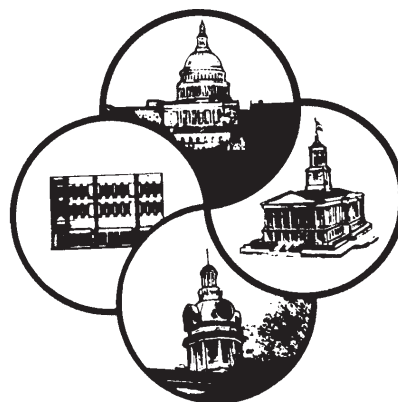




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Intergovernmental Challenges and Achievements

Biennial Report of TACIR
FY 2005 and FY 2006



Commission Report
August 2007

Tennessee Advisory Commission
on Intergovernmental Relations



TACIR Publication Policy

Staff Information Reports, Staff Briefs, Staff Technical Reports and Staff Working Papers and TACIR Fast Facts are issued to promote the mission and objectives of the Commission. These reports are intended to share information and research findings relevant to important public policy issues in an attempt to promote wider understanding.

Only reports clearly labeled as “Commission Reports” represent the official position of the Commission. Others are informational.

The Tennessee Advisory Commission on Intergovernmental Relations

226 Capitol Boulevard Building • Suite 508 • Nashville, Tennessee 37243

Phone: 615.741.3012 • Fax: 615.532.2443

E-mail: tacir@state.tn.us • Website: www.state.tn.us/tacir

Intergovernmental Challenges and Achievements

Biennial Report of the Tennessee Advisory Commission on Intergovernmental Relations Fiscal Years 2005 and 2006

Representative Randy Rinks
Chairman



Mayor Tom Rowland
Vice Chairman

The following staff have contributed to this report:

Harry A. Green, Ph.D.
Executive Director



Cliff Lippard, M.P.A.
Associate Executive Director



Elizabeth Swartz, Ph.D.
Editor



Libby Thurman, M.A.
Senior Research Associate



Sallie Hussey, M.A.
Proofreader



Teresa Gibson
Web Development & Publications Manager

August 2007

Biennial Report of TACIR

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Biennial Report of TACIR

Message from the Chairman and Executive Director

This Biennial Report of the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) describes the accomplishments and primary activities of the Commission during fiscal years 2005 and 2006. The report outlines the hard work and effort of the TACIR in aiding local governments, the General Assembly, and the State of Tennessee in working through such complex issues as establishing equity funding for K-12 education across the state and grappling with ways to determine the state's infrastructure needs.

TACIR is to be commended for its ability to fulfill its mission "to serve as a forum for the discussion and resolution of intergovernmental problems." Among the Commission accomplishments this report recognizes are the implementations of Public Chapter 1101 and Public Chapter 810. Public Chapter 1101 established criteria for the development of countywide growth plans and Public Chapter 810 directed TACIR to study the technology and funding of Tennessee's emergency telephone service. Through extensive research and close cooperation with various state agencies, these vastly different communication projects have been implemented. It is the Commission's tenacity and expertise that have made these networks possible.

During the two fiscal years covered by this report, the Commission has been remarkably active and productive, as seen in the list of legislation it has been asked to address. This report demonstrates how well the Commission has addressed its challenges.

The Commission's efforts as described in this report demonstrate the fulfillment of the Commission's charge to provide a forum for discussion of, and education about, critical public policy issues pertaining to intergovernmental relations. In recognition of the fact that much of the deliberation on these issues occurred in the context of the Commission's formal meetings, those meeting summaries have been provided near the end of this report.

In addition, the Commission takes its mandate to provide a future-oriented perspective to public policy and intergovernmental relations seriously and employs any number of resources to see its mandate is fulfilled. This report substantiates the work the Commission does. During these years the Commission has focused on funding issues to ensure quality education, the state's infrastructure reporting needs, state-shared taxing issues, local development taxes used to finance growth, and tax policy research. All are issues which, though decided today, will impact Tennessee's tomorrow.



Representative Randy Rinks
Chairman, TACIR



Harry A. Green, Ph.D.
Executive Director, TACIR

Issues Addressed: K-12 Education

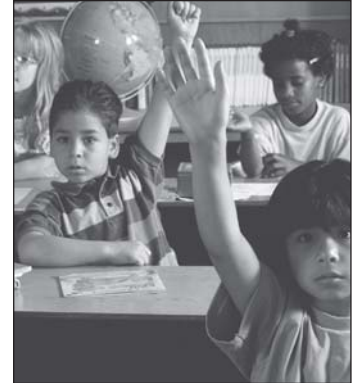
TACIR continued to provide valuable education policy research to Tennessee during fiscal years 2005 and 2006. Highlights included the completion of a multi-year study prepared by the RAND Corporation, working under contract for TACIR, and the completion of TACIR's analysis of a system level fiscal capacity model, prepared at the request of the Basic Education Program Review Committee (BEPRC) and Governor Bredesen's Task Force on Teacher Pay.

RAND Corporation Study

The RAND Corporation study, *Improving the Achievement of Tennessee Students: Analysis of the National Assessment of Educational Progress*, evaluated the performance of the state's students using data from the National Assessment of Educational Progress (NAEP). The study analyzed the factors that contribute to differences in Tennessee student performance compared to students in other states in order to identify potential policy and spending improvements. As part of this analysis, the study used statistical models to compare Tennessee's performance on selected NAEP tests with other participating states, both regionally and nationally. The study also used surveys of teachers, data on family characteristics, and state-level spending data to compare Tennessee to other states.

A key finding of the RAND Corporation study was that "Tennessee consistently ranked in the bottom fifth of states on 4th and 8th grade reading and math scores," as low as 42nd out of 48 states on the 4th grade reading test and as high as 38th out of 48 states on the 8th grade reading test. The study discussed factors contributing to this poor performance including insufficient resources, family characteristics, such as income and education level of the parents, the lower than average experience level of teachers, and the inadequacy of the state's education performance accountability system. The study concluded that these findings had several implications for Tennessee's future educational policy:

- The research evidence suggests that Tennessee is justified in devoting substantial resources to lowering class sizes in the elementary grades and raising the proportion of children in public pre-kindergarten programs. Tennessee should continue to maintain the



The TACIR sponsored RAND study analyzed the factors that contribute to differences in Tennessee student performance compared to students in other states.

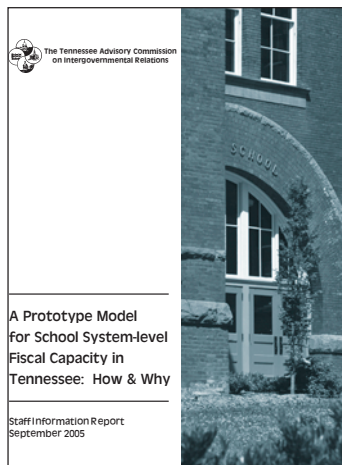
research-based standards associated with high-quality programs.

- Given that Tennessee lags other states in how teachers assess the adequacy of resources—another factor associated with higher achievement—the state should examine potential deficiencies in this area and consider ways to reallocate other spending toward efficient forms of teacher resources. On the other hand, while higher teacher salaries were shown to raise achievement, they do so at a relative higher cost. Given that Tennessee has salaries close to the national average, there may be less justification for using this policy lever to raise educational attainment. Since teacher salaries are the largest expenditures in education budgets, modest restraints in future salary increases may provide a source for channeling more funds into teachers' resources.
- Finally, although the research base needed to guide decision-making is weak, Tennessee should assess the need for reforms in other areas that may be linked to improved school performance. This includes the state's standards-based accountability system, as well as its approach to teacher compensation, teacher training, and pedagogy in the classroom.

Fiscal Capacity

TACIR staff completed its research regarding a prototype system-level-fiscal capacity model in fiscal year 2006 with the publication of *A Prototype Model for School-System-Level Fiscal Capacity in Tennessee: Why & How*. The prototype was requested first by Governor Bredesen's Task Force on Teacher Pay, appointed in February 2003, and later by the Basic Education Program Review Committee (BEPRC). The BEPRC was responding, in part, to legislation passed in 2004 asking that it "give special consideration to . . . the development and implementation of a system-level fiscal capacity model." The Review Committee endorsed the concept of a system-level fiscal capacity model and voted to recommend in its November 2005 report that Tennessee convert to a system-level equalization model.

TACIR staff worked with staff of the Comptroller's Office of Education Accountability and outside consultants to develop and review four models for the BEPRC. The team focused on addressing the primary structural flaw in the current model: in



the words of the Comptroller's Office, the model creates a structural flaw because it attempts to equalize funding in a system-level formula at the county level. Correcting this flaw is particularly problematic in Tennessee because of the fiscal complexity of its local system for funding public schools. With three distinct types of school systems, each with authority to impose various taxes and subject to certain intra-county sharing requirements, in the end, the team recommended a model patterned after the county-level fiscal capacity model that has been used to equalize funding through the BEP formula since its inception. The team realized that any change in the equalization method will necessarily cause shifts in state funding across Tennessee's 136 public school systems and will be highly controversial.

TACIR staff continued to analyze the prototype model upon the completion of the BEPRC appointed team's work. The final prototype report describes how the prototype addresses the challenges of creating a fiscal capacity model in a manner consistent with basic principles of taxpayer and student equity. The report also describes several alternatives, including two developed at the request of the State Board of Education. To the extent that any approach adopted causes shifts in state funding, staff recommends a phase-in process and temporary hold-harmless provisions to allow local governments adequate time to respond to those shifts.

Issues Addressed: Monitoring Tennessee's Infrastructure Needs

TACIR's role in monitoring Tennessee's infrastructure needs is the result of two state laws. Public Chapter 817, Acts of 1996, charged TACIR with responsibility for a statewide public infrastructure needs inventory. It was the General Assembly's belief that the information obtained from the inventory was needed to support a planning process that would

- *improve quality of life,*
- *support livable communities, and*
- *enhance and encourage the overall economic development of the state.*

Two years later, in 1998, Tennessee adopted its Growth Policy Act. This Act directed all local governments, except those in counties with metropolitan governments, to work together to

The Fiscal Capacity team, which included TACIR staff, realized that any change in the equalization method will cause shifts in state funding and will be highly controversial.

Intergovernmental Challenges and Achievements

The data in the infrastructure inventory has continually improved. It provides a fair estimate of total statewide needs.

establish 1) growth boundaries for incorporated areas, 2) planned growth areas outside those boundaries, and 3) rural areas. The Act also required local governments to determine and report the current projected costs of core public infrastructure. And it required TACIR to monitor overall implementation of the Act. Public Chapter 672 of 2000 linked those two initiatives, the public infrastructure needs inventory and the growth plan monitoring requirement, by requiring TACIR to supplement its monitoring of the latter with information from the former.

Throughout its ten year life, the infrastructure needs inventory has depended on the assistance of the state's nine development districts and the willingness of local officials to share information with them. Development district staff collect a wide array of information from all local governments in Tennessee, this is used to supplement information from state agencies. TACIR staff review the resulting inventory of needs to ensure consistency and comprehensive coverage and compile it into a master inventory for analysis and reporting.

TACIR's first report, *Tennessee Public Infrastructure Needs Inventory Assessment of FY 1998*, was published in FY 1999. That inventory covered the five-year period of 1997–2002 and identified public infrastructure needs estimated to cost \$13.7 billion, including \$2.5 billion in education needs for K–12. Staff knew those amounts were understated—some of the fastest growing counties in the state reported no need for new schools—but it was the best information that had been compiled or published to date. The largest categories under general infrastructure needs were transportation at \$4.4 billion and water and wastewater at \$2.5 billion.

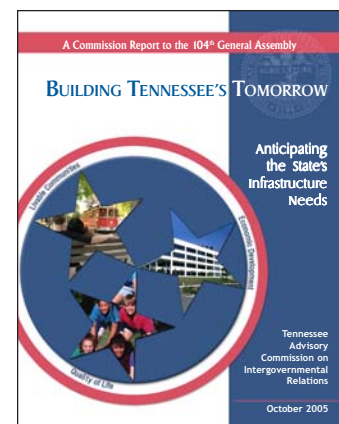
The data in the inventory has continually improved and staff now consider it reliable, reasonably consistent across the state, and a fair estimate of total statewide needs. TACIR staff have made major efforts to improve the quality and coverage of the needs assessment inventory each year, and the result is evident when the more recent reports are compared to the first one. The October 2005 report was the first to take a look back and compare all previous inventories. It was the fifth report in the series and covered the five-year period of July 2003 through June 2008. Needs reported to TACIR staff had nearly doubled since the first report, but most of the increase was attributable to stepped-up efforts to improve reporting:

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- a joint effort by TACIR, the State Board and Department of Education, the Tennessee School Boards Association, and the Tennessee Organization of School Superintendents to promote reporting by local school officials
- coordination with the state Department of Transportation to share information about infrastructure needs in state databases with local officials—the inventory has also benefited greatly from improvements in the department’s own information systems
- coordination with state capital budgeting staff to bring in comprehensive information about needs identified by state agencies as part of the annual budget request process
- inclusion of three new major types of information about infrastructure needs:
 1. location of projects in relation to boundaries established under the Growth Policy Act
 2. indication of why the need arises, for example because of population growth, public health or safety, state or federal mandates, or economic development
 3. sources and availability of funds
- regular meetings and workshops with development district staff who participate in the inventory to share ideas, problems and solutions, techniques, and any other helpful suggestions
- standardization of procedures, a redesign of inventory forms to facilitate data management, and routine quality control procedures to cross-check data and find anomalies, errors, and other flaws in reporting

The October 2005 Commission Report, *Building Tennessee’s Tomorrow: Anticipating the State’s Infrastructure Needs*, drew the following conclusions, which include comparisons to the first report and to the March 2004 report:

- The total need for public infrastructure improvements is estimated at \$24.4 billion for 2003 through 2008—an increase of \$2.9 billion from the previous inventory—including the cost of upgrading existing public schools to good condition. The total need has increased \$10.8 billion since the 1999 report and represents both



Intergovernmental Challenges and Achievements

The infrastructure category with the largest percentage increase was economic development.

increased need for infrastructure and increased coverage by the inventory.

- The transportation and utilities category represents nearly half of the one-year increase in infrastructure needs and nearly half of the total increase since the first report. Transportation needs alone, which increased \$1.3 billion since the last inventory and \$4.9 billion since the first, account for most of that increase and represent almost 39% of the total need. Most of the rest of the one-year increase was in business district development, an increase of \$447 million; water and wastewater, an increase of \$349 million; recreation, an increase of \$346 million; and law enforcement, an increase of \$221 million.
- The category with the largest percentage increase (70%) was economic development. This category fluctuates more than any other category, partly because it is relatively small. Business district development needs, which grew 11%, accounted for most of this increase because of large business district development projects, one in Nashville and the other in Memphis.
- Information about the availability of funding to meet Tennessee's public infrastructure needs indicates that in dollar terms more than half may go unmet. The inventory does not include funding information for needs at existing schools or for needs described in capital budget requests submitted by state agencies. Excluding those needs from the total of \$24.4 billion reported for the period covered by the inventory leaves \$20.3 billion in needs. Funding for only \$10.1 billion of that amount is expected to be available according to the local officials who provided the information. Most of that amount, \$9.5 billion, is for needs that are fully funded; another \$600 million is for needs that are partially funded. The remaining \$10.2 billion of the \$20.3 billion in reported needs have no funding at all.
- The overall condition of Tennessee's public school buildings has improved dramatically since the first report in this series, but it appears to have leveled out. According to local officials, around 86% of their schools are in good or better condition—about the same as last year—but considerably better than the 59% reported in 1999. Given that fact, it is not surprising that

education infrastructure needs increased the least in this inventory. Even so, needs reported in the current inventory are estimated to cost slightly more than \$3.7 billion, which is \$112 million more than the estimate in last year's report—a 3% increase—and \$1.2 billion more than the estimate reported in 1999. This year's increase is considerably larger than the one-year increase reported last year. Last year's increase was only \$55 million, which was less than a 2% increase.

Reported Infrastructure Needs	
Transportation & Utilities \$10.4 billion	Health, Safety & Welfare \$5.4 billion
Education \$5.3 billion	Recreation & Culture \$1.8 billion
Economic Development \$1.2 billion	General Government \$411 million
Grand Total \$24.4 billion	

- The latest data confirm once again that projects included in a capital improvements program (CIP) are far more likely to progress to the construction stage than projects not in a CIP. Almost 44% of projects included in a CIP were in the construction phase, whereas only 20% of projects not included in a CIP were. These percentages were nearly the reverse for projects in the conceptual phase. Only 20% of projects in a CIP were in the conceptual phase, compared with 46% of projects not in a CIP.
- State or federal mandates affect about 6% of all projects in the current inventory, down from 8% last year. Other than for existing schools, TACIR does not know the cost of mandates. About 78% of all projects affected by mandates are needed for new and existing public schools and are estimated to cost \$542 million. About 6% of that amount is attributable to federal requirements, and 94% is related to state requirements. About 88% of mandate-related education needs is related to providing additional classrooms to meet the lower class sizes required by the Education Improvement Act.

TACIR has tried to strike a balance between requiring sufficient information to satisfy the intent of the law and creating an impediment to local officials reporting their needs. By law, the inventory is required of TACIR, but it is not required of local officials. Local officials may decline to participate without penalty; similarly, they may provide only partial information, making comparisons across jurisdictions difficult. But with each annual inventory, participants have become more familiar with the process and more supportive of the program.

The October 2005 report was the first to contain a full section on funding. Reporting and analysis of this information is still being improved upon, but despite continued efforts to ensure that availability of funds played no role in whether needs were reported, it still appears that some local officials are understating their true needs and reporting instead the infrastructure they plan to build or believe their tax base can support. Future work should include a closer look at variations across the state, such as how urban and rural areas vary in their ability to meet—and perhaps even assess—their infrastructure needs.

A special report initiated in fiscal year 2006 and published in August 2006 was the first to look specifically at the location of infrastructure in relation to PC 1101 boundaries. This report, *Growth Plans and Infrastructure Needs in Tennessee: A Nine-County Analysis*, will be reviewed in the next biennial report. Another enhancement underway is a project to improve the technological infrastructure of the inventory itself. This project is setting the stage for future efforts to make the inventory more accessible and useful to state and local policy makers and to other researchers. Plans include making it possible for anyone with an interest to easily access information about and compare the infrastructure needs of cities, counties, and regions.

PC 810 of 2004 directed TACIR to conduct a study of E-911 technology and funding structure.

Issues Addressed: E-911

TACIR has continued to play an important role in assessing and improving the state's E-911 services. Public Chapter 810 of 2004 directed TACIR to conduct a "Study of E-911 Technology and Funding Structure" and report findings, recommendations, and any necessary legislation to the General Assembly no later than February 1, 2006. PC 810 directed TACIR to study "all aspects of Tennessee's emergency telephone service (911) statutes, including, but not limited to, local emergency communications districts and their respective

boards, the state emergency communications board, the provision of enhanced 911 service, and the assessment of emergency telephone service charges upon telecommunications service providers and customers.”

Pursuant to PC 810, TACIR staff implemented an extensive research plan during fiscal years 2005 and 2006 that included interviews with Commission members, local officials, and subject-matter experts, a literature review of emergency communications topics, a survey of Emergency Communications Districts (ECD) and local government officials, a review of audit and other pertinent data, and an analysis of existing and possible rate structure scenarios. The study also included presentations by interested parties at Commission meetings.

The Commission adopted the E-911 study report and its recommendations at the December 14, 2005 Commission meeting:

- As part of an overall effort to ensure that all ECDs meet a defined and consistent level of E-911 service, the Tennessee Emergency Communications Board (TECB), in conjunction with an advisory committee, should develop more specific minimum equipment standards and specifications on the type and ability of equipment needed at each Public Safety Answering Point (PSAP) and projected replacement times.
- The TECB should consider developing a voluntary centralized purchasing capability to allow ECDs the option of taking advantage of increased economies of scale.
- The TECB should commission a comprehensive cost-benefit study of the development of a statewide E-911 network to take advantage of new technologies. Statutory changes may be necessary to broaden the TECB's authority to address the evolving changes in E-911 technology, networks, and systems.
- The TECB in conjunction with an advisory committee should define minimum operational standards for personnel and staffing needs.
- The TECB in conjunction with an advisory committee should consider the need and alternatives to offer pre-arrival instructions statewide.

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- The TECB should continue its education efforts and policies that encourage consolidation of PSAPs and emergency communications districts.
- If the General Assembly feels that changes should be made to the Tennessee Code Annotated to require municipal representation on ECD boards, it is recommended that the change require the county mayor to appoint either the mayor, city manager, or their appointed representative, of the largest municipality, by population, providing emergency services and located within the ECD area to the ECD board in order to represent municipal interests. This requirement should not be applicable to boards that already require municipal representation through an inter-local agreement.
- The TECB, with input from an advisory committee from ECDs, local governments, and other 911 technical experts, should provide direction and data on what 911 fees are expected to cover and recommend a more specific funding method, if needed, and any legislative changes required. The advisory committee will include a representative of TACIR, appointed by the chair of TACIR. The advisory committee will report its findings to TACIR no later than June 2006.
- Require providers to report line counts and service fees statewide by ECD to a central state agency and include penalties for not reporting.
- Consider requiring state audits of local exchange carriers to ensure that fees are properly collected and remitted to the ECDs.
- Amend the Emergency Communications statutes to include all devices, voice over Internet protocol (VoIP) as well as other potential technologies, with access to 911 to pay 911 surcharge fees.
- The TECB should appoint an advisory committee of PSAP officials and other public safety personnel as well as persons with E-911 technical expertise to develop minimum operational standards and related costs to be reviewed and approved by the TECB. The development of standards should provide a means to determine the costs and necessary revenue to provide a minimum level of service statewide. Once the standards are set the TECB should work with the districts

to determine if the level and distribution of revenue needs to change.

- The TECB should use the standards to identify ECDs that are not able to fund the minimum level of service with the revenue base in their district and determine if a change in the level and distribution of revenue is needed.

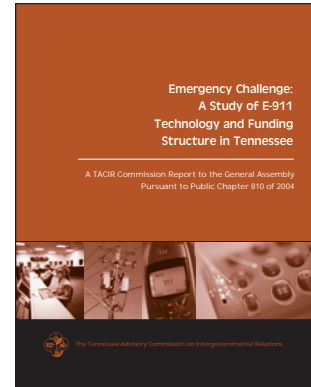
The recommendations were published in the February 2006 TACIR report, *Emergency Challenge: A Study of E-911 Technology and Funding Structure in Tennessee*. In response to the recommendations regarding the creation of advisory committees to study funding, operational standards, and equipment standards, the TECB agreed to report back to TACIR later in 2006 on the progress of those committees.

Thanks to the strong leadership of the TECB and the active participation of ECDs and advisory committee members, many of the TACIR recommendations have already come to pass. The funding advisory committee recommended significant revisions to the state's funding model for E-911, which the TECB adopted at its October 31, 2006 meeting. The TECB also adopted other TACIR recommendations from the study regarding operational and equipment standards, expanding the 911 service charge to emerging technologies, and the study of a statewide E-911 network.

Issues Addressed: PC 1101

TACIR continues to play an important role in monitoring the implementation of Public Chapter 1101 of 1998 (PC 1101). PC 1101 established requirements for the development of countywide growth plans covering a twenty-year planning horizon, requirements for municipal annexations and incorporations, as well as for the consolidation of local governments and the establishment of countywide Joint Economic and Community Development Boards (JECDBs) intended to foster ongoing communication and cooperation between county and municipal governments.

This initial phase of implementation of the statute can be characterized as highly successful. Every county required to have a growth plan in place has now done so, and TACIR has documented the stages of implementation on a regular basis in previous reports. Increasingly, the framework and provisions of PC 1101 are being used by state agencies and local governments as the basis for making important planning and



Many of the TACIR E-911 recommendations have already come to pass.

During the 2005 and 2006 legislative sessions, the General Assembly referred a number of bills and legislative questions dealing with proposed changes to PC 1101 to TACIR for study.

programming decisions. Prior to FY 2005, there have not been any substantive changes to the original statute, giving affected local governments an opportunity to familiarize themselves and work with the requirements of the Act in a stable and predictable statutory environment. Since the adoption of PC 1101, the focus was on getting counties and their municipalities to develop their initial growth plans and establishing their JECDBs.

During the 2005 and 2006 legislative sessions, the General Assembly referred a number of bills and legislative questions dealing with proposed changes to PC 1101 to TACIR for study. The referral of these bills and issues continued a process started in 2004 where the General Assembly has chosen to refer any proposed legislation dealing with PC 1101 to TACIR for evaluation prior to taking any action. This seems to reflect an understanding of the delicate nature of the statute and a desire by the General Assembly to move carefully prior to taking any action that might significantly alter the nature or direction of PC 1101. TACIR has also continued to work closely with other state agencies and interest groups on developing programs and ideas to more fully implement the goals and objectives of PC 1101.

FY 2005

In 2005, the General Assembly referred twelve specific bills that had been introduced in the legislature, and two questions or issues related to PC 1101, to TACIR for study with the expectation that TACIR would report back to the General Assembly early in its next session in 2006. The referral of these bills and issues marked the second year in a row that the General Assembly has sent PC 1101 related legislation to TACIR for study and consideration prior to taking any action on them in the legislature.

This group of bills and questions deal with a range of issues such as strengthening the consistency requirements amending growth plans, annexation matters, and quo warranto appeals of annexations. This group of bills includes two bills that had previously been referred to TACIR for study in 2004 and that had been recommended for passage by the Commission. TACIR developed a set of criteria by which these proposed legislative changes could be assessed and evaluated:

- Review of the current status of the growth plans and implementation activities and achievements to date

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- Review of previous TACIR discussions of issues and areas of concern and recommendations to the Commission
- Evaluation of the overall effects that any or all of these pending bills might have on the goals and objectives of the existing legislation
- Assessment of the level of consensus among the various identified interest groups for any of these proposed statutory changes

Of the ten bills referred to TACIR, six of the bills received positive recommendations from TACIR and were recommended for passage. Four of the bills were not recommended to move forward because of unresolved technical or political considerations. A major determinant of whether or not each of the bills received a positive recommendation by the Commission was to what extent, if any, there was a general consensus amongst the major constituency groups on the major issues involved with these legislative proposals.

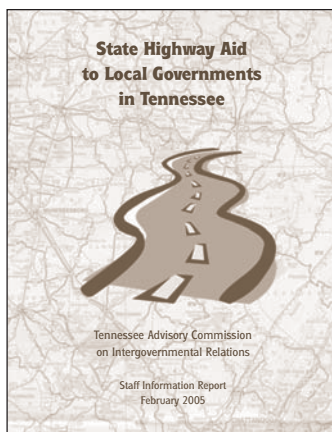
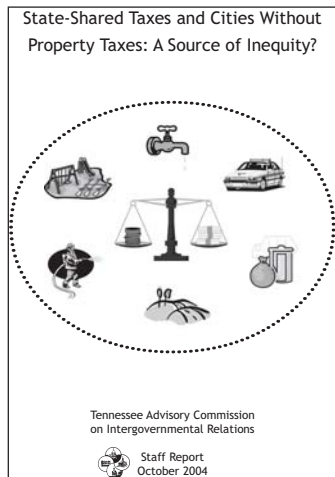
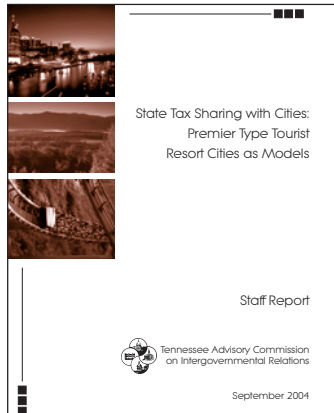
FY 2006

In fiscal year 2006, the General Assembly once again referred a group of bills proposing various changes to PC 1101 to TACIR. This group of five bills dealt with various aspects of annexations of territory by municipalities and the appeals of annexations, a focus that has run underneath the proposed PC 1101 legislation referred to TACIR in the recent past.

TACIR also worked closely with the Tennessee Department of Transportation (TDOT) and the Development Districts to develop a set of Rural Planning Organizations (RPOs) across the state. These RPOs were designed to serve a similar function as the Metropolitan Planning Organizations (MPOs) in developing and articulating the transportation funding priorities for Tennessee. A key component of the RPO model was to incorporate the JECDBs into the RPO committee and decision-making structure in order to link transportation decision-making with the growth planning process in each county and region across the state.

TACIR also worked closely with the Tennessee Department of Transportation (TDOT) and the Development Districts to develop a set of Rural Planning Organizations (RPOs) across the state.

Intergovernmental Challenges and Achievements



Issues Addressed: State-Shared Taxes

In fiscal year 2005, TACIR concluded its latest comprehensive study of state-shared taxes, which had been requested by the Speaker of the House, Representative Naifeh, during the previous fiscal year. Speaker Naifeh requested the study after the state had retained a portion of the taxes normally shared with local governments in order to balance the budget for fiscal year 2004. TACIR completed the principal component of its study, *State Tax Sharing, Fairness, and Local Government Finance in Tennessee*, in January 2004. This staff report examined the significance of state-shared taxes in Tennessee and their fiscal importance to city and county governments. TACIR also published a follow-up report on the Hall Income Tax, *Hall Income Tax Distributions and Local Government Finance*, in April 2004. TACIR published three supporting staff reports on state-shared taxes during fiscal year 2005:

- *State Tax Sharing with Cities: Premier Type Tourist Resort Cities as Models, September 2004*
- *State-Shared Taxes and Cities without Property Taxes: A Source of Inequity, October 2004*
- *State Highway Aid to Local Governments in Tennessee, February 2005*

The Commission reported its findings to both Speakers in February 2005:

- While Tennessee (27.4 percent) ranks below the South Region average (29.9 percent) in state intergovernmental aid (as percent of State general revenue), Tennessee (16.6 percent) ranks above the region (8.1 percent) in shared taxes as a percent of intergovernmental aid.
- The level of unrestricted state financial aid (including state-shared taxes) is higher in Tennessee than in other Southeastern states.
- State intergovernmental aid is a smaller share of state general revenue (27.4 percent) than the U.S. average (33.2 percent).
- PC 355 of 2003 added language to several sections of the TCA in order to enact the withholding of state-shared taxes. This language did not amend the original distribution formulae but did add additional calculations to affect the withholding, and did result in defacto

changes in the distribution formulae. There is no expiration date on the PC 355 sections affecting these changes in state-shared tax distributions, though it is the stated intent of the administration to restore withheld state-shared taxes.

- Several issues related to equity were observed:

General Equity

- In terms of equity (or fairness) in the state tax-sharing distribution formulas, those that use population for distribution are the most equitable. No equity principles were discovered that justify using situs or equal shares (by city or county) for distribution purposes.
- No equity principles were discovered that relate directly to the amount of shared taxes distributed to all city governments compared to the distribution to all county governments. A relevant question is, are the needs of city governments (and city residents) greater than the needs of county governments (and non-city residents)? In 1970, the amounts distributed were approximately equal. By 2002, city governments were receiving \$108 million more than county governments (not counting the wholesale beer tax).
- Population, or per capita distributions, have long been advocated and used as measures of equity; however, population doesn't always relate to needs. For example, the correlation between population and county area is very low. Likewise, the correlation between population and miles of roads is very low. And, there is no statistical relationship between population and equal shares.

Effort

- A major purpose of cities is to provide services, but there are cities that provide limited services. In 1997 there were 77 cities (or towns) that offered 3 or fewer services to their citizens. By comparison, PC 1101 requires newly incorporating cities to develop a plan of services for the provision of 7 services. Based on Census of Government data (COG 97), only 122

TACIR found that tax sharing formulas that used population for distribution were the most equitable.

cities of the 344 reporting provide some level of service for all seven service areas required to be included in a newly incorporated city's plan of services.

Property Tax

- Eighty-four cities do not levy a property tax, are low-services cities, and are able to maintain that condition because of state-shared taxes. T.C.A § 6-58-112 requires new cities to enact a property tax that produces tax revenue equal to state-shared taxes.

Gasoline and Diesel Taxes

- One-half of county shared gasoline and motor fuel taxes are based on equal shares. This means that the smallest county (whether based on area or population) receives exactly the same amount as the largest county. This distribution contributes to the fact that some counties contribute no local effort towards highway funding, funding their programs entirely from state-shared taxes. Ninety-one (91) counties reported spending \$212 million on county roads and highways. Per capita spending ranged from a low of \$12.90 in Shelby County to a high of \$246.78 in Van Buren County.

TACIR found no equity principle that justifies the Hall Income Tax distribution formula.

Hall Income Tax

- Three-eighths (or 38 percent) of the Hall income tax is shared on the basis of situs, or where it is collected. No equity principle that justifies this formula was discovered.

PILOT

- Fifty-seven percent of TVA payments in lieu of taxes distributed to counties is based on area: 43 percent based on county acreage and 14 percent based on TVA area. No meaningful relationship between service needs and the TVA payment distributions was found. The correlation coefficient between population and area is only 0.32. A perfect relationship would be 1.0.

Sales Tax

- Extraordinary sales tax payments are made to “Premier Type Resort Areas.” By statutory definition, there are only two cities that receive these payments: Gatlinburg and Pigeon Forge. With these extraordinary payments and high local sales tax collections, these cities (and Sevier County government) can maintain very low comparative property tax rates, a near average local sales tax rate, and relatively low hotel/motel tax rates. Gatlinburg and Pigeon Forge’s local efforts are higher when revenue from their Special Local Gross Receipts Tax provisions are included in comparisons. These special provisions allow these two cities to export much of their local burden for services to the tourists whose presence necessitates much of the burden. The Special Local Gross Receipts Tax is authorized by private act; only Gatlinburg and Pigeon Forge have been authorized to collect this tax though other cities have requested authorization. The Premier Type Resort Area tax has the potential to be an effective revenue source for other local governments in Tennessee if the statutory definition could be made more inclusive. Likewise, the Special Gross Receipts Tax could generate additional revenue for local governments if its authorization was expanded.

TACIR found that the Premier Type Resort Area tax has the potential to be an effective revenue resource for other local governments in Tennessee.

Contracts FY 2005 and FY 2006

During fiscal years 2005 and 2006, TACIR contracted out several research projects to a number of different individuals and organizations. A list of projects, services, and vendors follows below.

Infrastructure

Greater Nashville Regional Council
Memphis Area Association of Governments
East Tennessee Development District
First Tennessee Development District
Southeast Tennessee Development District
Northwest Tennessee Development District
Upper Cumberland Development District
South Central Tennessee Development District
Southwest Tennessee Development District

Department of Education–Public Infrastructure Needs Inventory

Education

RAND

University of Tennessee–BEP Assessment

Miscellaneous

Middle Tennessee State University–Pole Attachment

University of Tennessee–Energy Environment Resources Center

W. W. Terry–PC 1101 Consultation

Cumberland Region Tomorrow

TACIR Publications FY 2005 and FY 2006

Financing Growth in Tennessee: Local Development Taxes and Impact Fees, August 2004.

State Tax Sharing with Cities: Premier Type Tourist Resort Cities as Models, September 2004.

State-Shared Taxes and Cities Without Property Taxes: A Source of Inequity, October 2004.

A Users' Guide to Fiscal Capacity in the Basic Education Program, November 2004.

Three Interrelated and Frequently Confused Concepts That Affect Local Funding Requirements for Education. Volume 4, Issue 1 (Update on Fast Fact Vol. 2, Issues 2), January 2005.

State Highway Aid to Local Governments in Tennessee, February 2005.

State-Shared Tax Findings, February 2005.

Building Tennessee's Tomorrow: Anticipating the State's Infrastructure Needs, October 2005.

A Prototype Model for School-System-Level Fiscal Capacity in Tennessee: Why & How, October 2005.

School System Consolidation, November 2005.

Planning for Growth and Paying for It: TACIR Recommendations on 2005 Growth-Related Bills, February 2006.

Emergency Challenge: A Study of E-911 Technology and Funding Structure in Tennessee, February 2006.

Intergovernmental Challenges and Achievements: Biennial Report of TACIR FY 2003 and FY 2004, February 2006.

Intergovernmental Challenges and Achievements: Twenty-five Years in Review, April 2006.

Improving the Achievement of Tennessee Students: Analysis of the National Assessment of Educational Progress, RAND Technical Report, May 2006.

Staff Presentations FY 2005 and FY 2006

Local Fiscal Capacity for Funding Education in Tennessee
Presented to Basic Education Program Review Committee (August 2004)

System-level Fiscal Capacity for Funding Education in Tennessee
Presented to BEPRC (September 2004)

Tennessee Development District Funding Partners
Presented to joint meeting of the Kentucky Development Districts and the Tennessee Development District meeting (October 2004)

Local Fiscal Capacity for Funding Education in Tennessee
Presented to Tennessee School Board Association (November 2004)

Fiscal Capacity
Presented to Association of Independent and Municipal Schools (December 2004)

How to Form a Metropolitan Government
Presented to Planning Commission and Board of Zoning Appeals Training and Continuing Education MTSU (December 2004)

Fiscal Capacity County and System Prototype Models
Presented to Funding Task Force of the Metropolitan Nashville Public Schools Board of Education (December 2004)

Fiscal Capacity
Presented to the Oneida SSD school board, school director, Rep. Winningham and City Mayor (December 2004)

System-level Fiscal Capacity for Funding Education in Tennessee
Presented to Tennessee Education Association Staff (January 2005)

Fiscal Capacity County and System Prototype Models

Presented to School Superintendents/Directors of Anderson, Clinton and Oak Ridge and Rep. Hackberry (January 2005)

Fiscal Capacity County and System Prototype Models

Presented to Leadership Franklin County (March 2005)

System-level Fiscal Capacity for Funding Education in Tennessee

Presented to Metropolitan Area School Systems (March 2005)

System-level Fiscal Capacity Summary

Presented to Sullivan County Schools Systems (April 2005)

A Comparative Analysis and Profile of Lincoln County, Tennessee

Presented to Lincoln County officials (May 2005)

PC 1101

Presented at the Tennessee Municipal League Annual Conference (June 2005)

Fiscal Capacity

Presented to the Basic Education Program Review Committee (July 2005)

System-level Fiscal Capacity for Funding Education in Tennessee

Workshop for New Basic Education Program Review Committee Members (September 2005)

PC 1101

Presented to the Tennessee County Services Association (October 2005)

TACIR-facilitated Symposium

American Society for Public Administration Symposium (December 2005)

Tennessee River Resort District Act

Presented to Hardin County officials (January 2006)

Public School Facility Conditions and Needs

Presented to Senate Education Committee (February 8, 2006)

Tennessee River Resort District Act

Presented to Wayne County officials (March 2006)

Conference and Meeting Attendance FY 2005 and FY 2006

Southeastern Association of Tax Administrators Conference

Tennessee Development District Association Annual Meeting

National Conference of State Legislatures

Tennessee Municipal League 67th Annual Conference

Annual Tennessee Emergency Number Association Conference

Tennessee County Services Association Annual Fall Conference

Tennessee County Services Association Post Legislative Conference

American Society for Public Administration 20th Annual Symposium

Governor's Conference on Economic Development

Tennessee Municipal Attorney's Association Summer Seminar

Tennessee Municipal League 66th Annual Conference

Tennessee Development District Association Spring Conference and Meeting

Annual Tennessee Emergency Number Association Conference

36th Annual County Officials Association of Tennessee Convention

Tennessee County Services Association 51st Annual Fall Conference and Trade Show

Tennessee American Planning Association Fall Conference

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Appendix A: TACIR Organization and Mission

Organization

Consisting of public officials from state and local government and private citizen members, the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) “serves as a forum for the discussion and resolution of intergovernmental problems.”

The twenty-five members of TACIR capture the richness and diversity of perspectives of private citizens and officials representing different branches and levels of government. Of the twenty-five member Commission, twenty-two members are appointed to four-year terms, while three are statutory members holding membership by virtue of their position.

Responsibility for the appointment of four state senators and four state representatives rests with the Speaker of each respective chamber of the Tennessee General Assembly. Other appointments to the Commission include four elected county officials, one official nominated by the County Officials Association of Tennessee, four elected city officials, one development district nominee, two private citizens, and two executive branch officials.

Statutory members include the chairs of the House and Senate Finance, Ways and Means Committees and the Comptroller of the Treasury. In total, ten members have local government as their primary affiliation; eleven represent the legislature; two are drawn from the executive branch; and two are private citizens.

Recent legislation clarified certain aspects of the appointment process that had been a matter of some ambiguity (see Public Acts of 1996, Chapter 840). This legislation also eliminated references to outdated functions and clarified procedures for the issuance of reports of findings and recommendations. Though the legislation was important as a matter of housekeeping, it did not alter the basic organization or mission of the Commission.

Mission

In the late 1970's, legislative findings indicated the need for a permanent intergovernmental body to study and take action on questions of organizational patterns, powers, functions, and relationships among federal, state, and local governments. In pursuit of this goal, TACIR was created in 1978 (T.C.A. 4-10-101). TACIR's enabling act established what has remained the Commission's enduring mission (T.C.A. 4-10-104), to:

“Serve as a forum for the discussion and resolution of intergovernmental problems; provide high quality research support to state and local government officials to improve the overall quality of government in Tennessee; and to improve the effectiveness of the intergovernmental system to better serve the citizens of Tennessee.”

Intergovernmental Challenges and Achievements

Goals

Many specific duties and functions are required of TACIR in its enabling act, and additional duties are often assigned by the General Assembly through legislation. From its broad set of statutory obligations and special charges, the purpose for TACIR's existence can be summarized in four concise yet encompassing goals. TACIR strives to

1. advance discussion and deliberation of critical and sensitive intergovernmental policy matters;
2. promote action to resolve intergovernmental problems and improve the quality of government;
3. forge common ground between competing but equally legitimate values, goals, and interests; and
4. provide members of the General Assembly and other policymakers with accurate and timely information and analysis to facilitate reasoned decision-making.

Appendix B: What Does TACIR Do?

Objectives

TACIR provides a future-oriented perspective to public policy and intergovernmental relations, constantly attempting early identification and diagnosis of policy problems that loom on the horizon. To facilitate the achievement of its mission and goals, TACIR is directed by statute to:

- engage in activities, studies, and investigations necessary for the accomplishment of the Commission's mission and goals;
- consider, on its own initiative, ways of fostering better relations among local governments and state government;
- draft and disseminate legislative bills, constitutional amendments, and model ordinances necessary to implement the Commission's recommendations;
- encourage and, where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations;
- review the recommendations of national commissions studying federal, state, and local government relations and problems and assess their possible application to Tennessee;
- study the fiscal relationships between the federal government and Tennessee's state and local governments; and
- study tax equivalent payments by municipally-owned electric operations to the various taxing jurisdictions within the state; and study laws relating to the assessment and taxation of property (summarized from T.C.A. § 4-10-104).

Additionally, the Commission is directed by statute to hold four meetings per year and issue reports of its research and findings. Commission meetings, with invited guests and experts, and lively and thoughtful debate, form the core around which virtually all Commission activities are centered.

Given such a broad task environment, the Commission adopts an annual work plan to guide its meetings and research. The work plan is designed to ensure the completion of objectives set forth in the Commission's enabling act, as well as the achievement of the mission and goals.

From time to time throughout the year, the Commissioners address problems that were not anticipated in the work plan. Most such matters are addressed at the direction of the General Assembly.

Appendix C: Commission Meeting Minutes

FY 2005 Scheduled Commission Meetings

September 14-15, 2004

Study of State-shared Taxes

Mr. LIPPARD noted that TACIR's research on the topic is the result of a request late in 2003 from Speaker NAIFEH that TACIR produce a study of the fairness of tax sharing in Tennessee. Mr. LIPPARD also noted that this is not the first study by TACIR on this topic. The most recent previous study was TACIR's March 2000 report, *State Shared Taxes in Tennessee*. Mr. LIPPARD recounted TACIR's accomplishments during the current study, which include publishing a report in January, 2004, publishing a companion report in April, 2004, and working on three additional companion reports. Also, the Commission devoted the June meeting to the topic of state-shared taxes. That meeting included testimony from various subject matter experts and stakeholders.

Mr. LIPPARD then provided a summary of staff observations made during TACIR's study. These observations can be broadly grouped as either dealing with the level of aid or as dealing with equity. Mr. LIPPARD then requested guidance from the Commission on how to proceed with the state-shared tax study. Chairman RINKS said that one thing the staff could do is make recommendations for Commission consideration for the December meeting. Senator HENRY said he would make a motion to approve the report, but would like the staff to make a careful inquiry on the Hall Income Tax and on the distribution of the gasoline tax by 95 equal shares. Senator HENRY'S motion was moved, seconded by Mayor BRAGG and passed. Chairman RINKS clarified that the motion was to prepare a report without recommendations. Chairman RINKS called for a motion on having the staff prepare restoration alternatives for the December meeting. Senator HENRY made the first motion and Mayor BRAGG seconded the motion. The motion was adopted.

Utility District Study Conclusion

Ms. ELDRIDGE stated during the 2004 legislative session, SB2411/HB2890 was introduced. It amends various sections of the utility district law that were addressed in the TACIR utility district study. She noted that this bill was passed by the General Assembly in April 2004 and signed by the Governor in May 2004 and became Chapter 618 of the Public Acts of 2004. Ms. ELDRIDGE outlined the similarities and differences between the TACIR staff recommendations and Public Chapter 618's provisions. Ms. ELDRIDGE stated that in light of the fact that PC 618 addressed several issues that staff had addressed in the utility district study, staff would like guidance on the way the study should be handled at this point.

Chairman RINKS stated that legislation was introduced during the last session addressing utility districts and the staff needed to get the project off the books. He asked Dr. GREEN if they needed a motion for no recommendations.

Mayor BRAGG asked if there was any interest in adopting the last two recommendations on page 9. He moved that the recommendations on the top of page 9 be adopted. The motion

was seconded by Mayor ROWLAND and adopted by the Commission. Dr. GREEN asked if there was a need for staff to produce any other report for submission to the General Assembly. Chairman RINKS said that other than these three recommendations that this could be the conclusion of the report. A motion was made, seconded and then passed by the Commission.

Fiscal Capacity and the Basic Education Program (BEP)

Dr. GREEN reviewed the history of the development of the fiscal capacity model, noting that it began with an effort to measure the fiscal capacity of local governments and school systems. He noted that the fiscal year 2005 model is the same one that has been used since the implementation of the BEP formula; the only thing that changes from year to year is the values of the variables used in the formula.

Dr. GREEN pointed out that most counties are trending down in terms of their share of fiscal capacity and that the counties trending up, with the possible exception of Chester and Henderson Counties, are the counties we would expect to see trend up. Dr. GREEN emphasized that the model is based on the amount of money that is actually raised to fund education rather than some other measure of how much has to be raised. He also pointed out that the model is a pupil equity model, as well as a taxpayer equity model, and that it is based on three-year averages. And he referred them to the chart on page 19, showing how the fiscal capacity model works to even out state and local funding across the counties as mandated by the Supreme Court. He noted that the increase in the share of the BEP required of local governments this past year increased this compensatory effect.

The 136-system Prototype Model

Dr. GREEN pointed out that a system-level model is not a new issue, but noted that until the education formula was fully implemented, the legislative leadership did not want to consider any changes. There have been no changes in the fiscal capacity model. Dr. GREEN noted that the current prototype model has been presented to the BEP Review Committee (BEPRC). He also noted that the teacher salary equity bill passed in the last legislative session included a provision requesting the BEPRC to consider the items in particular: funding for at-risk students, English language learners, and a system-level model for fiscal capacity. Dr. GREEN emphasized that this model was a joint effort with the Comptroller's office and that the two staffs had been working on number of issues related to the model for some time. All of that evolved into where we are now.

Dr. GREEN reviewed the handouts and summarized the model, emphasizing that the prototype model is essentially the same as the county model now in use and reviewing the basic components of both. He then described the complexities of Tennessee's fiscal structure for funding education, especially in comparison to other states' systems, most of which are based only on local property taxes. In contrast, Tennessee has three distinctly different types of systems fiscally, including 94 counties and 42 cities and special school districts. Dr. GREEN described the differences between the county model and the prototype system model. Dr. GREEN noted that the hold harmless calculated for the change from a county model to a system model would be in the vicinity of \$47 to \$48 million, which would not necessarily be maintained over a long period of time depending on the revenue stream. He stated his expectation that a system like this could not be maintained without a hold harmless

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provision, especially in the early years. He noted that staff continue to look at the data and the issues and would report back to the commission.

PC 1101 Progress

Dr. GREEN provided an update to the Commission on monitoring activities related to PC 1101, which has been assigned to the Commission under the statute. There were also 10 bills, including two dealing with the Joint Economic and Community Development Boards (JECDBs), introduced in the General Assembly earlier this year (2004). He stated that the goal was to provide a set of recommendations for adoption by the Commission and recommendations in relation to the 10 bills referred for study by the Commission in December 2004.

Joint Economic and Community Development Boards (JECDBs)

Dr. GREEN said that two bills have been specifically referred to the Commission for study and its immediate task is to respond and comment about these bills. One of the bills was sponsored by Senator NORRIS of this Commission and the other bill was sponsored by Senator Trail and Representative Hood, both from Rutherford County who have raised this issue. Dr. GREEN stated that there is no definitive purpose defined for the board. The statute says that they should engage in long range economic and community development planning, foster communication between and among governmental entities, industry and citizens, but there's no guidance on how that might be done. Staff believes that ambiguity of the functions of these boards needs to be clarified and that there should be some definitive, sufficient functions for the boards.

Senator NORRIS suggested that the Commission look at this from the standpoint of a constituent rather than just as promoting economy and efficiency in government. If the JECDBs are functioning correctly they should serve as an umbrella organization, a one stop shop to go to. He recommended that the Commission adopt the proposal to look at ways to amend PC 1101, including a broad review of existing services and other statutes, to clarify what these things are and how they can function better. Chairman RINKS said that if someone from ECD could come and meet with these boards once a quarter to help them with some guidance and were reporting on what's going on in that county, the mandated meeting wouldn't be an issue; they would want to be there. Mayor GOLDSWORTHY said that it would be helpful to know about successes across the state in creating these organizations. Mayor GREER said he's concerned that the Three Star program would create an unfunded mandate to pay money to get some assistance from the state. Ms. DAVIS said that Local Planning does go out and assist those communities that are in need.

Local Government Consolidation Issues

Dr. GREEN noted that the Inter-local Cooperation Act allows agreements for the joint exercise of powers to be entered into between cities, counties and other public agencies of the state and federal government. He noted that there was no agency that put an impetus on functional consolidation.

Ms. ELDRIDGE stated that there were some suggestions made at the last meeting that the TACIR staff should compile and make recommendations on incentives to encourage consolidation. She said that the TACIR staff suggests that a grant program could be established

and funded with state funds for the sole purpose of making grants to local governments for several purposes. Ms. ELDRIDGE stated that TACIR had looked at the issue of consolidation in 1995 and identified several impediments to consolidation. She said that the Commissioners also identified two other barriers to consolidation which have been changed through amendments to the law. She said that the TACIR Commissioners identified the barriers to consolidation that were local in nature. Ms. ELDRIDGE stated that the staff was looking for guidance as to what specific project the staff should pursue in relation to consolidation. Chairman RINKS said that perhaps they could work on encouraging TML or County Services to address this issue at their conferences and possibly having TACIR sponsor a conference. Dr. GREEN suggested that the conference should be broader and include the involvement of MTAS, CTAS, TML and County Services to explore these different issues. Chairman RINKS said that if they do a conference, it should be broad and include service consolidation because there is a need for that information out there. He asked Dr. GREEN if the staff needed to think about it some more. Dr. GREEN said yes.

School Consolidation and Finance

Ms. ROEHRICH-PATRICK began her presentation by noting that Tennessee's 95 counties have 136 school systems, including 42 city systems and special school districts (SSDs). Consolidation of systems in Tennessee is part of a national trend. She went on to briefly review the history of public funding of schools in Tennessee and recap the previous days' discussion of the variation across the state in the fiscal structure of school systems, which creates complexity in equalizing funding today. Ms. ROEHRICH-PATRICK went on to summarize information in the materials presented describing some of the advantages and disadvantages of consolidating schools.

Ms. ROEHRICH-PATRICK then described the chart on the next page, which indicates that fiscal effort appears to be lowest for the smaller school systems. And she noted that one of the things that happens with larger systems, whether through consolidation or through growth, is expansion of programs, both academic and vocational, something that is difficult to do for smaller school systems. Ms. ROEHRICH-PATRICK noted the additional advantage of more equitable allocation of resources across a county when school systems are consolidated, referring again to the Supreme Court's decisions making the state responsible for providing substantially equal educational opportunities for all students. Mayor BRAGG noted again, as stated yesterday, that the average school system in the nation is purported to have 2,500 students and suggested that based on the information presented on administrative expenditures, Rutherford County could be divided into six systems and save a lot of money. And when you look at the information about ability to pay, that also favors smaller school systems.

E-911 Report

Mr. LIPPARD began by stating that E-911 and emergency communications districts (ECD) in Tennessee was another topic that TACIR has studied extensively in the past. He noted that TACIR first looked at the topic in the late 1980s and then conducted a major review in fiscal years 1994 and 1995. That review led to a series of changes, culminating in higher funding rates and the creation of the Tennessee Emergency Communications Board (TECB). Mr. LIPPARD said that the TECB has been key to Tennessee's being considered a leader in

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E-911, specifically phase-II wireless implementation. Mr. LIPPARD explained that TACIR's current study was the result of Public Chapter 814 of 2004. Mr. LIPPARD explained that the study will review issues related to emerging technologies, funding issues, and structural issues.

Dr. GREEN and Mr. LIPPARD both noted that consolidation of districts and services is a major trend nationwide in emergency communications. Mr. LIPPARD referred the Commission to the research plan, which consists of five major research components and will produce three products leading up to the fourth and final report. Mr. LIPPARD explained that the final report will contain three main sections, technology, funding, and structure. He noted that many of the changes in the E-911 community are being driven by technology changes, including the shift in usage from landline phones to cellular phones.

Mr. LIPPARD then moved on to the observations from the initial set of interviews, a literature review, and professional education. He introduced Ms. MATTSON, who has conducted most of the interviews for TACIR. He also invited any member not yet interviewed whom wishes to be interviewed to schedule an interview at their convenience. Mr. LIPPARD closed by noting that TACIR staff is considering a request by some local ECDs to hold public hearings separate from those held by the TECB.

December 14-15, 2004

Election of TACIR Officers

Chairman RINKS opened the floor for nominations. Mayor BRAGG nominated Representative RINKS for Chair. Mayor ROWLAND seconded the motion. It was approved. Mayor GREER nominated Mayor ROWLAND for Vice-Chair. Mayor GOLDSWORTHY seconded the motion. It was approved.

Staff Findings relating to State-Shared Tax Issues

Mr. LIPPARD presented the major findings from TACIR's most recent review of state-shared tax issues, a copy of which is included in the meeting's docket book. The Commission moved to submit the findings to the Speaker of the House in response to his request for the study. Commission members discussed several related issues, including using the premier type tourist resort cities' sales tax distribution as a model for other local governments in Tennessee, the restoration of state-shared taxes, tying state-shared taxes to local effort, and the service requirements of Public Chapter 1101. No action was taken on these additional topics.

State-Shared Tax Restoration Scenarios

Mr. LIPPARD presented the staff's observations regarding possible scenarios for the restoration of withheld state-shared taxes. He noted that any scenario would be one of multiple possible permutations of percent of money restored, earmarking, and distribution methodology. Based upon these possible permutations, Mr. LIPPARD presented some sample restoration scenarios for Commission consideration. The Commission returned to this topic on the second day of the meeting, moving that the staff should prepare three or four specific scenarios for presentation at a future meeting to be held at a time determined by the Chairman.

Hall Income Tax

In response to a request by Senator HENRY at the September 2004 TACIR meeting, Dr. CHERVIN presented information regarding the character of the Hall Income Tax. Dr. CHERVIN also discussed an opinion prepared for Senator HENRY by the law firm of Boulton, Cummings, Connors, and Berry. He said that opinion details the history of the Hall Income Tax as a privilege tax and as a successor to a “poorly enforced and confiscatory property tax system.” The Commission discussed Dr. CHERVIN’S presentation, with Chairman RINKS noting that even if the General Assembly put a ban on income taxes, the law is broad enough for such a tax to be implemented as a property or privilege tax.

Gasoline and Motor Fuel Taxes

Mr. LIPPARD presented information regarding the potential for alternatives to the current gasoline tax distribution method, with a specific focus on those that might better reflect varying transportation needs and costs across the state’s counties. The Commission discussed the presented alternatives, but made no recommendations or requests for further research.

School Systems with One School

Dr. GREEN said that Senator CRUTCHFIELD had asked if there were any other school systems, besides Richard City, that had only one principal building. Dr. GREEN said there were 7 or 8 other school systems in addition to Richard City that had only one principal building. He said that South Carroll was most relevant to the comparison with Richard City since they are both K-12. He said that the remaining school systems were K-5 or K-8.

Effect of Sales Tax Base Change on Fiscal Capacity

Dr. GREEN recapped staff analysis responding to a question raised by County Mayor HUFFMAN at the September 2004 meeting. Mayor HUFFMAN has asked what the effect on Tipton County would be if DeSoto County, Mississippi, eliminated entirely its sales tax causing Shelby County, Tennessee, to lose 25% of its taxable sales. Staff analysis indicated that the effect on Tipton County would be an increase of \$1 per pupil or \$13,226 in total. The effect on Shelby County would be a reduction of \$176 per pupil or \$28 million. The overall effect in the county fiscal capacity model was a shift in weight away from taxable sales per pupil and to per capita income. Brief discussion followed related to the effect in the prototype system-level model and structural differences between the prototype and county models.

Veto Authority of County Mayors

Ms. NACCARATO said that during the last session of the General Assembly, SB 2632 was referred to TACIR for study. She said this bill would amend T.C.A., § 5-6-107, relative to the majority required for the county legislative body to override a veto of the county executive. Ms. NACCARATO reported on the current county mayor veto situation in Tennessee, the possible effects of the bill, and the laws governing county mayor vetoes in other states. She also presented the case for and the case against the bill, as presented to her by Mr. CONGDON (for the bill) of the Tennessee County Mayors’ Association and Mr. GODDARD (against the bill) of the Tennessee County Commissioners’ Association. Following the presentation, Mayor GREER stated that the Tennessee County Mayors’ Association was no longer pursuing passage of this bill so further study was not required.

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Fiscal Capacity and Action Taken by the BEP Review Committee

Ms. ROEHRICH-PATRICK summarized the Review Committee's first annual report as it related to fiscal capacity, briefly recapping events leading up to and prompting the report. The BEPRC endorsed the concept of a 136 system-level model and voted to recommend in its next report (November 2005) that Tennessee convert from a 95-county model to a 136-system model for fiscal capacity. The full November 2004 report was included in the materials. Questions and discussion about the relative fairness and equity of a system-level model versus a county model, how a transition between the two might work, and how and why the system-level model came about followed.

Local Government Reforms in Georgia

Ms. ELDRIDGE noted that Mayor BRAGG had asked for additional information on recent Georgia reforms. She said that during their research, the staff identified 5 key pieces of legislation passed by the Georgia legislature to deal with problems they faced. Ms. ELDRIDGE presented information on the Local Government Efficiency Act of 1993, the Municipal Corporation Termination Act of 1993, the Local Government Authorities Registration Act of 1995, the Local Government Uniform Charts of Accounts and Reporting Act of 1997, and the Service Delivery Strategy Act of 1997.

E-911 Project

Mr. LIPPARD presented an update on the Commission's E-911 Project. He discussed the intent of the staff to proceed with a survey of Emergency Communication District (ECD) directors in 2005, but that the staff would administer the survey in-house rather than through a contract. Mr. LIPPARD directed the Commission's attention to the docket tab which included notes from the Tennessee Emergency Communication Board's (TECB) public meetings and findings from a Minnesota study on E-911 consolidation.

PC 1101 Bills Referred to TACIR

Mr. HAWK, Director of Local Planning at the Department of Economic and Community Development, said that PC 1101 has elevated land use and comprehensive planning across the state to a different level. Mr. HAWK said that many of the growth plan amendments that are now occurring stem from local governments not looking carefully at identifying growth areas. He said that if there is an agreement by the coordinating committee and all of the local governments, LGPAC has no choice but to approve the submitted plan. He noted that it does not appear to meet the intent of the law. He said they support a stronger look at comprehensive planning for both cities and counties. Dr. GREEN asked if Mr. HAWK had any comments on any of the TACIR staff recommendations. Mr. HAWK said he agreed with the recommendations of TACIR staff on the bills referred for study, and Local Planning would support them.

Presentation on the JECDB Bills Referred to TACIR

Mr. BARKER said that his Department required local governments to be in compliance with the law by July 1, 2004 in order to receive grants from the Department of Economic and Community Development. Mr. BARKER said his Department believes the boards should be viable. He said the boards should meet on some type of regular basis. He said that one of the requirements of the revamped Three-Star Program is compliance with the JECDB law.

He said his Department is supportive of JECDBs and sees them as a necessary part of economic development in communities. Chairman RINKS said he thinks it is important for the boards to meet once a quarter and have some outside assistance for the meeting.

Future Roles of the JECDBs

Dr. GREEN stated there have been discussions about enhancing the viability of the JECDBs, and that giving them a specific function to perform would further that goal. He said they have been thinking about how to endow them with a specific function in addition to the issue of technical assistance. He said that they developed a number of ideas for specific functions for the boards to perform, including operating as a coordinating committee to review changes in the growth plan. Dr. GREEN asked Mr. HAWK to comment on how these ideas fit into his view of the planning process. Mr. HAWK stated that, in his view, the coordinating committee is not a standing committee. Mr. HAWK noted that the JECDBs were not required to have representatives from such groups as utilities and education like the coordinating committee. He said that they thought that the planning commissions should have input in the process. Dr. GREEN stated that they need to do more work on this issue. Chairman RINKS asked for comments on the required number of meetings. Mr. JOHNSON stated there is a real conflict if you give the roles of coordinating committee and economic and community development to one body. Chairman RINKS said that meeting once a quarter would be an acceptable number.

Presentation on TACIR Recommendation on the PC 1101 Bills

Mr. BELLIVEAU noted that there were ten (10) bills referred to the Commission in the previous legislative session for study by TACIR. He presented SB 2444 (Norris)/HB 3143 (Bone) and SB 2569 (Haynes)/HB 3142 (Bone). He said the staff recommended that these bills should be adopted. TACIR approved a recommendation that these bills should be adopted. Mr. BELLIVEAU next presented SB 2566 (Haynes)/HB 3141 (Bone) and SB 2567 (Haynes)/HB 3059 (Sargent). He noted that these bills addressed the controversial issue of extra-territorial planning and zoning authority. He said that action on the bills should be deferred at the present time due to the lack of consensus. TACIR voted to defer further action on SB 2566 (Haynes)/HB 3141 (Bone) and SB 2567 (Haynes)/HB 3059 (Sargent).

Mr. BELLIVEAU presented SB 2445 (Norris)/HB 3056 (Sargent) and SB 3002 (Graves)/HB 3057 (Sargent). He noted that staff recommended that these bills be adopted. TACIR approved a recommendation that these bills should be adopted. Mr. BELLIVEAU presented SB 3001 (Graves)/HB 3140 (Bone). He said that the staff recommendation is that action be deferred on this item due to the lack of consensus on this bill. TACIR voted to defer any further action on SB 3001 (Graves)/HB 3140 (Bone). Mr. BELLIVEAU presented SB 2574 (Norris)/HB 3058 (Sargent) and SB 2747 (Trail)/HB 2855 (Hood). He noted that staff recommended that these bills be adopted. TACIR approved a recommendation that these bills should be adopted. Mr. BELLIVEAU presented SB 2447 (Norris)/HB 3060 (Sargent). The Commission discussed how this bill would affect the JECDBs. TACIR voted to defer any further action on this bill.

Intergovernmental Challenges and Achievements

Economic Development Regions

Mr. BARKER of ECD gave a brief report on the economic growth strategy regions. He said they were trying to look at regional economies and regional cooperation at ECD. He noted that the University of Tennessee's Center for Business and Economic Research (CBER) has produced a new alignment of regions based on demographics like population, per capita income, household median income, educational attainment, industry mix, local sales tax rates, per capita sales tax revenue, and certain industry-specific wages. The study identified ten economic regions in Tennessee. He said the report shows the economic status of certain regions and the correlation of transportation and education with economic well being. He said this is a good tool for ECD to help communities use their assets in the most efficient way for economic development.

June 28-29, 2005

PC 1101

Dr. GREEN said that last year staff struggled with a number of bills referred in 2004 with the expectation that a report on the bills would be sent back to the legislature in 2005. Ten bills were referred to TACIR in 2004. These bills focused on annexation matters, general planning provisions, extra-territorial planning and zoning powers, JECDBs, and the dispute resolution process. Of the ten bills, four were passed in 2005 and two were referred back. Of the initial group of bills, staff retained several of those because they were too complex to finish the work in the time allotted. Fourteen bills were referred to TACIR in 2005 by the General Assembly. The bills focus on planning and consistency requirements, amending growth plans, JECDBs, general annexation matters, annexation - quo warranto appeals, and annexation - public utilities.

PC 1101 Discussions at the Tennessee Municipal League Conference and Knoxville

Mr. BELLIVEAU from TACIR staff reported on some of the events that took place at the Tennessee Municipal League meeting in Gatlinburg in June 2005. The two main goals for the session were: to report on what had occurred in the General Assembly on the PC 1101 bills in 2005, and also to distribute a brief survey asking for information on annexations and coordinating committees that may have reconvened. Chairman RINKS asked if there was data being collected on changes or amendments to the growth plans. Mr. BELLIVEAU responded that staff is always monitoring that information. Staff members regularly attend the Local Government Planning Advisory Committee (LGPAC) meeting where the growth plans are formally approved.

Legislative Agenda for TACIR Concerning Local Revenue Measures

Dr. GREEN stated that high growth and fiscal pressures are probably the driving forces behind the fourteen local revenue bills referred to TACIR this year. Dr. GREEN requested guidance from the Commission on how to proceed on this topic. Chairman RINKS said that in the last legislative session it seemed that local governments wanted a broader taxing authority without interference from the General Assembly. He also said that he got the feeling from the General Assembly that they would like to give local governments this authority if possible. He said there was also discussion about whether or not local governments max out their tax bases before looking to levy new taxes. One of the Commissioners commented

that TACIR could possibly serve as a forum for the discussion of this issue, which may allow for the issue to be resolved without the interference of political parties. Chairman RINKS said that this may be similar to what TACIR does with Public Chapter 1101.

Fiscal Capacity Model for FY 2006

Dr. GREEN presented the annual report that staff makes to the Commission on the fiscal capacity formula for the Basic Education Program (BEP). TACIR has had this responsibility since the beginning of the BEP program, as the Commission staff was already working on local fiscal capacity at that time. The calculations have always been controversial because the Education Improvement Act says that local governments will pay based on their ability to do so. This requires different levels of local contributions from each system.

Dr. GREEN summarized the FY 2006 county model results, including a definition of each variable and why each is included, as well as methodology. In response to a question by Mayor HUFFMAN, Dr. GREEN explained the problems with the disconnect of a 95-county model in a formula that funds 136 systems. Dr. GREEN further explained that, while some of the variables changed in order to make use of whatever system-level data is available, the new model is still closely modeled after the old. Dr. GREEN pointed out that the top seventeen counties produce about 77% of total fiscal capacity. In response to Commissioners' questions, Dr. GREEN discussed the effects of institutional populations on the data and the results.

The 136-system Prototype Model

Dr. GREEN made a brief presentation on the 136-system prototype model, which began with a recommendation from the Governor's Teachers' Salary Equity Task Force. The prototype model is still under development, but it is similar to the county model. Dr. GREEN discussed the differences in the variables used, and why the changes were made as well as the methodology. Dr. GREEN pointed out that cities can raise revenues for just their systems, while counties have to share their revenues among all systems in their county on an ADM basis.

Dr. GREEN pointed out that criticisms of the prototype model should not be leveled at the Commission members, as they had no part in its formulation or results. He also assured the Commissioners that there was no consolidation agenda behind the model, as some have suggested. Dr. GREEN said that without additional requests for work on the prototype he saw no reason for the Commission or its staff to devote further resources to the prototype model.

E-911 Project

Mr. LIPPARD presented an update on the Commission's E-911 Project. He discussed the staff's disappointment with the response rate and response quality to the survey of Emergency Communication District (ECD) directors in 2005. The overall response rate was 65% with only one-third of ECDs responding adequately. Senator HENRY expressed his dismay that the Tennessee Emergency Communications Board or any other state agency lacks the statutory authority to require the ECDs to respond to the survey. Senator KETRON noted his disappointment at the poor ECD response to the TACIR survey. He suggested that the Commission consider sending a letter from a "legislative delegation" to those ECD directors who failed to respond to the survey encouraging them to provide the essential data.

Intergovernmental Challenges and Achievements

A discussion followed Mr. LIPPARD's presentation. At the end of the discussion there were three questions still requiring staff research and response:

1. Are there any penalties in place for competitive local exchange carriers (CLECs) that fail to accurately reimburse ECDs?
2. Is ECD debt backed by local government guarantees or strictly by E911 service fees?
3. What is the cap on landline fees for institutions with multiple lines?

2005 Public Infrastructure Needs Inventory Report

Ms. ROEHRICH-PATRICK presented the major findings from TACIR's draft 2005 Building Tennessee's Tomorrow report and explained that TACIR staff members were asking for Commission approval for the publication of the report, which is the fifth in a series. Ms. ROEHRICH-PATRICK replied that the reports are currently available on the TACIR website, and TACIR staff members are currently working on developing a system that will put the data collection portion of the inventory on the web. The next phase will be to make inventory data available on the web to anyone. Chairman RINKS called for a motion to approve the publication of the report. Senator KETRON made the first motion and Mayor ROWLAND seconded the motion. The motion was adopted. Chairman RINKS and Mayor ROWLAND commended the staff for an outstanding job.

Work Plan for FY 2006

Dr. GREEN stated that the Work Plan for FY 2006 is fairly straightforward. There are some things that TACIR does on a yearly basis, such as studying infrastructure and holding four meetings, which will continue to be done. The items that have been on the agenda for the past two days will essentially dominate the work program for the remainder of the year. Twenty-six bills have been referred to TACIR for study: twelve of the bills are PC 1101 and fourteen are Local Finance issues. The staff has recommended that the bills be assessed diligently, and then pursued with great vigor. TACIR staff members will have a clearer idea of the workload at the conclusion of the meeting.

FY 2006 Scheduled Commission Meetings

September 12-13, 2005

Biennial Report for Fiscal Years 2003 and 2004

Dr. GREEN introduced the Biennial Report which summarized the Commission's accomplishments and activities during fiscal years 2003 and 2004. He recommended that the report be adopted for the purpose of fulfilling the requirement of TCA § 1-10-108. Mayor HUFFMAN made a motion to adopt the report and was seconded by Alderman KIRK. The Biennial Report was adopted.

E-911 Project

Mr. LIPPARD presented an update on the Commission's E-911 Project. He provided updated working drafts for the project findings and recommendations. Mr. LIPPARD explained that the drafts would be updated to reflect Commission feedback and any new information discovered prior to the completion of the final draft. Both the findings and the

Biennial Report of TACIR

recommendations are grouped into four categories, general, technology, structure, and funding. Mr. LIPPARD also presented recommendations included in the draft. Like the findings, the recommendations were grouped into four categories.

Commission members responded to the presentation with several comments and questions. Mr. LIPPARD introduced Ms. MAHERY, Executive Director, TML, and Mr. TAYLOR, representing the TCSA. Ms. QUESTEL asked to be recognized following Ms. MAHERY's presentation. Mr. LIPPARD concluded by referring the Commissioners to Attachment 3 of Tab 3, which provided answers to specific E-911 questions raised by members during the June 2005 TACIR meeting. The Commission deliberated for several more minutes, resulting in a request that the TECB also attempt to collect call volume information. In summation, Dr. GREEN stated that there were several unknown aspects of E-911 and that information about these aspects is difficult to obtain. He said that it might be necessary to have a meeting in January to finalize Commission findings and recommendations. Dr. GREEN asked Mr. LIPPARD whether or not staff would be able to make a funding model recommendation with the information on hand. Mr. LIPPARD responded that no, staff would simply be able to provide broad recommendations for future action.

PC 1101 Referred Legislation

Mr. BELLIVEAU reviewed the list of legislation referred to TACIR for study during the 2005 legislative session, including twelve bills and two legislative questions or issues related to PC 1101. TACIR has identified six general categories for these bills: planning and consistency requirements, amendment of the growth plans, the JECDBs, general annexation questions, the *quo warranto* appeals of annexations, and annexations and public utilities. Most of the bills deal with annexation, and many of these deal specifically with matters affecting the City of Knoxville.

Mr. BELLIVEAU discussed SB2228/HB2179 which deals with the JECDBs. The bill proposes to amend the statute by changing the date from May 19, 1998 to January 1, 2000 by which an existing board would have had to be in existence to be considered as "sufficiently similar." TACIR's recommendation is to simply remove the date, rather than change the existing date to a new date. This would allow any county that has an existing board and wanted to have that board designated as their JECDB to submit their documentation to LGPAC for review and consideration. The Commission unanimously voted to approve the staff recommendation. SB 2229/HB 2180 concerns judicial review of a growth plan. This bill would allow a legal challenge of a growth plan either in the chancery court of the affected county or in the chancery court of Davidson County. TACIR did not have a recommendation on this bill at the time.

Local Development Taxes and Fees

Dr. GREEN introduced Tab 5 as a brief overview of development taxes in Tennessee and Tab 6 as a review of relevant case law in Tennessee. Chairman RINKS noted that there were several bills addressing impact fees, development taxes, and transfer taxes from the last session that were referred to TACIR for study. Chairman RINKS noted that TACIR had agreed to hear testimony from interested parties, and that time had been set aside during this meeting for that.

Intergovernmental Challenges and Achievements

Testimony on Local Development Taxes

The first presentation was from Representative HOOD of the 48th district in Rutherford County. Representative HOOD discussed the growth in Rutherford County in recent years. He discussed the high levels of local taxes in Rutherford County, the fact that a proposed private act for a development tax failed in the legislature in 2004, and that another one was referred to TACIR in 2005. He supports getting local taxes out of the General Assembly and into the local governments. He does not support a required referendum, pointing out that elections serve as referenda. Chairman RINKS introduced Steve SCHROEDER of the Rutherford Neighborhood Alliance (RNA). Mr. SCHROEDER said the RNA has been researching growth issues for some time. He said that there is public resistance to higher property taxes. He discussed the findings of a local task force put together to study the issue. Chairman RINKS introduced the next speaker, James CARBINE of the Home Builders Association of Tennessee. Mr. CARBINE presented different perspectives on growth. He stated that it was untrue that new home growth failed to pay for itself. Chairman RINKS then introduced Mayor Brent GREER of the Tennessee County Services Association (TCSA). Mayor GREER said that property taxes never catch up to development because, by the time new families are on the tax rolls, they are a year to a year and a half behind the infrastructure required. Furthermore, he said, the property tax base is not large enough in rural counties to pay for education. Chairman RINKS then introduced Rob BROOME of the Tennessee Association of Realtors (TAR). He said the Realtors are against any taxes on home ownership, including real estate transfer taxes. He introduced a national expert on such taxes, Bob MCNAMARA, of the National Association of Realtors. Mr. MCNAMARA talked about real estate transfer taxes across the country, the rates, and the uses. Chairman RINKS introduced the last speaker, Shelby County Mayor A.C. WHARTON. Mayor WHARTON pointed out that there was no law and nothing in the constitution requiring different counties to finance things in the same way. Mayor WHARTON's main theme was that county governments should not have to come to Nashville and ask the legislature for permission to deal with local taxes.

Speaker NAIFEH asked if the legislation would be ready for the next session, and Chairman RINKS responded that this was his intent. Chairman RINKS instructed staff to come back to the next meeting with recommendations based on the information and testimony given at the meeting.

December 13-14, 2005

Local Development Taxes and Fees

Dr. GREEN introduced the topic of local fiscal flexibility and growth taxes with some historical perspective. Dr. GREEN reported that opinions differ on whether or not growth causes costs that extend beyond the revenues it raises for local governments. Government research tends to find that additional costs created by growth are not recovered under current local tax systems. Private industry studies tend to find that growth pays for itself under current local tax structures. Looking at how growth has actually occurred in the state, Dr. GREEN presented information on population, student average daily membership (ADM) growth, and wage growth (a proxy for economic growth). Moving to staff recommendations, Dr. GREEN stated that staff recommended that there be general enabling legislation for impact fees, adequate facilities taxes, and real estate transfer taxes, noting that real estate transfer

taxes are not specifically targeted at growth. He noted that two of the fourteen bills referred to TACIR appeared to be caption bills that required no commission action. Dr. GREEN discussed “growth triggers,” and said that staff noted that many local governments are special cases that do not necessarily fit into any standard list of growth triggers, especially local governments that are dealing with multiple school systems within one county. Staff produced this list to promote debate and does not recommend any specific measure, nor does staff recommend that any growth trigger requirement demand that a local government meet every measure on the list. Commissioners then discussed the issue. Senator HENRY moved to recommend the removal of the referendum requirement for local option sales tax increases. The motion was seconded by Mr. CARDWELL and then passed.

Mayor ALLEN moved that the Commission make a recommendation in several parts, after discussion, her movement was revised by Mayor VENABLE. A vote was taken on Mayor ALLEN’s motion as amended by Mayor VENABLE’s motion: 1) The Commission should recommend general enabling impact fee legislation; 2) In order to provide more flexibility to local governments, and allow them to shape and better plan for growth, the Commission should recommend general enabling adequate facilities tax legislation; 3) The real estate transfer tax affects all real estate sales rather than just new homes and/or new business development. It is, therefore, a general tax rather than a growth impact tax. Staff recommends general enabling legislation authorizing such a tax; 4) The Commission should recommend that cities be included in any local fiscal flexibility legislation; 5) The Commission recommends a simple majority or as provided by a city charter [to levy the taxes locally]; 6) Consider additional policy ideas presented to or by the Commission as listed on page six [of the staff recommendations].

The motion passed.

Cable v. Electric Companies Over Pole Fees

Ms. ELDRIDGE stated that SB 668 (Cooper)/HB 1832 (Rinks) was referred to TACIR for study. She said that it addresses the issue of pole attachments. Ms. ELDRIDGE said that states can regulate the pole attachment rates of cooperatives and municipally owned utilities. She noted that the parties negotiate agreements in Tennessee which establish the pole attachment rates.

She said that SB 668/HB 1832, if passed, would be an attempt by the state to regulate pole attachments on poles owned by cooperatives or municipally owned utilities. She explained the provisions of the bill. Ms. ELDRIDGE noted that TACIR staff had spoken with representatives from the Tennessee Cable Telecommunications Association, the Tennessee Municipal Electric Power Association and the Tennessee Electric Cooperative Association. She said that based on their comments and observations, the staff determined that there are a number of complicated regulatory, engineering, operational, tax, safety, and legal issues related to pole attachments. She said that the staff recommended that the Commission submit a request to contract the study to a third-party contractor who would conduct a study of the relevant issues. The Commission approved the recommendation to contract the study to a third-party contractor.

Intergovernmental Challenges and Achievements

PC 1101

Dr. GREEN introduced the fourteen bills dealing with PC 1101 referred to TACIR by the General Assembly in 2005 for review and study. Mr. BELLIVEAU reported on the twelve bills and two legislative issues referred to TACIR for study in 2005. This is the second consecutive year that the legislature has referred PC 1101 bills to TACIR for study, in 2004 there were ten bills sent to TACIR for study. Most of these bills dealt with some aspects of annexation, and also included two bills previously considered by TACIR. Each of the bills was discussed individually along with the proposed staff recommendation.

1. SB 1586 (Norris)/HB 1798 (Rinks)—The staff recommendation was that TACIR not support this bill, and instead the Commission should retain this bill for future study. The Commission adopted the staff recommendation.
2. SB 1588 (Norris)/HB 1799 (Rinks)—Staff recommended that TACIR not support this bill and instead recommend that the Commission retain this bill for future study and revisit these issues in the future as part of its monitoring activities. The Commission voted to adopt the staff recommendation.
3. SB 2229 (Finney)/HB 2180 (McCord)—Staff recommended that TACIR not support this bill. The Commission voted to adopt the staff recommendation.
4. Amending the Growth Plans is one of the two legislative questions or issues related to PC 1101 sent to TACIR for study, and is not actually a formal piece of legislation pending in the General Assembly. Staff recommended that TACIR make a finding that in cases where a municipality loses or surrenders its incorporated status, the county coordinating committee should reconvene for the purposes of amending the existing growth plan subject to the requirements and guidelines in TCA § 6-58-104. The Commission voted to adopt the staff recommendation.
5. SB 0288 (Finney)/HB 0237 (Campfield, Nicely, Strader)—Staff recommended that TACIR endorse this bill and recommend that the General Assembly consider passing it into law. The Commission voted to defer action on this item until the January 2006 Commission meeting in order to review the recommendation with the some changes incorporated into it.
6. SB 2005 (McLeary)/HB 0764 (Maddox)—Staff recommends that TACIR not support this bill, and instead the Commission is encouraged to recommend against its passage by the General Assembly. The Commission voted to adopt the staff recommendation.
7. SB 0764 (Burchett)/HB 2042 (Armstrong, Tindell)—Staff felt that this bill could undermine the intent of PC 1101 to have these issues negotiated into the growth plan and recommended that the Commission not support this bill. The Commission voted to adopt the staff recommendation.
8. SB 0765 (Burchett)/HB 1913 (Tindell)
9. SB 1236 (Burchett)/HB 1915 (Tindell)—This bill and SB 0765/HB 1913 are virtually identical and are essentially duplicates with the same potential effect of the statute. Staff recommends that TACIR not recommend these bills to go forward at this time. The Commission voted to adopt the staff recommendation.

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10. SB 1558 (Burchett)/HB 1914 (Tindell)—Staff recommended that TACIR not support this, the Commission voted to adopt the staff recommendation.
11. Annexation Activity by Non-Property Tax and Low-Service Municipalities—This amendment to SB 1585/HB 0407 directed TACIR to study quo warranto judicial proceedings to challenge annexation issues and report back to the General Assembly by February 1, 2006. Staff recommended that TACIR accept this report on annexation activity by low-service municipalities and municipalities without a property tax and forward the information to the General Assembly as requested. The Commission voted to adopt the staff recommendation.
12. SB 2228 (Finney)/HB 2179 (McCord)—TACIR adopted a staff recommendation on September 20, 2005 that the date referenced in TCA § 6-58-114(j) be removed to allow LGPAC to consider any existing board for sufficiently similar status regardless of when it was created. The Commission voted to re-affirm their adoption of the staff recommendation from September 20, 2005.
13. SB 2031 (Burchett)/HB 2041 (Armstrong, Brooks-Knox, Dunn, Tindell, Nicely, Campfield, Strader)—Staff recommended that TACIR retain this bill for further study and examine these issues apart from PC 1101. The Commission voted to adopt the staff recommendation.
14. SB 2130 (Beavers)/HB 1995 (Johnson)—Staff recommended that TACIR not support this bill. Rather, staff recommends that TACIR retain this bill for further study and revisit these issues at a later date. The Commission voted to adopt the staff recommendation.

Recent Actions of the BEP Review Committee

Dr. NIXON reported on the highlights of the November 1, 2005 report of the Basic Education Program (BEP) Review Committee. The report includes recommendations with immediate priority and longer-term priority. The committee recommends a comprehensive study to be done to review the issues. The committee recommends that any changes be made gradually and indemnify systems that would be negatively impacted. The report also includes several extended priorities that the committee will look at as funds become available and after immediate priorities are dealt with. These include: professional development, school nurses, classroom materials and supplies, technology coordinators, system-wide administrative and instructional technology, alternative schools, attendance supervisors, positions outside the BEP, transportations, and capital outlays. Also, the committee recommended just a study at this point and to move forward with a plan over time and determine how to indemnify those systems negatively impacted. The specifics have not been decided.

Alternative Approach to Education in Tennessee

Comptroller MORGAN made a presentation which focused on the need to better prepare Tennessee's students for the new global workplace and the need for a new way of funding education to make that possible. His recommendations included building a funding formula around the cost of achieving desired outcomes, establishing clear lines of accountability, providing the right resources and demanding performance at high levels of student learning, and using the statewide tax base to address this statewide issue. Chairman RINKS thanked Comptroller MORGAN for his report.

Intergovernmental Challenges and Achievements

Presentation and Commentary on the Final Draft of the E-911 Project Report

Presentation by Mr. Bob COKER, Director of Knox County Emergency Communications District

Mr. COKER noted that the Knox County delegation is not in complete agreement with every point made in the TACIR draft report, but that there were several points with which they are in agreement. Mr. COKER commented that the widespread consumer shift from landline to wireless phones is certainly starting to negatively impact Knox County's E-911 funding. He closed by stating that the TACIR report is an excellent piece of work.

Presentation by Ms. Lynn QUESTELL, Executive Director of Tennessee Emergency Communications Board

Ms. QUESTELL began her presentation by noting that every call center in the state now has the capability to receive latitude and longitude information for wireless 911 calls and the TECB received national recognition with an award for being the best regional 911 program. She noted that the TECB is open to new ideas and welcomes the opportunity for a healthy exchange of ideas. Ms. QUESTELL said that the TACIR report is part of that exchange and that the report offers food for thought.

Presentation by Mr. Cliff LIPPARD, Director of Fiscal Affairs at TACIR

Mr. LIPPARD presented the final draft of the E-911 study report. He thanked TACIR members, the TECB, and local E-911 officials for their assistance in preparing the report. Mr. LIPPARD noted that one of the most important findings of the report is that Tennessee is a leader in both landline and wireless E-911. The remainder of his presentation focused on the staff's recommendations. The following recommendations were adopted with no change. The Commission adopted the report as revised.

January 13, 2006

Vote-By-Mail on SB 0288/ HB 0237

On January 5, 2006, members of the Commission were given the option to vote-by-mail on the unresolved PC 1101 issue, or conduct a January Commission meeting. Of the sixteen responses returned, fifteen were in favor of the vote-by-mail option, and one was in favor of the Commission meeting option. Therefore, a vote-by-mail on SB 0288/HB 0237 regarding the notification of property owners of annexation by ordinance will be implemented at this time. A brief summary of the bill was included along with the proposed staff recommendation from December 14, 2005. Staff prepared an amended version of its original recommendation incorporating the changes discussed by the Commission.

June 20-21, 2006

PC 1101

Dr. GREEN commented that this TACIR meeting marks the 100th meeting of the Commission and recalled some of the highlights of the Commission's history.

He then reviewed the result of the vote by mail for SB 0288/HB 0237 taken by members of the Commission after the December meeting. The vote concerned the notification of property owners prior to annexation by ordinance. The Commission voted 19-1, with 3 not voting

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and 2 pass votes, in favor of adopting the recommendation proposed at the December Commission meeting. The bill was referred back to TACIR for further study. Staff recommended that the bill be sent back to the General Assembly. Mayor GREER made the motion, which was seconded by Senator KETRON.

Mr. BELLIVEAU reported on PC 1101 related activity in the General Assembly during 2006. He noted that three bills referred to TACIR in 2005 were later sent back to the General Assembly with a recommendation to move forward. Mr. BELLIVEAU then discussed bills referred to TACIR in 2005 that were retained by the Commission for additional study. There was no further activity on these particular bills in 2006. Finally, Mr. BELLIVEAU referred the Commissioners to their docket books for a list of bills sent to TACIR by the General Assembly in 2006. A summary of the bills that were retained by TACIR over the past two years, as well as the new bills referred to TACIR in 2006, was presented. Mr. TERRY commented on the planning related bills. Mr. TERRY also discussed two bills referred to TACIR in 2004 regarding extra-territorial planning and zoning powers. These bills have been controversial. Mr. HAWK from the Office of Local Planning addressed the issue of amending growth plans. One issue that frequently surfaces is finding the original growth plan, and another question is who initiates the amendment process.

New Legislative Bills Referred to TACIR (Jail Costs for Housing Prisoners)

Dr. GREEN stated that Mr. GODDARD would discuss the issues involved in SB 3698/HB 3747. Mr. GODDARD stated that the County Services Association created a jail cost study committee. He noted that County Executive HUFFMAN served as the chairman of the committee. The committee published a study last year looking at key cost factors and how they might address them. He said that the committee was made up of county mayors and county commissioners. Sheriffs also became involved with the committee.

Mr. GODDARD said that the bill would require that the state reimburse counties for housing probation violators from the day of arrest. He said the counties have a problem with the bill's fiscal note. The fiscal note assumed a reimbursement of \$46 a day, but the rules that have been in place for ten years say the maximum payment any county will get is \$35 per day.

There was discussion among Commissioners. Senator HENRY asked whether the federal government pays if counties pick up a federal probationer. Mr. GODDARD said that they pay well and pay above their costs. He said that the federal government has contracts with several counties, and prisoners only go to those counties. Chairman RINKS asked whether there had been any discussion about consolidating facilities, especially in rural areas. Mr. GODDARD said that was part of the study, and they have been discussing it for years.

Status of Development Tax and Fee Legislation referred to TACIR

Mr. LIPPARD presented an update on the status of the fourteen development tax and fee related bills referred to the TACIR by the General Assembly in 2005. Mr. LIPPARD began by recapping the recommendations adopted by the Commission at its December 2005 meeting. Mr. LIPPARD then summarized the current status of the fourteen bills, noting that none passed before the end of the 104th General Assembly. He went on to note that nine

Intergovernmental Challenges and Achievements

new development tax and fee bills had been introduced in 2006. Only one of these passed before the end of the session. It became the County Powers Relief Act. Mr. LIPPARD provided a summary of the Act.

Chairman RINKS commented that the General Assembly did not provide local governments with the total local autonomy on development taxes and fees that the Commission had recommended. He stated that the General Assembly decided to pass the Act with Census and growth number requirements and limits on what could be implemented once the Act was in place. He noted that the realtors were on board with the Act and that the homebuilders had been on board, but then changed their minds.

Strategic Plan, 2007–2012 and the Work Plan for FY 2007

Dr. GREEN stated that the Government Accountability Act was passed in 2002 and required the executive branch, including all commissions, to provide a five-year strategic plan. This is in conjunction with the one-year budget cycle for funding. The major goal of the Commission is to provide members and policy makers with accurate and timely information and analysis to facilitate reasoned decision making in public policy. Most of the work falls into the major policy issues identified in the plan. The four Commission meetings per year are viewed as the number one priority. An emphasis is also placed on how federal and non-state sources of revenue can be maximized.

Dr. GREEN began discussion of the Work Plan includes priority TACIR projects for FY 2007, with the Commission meetings being the most important. TACIR does complex studies and analysis when asked, but also conducts simple projects, like short analyses or gathering of information. The Work Plan also includes anticipated emerging and future issues. Dr. GREEN referenced the summary of TACIR's major achievements with emphasis on the county profiles that have been developed over the years. Ms. DAVIS thanked Dr. GREEN for sharing the data with ECD.

Fiscal Capacity

Dr. GREEN presented the annual report of the fiscal capacity county model calculations done by TACIR staff and given to the Department of Education each year to use in calculating BEP funding levels. This report included model results for fiscal year 2007. Dr. GREEN presented the results as a whole and cited some examples of individual system results. Some of the shortcomings of the model were discussed, including that the Census population estimates used included people living in group quarters such as dormitories and prisons. The model also fails to include any debt service data. All attempts to update it, including attempts to move to a 136-system model, have stalled. Changes are controversial, because it is a zero-sum result. Any fiscal capacity decreases for any counties are offset by increases for others.

Dr. GREEN asked Dr. NIXON to summarize the status of the model with the BEP Review Committee. Dr. NIXON reported the BEP Review Committee recommended a move to a 136-system model as part of a package that would also eliminate the cost differential factor (CDF), as well as make improvements to at-risk and English language learner (ELL) programs. These changes did not take place, though there were some improvements in at-risk and ELL funding. Senator CRUTCHFIELD asked about the results of a recent Hamilton County

commission studying these issues. Dr. NIXON said that it was a broad coalition and its report has been received by the education community, but that the legislature is largely unaware of it. Dr. GREEN reported that the 136-system model developed by TACIR staff continues to be updated annually and is available upon request, but that additional work on improving that model is no longer taking place.

House Joint Resolution No. 1026 Calling for a Summit on the Future of Education in Tennessee

Comptroller MORGAN began by crediting Representative BROWN of Chattanooga for initiating the resolution calling for the Summit and by pointing out the large number of sponsors it had in both houses. The resolution calls for a Summit in the coming months, convened by the Governor sometime before September 30, 2006, and a report to the General Assembly no later than January 15, 2008. By September, the committees listed in the resolution will be formed and begin to take their work all across the state, then come together in a larger meeting in early winter to discuss where we are as a state and where we need to go, want to go, and how to get there.

RAND Technical Report Improving the Achievement of Tennessee Students: Analysis of the National Assessment of Educational Progress

Ms. ROEHRICH-PATRICK began by briefly recapping the origin of this project as an outgrowth of the 2000 RAND report *Improving Student Achievement: What Do State NAEP Scores Tell Us?* and the 2001 TACIR staff report that followed based on the larger RAND report on the fifty states. TACIR approved a contract with RAND at its December 2002 meeting. The current report focuses on Tennessee and expands the original analysis to include several more recent National Assessment of Educational Progress (NAEP) tests. Ms. ROEHRICH-PATRICK reviewed the questions posed by the study and the results published in the report. For various reasons, Tennessee's students are at higher than average risk of educational failure. Even when demographic differences factored out, Tennessee ranks low for student achievement.

Ms. ROEHRICH-PATRICK reported that Tennessee has taken several of the steps recommended by the RAND study to improve student achievement, including lowering class sizes in the early grades and expanding participation in pre-kindergarten programs. But Tennessee still lags in overall spending (cost of living adjusted), which has been shown to make a difference when focused on certain policies, and in the percentage of teachers saying that they are satisfied with their teaching resources.

Chairman RINKS asked for a motion to adopt the report. The motion was made by Mayor GOLDSWORTHY and seconded by Mayor ROWLAND; the report was adopted.

Pole Attachment Fee Study

Ms. ELDRIDGE discussed SB 0668/HB 1832, dealing with pole attachments. Pole attachments are attachments by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility. Electric and telephone companies charge these companies a fee for attaching to the existing poles. The FCC regulates pole attachment rates for attachments to investor owned utilities, but it does not regulate rates for attachments to poles owned by publicly owned utilities.

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She said that SB 0668/HB 1832 would prohibit a municipally or cooperatively owned utility from requesting or receiving a pole attachment rate payment higher than that authorized under federal law for investor-owned utilities from a telephone or cable television company. It would also require a municipally or cooperatively owned utility to provide telephone or cable television companies access to its poles and conduits located in public rights of way and that access to them could only be refused when it would not be technically feasible. She said that TACIR contracted in May with MTSU's Business and Economic Research Center (BERC) to conduct the study. Dr. KYLE and Dr. KLEIN are heading the project. They tentatively plan to have a set of recommendations and a final report to present to TACIR in December 2006.

E-911 Funding Committee Report

Ms. QUESTELL updated the Commission on the status of the E-911 Funding Committee, which was formed by the Tennessee Emergency Communications Board (TECB) in response to a recommendation made in the TACIR report *Emergency Challenge: A Study of E-911 Technology and Funding Structure in Tennessee*. Ms. QUESTELL asked that the TECB report be delayed until October 2006 so that the committee can incorporate information from an upcoming technology feasibility study.

The feasibility study, which is being conducted by contractor Kimball and Associates, is itself a response to another recommendation from the TACIR report. That recommendation was for the state to perform a comprehensive study of the potential benefits of a statewide E-911 system to take advantage of new technologies. Ms. QUESTELL stated that the Kimball and Associates report should be completed in August or September 2006. The TECB would likely follow up the report with a request for information to identify the most efficient way to develop a cost-effective platform incorporating existing fiber. The E-911 Funding Committee wants to incorporate the report's findings into their research as they finalize funding recommendations.

Mayor ROWLAND recommended that the Commission allow the committee the requested extension until October. Chairman RINKS, seeing no objections, approved the request.

Other Issues

Dr. GREEN announced that three county officials will be ending their tenure with the Commission: Mayor ALLEN, Mayor YAGER, and Mayor VENABLE. Dr. GREEN stated that Mayor ALLEN has served on the Commission for nine years, and she has been a joy to work with. Mayor BRAGG added that his father greatly appreciated her work as well. Chairman RINKS informed Mayor ALLEN that there are other ways to get back on this Commission. The Commission presented a certificate to her.

Appendix D: Legislation Affecting TACIR FY 2005 and FY 2006

Mandated Studies from the General Assembly FY 2005 and FY 2006

- Complete study of E-911 technology and funding structure.
- Analyze and report to the Commission on bills referred to TACIR by the General Assembly. Prepare any required official report to the General Assembly regarding these bills.

Bills Referred to TACIR FY 2005 and FY 2006

The Local Subcommittee of the House State and Local Committee referred fourteen bills concerning local taxes to TACIR for study to be reported on in the January 15, 2006 session:

- **SB 1056/HB 0608 (S: Ketron; H: Hood)**
TAXES PROPERTY: Excise tax on sale of real property.
Authorizes the county legislative body of any county experiencing rapid growth to impose one fourth of one percent excise tax on each sale of real property in the county. Subject to adoption of a resolution by a two-thirds vote of the county legislative body.
- **SB 1067/HB 0324 (S: Ketron; H: Hood)**
LOCAL GOVERNMENT: Rutherford County—adequate facilities tax.
Local bill for Rutherford County that enacts the Rutherford County Adequate Facilities Tax.
- **SB 1068/HB 0975 (S: Ketron; H: Hood)**
TAXES PROPERTY: Counties permitted to levy excise tax due to rapid growth.
Authorizes any county experiencing rapid growth to impose an excise tax for county purposes upon each sale of real property in the county at a rate not exceeding .25% of the sale price, subject to two-thirds approval of the legislative body. Specifies that the payment of such a tax is to be the obligation of the seller.
- **SB 1170/HB 2133 (S: Kyle; H: Miller L.)**
TAXES PROPERTY: Real estate transfer tax.
Permits counties to levy a real estate transfer tax but specifies that the rate is limited to the rate of the state transfer tax.
- **SB 1539/HB 1230 (S: Herron; H: Hood)**
TAXES PROPERTY: Tax collection in new developments—report to county mayor.
Requires commissioner of revenue to report to county mayor or city's chief executive when state collects local taxes in area of new development under certain circumstances. Broadly captioned.
- **SB 1540/HB 1229 (S: Herron; H: Hood)**
TAXES BUSINESS: Transfer tax for larger counties.
Authorizes mortgagee, creditor or grantee by contract to be responsible to pay transfer tax in counties having a population in excess of 100,000.

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- **SB 1951/HB 1397 (S: Finney; H: McCord)**
LOCAL GOVERNMENT: Blount County—adequate facilities tax.
Local bill for Blount County that authorizes the “Blount County Adequate Facilities Tax.”
- **SB 2195/HB 2405 (S: Bryson; H: Sargent)**
LOCAL GOVERNMENT: Williamson County—adequate facilities tax.
Local bill for Williamson County that imposes a tax on new residential and non residential property development to pay for cost of new and expanded school facilities. Amends Chapter 113 of the Private Acts of 1987, as amended.
- **SB 2343/HB 2396 (S: Williams, Mike R.; H: Niceley)**
LOCAL GOVERNMENT: Jefferson County - privilege tax on new development.
Local bill for Jefferson County that authorizes privilege tax on new residential, industrial, and commercial development in order that such development contribute its fair share of the cost of providing public facilities and services made necessary by such new development.
- **SB 2344/HB 2395 (S: Williams, Mike R.; H: Roach)**
LOCAL GOVERNMENT: Jefferson County—privilege tax on new development.
Local bill for Jefferson County that authorizes privilege tax on new residential development in order that such development contribute its fair share of the cost of providing public facilities and services made necessary by such development.
- **SB 2352/HB 2367 (S: Ketron; H: Tidwell)**
LOCAL GOVERNMENT: Columbia—impact fees.
Local bill for Columbia that authorizes levy of impact fee by ordinance on new development if it can show a reasonable connection between the need for the public facilities and anticipated new development.
- **SB 2353/HB 2366 (S: Ketron; H: Tidwell)**
LOCAL GOVERNMENT: Columbia—adequate facilities tax.
Local bill for Columbia that authorizes adequate facilities tax.
- **SB 2368/HB 2388 (S: Wilder; H: Gresham)**
LOCAL GOVERNMENT: Oakland—tax on new development.
Local bill for Oakland that authorizes Oakland to levy and collect a tax on new development within the town. Amends Chapter 167 of the Private Acts of 1994.
- **SB 2388/HB 2404 (S: Tracy; H: Cobb)**
LOCAL GOVERNMENT: Bedford County—tax on new residential construction.
Local bill for Bedford County that authorizes tax on the privilege of new residential construction.

The Local Subcommittee referred twelve bills and one amendment concerning PC 1101 to TACIR for further study (only one of these, SB 1586/HB 1798, was referred with a specific report date, January 15, 2006):

- **SB 0288/HB 0237 (S: Finney; H: Campfield)**
LOCAL GOVERNMENT: Annexation by municipality.

Requires municipality to notify affected property owners by mail of proposed annexation or extension of corporate limits within county growth plan.

- **SB 0764/HB 2042 (S: Burchett; H: Armstrong)**
LOCAL GOVERNMENT: Eminent domain—urban growth boundary.
Allows annexation of property located outside of a municipality's urban growth boundary if the owner petitions for such annexation, however, such property must be contiguous to other property currently owned by the petitioner that is already located within the urban growth boundary of the municipality.
- **SB 0765/HB 1913 (S: Burchett; H: Tindell)**
LOCAL GOVERNMENT: Eminent domain—quo warranto actions.
Increases the burden of proof that must be met by any party that brings a quo warranto action challenging the validity of an annexation ordinance.
- **SB 1236/HB 1915 (S: Burchett; H: Tindell)**
LOCAL GOVERNMENT: Annexation—burden of proof.
Specifies that challengers of an annexation ordinance meet the requirements for burden of proof when such ordinance is found to be unreasonable to the overall well being of the community involved and the absence of such annexation will not harm the health and safety of citizens.
- **SB 1558/HB 1914 (S: Burchett; H: Tindell)**
LOCAL GOVERNMENT: Annexation methods.
Authorizes certain methods for annexation of parcels that are bordered on all sides by the corporate limits of the annexing municipality.
- **SB 1586/HB 1798 (S: Norris; H: Rinks)**
LOCAL GOVERNMENT: County growth plans—land use decisions.
Requires land use decisions made after a growth plan has been approved to be consistent with the county growth plan. Specifies that this includes subdivision of land, site plans for new development, zoning and rezoning of land, plan documents or elements of plan documents, transportation, water, wastewater, gas and electrical infrastructure improvements and construction, location and construction of schools, and location and construction of other governmental structures. Senate State & Local amendment 2 removes counties of the 25th Senatorial district from the bill. Senate State & Local amendment 3 adds a severability clause.
- **SB 1588/HB 1799 (S: Norris; H: Rinks)**
LOCAL GOVERNMENT: Amending growth plan.
Revises procedures for amending an approved municipality or county growth plan in cases in which the proposed amendment is within the proposing municipality's corporate boundaries or would not alter the boundaries of any urban growth area, county planned growth area, or county rural area.
- **SB 2005/HB 2080 (S: McLeary; H: Maddox)**
PROPERTY & HOUSING: Permanent conservation easement.
Prohibits annexation of land that is subject to a permanent conservation easement to promote preservation of green space and disappearing farmland in the state.

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- **SB 2031/HB 2041 (S: Burchett; H: Armstrong)**
LOCAL GOVERNMENT: Parties' agreement on purchase price.
Defines time allowed for parties to agree on purchase price following notice of annexation. Prohibits local governments from providing for any payment in lieu of taxes from electric revenues or electric system facilities from any municipally-owned electric utility.
- **SB 2130/HB 1995 (S: Beavers; H: Johnson R.)**
LOCAL GOVERNMENT: Services in annexed areas.
Permits municipality to exercise right to provide municipal and utility services in annexed area when municipality annexes any part of the service area of an authority.
- **SB 2228/HB 2179 (S: Finney; H: McCord)**
ECONOMIC DEVELOPMENT: Existing county organization serving as development board.
Extends by one year and four months the date by which an existing county organization may be certified to serve as a substitute entity for a county joint economic and community development board. Relative to comprehensive growth plan statutes.
- **SB 2229/HB 2180 (S: Finney; H: McCord)**
LOCAL GOVERNMENT: Judicial review of comprehensive growth plans.
Specifies that judicial review of comprehensive growth plans may be conducted in the chancery court of Davidson County and that such review may be conducted following amendment of a comprehensive growth plan.
- **Amendment 4 to SB 1583/HB 403 (S: Norris; H: Sargent, Gresham, Bowers)**
The proposed amendment was withdrawn from the bill and sent to TACIR for study by the House State and Local Committee. It called for any territory that had been part of a municipality that lost its incorporated status in a county whose growth plan was approved on April 25, 2001 be designated as a Planned Growth Area (PGA) – ostensibly applying only to Roane County. As discussed in the House State and Local Government Committee, the question referred to TACIR was broadly worded and called for TACIR to study the process of amending growth plans.

The Legislature referred the following PC 1101 bills to TACIR in 2004, and TACIR reported on them in 2005.

- **SB 2444/HB 3143 (S: Norris; H: Bone)**
ECONOMIC DEVELOPMENT: Growth plans. Requires land use decisions made by the legislative body and the municipality's or county's planning commission to be consistent with previously approved growth plans.
- **SB 2445/HB 3056 (S: Norris; H: Sargent)**
LOCAL GOVERNMENT: Annexation–notification to county mayor. Specifies that certain notifications are to be forwarded to the county mayor when certain municipal actions are undertaken with regard to annexation of territory located within the unincorporated areas of the county.

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- **SB 2447/HB 3060 (S: Norris; H: Sargent)**
ECONOMIC DEVELOPMENT: Funding of joint economic and community development board. Imposes sanctions upon a participating governmental unit that does not fully fund its required annual contribution to the joint economic and community development board.
- **SB 2566/HB 3141 (S: Haynes; H: Bone)**
LOCAL GOVERNMENT: Authority to establish planning zones. Increases a municipality's authority to establish by ordinance planning zones or districts adjoining but outside of the municipal boundaries.
- **SB 2567/HB 3059 (S: Haynes; H: Sargent)**
LOCAL GOVERNMENT: Extraterritorial subdivision regulations. Prohibits municipality's ability from providing extraterritorial subdivision regulation in counties with county zoning under certain circumstances.
- **SB 2569/HB 3142 (S: Haynes; H: Bone)**
LOCAL GOVERNMENT: Amending county growth plan. Revises procedures for amending an approved county growth plan in cases in which the proposed amendment would not alter the boundaries of any urban growth area, county planned growth area, or county rural area.
- **SB 2574/HB 3058 (S: Norris; H: Sargent)**
LOCAL GOVERNMENT: Disputes regarding comprehensive growth plans. Revises proceedings and authority of dispute resolution panels that mediate disputes regarding comprehensive growth plans.
- **SB 2747/HB 2855 (S: Trail; H: Hood)**
ECONOMIC DEVELOPMENT: Joint economic and community development boards. Permits the executive committee of a joint economic and community development board to meet only as needed instead of eight times annually.
- **SB 3001/HB 3140 (S: Graves; H: Bone)**
LOCAL GOVERNMENT: Burden of proof for quo warranto actions. Increases the burden of proof for parties who issue quo warranto actions against municipality annexations.
- **SB 3002/HB 3057 (S: Graves; H: Sargent)**
LOCAL GOVERNMENT: Exclusive rights to annex territory. Grants municipalities the exclusive authority to annex territory within its urban growth boundaries, limiting the annexation powers of other municipalities.

The Legislature referred a portion of the following PC 1101 bill to TACIR for study.

- **SB 1585/HB 0407 (S: Norris; H: Sargent)**, directed TACIR to study quo warranto actions, annexations by cities that don't levy property taxes and provide a limited number of services, and the reconvening of coordinating committees.

Appendix E: Commission Members FY 2005 and FY 2006

Legislative Members

Senator Stephen Cohen
Senator Ward Crutchfield
Senator Bill Ketron
Senator Mark Norris
Representative Tre Hargett
Representative Kim McMillan
Representative Randy Rinks
Representative Larry Turner

Statutory Members

Senator Douglas Henry, Chairman, Senate Finance, Ways & Means
John Morgan, Comptroller of the Treasury
Representative Craig Fitzhugh, Chairman, House Finance, Ways & Means

Executive Branch Members

Paula Davis, Department of Economic & Community Development
Drew Kim, Governor's Office

County Members

Nancy Allen, Mayor of Rutherford County
Jeff Huffman, Tipton County Executive
Ken Yager, Mayor of Roane County
Richard Venable, Mayor of Sullivan County

City Members

Tommy Bragg, Mayor, City of Murfreesboro
Sharon Goldsworthy, Mayor, City of Germantown
Bob Kirk, Alderman, City of Dyersburg
Tom Rowland, Mayor, City of Cleveland

Other Local Government Members

Charles Cardwell, Metropolitan Trustee
County Officials Association of Tennessee

Brent Greer, Mayor, Henry County
Tennessee Development District Association

Private Citizen Members

John Johnson, Morristown
Leslie Shechter, Nashville

TACIR Members

Representative Randy Rinks, Chairman
Mayor Tom Rowland, Vice Chairman
Harry A. Green, Executive Director

Legislative

Senator Rosalind Kurita
Senator James Kyle
Senator Mark Norris
Senator Jim Tracy
Representative Jason Mumpower
Representative Gary Odom
Representative Randy Rinks
Representative Larry Turner

Statutory

Representative Craig Fitzhugh, Chairman, Finance Ways & Means Committee
Senator Randy McNally Chairman, Finance Ways & Means Committee
Comptroller John Morgan

Executive Branch

Paula Davis, Department of Economic & Community Development
Drew Kim, Governor's Office

Municipal

Tommy Bragg, Mayor of Murfreesboro
Sharon Goldsworthy, Mayor of Germantown
Bob Kirk, Alderman, City of Dyersburg
Tom Rowland, Mayor of Cleveland

County

Rogers Anderson, Williamson County Mayor
Kim Blaylock, Putnam County Executive
Jeff Huffman, Tipton County Executive
R.J. Hank Thompson, Sumner County Executive

Private Citizens

John Johnson, Morristown
Vacant

Other Local Officials

Brent Greer, Tennessee Development District Association
Charles Cardwell, County Officials Association of Tennessee



Tennessee Advisory Commission on Intergovernmental Relations,
Authorization No. 316357; 200 copies, August 2007. This document was
promulgated at a cost of \$2.48 per copy.