hampshire Supreme Court because it required that the equalized assessed value remaining after the exemption must be at least $8,000.

In addition, many states liberalized their homestead relief programs by one or more of the following actions: increasing the maximum income limit, lowering the age requirement, raising the maximum property tax relief allowed, extending the program to include renters, raising the percentage of rent construed as property tax, or expanding the program to cover fully disabled individuals. States in this category were: **Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Utah, Washington, Wisconsin,** and **Wyoming.**

Maryland repealed some provisions, reenacted others, and generally changed its 1974 homeowner and renter relief program, the total effect of which was to decrease eligibility. Beginning with fiscal year 1975-1976 and thereafter, only residents 60 years of age and older are eligible while the 1974 law had made all homeowners and renters eligible. The credit, with a maximum of $750, is the property tax in excess of a percent of gross income, including social security. The scale ranges from 3 percent of the first $3,000 of income to 9 percent of income over $15,000. In addition, the credit is not allowed if an individual's net worth is greater than $150,000.

Indirect Property Tax Relief–Tax Limits

A second, albeit more indirect means of

providing property tax relief are state-imposed taxation and expenditure limits on local government. These controls range from property tax rate limits to limits on the change in property tax levies to ceilings on all tax collections or expenditures. While these controls are long-established features of our intergovernmental fiscal system, the concern now about government growth has spurred a resurgence of interest in state control of taxing and spending power and has induced development of new varieties of control. Since 1973, 17 states have significantly overhauled their local taxation or expenditure limits. Although no new major or comprehensive controls were enacted in 1975, several important programs were reenacted or slightly revised and, in one state, limits were repealed.

In **Georgia,** as noted above, local authorization for use of the income and sales tax was tied to a freeze on total revenue collections.

A group of states — **Iowa, New Mexico,** and **North Carolina** — made small changes in their property tax rate limits and perhaps more interestingly expressed the maximum rates in cents per $1,000 assessed value rather than the less easily understood tradition of mills.

Two states took action in 1975 to prohibit windfall property tax revenue gains after a statewide property revaluation. In **Michigan,** local millage rates must be changed after a revaluation so that local tax levies change no more than they would have without the revaluation. While in **South Carolina,** total levy increases in any jurisdiction of more than 1 percent as a result of assessment changes only are not allowed.

Minnesota revised its property tax levy limit, originally enacted in 1973, so that it now covers only municipalities listed as cities, statutory cities, or towns with statutory city powers, the population of which is 2,500 or greater. An exception to the 6 percent levy increase limit was also provided to compensate for the cost of new services required because of changes in state law.

Finally, in 1975, **Wisconsin** reenacted its levy increase limit originally begun in 1973. Local property tax levy increases in Wisconsin are limited to the percentage increase in statewide equalized value.

The Voters Speak

While 1975 was not a major year for new state fiscal programs, it was a year in which many questions were put to the voters at the November general election. Moreover, the response of the electorate was overwhelmingly against new taxes and against major new capital spending programs. No one can offer a certain explanation for this reaction, but the current economic squeeze of concurrent recession and inflation and the much publicized fiscal problems in New York City appear to be major factors. While it is very feasible that these factors created a nay saying attitude in 1975, it will be interesting to watch for trends in the election results on fiscal issues in the next several years to determine if the political process might erect a barrier to a larger public sector.

At the polls in November, 1975, no new taxes were approved while in one state a tax relief program was expanded. In addition, some 90 percent of the $7.2 billion of bond requests was rejected (only in 1968 was larger volume of bond issues requested, $9.1 billion). In contrast, in 1972, 75 percent of the bond requests were approved, while in 1974 only 45 percent were approved.

All of the bond issues on the ballot in **California** were for local districts: $35 million in bonds for water transmission in the Pomona Valley Municipal Water District and an $11.7 million issue for the San Diego Community Building were defeated. The issues approved were $69.7 million for water and sewer facilities in the Irvine Ranch Water Treatment District and $10 million for the Elk Grove United School District.

In Hartford, **Connecticut,** a $6 million issue for schools and pollution control was accepted.

Maine voters approved $14.5 million in bonds for highway and bridge construction and for renovation of a University of Maine dormitory.

In Baltimore, **Maryland,** issues totalling $58.7 million were accepted, while a $5.7 million issue was defeated.

In **New Jersey,** $922 million in economic recovery bonds, most for capital construction and including $600 million for transportation,

were soundly defeated. At the same time, New Jersey voters approved constitutional amendments authorizing the legislature to expand property tax relief to cover the disabled and to grant additional credits or rebates for property tax relief.

New York voters turned down a $250 million bond request to construct public housing for the elderly.

The largest issues were submitted in **Ohio** where the voters rejected Governor James Rhodes' $4.5 billion bond package of economic recovery measures. Included in the package were proposals for capital improvement and various transportation projects. Ohio voters also defeated proposed increases in the sales and fuel tax rates that were linked to the bond proposals. However, at the local level in Ohio, about $248 million in bond issues were approved, while about $111 million were rejected. In Columbus, for example, eight issues totaling some $219 million were approved.

In **Pennsylvania**, a $10 million issue to support a loan program for volunteer fire department equipment was approved and in Philadelphia, a $61 million issue was also approved.

A new constitution for the state of **Texas** was rejected by the voters there. Among the proposals lost in that defeat were proposed sales tax exemptions for food, prescription drugs, and some agricultural machinery and resources.

In Arlington County, **Virginia,** a $21 million issue for waste water treatment was approved, while $40 million in various construction projects went down to defeat.

Finally, voters in **Washington** defeated a proposal for a 12 percent corporate profits tax to be used in lieu of special school property tax levies.

State Budgetary Cutbacks

In the introduction to this chapter, it was suggested that 1975 had been a turning point for many states, a period of transition from relative fiscal ease and surpluses to fiscal pressure and impending deficits. By the middle of 1975, many states realized that revenue projections for fiscal year 1975-1976 were overstated and that fiscal reactions were required to avoid deficits that are for most states unconstitutional. In fact, as the year end approached, more and more states announced budget cutbacks of varying proportions and techniques. Some states also reacted to the situation by raising taxes; these actions were catalogued in an earlier section. State actions in 1975 to cut budget expenditures for fiscal 1975 and fiscal 1976 are recorded here.

In October of 1975, Governor Jay Hammond of **Alaska** announced that state spending in fiscal year 1975-1976 had been cut by some $8 million over the announced budget. The reduction was made entirely at the expense of the administrative branch of state government by cutting all departments in areas that will reportedly not affect their operating efficiency. Many of Alaska's current economic problems, and, indeed, their immediate future solution hinge on the result of oil and gas resource development. The state began numerous new social programs after receiving a huge cash bonus of $900 million in 1969 for oil leases. Now these programs are underway and continued financing is required. In addition, oil and gas resource development has increased the demand for state public services. However, delay in completion of the pipeline has postponed expected revenues from oil and gas production. These budget cutbacks are part of a package of fiscal measures designed to alleviate this current fiscal problem.

In **Connecticut,** Governor Ella Grasso proposed an increase in the state work week to 40 hours to avoid overtime costs in an attempt to offset a possible $80 million deficit. Since that proposal was not approved by the legislature, Governor Grasso has laid off nearly 6,000 state employees.

In June, **Georgia** prohibited additional state hiring and out-of-state travel and eliminated some proposed capital outlays. The governor also asked a special legislative session for a $108 million cut in the 1975-1976 budget.

Illinois has faced a series of budget problems since the end of fiscal 1975. The state surplus had dwindled to half its expected size by the end of fiscal 1975, and a potential $200 million deficit was foreseen for fiscal

1976. In June, a 6 percent across the board cut in fiscal 1976 appropriations was made that would save $330 million. By October, however, a new problem emerged: the state was experiencing a liquidity problem that threatened the state's ability to meet all financial requirements. In response, Governor Dan Walker established a state central cash management system to coordinate demands on the state account and reiterated again the need for the previous budget cuts urging the legislature not to override his appropriation vetoes.

Massachusetts is another state that has faced continuous and serious budget difficulties. When a new state administration came into power in 1975, the state's fiscal situation was in serious condition. Large deficits were forecast for fiscal 1975 and 1976. To correct this situation, over 2,600 state positions have been eliminated since January, 1975. Still, the state had to borrow $450 million to meet obligations in fiscal 1975 and was forced to increase taxes to repay those loans. A $500 million reduction in state spending was made in the current budget, with deep cuts in medicaid and general public relief funds. Still unable to balance the budget for fiscal 1976, major new tax increases were required.

Michigan is a state that has been adversely affected by the recession both on the tax and expenditure sides of the budget. Severe layoffs in the automobile industry have raised demands on the state public assistance program, while the economic slowdown in the industry has cut expected tax revenue sharply. By October, the state projected a potential $300 million deficit for fiscal 1976-1977 unless action was taken. The largest factor in this potential deficit is a need for $130 million in supplemental social services funding. Another important factor is a disagreement over a $50 million federal reimbursement for certain welfare services; the state believes it is entitled to these monies from the federal government, but Washington has not made the payment. Governor William Milliken proposed to close the deficit by cutting $150 million with a 3.5 percent reduction in most state agency budgets in addition to a previously announced cut of 1.5 percent. Further, he intends to change the state fiscal year to conform with the new federal system with an immediate gain in federal funds, and to eliminate the state veterans trust fund and motor vehicle accident claims fund, financing those programs out of general revenue.

In **Nebraska,** the legislature was called into special session in October to consider a variety of measures to avoid a potential $10 million deficit in January, 1976.

In **New York,** Governor Hugh Carey instituted a hiring freeze in January, 1975, that had resulted in a reduction of approximately 2,500 permanent positions by June.

Another state in which quick and decisive action was necessary to avoid serious financial problems was **Rhode Island.** Like the Michigan case, Rhode Island has been hard hit by the recession and by rising fuel costs. In addition, the state has not yet recovered from military base closings in 1973. The combination of these forces has caused unemployment to hover in the neighborhood of 14 percent, about the highest in the nation. In January, a freeze on state hiring and filling vacant positions was imposed with a resulting reduction of 1,450 state positions and a $2.1 million savings in fiscal 1975. In addition, state employees' overtime was cut, saving $1.5 million in fiscal 1975 and an expected $1 million in fiscal 1976, and a 5 percent decrease in employee compensation was accomplished by shortening the work-day by one-half hour. In addition, the fiscal 1975-1976 budget was cut so that a potential deficit of nearly $3.8 million can be avoided.

Also, **Vermont** faced a potential $9 million deficit. Measures to avoid that problem were being considered by a special legislative session in October.

In **Virginia,** to avoid a projected deficit, the governor has ordered a 5 percent decrease in spending by state agencies, a ban on state hiring, and a 5 percent cut in state aid to local schools.

This report on state budget cutbacks outlines only those states with the most serious problems. Many others have limited additional hiring, are considering areas in which spending reductions might be made in the future, or are using surpluses from past years to avoid deficits in fiscal 1975-1976.

Finally, it should be noted that some states

are still enjoying strong revenue increases and resultant surplus conditions. Many of these states are rich in energy resources and have been able to exploit the "energy crisis" situation. **Texas, West Virginia, Kentucky, Oklahoma,** and **Arkansas** fall into this category. Other states — particularly those with strong agricultural sectors — are also in strong fiscal positions: **Iowa** had a $260 million surplus in fiscal 1975, **Minnesota** enjoyed a $400 million surplus at the end of fiscal 1975. **California** had a surplus of over $300 million at the end of fiscal year 1975. In **Washington,** revenue collections in fiscal 1975 were up about 14 percent over the previous year, although part of this increase resulted from a new state property tax and a shift of some school financing to the state level. A large increase also occurred in sales tax revenue, however, which can be explained by the relatively strong Washington state economy: employment increased 2.9 percent in 1975 and personal income registered a 10.4 rise over the first three quarters of fiscal 1975.

FOOTNOTES

[1]See ACIR, *Changing Public Attitudes on Government and Taxes*, S-4, July 1975.

[2]ACIR staff computations.

[3]ACIR staff computations.

[4]For a general review of state aid issues, see ACIR, *State Aid to Local Government*, A-34, April 1969.

[5]ACIR, *Local Revenue Diversification: Income, Sales Taxes and User Charges*, A-47, October 1974, and *State and Local "Doing Business" Taxes on Out-of-State Financial Depositories*, report by ACIR to the Committee on Banking, Housing and Urban Affairs, U.S. Senate, May 1975.

[6]For a complete explanation of circuit breaker operation, see ACIR, *Property Tax Circuit Breakers: Current Status and Policy Issues*, M-87, February 1975.

[7]For more information on business taxation in Michigan and on the SBT particularly, see *Michigan's New Single Business Tax*, Michigan State Chamber of Commerce, September 1975.

[8]ACIR, *City Financial Emergencies: The Intergovernmental Dimension*, A-42, July 1973.

ENVIRONMENT, DEVELOPMENT, AND GROWTH

One of the nation's most important issues in the 1970's has been how to protect the environment without stifling economic growth or wasting scarce and expensive energy. Intergovernmental relationships are particularly crucial in this area, and the interaction between state and local governments is very important: national, state, and local goals and objectives may conflict with each other and those conflicts must be resolved if any controls are to be effective.

State actions in this policy area in 1975 tended to be less of a direct reaction to short-range energy scarcity and more directed to the long-term implications of the use of our air, water, and land resources.

One state required certain state activities to comply with local land use plans and requirements. Three enactments provided increased state assistance to local governments to fulfill their part of state planning. Twelve states mandated some form of local planning, ranging from specific zoning ordinance requirements to comprehensive plans. Seven enactments dealt with increasing the capacity of local governments to meet environmental and land use needs, usually by permitting localities to issue revenue bonds to finance pollution control facilities. Three states moved toward the development of a

comprehensive statewide land use plan, while 14 enactments around the nation grappled with the ever-important issue of strip mining regulation, control, and reclamation.

One new area of action emerged in 1975 — the protection of the family farm. The concern has grown out of a variety of recent trends — the tendency of some to invest in farming operations with the intention of losing money in order to claim a tax loss, vertical monopolies which control the nation's food supplies from the field to the grocery store, and foreign investment in United States farming operations. Four states enacted legislation designed to restrict, and in some cases outlaw, corporate and foreign investment in farming operations.

The **Alaska** Department of Public Works must now comply with all local planning and zoning ordinances and regulations unless the state can show an overriding state interest, in which case the governor may grant a waiver (SB 125). The act also applies to any state agency acquiring land within a municipality or exercising platting jurisdiction and power which results in a boundary change. SB 376 was enacted to require the disclosure of the ownership interest of non-resident aliens in land and corporations doing business in the state.

Arizona cities and towns were authorized to regulate by ordinance land splits within their corporate limits. A land split is defined as the division of improved or unimproved land with an area of 2.5 acres or less into two or three tracts of land for the purpose of sale or lease. The municipal regulation of land splits may govern the division lines and the area and shape of the tracts, but not the sale or lease terms or conditions.

The **Arizona** Legislature also acted to deal with three types of pollution — air, water, and sight. HB 2313 requires that motor vehicle emissions be measured as part of auto in-

Case Study

California Localities Act to Curb Urban Sprawl

Petaluma, a suburb 40 miles north of San Francisco, has experienced a remarkable rate of growth in recent years (25 percent from 1970 to 1972). The city adopted several resolutions in 1972, now known as the Petaluma Plan, to retard the accelerating growth of the city, to correct the imbalance between single family and multifamily dwellings, and to curb the sprawl of the city to the east and north. The plan, which covers a five-year period (1972-1977), fixes a housing development growth rate not to exceed 500 dwelling units per year. The limitation is only on housing units that are part of projects involving five units or more, so the plan does not affect any housing and population growth due to construction of single family homes or four-unit apartments. The plan also calls for a 200-foot wide "green belt" around the city, to serve as a boundary for urban expansion on the north and east edges for the city. The 500 dwelling unit permits are issued to builders through the use of an intricate point system relating to the city's general plan and environmental design plans, good architectural design, and the provision of low- and moderate-income dwelling units, as well as recreational facilities.

The U.S. Ninth Circuit Court of Appeals reversed a lower court and ruled in August that the plan was constitutional. Petaluma's resolutions state that their purpose is to "protect its small town character and surrounding open space." Opponents contend that the intent is to "limit Petaluma's demographic and market growth in housing and in the immigration of new residents." The lower court had upheld the view of the opponents.

However, the appeals court pointed out that the Petaluma Plan did not limit *all* residential housing to 500 units, but

spection beginning in 1976. However, no minimum standards will have to be met until 1977. The Department of Health Services may exempt any class of motor vehicle or the sales of vehicles between private parties, at auction, or of derelict vehicles from testing. SB 1098 allows the Department of Health Services to issue 90-day temporary conditional permits for air pollution sources to vary from the state standards and allows for renewals of the permits for up to one year. The permits were previously not renewable. The act also authorizes temporary one-year permits (renewable for one more year) when new department standards require the implementation of air pollution control strategies necessitating the installation of new or different equipment. HB 2205 amended the state laws on water pollution control permits to conform to federal requirements. And SB 1104 authorized the Department of Transportation to require the removal or disposal of junkyards if it is determined that adequate screening is not possible or economically feasible. Relocation assistance payments and eminent domain damages will be made to owners of affected junkyards within 1,000 feet of interstate or primary highways and in violation of state or local nuisance or zoning laws or ordinances, except no damages will be paid to junkyards established after May 11, 1971.

Arkansas Act 153 permits municipalities and counties to issue bonds for pollution control facilities, and then lend that money to a privately owned business or group of businesses to be used to construct or purchase pollution control equipment. A private organization which receives such a loan does not have to use any of its land, buildings, facilities, etc., as security for the loan. Act 309 stipulates that contiguous lands assessed as being best suited for agricultural or horticultural purposes may not be annexed to municipalities by the usual ⅔ vote of the govern-

---

that it exempted all projects of four units or less and that the original plaintiffs offered no evidence as to the number of exempt units expected to be built during the five-year period. The court further assumed that, absent the plan, Petaluma would grow at a faster rate during the five-year period. The court found that if the plan were adopted on a regional basis it would create a serious housing shortage in the San Francisco metropolitan area, but when considered with respect to Petaluma only, there was "no evidence to suggest that there would be a deterioration in the quality and choice of housing available there to persons in the lower and middle income brackets." The court then concluded that the concept of the public welfare was sufficiently broad to uphold the Petaluma Plan and its goals of preserving its small town character and open spaces and growing at an orderly and deliberate pace.

Another California local action to control growth was taken when the Association of Bay Area Governments (ABAG) in metropolitan San Francisco voted 23 to 2 to reject a proposal for a major new community. ABAG said a new community "should be started only when environmental and urban development problems can be substantially resolved . . . building should occur in central cities and other existing cities with available facilities and services. New communities can be a part of this process provided they support the full range of regional policies." One of ABAG's most important recommendations was that the area's public agencies should develop a coordinated program for making decisions on the location, timing, and magnitude of major developments and the public services they require.

Cases on related issues in New Jersey and Ohio were decided, too, on the peculiar circumstances of each jurisdiction, but, taken as a group, they suggest the likelihood of more such local actions and subsequent court involvement in the future.

---

ing body. Instead, the issue must be determined at a special election. The time for legal action to block the annexation is reduced from 60 to 30 days after the election. Act 274 authorizes the state Department of Local Services to make grants and loans toward financing water, sewer, and/or solid waste management systems to be constructed by cities and/or counties. The act specifically provides opportunities for cities, towns, and counties to apply jointly for the loans and grants.

California AB 108 deleted requirements for lower noise limits for automobiles manufactured after 1974. The state Air Resources Board adopted the nation's first anti-smog regulations for motorcycles. The Chrysler Corporation paid $328,200 in fines for selling cars which the state Air Resources Board said did not meet emission standards.

The **California** Legislature also imposed a moratorium on the placing of pipelines or other related facilities from offshore drilling rigs on or across state tidelands within the coastal zone until after December 31, 1977 (AB 180). Controls were placed on surface mining operations (SB 756). That act also provides for the reclamation of land which has been strip mined.

Colorado counties and municipalities may now issue revenue bonds for the removal of sewage and solid waste (SB 57). Governor Richard Lamm issued two orders in this subject area in 1975. A new state energy policy committee was created to help determine the pace of oil shale development. And state employees were ordered to save waste paper for return to the company which supplies the state's computer printout paper. In addition to the environmental benefits from recycling

Case Study

Florida Addresses Problems of Land Use, Growth and the Environment

The Florida Legislature passed a series of bills to deal with questions of land use, environmental protection, and new communities.

The *Local Government Comprehensive Planning Act of 1975* (HB 782) requires all local governments to develop and adopt comprehensive land use plans by 1979. The act also requires that all public or private development and land development regulations be consistent with the adopted plans. That provision makes Florida one of the few states in the nation with a law which specifically requires that regulations be in conformance with the plan.

Of Florida's 392 municipalities and 67 counties, about one-third have no land development regulations or zoning at the present time. If a local government fails to designate a planning body by July 1, 1976, the state land planning agency assumes the responsibilities of a local planning agency for that jurisdiction. Municipalities and counties may enter into official joint agreements to meet the act's requirements through a regional planning agency if they so desire.

Before a plan can be adopted, a local government must submit a copy for review to the state land planning agency and to any regional agency operating in the area.

The act includes a list of items which must be in all local comprehensive plans. A list of optional elements is also included. Communities of more than 50,000 are required to have a mass transportation element which shows proposed methods for moving people, rights of way, terminals, related facilities, and fiscal considerations. Those larger communities must also include an element and plans for port, aviation, and related facilities coordinated with the general circulation and transportation element.

The law stipulates that planning programs be continuous and ongoing.

the paper, the state will receive a financial bonus — the company will pay the state $38 a ton for the waste paper.

HB 8554 replaced the **Connecticut** Energy Agency with the Department of Planning and Energy Policy. In addition to those previously performed by the energy agency, the functions of the new department include regional planning for land use, transportation, labor, housing, etc.; water resources planning; and the designation of planning regions.

The State Planning Office in **Delaware** published *The Quality of Life in Delaware: An Overview.* The report represents the first attempt made by the State Planning Office to measure the state's quality of life through a compilation of assorted socio-economic indicators.

Florida HB 1201 authorized counties to issue revenue bonds to finance pollution control facilities. The legislature also enacted three comprehensive measures, one each dealing with land use, environmental, and development and growth planning. See the case study for the details of these measures.

The **Georgia** *Erosion and Sedimentation Act of 1975* (HB 174) requires the governing body of each county and municipality to adopt a comprehensive ordinance establishing the procedures governing land disturbing activities which are conducted within their respective boundaries. The act provides for minimum requirements for such ordinances. "Land disturbing activities" are defined to include any land changes which result in soil erosion. HB 149, the *Oil and Gas and Deep Drilling Act of 1975,* authorizes the Board of Natural Resources to regulate the drilling and subsequent use of oil and gas and other deep wells. And the Georgia Supreme Court ruled on

---

The *New Communities Act of 1975* (HB 178) authorizes the creation of new community districts. The state would make the designations of the districts and grant certain limited powers as independent special improvement districts. A developer would present a petition to the county or municipality with jurisdiction over most of the land in which the district would be located. Before a petition can be submitted certain conditions must be met: the proposed district can be no less than 1,000 acres unless the land is wholly within one or more municipalities; the petitioner must have control of 75 percent of the land; the proposed district should be able to show a capability to build facilities compatible with the overall general purpose government facilities in the area; and 5 to 25 percent of the housing in the first five years of development must be committed to low- and moderate-income housing.

The law permits the district to operate much like a municipality and eventually to incorporate as one. No direct state financial subsidy is offered to the new communities, but some rights of eminent domain and the ability to issue bonds are included.

A general clause in the act requires that the proposed district show a commitment to comply with all ecological, environmental, economic, and other governmental, procedural, and policy requirements of state and local general purpose government. Each district is governed by the state's regulatory and other agencies as if it were a general purpose government.

An environmental bill (HB 1201) was passed to facilitate the financing of capital projects for industrial or manufacturing plants and pollution control facilities. The act encourages the planning and development of the capital projects without regard to the boundaries between counties, municipalities, special districts, or other local governmental bodies or agencies. Counties are empowered to issue revenue bonds for the purpose of financing and providing funds to pay the cost of pollution control facilities or devices, or to provide facilities for the furnishing of water or sewage or solid waste disposal.

September 16 that all zoning decisions by local governments are subject to court review to determine whether the public good outweighs the property owners' loss.

Hawaii adopted a statewide, comprehensive land use planning process (HB 677). The act instructs the director of planning and economic development to develop and coordinate a comprehensive plan which is to be drafted by a newly created policy council. The members of the policy council are the planning directors of each county and the department chairmen or directors of the Departments of Agriculture, Budget and Finance, Planning and Economic Development, Education, Land and Natural Resources, Hawaii Housing Authority, Transportation, and Land Use Commission. The state plan must be submitted to the legislature by January 1, 1977, and any revisions of that plan must also be submitted to the legislature. Within two years of the legislative enactment of the plan or any amendments to it, each county's general plans must be in conformity with the state plan. The state plan is to be reviewed on an ongoing basis — a comprehensive review every fourth year and an annual policy review of legislation and programs having a major statewide or county impact are required. The state plan is to include general, social, economic, environmental, and physical objectives as they relate to the welfare and prosperity of the people of the state.

The Land Use Commission was also established by the **Hawaii** Legislature (HB 1870). The nine-member commission, appointed by the governor, has a member from each county. The procedures of the commission were changed from quasi-legislative to quasi-judicial. The act also adopted an Interim Statewide Land Use Guidance Policy which, in effect, discourages further urbanization of the state's lands until the long-range land use policies of the state are adopted in 1977. Another measure (SB 42) established special interim management along the shoreline and within 100 yards of the beach vegetation line until a comprehensive coastal zone management plan is proposed and adopted. The act also directs each county to establish a special management area and administer a relative permit system.

Idaho also adopted a land use planning law which requires comprehensive land use plans and zoning ordinances by local governments. In addition, the Idaho Tomorrow program, a statewide conference, drafted plans early in the year. The statewide conference was followed by six regional conferences. All together, more than 1,000 people participated in the series, the goal of which was "to guide the growth of [the] state and to maintain its superior quality of life." In October, local conferences were held in communities throughout the state where the plans were discussed and final recommendations were drafted. A statewide telephone survey which climaxed the program found that Idahoans want economic growth to proceed at or above the present rate, and that they overwhelmingly prefer non-polluting industry.

The **Illinois** Mined Land Reclamation Council was created (HB 1114) to authorize the reclamation of land which was strip-mined before 1962. The Department of Mines and Minerals would acquire the land and restore it to useable condition, then convert it to state use, transfer it to a local government, or sell it at public auction. Another strip-mining measure (HB 1277) requires that mining companies set aside dark top soil to be used later as row crop farm land when the land is reclaimed. The act also extends reclamation requirements to land and water affected by coal mine run-offs, as well as increasing both the amount of information strip mining operations must make available to the public and the amount of the bond which must be posted before strip mine operations may begin.

Indiana HB 1176 provides that a member of the county council must serve on the county planning commission.

The **Iowa** Legislature enacted provisions regulating the disposal of coal wastes and the revegetation of land affected by strip mining (SB 314). The act, which was taken from the vetoed federal *Surface Mining Control and Reclamation Act of 1974,* also provides for the designation by the Department of Soil Conservation of lands unsuitable for the surface mining of coal on the basis of a mine and rehabilitation plan required to be submitted by the coal operator at the time of

registration of a site. A measure designed to protect the existence of the family farm was also passed (HB 215). The act prohibits any processor or limited partnership, with certain exceptions, from owning, controlling, or operating a feedlot and calls for divestment of such holdings by January 1, 1985. A one-year moratorium was declared on the acquisition of agricultural land by corporations other than family farm corporations or authorized farm corporations defined in the act, and corporations, limited partnerships, fiduciaries, non-resident aliens, and non-resident alien corporations are required to disclose in annual reports the agricultural activities in which they are engaged, whether on owned or leased lands.

A 1974 **Kentucky** law requiring a surface owner's consent for strip-mining was declared unconstitutional by the state court of appeals in May. Affected by the law were broad-form deeds which granted mineral rights owners the right to use the surface to mine. Most of the deeds were signed at the turn of the century before strip-mining was widespread.

The **Kansas** secretary of health and environment was authorized (SB 359) to issue revenue bonds and make grants from the proceeds to local units of government for the construction or expansion of water pollution control facilities.

The **Maryland** Legislature enacted a law (Chap. 581) regulating surface mining other than coal (which is already regulated) and establishing the Surface Mined Land Reclamation Fund.

Massachusetts Governor Michael Dukakis issued an executive order creating a new position of director of the Office of State Planning. The director will oversee the planning efforts of all state agencies and direct the development of a long-range state land use and growth plan. Another law created a state land bank to preserve surplus military bases that eventually may be used for industrial development. Under the provisions of the act, the state could issue up to $40 million in bonds to buy 300 acres at four surplus facilities. The act gives city officials two years to develop plans for the land or lease it for development purposes. If city or regional planners cannot come up with a redevelopment plan, the state may make its own plans for selling or leasing the land.

The **Massachusetts** *Growth Policy Development Act* calls for the creation of local growth policy committees in each of the state's 351 cities and towns. Each local committee will fill out a questionnaire being developed by the Office of State Planning. The questionnaires will ask localities to make specific suggestions for ways that state investment programs and regulatory powers can be used to achieve community objectives. A second questionnaire will ask regional planning agencies to summarize the municipalities' responses to key development issues and to address development issues from a regional perspective. The Office of State Planning will prepare a final report, with recommendations, for the Legislative Commission on Growth Patterns which will then prepare the legislation it finds to be required as a result of the year-long process.

The Commission on **Maine's** Future was created by the legislature and appointed by Governor James Longley. The commission will solicit opinions and ideas from the state's citizens and use statistical projections to outline a comprehensive plan for future state policies.

The **Michigan** Supreme Court upheld a 1970 law allowing citizens to sue to stop projects that may damage the environment. The court ruled that once plaintiffs showed that a project would harm the environment, the project could not proceed unless the public interest compelled it and there was no feasible alternative.

Missouri HB 655 prohibits corporations, except for family corporations, from engaging in farm operations and from acquiring agricultural lands. Corporations with any interest in farming operations or agricultural land must file reports with the state Department of Agriculture.

The **Montana** *Economic Development Act* (HB 672) requires that by 1978 each county and incorporated city and town must have prepared for its jurisdictional area a land use plan which classifies all lands into six categories: agricultural, residential, commercial, industrial, recreational, or open space. All cities and towns that already have zoning

laws must comply with the act by January, 1976. If any local government fails to develop such plans, the Planning Division of the Department of Community Affairs is authorized to do its land use planning for it.

Nebraska counties in a Standard Metropolitan Statistical Area must prepare comprehensive development plans by July 1, 1977 (LB 317). If municipalities within that county are not adequately enforcing land use regulations, the counties may take that power over. The state Office of Planning and Programming must examine the land use regulation programs of all counties and municipalities, and a confidential report listing the inconsistencies between state law and local procedure will be sent to each subdivision. If those deficiencies are not corrected within three months, the state will publish a report of the deficiency in a local newspaper. In addition, all municipalities and counties must file a current copy of its zoning and subdivision regulations with the state Office of Planning and Programming.

The **Nebraska** Legislature also enacted a law (LB 410) making several changes in the zoning laws and extending zoning authority to second class cities and villages. The act makes it clear that comprehensive zoning regulations rather than individual council ordinances should be the method of controlling development. Any development of land which is subdivided into lots of ten acres or less falls under the regulations. The act also gives first and second class cities and villages the power to adopt building, plumbing, fire prevention, electrical, and other codes related to new construction. LB 203 requires corporations owning or leasing agricultural land in the state to file a report with the secretary of state detailing the ownership of the corporation, the size of the operation, the location of the agricultural land, and the residency of the owners. The intent of the legislation is to document any anticompetitive forces at work in the agricultural industry in the state.

The **Nevada** Legislature created a vehicle emission control section in the Registration Division of the Department of Motor Vehicles. Nevada placed mining under the jurisdiction of the Board of Oil and Gas Conservation. The act (HB 323) also provides for the reclamation of mined lands and defines the powers and duties of the board concerning the reclamation. Also prescribed are methods of enforcement, including recourse to the courts.

A 1973 **New Jersey** law which bans the dumping of out-of-state garbage in the state was upheld by the state supreme court in November. A lower court had ruled that the ban conflicted with interstate commerce, but the state supreme court reversed that ruling.

New Mexico (HB 147) provided a "tax increment" method as a new alternative method for financing urban renewal projects in all municipalities. The act created a municipal urban development fund and earmarked for it, rather than those units of government sharing in property tax revenue, that part of property tax receipts directly resulting from increases in net taxable value of property rehabilitated or improved because of its inclusion within an urban renewal project. The money in the fund may be used only for the purposes authorized in the *Urban Development Law.*

New York state agencies and local governments are now required to prepare environmental impact statements. In signing the law (AB 4533), which is patterned after the federal *National Environmental Policy Act,* Governor Hugh Carey stated that "in recent years it has become abundently clear that state and local agencies have not given sufficient consideration to environmental factors when undertaking or approving various projects or activities. The bill requires the preparation of an impact statement which must consider in detail the environmental implications of any proposed projects or activity. With the information which will be provided by these statements, state and local officials will be in a better position to make decisions which are in the best overall interest of the people of the state."

New York also began a $2.5 billion Environmental Public Works Program, the largest of its kind in the nation. The program will result in the construction of 205 projects within the next five years to clean up the state's lakes, rivers, and streams. The program is expected to provide at least 100,000 workers with employment of six months or more.

The **North Carolina** Legislature enacted tax write-offs for companies for investment in recycling and resource recovery facilities (SB 369). Also enacted was the *Comprehensive Radiation Protection Act* (SB 75).

North Dakota created the Regional Environmental Assessment Program to monitor development problems in the state, marshal information concerning development, and provide officials with energy development alternatives (Chap. 4). Three strip-mining measures were also enacted. Chapter 318 amended the *1973 Strip Mining Act* to require that five feet of overburden be replaced in reclaiming the land, Chapter 321 requires the consent of a surface owner before minerals may be extracted, and Chapter 320 mandates a 15-day cooling off period before coal leases become binding.

Each **South Dakota** county must prepare comprehensive planning and zoning maps by July 1, 1976 (HB 501). The comprehensive plan is to be for the purpose of protecting and guiding the physical, social, economic, and environmental development of the county. HB 503 makes the same requirements of cities. Any city may contract with its county's Board of Planning and Zoning Services for assistance. Alternatively, a city may elect to delegate its planning and zoning powers to the county board. SB 288 requires reclamation of strip-mined land. The act also established exploration controls.

The **Tennessee** surface mining laws were extended to include all coal operators mining 25 or more tons of coal annually (SB 549).

The **Texas** *Surfacing Mining and Reclamation Act* (SB 55) provides for controlling and regulating the exploration for and the surface mining of coal, lignite, uranium, and uranium ore. The control and regulatory authority was placed in the Railroad Commission, which has traditionally served as the regulatory body for utilities and some industries in addition to railroads. The commission was given responsibility for issuing permits covering surface mining operations. The commission was also authorized to designate certain land unsuitable for permits for all or certain types of surface mining operations.

In the future, the **Vermont** Legislature must approve any plans for the construction of nuclear power plants before they can be built.

Virginia (HB 1304) requires every local government to establish by July 1, 1976, a planning commission to promote its orderly development; to have by July 1, 1980, a comprehensive plan for such development; and to have by July 1, 1977, a subdivision ordinance.

A 200-page report prepared by the Alternatives for **Washington** Statewide Task Force was released in 1975. The report makes recommendations regarding physical aspects of the state's growth, as well as some high priority human concerns, which were derived from a process which involved considerable citizen input.

A 1975 **West Virginia** law (HB 649) prohibits the issuance of permits for the surface mining of coal in counties where no surface mining existed under permit during the years 1970-1977. The moratorium blocks further strip-mining in 22 of the state's 55 counties.

The **Wisconsin** Legislature enacted a law (AB 463) to "safeguard the public interest and provide for orderly power plant and utility line development." Utility companies are required to file ten-year plans with the state Public Service Commission, outlining proposals regarding the construction of power generating facilities and route transmission lines. After review, public hearings, and comment, the commission would have to approve or deny the plans or require their alteration to meet the public interest. Key considerations in the commission's review are to be the plans' economic impact, safety, reliability, efficiency, and environmental integrity. Special attention is to be paid to the rights of landowners, the need to preserve prime agricultural land, and environmental safeguards. Utility companies must update their reports every two years. The plans are to be reviewed by state agencies, regional planning commissions, and local governments.

The 1975 **Wyoming** *Land Use Planning Act* (AB 112) established a new state office to oversee the drafting of land use plans in each of the state's 23 counties by the end of the decade. A new state land use commission and advisory council were established to assist in compiling the local plans and in establishing a statewide land use plan. In addition, the state commission may designate

areas as being of critical concern and draw up plans for them.

The new **Wyoming** *Community Development Authority Act* provides assistance to industrial impacted communities. The law, aimed at giving communities some time to deal with the influx of workers and other growth problems anticipated by the development of the state's energy resources, establishes the Industrial Plant Siting Council to issue permits and supervise impact studies on the construction of new, large industrial plants. The state authority may also issue tax-exempt revenue bonds to make loans to communities and lending institutions for all types of community facilities and housing.

ENERGY

While the long lines at gas stations have become a memory, states acted in 1975 to deal with the more long-term implications of a continuing scarcity of adequate energy supplies. 1974 actions were largely responses to the very immediate and visible signs of the shortage, while 1975 actions dealt more with conservation, research, and development.

Seven states enacted new statutes to attract, regulate, or involve the state in the production of energy from sources other than fossil fuels. Those projects run the range from Georgia and Utah's permitting the state to produce electricity to several states' enactment of controls on the development of geothermal energy.

Nine states began projects dealing with energy use and conservation: New Jersey is building a plant to produce electricity from garbage, Connecticut is building a housing project for the elderly which will be partially heated by solar energy, and Iowa is converting the state house complex heating and air conditioning system to run on solar energy.

Recognizing the need to promote both conservation and the conversion to alternate sources of energy, four states enacted tax breaks for individuals and businesses who convert their systems to rely on solar energy resources.

Addressing an issue which is growing with the demand for the expansion of energy production and with concern over the effects of such facilities on the environment, four states enacted new laws on the siting of new power plants. Vermont, for example, enacted a very strict standard which requires the approval of the legislature before construction may begin on any nuclear-powered electrical generating facility.

And there was growing recognition of the problems associated with the rising cost of energy. Several states enacted measures to further regulate the pricing practices of utility companies, and two states adopted measures to assure that minimum energy needs will be met by guaranteeing a "lifeline" rate.

A 1975 **Alaska** law (Chap. 142) authorizes local governments which may form regional housing authorities to also form regional electrical authorities. The electrical authority is a political subdivision of the state authorized to provide electrical service within the area of individual associations. Governor Jay Hammond established the Intergovernmental Pipeline Impact Committee to better coordinate governmental responses to the impact of the Alaska pipeline. The committee is to be a mechanism for all levels of government to identify responsibilities or to coordinate responses made by various units of government. Governor Hammond also created the Rural Energy Task Force to form a workable plan for dealing with the recurring problem of rural energy needs. The governor asked the group to identify current and future energy requirements, to evaluate fuel distribution and storage facilities, to review existing federal and state statutes regulating the transportation of fuels, and to evaluate existing sources of funds to meet energy needs. The task force is also to consider the advisability of legislation introduced in the next session of the state legislature.

Arizona established (Chap. 20) a 15-member Solar Energy Research Commission to analyze information relating to solar energy technology. A law was enacted (Chap. 93) to clarify earlier legislation permitting the amortization of the acquisition costs of solar energy devices. Amortization is now allowed whether the device is used for residential, commercial, industrial, governmental, experimental, or demonstration purposes.

The **California** Legislature passed a bill to develop a "lifeline" rate to be established for a basic quantity of gas and electricity needed by the average household (AB 167). The act directs the Public Utilities Commission to require utilities to file a revised rate schedule for the lifeline service at rates no greater than those in effect on January 1, 1976. The measure bars any increase in the lifeline rate until the rates to all other classes of customers increase by 25 percent or more. The PUC is additionally directed to designate a lifeline quantity of electricity and gas necessary to supply the minimum energy needs of the average residential user for space and water heating, lighting, cooking, and food refrigeration. AB 177 ended the state oil depletion allowance for large oil companies. And SB 334 prohibited utilities from enclosing political literature with customers' bills.

Colorado HB 166, enacted pursuant to a 1974 constitutional amendment, allows municipalities to join together or with private or public corporations to effect the development, production, and transmission of energy. The act also sets forth certain required contents of related intergovernmental contracts, and provides for the legal status, general powers, and bonding requirements of power authorities. Another 1975 law allows counties and municipalities to issue revenue bonds to finance the furnishing of energy, among other services.

Before an oil refinery may be constructed in **Connecticut,** a referendum on the question may be required in the town in which the refinery is scheduled to be built. A town election may be called upon the submission of a petition signed by not less than 200 electors or 5 percent of the town electors, whichever is greater. If a majority of those voting on the question disapprove, the construction of the refinery is barred. SB 1081 abolished the Public Utilities Commission and replaced it with the Public Utilities Control Authority. Task forces were also set up to study further reorganizations and utility bonding. Another enactment prohibits public utilities from passing to their customers the cost of political or image-making advertising. In January, the

state announced that it would build a $1 million, 40-unit housing project for the elderly, with half of the units using solar heat.

The **Delaware** Public Service Commission was directed to institute and publish a customers' bill of rights (SCR 28).

The **Florida** Legislature authorized publicly and privately owned electric utilities, including rural electric cooperatives, to jointly engage in electric supply projects for the generation or transmission of electrical energy (HB 1329).

The Municipal Electric Authority of **Georgia** was created (HB 31) for the purpose of acquiring, constructing, operating, and maintaining electric generation and transmission facilities. These actions are designed to provide or make available an adequate, dependable, and economical supply of electric power and energy and related services for those political subdivisions which, on the date the act became law, owned and operated an electric distribution system.

The governor of **Hawaii** was authorized (SB 1669) to control the distribution of petroleum products when shortages occur or are anticipated. The former law allowed him to act only when an emergency situation had occurred. A county having the power to do so under its charter may exempt itself totally or in part

Case Study

Hawaii Constructs Energy-Efficient House

In June, Hawaii began construction of the "Hawaiian Energy House," which Governor George R. Ariyoshi called "the most energy-efficient house that technology permits."

The project will be a demonstration dwelling which uses such energy sources as solar collector panels and a windmill. Energy saving appliances and several self-sufficient features will also be included in the house.

The house, which will be on the University of Hawaii's Manoa campus, is being financed with a state grant of $65,880 and a $7,370 contribution from the university. The project will be administered by the Hawaii Housing Authority under the supervision of a University of Hawaii architecture professor.

Some of the house's more unique and interesting features include solar collector panels for hot water heating; an architectural design that provides maximum natural ventilation and lighting; electricity generated by a windmill; energy efficient appliances; and self-contained sewage treatment, water collection, and irrigation. Maximum self-sufficiency for the average family will be demonstrated by tropical landscaping and high-yield fruits and vegetables.

Energy consumption, temperatures, wind, and water use will be closely monitored to determine what may be expected of each of the various systems. The house is to be open to the public to promote an awareness of energy consumption and conservation as well as the applicability of the features to individual homes.

Professor James Pearson, supervisor of the project, said that preliminary calculations indicated that the Hawaii Energy House will use only 25 percent of the normal electrical consumption of a home in the area. Normal utility services will be connected to the home for back-up and comparative monitoring.

In addition, the house will be constructed with low-cost materials and building methods. Most of the features will be adaptable to existing homes and cluster or planned-unit development housing.

Professor Pearson and his graduate student assistants spent about four months researching the project and drawing designs before submitting them to the Department of Planning and Economic Development, which recommended to the governor that the state underwrite the project.

from the state rules and regulations delineated in the new act by declaring an emergency situation and initiating its own plan.

Idaho Governor Cecil D. Andrus transferred the state Office on Energy from the jurisdiction of the Idaho Energy Council to that of the state Public Utilities Commission. The Idaho Energy Council, created by executive order in 1974, was dissolved.

The **Iowa** Legislature appropriated $300,000 for the installation of a solar power plant to heat and air condition the state capitol complex. It will be the nation's first solar heated and cooled state capitol. The state also began a three-year project to select, develop, and demonstrate new methods for surface mining. See the case study.

Kansas SB 13 created the Kansas Energy Office and an advisory council on energy appointed by the governor. The director of the new office will, among other things, adopt rules and regulations establishing a system of priorities for the allocation of energy resources and the curtailment of consumption during an energy emergency. The act authorized the governor, subject to the approval of six members of the Finance Council, to proclaim an energy emergency whenever it appears that energy resources in the state are inadequate to meet the demand and a threat to the public health, safety, and welfare exists. During such an emergency, the system of priorities for the allocation of available energy resources and/or curtailment may be imposed in all or part of the state.

Kentucky Governor Julian Carroll issued two executive orders dealing with energy in 1975. One created the Kentucky Department of Energy with responsibilities for energy conservation, allocation, and management; planning; and resource development. The order also created an energy research center. The other executive order created a study commission on utility rates and regulations.

The **Louisiana** Legislature enacted two laws to promote the development of geothermal energy resources (SB 420 and HB 700). The acts declare it to be the policy of the state that the rapid and orderly development of geothermal resources within the state is in the interest of the people of Louisiana. Impact statements are required before applications for geothermal leases may be accepted, and the Department of Conservation was given the task of managing and coordinating a program of research and development regarding the exploration, extraction, and utilization of technologies; determining the environmental ramifications of such projects; and examining the legal, social, and economic consequences of developing geothermal and geopressure energy resources.

The **Maine** Public Utilities Commission was directed (Chap. 585) to establish rules and procedures for, and put into operation, a demonstration lifeline electrical service program for the elderly. Persons with an annual income of less than $4,500, or couples under $5,000, may not be charged more than 3¢ per kilowatt-hour for the first 500 kilowatt-hours of electricity they use each month. After the one-year demonstration project, the PUC will hold public hearings to review the lifeline service rate to insure that it is adequate to effect the purposes of the chapter. The PUC's findings and recommendations will be reported to the legislature in 1976.

Maine Chapter 489 prohibits the arbitrary imposition of fuel charges by electric power utilities. The act stipulates that the cost of any and all fuel used in generating or supplying electricity must be itemized and billed at a single uniform rate per kilowatt-hour for all customers.

In another 1975 **Maine** action, the position of director of the Office of Energy Resources was established to prepare a comprehensive energy resources plan and state energy policy pointing out the directions most feasible for Maine to pursue in the field of energy resource use and development, feasible alternatives to implement the state energy plan, and long-range as well as short-range programs.

The **Maryland** Lesiglature consolidated several diverse activities relating to energy in the Department of Natural Resources. A newly formed Energy and Coastal Zone Administration will administer programs in power plant siting and coastal and outer continental shelf management; issue permits for mining and gas and oil drilling; and administer mine reclamation activities. Under the act, any facility to be constructed in the

coastal area of the state requires a permit. In another action, the Public Service Commission directed that no electrical or oil appliances be replaced by natural gas equipment after Febraury 15. The moratorium is aimed at conserving natural gas by homeowners.

Massachusetts HB 5755 gave the Energy Facilities Siting Council the authority to approve sites for onshore support facilities resulting from offshore oil development, as well as any other major oil-related facilities in the state. The council already had the power to approve proposed locations for major electric and gas projects. HB 6813 granted a property tax exemption to homeowners and businesses who install solar or wind powered generating or heating systems.

The **Montana** Legislature enacted a law (SB 86) allocating a percentage of the coal severance tax to a fund for supporting research and development of alternative energy tech-

Case Study

State of Iowa Operates Experimental Strip Mine

In August, Iowa began an experiment to use strip mining for two purposes: to produce coal and to improve the land above the coal. The departure from merely reclaiming land (or even leaving it permanently scarred, as has been the case so often in the past) is part of a $3 million, three-year coal research project established by Iowa State University. It is the first coal mine in the nation to be operated by a university.

When he turned the first shovelful of coal at the experimental coal mine established to demonstrate improved mining and land restoration techniques, Governor Robert Ray called the project an "ambitious, innovative way for a state to tackle its energy problems . . .Through the leadership and efforts of state government and our experts in our universities we have an opportunity to revive lagging, yet potentially important, industry."

The governor had first proposed a state coal research and development program in January, 1974. Later that year the Iowa Legislature funded the project at Iowa State University.

The project's primary goals are to select, develop, and demonstrate methods for surface mining of coal, returning the land to productive use, and cleaning the coal to meet environmental standards set by the state's Department of Environmental Quality.

The experimental site contains an estimated 135,000 tons of usable coal in two seams. About 1.5 million tons of earth will have to be moved to get to the coal and to restore the site.

In his remarks the governor noted that for some time the technology has existed to mine coal in such a way that the land above it can actually be improved, and that coal may be used within the limits of air pollution standards. The state's effort is an attempt to put those tasks together to demonstrate to private enterprise that such efforts can be done at a profit.

"The cost of this project should be looked upon as a small investment," Ray said, "when we consider the enormous potential of our coal resources in this state. We know that here in Iowa we are going to have to depend less and less upon electricity generated from the burning of fuel oils and natural gas."

Governor Ray pointed out the importance of continuing research and development of "the more exotic energy resources" such as geothermal and solar energy, but that solutions must be found for the short range without causing permanent harm to the environment.

Ray also said, "This is another instance where instead of sitting and waiting for federal action in the energy fields, Iowa is initiating a problem-solving program on its own."

nologies. HB 663 created property tax incentives for energy conservation and the use of new, non-fossil forms of energy. Tax incentives are also available for installing insulation and other energy saving materials in buildings.

Nebraska now allows any city or village which owns or operates electricity generation or transmission facilities to enter into a contract for electrical services with other power suppliers (LB 60). The act also allows the city or village to contract with non-profit corporations whose purpose is the financing of electric properties, projects, or undertakings for the city or village. In the spring, Governor James J. Exon announced that the state was purchasing 14,000 gallons of 200 proof ethyl alcohol distilled from tree sugars to be used for a 2 million mile test as an auto fuel program. The Nebraska Legislature's Agricultural Products Industrial Utilization Committee used 36 passenger cars and pickups assigned to the State Department of Roads for the test, utilizing both leaded and unleaded gasoline in the alcohol mix.

Nevada made geothermal resource development subject to the regulatory control of the state engineer (SB 158). AB 275 created a committee to study electric utility companies, gas utility companies, and the Public Service Commission of Nevada.

Automobile registration fees in **New Hampshire** will be graduated to require heavier, lower gas-mileage cars to pay stiffer registration fees. HB 479 permits a local option to adopt tax exemptions for realty equipped with solar energy heating or cooling systems. And HB 407 established an electrical energy review committee.

New Jersey began building the nation's first large commercial plant for manufacturing methane gas from municipal garbage and sewage. The regional facility in South Jersey will cost $95 million, but that expense will be offset by annual income generated by the sale of methane gas and recovered resources as well as sludge treatment charges. It may even be possible for the state to make money on the facility, for the annual net profits are estimated at $5 million, plus an additional $5 million in savings from eliminated sludge and trash disposal.

The new Energy Resources Board in **New Mexico** was given the task of formulating a comprehensive statewide plan for the production, refining, and sale of fuel and power. The board is also to administer the state's fuel allocation and energy conservation program. Another act (HB 395) requires the Department of Finance and Administration to have a feasibility study made of the use of energy sources other than fossil fuels for heating and air conditioning any state-owned building prior to the execution of any contract for its construction, major alteration, or renovation. SB 120 appropriated $30,000 to the Department of Development to attract solar energy projects, including industrial projects involving the development or use of solar energy. SB 262 imposed a tax on the generation of electricity. And HB 276, the *Geothermal Resources Conservation Act*, gave the Oil Conservation Commission substantial powers and duties to regulate the production and development of geothermal energy resources in much the same way that it regulates oil and gas resources. Included in those powers and duties are such subjects as the prevention of waste and the encouragement of safety practices.

The **New York** Legislature changed the manner of allocating natural gas during periods of shortage. The act (AB 4212) empowered the Public Service Commission to establish gas conservation measures and standards to discourage unnecessary and wasteful consumption of natural gas. AB 5147 requires utility companies as well as the Power Authority of the State of New York to prepare and submit to the Public Service Commission long-range plans on future operations. Previous law required only private companies to submit such plans and did not require the companies to submit their plans together as a group. AB 8620 restructured the Atomic and Space Development Authority into the New York State Energy Research and Development Authority, the purpose of which is "to accelerate the development and use within the state of new energy technologies to supplement energy derived from existing sources and to promote the conservation of energy."

The **North Carolina** State Utilities Commission was expanded to seven members and al-

lowed to form three-member panels to decide cases. The legislature may review commission rate decisions and examine utility company records through the Utility Review Committee (SB 119). Another act (SB 133) ended the electric utility practice of automatically passing along fuel cost increases to customers in their monthly bills. HB 3 repealed a 1973 law which allowed utilities to base rate increase proposals on projections of future costs. And SB 943 created a state energy policy council.

North Dakota enacted the *Energy Conversion and Transmission Facility Siting Act.* The act (Chap. 436) directs the State Public Service Commission to establish rules and regulations for locating such facilities.

An **Oregon** Department of Energy was created to conduct research, to collect data, and to educate the public. An energy policy review committee will advise the department. Another action provided tax credits for solid waste facilities which use waste as a source of energy. The legislature also created an energy conservation committee to recommend standards for inclusion in the state housing code. Oregonians for Nuclear Safeguards were successful in their initiative drive to get the Nuclear Safeguards Measure on the 1976 ballot. The purpose of the act, according to the group, is to require "that three basic conditions be met before further nuclear power plant construction is approved in Oregon . . . (1) that safety systems in nuclear power plants be successfully tested, (2) that there be a safe and proven method of handling and storing radioactive wastes from these plants, and (3) that utility companies become fully liable for the consequences of nuclear accidents."

The **Rhode Island** Public Utilities Commission was given the authority to force utilities to pay refunds. The attorney general was given the duty of investigating PUC complaints against utilities, and the PUC was authorized to get independent legal advise when the attorney general represents either the state or citizens in action against utilities. The legislature also created a legislative commission to study the fuel adjustment charge.

A **South Carolina** joint resolution (HB 2785) created a committee to investigate electric power rates and the structure of the Public Service Commission.

South Dakota established a permanent Public Utility Commission. With similar action in Texas, all 50 states now regulate and monitor public utilities. SB 283 provided property tax reductions for the use of solar energy systems in residences. The legislature also enacted a measure to exempt fuel used by utilities and industry from the state use tax. In another 1975 action, municipalities were empowered to enter into electric service contracts with other public bodies and utilities, and the financing of municipal utility systems by revenue bonds was authorized.

The governor of **Tennessee** was granted the power to allocate or seize all energy resources if necessary to forestall a threatened or current energy shortage (HB 225).

Texas created a three-member Public Utility Commission to regulate electric, water, and sewer utilities operating within the unincorporated areas of the state (HB 819). Municipalities retained jurisdiction over such utilities operating within their incorporated areas, but they may surrender that jurisdiction, by election or ordinance, at any time after the new law has been in effect for two years. The commission will also regulate all telecommunications utilities within the state. The Railroad Commission will regulate gas utilities. The act provides comprehensive standards for the determination of a public utility's rate base and rate of return, requires certain utilities to obtain certificates of convenience and necessity, and imposes duties and restrictions on all public utilities. SB 519 created the Governor's Energy Advisory Council. Composed of both legislative and executive officers, the council is charged with formulating a state energy policy for recommendation to the legislature and executive offices. Energy matters affecting the state are to be coordinated by the council.

Under the provisions of SB 685, the **Texas** Railroad Commission was given responsibility for regulating the exploration, development, and production of geothermal energy and associated resources on public and private land. Such regulation is to conserve the resource and protect correlative rights. To facilitate and encourage the development of

geothermal energy, the commissioner of the General Land Office was granted the authority to provide for the orderly exploration of land belonging to the Permanent School Fund of Texas, excluding wildlife refuges and recreational areas. SB 516 requires the State Building Commission and governing bodies of agencies and institutions exempt from the *State Building Construction Administration Act* to prepare performance and procedural standards for maximum energy conservation in the construction of new state buildings. The State Building Commission is also charged with the responsibility of publishing an energy conservation manual for use by designers, builders, and contractors of residential and non-residential buildings.

Utah HB 111 authorized the state to plan, finance, construct, and operate power facilities in cooperation with municipalities in other states.

The nation's most stringent state controls over the construction of nuclear power plants were adopted by the **Vermont** Legislature (HB 127). The act requires the approval of the legislature before any construction may begin on atomic-powered plants. In signing the act, Governor Thomas Salmon stated, "This act is born out of the total frustration of Vermonters with rising electrical costs, distrust of utilities, and distrust of government." The governor stressed, however, that the bill was not a "nuclear moratorium."

In November, **Washington** Governor Dan Evans issued an executive order creating an interim State Energy Office. The office will coordinate the state's energy programs under one roof.

The **West Virginia** Public Service Commission must hold a full public hearing before allowing a public utility to increase its rates (HB 966).

TRANSPORTATION

In December of 1974, the Advisory Commission on Intergovernmental Relations adopted *Toward More Balanced Transportation: New Intergovernmental Proposals*. That report found that transportation is one of the most pervasive, most expensive, and most intergovernmental of all government functions. Transportation costs about $26 billion a year in public funds alone, and about one-third of that money involves aid from one level of government to another.

Perhaps the most crucial transportation problems ACIR found are attributable to weaknesses and voids at the regional level in both metropolitan and non-metropolitan areas. At the regional level there is usually no authoritative governmental mechanism which can integrate the various transportation modes to assure the efficient movement of people and goods within the whole region, and to coordinate those transportation systems with overall community development objectives. Instead, regional levels usually rely on an advisory regional planning body plus a variety of separate and independent local governments and special districts. Responsibilities for financing, regulating, and developing the region and its transportation systems are divided among from about 11 to several hundred independent local units, de-

pending upon the size of the region. It is, therefore, almost impossible to achieve coordinated planning and implementation of regional transportation development and operating policies.

In its report, the Commission affirmed that all "regional" transportation programs should be coordinated within a single intermodal program under the guidance of effective regional bodies. At the same time, purely local transportation would remain a local government responsibility, and transportation systems reaching beyond the region would be of primary state or federal concern. Effective intergovernmental coordination would be relied upon to help assure that (1) a state or federal project would not unnecessarily or arbitrarily disrupt local and areawide communities, (2) local projects would be consistent with regional ones, and (3) regional transportation systems would connect with and complement the nationwide, statewide, and local systems.

Among the ACIR recommendations are that states enact legislation which authorizes a range of possible forms for areawide transportation policy bodies and associated regional transportation authorities. The policy bodies could be a strengthened council of governments or regional planning council, a reorganized county containing 70 percent or more of a metropolitan or non-metropolitan area's population, a city acting extraterritorially when it already performs the bulk of the area's non-highway transportation services, a joint city-county transportation department, a multipurpose or multimodal regional service authority, or a state department of transportation or state subordinate multimodal regional transportation agency. States should also authorize units of general purpose local government to deliver, either directly, jointly, or by contract, supplementary local transportation services, provided that those services have not been assumed by the designated areawide transportation policy unit or its regional implementation authority.

Another major recommendation of the Commission is that each state establish a broad intermodal department of transportation headed by a chief administrator appointed by, and responsible to, the governor; this administrator would be directly vested with strong and effective intermodal planning, policymaking, and budgeting capabilities.

During 1975, state actions dealing with transportation ran the range from rationalizing and restructuring transportation planning to programs aimed at specific, sometimes experimental, transportation needs. Four states created intermodal departments of transportation. Three states expanded local government capabilities to finance mass transportation services. Two states enacted reduced mass transportation fares for the elderly and handicapped. Four states acted to revitalize railroad transportation. And two states moved to experiment with providing transportation services by using school buses which otherwise stand idle for several hours each day.

Arizona Chapter 86 was enacted to encourage counties and municipalities to spend public funds to provide public transportation services directly or by contract with private parties. The act also permits local jurisdictions to enter into intergovernmental agreements with each other under the *Joint Exercise of Powers Act* to provide public transportation directly or by contract with a private party, common carrier, or public service corporation. However, the act prohibits regional planning agencies and councils of governments from providing transportation services.

There were several transportation actions in **California** during 1975. If they are not already in a transit district, counties with less than 100,000 population, or cities in such counties, may contract for transportation of the elderly, the handicapped, or other groups requiring special transportation help (SB 760). AB 918 authorized the Department of Transportation to establish car pool programs and to provide incentives for the wider use of car pools by commuters in metropolitan areas. AB 696 permits school districts to make their buses available for use by senior citizens when not being used by students. The state transportation secretary announced in the spring that the state is shelving plans for new freeways and will work instead to improve existing systems and help cities develop transit facilities. During June, some freeways were converted to provide fast lanes for automobiles with high occupancy.

Colorado SB 57 was enacted to permit

counties and municipalities to issue revenue bonds to finance airports, mass transportation, or parking facilities.

Connecticut HB 8383 abolished the Connecticut Transportation Authority and created in its place the Connecticut Public Transportation Authority to coordinate transportation planning and advise the commissioner of transportation.

The Statewide Transportation Council was established in **Hawaii** (SB 1214). The council was mandated to develop a new state transportation plan to be submitted to the 1978 session of the legislature. The council, which consists of representatives from the state government and each of the four counties, is further charged with establishing and coordinating a statewide transportation planning program. A metropolitan planning organization was established in all counties with a population over 200,000 to serve in an advisory capacity to legislative bodies and agencies in transportation planning; formulating a six-year transportation plan for the county, including a multimodal plan, with an annual update; reviewing capital improvement programs as they relate to transportation; integrating state and county transportation planning; making recommendations to legislative bodies; serving as liaison with the United States Department of Transportation; and developing formulae for the receipt, use, and disbursement of transportation funds from federal and other sources.

Indiana created the Division of Public Transportation within the State Planning Services Agency and set up the Transportation Advisory Committee (SB 84). Fares collected by public transportation corporations, public transit departments, etc., were exempted from gross income and adjusted gross income taxes. The act (HB 1675) also exempts private transportation corporations if 80 percent or more of their corporation's total regularly scheduled bus passenger vehicle miles are within a designated regional service district.

Kansas created the Department of Transportation headed by a secretary appointed by the governor with Senate consent. The Senate, by a ⅔ vote, may overrule the secretary on his decisions regarding the location and construction of highways. The Department of Transportation is organized along functional lines and consists of five divisions: the Division of Transportation Administration, Division of Transportation Operations, Division of Engineering and Design, Division of Planning and Development, and Division of Aviation. In addition, the 12-member State Highway Advisory Commission was established by the act (SB 39).

The **Maine** Department of Transportation was authorized to lease or purchase railroad lines scheduled for abandonment and to contract for the continued operation of the lines.

The **Michigan** *Transportation Preservation Act* (SB 930) authorized a state subsidy for acquisition of rail freight lines threatened with abandonment in the federal rail reorganization. SB 933 authorized the sale of $150 million in revenue bonds in 1976 and an immediate $30 million loan to begin a wide range of transportation projects. The bonds will make available for the first time in the state's history funds significant enough to develop a total public transportation system, including rapid transit facilities for urban areas and taxi-like bus service for the less populated areas.

Passenger train service between Minneapolis-St. Paul, Minnesota, and Duluth-Superior was resumed on a trial basis due to a cooperative funding of the States of **Minnesota** and **Wisconsin.** The 15-month trial will cost $300,000.

Montana HB 436 provides for the creation of urban transportation districts.

The **Nebraska** *Public Transportation Act of 1975* (LB 443) was enacted. Under the provisions of the act, the Department of Roads is to maintain data on transportation, develop plans for statewide public transportation, administer federal and state matching programs, report to the legislature and governor on their activities, and cooperate with the Public Service Commission in determining the effect of regulatory decisions on public transportation. The act also created an assistance program to provide state financial assistance of up to 50 percent of the eligible operating costs. Fares for the elderly on these systems cannot exceed 10¢.

Two **New York** laws (SB 5514 and SB 5373) were passed to offer "firm assurance

that the state will continue to offer operating assistance to the public transportation industry." The act gives recognition to local participation in transportation planning, development, and implementation. The state commissioner of transportation was given a strong role in developing a unified statewide transportation program and directing necessary long-range planning for a statewide system of transportation. AB 7109 enacted a rail preservation bond program to develop high-speed rail service between Albany and Buffalo. Governor Hugh Carey directed the state Department of Transportation to launch a series of administrative actions so that DOT can assume a more active role in the development and coordination of transportation. The department is to prepare a comprehensive five-year public transportation program and direct public funds toward those regions, modes, and specific projects likely to help meet transportation needs.

The **Ohio** Rail Transportation Authority was created (HB 64) and required to establish a state rail plan to be submitted to the legislature before July 10, 1976. The authority may also purchase, lease, and operate rail property within the state, and the authority and local and regional transportation agencies were authorized to apply for federal rail service subsidies and loans. SB 300 established an alternative procedure for adding counties, townships, and municipalities to existing regional transit authorities. A proposed constitutional amendment to be on the ballot would authorize state, city, county, village, town-

Case Study

Legislatively Mandated Transportation Plan for California Moves Closer to Reality in 1975

1975 saw a new state transportation planning process move ahead significantly in California. This process was established by the same law which created the California DOT in 1973. The state transportation plan is to be based upon regional plans developed by each of 43 regional agencies in California. Ten of the 43 regions are urban, and include multicounty agencies such as the Southern California Association of Governments (SCAG) in the Los Angeles area, and the Metropolitan Transportation Commission (MTC) in the San Francisco area. Other regional agencies are single counties, small urban and rural councils of governments, or local transportation commissions where there are no councils of government.

The California transportation legislation requires the inclusion of the regional plans in the state plan, as well as state policies which address issues of statewide significance. The legislation also establishes detailed planning requirements for the regions and the state, as well as a timetable for both plan preparation and updating (see Chart). Under this law the regional agencies were required to submit their plans to the state by April 1, 1975, and annually thereafter through 1978, when the requirement becomes biennial.

The state plan was to be submitted to the legislature by January 1, 1976, then annually through 1978, and biennially thereafter. The California state plan must be adopted by the State Transportation Board, after public hearings and subject to normal legislative review by the legislature. This board is composed of two state legislators *(ex officio)* and seven members appointed by the governor. Other board responsibilities for the plan include (1) the allocation of planning funds to the state DOT (Caltrans) and to the regional agencies, and (2) establishment of guidelines for the preparation of plans by the regions.

The legislation required the board to

ship, or regional transportation authorities to give or lend their aid or credit to a corporation created under federal law, or an agency of the state, which provides rail transportation service to the state. The amendment would also authorize the passage of laws that would reduce taxation of property used to provide the state with rail transportation service, and laws providing the reimbursement of local governments for revenue lost due to such property tax reductions.

Rhode Island became the first state in the nation to provide free bus service for persons 65 years of age or over on a statewide basis (HB 6072). Remarking on the inauguration of this service, the director of the Department of Transportation noted, "These programs are not experimental but permanent parts of our ongoing efforts to improve service . . . " The handicapped may use the reduced fare tokens also.

South Dakota SB 135 created the Division of Railroads within the Department of Transportation and established the Task Force on Railroad Abandonment Policy as an advisory board to that division.

The **Texas** Mass Transportation Commission was abolished and its functions and duties were transferred to the Highway Department. The department was given the new name of the State Department of Highways and Public Transportation (SB 761).

Several **Utah** departments and agencies with responsibility for transportation were eliminated with the creation of the State Department of Transportation (HB 22). The new

---

submit progress reports on the development of the plan to the legislature by July 1, 1974, and January 1, 1975. These reports were to include the goals and policy objectives recommended by the board to guide the plan. These goals and objectives were submitted to the legislature in the January 1, 1975, progress report. The present law provides that the legislature must adopt, or modify and adopt, the goals and objectives before the board may adopt its plan (scheduled for January 1, 1976).

Most of the regional plans were submitted by the April 1, 1975, deadline, and the regions were nearing completion of the first updates of their plans by the end of 1975. The first stage plans varied in thoroughness; while most were quite general, they were accepted.

The development of a satisfactory state plan has been more difficult. The board noted a number of deficiencies in the first draft, recommended revisions, and requested a delay in adoption of the plan until mid-1976.

Public hearings on the plan in 1975 uncovered other inadequacies in the draft plan which would delay its completion. Therefore, the board transmitted a letter to the administration and legislature noting where material was missing or inadquate. The deficiencies included the following:

- ☐ Analysis of transportation alternatives was inconsistent and incomplete.
- ☐ Low-capital, non-hardware solutions to transportation problems were inadequately considered.
- ☐ Regional transportation plans were not adequately incorporated.
- ☐ The relationship between land use and transportation was inadequately treated, and the land use implications of alternative transportation policies and systems were incompletely analyzed.
- ☐ Some assertions, assumptions, and conclusions about the consistency between the existing and full transportation systems were unsubstantiated.
- ☐ Insufficient consideration was given to the full range of financial and tax implications of a variety of alternatives.
- ☐ Data were too often collected without adequate forethought

about the problems to be analyzed.

- ☐ Issues of statewide significance were not sufficiently defined.

In addition the board noted its continuing concern for inclusion of several issues which had not yet been addressed. These included: air quality, transportation deregulation, the leverage of private capital in providing transportation, transit operating subsidies, and the role of innovative modes and new technology.

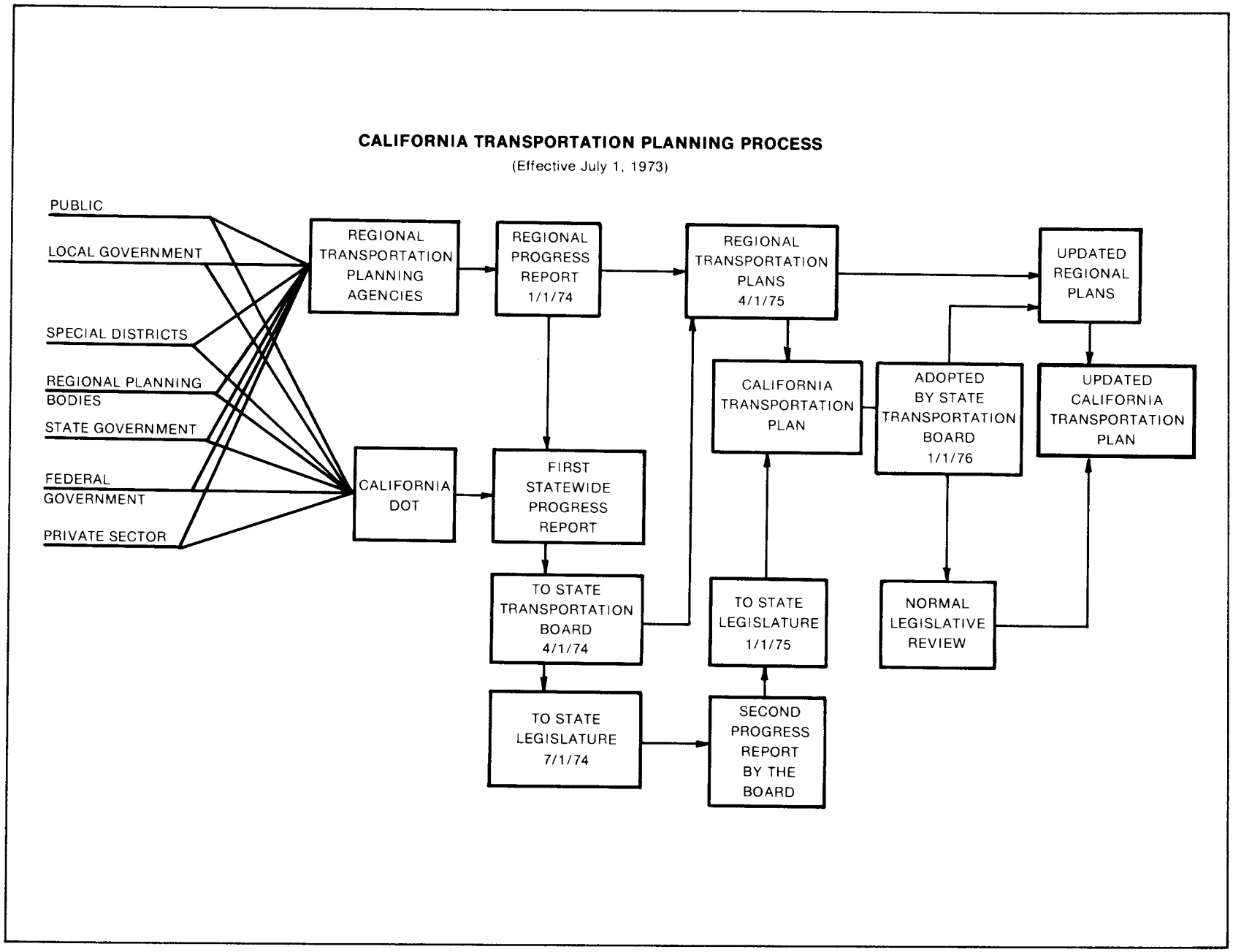
In rejecting the draft plan, the board recommended that the administration form a special transportation task force possessing diverse skills for the purpose of evaluating and redirecting development of the plan in consultation with the board. The administration did this.

Although the board elected not to proceed with the plan on which it had held public hearings, it could not have done so even if it had wanted to, because the legislature failed to adopt the goals and policies submitted to it in 1974. During 1975, discussions in the legislature resulted in an effort to rewrite the goals and policy statement in more specific terms. However, no redraft emerged in 1975. Bills were introduced both to adopt the goals and policies as submitted, and to eliminate altogether the requirement for legislative adoption of goals and policies as a prerequisite to the board's adoption of a plan. Discussion included the possibility of having the plan adopted by the legislature rather than by the board, or alternatively for the legislature to adopt only a capital program emerging from the plan.

As formulated by the board, "The transportation goal of the state is the development, coordination, and maintenance of a transportation system that provides the optimum capability for the movement of people and goods, in the most efficient, convenient, timely, safe, reliable, and cost-effective manner consistent with social, economic, and environmental interests of the state." The board developed policies designed to help achieve this goal. These policies addressed such issues as the adoption of a comprehensive approach to transportation plan development, the statewide system of transportation services and facilities to provide required mobility, and development of a multimodal planning process involving the public and private sectors at all levels. Detailed transportation planning objectives called for defining the regional powers necessary to ensure (1) regional plan implementation, (2) the resolution of regional-local conflicts, and (3) the establishment of funding priorities. The board also called for defined roles and interrelationships among public bodies in plan development and implementation — including the role of the state in interregional transportation, transportation research to establish mobility levels, and providing appropriate levels of funding.

Although the development of the plan and the planning process has been slower than anticipated, it moved ahead significantly in 1975. Some felt the board should have adopted the plan on which it held public hearings, recognizing its imperfections, and then proceeded to update it as required by law — improving the product in future years. Many of the regional plans had been submitted on this basis. But, the lack of legislative action on the goals and policies foreclosed this option even if the board had wanted to exercise it.

The process has created a greater awareness of transportation planning issues at both the regional and state levels. This includes a greater awareness in the legislature of the implications for the regional and local levels. There are proposals to make some legislative changes, especially regarding less frequent plan updates by the regions and the state. But few would abandon the program altogether.


CALIFORNIA TRANSPORTATION PLANNING PROCESS
(Effective July 1, 1973)
PUBLIC
LOCAL GOVERNMENT
SPECIAL DISTRICTS
REGIONAL PLANNING BODIES
STATE GOVERNMENT
FEDERAL GOVERNMENT
PRIVATE SECTOR
REGIONAL TRANSPORTATION PLANNING AGENCIES
REGIONAL PROGRESS REPORT 1/1/74
REGIONAL TRANSPORTATION PLANS 4/1/75
UPDATED REGIONAL PLANS
CALIFORNIA DOT
FIRST STATEWIDE PROGRESS REPORT
CALIFORNIA TRANSPORTATION PLAN
ADOPTED BY STATE TRANSPORTATION BOARD 1/1/76
UPDATED CALIFORNIA TRANSPORTATION PLAN
TO STATE TRANSPORTATION BOARD 4/1/74
TO STATE LEGISLATURE 1/1/75
NORMAL LEGISLATIVE REVIEW
TO STATE LEGISLATURE 7/1/74
SECOND PROGRESS REPORT BY THE BOARD

DOT will be responsible for statewide transportation matters including highway, nautical, aeronautical, and other transportation planning; research and design; construction, maintenance, security, and safety. The State Road Commission, Department of Highways, Division of Aeronautics, Board of Aeronautics, and Passenger Tramway Safety Board, and certain functions in the Public Service Commission and Board of Parks and Recreation were all eliminated.

Vermont HB 184 created the new Agency of Transportation consisting of four departments: aeronautics; highways; motor vehicles; and bus, rail, waterways, and motor carrier services. A seven-member Transportation Board was established to be the successor to the Highway Board, the Aeronautics Board, and certain portions of the Public Service Board.

A new **Virginia** law (HB 1530) allows cities as well as counties to operate or contract for transportation services. The act also provides that in any county or city where such a system is desired, or is in operation, the governing body may contract for transportation services with any existing transportation authority operating in contiguous localities.

Washington extended to all counties, except those which have a municipal corporation performing the public transportation function, the authority to perform such functions in unincorporated areas of the county not serviced by a public transportation benefit area.

In a notable local action, the Flint, **Michigan,** Transportation Authority began providing free transportation on city buses for the city's unemployed in April.

CONSUMER PROTECTION

One of the government's functions which has the greatest impact on the individual's day-to-day life is that of protecting the consumer. Changes in the priorities and problems of a society are reflected in legislative action. Six states enacted legislation to extend, to varying degrees, the function of state public utilities commissions to consumer protecting areas as well as the traditional regulation of the business operations of utility companies: new regulations were adopted to protect against abuse of deposit requirements, deposits were required to be waived for the elderly, and more extensive requirements were adopted to give notice before shutting off utility services.

So-called fair trade laws were enacted during the Great Depression to keep big business from underpricing smaller companies out of the market. In recent years those laws have been found to be restrictive of competition — some estimates indicate that they may be costing America's consumers as much as $2 billion a year. At least 15 states repealed their fair trade laws during 1975, before the federal authority for such laws was repealed in December.

Landlord-tenant relationships and condominiums continued to be areas of legislative interest. In 1974, four states enacted laws

in that area while 1975 saw eight such enactments. Similarly, the protection of the rights of condominium purchasers was apparently a bigger issue in 1975 with six new laws as compared to one in 1974.

At both the federal and state levels, various means of changing practices which tend to stifle competition in the prescription drug business were being explored. Four states adopted laws in 1975 which permit pharmacists to substitute less expensive generically equivalent drugs for those prescribed. Only two such laws were enacted in 1974. 1975 saw six states relaxing restrictions on the advertising of drug prices by pharmacies, while two states moved on that front in 1974.

Alaska expanded the length of time buyers have to revoke a door-to-door sales purchase. The act (SB 395) also changed the provision of revocation notice and clarified the definition of "door-to-door sale." Another 1975 law (SB 284) increased the membership of the Alaska Public Utilities Commission from three to five persons by adding two consumer members.

A comprehensive new **Arizona** *Mobile Home Residential Landlord and Tenant Act* (SB 1155) prevents retaliatory conduct by a landlord against a tenant; prohibits rental agreements limiting the landlord's liability or waiving the tenant's rights under the act; outlaws landlords' collecting entrance or exit fees unless they are for services actually performed; and permits landlords to automatically increase rents for substantial unforeseen expenses or tax or utility rate increases. The act also provides that leases are automatically for one year unless otherwise stipulated.

The **Arizona** Legislature enacted some safeguards (HB 2133) to protect against unscrupulous private business and trade school practices. The definition of the schools covered was revised to include correspondence courses run by out-of-state firms, and agents of schools with no in-state facilities are required to pay a license application fee and provide surety bonds, among other provisions.

To safeguard the consumer in the building construction area, **Arizona** enacted a law (SB 1345) to define owner-builder so as to prohibit the construction of large buildings or structures by unlicensed contractors. The act vests broad powers in the registrar of contractors to insure that only licensed contractors receive building permits. The law also revises the qualifications for a contractor's license, extends license requirements to floor covering installers and landscape contractors, and increases penalty bond fees and bonding requirements.

Arkansas adopted four new consumer protection laws. Act 140 repealed the state's fair trade law, Act 527 made it illegal to roll back odometers on automobiles, Act 436 created the State Drug Formulary Board and provided for dispensing lower cost, generically equivalent drugs, and Act 739 required that private resident and correspondence schools be approved and licensed by the Arkansas Board of Education.

California repealed the state's fair trade laws on all items except alcohol (AB 1109). AB 193 was passed to permit pharmacists, under certain conditions, to substitute a generic drug for a prescribed brand-name version. Another new law (SB 261) requires that the price be marked on each grocery store item, even if it is electronically marked for an automatic checkout system.

Several consumer credit protections were also passed by the **California** Legislature. SB 824 requires that any retail seller who permits consumers to lay away goods must confirm in writing relevant credit information. AB 2198 bans finance charges until merchandise is delivered or available for pick-up and the consumer is notified of the availability or from the date of purchase when those goods are delivered or available for pick-up by the buyer within ten days of the purchase. AB 601 enacted the *Investigative Consumer Reporting Agencies Act,* placing many restrictions on the power and methods used by credit bureaus and stipulating that a consumer must be able to see a credit bureau's file on him. AB 1271 expanded the coverage of the *Consumer Credit Reporting Act* to include reporting for employment and insurance purposes as well as for consumer credit. The act prohibits the use of stale and obsolete credit data, imposes restrictions on the compilation and use of credit data, limits the distribution

of credit reports, and expands consumer access to his credit file. And SB 853 requires the director of consumer affairs to annually evaluate consumer programs of state agencies. The act also specifically gives the director or the attorney general the power to begin legal proceedings to protect consumer interests.

The **Colorado** *Fair Trade Act* was repealed in 1975 (HB 1634). SB 69 was enacted to make advertising concerning a guarantee for goods and services a deceptive trade practice if the nature and extent of the guarantee are not disclosed. HB 1154 allows a pharmacy to advertise its prices for prescription drugs in newspapers or magazines, on radio and television, or on a poster or handbill. If a drug's brand or proprietary name is advertised, its generic name must also be used.

Connecticut HB 5945 repealed the state fair trade laws. Another act (HB 5420) permits licensed pharmacists to advertise the price of prescription drugs. A related law (HB 5115) requires each drug retailer to post a price list of the 100 prescription drugs designated by the commissioner of consumer protection.

Automobile repair shops in **Connecituct** must, upon request, furnish customers with a written estimate for the charge for parts and labor necessary for a specific job before doing the repair. The law (HB 8187) further stipulates that the repair shop may not charge an amount which exceeds the written estimate without the customer's consent. HB 7225 requires that each landlord must, within 60 days of the termination of a lease, either return the tenant's security deposit plus interest or submit to the tenant a statement itemizing any unpaid rent and claimed damages to the premises together with a refund for the balance of the deposit. A tenant who successfully sues a non-complying landlord may recover twice the amount of the security deposit and costs incurred in bringing the suit. HB 5110 requires certain express and implied warranties with respect to the sale of any newly constructed single family dwelling unit. The warranties exist for one year and may be excluded or modified only in accordance with the procedures set out in the act. A related act requires sellers of any new mobile, modular, or prefab home to give the buyer a written manufacturer's warranty. The items which must be covered in the one-year guarantee are spelled out in the act (HB 5098).

The **Delaware** *Landlord-Tenant Code* was extended to cover leased farm land as well as residential leases (HB 254). The act specifies the rights and responsibilities of each party to the lease.

Florida SB 309 renamed the Division of Florida Land Sales of the Department of Business Regulation as the Division of Florida Land Sales and Condominiums and gave the consumers a governmental agency to regulate condominiums and residential cooperative units. The division is authorized to receive and investigate complaints, including disputes arising out of the internal affairs and management of condominium and cooperative associations. A "bill of rights" for condominium owners was also enacted (HB 1087). The seven major provisions of the act cover such items as proxies, open books, and the definition of common elements. Florida also repealed the fair trade law (SB 166).

The **Georgia** *Fair Business Practices Act of 1975* (SB 285) prohibits unfair or deceptive acts or practices in consumer transactions, trade, or commerce; provides for an administrator and consumer advisory board; and provides for investigations, hearings, and actions for damages. HB 619 establishes the requirements for and regulation of the creation and operation of condominiums. The Office of Consumers' Utility Counsel was created in the Georgia Public Service Commission (SB 138). The counsel is authorized to represent consumers and the public in proceedings before the PSC in administrative proceedings, before federal and local utility regulatory agencies, and in certain judicial proceedings. HB 473 makes it illegal for any gas or electric utility company or electric membership corporation to cut off or suspend gas or electric service in any residence because the resident has failed to pay or has failed to make timely payments for any appliance purchased from or repaired by the company or corporation.

A new chapter in the **Hawaii** code (SB 91) regulates the motor vehicle repair industry. The Motor Vehicle Repair Industry Board

was established within the Department of Regulatory Agencies to establish qualifications, practices, policies, and rules for the regulation of the motor vehicle repair industry. Four of the seven members of the board must be representatives of the general public and three are to represent the industry, at least two of whom are to be registered auto mechanics. Another consumer protection bill enacted this year (SB 165) provides that mortuaries are subject to the same regulatory controls as cemeteries and pre-need funeral services.

A new law requires that any **Hawaii** merchant who accepts the return of goods must refund the full amount of payment by cash (if the purchase was made by cash or check) or by credit to the purchaser's credit card account (if purchased with a credit card). The act (HB 142) further requires that retail merchants post conspicuous signs to indicate conditions under which refunds will be allowed.

The **Hawaii** Legislature also enacted several laws dealing with the enforcement of the state's consumer protection acts. HB 134 granted the director of the Office of Consumer Protection jurisdiction to enjoin violations of unfair or deceptive acts, so that either the attorney general or the consumer protector can enjoin such violations. HB 360 expressly authorizes the Office of Consumer Protection to bring civil actions and proceedings for the enforcement of consumer protection laws, rules, and regulations. The act also authorizes the office to contract with non-profit organizations for the performance of any function not involving the enforcement of rules and regulations. And HB 1209 authorizes the courts to provide for restitution to consumers who have incurred losses as a result of unfair or deceptive trade practices.

In addition, **Hawaii** enacted four laws to protect tenants and owners of condominiums. HB 1756 provides that when a landlord transfers his interest in a rental unit to a new landlord, he must provide an accounting of the security deposits he received from each unit to the new landlord. The new landlord in turn must give a written notice of the amount of security deposit maintained to each tenant within 20 days of the transfer. If either landlord fails to give the required notice, it is presumed that the tenant made a security deposit equal to one month's rent. SB 92 expanded and clarified the rights of tenants in dealing with their landlords. SB 1139 amended the code to require written disclosure to the tenant by the landlord of the person authorized to manage the premises and to receive rents, notices, and demands under the code. HB 1875 corrected deficiencies which have resulted in abuses in the sale and management of condominiums. The act limits the term of initial management contracts to one year if the first management agent of the condominium association is the developer or an affiliate of the developer. Among the other provisions of the act, written notice must be sent by certified mail to all members of the association 90 days before the normal one-year warranty expires, and developers must pay a pro rata share of maintenance costs.

Idaho repealed its fair trade law.

Illinois adopted legislation to insure quality education for students enrolled in business and vocational schools and to prevent the use of misleading sales practices, enrollment procedures, and job placement claims (HB 3049). HB 1328 requires that a seller indicate in advertisments or on coupons the regular price of the item. HB 826 stipulates that the total amount of finance charges paid during a year be computed and furnished to a buyer upon request within 30 days after the end of the year. HB 2286 amended the *Credit Card Use and Issuance Act* to make it an offense to fail to inform a person why his application for a credit card has been denied. Merchants are prohibited from increasing the price of goods sold under a layaway plan by raising payments or substituting merchandise of a lower quality or higher price (HB 2353). HB 827 requires that lenders in revolving credit arrangements provide, at the buyer's request, the total amount charged to an account during the year, including service and finance charges, late charges, and other additional charges. Ads for consumer goods must state the full price of the item, or state that services incidental to the proper use of the merchandise require an extra fee (SB 1395). Under the provisions of SB 406, no household

appliance, other than new merchandise, may be sold unless it bears a tag or label indicating whether it is used, repossessed, rebuilt, reconditioned, or used as a demonstrator unit. Gasoline mileage information must be posted on the price sticker of each new passenger automobile (HB 1340). And HB 934 increases the interest rates which must be paid on tenant security deposits from 4 to 5 percent.

The **Iowa** *Fair Trade Law* was repealed by SB 40.

A new **Kansas** landlord-tenant law (HB 2253) lists the obligations of both parties, sets maximum amounts of security deposits, and protects tenants against retaliatory conduct of landlords. A tenant and landlord must jointly inventory the premises within five days of occupancy, deductions from security deposits must be itemized, and certain provisions are prohibited from being written into rental agreements.

Maine (Chap. 257) now permits pharmacists to advertise drug prices and requires pharmacies to post the prices of the 100 prescription drugs used most commonly in the state. Pharmacies are not permitted to advertise on television, however. Chapter 476 permits pharmacists to substitute a less expensive generic or chemically equivalent drug for any prescription unless the doctor expressly says not to. Chapter 378 prohibits any public utility from requiring any deposit of any residential customer without proof that the customer is likely to be a credit risk or to damage the property of the utility. Absense of previous experience with the utility is not proof that the customer is a credit risk or threatens to damage utility property. Any proof used in requiring a deposit must be furnished to the customer upon request.

A new **Maryland** condominium law sets forth the requirements for conversion from rental to condominium and for liens for delinquent assessments. The act also exempts unit owners from liability for certain claims. Another 1975 law (HB 1026) requires the posting of the prices of the 100 most commonly prescribed drugs, and permits verbal disclosure of drug prices. And HB 432 requires auto repair facilities to return replaced parts, prohibits them from charging for originally unauthorized repairs unless granted permission, and permits complaints against automobile repair facilities to be filed under the provisions of the state *Consumer Protection Act.*

Massachusetts passed a condominium disclosure law which requires a developer warranty and establishes requirements for the conversion of rental units to condominiums, including six months notice to tenants and the right of first refusal.

The **Michigan** Legislature repealed the state fair trade law (HB 4925). Also passed was a law (SB 2) to regulate the sale of precious metals by extending the *Uniform Securities Act* to include brokers and dealers in various commodities, including coins and bullion.

A 1975 **Minnesota** law (HB 278) permits pharmacists to substitute a therapeutically and generically equivalent drug product for the brand name drug prescribed unless the prescribing physician directs otherwise. Even if the prescribing doctor prohibits generic substitution, the pharmacist may substitute an identical product manufactured by the same manufacturer but distributed under a different name. After January 1, 1976, the name of the manufacturer must appear on the container of the drug. Owners of rental properties determined to be hazardous to public safety and health may no longer take income tax deductions for interest annd depreciation (HB 274). And HB 278 requires that any restaurant or establishment which serves meat to the public must indicate on the menu the meat entrees which contain filler or meat substitutes.

Nevada AB 257 allows the State Board of Pharmacy to require pharmacies to post prices for prescription drugs and to give such prices to telephone callers. SB 300 prohibits unauthorized motor vehicle repairs and requires cost estimates and invoices of charges for auto repairs. SB 86 expanded the jurisdiction and scope of the Consumer Product Safety Commission.

In **New Hampshire**, customer approval is required for any repair work done on a motor vehicle which is more than 10 percent in excess of the estimate (HB 848). HB 126 repealed the fair trade law.

The **New Jersey** *Fair Trade Law* was re-

pealed (AB 1843). Another 1975 law requires landlords to distribute to tenants a list of their legal rights.

New Mexico HB 173, the *Uniform Owner-Resident Relations Act,* is an integrated, uniform codification of the entire field of landlord and tenant relationships as they relate to rental property. The act sets the terms for and conditions allowed in rental agreements and prohibits the inclusion of certain provisions in rental agreements. Obligations are delineated for both the landlord and the tenant, and remedies are prescribed for the tenant in the event of the failure of the landlord to deliver possession, to comply with the terms of the agreement, to supply essential services, or for unlawful ouster, exclusion, or diminution of service. Landlords are granted remedies for the tenant's failure to pay rent, for non-compliance with the rental agreement, failure to properly maintain the premises, absence without notice, non-use, and abandonment. The act further prohibits retaliatory conduct by the landlord for complaints or organizing by the tenants. HB 358 requires the identification of the finished dosage form of a legend drug after March 1, 1976. The manufacturer identification requirement will be in addition to labelling by a company or manufacturer selling the drug. And HB 167 repealed the state's fair trade law. The fair trade law had previously been declared partially unconstitutional as an arbitrary and unreasonable exercise of the police power without any substantial relation to the public health, safety, and welfare.

New York (AB 2076) rendered void any provision in a retail installment contract, obligation, or credit agreement by which a purchaser waives his right to a trial by jury in any legal action arising out of such a contract. SB 5432 directed the Public Service Commission to require gas, electric, and telephone companies to exempt persons 62 years old or over from cash deposit requirements.

Also in **New York,** SB 3331 requires that all rental units carry a warranty of habitability. The warranty cannot be waived. The fair trade law was repealed by AB 3916.

The **North Carolina** Legislature repealed the state's fair trade law (HB 464).

Oklahoma requires (SB 142) that all meat sold for human consumption in the state be identified as to whether it is of domestic or foreign origin, or both, and that any cafe or restaurant selling textured vegetable protein as an imitation meat must indicate this by posting the fact on a sign. Further, each package or container utilizing such protein must carry a notice on the label.

Oregon's fair trade law was repealed. The legislature also approved a bill to permit generic substitution for prescription drugs.

In **Rhode Island,** any retail item which was purchased with cash must be refunded in cash if returned within five business days of the sale (HB 5518). Another 1975 law (SB 713) requires hospitals to furnish a patient an itemized copy of his bill upon request.

South Carolina pharmacies may advertise the retail price of prescription drugs (SB 415).

Professional fund raisers and charitable organizations in **South Dakota** were brought under a new licensing and regulation law. Also regulated were securities, securities agents, brokers, and the construction and sale of condominiums. Another law (SB 13) requires pharmacists to give prescription drug information upon request, and HB 622 requires restaurants and food outlets to correctly label imitation hamburger.

The **Tennessee** laws which had set minimum prices for liquor and brand names were repealed, but the state's other fair trade laws remain in effect.

Texas HB 809 requires that all prescription drugs manufactured and sold or distributed to a pharmacist in the state have affixed to the label the name and business address of the original manufacturer of the finished dosage form and the names and business addresses of all repackagers or distributors of the drug prior to its delivery to the pharmacist.

In **Vermont,** the Public Service Board was permitted to adopt rules regulating the grounds upon which utility companies may disconnect service, conditions under which a deposit may be required, the terms of payment of a deposit, and the return of such deposits.

The **Washington** *Fair Trade Act* was repealed.

Wisconsin utilities which plan to cut off customer service must provide written notice stating the reason, under a rule of the Public Service Commission. A 1975 enactment (AB 64) requires prescription drugs to be labeled with a loss-of-effectiveness date. And AB 354 provides for public members on the 17 existing boards and on any additional boards regulating trades and professions created in the future. In signing the act, Governor Patrick Lucey stated that "consumer protection should not be limited to the products we buy and the stores we frequent. It should include the many skills and services we require in the course of our everyday lives."

EQUAL RIGHTS

With the continuing nationwide attention on the women's movement, equal rights legislation predictably was the subject of a great deal of attention in many state legislatures in 1975. Two types of acts were passed by the states: general acts assuring equal treatment of women and men in broad subject areas, and specific "cleaning up" legislation to revise state statutes by repealing paternalistic laws and deleting references to or distinctions based on sex in specific acts. The former, general-type of laws for several subject areas such as credit, employment, real estate, and insurance are summarized in the table which follows, as well as other subjects such as alimony and the age of majority. The table also reflects the growing tendency of state laws to protect the rights of the handicapped and the elderly, and to make public buildings and street crossings more accessible to the handicapped.

There was also a great deal of legislative action to deal with other equal rights issues not covered in the table. For example, several states enacted laws to protect a pregnant woman's right to retain her job, to protect the rights of rape victims, and to make both a husband and wife equally liable for the support of the other.

The question of whether to ratify the *Equal Rights Amendment* to the U.S. Constitution was discussed in four of the states which have not yet approved it, and North Dakota became the 34th state to ratify the amendment. Ratification by four more states is required before it can become a part of the constitution. In addition, two states presented equal rights amendments to their state constitutions to the people in November. The voters in both New York and New Jersey rejected those proposed amendments.

1975 Actions to Assure Equal Rights and Opportunities

	Same Age of Majority for Men and Women	Prohibitions Against Discrimination in Extension of Credit on Basis of			Prohibitions Against Discrimination in Employment Practices on Basis of			
		Sex	Marital Status	Age	Sex	Marital Status	Age	Physical Handicap
ALASKA		Ch. 104	Ch.104					
ARKANSAS	Act 892		AB 566					
CALIFORNIA		AB 181	AB 181					
COLORADO			HB 1427					
CONNECTICUT				HB 7153		HB 8247	SB 235	HB 7317
FLORIDA								
GEORGIA		HB 40	HB 40					HB 297
HAWAII			Act 109			Act 109		Act 30
ILLINOIS		HB 2286; SB 824	HB 2286		HB 2153d			HB 87; HB 250
INDIANA		HB 1467						
IOWA	SB 192							
KANSAS					HB 2010f			
LOUISIANA		HB 523	HB 523					
MAINE								
MARYLAND								
MASSACHUSETTS								
MICHIGAN								
MINNESOTA			HB 4					
MISSOURI								
MONTANA		SB 7	SB 7	SB 7				
NEVADA		SB 381	SB 381		AB 219			
NEW HAMPSHIRE					HB 6347j			
NEW JERSEY								
NEW MEXICO		SB 41		SB 49				
NEW YORK			*			SB 140-A	SB 140-A	
NORTH DAKOTA								
OHIO							HB 285	
OKLAHOMA	HB 1151							
SOUTH DAKOTA								
TENNESSEE								
TEXAS								SB 271
UTAH	U.S. Supreme Court Decision						HB 211	
VIRGINIA		HB 375	HB 375					HB 823
WASHINGTON								
WISCONSIN	*				*			

Footnotes:

* Chapter, act, or bill number unknown.

a. Requires court to restore maiden name in any divorce if a women requests it.

b. Applies only to polling places.

c. Or husband may use wife's surname, or they may hyphenate their names.

d. Applies only to educational personnel.

e Health and accident insurance policies must include conversion option so a person insured under a spouse's policy may obtain the insurance for himself or herself following a divorce.

	Prohibition Against Discrimination in Real Estate Transactions on Basis of		Prohibition Against Discrimination in Issuing Insurance on Basis of		Alimony or Child Support May Be Awarded to Either Spouse	Woman May Keep Maiden Name	Ramps on Curbs or in Public Buildings Required to Increase Accessibility to Handicapped
	Sex	Marital Status	Sex	Physical Handicap			
ALASKA	Ch. 104	Ch. 104					Ch. 137
ARKANSAS						A.G. Opinion	
CALIFORNIA						SB 155a	AB 1035b
COLORADO			HB 1446				
CONNECTICUT							HBs 6012, 6153, 6029
FLORIDA				SB 664			
GEORGIA							
HAWAII		Act 109				Act 114c	
ILLINOIS			HB 580e				HB 985
INDIANA			HB 1467				
IOWA			HB 36				
KANSAS							
LOUISIANA							
MAINE			Ch. 276g	Ch. 255			Ch. 93, 94
MARYLAND			HB 1217; SB 62		SB 57		h
MASSACHUSETTS	SB 13	SB 13					
MICHIGAN						HB 1029a	
MINNESOTA				SB 765		HB 51i	
MISSOURI							SB 217; HB 270
MONTANA	HB 5; HB 6						
NEVADA							SB 8
NEW HAMPSHIRE							SB 273
NEW JERSEY						A.G. and Court Rulings	
NEW MEXICO							
NEW YORK		*	AB 6288-A				AB 4917
NORTH DAKOTA							SB 2159
OHIO							SB 85
OKLAHOMA					k		
SOUTH DAKOTA							HB 713
TENNESSEE						Court Ruling	
TEXAS							
UTAH							
VIRGINIA					HB 1470		HB 1234
WASHINGTON							SSB 2692
WISCONSIN					*	Court Ruling	

f. Applies only to labor organizations.
g. Insurance policies must provide maternity benefits for unmarried women at same terms and conditions as offered to married persons.
h. New regulations added to state building code by Department of Economic and Community Development.
i. Husband or wife may adopt other's name or entirely new name.
j. Repeals state law restricting hours of employment for women.
k. State supreme court overturned a law which would have granted a wife all the couple's property in case of a divorce. State appeals court upheld an order requiring a woman who deserted her husband and children to pay child support.

CRIMINAL JUSTICE

During recent years a great deal of attention has been focused on the judicial and prosecutory elements of our nation's criminal justice system. States have moved to restructure their court systems into unified systems, attention has been paid to increasing the professionalism of judges and prosecuting attorneys, and actions have been taken to assure the independence of defending attorneys and to guarantee each person's constitutional right to be represented by an attorney.

Attention has also been directed toward the antiquated prison systems of the states by experimenting with programs aimed at rehabilitating prisoners and by establishing regional or community correctional centers. More attention has also been paid to guaranteeing that the constitutional rights of prisoners are protected.

Another area of attention has been the police systems of state and local governments. To promote efficiency and avoid duplication of effort, there has been some attempt to establish regional police forces, and minimum standards for the training of police officers have been established.

During 1975, states addressed each of these issues in varying ways. Three states adopted measures to regionalize police services or correctional facilities, three restruc-

tured or eliminated their justice of the peace systems, three enacted statutes to promote the professionalization of police personnel, and three states adopted a more unified court system. Two states established state departments of corrections to oversee the punishment and rehabilitation of offenders, three others adopted measures to guarantee the protection of the rights of inmates in state correctional facilities, and five states amended their jury service laws to eliminate exclusion or preferential treatment of women who are prospective jurors.

Alaska Governor Jay Hammond reorganized the Department of Law by creating the position of deputy attorney general for criminal affairs. With that change, the division will be elevated to equal status with the civil division. The deputy attorney general will have direct supervisory and coordinating authority over all district attorneys' offices in the state. The intent of the reorganization is to insure maximum efficiency in criminal prosecutions and to assure that the standards for the administration of justice in one part of the state are similar to the standards in the other parts. As of August 15, the practice of plea bargaining was ended in the state. Under the new policy, district attorneys may recommend sentences, but sentencing will be primarily up to the courts. Two years ago the National Advisory Commission on Criminal Justice Standards and Goals called for the abolition of plea bargaining by 1978.

The **Arizona** Legislature authorized the destruction of juvenile court records relating to juvenile offenders when the person judged delinquent or incorrigible reaches his or her 23rd birthday and if the person has no adult criminal record, has no pending criminal complaints, and is not under the jurisdiction of the Department of Corrections (Chap. 141). Also enacted (Chap. 124) was an act requiring the impaneling of a grand jury with statewide jurisdiction each year upon the written application of the attorney general to the chief justice of the Arizona Supreme Court. The grand juries (three of them may operate at one time) have jurisdiction over only certain specified offenses: tax and securities offenses; real estate fraud, pension fund and labor union offenses; insurance offenses; public officials' misconduct, fraud, theft, stolen property offenses; and gambling, prostitution, and narcotics offenses occurring in or affecting the residents of more than one county.

Arizona justices of the peace were relieved of their duties as coroners. Counties are now required to appoint a forensically skilled pathologist as county medical examiner or to contract with a physician to perform the duties of county medical examiner (Chap. 114). And Chapter 162 established the Arizona Drug Control District composed of the four largest population counties. A coordinating committee of the sheriffs and county attorneys of each county, the governor, attorney general, speaker of the House, and Senate president was formed. The district is charged with operating a continuing strike force against violations of the state's drug and narcotics laws.

Arkansas created (HB 577) the Advisory Board and Executive Commission on Law Enforcement Standards. The act requires the state to provide facilities and training opportunities for law enforcement officers effective January 1, 1976.

The Office of State Public Defender was created in **California** (SB 1018). The public defender is to be appointed by the governor to a four-year term, subject to Senate confirmation. With certain exceptions, AB 255 bars employers from asking a job applicant to disclose information concerning an arrest that did not result in a conviction, and the act bars law enforcement officials from disclosing such information to employers. AB 1506 enumerated the rights of prisoners and provided that prisoners may be deprived of only those rights necessary for reasons of security. SB 299 gave adults the right to petition for the sealing of their records in any criminal case when the person was acquitted of the charge and when it appears to the judge that the defendant was innocent. And AB 681 eliminated categorical exemptions from the jury selection process.

Connecticut enacted a law (SB 1373) which removed all references to sex from the statute which entitles exemptions from jury service to policemen and to women who are directly participating in the treatment of chil-

dren in a hospital; who are nurse attendants; who are caring for a sick member of the family; or who have one or more children under 16 years of age living at home. Thus, the act entitles males to those same exemptions.

The **Delaware** Legislature passed a law (HB 679) which established a uniform system for the selection of grand and petit juries to assure random selection of jurors from all sections of the county where the court is convened. The act prohibits the exclusion of any person from jury service on account of race, color, religion, sex, national origin, or economic status. The superior court in each county is responsible for preparing a written plan to achieve those objectives. An executive order issued by Governor Sherman Tribbitt (EO 79) created the Governor's Police Jurisdiction Commission to "prepare a recommendation to the governor on the future course of action that should be taken by the state and county governments to resolve the fundamental problems of competing jurisdictions." SB 487 established a state department of corrections. Juvenile and adult corrections were removed from the Department of Health and Social Services and placed under the new department, which has all the powers and responsibilities of the previous Division of Corrections and Youth Services Commission. The act also created the Advisory Council on Corrections to be appointed by the governor. SB 120 established a pre-trial detention center to relieve overcrowding at the state's correctional institutions.

A proposed amendment to the **Florida** Constitution was approved for submission to the voters in 1976 (HJR 1709). The amendment would change the procedures followed by the Judicial Qualifications Commission. The commission could receive information from grand juries and could be required to make available all information in its possession for use in impeachment or suspension proceedings. The legislature also approved an act (SB 169) creating the new Department of Offender Rehabilitation, separating adult corrections from the Department of Health and Rehabilitative Services.

The **Georgia** *Special Adult Offender Act of 1975* (HB 1106) creates, under the State Board of Corrections, the Special Adult Offender Division. The division is required to consult with and make recommendations to the director of corrections regarding the general treatment and correctional policies and procedures for committed adult offenders. The division is also to recommend to the State Board of Pardons and Paroles orders to direct the conditional release of adult offenders under supervision and orders to direct the unconditional release of such offenders. HB 696 provides that the State Board of Corrections be authorized to pay counties for maintaining and operating correctional institutions in which state prisoners are assigned. County institutions were also authorized by the act to participate in state purchasing contracts for providing materials and supplies to state or county inmates. HB 74 repealed the exemption of women from service on juries.

The **Hawaii** Legislature enacted a new statute (HB 1218) which allows a person who was convicted of a misdemeanor and who has not subsequently been arrested after 20 years of the date of his conviction to have his criminal record removed from public access.

Alcoholism is no longer a crime in **Idaho.** The 1975 legislature declared it an illness to be medically treated.

Illinois made three changes in the grand jury process. HB 65 provides that persons charged with an offense or against whom a state's attorney is seeking an indictment, so-called "target defendants," have a right to private or appointed counsel to advise them of their rights. Current practice excludes all persons from the grand jury room except the prosecutor, witness, court reporter, and grand jurors. HB 64 requires that transcripts be made of all questions of grand jury witnesses and all answers given by them. And HB 1444 allows a state's attorney to prosecute a felony case by information instead of being required to present evidence to a grand jury. Before seeking any information a preliminary hearing which finds probable cause must be held. Similar procedures are already in effect in many states.

The **Indiana** Legislature created the Office of Judicial Administration within the Office of the Chief Justice to make recommendations on improving administrative methods and to compile data on case loads (SB 299). HB

Case Study

Kentucky Voters Approve Judicial Amendment

The voters of Kentucky approved a constitutional amendment in November which will significantly alter the organization of the court system across the state and implement other changes designed to speed up the judicial process. Following the lead of states such as Alabama in court reform, the chief justice of the newly created supreme court will also have administrative responsibilities for the entire system. Other requirements, such as complete state funding for the courts and that most judges must be attorneys, are seen as major elements in improving the efficiency and enhancing the quality of Kentucky courts.

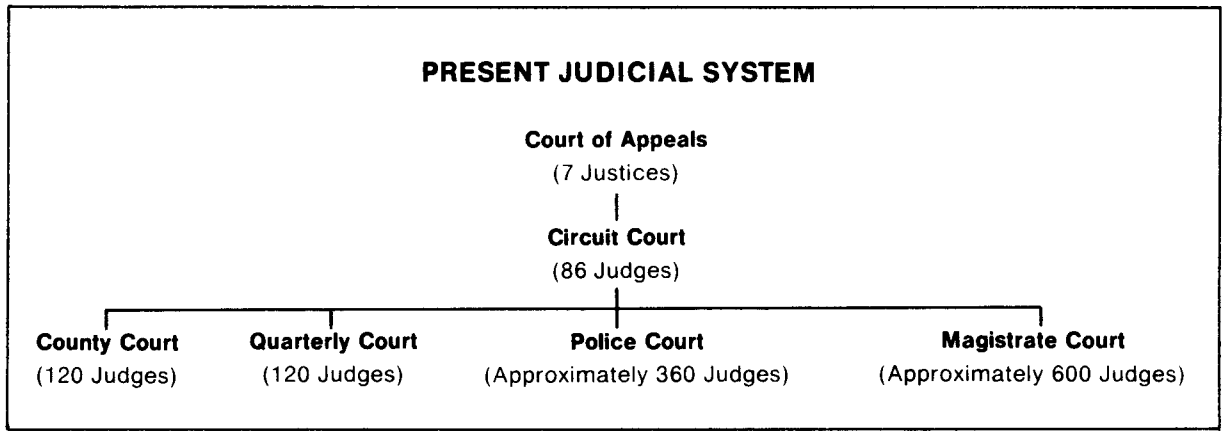
What emerges is a four-tier court system which will replace a maze of inferior courts and a single appellate body. The seven former justices of the court of appeals will automatically become justices of the new state supreme court when the first stage of the enactment becomes effective on January 1, 1976. A new intermediate court of appeals will also come into being on that date; it will be composed of 14 justices with the power to review appeals at locations around the state, thereby reducing the case load of the supreme court.

The 86 existing circuit courts will be retained in essentially their same format, but jurisdictional bounds will probably be redefined. The most sweeping reform, effective January 1, 1978, will be the merger of nearly 1,000 courts of inferior jurisdictions — county courts, police courts, magistrate courts, probate courts, and juvenile courts — into the newly created district courts with a minimum of 120 judges (one for each county).

Initial implementation concerns centered around state funding for the courts which will begin operations on January 1, 1976. The new chief justice, in his capacity as chief administrative officer of the new court system, has the difficult task of developing standard operating procedures for all state courts. The cost to the state for implementing the *Judicial Article* in the 1976-78 biennium has been estimated at approximately $30 million, not including juror costs.

Legislation supporting the supreme court and the court of appeals will come from the 1976 regular session of the General Assembly, but it is anticipated that the difficult problems related to establishment of the district courts will require a special session of the legislature in 1977. Many important decisions have been left to the legislature, such as salaries for the various judges, how many districts there should be, the limits of the district court's jurisdiction, and how revenue generated by these courts will be shared with local jurisdictions. The Office of Judicial Planning (OJP), which is coordinating the implementation of the *Judicial Article,* will probably recommend that the district courts embrace the existing 55 judicial districts served by the circuit courts. Heavily populated counties will have more district courts located throughout the county, whereas judges in smaller districts may be dispatched to help out in busier districts.

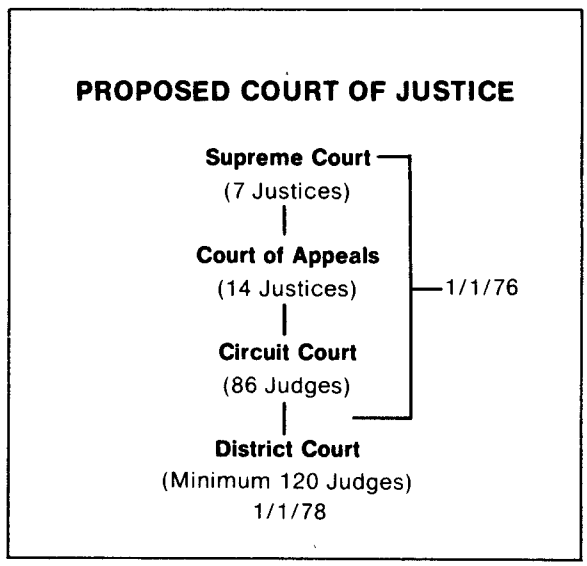
District court judges must be residents of the district in which they serve, and they will serve four-year terms. The justices of the supreme court and judges of the court of appeals and circuit courts



will serve eight-year terms and will be elected on a non-partisan basis.

As to the jurisdictional question, the new district courts will try all misdemeanors and take over the functions of police courts, probate courts, quarterly courts, and juvenile courts. The circuit courts will try all felony cases and *major* civil cases, which the Office of Judicial Planning has recommended to be civil cases involving $2,500 or more. The OJP will also recommend that all domestic relations matters be left with the circuit courts. All fines and fees collected by the courts will go into the state treasury, and the legislature must address the issue of how these funds will be administered and shared with the local governments.

County judges will lose their judicial functions under the reorganization, and the roles of the constitutionally protected county officials remain to be determined in light of legislative implementation actions. The plan reportedly will speed up the judicial process in Kentucky and perhaps serve as a model for other states interested in court reform, particularly with its novel intermediate court of appeals — a concept that has been urged by jurists at the federal level. A comparison of the old and new judicial systems is seen above.



1805 added a new chapter to formalize plea bargaining procedures. If the recommendation is not accepted by the court, it may not be used as evidence during the trial. HB 1269 gives jurors civil remedies against employers to protect employment while serving jury duty. The act also provides criminal penalties against an employer who fails to comply with its requirements. The law concerning trials of juveniles for various crimes was also changed (SB 90). The act takes a juvenile charged with murder out of the jurisdiction of the juvenile court and provides for waiving jurisdiction in certain cases if the child is 14 or over. SB 441 created small claims courts in many counties of the state to replace the justice of the peace courts. Another act (SB 57) allows mutual assistance agreements among state, city, town, township, and county law enforcement agencies.

A new **Iowa** law (HB 766) established a prosecuting attorneys' training coordinator and provided for the creation of a council to appoint the training coordinator. The coordinator's duties will be to develop a program of continuing education, to disseminate information, and to achieve a uniform system of conduct, duty, and procedure in the administration of justice.

A **Kansas** law (SB 284) implemented one aspect of the judicial article of the state constitution which was adopted in 1972 to establish a unified court system. The bill created a court of appeals consisting of a chief judge and six associate judges. The qualifications and methods of selection of the court of appeals' judges are the same as those prescribed by law for justices of the state supreme court. HB 2142 provides that a newly elected or appointed sheriff may hold office only on a provisional basis until he has satisfactorily completed a course of study at the state Law Enforcement Training Academy.

In November, **Kentucky** voters approved a new judicial article for the state constitution. See the case study for a description of the amendment.

The **Louisiana** Legislature (HB 430) repealed the law which had created a judiciary commission. The judiciary commission had the power to investigate and conduct hearings into questions of the removal or involuntary retirement of judges for cause and to recommend to the supreme court such removal or involuntary retirement. HB 111 repealed a state law which required segregation by race in state prisons.

The superior court system in **Maine** was revised when the legislature approved a bill recommended by the Maine Trial Court Revision Commission. The bill provides for state financing of trial courts. Five judicial regions were created, each with an administrator and a presiding judge to coordinate the superior court activities in each area. The act also created the post of state court administrator, appointed by the chief justice of the supreme court, to oversee the operations of the supreme court and the superior courts.

The **Maryland** Legislature created a new system for the prosecution of state and local crimes. The new organization includes the creation of an office of state prosecutor.

Massachusetts district attorneys were required to drop their private law practices and devote full time to their public duties. Governor Michael Dukakis issued an executive order creating the Judicial Nominating Commission to advise him on all appointments of judges and clerks of court and the designation of the chief justices of all the state's courts. Another executive order established a comprehensive set of guidelines for the pardoning of criminal offenders.

The **Michigan** criminal code was amended (HB 4363) to establish new procedures for presenting an insanity defense. The act also created a new plea called "guilty but mentally ill."

The **Mississippi** Supreme Court was empowered to establish rules of civil practice and procedure for lower courts (SB 2490). A constitutional amendment approved in November changed the name of justices of the peace to justice court judges, increased their jurisdiction to $500, and required them to have a high school education (HCJ 11).

Sheriffs in **Missouri** cities over 200,000 may now take prisoners to the state penitentiary whenever they deem necessary rather than keeping them in local facilities.

The **Nebraska** Legislature created the new Department of Correctional Services to be composed of the Divisions of Community-

Centered Services, Administrative Services, and Juvenile Services.

Three amendments to the judicial section of the **Nevada** Constitution will be submitted to the voters in November, 1976. One appoints the chief justice as the administrative head of the state court system. His duties in that capacity are to apportion the work of the supreme court among its justices, to assign district judges to assist in other judicial districts or to specialized functions which may be established by law, and to recall to active service any retired justice or judge of the court system for assignment to temporary duty within the court system. Another proposed amendment would authorize the legislature to expand the membership of the supreme court and to authorize the division of the supreme court into panels for hearing certain cases. The third proposal would provide for merit appointments of judicial officers.

A **New Jersey** enactment (SB 762) requires that the director of the Division of Correction and Parole see that every state penal and correctional institution formally promulgate and publish rules and regulations regarding the rights, privileges, duties, and obligations of the inmate population. Upon the arrival of a prisoner in any correctional institution, he must be furnished with a copy of the institution's rules and regulations, and the meaning must be explained to him. Spanish language copies must be available, and any person has the right to have a verbal explanation of the regulations in his or her native language.

The **New Mexico** *Arrest Record Information Act* (SB 166) was passed to allow a responsible exchange of information among law enforcement agencies while protecting individual rights which may be infringed if the information is inaccurate, incomplete, or irresponsibly disseminated. The act makes arrest record information confidential except for dissemination among law enforcement agencies or for research purposes. An individual may inspect any arrest record information pertaining to him. HB 85 requires that all district attorneys and their assistants be employed on a full-time basis beginning in 1977. And the legislature created a full-time professional parole board with responsibility for granting, denying, or revoking parole.

The **New York** Legislature passed a law (AB 1213) requiring that parole boards inform a prisoner, within two weeks after a parole hearing, of the reasons for a denial of parole. SB 1641 prohibits the automatic exclusion of women from jury duty. SB 1232 increased the jurisdictional limits of the small claims parts of city and district courts from $500 to $1,000. The action was taken to allow consumers recourse to the simplified and inexpensive procedure of small claims courts for a wider range of items. In November, the voters approved two questions which were on the ballot. One provided for a centralized administration of the state's court system under a single administrator. The other reconstituted the present Temporary State Commission on Judicial Conduct into a permanent body that could investigate, discipline, or remove judges for improper or incompetent conduct. Another 1975 act prohibits employment discrimination against former felons.

A proposed **North Dakota** constitutional amendment was approved for the 1976 ballot. The article would create a unified court system and require a judicial nominating committee to be established by law. Any vacancy in the office of supreme court justice or district court judge would be filled by appointment by the governor from a list of candidates nominated by the committee, unless the governor calls for a special election to fill the vacancy for the remainder of the term.

The **Oregon** state parole board was expanded from three to five members. One of the new members must be a woman. The board was ordered to review each inmate's record every two years.

Rhode Island enacted a law (SB 389) requiring that town lists of qualified jurors include women.

A constitutional amendment moving to a unified court system will be on the ballot in **South Dakota** in 1976.

Texas created the State Judicial Qualifications Commission to take action against judges whose willful or persistent conduct is clearly inconsistent with the proper performance of the judge's duties (HB 965).

Texas also created (HB 272) the Commission on Jail Standards, consisting of nine

members, to oversee county jails and ensure that each is in compliance with certain minimum standards. The commission was given broad authority to enforce the standards, including the authority to prohibit confinement of prisoners in a jail not in compliance. The incorporation of non-profit legal service plans to provide prepaid legal services was also authorized (SB 28).

The **Utah** Division of Corrections was provided the authority to establish and maintain community corrections centers for pre-parolees and probationers (HB 25). The division was given the power to prescribe rules and regulations for the operation of the centers and for work release programs. The act also provides that residents reimburse the division for the reasonable cost of the maintenance, transportation, and other expenses incurred for the resident's release program.

Two 1975 **West Virginia** laws implemented the *Judicial Reorganization Amendment* to the state constitution which was approved in 1974. HB 1396 established a system of magistrate courts with the first magistrates to be elected in 1976, and HB 1406 established a more unified court system with administrative powers over lower courts vested in the supreme court of appeals.

The **Wisconsin** Supreme Court restructured the state's court system into 14 judicial districts, each to be headed by a chief judge, and containing multi-judge courts within the districts. The administratively ordered reorganization may be challenged by the legislature.

HUMAN SERVICES

Each year there is a great deal of legislation in the states aimed at improving citizens' lives. Such programs run the range from providing government services such as garbage collection on a more efficient basis, to protecting the rights of the mentally ill, to providing state money or guarantees aimed at assuring that low- and middle-income people can afford decent housing.

Some of these initiatives in 1975 were largely in response to federal legislation. For example, during the year nine states expanded programs of the state, and four broadened local government powers, to provide money or guarantees for housing. This action was prompted by the federal *Housing and Community Development Act of 1974* which, in order to qualify for federal funds, required the states to have some structures and functions which many did not already have.

Other actions show the continuing willingness of the states to take a more active role in providing human services. Six more states passed laws authorizing the establishment of, or regulating, health maintenance organizations, health care plans which offer full-range medical care to subscribers on a prepaid basis. Four states moved toward establishing community based mental health treatment, and there were actions to permit people who would previously have been com-

mitted to a mental hospital to receive attention on an outpatient basis. Six more states enacted "bills of rights" for the mentally ill or retarded. Following is a look at some of the 1975 actions which states took to provide needed services and protect the rights of their citizens.

The Board of Nursing Home Administrators was created (Chap. 123) in the **Alaska** Department of Commerce. The act provides for the examination, licensing, and regulation of the nursing home industry. Chapter 121 established a program of state assistance to local communities for planning, organizing, and financing community mental health programs. Chapter 124 authorizes the creation of regional resource centers in which the services of both a regional educational attendance area or a school district may participate.

Arizona Chapter 111 provides that prisoners suffering from mental disorders may be transferred to the state hospital from any state correctional facility and not just from the state prison. The superintendent of the state hospital no longer has an independent retransfer authority; such a transfer back to a correctional facility requires a court order following a hearing upon a petition submitted by the superintendent or the patient.

The **Arkansas** Legislature granted municipalities all powers and authorities granted to housing authorities and urban renewal agencies. The law (Act 163) makes it possible for municipalities to be much more active in the redevelopment of their own cities in the areas of public housing, urban renewal, and community development. Act 454 prescribes procedures for the establishment and operation of health maintenance organizations.

A new **California** law provides for a $950 million plan to provide low-interest loans for low- and middle-income wage earners who cannot afford to obtain adequate housing. The act calls for the sale of up to $450 million in state revenue bonds to finance new housing starts and renovation of existing substandard structures. A $500 million general obligation bond issue for the same purpose will be submitted to the voters for ratification next year. Under the bill, the loan funds will be funneled through both public and private agencies at the local level for state-approved projects. The interest rates are expected to be 2 percent less than for conventional home loans. Required down payments will also be lower for those who qualify for the loans. Another act, AB 1229, authorized the courts to confine the criminally insane and mentally incompetent to approved local mental health facilities rather than state hospitals or approved private hospitals. AB 1x created a new housing finance agency and authorized it to provide an insurance program for rehabilitating, refinancing, or purchasing residential structures (SB 4x). AB 138 calls for health maintenance organizations to be regulated by a new health care licensing and regulatory system. State agencies also adopted regulations to forbid "redlining." (See the Illinois case study for a discussion of "redlining.")

Colorado counties and municipalities may now issue revenue bonds for low- and middle-income housing facilities which are to be used as the sole place of residence by the intended occupants (SB 57). SB 416 authorized the creation of a state corporation to make loans and provide insurance for loans for the purchase and rehabilitation of older housing. The corporation would make the loans to persons who can prove that they cannot otherwise obtain financing or that financing is available only upon terms substantially different from loans related to newer homes. The act directs the Division of Housing of the Department of Local Affairs to provide assistance to determine the extent and method of repairs and rehabilitation which will be required to qualify for the loans.

The **Connecticut** *City and Town Development Act* (SB 572) permits municipalities to acquire, develop, sell, lease, and operate real and personal property for economic development purposes. The intent of the act is to alleviate conditions of unemployment which are related to the obsolete, inefficient, and dilapidated condition of residential and nonresidential facilities located in certain municipalities. The legislature found that those conditions are impairing the economic and social viability of municipalities, resulting in a waste of both human and economic resources, and the municipalities lacked the legal powers needed to deal with the condi-

tions.

The State of **Delaware** will now guarantee mortgage loans of people who qualify under rules of the Delaware Housing Authority because banks are unwilling to finance home improvements for fear of losses (SB 286). The Delaware Improvement Insurance Fund was created and appropriated $1 million to carry out the purposes of the act. SB 186 enacted provisions to protect the welfare of persons alleged to be mentally ill. They may be involuntarily committed for no more than three days, during which time they must be either released or certified as mentally ill by a psychiatrist. If certified to be mentally ill, the court may order treatment. Hearings to decide upon further treatment or release from the hospital must be held every six months.

Two **Florida** laws (HB 522 and HB 1192) were passed to provide additional safeguards to the patient in the involuntary commitment process. Among other provisions, the laws require hearings, as well as advance notice of them, the patient's right to counsel, and his right to an examination by an independent expert. HB 815 enacted a bill of rights for the mentally retarded which specifically guarantees their right to education, training, medical treatment, and humane discipline. And HB 794 provided start-up loans for group homes for the retarded.

The 1975 **Hawaii** Legislature enacted a program to develop public service employment opportunities for the unemployed and underemployed. Act 151 created the State Comprehensive Employment and Training Program with an appropriation of $10 million for the one-year project.

Manufactured (prefabricated) housing was added to the protections of the **Illinois** *Mobile Home Safety Act* (SB 837). The act requires manufactured housing to comply with applicable safety codes, and it creates the Advisory Council on Mobile Homes and Manufactured Housing. Illinois also enacted two major bills aimed at halting "redlining." See the case study on those laws.

Indiana SB 491 allows cities to establish a program for urban homesteading.

Iowa HB 823 was enacted to establish the Iowa Housing Finance Authority to engage in various programs designed to increase the supply of adequate housing for families of low- and moderate-income, including the elderly, the handicapped, and the disabled. The authority, which may also make loans for non-institutional health care facilities, may only function through and in cooperation with local agencies under the condition that some type of local contribution, not necessarily monetary, be given by local agencies.

Another 1975 **Iowa** law (SB 499) revised the laws governing the hospitalization and treatment of persons for mental illness who are involuntarily committed. The responsibility for deciding that an individual should be hospitalized or required to accept treatment against his wishes was transferred to the district court. A procedure which affords protection against arbitrary or ill-considered action in such cases is prescribed.

In **Kentucky,** persons may no longer be involuntarily committed to a mental institution unless they are dangerous to themselves or others. The new policy is the result of a federal court ruling which voided a state law because it set no specific standards for involuntary commitments.

The **Louisiana** Development Authority for Housing Finance was created by SB 292.

Maine Chapter 503 authorized the establishment and licensing of health maintenance organizations. Chapter 619 enabled the Department of Health and Welfare to conduct a program to provide free drugs to the elderly and disadvantaged. And Chapter 358 amended the state *Human Rights Act* to prevent discrimination against the mentally handicapped.

The **Maryland** Legislature enacted a law (Chap. 276) which permits the establishment of health maintenance organizations and prescribes their rights, powers, and duties and exempts them from paying the state insurance tax on premiums.

The legislature approved a constitutional amendment for submission to **Nebraska** voters in November, 1976. The amendment would authorize tax increment bond legislation as a method of funding redevelopment projects. The legislature would be authorized to allow a political subdivision to issue bonds for the funding of redevelopment proj-

ects, and the bonds would be retired by property taxes on new valuations in the projects. **Nebraska** also established a construction code for the manufacture of mobile homes and recreation vehicles.

The State of **Nevada** created the new Housing Division in the Department of Commerce (SB 354). The bill authorizes the state to issue up to $200 million in bonds for loans for home purchases to reduce mortgage payments that discourage workers with good credit from buying a house. The act is expected to have the biggest impact in the $10,000 to $12,000 gross annual income range. Prospective home buyers could qualify if they have already been turned down by conventional loan sources because their gross incomes are too low to cover the mortgage payments. AB 56 authorized local governments to inspect factory-built housing and manufactured buildings.

New Hampshire established a statewide plumbing code (HB 775).

New Jersey created the State Mortgage Finance Agency to buy existing low- and moderate-income housing mortgages to pump more money into the housing market. The MFA may float bonds to finance the purchase of outstanding mortgages, with the stipulation that the lending institutions use the proceeds of their sales to fund new mortgage loans. The first issues of the bonds will be approximately $50 million. Another 1975 law (Chap. 104) gave homeowners who live in deteriorating neighborhoods a five-year tax break on up to $4,000 in residential improvements. A constitutional amendment approved by the voters in November authorizes municipalities to

Case Study

Illinois Becomes First State to Enact Anti-Redlining Laws

On August 28, Governor Dan Walker signed two Illinois bills written to prevent redlining by lending institutions. The legislation is the first such anti-redlining action in the nation. Redlining, the arbitrary denial of mortgages because of the location of the property involved, is usually based on a fear that the neighborhood is declining. The practice has created a vicious circle in which deteriorating neighborhoods cannot be rehabilitated because no money is available — the neighborhood gets worse and money is even harder to get.

One of the bills (SB 1103) requires that financial institutions disclose by zip code and by census tract the areas in which they lend their money for the purchase or rehabilitation of homes.

The other bill (HB 2350) prohibits banks and savings and loan institutions from discriminating on the basis of the geographic location of the property in their lending practices.

To help the state detect illegal practices under the latter act, banks, savings and loans, mortgage banking companies, and insurance companies must also disclose the number and dollar amount of loans applied for and granted in the communities they serve. The records must be filed twice a year with the director of the Illinois Department of Financial Institutions. The local institutions must also make their reports available to the public.

HB 2350 further prohibits financial institutions from denying normal services, including the granting of mortgages, to any person on the basis of sex, marital status, race, or national origin. Financial institutions are also barred from denying or varying the terms of a loan based on the geographic location of the property offered as security or based on the childbearing capacity of an applicant or the applicant's spouse.

In addition to denying loans because of location, another effective method of

adopt property tax exceptions or abatements in areas needing rehabilitation. The state commissioner of community affairs and the new Code Advisory Committee were directed to study various nationally recognized building regulations and choose one as the basis for a uniform set of building standards throughout the state. The advisory committee is to search for methods to reduce energy waste. Those methods will also be incorporated in the design and building standards.

On March 24, the **New Jersey** Supreme Court ruled *(Southern Burlington County NACP versus Township of Mt. Laurel)* that local zoning ordinances which act to exclude poor or moderate-income persons are illegal. The decision effectively outlawed restrictive zoning ordinances such as those which prohibit apartments or require large lots. The court also directed communities to adopt land-use regulations which affirmatively provide for a choice in housing, including low- and moderate-income housing at least to the extent of the municipality's fair share of the surrounding region's needs. The state supreme court, in two different cases, ruled that mental patients are entitled to a lawyer at all commitment hearings, and that the criminally insane may be confined only as long as they are dangerous to themselves or others, the same standard that applies to civil commitments. And SB 1117 detailed the rights of people confined because of mental illness or mental retardation.

The **New Mexico** Mortgage Finance Authority was created (HB 88), consisting of the commissioner of banking, attorney general, state treasurer, and four members ap-

---

redlining has been to vary the terms of a loan by requiring a greater than average down payment or a shorter repayment period, charging higher interest rates, or under appraising real estate or other items used as security. The legislation states that financial institutions may not deny or vary the terms of a loan without first having considered all of the regular and dependable income of each person responsible for repaying the loan. Also prohibited are lending standards that have no economic basis and which are discriminatory in effect.

Earlier in the year a related act had been signed by the governor. SB 48 requires that banks seeking the deposit of state money must pledge not to reject mortgage loans for residential properties within any specific part of the community served by the institution because of the property's location. The bank must also pledge to make loans available for low- and moderate-income residential property throughout the community, within the limits of the bank's legal restrictions and prudent financial practices. That act further prohibits the state treasurer from investing state money in savings and loan or building and loan associations unless a similar pledge is made.

If a person believes that he has been discriminated against by a lending institution, he may bring a suit in circuit court. If the court finds a financial institution in violation of the law, damages may be awarded.

These pieces of legislation were recommended by the Governor's Mortgage Practices Commission, a group appointed by Governor Walker to study the problem of redlining and to make recommendations to end the practice. In May, the governor appeared before the United States Senate Committee on Banking, Housing, and Urban Affairs to urge the enactment of similar federal legislation. Walker expressed a fear that unless redlining is stopped, the federal government would be forced to start huge and expensive programs similar to the Model Cities, urban renewal, and slum clearance programs of the 1960s to arrest urban decay. Walker stated his feeling that, by and large, those programs had failed, and any attempt to reestablish them would be an expensive mistake.

pointed by the governor, to issue negotiable bonds and notes to provide funds for making loans to mortgage lenders. The authority may purchase mortgages from mortgage lenders at prices no less than the unpaid balance of the mortgages. The bill is designed to assist the housing industry by providing an alternate funding mechanism for the mortgage market. HB 240 created the State Housing Authority in the State Planning Office and a five-member State Housing Advisory Committee. Some of the functions of the authority are: to receive federal and other funds for housing programs; mobilize housing assistance and funding resources with regard to the construction of new housing; and establish goals and policies for housing construction, rehabilitation of existing structures, and rental or leasing programs. HB 399 created a statewide structure for organizing community mental health programs in service areas designated by the Department of Hospitals and Institutions, including multicounty areas.

In March, the **New York** Legislature appropriated $90 million to keep the state-created Urban Development Corporation alive. With $1.1 billion in bonds outstanding, the UDC has become the nation's largest housing and business construction agency.

The **Ohio** Supreme Court ruled that suburban ordinances that allow voters to keep low-cost housing out of their communities were unconstitutional (*Forest City Enterprises versus City of Eastlake*). The court said that such ordinances are designed solely to keep black and poor people out of the suburbs. The decision said that communities may vote on comprehensive zoning plans but not on specific zoning changes as involved as in the ordinance in that case.

The **Oregon** Department of Human Resources was appropriated $1 million for elderly health care and housekeeping as an alternative to nursing homes.

Oklahoma authorized the creation of health maintenance organizations. The act (SB 243) also provides for the licensing and regulation of such organizations by the Oklahoma Health Planning Commission.

Children who are committed to mental institutions in **Pennsylvania** now have a right to a hearing on whether the commitment was justified. A three-judge federal panel voided a state law which allowed parents to waive their children's right to a hearing. The child must also be granted an attorney for the hearing.

The **Rhode Island** Legislature established community-based residential facilities for the mentally ill, retarded, drug abusers, and alcoholics (SB 516).

South Carolina authorized the State Housing Authority to provide funds for stimulating the housing construction industry and aiding low- and moderate-income persons. A similar 1974 law had been ruled unconstitutional so, to meet the court's decisions, the new law specifically stipulates that bonds issued by the authority do not pledge the full faith and credit of the state.

South Dakota provided procedures for the commitment and care of the mentally ill and for establishing their rights. The state also made provisions for reimbursement to state facilities for the care of the developmentally disabled.

The **Texas** *Health Maintenance Organization Act* provides for the establishment, certification, organization, and regulation of HMOs (SB 180). As an alternative to committing a person found to be mentally ill to a mental hospital, HB 917 gave judges the discretion of ordering the person to submit to treatment, observation, or care on an outpatient basis.

To assure that handicapped children have an equal educational opportunity, **Texas** HB 1673 requires school districts to make available for the education of each handicapped child in the district the average amount spent on the education of a normal student.

The **Utah** Housing Finance Agency was created (HB 106) to stimulate home building. $500,000 was appropriated to carry out the act. A portion of the money is to be used in selling revenue bonds for money to back mortgages of private lenders in the housing field. The act provides that the governor may ask the legislature for money in the future to back reserves should the agency be failing. The agency is to be self-supporting after the initial "seed" money by adding a one-half percent surcharge to all mortgages. SB 42 authorized the licensing of paramedics.

GOVERNMENT ACCOUNTABILITY

In response to the major news items of 1974 — Watergate — many states acted that year to adopt new standards for making government more accountable to the public. That trend continued in 1975, but the emphasis was more on fine-tuning than on comprehensive new laws such as California's Proposition 9 or Missouri's Proposition 1 of 1974.

During 1975, one state adopted its first open meetings law, and 15 others broadened the coverage of their open meetings statutes. Twelve states expanded or strengthened their requirements for the reporting of campaign contributions and/or public officials' and candidates' personal assets. Thirteen other states adopted new reporting and disclosure requirements. Five states expanded their disclosure requirements to cover local officials as well as state officials. During 1975, five states strengthened existing open records and freedom of information requirements or adopted new ones.

Two new trends seem to have emerged in 1974 which were not as visible in previous years, and both related to issues which were simultaneously debated, without final action, at the federal level. Three states amended their mini-*Hatch Acts* to permit at least limited political activity by public civil service employees. Nine states adopted laws to make

voter registration a less arduous task. Seven of those permitted voter registration by mail, one established registration centers in drivers license bureau offices, and one permitted voter registration by telephone.

In **Alabama,** a tough ethics law enacted in 1973 was replaced. The existing ethics commission was abolished and a new commission was created with the provision that the five members of the old commission cannot serve on the new one. (The attorney general has ruled that this provision of the law is unconstitutional.) The new law repeals the prohibition against legislators' voting on bills which might benefit them financially, relying instead on the state's constitutional ban on conflicts of interest. The 1975 law also removes the limitation on how much lobbyists may spend for "social occasions" for public servants. Like the 1973 law, the new one requires financial disclosure by candidates for public office, legislators, and certain state employees. In addition, the 1975 law specifically includes local officials in its coverage. Parts of the state ethics provisions were strengthened by prohibiting legislators from representing clients before the Public Service Commission and the Board of Adjustment. Under the terms of the *Federal Voting Rights Act,* this new law will need approval by the U.S. Department of Justice before becoming effective.

The **Alaska** Legislature changed the provisions of the election campaign disclosure law, expanding its coverage to lower elections and amending the limitations governing political contributions by individuals and groups (HB 488). SB 62 limits the conflicts of interest law to specific public officials and municipal officers while expanding filing requirements and creating an enforcement body. However, municipalities may, under the provisions of HB 418, exempt their officers from coverage by the state conflict of interest law if a majority of voters voting at a general or special municipal election approve such an exemption.

Under another 1975 **Alaska** law (SB 41), if a member of certain committees, councils, or interim committees files a declaration of candidacy for elective office other than that of a member of either house of the legislature, he must resign his committee appointment or his membership will be automatically terminated on the date of his filing.

Alaska also enacted two new provisions in the area of open meetings and open records. Chapter 12 requires that all floor sessions of each legislative chamber be electronically recorded and that the legislature provide by uniform joint rule for the recording or reporting of committee sessions. The recordings are to be available to the public at cost. The *Public Records Act* was amended (SB 99) to empower the superior court to enjoin any person having custody or control of a public record who obstructs or attempts to obstruct inspection of those records. The act also provides strict penalties for such offenses.

In an effort to open up the political process to all citizens regardless of occupation, **Alaska** enacted a law to permit state civil service employees to take part in political campaigns at the local, state, and national levels and to be appointed, nominated, or elected to a non-partisan public office in a local government unit (Chap. 15). However, those employees are not allowed to be active in the management of a political party above the precinct level. An Alaska superior court judge upheld the constitutionality of the 1974 campaign financing law.

Arizona made each state and local public body responsible for the preservation, maintenance, and care of public records. Every person is given the right to request to inspect, copy, or be furnished copies of public records (SB 1338). Chapter 48 requires that minutes of public meetings be prepared within three days of meetings and specifies what information is required to be in those minutes. The new law also allows any person to record or photograph official meetings. SB 1395 exempts conference committees of the state legislature from the statutory requirements relating to meeting notices and minutes and from the provisions governing judicial proceedings to enforce public meetings laws. However, those meetings must be open to the public.

In **Arkansas,** Acts 469 and 788 limit campaign contributions to $1,000 per person or group and require candidates to file financial reports and list paid campaign workers. Two

pre-election and at least one post-election contributions reports are required for candidates for state office, while candidates for local office are required to file one pre-election report. The post-election reports must also disclose expenditures.

California's omnibus campaign reform act, Proposition 9, was amended by several 1975 laws. AB 872 subjects members of the Fair Political Practices Commission (established to enforce Proposition 9) to the same financial disclosure requirements as members of the legislature and makes it unlawful for a commission member to accept a gift of $10 a month or more from a lobbyist, candidate for office, or certain public officials. AB 959 extends the financial disclosure provisions of Proposition 9 to cover additional state and local officials. SB 527, which permits local agencies, including school boards, to put limits on campaign fund raising and spending, became law without Governor Edmund G. Brown, Jr.'s, signature. AB 905 amended Proposition 9 so as to bar state employees who attempt to influence legislative action and who otherwise would qualify as a lobbyist from making gifts of more than $10 a month to an elected state officer or legislative officer.

SB 1 extended the **California** sunshine law to cover legislative conference committees, matters relating to university regents, rate-setting hearings of the Public Utilities Commission, and meetings of local legislative bodies making personnel appointments, and AB 590 requires that every meeting of the board of governors of the state bar be open to the public.

The **California** Legislature also passed AB 23, the *Legislative Open Records Act,* which makes the records of the total expenditures and disbursements of the courts, governor and governor's office, and specified records in the custody of or maintained by the governor's legislative affairs secretary subject to the *California Public Records Act.* It also provides that legislative records are to be open to inspection by every citizen at all times during the normal office hours of the legislature, and that each house of the legislature and the Joint Rules Committee shall adopt written guidelines stating the procedure to be followed when making legislative records available.

AB 822 allows **California** voters to register by mail, starting on July 1, 1976. The state supreme court ruled that the top of the ballot can no longer artibrarily go to incumbents or candidates listed alphabetically. The court suggested that the names on the ballot be rotated or chosen by lot for placement.

Colorado extended disclosure requirements for public officials to all candidates for statewide office and to candidates for district attorney. The information, relating to income and property interests, is to be filed with the attorney general at the time of becoming a candidate and continuing up to the time of withdrawal or defeat at the polls (SB 102).

Campaign financing laws were changed in **Connecticut** by SB 1724, which allows organizations to contribute to campaigns, with the exception of stock corporations and other business organizations which may only contribute to referenda campaigns. The act also revised reporting requirements by requiring new and more frequent reporting dates. Contributions were redefined to exclude in-kind contributions of under $100, to require cumulative reporting of contributions of under $15, to clarify the disposition of checks drawn on a joint bank account, and to require that anonymous contributions of over $15 be remitted to the state treasurer. A related act, SB 1713, doubled the amount that candidates on the state executive ticket, except the candidates for governor, may spend on election campaigns and raised the amount that can be spent for all state offices for the primaries.

HB 5087 revised the types of records that must be open to the public in **Connecticut** and required that a copy of public records must be furnished on written request. The act further requires that meetings in all branches of the government be open to the public unless closed by a two-thirds vote of the agency. A reason specified in the statute for holding an executive session must also be cited. Finally, the act created the Freedom of Information Commission to hear grievances and to investigate alleged violations of the new law.

Connecticut Governor Ella Grasso directed

all high-level state agency officials to keep a record of all incoming calls and to open those logs to public inspection. The governor said that the new policy was a part of the opening of state government to public view.

HB 5180 allows classified **Connecticut** state employees to participate in political management and campaigns. The permitted activity includes, but is not limited to, membership and holding office in a political party, organization, or club; campaigning for a candidate in a partisan election; and making contributions to a political party or other political organization. Employees are not permitted, however, to be candidates in any election in which any of the candidates represents a political party whose candidates for president appeared on the ballot in the previous presidential election.

Florida enacted several laws relating to campaign financing and conflicts of interest. SB 105 established new reporting dates for candidates and committees. HB 1072 stipulates that political committees receiving federal money in a national depository do not have to set up a bank account in the State of Florida for the money, and any such political committee may file with the secretary of state a copy of the list of contributions required by the *Federal Election Campaign Act of 1971* in lieu of similar reports required by state law. However, any contribution not required to be reported under the federal act must be reported in accordance with state law. HB 849 permits public employees of a city, county, or of the state to suggest to any of his fellow employees in a non-coercive manner that he or she may voluntarily contribute to a fund administered by a party, committee, organization, agency, person, labor union, or other employee organization for political purposes. HB 66 revised the financial disclosure provisions for public officers and employees. Categories of "local officer," "state officer," and "specified employee" were established for reporting purposes, and candidates for office are required to file their disclosure statement at the same time as they file their qualifying papers. The act substantially clarifies what is to be reported, including information concerning sources of income, gifts, debts, and names of clients represented for a fee before governmental agencies.

Florida HB 2099 changed the statutory provisions regarding conflicts of interest for public officers and employees. Standards of conduct for legislative employees were revised, and the policy statement was expanded to express a duty of public officers and employees to promote the public interest and maintain the respect of the people in their government. The act further strengthened the conflict of interest law to prohibit public officials from conducting private business with their own agencies. HB 1100, among other things, clarified and expanded the powers of the Commission on Ethics to allow it to weed out unfounded complaints. Provisions on penalties were greatly expanded and made specific for the status of the person involved. HB 2040 provides that if public funds are expended in payment of dues or membership contributions to any person, corporation, association, etc., all of the financial, business, and membership records of the groups are to be made public records and open to public inspection. And on January 29, the Florida Supreme Court ruled that a law prohibiting a public official from being in any way interested in a public contract was constitutional. The court interpreted "interested in" to mean a personal financial interest.

In **Georgia,** SB 13 prohibited candidates from entering both parties' primaries for a single office. SB 141 amended the *1974 Campaign Financing Disclosure Act* to create the State Ethics Commission and to provide for limitations on the total amount candidates for certain elected offices may spend in their campaigns. The act also applies to all county and municipal elected officials, and prohibits persons acting on behalf of a public utility corporation regulated by the Public Service Commission from making political campaign contributions. The state Senate also adopted new rules requiring open meetings.

Hawaii amended the *Campaign Contributions and Expenditures Law* by clarifying various sections of the law and repealing the limits on how much of the campaign funds may be spent on advertising. However, the overall spending limits were retained. The act (HB 327) also imposes controls on the pub-

licity surrounding the investigation of campaign law violations. HB 127 requires lobbyists to register and report their receipts and expenditures at least twice a year. Persons lobbying before administrative as well as legislative bodies are covered by the act which also prohibits lobbyists' accepting employment on a contingent fee basis. HB 126 requires meetings of state and local public bodies to be open to the public. There are provisions in the act for executive meetings closed to the public under certain conditions. The judicial and legislative branches and any board exercising quasi-judicial functions, except the Land Use Commission, are exempted from the provisions of the act.

Idaho, with the enactment of HB 260, created an election campaign fund with money from $1 check-offs on the state income tax form. The taxpayer may designate which party is to receive his dollar. SB 1054 allows a state income tax deduction or credit for political contributions. The secretary of state ruled that the sunshine law on campaign disclosure and lobbyist activities does not apply to candidates for municipal office — it applies only to state candidates.

The **Illinois** attorney general ruled on March 6 that the State Energy Resources Commission, a joint advisory body of the legislature created in 1974, is not subject to the *Open Meetings Act* because the act is not specifically applicable to the General Assembly or its committees and commissions. In February, Governor Dan Walker extended his 1973 executive order requiring personal financial disclosure of income, assets, liabilities, and net worth to cover 16 additional agencies, commissions, boards, and authorities. On May 7, the governor fired a member of the State Board of Elections for refusing to comply with the provisions of the executive order.

SB 513 in **Indiana** repealed a law prohibiting corporations and labor unions from making political contributions. Under the new law, corporations and unions may make contributions not to exceed $3,000 for statewide candidates or $1,000 for other state or local candidates. A bill (SB 27) to extend the financial disclosure, ethics, and conflicts of interest restrictions to include municipal officers and employees, was vetoed by Governor Otis R. Bowen. SB 37 requires the selection of candidates for governor, lieutenant governor, and U.S. Senator by a primary election. Those candidates are presently chosen at the state convention of their political party.

Iowa revised the campaign financing law (HF 431). The election laws were revised by HF 700 to keep the polls open one hour longer and to permit voter registration by mail.

The **Kansas** *Campaign Finance Act of 1974* was revised by HB 2483. Candidates who receive and spend less than $500 need not file campaign finance reports. Another act (HB 2625) amended the ethics laws to modify reporting periods for lobbyists, to exempt gifts of less than $10 from reporting requirements, and to exclude personal or business entertaining from the definition of lobbying. Exempted from coverage of the ethics law were members of advisory boards and others who serve without compensation. HB 2101 strengthened the open meetings law to provide that the time and place of public meetings must be furnished to individuals on request, and to allow cameras and recording devices to be used. SB 142 repealed a law which prohibited any person holding a liquor license from making a contribution to any political party or candidate for public office.

Kentucky Governor Julian Carroll issued an executive order establishing the Financial Disclosure Review Commission to review the confidential filings of net worth statements and tax returns of key individuals in the state government.

In **Louisiana**, HB 283 requires candidates to file pre- and post-election reports on contributions and expenditures. Any contributions or expenditures above certain thresholds must be reported. Those thresholds are: for statewide office, contributions over $1,000 and expenditures over $500; for district offices, contributions over $500 and expenditures above $250; and for all other offices, contributions in excess of $250 and expenditures over $125. A new open primary law (SB 274, 178) eliminated party primaries and provided for one primary in which candidates of all parties compete against each other. HB 1342 extended the bribery law to cover any

Case Study

Michigan Adopts Tough Campaign and Lobbying Law

The 1975 session of the Michigan Legislature enacted a campaign reform-disclosure law which Governor William G. Milliken called "the most comprehensive political reform law of any state in the nation." The law (HB 5250), among other things, provides for regulation of lobbyists' activities, conflict of interest safeguards, financial disclosure, and a strong independent enforcement commission.

Enforcement Commission. The act created a six-member commission which will operate autonomously within the secretary of state's office. No person who has held or run for any elective public office other than precinct delegate or who has been a lobbyist in the preceeding year may be appointed. Members of the commission may not accept appointment to or become a candidate for public or political party office, nor may they contribute to or participate in state or local political campaigns. Members are also prohibited from lobbying for compensation or reimbursement of expenses.

The commission is responsible for investigating violations of the act. If, by a two-thirds vote, the commission finds that a candidate or committee has violated the act, it may issue an order requiring the offender to cease and desist from the violation, or it may issue a public reprimand. The commission may also request the attorney general or county prosecuting attorney to prosecute.

Campaign Finance Disclosure. All candidates for public office are required to file a statement of organization with the commission or a county clerk within ten days after organizing a committee. All campaign committees must have a single treasurer.

All campaign committees must file periodic statements which list cash on hand; the total amount of all contributions; the full name and address of each person who contributed $15.01 or more, the cumulative total for each contributor, and the occupation, employer, and principal place of business for contributors of $100.01 or more; a listing by general category of expenditures of $100.00 or less and the total of those expenditures; and the full name and address of all persons receiving $100.01 or more in expenditures.

Anonymous contributions are illegal. Candidates who receive anonymous donations must give the money to a tax exempt charitable organization and forward a copy of the receipt to the commission.

No cash contributions or expenditures over $20.00 may be accepted or made. In-kind contributions beyond specified amounts are included in the reporting requirements.

Spending Limits. The following spending limits for each election were established: governor, $1 million; lieutenant governor, $50,000; secretary of state and attorney general, $300,000; supreme court justice, $100,000; statewide educational posts, $50,000; elected county executive, $50,000; state senator, $30,000; and state representative, $15,000.

Up to 20 percent of the expenditure limit may be spent for the direct solicitation of funds by mail or telephone without counting the expense against the limit. Also, one response to an unfavorable newspaper, periodical, TV, or radio editorial, or one which endorsed an opponent, may be purchased without being included in the limit.

Individuals and groups (other than independent committees or political parties) are limited in the amount they may contribute to a campaign — $1,700 to a candidate for state elective office other than a state legislator, $450 to state senate candidates, and $250 to candidates for state representative.

Counties, cities, townships, villages, and school districts are prohibited from adopting ordinances or resolutions more restrictive than those outlined above.

Public Financing. The act also created a state campaign fund for gubernatorial campaigns. The fund is financed by a $2 voluntary income tax check-off ($4 for joint returns).

Candidates for governor qualify for public funds in a primary by raising $50,000 in contributions of $100 or less. Then a candidate would receive $2 in state money for each $1 received in contributions of less than $100. Candidates could receive no more than $660,000 in public funds. Candidates in primary elections are not entitled to receive public money unless a major party has a contested primary. In that case, all unopposed candidates from both major and minor parties would receive up to $165,000. In the general election, candidates could receive up to $750,000 in state funds on the same matching formula. Restrictions are placed on what public funds may be spent for, and all public money must be kept in a separate bank account from privately raised money.

Conflicts of Interest. The act also established conflict of interest provisions for all public officials and employees. Officials or employees, their families, or businesses with which they are associated may not enter into government contracts of $1,500 or more unless the contract is awarded through "an open and public process."

Public officials are also restricted from "decision-making conflicts." No official or employee is allowed to participate in making any decision which would give him, his family, or his business any more than a minimum greater financial benefit than that realized by the general public.

No public official or attorney is allowed to act as an attorney or agent before a governmental body of which he is a member.

Regulation of Lobbyists. The act also regulates lobbyists and their agents. They are required to register and file information giving the name and address of their employees or others they have compensated for lobbying. In addition, each lobbyist must file a report each quarter listing his expenditures for food and beverage provided for public officials, advertising and mass mailing expenses, and all other expenses related to their lobbying activities. The disclosure must also list expenditures over $50 a month or $150 per year for public officials, itemized by name.

No lobbyist or anyone acting for him may give a gift (defined as "anything of value exceeding $10 for a one-month period and given without consideration of something of equal or greater value being received in return") to any public official or member of his immediate family.

Local governments are permitted to adopt lobbying disclosure requirements which are similar to the state law, subject to commission approval. However, they could not adopt regulations which are stricter than the state's.

The bill, which Governor Milliken said can affect a post-Watergate restoration of public confidence in democratic institutions and the political system, was supported by the AFL-CIO, American Association of University Women, Citizens for Better Care, Common Cause, League of Women Voters, Michigan Citizens' Lobby, and the United Auto Workers Union.

person who has been elected or appointed to public office, whether or not he has yet assumed the duties or title of the office.

An existing **Louisiana** law provided that sworn statements be filed by certain elected state officials with the Board of Ethics for State Elected Officials when entering into an agreement to represent someone before a state agency. Those statements were considered to be confidential and privileged. A 1975 law (HB 979) made such statements public records.

Maine created the Commission on Governmental Ethics and Election Practices. The law (Chap. 621) also requires financial disclosure by legislators and prohibits legislators from participating in conflict of interest situations. The act also establishes campaign expenditure limits. Chapter 576 revised the lobbying disclosure procedures by requiring lobbyists to file an annual fee, to report their employers and expenses every month, and to limit gifts from lobbyists and employers to legislators and their immediate families to $50 per year. Chapter 422 limited the items that may be discussed in meetings which are closed to the public, and Chapter 483 strengthened the state freedom of information act by applying it to the legislature and requiring timely responses to citizen requests. In his first cabinet meeting, Governor James B. Longley told his 18 department heads not to lobby in the legislature for their own programs.

In **Maryland,** Chapter 848 broadened the scope of the personal financial disclosure requirements, and the Maryland Court of Appeals upheld a local ordinance requiring broad financial disclosure.

Massachusetts, by enacting Chapter 303, strengthened the state's open meetings law.

Michigan revised its lobbying, ethics, and campaign financing laws by enacting HB 5250, which Governor Milliken called "the most comprehensive political reform law of any state in the nation." See the case study.

A related new **Michigan** law (HB 4615) requires that candidates appoint a single official treasurer to be responsible for reporting all contributions over $10, among other duties. And SB 16 allows Michigan residents to register to vote or make changes in their voter registration at any secretary of state branch office when they apply for, renew, or make a correction in their driver's license.

The 1975 **Mississippi** Legislature enacted the state's first open meetings law (SB 2368). The new law requires that all official meetings of any public body, including the legislature, its interim, standing, and special committees (but not subcommittees), be open to the public, that public notice be given in advance of the meeting, and that minutes be taken for each meeting. A citizen may sue a public body to force compliance with the act. Other 1975 actions created an open primary system to replace the previous party primaries and simplified voter registration (SB 2586).

Missouri HB 20 revised the lobbyist regulation law in several respects. Coverage of the act was expanded to include all legislative activities of lobbyists, not simply pending bills. State and federal agency employees lobbying before the legislature are now included in the definition of lobbyist and are covered by the act's restrictions and reporting requirements, including a new requirement that gifts to legislators be itemized. Penalties for lobbying violations were increased, and the hiring of a special prosecutor to help enforce the measure was authorized.

The **Montana** Legislature passed a comprehensive campaign reform package which requires pre- and post-election disclosure, establishes limits on contributions, and creates the Office of Commissioner of Campaign Finances and Practices to enforce the act. The new law also applies to any elections in school districts, municipalities, and counties, as well as state elections (Chaps. 296, 480, 482). HB 412 extended the scope of the open meetings law by requiring the presiding officer to determine that the demands of individual privacy clearly exceed the merits of public disclosure when closing a meeting to the public. HB 531 provides that successful plaintiffs in freedom of information suits are entitled to collect attorneys' fees, and HB 396 established guidelines for increased citizen participation in government.

Nebraska expanded the state open meetings law with the approval of LB 325. The definition of a public body was broadened to include independent boards and commissions

and study and advisory committees in the executive department. The law specifies that closed sessions may only be held for specified purposes or in the public interest, and a procedure for challenging closed sessions was established. Public notice was mandated with the requirement that the secretary keep a list of interested media and provide them with actual notice of impending meetings, including emergency meetings. The right of the public to participate in the meeting process was recognized, and no public body may completely foreclose citizens from speaking at meetings. Minutes must be kept of all meetings and be available to the public.

Another **Nebraska** law (LB 453) made several changes in the state's election laws, among them a provision that if there is a 2 percent spread between the two top candidates in a primary election, a recount is automatic and is to be conducted at the county's expense. If a general election is involved, the percentage requirement drops to 1½ percent. In any election, if the total number of votes cast is more than 100,000 a recount is automatic if the spread is 1 percent or less. The automatic recount can be called off only if the losing candidate files a written statement declining such a recount.

Nevada (AB 610) created the State Ethics Commission, established a strict code of ethical standards for public officers and employees, and required financial disclosure by candidates for and holders of elective public offices. AB 294 requires campaign contributions and expenditures for campaigns for state office to be reported to the secretary of state, AB 84 places spending limits on candidates for various state, county, and city offices (*e.g.,* a candidate for governor may spend no more than $150,000 or 80¢ per voter).

The **Nevada** Legislature also passed AB 454 which requires lobbyists to register and file a registration statement and periodic disclosure statements with the secretary of state. The act prohibits lobbyists from giving legislators gifts in excess of $100 a year. The disclosure provisions of the act require that lobbyists list their interests, employers, the number of members represented, their expenses, gifts, and loans. Lobbyists must also make a declaration that they are not paid to produce legislation (*i.e.,* contingent fee is illegal).

Also in **Nevada,** AB 25 established uniform voting hours for all counties in the state, and AB 336 was passed to allow voters in presidential preference primaries to cast their vote for "none of the above."

New Jersey Governor Brendan Byrne ordered 250 state officials to publicly reveal their financial holdings, all sources of income, and any positions held with a concern that does business with the state. Prior to that executive order, only about 30 top officials were required to make public financial disclosure statements. The others had been required to file statements with the secretary of state, but the statements were not public. The executive order was challenged in superior court and it was upheld.

Provisions to protect against political sabotage and subversion were tightened in **New Jersey** (SB 945). On August 15, a superior court ruling weakened the 1973 campaign financing law. The judge declared that an earlier ruling that citizen groups formed to influence legislation are free from requirements for reporting their finances also applied to groups formed to support candidates. The ruling could lead to numerous groups' being formed to channel money into campaigns without restrictions. AB 1030 requires open meetings of state and local public bodies. Notice must be given and minutes of the meetings must be kept. In September, Governor Byrne started a program for voter registration by phone. During the first week of operation, 1,500 people called the toll-free number to register to vote. The state had already allowed voter registration by mail.

New York Governor Hugh Carey issued an executive order requiring financial disclosure of any member of his administration who earns $30,000 or more per year or who is in a policy-making position, regardless of income level. The order also sets sharp limits on outside activities by those full-time members of the administration covered directly by the executive order, including a strict ban on the holding of outside jobs for pay or official positions in political parties or organizations.

The secretary of state of **New York** rejected

most of the 284 applications to lobby in the legislature. The secretary demanded that lobbyists provide specific descriptions of the legislation they would be lobbying for or against and itemize expenses and earnings as required by the 1906 lobbyist law. In the past, many lobbyists had not bothered to register. SB 576 requires the commissioner of environmental conservation to develop and maintain a registry of governmental agencies and officials and certain private organizations and provide them written notice of regulations under consideration or permits issued relating to the use or modification of air, land, or water uses.

A three-judge federal court ruled that some of the major provisions of the **New York** *Fair Campaign Code* were in violation of the right to free speech. The court voided the code's prohibition against a candidate's attacking another candidate's race, sex, religion, or ethnic background. The court also overturned the code's ban on any misrepresentation of a candidate's party affiliation, position on political issues, or personal qualifications, including bans on "character defamation" and "scurrilous attacks."

The Administrative Board of the **New York** Judicial Conference issued new rules severely restricting the political activities of state

Case Study

New York Acts to Make Voter Registration Easier

New York became the seventh state to permit voter registration by mail on June 3 when Governor Hugh L. Carey signed SB 4503. Observers have predicted that the act could have a significant effect on voting efforts in poor areas where the voters tend to be unregistered.

The act mandates a system permitting potential new voters to obtain an application card at convenient neighborhood sites and mail it to election officials. Present law requires that applicants appear in person at local election offices to register. Critics have called this a deterrent to free and full use of the right to vote.

Advocates of the act noted in debate that new mail-registration programs in other states have produced dramatic results. For example, in Montgomery County, Alabama, registration increased several fold.

The measure contains safeguards to protect against potential fraudulent use of the registration-by-mail opportunity. Applicants must list their name, address, date and place of birth, height, sex, color of eyes, party enrollment if preferred, and signature. A warning that fraudulent use of the system is punishable by up to five years in prison will also be on the application. Other safeguards include a requirement that the local election board verify the information and notify the applicant of acceptance by registered letter to his or her home address. In addition, the local chairmen of the political parties will receive monthly lists of new registrants, thus encouraging them to see that the opposition's enrollees are legitimate.

In signing the act, Governor Carey said New York had taken a "progressive step toward encouraging the broadest possible participation in the democratic process. Especially in those urban minority communities where registration is painfully low (often due to perceived barriers to registration) we can anticipate a significant increase in voter participation and interest that will invigorate the entire political process." The law is expected to have a significant effect on voter registration and participation in upstate rural areas as well as urban slums.

The bill, which was modeled after a measure introduced in Congress, received the support of the League of Women Voters, Citizens Union, and many other organizations.

judges. Judges may not even attend political dinners or other such affairs unless they are up for election. Limits were placed on political contributions by judges, and judges were prohibited from soliciting political funds.

New York citizens may register to vote by mail by using application cards available at neighborhood sites under the provisions of SB 4503. The Assembly adopted rules to require that committee meetings be open to the public and that votes in committee be recorded.

A new **North Carolina** act (SB 147) requires legislators to disclose their financial interests and other potential sources of conflict of interest. The act also establishes a code of ethics and creates the Legislative Ethics Committee. Chapter 820 requires that lobbyists who attempt to influence the legislature register and disclose their finances. Under the provisions of Chapter 775 taxpayers may use their state income tax forms to designate a political party to receive one dollar. The campaign financing law was also revised (Chap. 565).

North Dakota Chapter 188 requires candidates for state and local office as well as certain appointed state officials to file personal financial disclosure statements. Another 1975 law (Chap. 465) requires lobbyists to register and file disclosure statements.

The **Ohio** Legislature passed SB 74 which requires open meetings of state and local public bodies. The act stipulates that executive sessions may be held only at regular or special meetings of the body, and the act also specifies the types of business that may be discussed in executive sessions. "Meeting" is defined as a prearranged discussion of public business by a majority of the members of a public body. All public bodies must adopt rules for giving notice of all meetings, including special notices to persons who have requested notice of meetings at which specific types of public business are to be discussed. Minutes must be taken of all meetings. Under the provisions of another new law, the state is preparing to provide Spanish speaking interpreters at elections.

Oregon provided partial public financing for statewide and legislative candidates through a $1.50 income tax check-off (HB 3008). The measure will be on the 1976 ballot for voter approval. SB 204 provides for state income tax credits for political contributions. Another 1975 act established procedures for voter registration by postcard.

The **Oregon** Supreme Court ruled on May 14 that a 1973 law limiting campaign spending was an unconstitutional infringement of the right to free expression which is guaranteed by the state constitution. In response to that ruling, the legislature enacted two measures (HB 2756 and SB 833) aimed at tightening up the state's campaign financing disclosure requirements. HB 2757 strengthened the 1973 lobbying law by adding a requirement for monthly reporting during the legislative session. Another 1975 law strengthened the state's open meetings law, including provisions for recorded votes. Under the new law, reporters are to be allowed to attend executive sessions, but for "background" purposes only. The law makes each member of a governing body liable for court costs upon conviction of violating the law. Procedures were also established for the Legislative Assembly to review rules and regulations of state agencies. On June 5, the attorney general ruled that the open meetings law does not apply to the legislature, on the grounds that the House and Senate rules on such subjects as open meetings, public records, and conflicts of interest supersede state law. Under the state constitution, both houses are required to adopt rules for the governance of their internal operations.

Also in **Oregon,** the new Judicial Code of Ethics encourages judges to minimize their non-judicial involvement in business and community affairs and to refrain from "inappropriate" political activity.

The **Pennsylvania** Governor's Board of Ethics advised on July 31 that private attorneys cannot work for state agencies, part or full time, if they have law partners who practice before state agencies. The attorney general asked the 300 to 400 lawyers who work in the state executive branch to provide his office with information about their private practices in order to assure compliance with the ruling. Also, the legislature adopted new rules providing for radio and television coverage of

legislative sessions.

The **Rhode Island** Legislature enacted a bill (Chap. 262) which requires Statehouse lobbyists and their clients to file sworn, detailed financial reports by the 20th and 40th days of each legislative session and every ten days thereafter, as well as within 30 days after final adjournment. The act also extended the lobbying regulations to those attempting to influence the governor as well as the General Assembly, and it provides for the issuance of an identification card or tag to lobbyists.

The **South Carolina** Ethics Commission was created with the enactment of SB 89. The commission is to review and monitor the conduct of state, municipal, and county officials and employees. The commission may receive complaints and take appropriate action in cases of violation of the act or other laws relating to the personal conduct of public employees and officials. Included in the act are rules of ethical conduct and political campaign practices and provisions requiring disclosure of the economic interests of political candidates and certain public employees and officials. The ethics committees of the House and Senate are charged with performing a similar oversight function with respect to members of the legislature.

South Dakota adopted several government accountability provisions. Chapter 125 requires pre- and post-election campaign financing disclosure, prohibits contributions from corporations or business, and limits contributions and expenditures. Chapter 188 requires personal financial disclosure by candidates for statewide and legislative offices. Chapter 465 requires detailed records of expenditures to be filed by lobbyists. And Chapter 127 created the State Ethics Commission relating to elections and campaign practices.

Tennessee enacted a new campaign financial disclosure law (Chap. 314). Candidates are required to submit pre- and post-election reports showing the source and amount of all contributions over $100. The attorney general was given the power to enforce the law. The *Tennessee Lobbyist Registration and Disclosure Act of 1975* (Chap. 313) requires all lobbyists to register with the secretary of state, to pay a registration fee, and to submit financial disclosure statements of income and expenditures in excess of $25 spent in relation to their lobbying efforts. A new Chapter 308 permits voter registration by mail. Registration forms will be available through the mail or at post offices and other public places.

In **Texas,** HB 4 amended the *Campaign Reporting and Disclosure Act of 1973* so that contributions made to elective public officers for the purpose of assisting the officeholder in the performance of duties or activities in connection with the office which are not reimbursable by the state or political subdivision are included in disclosure statements. HB 299 established limits on the amount that may be spent by a candidate and the political committees supporting him in a campaign for a statewide office. A candidate may spend 10 cents per voting age population in the first primary; 4 cents per voting age population in a runoff primary; and 10 cents per voting age population in the general election.

Texas HB 839 requires certain officers of government and candidates for office to make public disclosures of any legal or equitable interest that they may have in property that is acquired with public funds. HB 1217 added two classes of persons exempt from the registration requirements for lobbyists: persons who encourage or solicit others to communicate directly with members of the legislature or executive branch to influence legislation, and persons whose only activity to influence legislation is compensating or reimbursing a registrant to act in their behalf to influence legislation.

Two new laws relating to open meetings were also adopted by the **Texas** Legislature. SB 485 amended the existing law to require that notice of a meeting of a state board, commission, department, or officer having statewide jurisdiction be posted by the secretary of state at least seven days preceding the day of the meeting. The previous notice requirement was 72 hours. SB 208 brought meetings of the board of trustees of community centers for mental health and mental retardation services under the requirements of the open meetings law.

In **Utah,** persons who receive compensation or who expend money to attempt to influ-

ence legislation or administrative action are required to register with the secretary of state. The new law (HB 218) specifies the information that is to be included in the registration statement. It also prohibits compensation contingent upon the passage of legislation. HR 135 revised the $1 check-off law, and SB 275 provided for voter registration by mail.

Virginia extended its law requiring disclosure of economic interests of candidates for and members of the legislature to also apply to the offices of governor, lieutenant governor, and attorney general, and candidates for those offices. Any interest in a newspaper, magazine, news agency, press association, wire service, radio or television station, or other news medium must be disclosed. HB 1354 requires annual disclosure by members of boards of supervisors, city and town councils, planning commissions, boards of zoning appeal, real estate assessors, county managers or executives, and city and town managers and their immediate families. The statements must disclose all real estate interests in the locality in which they serve as well as any interest in a corporation whose purpose it is to own or develop real estate in the locality. The same disclosure is required of candidates for those offices. Officials and employees of localities with a population of less than 3,500 are exempted from the provisions of the act.

Two other government accountability laws were enacted by the 1975 session of the **Virginia** Legislature. HB 1493 requires an officer or employee of a state agency to make a written disclosure of any material financial interest which he believes will be substantially affected by the action of the agency, and Chapter 422 revises the enforcement provisions of the lobbying law. It is now an offense for anyone to receive compensation for securing passage or defeat of legislation. In another action, the House adopted a rule requiring recorded committee votes.

The State of **Washington** revised its *Public Disclosure Law of 1972.* Reduced were reporting requirements which experience has shown are unreasonable, unworkable, or inappropriate. The act also tightened requirements where it was apparent that valuable information was remaining undisclosed.

West Virginia SB 16 requires all meetings of state and local public bodies, except the judicial department and the political executive committees, to be open to the public. The law also requires that minutes be taken and provides citizen standing to sue for enforcement. The state Senate also strengthened its lobbying disclosure rule.

A **Wisconsin** Circuit Court upheld the complaint of 21 lobbyists that the secretary of state had no legal basis for requesting financial information that was not specifically required by law. It was the second time that the secretary of state's lobbying rules had been overturned. In another case, the attorney general ruled that the state's Ethics Board may not make public advice that it issues to state officials on questions of conflict of interest, even though the official might make all or part of the advice public. SB 234 made some changes in the laws governing voter registration. Registration is now permitted by postcard, and voter registrars are now available in all public high schools.

Wyoming made major changes in the state election code by requiring post-election campaign finance disclosure (Chap. 185). The law also bars organizations or associations from donating money directly to a candidate. They may, however, make such contributions through a political party.

PUBLIC SECTOR LABOR-MANAGEMENT RELATIONS

During the 1930's, with the enactment of the *National Labor Relations Act,* employees in the private sector of the United States economy won the right to organize unions and to bargain collectively. Public sector employees were specifically excluded from the provisions of that act, leaving it up to the states to adopt their own labor relations statutes, if any. In recent years, efforts to establish nationwide standards for public employees have consistently failed in the Congress, placing even more attention on the action, or inaction, of the states.

During the 1960's, a number of states adopted legislation granting public employees rights similar to those enjoyed by their private sector counterparts. However, as the issues and climate vary from state to state, there is a great deal of variation among the states.

The absence of comprehensive state legislation in some of the states has meant that policy has frequently been determined by attorneys general and the courts, often resulting in confusion. For example, in Ohio five different conflicting judicial decisions have been rendered and the conflicts have not been resolved. (A comprehensive collective bargaining statute was passed by the 1975 session of the Ohio Legislature, but was ve-

toed by Governor James Rhodes because of a controversial right to strike section.) In North Carolina, the courts have ruled that the state's "right to work" law does not apply to public employees, yet public sector collective bargaining is prohibited by law.

Another result of the lack of comprehensive state statutes has been that state laws are often passed as a reaction to events. The consequence is often a marked lack in uniformity as to the rights of different groups of public employees.

Because of the growing importance of the issues involved, the table presented on the following pages summarizes the laws, opinions, and executive orders governing public employee labor relations in the states. Actions which took place in 1975 are in boldfaced type.

Explanation of Terms and Issues Covered in the Table

Despite the lack of uniformity in state laws, the issues are similar across the nation. The following seven major issues have been selected for treatment in the table.

Employees Covered. Public sector employees have been considered in five groups for the table — state, local, police, fire, and teachers — because of the pattern of the states' often treating each or some of the groups differently. If "all" is used as a description of employees covered, all five groups are treated equally by the law referenced unless noted otherwise in brackets.

State Agency Created to Administer. Some debate has centered on who in government should administer the provisions of a labor relations act. Some have argued for placing administration in an already existing mini-National Labor Relations Board, while others favor creating a separate body such as a public employees relations board. Furthermore, many states do not have a mini-NLRB for private sector employees to which public employee relations administrative duties can be assigned. The crucial determining factor for the entry in that column is whether the agency appointed to administer the act is likely to be involved as a party to negotiations or other important labor relations and personnel decisions. (e.g., a mini-NLRB serving both the private and public sectors would be noted with a "yes" in that column but, if the state personnel agency is the administrator, there would be no entry in the column.)

Provisions for Exclusive Recognition. Once a union has been recognized to represent a group of employees, it is often the case that the unit be required to represent all employees in the bargaining unit, regardless of whether or not they actually belong to the union. Without exclusive recognition, the management could be faced with having to deal with different unions among a single group of employees, and the strength of each of the unions — and thus the employees — could be diminished.

Right to Meet and Confer. A structured process short of full-fledged collective bargaining has often been presented as an alternative for the public sector (see ACIR report A-35, *Labor-Management Policies for State and Local Government).* Under such "meet and confer" arrangements, union and employer representatives would meet and enter into a memorandum of agreement which, while similar to a contract, does not have the full force of a union contract arrived at through collective negotiations. Management retains full discretion to dictate the terms of the memorandum; such a memorandum is a non-binding "gentlemen's agreement" and is usually not legally enforceable.

Right to Bargain Collectively. Collective bargaining is the practice of the private sector where employee and employer representatives meet to discuss wages, hours, and conditions of work, and enter into a legally binding contract covering those issues. Disputes over the interpretation of the contract normally are resolved through a quasi-judicial arbitration process, the decision of the arbitrator usually being binding on the parties.

The terms "permissive" and "mandatory" are used in both the meet and confer and collective bargaining columns. "Permissive"

means that the employer and employee representatives may engage in the process, but they are not required by law to do so. "Mandatory" means that the law requires the employer to enter into the process if an employee organization has been formed and fulfills certain other requirements. Many laws state that the employer and employee have a "mutual duty" to bargain collectively or to meet and confer.

Management Rights. Many state laws reserve certain decisions as being the sole prerogative of the employer, *e.g.,* the right to hire employees, to assign work, or to discipline or fire employees with cause. Such clauses also protect against the "mission of the agency" becoming a subject of negotiations.

Union Security Provisions. These issues relate to the inclusiveness of union membership and means of collecting dues for representing employees. "Check-off" is the practice whereby an employee authorizes in writing to have the employer deduct his union dues from his pay check. A check-off is usually a matter to be agreed upon by the employer and employee representatives when negotiating a contract. There has been a great deal of debate in both the private and public sectors as to whether the union should be compensated for representing employees who are not union members. If exclusive recognition is provided for, the union is negotiating wage and fringe benefits and representing non-member employees in grievance disputes without remuneration for those services. Several alternatives are used to compensate for this. "Union shop" is a practice whereby all employees, usually after a specified period such as 30 days, must join the union which represents them. Under "agency shop" the employee, without having to actually join the union, must pay a fee to the union for representing him. That fee is usually calculated to be less than actual union dues by deciding what portion of union dues are actually used for representation purposes. "Right to work" is a term used to describe laws which prohibit union or agency shop arrangements or any other form of requirement to join or pay a union as a condition of employment.

Impasse Resolution Procedures. Several methods for resolving disagreements over what should be in a new contract in the public sector have been devised as an alternative to the private sector's right to strike.

"Mediation" is a process in which an impartial third party sits in on negotiations to try to get the union and the employer to agree. The mediator has no authority to order or force an agreement; he is there only to serve as a third person who may be able to see the issues more objectively than the actual parties to the impasse and bring them together.

"Arbitration" is the practice which has been used to resolve disagreements over the interpretation of a contract. In the public sector the practice has often been used to determine disagreements over the content of a new contract as well. There are two types of arbitration — "advisory" and "binding." If "advisory arbitration" is used, the decision of the arbitrator is not binding on the parties — the resolution is at the discretion of management. An arbitrator's decision under "binding arbitration" (also called "final and binding") is much like those rendered under grievance arbitration — what he decides is what the contract will say on the disputed issue. In the table, arbitration is binding unless noted otherwise.

"Factfinding" is very similar to advisory arbitration. One frequent difference between the two is that the factfinding process often calls for a panel. While arbitration, too, can be by a panel, it is more common to select a single arbitrator.

If a state provides more than one technique for resolving impasses, they are listed in the order used (*e.g.,* in Maine, mediation is used as the first step; if the mediator cannot effect an agreement, factfinding is used and, if unsuccessful, an arbitrator is called in).

There are also some different types of binding arbitration. "Final offer" or "either/or" arbitration requires the arbitrator, after hearing the case, to make a choice between the final demand of the employees and the final offer of the employer; he may not choose a middle position in an effort to please both sides. Final offer arbitration may be on a package or issue by issue basis. In the form-

er the arbitrator must choose either the employees' or the employer's position for the entire contract. Under issue by issue arbitration, he may choose the union's final demand on one part of the contract and the employer's final offer on another part.

Right to Strike. Whether or not public employees should have a right to strike is one of the most controversial issues involved in public sector labor relations. It is also probably one of the oldest issues — the first recorded strike in history was by public employees in ancient Egypt. For many years public sector strikes were almost uniformly prohibited. However this has changed somewhat in recent years with a few states' granting the right to strike to some or all employees. Employees are often grouped into "essential" and "non-essential," depending on the job performed. In some cases, only the latter groups have been granted a right to strike.

Even where strikes are prohibited, employees have found other techniques — a "blue flu" which hits them all at once, work slowdowns, or "working to rule" when employees work exactly according to regulations, often causing a slowdown. It should also be pointed out that strikes resulting from a deadlock in contract negotiations are not the only type of strike. Many public sector strikes have been prompted by the refusal of a public employer to recognize a union or to submit the question of organizing to a vote of the employees.

Abbreviations Used in the Table. Abbreviations have been used to denote the source of each policy included in the table. (L) denotes that the basis for that policy is state law; (EO) means executive order of the governor; (A) refers to an opinion given by the state attorney general; and (C) refers to a judicial opinion.

State Public Sector Labor-Management Relations Provisions*

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Alabama	State, local, police				Public employers cannot bargain without express constitutional or statutory authority (C)				Prohibited (A)
	Fire			May present proposals and enter into non-binding memorandum (L) (C)					Prohibited (L)
	Teachers		Yes (L)	May consult with superintendent (L)			Check-off prohibited in counties with population between 10,900 and 11,500 (L)		
Alaska	State, local, police, fire		Yes (L)		Mandatory (L)	Yes (L)	Union shop and agency shop negotiable (L)	Mediation. Arbitration required for "essential" employees (L)	Permitted for "semi-essential" employees (utilities, schools, snow removal, sanitation) (L)
	Teachers		Yes (L)		Mandatory (L)	Yes (L)		**Mediation: Advisory arbitration (L)**	Unclear. No provision in this act, but school employees defined as "semi-essential" in another act which also specifically excludes them from its coverage (L)
Arizona	State, local, police, fire				Permissive (C)				
	Teachers				Permissive (C)		Check-off permissible (C)		

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Arkansas	All				Permissive (A) (C)		Voluntary check-off permitted (A)		Prohibited (A) (C)
California	State	**Yes (EO)**		Mandatory (L)				Governor's representative prepares memo describing areas and extent of differences and makes public (EO)	Prohibited (C)
	Local, police, fire			Mandatory (L)				Mediation (L)	Prohibited (C)
	Teachers and other school employees	**Yes (L)**			**Yes (L)**			**Mediation; fact-finding (L)**	
Colorado	All			Permissive (A)	Public employers have no authority to enter into collective bargaining agreements (C)				
Connecticut	**State**	**Yes (L)**	**Yes (L)**		**Mandatory (L)**	**Yes (L)**	**Agency shop (L)**	**Factfinding (L)**	**Prohibited (L)**
	Local, police fire	Yes (L)	Yes (L)		Mandatory (L)		Check-off negotiable	Factfinding (L). **Issue-by-issue arbitration (L).**	Prohibited (L)
	Teachers		Yes (L)		Mandatory (L)			Mediation; advisory arbitration (L)	Prohibited (L)
Delaware	State, local, police, fire		Yes (L)		Mandatory (L)		Check-off (L)	Issues other than wages or salaries may be submitted by either party to state DOL, or by agreement of parties to arbitration (L)	Prohibited (L)
	Teachers		Yes (L)		Mandatory (L)	Yes (L)	Check-off (L). Union shop prohibited (L)	Mediation; fact-finding (L)	Prohibited (L)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Florida	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Check-off (L)	Mediation; fact-finding (L)	Prohibited (L)
Georgia	State								Prohibited (L)
	Fire in cities over 20,000		Yes (L)		Mandatory (L)			Mediation; advisory arbitration (L)	Prohibited (L)
	Teachers				Public employer may not be required to bargain (A)				
Hawaii	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Agency shop automatic; check-off (L)	Mediation; fact-finding. Arbitration by mutual agreement. If no arbitration, parties free to use any lawful means, except may not strike or lockout within 60 days of factfinding report (L)	Prohibited for 60 days after fact-finding report (L). Imminent or present danger to public health or safety justifies injunction (C)
Idaho	Local, police				Permissive unless local ordinance prohibits (A)				
	Fire		Yes (L)		Mandatory (L)			Factfinding (L)	Prohibited during term of contract (L)
	Teachers		Yes (L)		Mandatory (L)	Yes (L)		Mediation; fact-finding (L)	
Illinois	State	Yes (EO)	Yes (EO)		Mandatory (EO)	Yes (EO)			Prohibited (C)
	Local, police, teachers				Permissive (C)				Prohibited (C)
	Fire				Permissive (C)			Advisory arbitration board appointed by employer (L)	Prohibited (C)

State	Employees Covered	State Agency Created To Administer	Provisions For Exclusive Recognition	Right To Meet and Confer	Right To Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Indiana	**State, local [except professional engineers, university faculty, municipal and county health-care institution employees] (L)**		**Yes (L)**		**Mandatory (L)**	**Yes (L)**	**Check-off (L)**	**Mediation; fact-finding [report can be made binding by unilateral action of either party before report is issued] (L)**	**Prohibited (L)**
	Teachers	Yes (L)	Yes (L)	Mandatory (L)	Mandatory (L)	Yes (L)	Check-off (L)	Mediation; fact-finding (L)	Prohibited (L)
	Police, fire			May meet informally but cannot bargain until authorized by law (A)	Permissive (C)				Prohibited (L)
Iowa	All	Yes (L)	Yes (L)		Mandatory(L)	Yes (L)	Check-off (L)	Mediation; fact-finding; final offer arbitration. [Arbitrator may choose final offer of either party or factfinder's report.] Parties may establish own procedures. (L)	Prohibited (L)
Kansas	State, local, police, fire	Yes (L)	Yes (L)	Mandatory (L)		Yes (L)		Mediation; fact-finding. Parties may establish own procedures (L)	
	Teachers		Yes (L)		Mandatory (L)				Prohibited (L)
Kentucky	State			Permissive (Memorandum of commissioner of personnel)					Prohibited (Memorandum)
	Local			Permissive (A)					Prohibited (C)
	Police in counties over 300,000 or with merit system				Permissive (L)	Yes (L)			Prohibited (L)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Kentucky (cont.)	Fire in cities over 300,000 or those which petition commissioner of labor for coverage Teachers	Yes (L)	Yes (L)		Mandatory (L) Permissive (A)		Check-off (L)	Factfinding (L)	Prohibited (L) Prohibited (C)
Louisiana	All				Permissive (A) (C)		Check-off (L)		
Maine	All	Yes (L)	Yes (L)		Mandatory (L)			Mediation; factfinding; arbitration [advisory re salaries, pensions, insurance but binding on all other matters. Either party may seek court review of arbitration decision] (L)	Prohibited (L)
Maryland	Teachers and other school employees		Yes (L)		Mandatory (L)	Yes (L)		Mediation (L)	Prohibited (L)
Massachusetts	All	Yes (L)	Yes (L)		Mandatory (L)		Agency shop negotiable (L). Check-off (L).	Mediation [Final offer arbitration for police and fire] (L)	Prohibited (L)
Michigan	State (Classified Service Employees) All	Yes (L)	Yes (L)	Mandatory (Department of Civil Service policy)	Mandatory (L)		Check-off (DCS policy) Agency shop negotiable (L)	Mediation; factfinding (DCS policy) Mediation; factfinding. [Final offer arbitration for police and fire] (L)	Prohibited (DCS policy) Prohibited (L). Injunction will not be issued unless clear and present danger to public health, safety and welfare has been shown (C)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Minnesota	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Agency shop negotiable (L). Check-off matter of right for exclusive agents and need not be negotiated (A)	Mediation; arbitration (L)	Prohibited except where employer refuses request for binding arbitration or to comply with arbitrator's award (L)
Mississippi	No legislative or policy guidelines have been developed.								
Missouri	State, local, fire Teachers	Yes (L)	Yes (L)	Mandatory (L) Right to present proposals (A)					Prohibited (L)
Montana	State, local, police, fire, Teachers Nurses		Yes (L) Yes (L)		Mandatory (L) Mandatory (L)	Yes (L)	Agency shop negotiable (L)	Mediation; fact-finding. Parties may agree upon arbitration (L)	Yes (C) Prohibited if simultaneous strike at other health care facility within 150 miles; union must give 30 days written notice and specify date strike will start (L)
Nebraska	State, local, police, fire Teachers	Yes (L)	Yes (L)	 Mandatory (L)	Mandatory (L)			Mediation; fact-finding. Court of industrial relations orders are binding (L). Factfinding (L)	Prohibited (L) Prohibited (L)
Nevada	Local, police, fire, teachers	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	**Check-off negotiable (L)**	Mediation; fact-finding. Prior to factfinding parties may agree to make report binding (L)	Prohibited (L)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
New Hampshire	**All**	**Yes (L)**	**Yes (L)**		**Mandatory (L)**	**Yes (L)**		**Mediation; fact-finding. Parties may agree upon their own procedures (L)**	**Prohibited (L)**
New Jersey	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Agency shop illegal; employees cannot be forced to use checkoff (C)	Mediation; voluntary arbitration (L)	Prohibited (L)
New Mexico	State		Yes (State Regulations)		Employer decides if there is to be any bargaining or consultation (Regulations)	Yes (Regulations)	Agency and union shop prohibited (Regulations)	Parties may agree to their own procedures, but arbitration and factfinding may only be used with State Personnel Board approval (Regulations)	Prohibited (Regulations)
	Local, police, fire, teachers				Permitted to extent civil service laws do not preempt scope of negotiations (A) (C)				
New York	All	Yes (L)	Yes (L)		Mandatory (L)		Check-off (L)	Mediation; factfinding. Parties may agree to own procedures, including arbitration. [Arbitration mandatory for police and fire] (L)	Prohibited (L)
North Carolina	All				Prohibited (L) (C)		"Right to work" law does not apply to public employees (C)		
North Dakota	State, local, police, fire				Permissive (A)			Mediation (L)	Prohibited (C)
	Teachers		Yes (L)		Mandatory (L)			Factfinding if either party requests. Parties may agree to own procedures. (L)	Prohibited (L)

State	Employees Covered	State Agency Created To Administer	Provisions For Exclusive Recognition	Right To Meet And Confer	Right To Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right To Strike
Ohio	All			No definitive statement of law. Several conflicting court decisions: (1) Civil Service employees of a city have right to bargain. (2) State employees have right to present proposals but may not enter into binding agreements. (3) Contracts voluntarily entered into are legally binding and enforceable. (4) County court of common pleas has authority to enter into agreements which are binding on successors. (5) Collective bargaining has no place in the public sector.			Check-off (L). Agency shop illegal (C)		Prohibited (L)
Oklahoma	State								Prohibited (A) (C)
	Local, police, fire in cities over 25,000; cities under 25,000 may opt for coverage	Yes (L)	Yes (L)		Mandatory (L)			Factfinding (L)	Prohibited (L)
	Teachers and all other school employees		Yes (L)		Mandatory (L)			Factfinding (L)	Prohibited (L)
Oregon	All	Yes (L)	Yes (L)		Mandatory (L)		Union and agency shop negotiable (L)	Mediation; factfinding. Parties may agree to arbitration. [Required for police, fire, and guards at correctional or mental hospitals] (L)	Permitted for employees in unit for which binding arbitration is not provided. Mediation and factfinding procedures must first be exhausted (L).

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Pennsylvania	State, local, teachers. [Court employees excluded (C)]	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Check-off (L)	Factfinding; voluntary arbitration permitted. [Guards and court employees required to submit to arbitration] (L)	Permitted after exhaustion of impasse procedures. Prohibited for guards and court employees (L). Injunction may not be issued *prior to start of* strike (C).
	Police, fire				Mandatory (L)			Either party may invoke arbitration (L)	
Rhode Island	State	Yes (L)	Yes (L)		Mandatory (L)		Agency shop (L)	Mediation; factfinding; advisory arbitration on wages, binding on other matters (L)	Prohibited (L) (See Teachers for case law)
	Local	Yes (L)	Yes (L)		Mandatory (L)			Either party may request mediation; either party may request arbitration which is binding on all questions except money (L).	Prohibited (L) (See Teachers for case law)
	Police, fire	Yes (L)	Yes (L)		Mandatory (L)			Arbitration (L)	Prohibited (L) (See Teachers for case law)
	Teachers	Yes (L)	Yes (L)		Mandatory (L)		**Agency shop (L)**	Either party may request mediation; either party may request arbitration *which is binding* on all questions except money (L)	Prohibited with *qualification* that courts may not enjoin strike unless it causes irreparable injury; failure to start school year on scheduled day is not irreparable injury (C)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
South Carolina	All			Written contract, memorandum of understanding, or any other agreements prohibited (L)					Prohibited (L) (C)
South Dakota	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Check-off negotiable (A)	Parties may adopt own procedures or ask commissioner of state labor management relations to intervene; commissioner mediates and may fact-find; report made to parties and local newspapers. [Police and fire employee organizations may request binding decision by tripartite Fair Hearing Board] (L). **Binding Arbitration Unconstitutional (C)**	Prohibited (L)
Tennessee	All				Permissive (C)				Prohibited (C)
Texas	State, local, teachers		Any recognition of employee representatives prohibited (L)		Prohibited (L)		Union shop prohibited (L)		Prohibited (L)
	Police, fire [Local referendum required to bring each jurisdiction under coverage, may also be revoked by referendum]		Yes (L)		Mandatory (L)		Check-off negotiable (L)	Mediation; arbitration (L)	Prohibited (L)

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Utah	State				State may not bargain collectively, but employee organizations may present proposals (A)				Strike automatically terminates employment (A)
	Local, police, teachers				Permissive (A)				
	Fire		**Yes (L)**		**Mandatory (L)**			**Arbitration except in cases of wages and salaries (L)**	**Prohibited (L)**
Vermont	State	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Union and agency shops prohibited (L)	Mediation; fact-finding. State Employee Labor Relations Board may make binding resolution if parties had previously agreed (L)	Prohibited (L)
	Local, police, fire	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Union shop, agency shop, and check-off negotiable (L)	Mediation, fact-finding. Parties may agree to arbitration (L)	Permitted unless within 30 days after fact-finder's report or if parties have submitted dispute to arbitration (L)
	Teachers		Yes (L)		Mandatory (L)			Mediation; fact-finding. School board retains final authority (L)	Permitted unless found to be clear and present danger to a sound program of school education (L)
Virginia	All								Prohibited (L)
	Local, police, fire				Permissive (A)				
	Teachers				Permissive, but enforceability of agreement is questionable (A)				

State	Employees Covered	State Agency Created to Administer	Provisions for Exclusive Recognition	Right to Meet and Confer	Right to Bargain Collectively	Management Rights	Union Security Provisions	Impasse Resolution Procedures	Right to Strike
Washington	State		Yes (L)		Mandatory (L)	Yes (L)	Union shop permitted upon majority vote of unit; check-off negotiable; agency shop authorized (L)	Mediation. Either party may submit dispute to State Personnel Board for arbitration (L)	Prohibited (L)
	Local, police, fire		Yes (L)		Mandatory (L)		Check-off. Agency shop negotiable (L)	Mediation; fact-finding; arbitration (L). **[Constitutionality of binding arbitration upheld (C)]**	Prohibited (L)
	Teachers and employees of school districts	**Yes (L)**	**Yes (L)**		**Mandatory (L)**		**Check-off. Agency shop negotiable (L)**	**Mediation; fact-finding. Parties may agree to their own procedures. (L).**	
West Virginia	All		Permissible (A)		Permissible but employer may unilaterally change agreements (A)			Parties may agree to mediation and fact-finding (A)	Prohibited (C)
Wisconsin	All	Yes (L)	Yes (L)		Mandatory (L)	Yes (L)	Check-off. Fair share agreement may be authorized by referendum (L)	Mediation; fact-finding. [Final offer arbitration for police and fire] (L)	Prohibited (L)
Wyoming	Fire		Yes (L)					Arbitration (L)	

*Primary Source: *Summary of State Policy Regulations for Public Sector Labor Relations: Statutes, Attorney General Opinions and Selected Court Decisions*, U.S. Department of Labor, Labor-Management Services Administration, Division of Public Employee Labor Relations, 1975.

INDEX

EQUAL RIGHTS

FISCAL ACTION

☆ U. S. GOVERNMENT PRINTING OFFICE : 1976 625-633/764

COMMISSION MEMBERS

PRIVATE CITIZENS
Robert E. Merriam, Chairman, Chicago, Illinois
John H. Altorfer, Peoria, Illinois
F. Clifton White, Greenwich, Connecticut

MEMBERS OF THE UNITED STATES SENATE
Ernest F. Hollings, South Carolina
Edmund S. Muskie, Maine
William V. Roth, Delaware

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES
Clarence J. Brown, Jr., Ohio
L. H. Fountain, North Carolina
Richard Vander Veen, Michigan

OFFICERS OF THE EXECUTIVE BRANCH, FEDERAL GOVERNMENT
James T. Lynn, Director, Office of Management and Budget
James M. Cannon, Assistant to the President for Domestic Affairs
Carla A. Hills, Secretary, Department of Housing and Urban Development

GOVERNORS
Daniel J. Evans, Washington
Richard F. Kneip, South Dakota
Philip W. Noel, Rhode Island
Otis R. Bowen, M.D., Indiana

MAYORS
Harry E. Kinney, Albuquerque, New Mexico
Jack D. Maltester, San Leandro, California
John H. Poelker, St. Louis, Missouri
Vacancy

MEMBERS OF STATE LEGISLATIVE BODIES
John H. Briscoe, Speaker, Maryland House of Delegates
Robert P. Knowles, Senator, Wisconsin
Charles F. Kurfess, Minority Leader, Ohio House of Representatives

ELECTED COUNTY OFFICIALS
John H. Brewer, Kent County, Michigan
William E. Dunn, Commissioner, Salt Lake County, Utah
Conrad M. Fowler, Shelby County, Alabama

What is ACIR?

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

The Commission is composed of 26 members—nine representing the Federal government, 14 representing state and local government, and three representing the public. The President appoints 20—three private citizens and three Federal executive officials directly and four governors, three state legislators, four mayors, and three elected county officials from slates nominated by the National Governors' Conference, the Council of State Governments, the National League of Cities/U.S. Conference of Mayors, and the National Association of Counties. The three Senators are chosen by the President of the Senate and the three Congressmen by the Speaker of the House.

Each Commission member serves a two year term and may be reappointed.

As a continuing body, the Commission approaches its work by addressing itself to specific issues and problems, the resolution of which would produce improved cooperation among the levels of government and more effective functioning of the federal system. In addition to dealing with the all important functional and structural relationships among the various governments, the Commission has also extensively studied critical stresses currently being placed on traditional governmental taxing practices. One of the long range efforts of the Commission has been to seek ways to improve Federal, state, and local governmental taxing practices and policies to achieve equitable allocation of resources, increased efficiency in collection and administration, and reduced compliance burdens upon the taxpayers.

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

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