

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS
WASHINGTON 25, D.C.

May 3, 1961

Dear Mr. President:

For the past several months the Advisory Commission on Intergovernmental Relations has been giving attention and study to the question of mass transportation in metropolitan areas. The Commission was created by public law 86-380 as a continuing body made up of representatives of National, State and local governments and the general public for the purpose of studying and making recommendations with regard to intergovernmental relations. Among other duties the Commission is charged with "...making available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;...and...encouraging discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;..."

At its fifth meeting held on April 27-28, the Commission considered at length the question of Federal-State-local responsibilities with regard to mass transportation facilities and services in metropolitan areas. The resulting Commission report is being prepared for publication and will be available in a few weeks. However, since legislation on this subject is pending before the Congress, the Commission desires to make available promptly, the major points resulting from its deliberations. Consequently, there is enclosed a copy of that portion of the report which summarizes and explains the recommendations of the Commission.

Respectfully,

Frank Bane
Chairman

The President
The White House

Enclosure

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RECOMMENDATIONS OF THE ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS REGARDING
MASS TRANSPORTATION IN METROPOLITAN AREAS

A. RECOMMENDATIONS TO THE STATES

1. The Commission recommends the enactment of legislation by the States to authorize local units of government within metropolitan areas to establish, in accordance with statutory requirements, service corporations or authorities for the management of area-wide transportation facilities and services, such entities to have authority to borrow and to impose user charges, but with the initial establishment of any such entity being subject to voter approval on the basis of an area-wide majority.^{1/}

The Commission has no general brief to offer either for or against direct local government provision of mass transportation. Private ownership and operation of facilities is by far the prevailing arrangement, and presumably will continue to be so. We believe policy on this matter can best be determined by the people of the area involved in the light of their particular transportation conditions and needs. The Commission does believe, however, that where those directly concerned wish to establish a governmental agency to provide public transportation in a particular metropolitan area, action on the matter should not be unduly delayed or hampered.

^{1/} Mr. Burton did not concur in this recommendation.

This is in accordance with the general philosophy that the widest possible range of potentially appropriate means should be available for meeting problems which accompany metropolitan development.

The Commission fully appreciates the various arguments which have been advanced against the use of functional authorities. These include the following: (1) It is a piecemeal approach to metropolitan problems. (2) The creation of authorities adds to the number of local units of government within the metropolitan area, of which there are already too many. (3) Authorities, being typically governed by a board of directors of private citizens appointed for staggered terms, are not directly responsive to the will of the people and to a considerable extent are beyond the reach of any one level of government. On the other hand, the Commission recognizes that the "authority" device constitutes one way of handling area-wide functions within the context of overlapping local units of government, and believes that the residents of metropolitan areas should be free to use this device if they see fit.

The Commission suggests a number of safeguards for inclusion in the kind of enabling legislation recommended above. In the first place, it is highly desirable to avoid the eventual establishment of numerous functional authorities; to that end, the enabling legislation should, where otherwise

appropriate, permit the new entity to assume other area-wide functions in addition to transportation, if the citizens concerned so desire. Secondly, in order that the transportation authority be politically accountable and responsive, its initial establishment should be subject to approval of the voters of the area. It is further suggested that the board of directors of the authority be selected from among popularly elected officials of units of government making up the metropolitan area (mayors, county commissioners, city councilmen, etc.). Under such an arrangement, poor functional performance of the authority could lead to retribution at the polls for its directors.

2. The Commission recommends that the States take legislative and administrative action to extend technical and financial assistance to their metropolitan areas with regard to the planning of mass transportation facilities and services.

A small number of States, mostly in the Northeast, have already moved aggressively into the local transportation problem. Many others should do so. It is an abdication of the constitutional role of the State if it takes no action on a problem affecting its local communities when at the same time local officials of those areas are pleading with the President and the Congress for Federal financial aid. By becoming a partner with the local governments in the field of urban transportation, the State can play a vital role.

The metropolitan areas in general have within their borders sufficient administrative ability and financial resources to meet their needs; however, due to fragmentation of responsibility among various units and the lack of coincidence between service needs and tax jurisdictions, it is frequently impossible for local government to assemble effectively the technical and financial resources required for meeting the service needs of metropolitan area residents. Since a large share of State general revenue comes from the metropolitan areas and since, in many instances, the State represents the only single force which can be brought to bear upon such areas in their entirety, it is reasonable and necessary that the State governments direct an increased share of their technical and financial resources to the problems of the metropolitan areas. The policies and activities of State highway departments, planning agencies, tax and regulatory authorities, and any special agencies having cognizance over local government and/or urban affairs all need to be marshaled and coordinated for sustained attack on the problems of urban transportation.

B. RECOMMENDATIONS TO THE NATIONAL GOVERNMENT

1. The Commission recommends the enactment of legislation giving Congressional consent in advance to compacts among two or more States for the creation of agencies to be responsible for mass transportation planning in those metropolitan areas which cross State lines.

Nearly 40 million people live in interstate metropolitan areas. Special difficulties confront efforts to achieve coordinated handling of the public transportation requirements of such areas. No one of the State governments concerned can, in its own right, deal with the problems involved for the area as a whole. If there is to be effectiveness and continuity of planning with regard to public transportation needs in areas of this kind, the task must be handled on an interstate basis.

The device of a compact between the respective States to establish a joint agency for transportation planning is a way to meet this need on a more durable basis than is likely to be achieved through informal ad hoc cooperative arrangements between the States concerned. Article 1, Section 10 of the Constitution requires Congressional consent for States to enter into an interstate compact. Ordinarily, such consent is sought after particular States have initiated action toward a compact, but it is possible for Congressional consent to be granted in advance to compacts dealing with a specified subject matter.

The Congress has used this approach in various fields, including crime control, airport construction and civil defense. Where, as in the case of urban mass transportation, there is an important and definable problem on which effective joint State action needs to be expedited in numerous geographic areas, the device of advance Congressional consent seems highly appropriate.

In recommending that this device be used in the present instance, the Commission contemplates that the Congress might indicate in some detail the nature of the responsibilities for transportation planning that would be handled by the compact agencies. The Commission also suggests that, in the enactment of advance consent legislation, the Congress consider providing for appropriate representation on the compact agency by the Federal Government, since past failures to integrate properly Federal highway and urban renewal planning interests with each other and with those of State and local governments have contributed significantly to the present "urban transportation problem." We do not presume that such a planning agency could or should have power to regulate either interstate or intrastate transportation, although it might properly consider and comment on the effects of existing regulation upon mass transportation within the metropolitan area.

The intent of this recommendation would be served if, instead of taking action specifically with regard to transportation-planning agencies, the Congress were to enact somewhat

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broader legislation to provide its advance consent to compacts between States setting up agencies charged with planning for interstate metropolitan areas on a comprehensive basis, and dealing not only with mass transportation but also with other issues of area-wide significance. In this connection, legislation proposed by the Administration in the fields of housing and urban renewal contains a provision for advance Congressional consent to compacts directed toward urban planning in general.

2. The Commission recommends enactment of legislation by the Congress: (1) to provide grants to assist State and local governments in developing comprehensive plans for mass transportation in urban areas; (2) to underwrite special demonstration projects designed to develop and test innovations in mass transportation facilities and service arrangements; and (3) to initiate a program of long-term low interest rate loans to State and local governments for the construction and modernization of mass transportation facilities and equipment in urban areas.^{2/}
The Commission further recommends, however, that Federal support for special demonstration projects be restricted to projects undertaken at the initiative of the administering Federal agency.

This recommendation of the Commission represents, in effect, substantial endorsement of the objectives and major provisions of S. 345, which is under consideration by the 87th

^{2/} Senator Muskie and Congressman Fountain reserved their respective positions on this recommendation. Mr. Burton asked to be similarly recorded for the time being.

Congress, and which would authorize these several types of Federal financial assistance with respect to urban mass transportation.

Planning

The Commission believes that Federal stimulation and assistance with respect to urban planning in general, as currently authorized by Section 701 of the Housing Act of 1954, is especially justified with respect to transportation planning. First, it is essential that mass transportation planning at the local level be integrated and keep pace with highway planning, which is already federally supported. The mere availability of highway planning funds should not be permitted to result in "highway dominated" transportation plans and policies in the metropolitan areas. Second, the longer State and local governments delay in the development of coordinated transportation plans in the metropolitan areas the greater will become the financial and social difficulties associated with transportation congestion, culminating no doubt in even greater pressure than at present for massive Federal assistance. In other words, since it is our view that Federal planning grants of moderate size will stimulate State and local governments to assume their rightful responsibilities with respect to this function, Federal expenditure for this purpose would be justified in terms of intergovernmental relations alone.

Demonstration Projects

The Commission believes there is an urgent need for the conduct of technological research in the field of mass transportation with a view to developing improved methods and equipment. In addition to the direct expenditure of Federal funds for the conduct of such research within the Federal establishment, the Commission believes that it should also be possible to use research funds in the form of grants made to State or local units of government for this purpose.

Under proposed legislation now pending before the Congress, Federal financial assistance would be made available for the conduct of particular pilot demonstration projects which the Government determines would make a significant contribution to "the development of research data and information of general applicability relating to the improvement of mass transportation service and the contribution of such service toward meeting total urban transportation needs at minimum cost." Under the proposed bill, these funds could be used to test the effect of such factors as service frequencies, fare levels, availability of transfer and feeder service, availability and location of parking facilities, speed of service, condition and placement of facilities and equipment, and technological developments affecting public acceptance of mass transportation service.

The underwriting of such demonstration projects, in the opinion of the Commission, should be viewed as part of the responsibility of the National Government to undertake and support research which is urgently in the public interest but which other levels of government and private enterprise are not in a position to carry on. Moreover, such projects should be specifically focused at research and demonstration needs, rather than in any way offering a subsidy to transportation facility construction or operation, or serving as a possible alternative to borrowing for ordinary capital purposes. To assure meeting these conditions, the Commission believes that--contrary to provisions of the measure now pending in the Congress--Federal support of special demonstration projects should be undertaken solely at the initiative of the administering Federal agency.

Facility Loans

The financial difficulties of urban transit systems and rail lines are well known. Many transit systems are finding that borrowing at commercial rates of interest results in debt service charges which cannot be fully recovered, in added passenger revenues and reduced maintenance costs, from the modernization undertaken. In these cases borrowing for plant modernization tends to create or increase financial losses.

Congressional sponsors of Federal lending authority for mass transportation have pointed out that private commuter carriers have been unable to utilize to any significant degree the \$500,000,000 loan guarantee program that was provided under the Transportation Act of 1958. That Act guarantees commercial lenders against any losses sustained through loans to the railroad industry for capital expenditures and maintenance of property. As of July 1960, loan applications had been filed for approximately \$90,000,000. However, only a very small proportion of the requested funds have been for the purpose of directly improving rail commuter service.

To help meet this situation, the urban transportation measure now before the Congress (S.345) would authorize Federal loans to States or local public agencies for their financing of expenditure to acquire, contract, or improve "facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas" and closely related capital outlays. The bill limits the rate of interest to the rate paid to the Treasury by the administering Federal agency plus one-fourth of one percent. It also specifies a maximum loan period of 50 years, and limits availability of Federal loans to those instances where funds cannot be borrowed otherwise on equally favorable terms.

With such provision of Federal loans for financing of urban mass transportation facilities at approximately the same rate of interest which the Treasury has to pay in obtaining new funds, local governments will have a new source of borrowing for this purpose, at a reasonable rate, and--if the program is kept on a business-like basis--at no net cost to the Nation's taxpayers.

