A Publication of the Tennessee Advisory Commission on Intergovernmental Relations



# INTERGOVERNMENTAL CHALLENGES AND ACHIEVEMENTS TWENTY-FIVE YEARS IN REVIEW\*

by Harry A. Green and Ed Young

## **INTRODUCTION**

The Tennessee Advisory Commission on Intergovernmental Relations (TACIR) was established by the General Assembly in July of 1978 (TCA § 4-10-102). It was created in response to legislative findings in the late 1970s that indicated the need for а permanent intergovernmental agency to study and make recommendations on questions of organizational patterns, powers, functions, 1979-2004 relationships and among federal, state, and local governments. TACIR's mission statement is 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.

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:

- advance discussion of and deliberation on critical and sensitive intergovernmental policy matters;
- promote action to resolve intergovernmental problems and improve the quality of government;
- forge common ground among competing but equally legitimate values, goals, and interests; and

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<sup>\*</sup>This publication is a condensed version of Intergovernmental Challenges and Achievements: 25 Years 1979-2004.

 provide members of the General Assembly and other policy makers with accurate and timely information and analysis to facilitate reasoned decisionmaking.

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. In order to achieve its mission and goals, the Commission is directed by statute to:

- engage in necessary activities, studies, and investigations;
- devise ways, on its own initiative, of fostering better relations among local governments and state government;
- draft and disseminate legislative bills, constitutional amendments, and model ordinances to implement Commission 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 to assess their possible application to Tennessee; and
- study the fiscal relationships between the federal government and Tennessee's state and local governments.

### **MEMBERSHIP**

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. Twenty-two members are appointed to four-year terms, while three are statutory members holding membership by virtue of their positions.

Statutory members are the chairs of the House and Senate Finance, Ways, and Means Committees and the Comptroller of the Treasury. The Speakers of the House and Senate appoint four members each from their respective chambers. The Governor appoints one member representing the County Officials Association of Tennessee, two executive branch officials, and two private citizens. There are four elected city officials, four elected county officials, and one representative of the development districts whose appointments are rotated among the two Speakers and the Governor. In total, ten members are from local government, eleven are from the General Assembly, two are from the executive branch, and two are private citizens.

The Commission is directed by statute to hold four meetings per year and to report its research and findings. Commission meetings, with invited guests and experts, generate lively and thoughtful debate, and form the core around which virtually all TACIR activities are centered. The Commission adopts an annual work plan to advance the agency's mission and goals. New policy matters that capture the attention of the Commission have varying origins. Members sometimes generate new issues internally through their own initiative, while others are generated externally. External factors may include citizen concern, intergovernmental conflict, and state or local government requests, but most often, the General Assembly places new issues before the Commission. Legislative requests typically come in the form of a study directive. Federal, state, or local urgencies often turn the attention of the Commission to critical policy matters not originally included in the work program. Because of the complexity of issues before TACIR, and the divergent views on those issues, extensive research and deliberation are often required. Even after recommendations are formulated and adopted, it may take years to build sufficient consensus to pass legislation resolving the problem.

### **MAJOR POLICY ISSUES**

As might be expected, TACIR has studied and discussed many hundreds of topics over the course of the last twenty-five years. For purposes of this brief, these topics have been broken down into eight categories: education, taxation and revenues, intergovernmental relationships, economic development, growth policy, infrastructure, governmental operations and efficiency, and other.

#### **EDUCATION**

Topics considered\*:

- funding equalization and equity issues;
- disparities in teacher salaries;
- determinants of local spending on public schools;
- integrity of earmarked education monies;
- BEP funding formula;
- RAND study of efficient use of resources in education;
- class size policies;
- education testing;
- capital outlay notes for schools;
- teacher mobility;
- appointment versus election of school superintendents;
- pre-kindergarten education;
- impact of school facilities on education outcomes;
- funding of higher education; and
- an economic and fiscal analysis of the lottery-funded college scholarship program.

With the sole exception of fiscal issues, no policy area has dominated the TACIR agenda more than education. One of the Commission's first charges was to study the funding of locally administered education programs. This resulted in a publication, in May of 1982, that included the first version of TACIR's fiscal capacity model, which is now used to equalize education funding.

Throughout the mid-1980s, the Commission continued its efforts to address the complex issue of school finance equity. Its work on disparities in spending per-pupil and measuring local effort in relation to state support resulted in legislative changes in the Tennessee Foundation Program formula. In 1988, the State Department of Education adopted TACIR's fiscal capacity methodology, and the essence of it was incorporated into the funding mechanism of the Education Improvement Act of 1992.

In 1998, pursuant to a legislative directive, TACIR examined the system of budgeting, appropriation, collection and disbursement of the half-cent state sales tax earmarked for education and determined that those funds were being expended for the intended educational purposes. The Commission also concluded that the system of accountability set out in the Education Improvement Act provided reasonable assurances that state revenues earmarked for education would not be diverted to other purposes.

Throughout the decade of the 1990s, TACIR continued to calculate fiscal capacity indices for each of the ninety-five counties. However, staff also continued to revisit the concept of a model for measuring the fiscal capacity of each individual school system. Almost one-third of Tennessee's counties (twenty-eight) have two or more school systems (Carroll has six, and Gibson has five). As a result of these efforts, and more fine-tuned data collection, a systemlevel prototype may finally be at hand. If

<sup>\*</sup> Topics considered in each category refer to Commission agenda items, publications, or staff presentations.

implemented, this would result in a fairer method of determining local contributions and would advance the cause of greater equity in school funding.

#### TAXATION AND REVENUES

Topics considered:

- federal, state, and local operating expenditures and revenues;
- fiscal comparison of non-income tax states;
- modernization of state-local revenue structure;
- business and corporate taxation;
- tax competitiveness;
- internet and mail order sales;
- cross-border tax leakage;
- tax and fiscal indicators;
- implications of over-reliance on the state sales tax;
- estimates of lottery sales and proceeds;
- taxation of services, utilities, possessory interests, and leased personal property;
- TVA tax equivalency payments;
- highway finance;
- guide to the state budget;
- state tax sharing;
- sales tax on food;
- Hall income tax;
- local fiscal flexibility;
- property tax reform;
- local sales tax;
- local government bonded indebtedness; and
- fiscal data reports for selected counties.

For TACIR, the most important policy category over the past twenty-five years, by far, has been fiscal matters (taxes, budgets, revenues). It would be difficult to identify a state or local tax that has not been the object of attention at some time, or a revenue source that has gone unexamined. Of all aspects of governments, these issues are the most intergovernmental in nature. The state and local governments levy the same taxes on the same items in many cases, and even some of those that are levied exclusively by one are shared with the other.

Since its inception, TACIR has conducted fiscal research, and has been involved in developing and shaping policy on many vital fiscal issues. One of the prime examples of this came in 2000 when the state faced a budget crisis and the General Assembly was forced to withhold a portion of tax revenues that had been traditionally shared with local governments. Pursuant to a request by the Speaker of the House, TACIR published a comprehensive study of all state-shared taxes, their history and rationale, and the potential effect the permanent elimination of tax sharing would have on local property taxes.

Due to a sporadic, sluggish economy and structural problems with the state's tax system, Tennessee has had continual problems balancing revenues with expenditures. In the critical 2001-03 period, TACIR produced key information reports and supported the General Assembly with numerous presentations, technical information, and other staff efforts. The *Citizens' Guide to the Tennessee Budget* was arguably the most influential contribution to educating the public and the state's policy makers of the past decade.

Throughout its history, TACIR has devoted special attention to the property tax because of its importance as the principal source of local government revenue. As far back as 1981, the Commission conducted a comprehensive study of property tax issues and the need for changes and modernization. This study resulted in eighteen recommendations for improvements in the way property taxes are levied and administered. Major achievements in this area include a uniform valuation approach to personal property assessment, the implementation of a current value index to keep assessment ratios current between reappraisals, and modernization of the operations of county property assessors.

#### **INTERGOVERNMENTAL RELATIONS**

Topics considered:

- intergovernmental agreements and cooperation;
- regionalism;
- New Federalism;
- federal and state mandates; and
- federal preemption.

Very early in its existence, the Commission played a major role in helping the state and its local governments respond to the Reagan administration's New Federalism. A joint resolution passed by the General Assembly in 1981 directed TACIR to study the impact of federal budget cutbacks and to recommend alternate procedures for allocating state and local resources to assure continuation of essential functions and services. This study was the catalyst for the development of the Commission's first work program and the hiring of its own core staff, including Dr. Harry Green, who was appointed Executive Director on September 1, 1981.

As work on this study progressed, it quickly became clear that it needed to be expanded to include research on the revenue needs of local governments and possible new revenue sources. These studies, in turn, led to analyses of mandated expenditures, preemption of local powers and sources of revenue, and alternative mechanisms for providing essential services. New Federalism was revolutionary in drastically reducing or eliminating entirely federal programs that were providing substantial financial assistance to local governments. Throughout the decade of the 1980s, as federal categorical and block grant funding continued to decline and general revenue sharing was eliminated, TACIR's role was critical to understanding the implications of this trend and helping to devise ways of dealing with it.

A lay observer reviewing the issues that TACIR has addressed over the past twenty-five years cannot fail to notice how many are intergovernmental in nature. Although issues have been categorized for purposes of organizing this brief, few of them have affected only one level or type of government. Because of the representative composition of the Commission, it is uniquely positioned for policy discussion, analysis, and recommendations on issues that cut across multiple categories. Crossborder tax leakage affects state and local governments, as well as education spending. Family tax burdens affect both tax competitiveness and economic growth. Infrastructure investment is directly related to population growth, bonded indebtedness, and industrial site selection. Simple problems get resolved. Complex ones end up on the TACIR agenda.

#### **TENNESSEE ECONOMY**

Topics considered:

- state business climate;
- economic growth and change;
- impact of tax incentives for business;
- site selection impact;
- travel and tourism;
- the knowledge economy;
- family tax burdens; and
- vocational training and re-training.

TACIR has conducted numerous studies of Tennessee's economic climate. The largest of these culminated in a series of reports in 1990 on the Saturn automobile manufacturing plant and its impact on the economies of seven affected counties. Commission staff developed a computer model known as PC-TILI (Tennessee Industrial Location Impact) to estimate what new public services would be required and project the cost of providing those services. A major element of these studies was a questionnaire developed by TACIR staff. Thousands of these questionnaires were completed by potential Saturn employees, and the tabulated results helped affected communities plan for the changes expected to occur as a result of the relocation of plant employees and their families.

Other economic climate studies have focused on Tennessee's business climate, economic development competitiveness, and the state's tax burden on families. In 2001, TACIR published an important research report on how the emerging knowledge economy would affect our state. It emphasized the critical importance of education and urged emphasis on developing work force skills, supporting research and development, and targeting economic development efforts to attract high quality jobs.

In response to a resolution passed by the General Assembly in 2004, TACIR undertook a major study of local property tax abatements for business and how they impact spending for public schools. Although the findings were inconclusive, the report did make a number of recommendations to improve the reporting of abatements, and to assure policy makers and taxpayers that economic development agreements providing for tax abatements are cost effective.

#### **GROWTH POLICY**

Topics considered:

- population and growth trends;
- implementation of the Growth Policy Act (Public Chapter 1101 of 1998);
- annexation and consolidation;
- paying for growth;
- planning in rural areas;
- "smart" growth; and
- integration of transportation plans with land use and growth plans.

In fiscal year 1998, TACIR was deeply involved in the legislative effort leading to passage of PC 1101, which established the first comprehensive growth policy for the State of Tennessee. This statute required the development of a growth plan in each county (except metropolitan charter counties). Such plans were to address annexation, incorporation, provision of services, and changes in the allocation of local sales tax revenues between counties and municipalities. The legislation also required each county subject to the Act to set up a Joint Economic and Community Development Board.

PC 1101 specifically directed the Commission to monitor the implementation of the Act and to periodically report its findings and recommendations to the General Assembly. A guide to assist community leaders in complying with PC 1101 was the Commission's first publication in pursuit of this mandate (1999). In the five-year period 1999-2004, TACIR published nine other publications dealing with some aspect of the new growth policy statute. By 2001, all but five counties had adopted the required growth plans. TACIR has also followed closely the establishment and operations of the Joint Economic and Community Development Boards. Monitoring the implementation of this statewide comprehensive growth policy has been one of TACIR's most time-intensive responsibilities.

During the past decade, Middle Tennessee has had two of the nation's fastest growing counties, and several others have experienced sudden spot growth in the wake of major industrial site location decisions. TACIR has studied the problems of rapid growth with particular interest because those problems usually are manifested in the areas of education funding and infrastructure—two of its other issues of mandated responsibility. Of special concern has been the question of how to finance new facilities needed because of growth.

In 2002, the Commission published the first survey of local governments that had implemented development taxes or impact fees as responses to growth. That survey report was updated and expanded in 2004, and another staff analysis of whether growth pays for itself has recently been completed.

Also in 2002, Tennessee was one of six states selected by the Center for Best Practices of the National Governors Association to participate in a special conference on "Integrating State Transportation and Land Use Goals to Promote Economic Development". TACIR staff served on the state project team at that conference.

As an element of its growth issue responsibilities, TACIR has worked with university research centers and the U.S. Bureau of Census to prepare twenty-year population projections for local governments to use in their growth planning activities. Since December 2003, these population figures have been available on the TACIR website, making them readily available to city and county officials and interested organizations. The Commission has become an important and trusted repository of data for Tennessee policy makers.

#### **INFRASTRUCTURE**

Topics considered:

- Public Infrastructure Needs Inventory (PINI);
- capital improvement programs;
- project ownership and funding sources;
- federal and state mandates;
- physical condition of schools;
- relationship between type of project and key demographic and economic factors; and
- project location in reference to growth planning boundaries.

In 1996, the General Assembly directed TACIR to develop and maintain an inventory of state, county, and municipal infrastructure needs. The purpose of this inventory is to help policy makers to develop goals, strategies, and programs to support livable communities, enhance economic development, and improve the quality of life of Tennessee citizens. The Public Infrastructure Needs Inventory (PINI) has become a tool for long-range and short-range planning, has provided a framework for funding decisions, has increased public awareness of infrastructure needs, and has fostered better communication and collaboration among agencies and decision makers.

The PINI is based upon forms completed by local officials setting forth their needs over the next five years in six categories: transportation and utilities; education; health, safety, and welfare; recreation and culture; economic development; and general government. The inventory forms provide information on ownership of projects, funding sources, whether the project is included in a capital improvements program, stage of construction, and whether the project is a response to a federal or state mandate. The forms also ask for an assessment of the condition of all existing public schools. In addition, the PINI report shows the relationship of project types to total population, population density, growth rates, and costs per capita.

The first PINI was published in January of 1999. The fifth in the ongoing series came out in October 2005. The PINI is the most comprehensive survey of Tennessee infrastructure needs compiled by any agency. While this has proven to be one of TACIR's most labor-intensive projects, it has been invaluable in promoting better capital planning, and in providing key data to state policy makers. The Office of Research and Education Accountability, for instance, uses the PINI data in its studies of schools on notice or probation.

#### **GOVERNMENTAL EFFICIENCY**

Topics considered:

- utility district governance;
- allocation of service responsibilities among the state and local governments;
- improving the operations of county tax assessors;
- privatization;
- governmental modernization;
- operations of county constitutional officers;
- performance-based budgeting and review;
- consolidation of local entities;
- the role of development districts;
- assessing the efficacy of human resource agencies;
- utility deregulation; and
- improvements in the operations of Emergency Communications Districts.

The statute that created TACIR includes directives to improve the overall quality of

government in Tennessee, and specifically to review the recommendations of other federal and state agencies studying governmental problems to assess their possible application to Tennessee.

The property tax has, arguably, been the moststudied single topic in TACIR's history. The property tax is of vital importance because it is the single largest source of revenue for local governments. Some of TACIR's contributions in this area have been discussed in an earlier section. However, the enormous time and effort devoted to making the property tax more efficient and more equitable cannot be overlooked. One of its very first publications (1981) was Property Tax Modernization. This report included eighteen recommendations for changes in the way the state's property tax was being levied. Other significant reports followed on issues of reform, property tax administration, measuring inequity, maintaining full-value assessments, and valuation methodologies. In 2004, TACIR published a major study, The Office of the Property Assessor in Tennessee that resulted in the adoption of a model staffing guide, standardized budgeting procedures, and incentives for additional professional education and training.

Another major contribution has been improvement in the funding, organization, and operations of Emergency Communications Districts (ECDs), otherwise known as "E-911" agencies. Pursuant to directives by the General Assembly, TACIR conducted surveys, interviews, public hearings, and extensive analyses of E-911 policies in other states. Problems that had affected Tennessee ECDs included funding difficulties, embezzlement of funds in one county, withdrawal of municipalities from the county ECD in another, and the need for extensive enhancement of call center technology resulting from the increasing use of cell phones. TACIR's study and recommendations led to the creation of the

Emergency Communications District Management Review Board to provide needed oversight and a forum for the resolution of E-911 problems. In addition, other reforms were implemented to improve call responses, set statewide standards for emergency services, provide technical assistance, and to put ECDs on a sounder financial footing. These actions have made Tennessee a leader in providing E-911 services, but TACIR continues to study technology issues, funding, and ECD organizational structure. It is likely that the Commission will continue to play an important role in the development of this issue for years to come.

In 1995, the General Assembly directed the Commission to study the usefulness and efficacy of twenty-five community-based agencies throughout the state. These included Community Action Agencies, Human Resource Agencies, River Basin Agencies, and a Head Start program. TACIR concluded that these entities played a crucial role in economic growth and development, but that there was a need for a statewide comprehensive strategy for the delivery of human services. TACIR's studies and recommendations in the areas of governmental modernization, governance of utility districts, performance review, and allocation of service responsibilities have led to changes that have improved government in Tennessee and enhanced the lives of all citizens.

#### **OTHER PROJECTS AND ACTIVITIES**

Topics considered:

- indigent care and other health-related issues;
- municipal transit systems;
- acute-care hospitals;
- solid waste;
- training of law enforcement and corrections personnel;

- telecommunications;
- tort liability;
- water policy; and
- homeland security.

For the past twenty-five years, TACIR has tackled issues of crucial importance to members of the Commission and the General Assembly, and of critical interest to the citizens of Tennessee. As we have seen, most often those have involved education and fiscal problemsissues that never seem to reach total resolution to universal satisfaction. But TACIR has also taken on an impressive array of other issues that many may not be aware of. As far back as 1985, the Commission was publishing reports on indigent health care, Medicaid, acute-care hospitals, and other health care issues. These reports contributed to the creation of TennCare, which was widely admired as an innovative approach to indigent care at the time of its inception.

In 1990, the Commission devoted most of a quarterly meeting to issues related to the state's recently enacted comprehensive waste plan, including implementation, regulations, and public versus private operation of disposal facilities. Water policy, pre-kindergarten programs, post-annexation dispute resolution, cost-of-living differentials, mass transit funding, telecommunications, and—most recently homeland security, have all been the objects of Commission attention in one form or another in recent years.

The scope of TACIR's annual work program is perhaps best illustrated by the fifteen reports issued in 2002:

- three were on local taxes;
- three were devoted to explaining Tennessee's state budget;
- two were on capital projects and infrastructure;

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- two dealt with aspects of growth policy;
- one on highway finance;
- one on risk factors to kindergarten success;
- one on the state sales tax "bite";
- one on the school spending gap; and
- one on a comparison of non-income tax states.

In addition to publications and formal presentations, the staff of the Commission:

- maintains an extensive website;
- attends legislative hearings and committee meetings;
- participates in conferences;
- works on a continuing basis with universities, development districts, organizations of county and municipal officials, and other state departments and agencies; and
- provides information and technical assistance, upon request, to a wide array of constituencies.

## CONCLUSION

TACIR's activities over its first twenty-five years can be summed up in five words:

- Anticipation. The Commission helps policy makers grapple with current problems, but it also has a responsibility that it takes very seriously to be aware of emerging problems and issues and to help prevent problems before they emerge in Tennessee.
- Information. The Commission has a wellearned reputation for collecting and compiling comprehensive, objective, and reliable information and data. Sound policies must be based upon sound information and knowledge.

- Education. TACIR is a public agency that not only works to develop good public policy, it strives to inform the public about policy in every possible forum. During the past twenty-five years, staff members have made hundreds of presentations to high schools and colleges, business and labor groups, leadership councils, professional organizations, civic clubs, economic development boards, associations of local officials, political and advocacy groups, and the media.
- Innovation. Commission staff have great expertise and real-world experience in key policy areas. They understand the issues they study and are constantly alert to new developments, trends, technologies, and best practices in other states. Over the years, Commission discussions and research have resulted in some very creative solutions to problems.
- Motivation. The word "motivate" means ٠ to stimulate to action. TACIR is not an agency whose reports are merely filed away. Because Commission members are themselves policy makers who are seeking solutions problems. to their recommendations are especially influential in generating action. The ultimate purpose of TACIR is to make state and local government better, and this has been a powerful motivation for everything it has done for twenty-five years.

TACIR is the state's only forum for the thoughtful discussion of pressing and developing intergovernmental issues. Its work over the past quarter century has increased the intellectual capital available to the public policy process, and has made Tennessee a better place for all its citizens

## TACIR MAJOR ACHIEVEMENTS

- The fiscal capacity/fiscal effort model, which is used by the state Department of Education to equalize \$4.6 billion annually in state and local school expenditures.
- Implementation of Public Chapter 1101 of 1998 (Growth Policy Act), which will determine how Tennessee grows in the 21<sup>st</sup> Century.
- Development of the Tennessee Industrial Location Impact economic model, which helps local governments to plan and prepare for changes resulting from industrial development.
- The Public Infrastructure Needs Inventory, which is the most comprehensive and useful survey of capital facilities needs ever conducted.
- Significant improvement in the administration of the property tax in each county, making that tax more efficient and more equitable.
- Development of the Current Value Index, which has enhanced revenues from property tax, the major source of income for local governments.
- Significant improvement in the organization, operations, and funding of E-911 Emergency Communications Districts.
- Increasing the level of knowledge and understanding of Tennessee's tax system among policy makers and lay citizens.

## TACIR HONORS AND RECOGNITION

- Education Policy, Educational Attainment, and Income Growth (1988) designated as a notable state document by the Tennessee Library Association.
- Financing Tennessee Government in the 21<sup>st</sup> Century (1999) selected for Most Distinguished Research award by the Governmental Research Association.
- State Shared Taxes in Tennessee (2000) selected for Most Distinguished Research award by the Governmental Research Association.
- Citizens' Guide to the Tennessee Budget (2002) selected for Certificate of Merit for Effective Citizen Education by the Governmental Research Association.
- Do K-12 School Facilities Affect Educational Outcomes? (2003) selected as a Most Significant Government Document of 2003 by the Government Documents Roundtable of the American Library Association.
- Dr. Harry Green testified as an expert witness in two federal court suits challenging the personal property assessments of Tennessee railroads (1991).
- Dr. Harry Green and Lynnisse Roehrich-Patrick were called as expert witnesses in the Small Schools v. McWherter equalization lawsuits (1993).
- TACIR cited for contributions to public policy in infrastructure and intergovernmental coordination by the Government Performance Project of *Governing* magazine.

#### **TACIR Publication Policy**

Only reports clearly labeled "Commission Reports" represent the official position of the Commission. Others are informational.



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