

**Regional Intergovernmental Transportation
Coordinating Study Commission
(RITCSC)**

INTERIM REPORT

July 13, 2000

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- Mary Bell, Delaware Valley Regional Planning Commission.
- Dianne Brake, President, Regional Planning Partnership, and Member, State Planning Commission.
- Tim Chelius, Executive Director, South Jersey Transportation Planning Organization.
- John Coscia, Delaware Valley Regional Planning Commission.
- James Daley, TDD Project, Union County, NJ.
- David Harris, North Jersey Transportation Planning Authority.
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- Mark Remsa, Principal Planner, Burlington County Office of Land Use Planning.
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- Herbert Simmens, Director, Office of State Planning.
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EXECUTIVE SUMMARY

INTRODUCTION

On November 9, 1998, the New Jersey Legislature unanimously adopted AJR 21 establishing the Regional Intergovernmental Transportation Coordinating Study Commission (RITCSC). The Commission was charged with (1) reviewing and recommending modifications to the New Jersey Transportation Development District (TDD) Act of 1989 and (2) analyzing and making recommendations to improve the intergovernmental transportation decision-making process in New Jersey. AJR 21 was sponsored by Assemblyman Alex DeCroce (R-Morris County), who also had been the lead sponsor of the 1989 TDD Act.

The following is a summary of the Commission's key findings and recommendations:

PRELIMINARY FINDINGS

Implementation/Operation of Transportation Development Districts

1. To date, only four (4) counties have engaged in a TDD planning process under the Transportation Development District Act of 1989 (TDD Act). They are:
 - a) Mercer County – TDD application approved in 1990; TDD plan approved in 1992; and the District is operational.
 - b) Atlantic County – Two former Transportation Improvement Districts (TIDs) have been grand-fathered as TDDs under the TDD Act. A third county TID exists, but was not grand-fathered.
 - c) Hunterdon County – TDD application approved in 1990; no plan has been approved; and the District is not operational.
 - d) Union County – TDD application approved in 1998; no plan has been approved; and the District is not operational.
2. Coordination and cooperation between municipalities, counties, the NJ Department of Transportation (NJDOT), NJ TRANSIT, and the private sector during the statutorily required TDD joint planning process and the planning processes undertaken to establish TIDs has been the most consistently valuable component of TDD/TID implementation efforts to date. The process has successfully brought different levels of government and the private sector together to examine existing and future transportation needs and collectively plan to meet those needs. This experience should be capitalized upon and used as a model for enhancing transportation decision-making at all levels.
3. The costs associated with the TDD planning process are high for counties and municipalities. At present, there is no clearly defined source of funding to support TDD planning efforts. The TDD Act does not permit the use of TDD funds to recoup costs incurred during the TDD planning and implementation process. This has been a disincentive to TDD implementation.
4. The TDD Act growth thresholds favor TDD eligibility in presently under-developed areas on the exurban fringe, because those areas start with low levels of site-generated traffic. This creates a bias toward use of the TDD Act in exurban areas. The growth thresholds preclude the use of TDDs in many counties and municipalities because of difficulty in defining permissible boundaries based on the required growth thresholds.

5. The TDD Act exempts development projects with preliminary approvals prior to the “development liability assessment date” (the date on which the TDD application and preliminary boundary delineation are approved by the Commissioner of Transportation) from fee assessment. The Act is silent with regard to whether fees can be assessed if and when extensions are sought for development approvals. This point should be clarified.
6. The TDD Act does not presently permit the assessment of fees on existing development/businesses within a TDD; however, it is likely that those developments/businesses will receive special benefit from enhanced mobility within a district when improvements to circulation are made.
7. The Act requires that TDD planning include projections of future transportation needs; however, the zoning “build out” capacity of land within a municipality or municipalities is often overly optimistic and/or unrealistic. This could result in a program of transportation improvements that is ultimately unacceptable to the participants and/or unattainable.
8. The Act does not presently permit the expenditure of TDD funds on transit operating expenses. This has limited the range of mobility solutions and transportation improvements contemplated as part of the TDD planning process.

Intergovernmental transportation planning

9. Traffic congestion is a major regional problem that must be addressed by cooperative intergovernmental actions toward regional solutions.
10. Transportation decision-making with regard to new development proposals is fragmented at various levels of government.
11. Transportation planning and investment decisions are sometimes reactive and seek to address existing deficiencies. In addition, many transportation investment decisions are ad-hoc and based on the needs generated by development of a specific site. These decisions, usually in the form of off-tract improvement requirements on developers, often lack the broader context of a regional plan. Consideration of potential future needs is absolutely essential.
12. The State Highway Access Management Act (Access Management Act) has been underutilized as a tool to promote intergovernmental cooperation and coordination with regard to transportation planning. In addition, there are problems related to implementation of the Access Management Act. For instance, the access permit process does not deal with cumulative traffic impacts from development.
13. Transportation planning is not a well-developed practice as part of the municipal planning process. The Municipal Land Use Law (MLUL) does not require municipal master plans to include a circulation element and provides little guidance as to what a circulation element should contain. In practice, circulation planning is most often limited to an inventory and functional classification of existing and proposed roadways. In addition, very few master plans and zoning codes have been adequately tested for their impact on transportation infrastructure. Furthermore, the MLUL requirement for local zoning consistency with the State Highway Access Code has never been enforced.
14. The current development review process does not effectively address regional transportation impacts; and there is little or no coordination between levels of government related to the review of development applications. When review is undertaken by the county and/or state, it is sometimes out of sequence with the municipal approval process and the flow of information regarding issues of concern is not shared from one level of government to the others.

15. State laws related to county land use and transportation planning are very weak. In effect, the County Planning Act limits the role of counties in the transportation planning process and limits opportunities for counties to facilitate the intergovernmental cooperation needed to balance competing local, regional, and state interests with regard to transportation. Counties are not required to adopt a county highway plan as part of the county master plan. County authority to review and approve development proposals is limited to those development sites that abut a county road or affect county drainage facilities. Therefore, developments that may have regional transportation impacts, but that do not abut a county road, are not within the county planning board's jurisdiction. Municipalities are required under the MLUL to notify the county of all master plan and land development ordinance revisions before local adoption; and master plan/ordinance changes must be filed with the county before taking effect. Few counties use this process to coordinate planning and ensure the regional perspective is adequately addressed.

Corridor planning

16. Federal law (ISTEA/TEA-21) requires each Metropolitan Planning Organization (MPO), in cooperation with the state DOT, to develop a Regional Transportation Plan (RTP) to guide the establishment of investment priorities. Corridor planning can be an effective tool to help inform the development of the RTP.
17. There are several positive examples, statewide, that demonstrate the benefits of a corridor planning approach. Most notably, the Burlington County – Route 130 Corridor planning process highlights the significant level of intergovernmental cooperation that can result from a county-led initiative to enhance mobility and promote coordinated economic development and land use planning in a strategic travel corridor.
18. The existing process of MPO corridor planning provides the foundation for enhanced corridor planning activities statewide. This enhanced corridor planning process, hereinafter referred to as *Corridor Mobility Planning* could significantly improve intergovernmental communication, cooperation, and coordination with regard to transportation planning and investment decision-making. It can also provide the opportunity to forge regional mobility solutions and promote a broader understanding of regional transportation considerations.
19. Corridor planning initiatives vary between the three MPO regions. For *Corridor Mobility Planning* to be effective, there is a need to provide a common basis between *Corridor Mobility Planning* efforts statewide (e.g., approach, methodologies, analyses, and plan content). At the same time, there is a need to permit flexibility so as to reflect local and regional conditions and needs.
20. *Corridor Mobility Planning* could be used to identify appropriate locations for TDDs, TIDs, and/or broader *Transportation Enhancement Districts (TEDs)*, if authorized by statute.
21. *Corridor Mobility Planning* can be used to foster intergovernmental coordination and private sector cooperation regarding transportation planning and investment decisions.
22. The capacity of MPOs, counties, and municipalities to undertake effective, coordinated transportation planning varies widely from jurisdiction to jurisdiction.
23. There are few incentives – other than the prospect of receiving federal funding for needed capital projects – for municipalities, counties, and the private sector to participate fully in the *Corridor Mobility Planning* process.
24. Additional funding and technical resources may be needed to support improved local and county transportation planning.

PRELIMINARY RECOMMENDATIONS

The Commission's recommendations fall broadly into two categories. The first category relates to legislative changes to the Transportation Development District Act of 1989 (NJSA 27-1C-1, et seq.). These changes are intended to increase the effectiveness of the TDD financing mechanism and to provide the flexibility necessary to accommodate the implementation of TDDs in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas (see gray shaded column in Table on page 10). The second category relates to legislative, administrative, regulatory, and policy changes that should be considered in order to enhance the transportation decision-making process, in general, and thereby facilitate more widespread implementation of TDDs throughout the state.

Legislative changes related to the TDD Act:

1. Eliminate barriers to TDD implementation.

- a) Amend the Act to eliminate growth thresholds.
- b) Amend the Act to permit the use of TDD funds to pay for previously incurred TDD planning costs as well as prospective administrative costs associated with implementing a TDD over time. The joint planning process should determine what retroactive and prospective cost recovery is appropriate and permissible.
- c) Amend the Act to permit the use of TDD funds to pay for transit operating expenses.
- d) Amend the Act to permit fee assessments when and if a developer receives an extension of local site development approvals.
- a) Amend the Act to require – not merely authorize – the NJDOT to promulgate rules/regulations to facilitate planning and implementation of TDDs.

2. Clarify existing TDD Act language.

- a) Broaden the use of the word “State,” in the context of the joint planning process, to include all “relevant state agencies;” quasi-public authorities and MPOs should be expressly named as potential participants in the joint planning process.
- b) Amend the criteria for TDD designation to require consistency between the TDD plan and the MPO Regional Transportation Plan (RTP).
- c) Amend the Act language regarding projections of future transportation needs to reflect “a reasonable assessment of likely growth,” as defined and agreed to as part of the joint planning process.
- d) Amend the Act to permit the joint planning process to define appropriate level of service requirements for state, county, and local road facilities within the district.

3. Broaden the scope of the present TDD “construct.”

Amend the Act to provide more flexibility to accommodate the use of the TDD concept in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas. Flexible options should include the existing TDD financing mechanism as well as the option of establishing a *Transportation Enhancement District* (TED) that would permit both an assessment of fees on new development as well as an assessment of fees on existing development/businesses within the district that will be specially benefited by enhanced mobility within the district.

This enhanced TDD construct would enable the flexibility to accommodate assessments on new development, existing development/businesses, or both as determined by the participants in the joint planning process.

Who can be assessed:

COST CATEGORIES	TRADITIONAL TRANSPORTATION DEVELOPMENT DISTRICT (TDD)				TRANSPORTATION ENHANCEMENT DISTRICT (TED)			
	EXISTING RESID- ENCES	EXISTING DEVT / BUSINESS	NEW DEVT	PUBLIC SECTOR	EXISTING RESID- ENCES	EXISTING DEVT / BUSINESS	NEW DEVT	PUBLIC SECTOR
Existing capital needs from traffic passing through district	N	N	N	Y	N	N	N	Y
Existing capital needs from traffic with origin &/or destination within the district	N	N	N	Y	Y	Y	N	Y
Capital and operating costs for new or enhanced transportation services provided within the district	N	N	N	Y	Y	Y	Y	Y
Future capital costs for improvements required by growth in through traffic	N	N	N	Y	N	N	N	Y
Future capital costs for improvements required by new development	N	N	Y	N	N	N	Y	N
Past and prospective administrative costs incurred for implementing and maintaining a TDD or TED	N	N	N	Y	Y	Y	Y	Y

Legal foundation:

TED authority could be modeled after enabling statutes that permit the special benefit assessments used in the numerous Special Improvement Districts (SIDs) that have been formed in the state over the past several years.

Governance and Operation of TED:

A District Management Corporation (DMC) could be statutorily authorized to oversee the management and implementation of a TED plan. This would function similar to the Downtown Management Corporations formed to administer SIDs. The DMC should have strong representation

from the private sector. Annual budgets developed by the DMC should be approved by the governing body or bodies that establish the TED.

Credits:

A mechanism should be established to provide credit for past contributions toward off-tract road improvements.

Legislative, administrative, regulatory, and policy changes to improve the transportation decision-making process and enhance TDD implementation:

4. Foster proactive, intergovernmental coordination and cooperation in the transportation decision-making process.

- a) Facilitate meaningful collaborative *Corridor Mobility Planning* throughout the state by encouraging MPO/NJDOT/NJ TRANSIT/county/municipal/private sector partnerships that replicate the cooperative planning approach undertaken as part of the TDD/TID planning processes undertaken to date and the Burlington County – Route 130 corridor planning process. Toward that end, responsible state and regional agencies should:
 - i) Continue and expand existing MPO planning support programs that provide financial resources to counties to undertake transportation planning.
 - ii) Promote the use of the NJ Department of Community Affairs' Smart Growth Planning Grant Program to emphasize the development of corridor mobility plans.
 - iii) Encourage the use of cooperative, inter-jurisdictional planning agreements or memoranda of understanding with *Corridor Mobility Planning* participants to foster participation in the process and ensure implementation of corridor plan recommendations.
- b) Establish a mechanism to ensure that the development approval process includes coordinated review of development applications by municipal, county, and state agencies consistent with corridor mobility plans and ensure that there are open lines of communication between each level of government throughout the review process.

5. Provide significant incentives to foster broad-based participation in the transportation planning process at all levels.

- a) Develop a program of planning incentive grants from existing sources such as the Transportation Trust Fund, Federal transportation planning funds administered by the NJDOT and MPOs, and discretionary funding available through the state budget.
- b) Augment existing sources of funding to support transportation planning by authorizing the establishment of voluntary local transportation trust funds, similar to open space trust funds, to support transportation planning and local improvement projects.
- c) Develop a program of incentives, including both financial and technical assistance to counties and municipalities, to encourage participation in the *Corridor Mobility Planning* process and implementation of corridor mobility plan recommendations.
- d) Expand the existing Transportation Trust Fund local aid grant/loan program for capital improvement projects by making additional grant funding available only to those local and county governments that undertake and fully participate in enhanced transportation planning

activities (e.g. the development of transportation plan elements and/or participation in the *Corridor Mobility Planning* process).

6. Strengthen the role of counties in the transportation planning process.

- a) Use financial incentives (as previously described) and existing technical resources to improve the practice of transportation planning at the county level.
- b) Use existing statutory authority provided by the Access Management Act to promote the development of county access codes.
- c) Encourage counties to execute agreements designed to coordinate multi-jurisdictional planning and review of projects with inter-municipal impact.

7. Strengthen the role of municipalities in the transportation planning process.

- a) Use financial incentives (as previously described) and existing technical resources to improve the practice of transportation planning at the municipal level, throughout the state.
- b) Encourage municipalities to participate in the *Corridor Mobility Planning* process.
- c) Encourage MPO/county/municipal partnerships to develop and adopt comprehensive municipal transportation plans.

8. Institutionalize *Corridor Mobility Planning* as the first step in the transportation improvement planning process.

- a) Adopt a consistent yet flexible framework for undertaking *Corridor Mobility Planning* on a statewide basis.
- b) Use a statewide strategic policy structure to guide *Corridor Mobility Planning* throughout the state.
- c) Use the *Corridor Mobility Planning* process to provide the basis for project prioritization and funding within each corridor.
- d) Use the *Corridor Mobility Planning* process to identify the appropriate locations for TDDs, TIDs, and TEDs, if authorized by statute.

9. Authorize *Corridor Mobility Planning* participants to enter into voluntary *Corridor Planning and Management Partnership Agreements* or *Memoranda of Understanding*.

IMPLEMENTATION MATRIX

As previously noted, the Commission's recommendations fall broadly into two categories. The first category relates to legislative changes to the TDD Act that are intended to increase the effectiveness of the TDD financing mechanism and to provide the flexibility necessary to accommodate the implementation of TDDs in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas (see gray shaded column in Table below). The second category relates to legislative, administrative, regulatory, and policy changes that should be considered to improve significantly the transportation decision-making process, in general, and thereby facilitate more widespread implementation of TDDs throughout the state. The following table provides an overview of the recommendations and the parties responsible for action:

Recommendation	Legislative Actions		Administrative, Regulatory, and Policy Changes				
	Changes related to TDD Act	Changes related to other statutes	DOT	MPOs	Counties	Municipalities	Other
1. Eliminate barriers to TDD implementation.	Y		Y				
2. Clarify existing TDD Act language.	Y						
3. Broaden the scope of the present TDD "construct."	Y						
4. Foster proactive, intergovernmental coordination and cooperation in the transportation decision-making process.			Y	Y	Y	Y	Y
5. Provide significant incentives to foster broad-based participation in the transportation planning process at all levels, including participation in the <i>Corridor Mobility Planning</i> process.			Y	Y			
6. Strengthen the role of counties in the transportation planning process. ¹		Y	Y	Y	Y		
7. Strengthen the role of municipalities in the transportation planning process.			Y	Y	Y	Y	
8. Institutionalize <i>Corridor Mobility Planning</i> as the first step in the transportation improvement planning process.			Y	Y	Y	Y	
9. Authorize <i>Corridor Mobility Planning</i> participants to enter into partnership agreements or memoranda of understanding. ²		Y	Y				

¹ The NJ County Planners Association and NJ Chapter of the American Planning Association are presently engaged in discussions related to updating the County Planning Act. It is anticipated that these discussions will result in a legislative proposal to amend the County Planning Act to strengthen the role of counties in the land use and infrastructure planning process.

² Specific statutory authority to execute *Corridor Planning and Management Partnership* agreements could foster the use of inter-local agreements to support the implementation of corridor mobility plans.

INTRODUCTION

On November 9, 1998, the New Jersey Legislature unanimously adopted AJR 21 establishing the Regional Intergovernmental Transportation Coordinating Study Commission (RITCSC). The Commission was charged with (1) reviewing and recommending modifications to the New Jersey Transportation Development District (TDD) Act of 1989 (see Appendix 1) and (2) analyzing and making recommendations to improve the intergovernmental transportation decision-making process in New Jersey. AJR 21 was sponsored by Assemblyman Alex DeCroce (R-Morris County), who also had been the lead sponsor of the 1989 TDD Act.

Two factors served as the primary impetus for the passage of AJR 21 and the creation of the RITCSC. First, policymakers were concerned about the underutilization of the TDD legislation and wanted to document the reasons for this underutilization.³ Second, transportation issues related to congestion, growth, and regional decision-making gained increased attention in New Jersey during the economic upswing of the late 1990s.

Pursuant to AJR 21, the Governor and legislative leaders appointed members to the RITCSC during 1999. The Rutgers Transportation Policy Institute (TPI) was designated as technical staff to the Commission during the summer of 1999. In anticipation of the Commission's first organizational meeting, Commissioners were briefed by TPI and provided with an introduction to a variety of subjects related to the RITCSC's agenda. These briefings were designed to prepare members of the Commission for the ambitious schedule established by AJR 21.

Pursuant to AJR 21, the Commission had nine months from its first organizational meeting to release an Interim Report to the public and twelve months from its first organizational meeting to submit a Final Report to the Governor and the Legislature. The RITCSC's first organizational meeting occurred on September 8, 1999. Accordingly, the Commission had to complete an Interim Report by June 2000 and will submit a Final Report in early Fall 2000.

The Commission met regularly, usually once each month, beginning in September 1999 and met twice during the month of June 2000.⁴ Most of the Commission's meetings consisted of presentations by transportation and planning experts (state officials, county planners, and municipal officials), as well as private sector representatives with experience in TDD implementation.

On October 5, 1999, officers were elected to govern the Commission's work. Raymond Zabihach was elected as Chair, Daniel Beyel was elected as Vice-Chair, and Martin E. Robins, Director of TPI, was elected as Secretary. TPI staff, specifically Jon A. Carnegie, AICP/PP, Senior Project Manager at TPI, and Amanda Smith, a Graduate Assistant at TPI, were designated to provide ongoing technical and administrative support to the Commission. On November 1, 1999, the Commission adopted by-laws to govern its work (see Appendix 2).

In December 1999, Chairman Zabihach established three subject-based committees to gather testimony, conduct research, and generate policy recommendations (see the Committees section of this report for further details). Beginning in January 2000, the three committees met periodically, usually once each month, to receive staff briefings and discuss the progress of their work. The committees' recommendations were submitted to the full Commission for review in May 2000.

³ By 1998, only two of the four counties that had attempted to establish TDDs had succeeded, specifically Atlantic and Mercer Counties.

⁴ The full Commission met on September 8, October 5, November 1, and December 7, 1999, as well as January 4, February 1, March 7, April 4, May 2, June 6, and June 27, 2000. Agendas for these meetings were made public in a timely fashion via the RITCSC website (<http://www.state.nj.us/osp/ritcsc/ritcsc.htm>).

A hearing will be held in July 2000 to receive public comment regarding this Interim Report. The Final Report of the RITCSC will be submitted to the Governor and Legislative leaders in early Fall 2000.

ASSEMBLY JOINT RESOLUTION 21

Legislation Establishing the Regional Intergovernmental Transportation Coordinating Study Commission

P.L.1998, JR7 (AJR21 1R)

A Joint Resolution creating a commission to develop recommendations to increase regional and intergovernmental transportation decision-making among various levels of government and to identify incentives to promote such cooperation.

Whereas, In past years, New Jersey has experienced explosive growth in certain regions which has resulted in increased development, congested highways, and disjointed economic development; and

Whereas, Although the “New Jersey Transportation Development District Act of 1989,” P.L.1989, c.100 (C.27:1C-1 et seq.) authorizes the creation of special transportation financing districts to provide funds to mitigate traffic congestion in areas of major development, there is no regional review of major or significant developments that have impacts beyond one specific municipality or county, and such developments present special problems and needs that are regional in nature; and

Whereas, It is, therefore, altogether fitting and proper, and within the public interest, to create a special commission to develop recommendations to increase regional transportation decision-making among various levels of government, to mitigate the traffic impacts of major developments or redevelopments and to identify incentives to promote such cooperation; now, therefore,

Be It Resolved *by the Senate and General Assembly of the State of New Jersey:*

1. There is created a commission to be known as the “Regional Intergovernmental Transportation Coordinating Study Commission” to consist of 18 members as follows:
 - a. Two members of the Senate, who shall not be of the same political party, to be appointed by the Senate President, one of whom shall be the chair of the Senate Transportation Committee;
 - b. Two members of the General Assembly, who shall not be of the same political party, to be appointed by the Speaker of the General Assembly, one of whom shall be the chair of the Assembly Transportation Committee;
 - c. The Commissioner of Transportation, ex officio, or a designated representative; and the Director of the Office of State Planning in the Department of the Treasury, ex officio, or a designated representative;
 - d. Twelve public members, to be appointed by the Governor, who shall include a representative of the New Jersey League of Municipalities, a representative of the New Jersey Association of Counties, a representative of the New Jersey County Planners Association, a representative of the Consulting Engineers Council of New Jersey, a representative of the North Jersey Transportation Planning Authority, a representative of the Delaware Valley Regional Planning Commission, a representative of the South

Jersey Transportation Planning Organization, a representative of the New Jersey Builders Association, a representative of the New Jersey Business and Industry Association, a representative of the business community in the northern region of the State, a representative of the business community in the central region of the State, and a representative of the business community in the southern region of the State.

The members of the commission shall serve without compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties.

2. a. The commission shall organize as soon as may be practicable after the appointment of a majority of its members and shall select a chairperson from among the members. The members shall select a secretary, who need not be a member of the commission.

The commission shall meet at the call of the chairperson and shall hold a public hearing as prescribed in section 4 of this joint resolution.

The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission or agency, as it may require and as may be available for its purposes, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses as may be necessary in order to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

b. The commission may establish three subcommittees, one focusing on the northern region, one focusing on the central region, and one focusing on the southern region of the State.

3. The commission shall develop recommendations to increase regional transportation decision-making among various levels of government, especially with regard to major developments or redevelopments, and to identify incentives to promote such cooperation. The commission shall identify and make recommendations concerning the following: a means of coordinating actions among various levels of government to make needed transportation investments that reduce traffic congestion and negative regional impacts while attracting new development and revitalizing older areas consistent with community, county and state goals; identifying and removing obstacles to improved regional transportation decision-making and identifying the consequences of not overcoming them; institutional frameworks and partnership agreements in which municipalities can work among themselves and with counties to promote regional decision-making and coordinated economic development, and statutory changes needed to achieve these frameworks; objectives that should be considered in the development of municipal partnerships and performance goals to measure success; incentives, including financial incentives, that may encourage municipalities and counties to enter into partnership agreements, and statutory changes needed to implement such incentives; mechanisms to link performance with the incentives; and other opportunities to promote public-private partnerships, and statutory changes necessary to promote inventive financing mechanisms and private sector contributions.

The commission shall also review the provisions of the "New Jersey Transportation Development District Act of 1989," P.L.1989, c.100 (C.27:1C-1 et seq.), and the regulations promulgated to implement its provisions and make recommendations for modifications to the act or the regulations which would encourage regional and intergovernmental transportation concerning transportation planning decision-making.

In developing its recommendations, the commission shall consult with regional planning agencies in the State.

4. Within nine months after the commission organizes, the commission shall prepare and make public an interim report outlining its progress. Following the issuance of the interim report, the commission shall provide at least five days' notice to the public of the time and place of a public hearing to be held to receive public comment on the interim report. The commission shall prepare and submit a final report, no later than one year after the commission organizes, to the Governor, the President of the Senate and the Speaker of the General Assembly, the Minority Leader of the Senate and the Minority Leader of the General Assembly, and the members of the Senate Transportation Committee and the Assembly Transportation Committee, or the respective successor committees.

5. This joint resolution shall take effect immediately and shall expire 30 days after the commission submits its final report, as prescribed in section 4 of this joint resolution.

Approved November 9, 1998.

MEMBERS OF THE COMMISSION

Pursuant to AJR 21 section 1a-b, the Senate President was authorized to designate two Senate representatives, one of whom is the chair of the Senate Transportation Committee, and the Speaker of the Assembly was authorized to designate two Assembly representatives, one of whom is the chair of the Assembly Transportation and Communications Committee. Pursuant to AJR 21 section 1c-d, the Commissioner of Transportation and the Director of the Office of State Planning, or a designated representative, were appointed to the Commission. Finally, pursuant to AJR 21 section d, twelve public members, who were to be representative of specific agencies, groups, and regions, were appointed by the Governor.

Senate Representatives

- Senator Andrew R. Ciesla, Chair, Senate Transportation Committee (Ocean County)
- Vacancy

Assembly Representatives

- Assemblyman Alex DeCrose, Chair, Assembly Transportation and Communications Committee (Morris County)
- Vacancy

Commissioner of Transportation

- Assistant Commissioner Pippa Woods, designated representative

Director of the Office of State Planning

- Herbert Simmens

Public Members

- Dawn Marie Addiego, Esq., Business Community, Southern Region (Burlington County)
- Daniel Beyel, South Jersey Transportation Planning Organization (Cape May County)
- Stephen T. Boswell, Ph.D., Consulting Engineers Council of New Jersey (Bergen County)
- Fred M. Brody, New Jersey Business and Industry Association (Monmouth County)
- William "Pat" Schuber, New Jersey Association of Counties (Bergen County)⁵
- Paul Sauerland, North Jersey Transportation Planning Authority (Hunterdon County)
- Margaret Scarillo, Business Community, Central Region (Middlesex County)
- Stephen H. Shaw, New Jersey Builders Association (Morris County)
- Ridgeley P. Ware, Delaware Valley Regional Planning Commission (Burlington County)

⁵ Donald Goncalves (Union County) was a member of the Commission representing the New Jersey Association of Counties from September 1999 – February 2000.

- Noreen P. White, Business Community, Northern Region
(Essex County)
- Millard Wilkinson, Jr., New Jersey League of Municipalities
(Camden County)
- Raymond Zabihach, New Jersey County Planners Association
(Morris County)

COMMITTEES

On November 1, 1999, Chairman Zabihach established three committees and charged them with conducting in-depth inquiry and reporting back to the full Commission with recommendations that would serve as the basis for the Commission's Interim Report. The Chairman appointed committee members, designated committee chairs, and outlined detailed committee charges.

TDD Technical Committee

Pippa Woods chairs the TDD Technical Committee. The other members of the committee are Daniel Beyel, Assemblyman Alex DeCroce, Paul Sauerland, and Ridgeley Ware. The TDD Technical Committee's mission was to:

1. Examine the TDD Act to determine why more TDDs are not being implemented, identify weaknesses of and technical changes that need to be made to the TDD Act, and outline programmatic/policy changes that should be made.
2. Evaluate transportation financing alternatives for off-tract improvements and examine whether the TDD financing mechanism of assessing new development could be adapted to a cost sharing mechanism among all levels of government to address existing transportation conditions as well as future growth.
3. Suggest modifications to the TDD Act or its regulations that could address congestion problems resulting from existing development as well as new growth.

Corridor Study Committee

Millard Wilkinson, Jr., chairs the Corridor Study Committee. The other committee members are Bill Beetle (NJDOT), Stephen Boswell, Fred Brody, Senator Andrew Ciesla, and Margaret Scarillo. The Corridor Study Committee's mission was to:

1. Inventory and distinguish among the corridor plans and planning efforts now underway in NJ.
2. Examine and evaluate other transportation planning approaches that attempt to anticipate and respond to existing and future transportation needs.
3. Examine smart growth/transportation planning efforts in other states and determine their applicability in a NJ context.

Intergovernmental Committee

Noreen P. White chairs the Intergovernmental Committee. The other committee members are Dawn Marie Addiego, William "Pat" Schuber, Stephen Shaw, Herbert Simmens, and Ray Zabihach. The Intergovernmental Committee's mission was to:

1. Examine and evaluate the intergovernmental relationships that exist within the current transportation planning framework.
2. Explore ways to provide incentives for intergovernmental cooperation and coordination with regard to transportation planning.
3. Examine and evaluate various options for improving institutional coordination regarding transportation decision-making.

Between January and May 2000, the committees met frequently and developed a series of preliminary findings and recommendations that were submitted to the full Commission on May 2, 2000 for discussion. Based on numerous comments and suggestions from Commissioners, staff made a number of amendments to the committees' reports. Once the committee reports were finalized, they were incorporated into the RITCSC's Interim Report.

MISSION STATEMENT

The RITCSC adopted the following mission statement on December 7, 1999:

The Regional Intergovernmental Transportation Coordinating Study Commission's (RITCSC) mission is to design recommendations to reduce traffic congestion and negative regional impacts while attracting new development and revitalizing older areas consistent with community, county and state goals. The RITCSC's primary initiative is to review the provisions of the "New Jersey Transportation Development District Act of 1989," P.L.1989, c.100 (C.27:1c-1 et seq.), and make recommendations for modifications to the Act which will encourage regional and intergovernmental transportation planning decision-making.

In addition, the RITCSC will develop recommendations to increase regional transportation decision-making and cooperation among various levels of government in New Jersey, especially with regard to major developments or redevelopments. We will do so by identifying incentives and developing performance-incentive linkages to promote cooperation; creating opportunities to promote public-private partnerships; removing obstacles to improved regional transportation decision-making; determining whether or not statutory changes are needed to achieve cooperative institutional frameworks; and promoting partnership agreements among municipalities and counties to develop regional decision-making and coordinated economic development.

PRELIMINARY FINDINGS

FINDINGS RELATED TO THE IMPLEMENTATION/OPERATION OF TRANSPORTATION DEVELOPMENT DISTRICTS:

1. To date, only four (4) counties have engaged in a TDD planning process under the Transportation Development District Act of 1989 (TDD Act). They are:
 - a) Mercer County – TDD application approved in 1990; TDD plan approved in 1992; and the District is operational.
 - b) Atlantic County – Two former Transportation Improvement Districts (TIDs) have been grand-fathered as TDDs under the TDD Act. A third county TID exists, but was not grand-fathered.
 - c) Hunterdon County – TDD application approved in 1990; no plan has been approved; and the District is not operational.
 - d) Union County – TDD application approved in 1998; no plan has been approved; and the District is not operational.
2. Coordination and cooperation between municipalities, counties, the NJ Department of Transportation (NJDOT), NJ TRANSIT, and the private sector during the statutorily required TDD joint planning process and the planning processes undertaken to establish TIDs has been the most consistently valuable component of TDD/TID implementation efforts to date. The process has successfully brought different levels of government and the private sector together to examine existing and future transportation needs and collectively plan to meet those needs. This experience should be capitalized upon and used as a model for enhancing transportation decision-making at all levels.
3. The costs associated with the TDD planning process are high for counties and municipalities. At present, there is no clearly defined source of funding to support TDD planning efforts. The TDD Act does not permit the use of TDD funds to recoup costs incurred during the TDD planning and implementation process. This has been a disincentive to TDD planning and implementation.
4. The TDD Act growth thresholds favor TDD eligibility in presently under-developed areas on the exurban fringe, because those areas start with low levels of site-generated traffic. This creates a bias toward use of the TDD Act in exurban areas. The growth thresholds preclude the use of TDDs in many counties and municipalities because of difficulty in defining permissible boundaries based on the required growth thresholds.
5. The TDD Act exempts development projects with preliminary approvals prior to the “development liability assessment date” (the date on which the TDD application and preliminary boundary delineation are approved by the Commissioner of Transportation) from fee assessment. The Act is silent with regard to whether fees can be assessed if and when extensions are sought for development approvals. This point should be clarified.
6. The TDD Act does not presently permit the assessment of fees on existing development/businesses within a TDD; however, it is likely that those developments/businesses will receive special benefit from enhanced mobility within a district when improvements to circulation are made.
7. In redevelopment areas, where there is existing congestion and/or a significant amount of existing development around the TDD, background traffic counts are likely to be disproportionately high

and will require large-scale remedial improvements that would be beyond the scope of the current TDD financing mechanism.

8. The Act requires that TDD planning include projections of future transportation needs; however, the zoning “build out” capacity of land within a municipality or municipalities is often overly optimistic and/or unrealistic. This could result in a program of transportation improvements that is ultimately unacceptable to the participants and/or unattainable. TDD projections should reflect “a reasonable assessment of likely growth,” as defined and agreed to as part of the joint planning process. Any mismatch between zoning “build out” capacity and TDD plan projections should be addressed as part of the joint planning process.
9. Meeting the level of service standards required for state transportation facilities can necessitate a program of improvements beyond the scale desired by municipal/county officials, citizens, and business leaders. The TDD planning process should allow for flexibility in the application of level of service standards.
10. The Act does not presently permit the expenditure of TDD funds on transit operating expenses. This has limited the range of mobility solutions and transportation improvements contemplated as part of the TDD planning process.
11. The TDD Act authorized the NJDOT to promulgate rules/regulations to guide the planning and implementation of TDDs; however, no rules/regulations were developed and adopted.
12. The TDD Act was enacted prior to the federal ISTEA and TEA-21 legislation that elevated the role of Metropolitan Planning Organizations (MPOs) in transportation planning and decision-making. At present, there is little or no participation of the MPOs in TDD planning processes. The TDD Act does not presently address the role of MPOs. The MPO role in TDD planning should be clarified. At a minimum, there should be a requirement that TDD plans and the MPO long-range transportation plans be consistent.
13. The Act does not presently address the role of quasi-public authorities, such as the various highway and bridge authorities or the Port Authority of New York and New Jersey, as part of the TDD planning process. Although these entities may be statutorily exempt from TDD fee assessment, they should be included as active participants in the TDD joint planning process.
14. The TDD Act permits the issuance of bonds guaranteed by the expected future revenue from TDD fees. This provision has not been utilized because of the uncertainty inherent in the timing of TDD fee collection.
15. The TDD legislation needs flexibility to support creative/innovative financing mechanisms.
16. There is presently no language specifically addressing fee assessments for changes of use.
17. While not specifically authorized by statute, municipal and county TIDs have been implemented and upheld by the courts based on an implied authority under the Municipal Land Use Law (MLUL). TIDs can be used as a mechanism to finance improvements to municipal and county roads, but they are more limited in scope than a TDD. TIDs do not incorporate financing and implementation of improvements to state facilities.

GENERAL FINDINGS RELATED TO INTERGOVERNMENTAL TRANSPORTATION DECISION-MAKING PROCESS:

18. Traffic congestion is a major regional problem that must be addressed by cooperative intergovernmental actions toward regional solutions.

19. In 1997, the Office of State Planning (OSP) published the Land Use, Infrastructure, and the Environment Study (LUIE).⁶ The Study found that there are significant institutional barriers imbedded in our present system of transportation decision-making that make it very difficult to plan our transportation networks effectively. For example:

- a) the roles and responsibilities related to transportation planning and investment decision-making are fragmented; and
- b) land use decision-making is local, while most transportation planning and investment decisions are made at the regional or state level.

The LUIE report proposed an integrated intergovernmental decision-making system to more effectively manage regional, county, and municipal responsibilities related to a variety of issues, especially land use and transportation.

20. Transportation decision-making authority with regard to new development proposals is fragmented at various levels of government. Transportation outcomes could be enhanced by better coordination and communication at all levels of review. Changes to the transportation decision-making process should facilitate streamlining when appropriate and care should be given not to create an additional level of development review.

21. Transportation planning and investment decisions are sometimes reactive and seek to address existing deficiencies. In addition, many transportation investment decisions are ad-hoc and based on the needs generated by development of a specific site. These decisions, usually in the form of off-tract improvement requirements on developers, often lack the broader context of a regional plan. Consideration of potential future needs is absolutely essential.

22. The current reliance on the property tax to fund local/county services and schools (“ratables chase”) contributes to some of the present disconnects in the land use and transportation decision-making process.

23. The State Highway Access Management Act (Access Management Act) has been underutilized as a tool to promote intergovernmental cooperation and coordination with regard to transportation planning. In addition, there are problems related to implementation of the Access Management Act. For instance, the access permit process does not deal with cumulative traffic impacts from development.

24. The capacity of MPOs, counties, and municipalities to undertake effective, coordinated transportation planning varies widely from jurisdiction to jurisdiction. Consequently, additional funding and technical resources may be needed to support improved local and county transportation planning.

⁶ Project methodologies, meeting summaries, and excerpts from the LUIE Project’s draft final report are available online in HTML format (<http://www.state.nj.us/osp/doc/luie/luiehome.htm>). Hard copies of the entire report are available from the NJ Office of State Planning by calling (609)-292-7156.

SPECIFIC FINDINGS RELATED TO EACH LEVEL OF GOVERNMENT:

Municipalities

25. Transportation planning is not a well-developed practice as part of the municipal planning process. The MLUL does not require municipal master plans to include a circulation element and provides little guidance as to what a circulation element should contain. In practice, circulation planning is most often limited to an inventory and functional classification of existing and proposed roadways. In addition, very few master plans and zoning codes have been adequately tested for their impact on transportation infrastructure.
26. The current development review process does not effectively address regional transportation impacts; and there is little or no coordination between levels of government related to the review of development applications. When review is undertaken by the county and/or state, it is sometimes out of sequence with the municipal approval process and the flow of information regarding issues of concern is not shared from one level of government to the others:
 - a) Transportation impacts often accrue to county and state transportation facilities which are not directly addressed by the local development review process;
 - b) County planning board jurisdiction to review development applications is limited to those developments that abut a county roadway; and
 - c) NJDOT review of development applications is limited to those developments requiring a state highway access permit.
27. The MLUL requirement for local zoning consistency with the State Highway Access Code has never been enforced.
28. Recent advancements in computer mapping and analysis technologies have made the process of assessing zoning build-out significantly easier and less costly; however, very few master plans and zoning codes have been adequately tested for their impact on transportation infrastructure. Such analyses could provide improved transportation outcomes and ensure the proper functioning of the development approval process. The assessment of transportation impacts is limited to the development approval process which:
 - a) focuses attention on transportation impacts late in the process;
 - b) places the burden of impact review and mitigation of public land use policy decisions (master plan and zoning) on land owners and the development community; and
 - c) ignores the big-picture cumulative impacts of multiple site development decisions over time.

Counties

29. State laws related to county land use and transportation planning are very weak. For instance, counties are authorized, but not required, to establish planning boards. If a county establishes a county planning board, the board is then also required to prepare and adopt a county master plan. State law does not require that the county master plan be consistent with the master plans of its constituent municipalities or the plans of adjoining counties. There is no statutory requirement for reexamination of county master plans once adopted.
30. Counties are not required to adopt a county highway plan as part of the county master plan, and county authority to review and approve development proposals is limited to those development

sites that abut a county road or affect county drainage facilities. Therefore, developments that may have regional transportation impacts, but that do not abut a county road, are not within the county planning board's jurisdiction.

31. The County Planning Act limits the role of counties in the transportation planning process and limits opportunities for counties to facilitate the intergovernmental cooperation needed to balance competing local, regional, and state interests.
32. Municipalities are required under the MLUL to notify the county of all master plan and land development ordinance revisions before local adoption; and master plan/ordinance changes must be filed with the county before taking effect. Few counties use this process to coordinate planning and ensure the regional perspective is adequately addressed.
33. The Access Management Act authorized counties to adopt access management codes to regulate access to and the capacity of county roadways. Access management can be an effective tool for managing regional traffic. This provision of the Access Management Act has been underutilized.

Metropolitan Planning Organizations:

34. All of the State's land area is incorporated into the jurisdiction of one of three Metropolitan Planning Organizations (MPOs) – the North Jersey Transportation Planning Authority (NJTPA), the Delaware Valley Regional Planning Commission (DVRPC), or the South Jersey Transportation Planning Organization (SJTPO). MPOs can be proactive leaders in the transportation planning process; however, the level of experience and the approach taken by each of the MPOs staffs and governing boards varies between MPO regions:
 - a) DVRPC presently carries out an annual work program of activities that support county and municipal transportation planning. These activities include: a collaborative corridor planning process that is fully integrated with the Regional Transportation Plan (RTP) and the Transportation Improvement Program processes, technical services to counties and municipalities, and planning grants to support county participation in the transportation planning process.
 - b) NJTPA provides planning grants to counties to support regional transportation planning and has initiated a collaborative corridor planning process that is implementing the RTP to support investment decision-making.
 - c) SJTPO provides funding to its four counties to support their participation in SJTPO planning activities, as well as other transportation planning activities in their jurisdictions. The Sub-regional Transportation Planning Program (STP), for example, funds county participation in Job Access/Reverse Commute programs, State Plan cross-acceptance activities, and the Department of Community Affairs' Smart Growth Planning Assistance Grant program.
35. Although MPOs are charged with corridor planning, they are not empowered to implement the plans developed as part of the process. There is no mechanism to ensure local planning and investment decisions, which utilize local funding sources, are consistent with corridor plan recommendations.

NJDOT/NJ TRANSIT:

36. Road-related investment decisions at the state level at times are reactive, seek to address immediate problems, and sometimes have not been pursued in partnership with local interests.

37. The organizational structure within NJDOT and NJ TRANSIT has historically been along programmatic lines. This organizational approach limits knowledge of local conditions and actions that ultimately affect present and future transportation facility performance.

[Past reorganization proposals for NJDOT – most notably a 1997 effort to organize planning activities around Strategic Mobility Areas – have attempted to address this issue; however, recognizable change is not readily apparent. A new initiative at NJ TRANSIT, called the “Transit-friendly Communities for New Jersey” program, holds promise for increasing planning collaboration between the transit agency and municipalities.]

38. NJDOT and the MPOs are both required by federal law to develop long-range transportation plans. Corridor planning can be an effective tool to further the long-range planning and investment decision-making process. To ensure the intended benefits of corridor planning efforts (e.g., ensuring mobility and informing the transportation investment process), the roles and responsibilities in this regard need to be defined better.

FINDINGS RELATED TO CORRIDOR PLANNING:

39. Federal law (ISTEA/TEA-21) requires each MPO, in cooperation with the state DOT, to develop a Regional Transportation Plan (RTP) to guide the establishment of investment priorities. Corridor planning can be an effective tool to help inform the development of the RTP.
40. There are several positive examples, statewide, that demonstrate the benefits of a corridor planning approach. Most notably, the Burlington County – Route 130 Corridor planning process highlights the significant level of intergovernmental cooperation that can result from a county-led initiative to enhance mobility and promote coordinated economic development and land use planning in a strategic travel corridor (see Box, this page).

The Burlington County – Route 130 Corridor Plan

The Burlington County Route 130 Corridor Strategic Plan represents a significant effort to integrate transportation and redevelopment planning. The Route 130 corridor along the Delaware River in Burlington County consists of twelve municipalities that have steadily declined economically over the past few decades. The County Office of Land Use Planning recently initiated an effort to revitalize the corridor. The goal of the process and the plan that followed was to facilitate dialogue, negotiation, consensus, and cooperation among the municipalities and other stakeholders on planning and redevelopment issues. As a result of this process, the stakeholders agreed that municipalities should notify their neighbors about adjacent development and that local officials should be encouraged to conduct transportation investment planning and decision-making in conjunction with, instead of separate from, redevelopment planning.

Although the impetus for the Burlington County effort was economic development, transportation and traffic congestion were critical elements of the plan. Transportation was identified as a key component for defining quality of life. The region's diverse transportation infrastructure (Route 130, other highways, transit systems, and waterways) was highlighted as a significant asset that could be leveraged during the redevelopment process. And improving mobility was emphasized as a primary goal of the plan, including linking redevelopment with the South Jersey Light Rail Line between Camden and Trenton.

The Route 130 effort was a collaborative process. The County, along with the Delaware Valley Regional Planning Commission and the New Jersey Department of Transportation, provided staff expertise and funding, conducted studies and economic trend analyses, educated local officials and business leaders, facilitated the trust-building process, and provided support to enable the stakeholders to see the project through. Several public and private redevelopment opportunities along Route 130 were identified by the staff analyses and are currently being implemented. The County continues to facilitate the plan by monitoring the progress of implementation.

The Route 130 plan is a significant example of collaborative intergovernmental corridor planning in New Jersey. The lessons learned and the partnerships developed during this planning process can serve as models for other areas of the state and for transportation planning throughout the state, as well.

41. The role of NJDOT and the MPOs with regard to corridor planning activities related to the development of long-range transportation plans need to be defined better.
42. The existing process of MPO corridor planning provides the foundation for enhanced corridor planning activities statewide. This enhanced corridor planning process, hereinafter referred to as *Corridor Mobility Planning*, could significantly improve intergovernmental communication, cooperation, and coordination with regard to transportation planning and investment decision-making. It can also provide the opportunity to forge regional mobility solutions, and promote a broader understanding of regional transportation considerations.
43. Corridor planning initiatives vary between the three MPO regions. For *Corridor Mobility Planning* to be effective, there is a need to provide a common basis between *Corridor Mobility Planning* efforts statewide (e.g., approach, methodologies, analyses, and plan content). At the same time, there is a need to permit flexibility so as to reflect local and regional conditions and needs.
44. *Corridor Mobility Planning* could be used to identify appropriate locations for TDDs, TIDs, and/or broader *Transportation Enhancement Districts (TEDs)*, if authorized by statute (see Preliminary Recommendations: Legislative Changes Related to the TDD Act).
45. *Corridor Mobility Planning* can be used to foster intergovernmental coordination and private sector cooperation regarding transportation planning and investment decisions.
46. The capacity of MPOs, counties, and municipalities to carry out activities related to *Corridor Mobility Planning* varies greatly from jurisdiction to jurisdiction.
47. Currently, there are few incentives – other than the prospect of receiving federal funding for needed capital projects – for municipalities, counties, and the private sector to participate fully in the *Corridor Mobility Planning* process.
48. Additional funding and technical resources may be needed to support improved transportation planning efforts.

PRELIMINARY RECOMMENDATIONS

The Commission's recommendations fall broadly into two categories. The first category relates to legislative changes to the Transportation Development District Act of 1989 (NJSA 27-1C-1, et seq.). These changes are intended to increase the effectiveness of the TDD financing mechanism and to provide the flexibility necessary to accommodate the implementation of TDDs in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas (see gray shaded column in Table on page 38). The second category of recommendations relate to legislative, administrative, regulatory, and policy changes that should be considered to improve the transportation decision-making process, in general, and thereby facilitate more widespread implementation of TDDs throughout the state.

LEGISLATIVE CHANGES RELATED TO THE TDD ACT:

1. Eliminate barriers to TDD implementation.

- a) Amend the Act to eliminate growth thresholds.
- b) Amend the Act to permit the use of TDD funds to pay for previously incurred TDD planning costs as well as prospective administrative costs associated with implementing a TDD over time. The joint planning process should determine what retroactive and prospective cost recovery is appropriate and permissible.
- c) Amend the Act to permit the use of TDD funds to pay for transit operating expenses.
- d) Amend the Act to permit fee assessments when and if a developer receives an extension of local site development approvals.
- e) Amend the Act to require – not merely authorize – the NJDOT to promulgate rules/regulations to facilitate planning and implementation of TDDs.

2. Clarify existing TDD Act language.

- a) In the context of the joint planning process, the use of the word “State” should be broadened to include all “relevant state agencies.” This will help to ensure the inclusion of agencies such as, NJ TRANSIT, the Office of State Planning (OSP), the Commerce and Economic Growth Commission, and/or any other state agencies deemed relevant by participants in the joint planning process.
- b) Quasi-public authorities and MPOs should be expressly named as potential participants in the joint planning process.
- c) Amend the criteria for TDD designation to require consistency between the TDD plan and the MPO Regional Transportation Plan (RTP).
- d) While assessment of fees on changes in use or occupancy that occur within a TDD is not explicitly defined by the Act, the ability to assess a fee based on changes in trip-making that increase the number of peak hour trips impacting a particular transportation facility or service is implied. Language explicitly addressing this scenario should be added to clarify this authority.
- e) The Act language is ambiguous as to what sources of county and municipal funding can be used to support TDD Trust Fund obligations under the TDD financial plan. The Act language should permit the use of innovative and flexible financing techniques.

- f) The Act language regarding projections of future transportation needs should be amended to reflect “a reasonable assessment of likely growth,” as defined and agreed as part of the joint planning process. Any difference between zoning “build out” capacity and TDD plan projections should be addressed in the TDD plan.
- g) Add language to the Act that would permit the joint planning process to define appropriate level of service requirements for state, county, and local road facilities within the district.

3. Broaden the scope of the present TDD “construct.”

Amend the TDD Act to provide more flexibility to accommodate the use of the TDD concept in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas. Flexible options should include the existing TDD financing mechanism as well as the option of establishing a *Transportation Enhancement District (TED)* that would permit both an assessment of fees on new development as well as an assessment of fees on existing development/businesses within the district that will be specially benefited by enhanced mobility within the district.

This enhanced TDD construct would enable the flexibility to accommodate assessments on new development, existing development/businesses, or both, as determined by the participants in the joint planning process.

Legal foundation:

A TED as described above is not presently authorized under New Jersey law. Thus, amendments to the TDD Act should provide such authority. TED authority could be modeled after enabling statutes that permit special benefit assessments used in the numerous Special Improvement Districts (SIDs) that have been formed in the state over the past several years. The test of validity for special benefit assessments requires that:

The special assessment is to provide a combination of services and improvements that are intended and designed to benefit particular properties and demonstrably enhance the value and/or use or function of the properties that are subject to the special assessment. 2nd Roc-Jersey Assocs. v. Town of Morristown, 158 N.J. 581 (1999).

Governance and Operation of TED

A District Management Corporation (DMC) could be statutorily authorized to oversee the management and implementation of a TED plan. This would function similarly to the Downtown Management Corporations formed to administer SIDs. The establishment of a DMC could be the logical expansion of the joint planning process required by the existing TDD Act. The DMC membership could be generally defined by statute and specifically designated by the joint planning process; however, the DMC should have strong representation from the private sector. The DMC could be statutorily provided with specific powers and responsibilities, including, but not limited to, the power to assess special benefit fees, develop annual budgets for capital and operating expenses, and undertake improvements designed to enhance mobility in the district. DMC budgets should be subject to review and approval by the governing body that sponsors the formation of the TED (e.g., County Board of Chosen Freeholders).

Credits:

A mechanism should be established to provide credit for past contributions toward off-tract road improvements. Credits should apply to special benefit assessments for capital improvements

necessitated by existing deficiencies. Credits could be pro-rated for depreciation based on agreed upon the expected life-cycle of different improvements.

Who can be assessed:

COST CATEGORIES	TRADITIONAL TRANSPORTATION DEVELOPMENT DISTRICT (TDD)				TRANSPORTATION ENHANCEMENT DISTRICT (TED)			
	EXISTING RESID-ENCES	EXISTING DEVT / BUSINESS	NEW DEVT	PUBLIC SECTOR	EXISTING RESID-ENCES	EXISTING DEVT / BUSINESS	NEW DEVT	PUBLIC SECTOR
Existing capital needs from traffic passing through district	N	N	N	Y	N	N	N	Y
Existing capital needs from traffic with origin &/or destination within the district	N	N	N	Y	Y	Y	N	Y
Capital and operating costs for new or enhanced transportation services provided within the district	N	N	N	Y	Y	Y	Y	Y
Future capital costs for improvements required by growth in through traffic	N	N	N	Y	N	N	N	Y
Future capital costs for improvements required by new development	N	N	Y	N	N	N	Y	N
Past and prospective administrative costs incurred for implementing and maintaining a TDD or TED	N	N	N	Y	Y	Y	Y	Y

Note: A detailed comparative analysis of two TDD/TED financing scenarios appears in Appendix 3.

LEGISLATIVE, ADMINISTRATIVE, REGULATORY, AND POLICY CHANGES TO IMPROVE THE TRANSPORTATION DECISION-MAKING PROCESS AND ENHANCE TDD IMPLEMENTATION:

4. Foster proactive, intergovernmental coordination and cooperation in the transportation decision-making process.

- a) Facilitate meaningful collaborative *Corridor Mobility Planning* throughout the state by encouraging MPO/NJDOT/NJ TRANSIT/county/municipal/private sector partnerships that

replicate the cooperative planning approach undertaken as part of the Burlington County – Route 130 Corridor planning process and as part of the TDD/TID planning processes undertaken to date. Toward that end, responsible state and regional agencies should:

- i) Continue and expand existing MPO planning support programs that provide financial resources to counties to undertake transportation planning (e.g., DVRPC’s Supportive Regional Highway Planning Program – SRHPP). These programs should be accompanied by work programs that direct resources specifically to support *Corridor Mobility Planning*.
 - ii) Promote the use of the NJ Department of Community Affairs’ (DCA) Smart Growth Planning Assistance Grant Program to emphasize the development of corridor plans. For instance, DCA recently awarded five county-based grants designed to promote the development of regional strategic plans in Atlantic, Middlesex, Monmouth, Salem, and Sussex counties. This targeted approach could be used to direct Smart Growth Grants to support *Corridor Mobility Planning*.
 - iii) Encourage the use of cooperative, inter-jurisdictional planning agreements or memoranda of understanding (MOU) with corridor planning participants to foster participation in the process and ensure implementation of corridor mobility plan recommendations. Somerset County has coordinated an inter-municipal MOU between the county planning board and eleven municipalities to coordinate the planning and review of developments of inter-municipal impact. This MOU could serve as a model for cooperative corridor mobility planning agreements.
- b) Establish a mechanism to ensure that the development approval process includes coordinated review of development applications by municipal, county, and state agencies consistent with corridor mobility plans and ensure that there are open lines of communication between each level of government throughout the development application review process. This could be accomplished by:
 - i) expediting the permit review process by strongly encouraging cross-jurisdictional pre-application review meetings coordinated by counties; and/or
 - ii) execution of inter-jurisdictional memoranda of understanding as previously described.
 - c) Encourage counties and municipalities to work with NJDOT to undertake access management planning activities.
 - d) Encourage the permanent institutionalization of programs such as NJ TRANSIT’s “Transit-friendly Communities” initiative and NJDOT’s “Transit Villages” program.
5. **Provide significant incentives to foster broad-based participation in the transportation planning process at all levels.**
- a) Develop a program of planning incentive grants from existing sources such as the Transportation Trust Fund, Federal transportation planning funds administered by NJDOT and the MPOs, and discretionary funding available through the state budget. Examples of existing programs that should be continued or expanded include: MPO county support programs, DCA’s Smart Growth Planning Assistance Grants, and NJDOT’s local aid to counties and municipalities. A portion of Transportation Trust Fund monies could be set-aside specifically for enhanced transportation planning at the local level.

- b) Augment existing sources of funding to support transportation planning by authorizing the establishment of voluntary local transportation trust funds, similar to open space trust funds, to support transportation planning and local improvement projects.
- c) Develop a program of incentives, including both financial and technical assistance, to counties and municipalities to encourage participation in the *Corridor Mobility Planning* process and implementation of corridor mobility plan recommendations.
- d) Expand the existing Transportation Trust Fund local aid grant/loan program for capital improvement projects by making additional grant funding available only to those local and county governments that undertake and fully participate in enhanced transportation planning activities (e.g. the development of transportation plan elements and/or participation in the *Corridor Mobility Planning* process).

6. Strengthen the role of counties in the transportation planning process.

- a) Use financial incentives (as previously described) and existing technical resources to improve the practice of transportation planning at the county level. Examples of existing technical resources include: model circulation elements and guidebooks on transportation planning, available from a variety of sources such as NJDOT, MPOs, Transportation Management Associations (TMAs), and some counties.
 - i) Encourage MPO/county partnerships to develop and adopt comprehensive county-wide transportation plans as part of the work program requirements for on-going transportation financial support programs such as DVPRC's Supportive Regional Highway Planning Program, SJTPO's Sub-regional Transportation Planning program, and NJTPA's equivalent program; and
 - ii) Encourage counties to facilitate the development of comprehensive municipal transportation elements and ensure inter-jurisdictional consistency between transportation plans at all levels.
- b) Require counties to update county master plans every six years consistent with current MLUL requirements for municipal master plan updates.
- c) Use existing statutory authority provided by the Access Management Act to promote the development of county access codes as a tool for broadening the county's role in transportation planning and decision-making.
- d) Encourage counties to execute agreements designed to coordinate multi-jurisdictional planning and review of projects with inter-municipal impact.
- e) Provide explicit statutory authority enabling counties to establish a range of transportation planning and public/private financing mechanisms, including TDDs, TIDs, as well as broader districts that may provide for a combination of impact fees on future development and special assessments on existing development (see Recommendation 3).

7. Strengthen the role of municipalities in the transportation planning process.

- a) Use financial incentives (as previously described) and existing technical resources to improve the practice of transportation planning at the municipal level. Examples of existing technical resources include: model circulation elements and guidebooks on transportation planning, available from a variety of sources such as NJDOT, MPOs, TMAs, and some counties.

- b) Encourage municipalities to participate in the corridor planning process and enter into corridor planning partnership agreements.
- c) Encourage MPO/county/municipal partnerships to develop and adopt comprehensive municipal transportation plans. MPOs and counties can provide valuable technical assistance needed to conduct transportation analyses such as zoning build-out analysis and origin and destination studies.
- d) Encourage inter-municipal coordination and cooperation to ensure that municipal transportation elements are consistent with those of other governmental entities.
- e) Encourage municipalities to enter into inter-jurisdictional agreements to foster coordinated review of developments of inter-municipal impact.

8. Institutionalize *Corridor Mobility Planning* as the first step in the transportation improvement planning process.

- a) Adopt a consistent yet flexible framework for undertaking *Corridor Mobility Planning* on a statewide basis. The *Corridor Mobility Planning* framework should reflect the following:

Purpose/Approach:

Corridor Mobility Planning is a planning assessment that investigates travel corridors as a geographic framework for developing clear priorities for addressing multiple community needs including: mobility; inter-modal integration; the operational efficiency and physical integrity of the transportation system; economic development and redevelopment; and other quality of life issues. *Corridor Mobility Planning* should consider the goals of the State Development and Redevelopment Plan and should provide the foundation for the MPO and Statewide long-range transportation plans. The planning horizon of corridor plans should be a minimum of 20 years; however, corridor mobility plan recommendations should address interim solutions as well as long term strategies. Corridor mobility plans should help guide capital investment decision-making at all levels of government.

Corridor Mobility Planning Area Boundaries:

Fifty-two (52) corridors have been identified statewide as part of the existing corridor planning activities at the MPO level. These corridor planning areas coincide with the Congestion Management System boundaries for which the MPOs currently collect and organize congestion data as required by federal law.

Process:

The process should be segmented into three phases:

Phase I: Corridor Characterization – This phase should include: data collection and compilation, mapping and analysis to establish baseline conditions within the corridor and the foundation for future scenario testing in Phase II.

Phase II: Corridor Visioning and Dialogue – This phase should involve representatives from each affected county and municipality, the private sector, citizen groups, and other stakeholders in a structured dialogue regarding existing conditions and various alternative land use and transportation futures. During this phase, corridor mobility planning stakeholders are provided with data, maps, and information on the corridor and the MPOs receive input from stakeholders regarding the overall vision for the corridor. Various future land use and transportation scenarios are considered, analyzed, and debated. Finally,

mobility and accessibility issues are identified. Phase II is intended to answer the following questions:

- What purposes does the corridor serve both now and in the future?
- How and where is the transportation system serving and not serving its purpose now?
- What will the future transportation needs of the corridor be? and
- What mobility/accessibility strategies could improve the functioning of the corridor both now and in the future?

Phase III: Corridor Mobility Plan Development – This phase involves the refinement of the corridor vision, more detailed analyses of land use and transportation data (as needed), and the development of a prioritized list of actions and strategies needed to address the identified mobility/accessibility issues. The corridor plan is not intended to recommend specific transportation improvements projects, but may include those that are already in the project development pipeline. Examples of actions or strategies that might be recommended as part of a corridor plan include:

- Capital or operational projects already in various stages of project development (e.g., concept development, scoping, design, construction etc.);
- Demand management strategies such as regional opportunities for facilitating mode choice shift, reducing single occupant vehicle (SOV) trips, reducing vehicle miles traveled (VMT), and improving individual mobility;
- System preservation strategies such as priority investment needs identified based on the outputs from the various management system databases;
- Strategies that enhance operational efficiency such as the deployment of “smart technology,” access management, signal coordination, and other transportation systems management (TSM) measures;
- Further study of projects needed to expand system capacity and provide new system linkages (highway, transit, freight); and
- Community design strategies such as scenic corridor preservation, center-based development, non-motorized travel facilities, and improved multimodal linkages.

Staggered Implementation:

Implementation of the proposed *Corridor Mobility Planning* framework is likely to be time consuming and resource intensive. As such, the MPOs, in partnership with NJDOT, NJ TRANSIT, counties, and municipalities should develop a staging plan whereby corridor mobility planning in each of the 52 corridors could be prioritized and staged over a period of time (e.g., 3-5 years) in a manner consistent with the MPO Regional Transportation Planning (RTP) process.

Roles & Responsibilities:

MPOs should initiate and lead the process in partnership with NJDOT, NJ TRANSIT, affected counties, and affected municipalities; however, the parties can mutually agree on alternative functional responsibilities as needed to support the process. For instance, all parties may agree that DOT or the County should lead the process in a particular corridor. MPOs, NJDOT, NJ TRANSIT, and counties should cooperatively share funding and technical resources to assist in the implementation of the *Corridor Mobility Planning* process.

MPOs and counties should coordinate involvement of non-traditional partners such as:

- business community representatives including labor, commerce, and goods movement;
- land owners, developers, and investors;
- environmentalists;
- other relevant state agencies (e.g., Office of State Planning (OSP), the Commerce & Economic Growth Commission (C&EGC, formerly the Department of Commerce and Economic Development), Department of Labor (DOL), and the Council on Affordable Housing (COAH), etc.); and
- regional entities such as land use nonprofits, authorities, and commissions such as the Hackensack Meadowlands Development Commission, and the Pinelands Commission, as well as citizen action groups.

The *Corridor Mobility Planning* lead agency should initiate a program of education and outreach designed to underscore the importance of the *Corridor Mobility Planning* process, so as to foster the involvement of municipal and non-traditional participants.

Counties should help to coordinate municipal involvement, assist in the identification of issues, and help resolve conflicts between plans and policies at various levels of government.

Municipalities should assist in the calculation of built-out data and assessment of transportation impact from master plans and zoning as part of alternatives analysis.

Issues to be addressed:

The *Corridor Mobility Planning* process is intended to be iterative. The following issues should be addressed as the process evolves:

- The overall vision for the corridor, including demand management, system preservation, operational efficiency, system capacity, and community design as well as reconciliation of local land use visions with regional transportation needs;
- Baseline conditions including: primary and secondary travel movements, county and municipal comprehensive plans, and land development ordinances;
- The relationship between transportation facilities and services and economic development and redevelopment issues;
- Performance expectations for present and future transportation service quality anchored in a realistic assessment of what is achievable, affordable, and acceptable to all parties;
- Anticipated growth within the corridor and surrounding region under alternative future scenarios, including how much growth is anticipated within the 20 year planning horizon;
- Potential strategies to improve the functioning of the corridor, including all modes of personal transport and goods movement; and
- Actions needed at the state, county, and local level to advance the agreed upon strategies and to achieve the vision and performance expectations.

Corridor Assessments:

The following planning assessment should be conducted as part of the *Corridor Mobility Planning* process:

- Transportation inventory – an inventory of transportation facilities and services, including all modes of personal transport and goods movement;
- Baseline conditions analysis;
- Trends analysis – an assessment of current and future trends which will likely define the travel markets for people and goods;
- Alternative futures analysis – investigation of plan-based future land use/ transportation scenarios, either reflected in existing or incorporated into, revised state, regional, county, and municipal land use plans. This should include a future zoning build-out analysis as well as analysis of growth forecast within a 20 year planning horizon;
- Transportation needs assessment – identification of mobility and infrastructure problems/needs based on the trend future, the planned future, or both; and
- Strategies analysis – analysis of all potential mobility/accessibility strategies (all modes as well as goods movement) that could be implemented to address the present and future needs of the corridor.

Contents of the Corridor Mobility Plan:

The following sections should be included in a corridor mobility plan:

- Vision, Goals, and Objectives.
- Description of existing corridor conditions.
- Trends affecting corridor.
- Transportation assets and opportunities.
- Transportation liabilities and constraints.
- Present and future needs under alternative future land use and transportation scenarios.
- Comprehensive mobility/accessibility strategy that establishes a mix of investments, services, and actions needed to achieve selected future and deliver targeted performance expectations. Elements of a comprehensive strategy may include, but should not be limited to the following: demand management strategies; system preservation strategies; system capacity enhancements; and local land use, zoning, and community character recommendations.
- Implementation responsibilities and schedule.

Intended Outcomes:

The *Corridor Mobility Planning* process should result in the following outcomes:

- A framework for prioritizing future transportation investments at the regional level within the corridor;
- Agreed vision for the future of the corridor (what should the corridor look like; what types of uses should be encouraged; what modes of travel should be accommodated, etc.);
- Consistency between land use and transportation plans at all levels of government and between adjoining jurisdictions;

- Program of actions needed to implement shared vision, including short and long term strategies and specific projects already in the project development pipeline; and
- Identification of opportunities for public/private partnerships to finance needed improvements (e.g., recommendations for locating TIDs, TDDs, and/or TEDs, if authorized by law).

b) Use a statewide strategic policy structure to guide *Corridor Mobility Planning* throughout the state. The steps in the process should include the following:

CAPITAL PROGRAMMING

1. <i>Corridor Mobility Planning</i> & preliminary concept development	MPO lead, in partnership with NJDOT, NJ TRANSIT, counties, municipalities, private sector, interest groups & citizen groups.
2. Feasibility & alternatives analysis	NJDOT, NJ TRANSIT, MPOs, counties & municipalities in partnership with all other levels of government.
3. Final scope development/ service planning	NJDOT, NJ TRANSIT, counties & municipalities in partnership with all other levels of government.
4. Project construction/ service implementation	NJDOT, NJ TRANSIT, counties & municipalities in partnership with all other levels of government.
5. Operations & maintenance	NJDOT, NJ TRANSIT, counties & municipalities in partnership with all other levels of government.

c) Use the *Corridor Mobility Planning* process to provide the basis for project prioritization and funding within each corridor.

d) Use the *Corridor Mobility Planning* process to identify the appropriate locations for TDDs, TIDs, and TEDs, if authorized by statute. The studies and analyses undertaken as part of corridor mobility planning should be used to lessen the planning required to implement a TDD or TID when located within the corridor mobility planning area.

9. Authorize *Corridor Mobility Planning* participants to enter into voluntary *Corridor Planning and Management Partnership Agreements or Memoranda of Understanding*. Said agreements could function as follows:

- a) Corridor mobility planning participants should enter into voluntary *Corridor Planning & Management Partnership Agreements or Memoranda of Understanding (CPMP Agreements)*.
- b) CPMP Agreements could provide an opportunity to conduct regional transportation planning, under the framework of an inter-jurisdictional agreement, without the creation of an additional review authority or statutorily changing the underlying roles of municipal, county, and state government.
- c) CPMP Agreements could be executed in each corridor to name a lead agency and set forth the roles and responsibilities of various levels of government in the corridor mobility planning process. Roles and responsibilities should be generally consistent across corridor boundaries and

in different regions of the state; however, the agreement language should be flexible enough to accommodate local needs. A model agreement should be developed as a starting point.

- d) CPMP Agreements could establish the membership of *Corridor Partnership Committees* (CPCs) to help guide the corridor mobility planning process in a collaborative and inclusive manner.
 - i) CPCs should function as advisory committees with appointed membership and a cross-section of public, private, and nonprofit/citizen representation. They should not have regulatory or capital programming powers.
 - ii) Under the direction of the MPOs or other lead corridor mobility planning agency, CPCs could provide input into the development of a consensus-based corridor plan and, with the assistance of counties, secure local implementation of agreed upon mobility/accessibility strategies, as needed.
 - iii) CPCs are NOT intended to be an additional layer of bureaucracy or review authority. Land use planning and decision-making authority should remain at the municipal and county level but should be substantially consistent with a corridor plan vision, strategies, and implementation agenda. Capital programming decisions should also conform with corridor plans.

IMPLEMENTATION MATRIX

As previously noted, the Commission’s recommendations fall broadly into two categories. The first category relates to legislative changes to the TDD Act that are intended to increase the effectiveness of the TDD financing mechanism and to provide the flexibility necessary to accommodate the implementation of TDDs in a wider variety of land use settings – growth corridors, existing developed areas, and redevelopment areas (see gray shaded column in Table below). The second category relates to legislative, administrative, regulatory, and policy changes that should be considered to improve significantly the transportation decision-making process, in general, and thereby facilitate more widespread implementation of TDDs throughout the state. The following table provides an overview of the recommendations and the parties responsible for action:

Recommendation	Legislative Actions		Administrative, Regulatory, and Policy Changes				
	Changes related to TDD Act	Changes related to other statutes	DOT	MPOs	Counties	Municipalities	Other
1. Eliminate barriers to TDD implementation.	Y		Y				
2. Clarify existing TDD Act language.	Y						
3. Broaden the scope of the present TDD "construct."	Y						
4. Foster proactive, intergovernmental coordination and cooperation in the transportation decision-making process.			Y	Y	Y	Y	Y
5. Provide significant incentives to foster broad-based participation in the transportation planning process at all levels, including participation in the <i>Corridor Mobility Planning</i> process.			Y	Y			
6. Strengthen the role of counties in the transportation planning process. ⁷		Y	Y	Y	Y		
7. Strengthen the role of municipalities in the transportation planning process.			Y	Y	Y	Y	
8. Institutionalize <i>Corridor Mobility Planning</i> as the first step in the transportation improvement planning process.			Y	Y	Y	Y	
9. Authorize <i>Corridor Mobility Planning</i> participants to enter into partnership agreements or memoranda of understanding. ⁸		Y	Y				

⁷ The NJ County Planners Association and NJ Chapter of the American Planning Association are presently engaged in discussions related to updating the County Planning Act. It is anticipated that these discussions will result in a legislative proposal to amend the County Planning Act to strengthen the role of counties in the land use and infrastructure planning process.

⁸ Specific statutory authority to execute *Corridor Planning and Management Partnership* agreements could foster the use of inter-local agreements to support the implementation of corridor mobility plans.

APPENDICES

APPENDIX 1 – Transportation Development District Act of 1989

APPENDIX 2 – RITCSC By-Laws

APPENDIX 3 – TDD/TED Financial Analysis

APPENDIX 1

Transportation Development District Act of 1989

27:1C-1. Short title

This act shall be known and may be cited as the “New Jersey Transportation Development District Act of 1989.”

L.1989, c.100, s.1.

27:1C-2. Findings, declarations

The Legislature finds and declares that:

- a. In recent years, New Jersey has experienced explosive growth in certain regions, often along State highway routes and in urban areas experiencing rapid redevelopment. These “growth corridors” and “growth districts” are vital to the State’s future but also present special problems and needs since they do not necessarily reflect municipal and county boundaries.
- b. Growth corridors and districts are heavily dependent on the State’s transportation system for their current and future development. At the same time, they place enormous burdens on existing transportation infrastructure contiguous to new development and elsewhere, creating demands for expensive improvements, reducing the ability of State highways to provide for through movement of traffic and creating constraints on future development.
- c. Existing financial resources and existing mechanisms for securing financial commitments for transportation improvements are inadequate to meet transportation improvement needs which are the result of rapid development in growth areas, and therefore it is appropriate for the State to make special provisions for the financing of needed transportation improvements in these areas, including the creation of special financing districts and the assessment of special fees on those developments which are responsible for the added burdens on the transportation system. Creation of these special financing districts provides a mechanism in which the State, counties and municipalities will have the means to work together to respond to transportation needs on a regional basis as determined by growth conditions rather than upon the pre-existing municipal and county boundaries. The district becomes the framework for a public-private partnership in meeting the transportation needs of New Jersey. Counties are to be the lead agencies in creating these multi-jurisdictional districts, recognizing that in some instances, given growth patterns of a region, that areas from more than one county may be included within a district. Should a county fail to participate in the creation of a needed district, the State or municipality can initiate the creation of a district.
- d. Any of these assessments of special fees should be assessed under a statutory plan which recognizes that: (1) the fees supplement, but do not replace, the public investment needed in the transportation system, (2) the costs of remedying existing problems cannot be charged to a new development, (3) the fee charged to any particular development must be reasonably related, within the context of a practicable scheme for assessing fees within a district, to the added burden attributable to that development, and (4) the maximum amount of fees charged to any development by the State or county or municipality for off-site transportation improvements pursuant to this act or any other law shall not exceed the property owner’s fair share of such improvement costs. In determining the reasonableness of a fee assessed in accordance with the provisions of this act, it must be recognized that government must have the flexibility necessary to deal realistically with questions not susceptible of exact measurement. It is furthermore

necessary to recognize that precise mathematical exactitude in the establishment of fees is neither feasible nor constitutionally vital.

e. The development of special financial mechanisms to meet the needs of growth corridors and districts should be accompanied by the development of strategies to improve regional, comprehensive planning in these areas, to encourage transportation-efficient land uses, to reduce automobile dependency, and to encourage alternatives to peak-hour automobile trips.

L.1989, c.100, s.2.

27:1C-3. Definitions

The following words or terms as used in this act shall have the following meaning unless a different meaning clearly appears from the context:

- a. "Commissioner" means the Commissioner of Transportation.
- b. "County" means a duly constituted county government or an appropriate governmental organization designated under paragraph (1) of subsection c. of section 4 of this act.
- c. "Department" means the Department of Transportation.
- d. "Development" means "development" in the meaning of section 3.1 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-4).
- e. "Development assessment liability date" means, with respect to any transportation development district created under this act, the date upon which the commissioner adopts an order designating the district and delineating its boundaries, which order shall be published in the New Jersey Register.
- f. "Development fee" means a fee assessed on a development pursuant to an ordinance or resolution, as appropriate, adopted under section 7 of this act.
- g. "Public highways" means public roads, streets, expressways, freeways, parkways, motorways and boulevards, including bridges, tunnels, overpasses, underpasses, interchanges, rest areas, express bus roadways, bus pullouts and turnarounds, park-ride facilities, traffic circles, grade separations, traffic control devices, the elimination or improvement of crossings of railroads and highways, whether at grade or not at grade, and any facilities, equipment, property, rights-of-way, easements and interests therein needed for the construction, improvement and maintenance of highways.
- h. "Public transportation project" means, in connection with public transportation service or regional ridesharing programs, passenger stations, shelters and terminals, automobile parking facilities, ramps, track connections, signal systems, power systems, information and communication systems, roadbeds, transit lanes or rights-of-way, equipment storage and servicing facilities, bridges, grade crossings, rail cars, locomotives, motorbus and other motor vehicles, maintenance and garage facilities, revenue handling equipment and any other equipment, facility or property useful for or related to the provision of public transportation service or regional ridesharing programs.
- i. "Transportation development district" or "district" means a district created under section 4 or section 13 of this act.

j. "Transportation project" means, in addition to public highways and public transportation projects, any equipment, facility or property useful or related to the provision of any ground, waterborne or air transportation for the movement of people and goods.

L.1989, c.100, s.3.

27:1C-4. Designation, delineation of transportation development district

a. The governing body of any county may, by ordinance or resolution, as appropriate, apply to the commissioner for the designation and delineation of a transportation development district within the boundaries of the county. The application shall include: (1) proposed boundaries for the district, (2) evidence of growth conditions prevailing in the proposed district which justify creation of a transportation development district in conformity with the purposes of this act and the standards established by the commissioner, (3) a description of transportation needs arising from rapid development within the district, (4) certification that there is in effect for the county a current county master plan adopted under R.S.40:27-2 and that creation of the district would be in conformity both with the county master plan and with the State Development and Redevelopment Plan adopted under the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), (5) certification that municipalities included, wholly or partly in the district, or which would be directly affected by the delineation or designation thereof, have been given at least 30 days' advance notice of the application and an opportunity to comment thereon, (6) comments offered by any of these municipalities, and the response thereto by the county, and (7) any additional information that the commissioner may require.

b. The commissioner shall, within 60 days of receipt of a completed application and upon review of the application as to sufficiency and conformity with the purposes of this act, (1) by order designate a district and delineate its boundaries in conformance with the application, or (2) disapprove the application and inform the governing body of the county in writing of the reasons for the disapproval, or (3) where the commissioner finds that the creation of a district is critically important and that the application of the county is sufficient in every respect except the appropriateness of the proposed boundaries for the district, by order designate a district and delineate its boundaries and inform the governing body of the county in writing of the reasons for the alteration of the proposed boundaries. Failure of the commissioner to act under this subsection within 60 days, unless the applicant agrees to an extension of time shall mean that the application is approved and the commissioner shall then on the next business day issue an order as required under this subsection. The governing body may, in the case of a disapproval of its application, resubmit an application incorporating whatever revisions it deems appropriate, taking into consideration the commissioner's reasons for disapproval.

c. (1) If the governing body of the county in response to a petition by a municipality under section 15 of this act adopts an ordinance or resolution, as appropriate, stating its intention not to proceed with an application or adopts an ordinance or resolution, as appropriate, stating its intention to proceed with an application but fails to submit such an application within 120 days of adopting that ordinance or resolution, as appropriate, the governing body of the municipality which submitted the original petition or the governing body of any municipality within the county which would be directly affected by the designation and delineation of a district may petition the commissioner for the designation and delineation of a district. The commissioner shall, within 60 days of receipt of a petition and upon review of the petition as to sufficiency and conformity with the purposes of this act, act as in subsection b. of this section, but in the instance where the commissioner acts under paragraph (1) or paragraph (3) of subsection b., the commissioner shall also designate an appropriate governmental organization which has sufficient power to administer the district, and which shall permit representation from all participating municipalities. In addition, where negotiations are underway pursuant to this subsection or subsection b. of this section between the department and the petitioning body the 60 day time frame may be suspended

by mutual agreement. The petitioning body may, in the case of a disapproval of its application, resubmit a petition directly to the commissioner incorporating whatever revisions it deems appropriate, taking into consideration the commissioner's reasons for disapproval.

(2) Failure by a county to adopt a resolution stating its intent to submit an application substantially consistent with the municipal petition within 90 days after receipt thereof shall entitle the petitioning municipality or any directly affected municipality to petition the commissioner for the designation and delineation of a district as set forth in paragraph (1) of this subsection.

d. The commissioner shall adopt as regulations under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) standards to assist in the determination of whether there is sufficient evidence of growth conditions prevailing in an area to justify creation of a transportation development district under this act. The criteria for assisting in the determination shall include: (1) an accelerating growth rate for estimated population or employment in excess of 10% in three of the past five years in at least three contiguous municipalities; or, (2) projected local traffic growth in excess of 50% in a five-year period generated from new development; or, (3) commercial/retail development projected at a rate of one million square feet per square mile in a five-year period; or, (4) projected growth in population or in employment in excess of 20% over a 10-year period. The regulations shall specify the application of the time periods under these four criteria. The commissioner may also include in the regulations additional criteria which recognize existing traffic congestion, or any other such criteria which, in the commissioner's judgment, may serve to effectuate the purposes of this act.

The Senate Transportation and Communications Committee, or its successor, and the Assembly Transportation and Communications Committee, or its successor, shall be notified by the commissioner of these standards at the time they are included in a notice of proposed rule-making under the provisions of the "Administrative Procedure Act." In addition, following the adoption of these standards by regulation, the commissioner shall notify the Senate Transportation and Communications Committee, or its successor, and the Assembly Transportation and Communications Committee, or its successor, of any proposed revisions to these standards at the time these revisions are proposed for adoption under the provisions of the "Administrative Procedure Act."

L.1989, c.100, s.4.

27:1C-5. Joint planning process

a. Following the commissioner's designation and delineation of a district under section 4 of this act, the governing body of the county shall initiate a joint planning process for the district, with opportunity for participation by the State, all affected counties and municipalities and private representatives. Each affected governmental unit shall be notified by the county at the commencement of the joint planning process. The joint planning process shall produce a draft district transportation improvement plan and a draft financial plan.

b. The draft district transportation improvement plan shall establish goals and priorities for all modes of transportation within the district, shall incorporate the relevant plans of all transportation agencies within the district and shall contain a program of transportation projects which addresses transportation needs arising from rapid growth conditions prevailing in the district and which therefore warrants financing in whole or in part from a trust fund to be established under section 7 of this act, and shall provide for the assessment of development fees based upon the applicable formula as established by the commissioner by regulation. The draft district transportation improvement plan shall be in accordance with the State transportation master plan adopted under section 5 of P.L.1966, c.301 (C.27:1A-5), the county master plan adopted under R.S.40:27-2, and shall be in conformity with the State Development and

Redevelopment Plan adopted under the “State Planning Act,” P.L.1985, c.398 (C.52:18A-196 et al.) and, to the extent appropriate, given the district-wide objectives of the plan, coordinated with local zoning ordinances and master plans adopted pursuant to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.).

c. The draft financial plan shall include an identification of projected available financial resources for financing district transportation projects outlined in the draft district transportation improvement plan, including recommendations for types and rates of development fees to be assessed under section 7 of this act, and projected annual revenue to be derived therefrom.

d. The governing body of the county shall make copies of the draft district transportation improvement plan and the draft financial plan available to the public for inspection and shall hold a public hearing on them.

L.1989,c.100,s.5.

27:1C-6. District transportation improvement plan; approval by commissioner

a. The governing body of any county which has completed all the requirements of section 5 of this act may, by ordinance or resolution, as appropriate, adopt a district transportation improvement plan. The district transportation improvement plan shall be derived from the draft district transportation improvement plan developed under section 5 of this act and shall contain a financial plan for transportation projects intended to be developed over time in whole or in part from a trust fund to be established under section 7 of this act. The district transportation improvement plan shall be consistent with any existing capital improvements program, and incorporated into any future capital improvements program required to be adopted under P.L., c. (C.) (now pending before the Legislature as Assembly Bill No. 2306 or Senate Bill No. 664 of 1988) and shall be consistent with any transportation improvement program which the county may be required to submit to the department.

b. No ordinance or resolution, or amendment or supplement thereto, adopted under this section shall take effect until approved by the commissioner. In evaluating the district transportation improvement plan, the commissioner shall take into consideration: (1) the appropriateness of the district boundaries in light of the findings of the plan, (2) the appropriateness of the content and timing of the program of projects intended to be financed in whole or in part from the district trust fund in relation to the transportation needs stemming from rapid growth in the district, (3) the hearing record of the public hearing held prior to adoption of the ordinance or resolution, (4) any written comments submitted by municipalities or other parties and (5) consistency with the planning requirements set forth in subsection b. of section 5 of this act. The commissioner shall complete the review of the ordinance or resolution and shall inform the governing body in writing of the approval or disapproval thereof within 90 days of receipt. Failure by the commissioner to act in 90 days, unless an extension is mutually approved, shall mean that the submission is deemed approved. The written notice shall be accompanied, in the case of approval, by the commissioner’s estimate of the resources which may be available to support implementation of the plan and, in the case of disapproval, by the reasons for that disapproval. The governing body may, in the case of a disapproval, resubmit an ordinance or resolution, as appropriate, or amendment or supplement thereto, incorporating whatever revisions it deems appropriate, taking into consideration the commissioner’s reasons for disapproval.

L.1989,c.100,s.6.

27:1C-7. Assessment, collection of development fees

- a. After the effective date of an ordinance or resolution, as appropriate, adopted under section 6 of this act, the governing body of the county may provide, by ordinance or resolution, as appropriate, for the assessment and collection of development fees on developments within the district.
- b. The ordinance or resolution, as appropriate, shall specify that the fee shall be assessed on a development at the time that the development receives preliminary approval from the municipal approval authority or, where the municipality has not enacted an ordinance requiring approval of the development, at the time that a construction permit is issued. If the development is to be constructed in phases or there is a substantial modification of preliminary approval as defined in the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.), the fee shall be assessed at the time of the preliminary approval of the respective phase or at the time of modification, as the case may be. For a development which has received preliminary plan approval prior to the adoption of the ordinance and where final approval is not obtained for that phase of development within three years of preliminary approval, the fee shall be assessed at the time of final approval.
- c. The ordinance or resolution, as appropriate, shall specify whether the fee is to be paid at the time a construction permit is issued or in a series of payments, as set forth in a schedule of payments contained in the ordinance or resolution, as appropriate. The ordinance or resolution, as appropriate, may provide for payment of the fee in a series of periodic payments over a period of no longer than 20 years. The payments due to the county, whether as a lump sum or as balances due, where a series of payments is to be made, shall be enforceable by the county as a lien on the land and any improvements thereon which lien shall be recorded by the appropriate county officer in the record book of the appropriate county office. Any ordinance or resolution, as appropriate, shall set forth the procedures for enforcement of the lien in the event of delinquencies. When the fee is paid in full on the development or portion thereof, the lien on the development or portion thereof, as appropriate, shall be removed. Any ordinance or resolution, as appropriate, shall provide for the procedure by which any portion of the land and any improvements thereon shall be released from the lien required by this section and, shall require that any lien filed in accordance with this section shall contain a provision citing the release procedures. Where a series of payments is to be made, failure to make any one payment within 30 days after receipt of a notice of late payment shall constitute a default and shall obligate the person owing the unpaid balance to pay that balance in its entirety.
- d. Any development or phase thereof which has received preliminary approval prior to the development assessment liability date shall not be subject to the assessment and collection of a development fee under this act but shall be liable for the payment of off-site transportation improvements to the extent agreed upon under the applicable law, rule, regulation, ordinance or resolution in effect at the time of the agreement. Any development or phase thereof which receives preliminary approval after the development liability assessment date shall be subject to the assessment and collection of a development fee under this act, but shall receive a credit against the fee for the amount paid or obligated to be paid to State, county or municipal agencies for the cost of off-site transportation improvements under agreements entered into under the applicable law, rule, regulation, ordinance or resolution in effect at the time of the agreement.
- e. The ordinance or resolution, as appropriate, also shall provide for the establishment of a transportation development district trust fund under the control of the county treasurer or such other officer as appropriate. All monies collected from development fees and any other monies as may be available for the purposes of this act shall be deposited into the trust fund which is to be invested in an interest bearing account.

f. An ordinance or resolution, as appropriate, adopted under this section also may contain provisions for: (1) delineating a core area within the district within which the conditions justifying creation of the district are most acute and providing for a reduced development fee rate to apply to developments inside that core area; (2) credits against assessed development fees for payments made or expenses incurred which have been determined by the governing body of the county to be in furtherance of the district transportation improvement plan, including but not limited to, contributions to transportation improvements, other than those required for safe and efficient highway access to a development, and costs attributable to the promotion of public transit or ridesharing; (3) exemptions from or reduced rates for development fees for specified land uses which have been determined by the governing body of the county to have a beneficial, neutral or comparatively minor adverse impact on the transportation needs of the district; (4) a reduced rate of development fees for developments for which construction permits were issued after the development assessment liability date but before the effective date of the ordinance or resolution, as appropriate, where those dates are different; and (5) a reduced rate of development fees for developers submitting a peak-hour automobile trip reduction plan approved by the commissioner under standards adopted by the commissioner by regulation. Standards for the approval of peak-hour automobile trip reduction plans may include, but need not be limited to, physical design for improved transit, ridesharing, and pedestrian access; incorporation of residential uses into predominantly nonresidential development; and proximity to potential labor pools. The ordinance or resolution, as appropriate, shall provide for the exemption from assessment of development fees for any development of low and moderate income housing units which are constructed pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et seq.) or under court settlement.

g. An ordinance or resolution, as appropriate, shall specify that any fees collected, plus earned interest, not committed to a transportation project under a project agreement entered into under section 9 of this act within 10 years of the date of collection shall be refunded to the feepayer under a procedure prescribed by the commissioner by regulation for this purpose, except that if the payer of the fee transfers the development or any portion thereof, he shall enter into an agreement with the grantee in such form as shall be provided by regulation of the commissioner which shall indicate who shall be entitled to receive any refund, and such agreement shall be filed with the designated county officer.

h. An ordinance or resolution, as appropriate, shall be sufficiently certain and definitive to enable every person who may be required to pay a fee to know or calculate the limit and extent of the fee which will be assessed against a specific development proposal. Development fees shall be reasonably related to the added traffic growth attributable to the development which is subject to the assessment and the maximum amount of fees for transportation improvements that may be charged to any development by the State, county or municipality pursuant to this act or any other law shall not exceed the property owner's "fair share" of such improvement costs. "Fair share" means the added traffic growth attributable to the proposed development or phase thereof. Approval of a development application by any State, county or municipal body or agency shall not be withheld or delayed because of the necessity to construct an off-site transportation improvement if the developer has contributed his "fair share" obligation under the provisions of this act.

i. Any person who has been assessed a development fee under the provisions of an ordinance or resolution adopted pursuant to this section may appeal the assessment by filing an appeal with the commissioner within 90 days of the receipt of notification of the amount of the assessment, on the grounds that the governing body or its officers or employees in issuing the assessment did not abide by the provisions of this act or the provisions of the ordinance or resolution issued hereunder or of the rules and regulations adopted by the commissioner pursuant to this act. The decision of the commissioner constitutes an administrative action subject to review by the Appellate Division of the Superior Court.

Nothing contained herein shall be construed as limiting the ability of any person so assessed from filing an appeal based upon an agreement to pay or actual payment of the fee.

L.1989,c.100,s.7.

27:1C-8. Formula for assessment

An ordinance or resolution, as appropriate, adopted under section 7 of this act shall provide for the assessment of development fees based upon the formula for that category of district authorized by the commissioner, by regulation, and uniformly applied, with such exceptions as are authorized or required by this act and by regulation. The commissioner may authorize a formula or formulas relating the amount of the fee to impact on the transportation system, including, but not limited to, the following factors: vehicle trips generated by the development, the occupied square footage of a developed structure, the number of employees regularly employed at the development, and the number of parking spaces located at the development. In developing the authorized formula or formulas the commissioner shall consult with knowledgeable persons in appropriate fields, which may include, but need not be limited to, land use law, planning, traffic engineering, real estate development, transportation, and local government. No separate or additional assessments for off-site transportation improvements within the district shall be made by the State, or a county or municipality except as provided in this act.

L.1989,c.100,s.8.

27:1C-9. Project agreement

Every transportation project funded in whole or in part by funds from a transportation development district trust fund shall be subject to a project agreement to which the commissioner is a party. Every transportation project for which a project agreement has been executed shall be included in a district transportation improvement plan adopted by an ordinance or resolution, as appropriate, under section 6 of this act. A project agreement may include other parties, including but not limited to, municipalities and the developers of a project. A project agreement shall provide for the assignment of financial obligations among the parties, and those provisions for discharging respective financial obligations as the parties shall agree upon. A project agreement also shall make provision for those arrangements among the parties as are necessary and convenient for undertaking and completing a transportation project. A project agreement may provide that a county may pledge funds in a transportation development district trust fund or revenues to be received from development fees for the repayment of debt incurred under any debt instrument which the county may be authorized by law to issue. Each project agreement shall be authorized by and entered into pursuant to an ordinance or resolution, as appropriate, of the governing body of each county and municipality which is a party to the project agreement. Any project agreement may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by or on behalf of the county or municipality and shall be valid whether or not an appropriation with respect thereto is made by the county or municipality prior to the authorization or execution thereof. Any county or municipality which is authorized to undertake all or part of a project which may involve property within the jurisdiction of another political subdivision, may exercise all powers necessary for the project as may be permitted by law and agreed to in the project agreement.

L.1989,c.100,s.9.

27:1C-10. Appropriation of funds

No expenditure of funds shall be made from a transportation development district trust fund except by appropriation by the governing body of the county or other appropriate governmental organization as designated by the commissioner under this act, and upon certification of the county treasurer or the

appropriate financial officer of the designated governmental organization, as appropriate, that the expenditure is in accordance with a project agreement entered into under section 9 of this act.

L.1989,c.100,s.10.

27:1C-11. Loans

The commissioner may, subject to the availability of appropriations for this purpose and pursuant to a project agreement entered into under section 9 of this act, make loans to a party to a project agreement for the purpose of undertaking and completing a State-owned transportation project. In this event, the project agreement shall include the obligation of the governing body of the county to make payments to the commissioner for repayment of the loan according to an agreed upon schedule of payments. The commissioner may receive monies from a county for repayment of a loan and pay these monies, or assign his right to receive them, to the New Jersey Transportation Trust Fund Authority, created pursuant to section 4 of P.L.1984, c.73 (C.27:1B-4), in reimbursement of funds paid to him by that authority for the purpose of making loans pursuant to this section.

L.1989,c.100,s.11.

27:1C-12. Adjoining transportation development districts

The governing bodies of two or more counties which have established, or propose to establish, adjoining transportation development districts, and which have determined that joint or coordinated planning or implementation of transportation projects would be beneficial, may enter into joint arrangements under this act, including: (1) filing joint applications under section 4 of this act, (2) initiating a coordinated joint planning process under section 5 of this act, (3) adopting coordinated district transportation improvement plans under section 6 of this act and (4) entering into joint project agreements under section 9 of this act.

L.1989,c.100,s.12.

27:1C-13. Request by commissioner for transportation development district

a. After due examination the commissioner may find, in accordance with regulations adopted pursuant to subsection d. of section 4 of this act, that certain designated areas of the State are growth corridors or growth areas and that existing financial resources and existing mechanisms for securing financial commitments for transportation improvements are inadequate to meet transportation improvement needs which are the result of rapid development in these corridors or areas. Upon this finding and after sufficient time has elapsed for the governing body of the county or counties located within this corridor or area to take action to establish a district or districts therein pursuant to the provisions of this act and if they have not done so, the commissioner may request the governing body of the county or counties to initiate an application for the designation and delineation of a transportation development district under section 4 of this act. The request shall set forth in detail the reasons which, in the judgment of the commissioner, justify the creation of a transportation development district in conformity with the purpose of this act, which reasons may be based upon a comprehensive development plan for the corridor or area issued by the department after notice and public hearings in the area or corridor in question. The finding by the commissioner that certain areas of the State are growth corridors or growth areas shall not be construed as determining and designating all growth corridors or growth areas in the State and shall not preclude any governing body of a county from establishing a transportation development district within any portion of that county in accordance with the provisions of this act.

b. The governing body of the county shall, within 90 days of the receipt of the request submitted under subsection a. above, respond to the request by adoption of an ordinance or resolution, as appropriate, which shall state the intention of the governing body to proceed or not to proceed with an application for

the designation and delineation of a transportation development district under section 4 of this act. If appropriate the ordinance or resolution shall set forth the reasons for not so proceeding. The ordinance or resolution, as appropriate, shall be transmitted to the governing body of each municipality which would, in the judgment of the governing body of the county, be directly affected by the designation and delineation of a transportation development district as proposed in the request.

c. The commissioner may, especially in the case of a corridor or area traversed by a State highway, request the governing bodies of two or more counties to establish adjoining transportation development districts in accordance with the procedures provided for in subsections a. and b. of this section.

d. If the governing body of the county or counties has received a request from the commissioner to initiate an application, or to establish adjoining transportation development districts, and has failed to respond to the commissioner's request within the time permitted or has stated that it does not intend to proceed with an application or otherwise fails to take action to establish the requested district or districts, the commissioner may, upon 90 days' notice to the governing bodies of the county and each municipality directly affected by the designation and delineation of the proposed district, and the holding of a public hearing, where the creation of such a district or districts is critically important, by order designate such a district or districts and delineate its boundaries. The functions, powers and duties of the governing body of the county concerning transportation development districts as authorized by this act shall be exercised by the commissioner through regulations and orders concerning a district created under this subsection in substantially the same manner as would be exercised by the governing body of the county pursuant to this act. In a district so created, development fees shall be assessed by order of the commissioner upon notice and public hearing. These fees shall only be assessed, and disbursed from the transportation development district trust fund, for projects other than county transportation projects. Appeals from these assessments shall be referred to the Office of Administrative Law by the commissioner for a hearing. If the commissioner modifies or rejects the resultant report and decision, the action of the commissioner may be appealed to the Appellate Division of the Superior Court as provided in subsection i. of section 7 of this act. Notwithstanding that a governing body of the county may not have participated in the establishment of a district, the governing body by ordinance or resolution may request the commissioner to permit it to participate fully in the operation of the district. Upon the granting of this request by the commissioner on whatever terms and conditions the commissioner deems appropriate, the governing body of the county shall assume full responsibility for the operation of the district and the assessment of fees, as if the district were established pursuant to an application by the governing body under subsection a. of section 4 of this act.

e. In designating and delineating a district, and in establishing district transportation improvement and financial plans therefor, the commissioner shall act in accordance with regulations adopted as provided in section 18 of this act.

L.1989,c.100,s.13.

27:1C-14. Application for dissolution

a. The governing body of a county within which a transportation development district has been designated under section 4 of this act may, by ordinance or resolution, as appropriate, apply to the commissioner for the dissolution of the district. The application shall include the reasons for the proposed dissolution and a plan for disbursing any funds remaining in the transportation development district trust fund, whether by refunds to owners of property on which the fees were assessed or otherwise, and for concluding the business of the district generally.

b. The commissioner shall, within 60 days of the receipt of a completed application, (1) by order dissolve the district and approve the county's plan for concluding the business of the district or (2) disapprove the application and inform the governing body of the county in writing of the reasons for the disapproval and any conditions or changes in the plan for concluding the business of the district which the commissioner believes to be necessary in the public interest.

L.1989,c.100,s.14.

27:1C-15. Petition by municipal governing body; response by county governing body

a. The governing body of any municipality or municipalities may, by resolution, petition the governing body of the county to initiate an application for the designation and delineation of a transportation development district under section 4 of this act. The resolution shall set forth in detail the reasons which, in the judgment of the governing body or bodies, justify the creation of a transportation development district in conformity with the purpose of this act.

b. The governing body of the county shall, within 90 days of the receipt of a petition submitted under subsection a. above, respond to the petition by adoption of an ordinance or resolution, as appropriate, which shall state the intention of the governing body to proceed or not to proceed with an application for the designation and delineation of a transportation development district under section 4 of this act. If appropriate, the ordinance or resolution shall set forth the reasons for not so proceeding. The ordinance or resolution, as appropriate, shall be transmitted to the governing body or bodies submitting the petition and to the governing body of each municipality which would, in the judgment of the governing body of the county, be directly affected by the designation and delineation of a transportation development district as proposed in the petition.

L.1989,c.100,s.15.

27:1C-16. Limitations

a. Except as provided by this act, no county or municipality may establish or operate a district within the boundaries delineated by the commissioner for a transportation development district under section 4 of this act if the district is for the purpose of consolidating the required contributions for transportation improvements of applicants for development within the district.

b. Approval of a development application by any State, county or municipal body shall not be withheld or delayed because the proposed development is within a proposed or pending transportation development district. The development application shall be considered in accordance with the applicable law, rule, regulation, ordinance or resolution in effect at the time of application.

c. The provisions of this act shall not be construed as affecting municipal reviews and approvals of proposed developments under the provisions of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

L.1989,c.100,s.16.

27:1C-17. Pre-existing districts

a. If a county has, before the effective date of this act, established a district or districts for the purpose of consolidating the required contributions of applicants for development and implementing a coordinated program of transportation improvements in an area based on these contributions, the governing body of the county may, by ordinance or resolution, as appropriate, apply to the commissioner for the designation and delineation of a transportation development district incorporating the district or districts so

established. The application shall include, in addition to the information required under subsection a. of section 4 of this act, a full description and account of the operations of the district or districts so established and any recommendations for alterations to the regulations and procedures of the district or districts the governing body finds necessary or appropriate to conform with the purposes of this act.

b. If a municipality has established a district or districts prior to the effective date of this act, the governing body of the municipality may request the governing body of the county to apply to the commissioner for designation and delineation of a transportation development district to incorporate that district or districts. If the county rejects a request by a municipality to make application to the commissioner for approval of a pre-existing district, or fails to respond to a request within 90 days of receipt of the request, the municipality may apply directly to the commissioner for approval of the district and any transportation improvement and financial plan then in existence pursuant to the procedures set forth in subsection b. of section 4 of this act and subsection b. of section 6 of this act.

c. The operation and financing of any pre-existing districts may continue pending action by the commissioner. In addition, the provisions of section 9 of this act shall not be applicable to projects in pre-existing districts which were the subject of agreements or funding commitments made prior to the effective date of this act. Furthermore, any such project, or any such agreement, shall not be construed to exempt any party from compliance with departmental rules, regulations, or orders.

d. The commissioner shall, within 90 days of receipt of a completed application and upon review of the application as to sufficiency and conformity with the purposes of this act, (1) by order designate a district and delineate its boundaries in conformance with the application, or (2) disapprove the application and inform the governing body of the county in writing of the reasons for the disapproval. The governing body may, in the case of a disapproval of its application, resubmit an application incorporating whatever revisions it deems appropriate, taking into consideration the commissioner's reasons for disapproval.

e. The commissioner may, in an order made under subsection d. of this section designating a district and delineating its boundaries, provide for the waiver or consolidation of any requirements of sections 5 and 6 of this act where, in the commissioner's judgment, that waiver or consolidation is justified by the public interest and by the purposes of this act. The commissioner may also include in the order any other provisions which the commissioner believes to be necessary and desirable for effecting an orderly transition from the operation of a district or districts previously established to the operation of a transportation development district under this act.

L.1989,c.100,s.17.

27:1C-18. Rules, regulations

The commissioner upon notice and the holding of a public hearing shall adopt the rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act, except that any transportation development district trust fund established under section 7 of this act shall be administered in accordance with all of the regulations adopted by the Local Finance Board or the Division of Local Government Services of the Department of Community Affairs which are applicable to county funds generally, and that the Local Finance Board shall have authority to adopt, after consultation with the commissioner, regulations specifically governing the administration of transportation development district trust funds.

L.1989,c.100,s.18.

APPENDIX 2

RITCSC By-Laws

BY-LAWS

OF THE

REGIONAL INTERGOVERNMENTAL TRANSPORTATION COORDINATING STUDY COMMISSION (RITCSC)

I. Membership

The membership of the Commission shall be as provided in the legislation creating the Commission. Members may designate, in writing, an alternate for a specific meeting.

II. Meetings

- A. Regular Meetings. The Commission shall hold monthly meetings at the call of the Chair. All meetings shall be open to the public.
- B. Special Meetings. Special meetings may be called by the Chair of the Commission at any time on seven (7) days notice in writing of the time, place, and general business to be transacted.
- C. Public Notice. The Commission shall hold at least one public hearing, as provided in the legislation creating the Commission, to receive public comment on the Commission's interim report. This and all other public hearings shall be advertised in a newspaper of general circulation at least five (5) days prior to said hearings.

III. Quorum and Vote

A quorum of the Commission for the purpose of voting at any Commission meeting shall exist only when there are present at least ten (10) members or alternates. Acceptance of a proposal would require a majority plus one of the quorum voting in favor of a proposal. Adoption of the interim and final reports would require a majority of appointed members voting in the affirmative for the report(s). A quorum of the Commission shall not be required for the purpose of conducting general business. If a quorum is not present at a meeting, votes shall be deferred until the next meeting at which a quorum is present.

IV. Officers

- A. Terms and Election. The Commission shall elect a Chair and a Vice Chair from among the members. The members shall select a secretary, who need not be a member of the Commission, as provided in the legislation establishing the Commission. The term of office for officers of the Commission shall be the statutory term of the Commission.

B. Duties of Officers

1. The Chair of the Commission shall preside at all meetings and appoint all committees, and shall perform such other duties as the Commission may from time to time order.
2. The Vice Chair shall perform such duties as the Chair may from time to time order. In the absence of the Chair, the officer next in rank shall preside, unless a different officer Pro Tem be elected as provided for in Article IV (A) herein.
3. The Secretary shall be the custodian of all official records and documents of the Commission and shall keep accurate minutes of the meetings of the Commission. The Secretary shall execute any legal instruments and documents on behalf of the Commission as may be directed by the Commission, and shall perform such other duties as may be directed by the Commission. Duties of the Secretary may be delegated in writing to the Commission's Staff.

V. Committees

The Commission may establish subcommittees as provided in the legislation creating the Commission.

VI. Conduct of Commission Meetings

- A. The Secretary shall submit the agenda for all meetings, and make available to each member a copy thereof at least five (5) days in advance of the meeting, simultaneously with notice of the meeting.
- B. The minutes of all public meetings of the Commission shall be taken and recorded, and shall be open to examination and inspection by the public.

VII. Staff

The Commission shall be staffed by the Transportation Policy Institute of the Alan M. Voorhees Transportation Center at Rutgers, The State University of New Jersey.

VIII. Amendment of By-Laws

These By-Laws may be amended by the following procedure:

1. A proposal to amend the By-Laws must be mailed to every member of and the staff for the Commission at least ten (10) days prior to the regular meeting of the Commission.
2. The matter must appear on the published agenda for the regular meeting.
3. The amendment must be voted upon favorably at the regular meeting by a majority of the membership of the Commission.

APPENDIX 3

TDD/TED Financial Analysis

For copies of the TDD/TED Financial Analysis, please contact Amanda Smith at the Transportation Policy Institute by phone (732-932-6812 x700) or by email (amandas@eden.rutgers.edu).