Tennessee Advisory Commission on Intergovernmental Relations

Growing Pains: Fiscal Challenges for Local Governments

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Growing Pains: Fiscal Challenges for Local Governments

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PURPOSE

The General Assembly referred fourteen growth and development-related bills to the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) for study in 2005. Most of these bills were authorizations for new local growth taxes and fees of one variety or another, including authorizations for local transfer taxes. One of the issues raised by these bills was whether or not local governments that meet certain trigger requirements should be eligible for growth taxes. The staff of the TACIR reported their recommendations on the fourteen bills at the Commission's December 2005 meeting. The staff used the analysis of those fourteen bills as a starting point for this report, which provides a more in-depth exploration of issues related to growth and fiscal pressure. Since the December TACIR meeting, the General Assembly has passed the County Powers Relief Act of 2006, which allows counties meeting certain growth requirements to enact education adequate facilities taxes.

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EXECUTIVE SUMMARY

Until recently, when local governments in Tennessee found themselves in need of a new revenue source they came to the state legislature to ask for a private act authorizing a new type of tax. If the private act had the support of the local government, the General Assembly generally passed the requested enabling legislation. However, the failure of two private acts authorizing growth taxes in the 2004 legislative session showed a change in this dynamic. Legislative resistance to approving new tax measures continued in the 2005 legislative session, when fourteen such bills were referred to TACIR for study. Eight of these bills would have authorized adequate facilities taxes, one was for an impact fee, three were for real estate transfer taxes, and two were broadly captioned tax bills. After reviewing information provided by TACIR staff and interested parties, the Commission adopted several recommendations concerning these bills at its December 2005 meeting:

As legislative resistance to approving new tax measures continued in the 2005 legislative session, fourteen development related bills were referred to TACIR for study.

- **Adequate Facilities Tax and Impact Fee Bills:** In order to provide more flexibility to local governments, and allow them to shape and better plan for growth, TACIR recommends general enabling adequate facilities tax legislation and general enabling impact fee legislation.
- **Local Real Estate Transfer Tax Bills:** The real estate transfer tax affects all property transfers rather than just new homes and/or new business development. It is, therefore, a general tax rather than a growth impact tax. Nonetheless, because it gives local governments the freedom to use a more broad-based tax that will still provide increased revenues with increased growth, TACIR recommends general enabling legislation authorizing a local real estate transfer tax.

The Commission also recommended that cities, along with counties, be included in any local fiscal flexibility legislation.

In this report, the TACIR staff focuses on identifying high growth counties and on examining local tax rates and debt as indicators of counties under fiscal pressure. An updated version of TACIR's growth typology is used as a comprehensive indicator of growth at the

county level. The report includes background information on growth taxes and a discussion of using growth and fiscal pressure indicators as enabling "triggers," a prerequisite for allowing local governments to adopt growth taxes. Because of data limitations, staff has focused primarily on county governments.

GROWTH TAXES AND IMPACT FEES

One of the bills referred to TACIR in 2005, SB 2352/HB 2367, would have authorized an impact fee for the city of Columbia. Generally, builders, developers and new home buyers find impact fees among the least onerous of development levies. Impact fees are set to cover only the actual costs of infrastructure required by a specific development; they are required to be used to build such infrastructure, so new homeowners know they are getting direct services for their extra expense; and they fully cover developers' obligations in a predictable way, eliminating the need for negotiations and set-asides.

Eight of the bills referred to TACIR would have authorized adequate facilities taxes for five counties and two cities. Adequate facilities taxes are generally levied in response to rapid growth, with such growth serving as the basis for the tax, but they are different from impact fees. Adequate facilities taxes derive from a government's general power to tax, and they need not reflect actual costs of growth. Nor must the proceeds be used to build the infrastructure required to serve that growth, though some of the bills included earmarking provisions that directed that the revenue raised be used only for infrastructure. Builders, developers and new home buyers generally dislike adequate facilities taxes more than impact fees. Adequate facilities tax rates do not have to be linked to actual costs associated with development, and the revenues from them do not have to be spent to cover those costs. Current residents do not pay them unless they move into new housing. However, by both raising revenue and slowing development, adequate facilities taxes may help compensate current residents for quality of life issues related to growth, as well as for actual, measurable costs.

GROWTH AND FISCAL PRESSURE

Much of the fiscal pressure experienced by local governments appears to be the result of residential growth and the failure of this growth to pay for itself. There are numerous reasons why residential growth does not pay for itself. Additional residents usually require the full range of governmental services. Housing developments can generate substantial new upfront service requirements that are immediate, compelling, and often overwhelming. In order to pay for itself, residential growth has to return as much revenue to the host government as the government spends on all the services and facilities required to serve the new development at the same service levels provided to the rest of the community.

TACIR staff has developed a comprehensive measure to identify high growth counties for purposes of understanding the effect of growth on public services.

Population is the most commonly used measure of community growth. However, it is an overly simplistic measure that fails to fully explain or describe the impact of growth. TACIR staff has developed a more comprehensive measure to identify high growth counties for purposes of understanding the effect of growth on public services. The TACIR growth typology emphasizes the fact that growth can be seen as a combination of multiple factors. The typology includes four measures of growth: population, average daily membership (ADM) of public school students, daily vehicle miles of travel, and wage data. The typology measures overall growth with a combined "super rank" that is then used to group the counties into growth tiers. Tier I counties, the ones with the most growth, rank in the top third of all Tennessee counties for three or more of the growth measures.

Fiscal pressure is also difficult to measure. There is no obvious way to determine which local governments are under fiscal pressure and which are not. Fiscal pressure results when a local government cannot finance needed or demanded services and is often a side effect of rapid growth. Fiscal pressure resulting from rapid growth may be linked to overall growth in population; growth in certain segments of the population, such as school-aged children or the elderly; a lack of an adequate sales or property tax base; or a combination of these and other factors. TACIR staff chose to measure local tax rates and per capita debt as indicators of fiscal pressure. These indicators suggest areas under fiscal pressure,

but it is far from clear that they necessarily identify all counties under fiscal pressure.

TRIGGERS

The County Powers Relief Act of 2006 allows county governments who have exhibited signs of rapid population growth to enact an adequate facilities tax to fund education facilities. The Act requires that a county experience either a 20% increase in population between the two most recent decennial census population estimates or a 9% increase in population over the most recent four years of census estimates in order to be eligible for the adequate facilities tax. Additionally, two of the three real estate transfer tax bills referred to TACIR by the General Assembly in 2005 would have required that counties exhibit "rapid growth" before adopting the tax. The requirement for evidence of growth before a growth tax can be adopted has been described as a "trigger." A trigger, in this regard, is a threshold that must be met before growth is considered serious enough to warrant the legislature granting local governments the authority to adopt growth taxes. The Commission discussed triggers, but did not make a recommendation regarding their use when the subject was discussed at the December 2005 TACIR meeting.

One clear advantage of accurate triggers is that they limit new taxing authority to those actually needing the new taxing authority to deal with infrastructure pressures caused by high levels of growth. However, establishing an appropriate trigger is not an easy matter. There is no single correct measure of "problem" growth. A possible approach may be to use a two-step multiple-trigger approach. This approach would first identify high growth counties and then test those counties using a list of acceptable triggers, but require local governments to meet only a portion of the criteria:

1. The TACIR growth typology is used to identify rapid growth. The counties are each sorted into one of four growth tiers. All thirty-three of the Tier I counties are considered high-growth counties.

2. Each of these counties is tested for fiscal pressure using equalized property tax rates, local option sales tax rates, wheel tax rates, and per capita debt as the pressure indicators. Tier I counties ranking in the top third of all Tennessee counties for at least three of these four indicators would pass the trigger test and be authorized to levy a growth tax.

Table 1 shows the six of the thirty-three Tier I growth counties that pass this two-step test. It also shows their rank for each of the fiscal pressure indicators and the number of these indicators for which they ranked in the top third for all Tennessee counties. Reducing the threshold so that Tier I counties would only need to rank in the top third for two of the four indicators would allow fifteen counties to pass the two-step test. The TACIR staff believes that using a two-step multi-trigger approach is more satisfactory as a trigger than a single measure such as population growth, but still entails several concerns, including issues of local flexibility and local autonomy. Because of such concerns, the members of the TACIR have not made any recommendation regarding triggers or requirements that they be included in general enabling legislation for growth taxes.

Table 1. Tier I Counties Passing the 2-Step Trigger Test
Rankings for Fiscal Pressure Indicators

Tier I County	Equalized Property Tax	Local Option Sales Tax (Max: yes or no)	Wheel Tax	Per Capita Debt	# of Top Third Rankings
Cheatham	9	no	9	30	3
Knox	21	no	21	28	3
Montgomery	7	no	29	13	3
Rutherford	22	yes	16	14	4
Shelby	1	no	9	3	3
Stewart	30	no	22	12	3

Source: TACIR analysis using data from the U. S. Census Bureau, U. S. Bureau of Labor Statistics, Tennessee Department of Education, Tennessee Office of the Comptroller, Tennessee Department of Transportation, and UT-CTAS. Six of the thirty-three Tier I counties pass the two-step test. For complete test results for the Tier I counties, see Table 9.

In preparing this report, the TACIR staff identified several topics that deserve further study, including low growth counties experiencing fiscal pressure, the fiscal effort of low and high growth counties, and high growth counties not exhibiting significant fiscal pressure. The staff intends to study these and other related issues in future reports.

INTRODUCTION

Several local governments in Tennessee have reported increasing difficulty paying for the government services expected by their constituents. They have increasingly reported finding themselves under fiscal pressure. There are a variety of possible reasons for this fiscal pressure, including changes in local tax bases, increases in demand for services, and reductions in state and federal funding. One of the most common reasons is increased demand for services, often because of rapid growth. This last reason is the focus of this report. This report will examine county level measures for growth and fiscal pressure, where these measures overlap, and the potential application of these measures as enabling triggers for growth taxes.

In Tennessee, the default level of government responsible for providing basic local public services is the county. These services include: education, roads and streets, public safety and health, recreation, and a few other purely local services. In a majority of Tennessee counties, county government provides and finances all or most of such services. In a minority of counties, with significant numbers of county residents living within incorporated areas, city government plays a major role in providing such basic services. Due partly to the dominant role of county government in service provision in most Tennessee counties, and because of difficulty in obtaining adequate, comparable fiscal data for Tennessee's cities, this report focuses on growth and fiscal pressure at the county level.

There are two important questions to consider before we examine growth and fiscal pressure indicators: does growth pay for itself, and if not, what options do local governments have to raise revenue to pay for growth?

DOES GROWTH PAY FOR ITSELF?

For most of the twentieth century, the migration of new residents into a community was considered the inevitable price of progress. Local government officials more or less assumed that the overall benefits to the local economy would outweigh the additional costs of serving the newcomers. But this assumption has been challenged

This report will examine county level measures for growth and fiscal pressure, where these measures overlap, and the potential application of these measures as enabling triggers for growth taxes.

in the face of growth that was unanticipated, sudden, massive, sustained, concentrated, or all of the above.

In addition to its obvious benefits to home builders and realtors, population growth has a positive impact for banks, utilities, retailers and other merchants, medical and professional practitioners, the rest of the service sector, and for churches, civic clubs, and charities. But long-time residents are also likely to notice the downside of growth: the disappearance of open spaces; traffic congestion; disruptions caused by new construction and utility installation; drainage and pollution problems; crowded parks; increased litter; increased crime; and mushrooming temporary buildings behind school houses. And, perhaps most of all, these residents notice that their property taxes are increasing in order to provide infrastructure and services to new arrivals. It was in this context that existing residents and local officials began to ask themselves whether growth really pays for itself. Several factors can affect the answer to that question:

- Was the growth anticipated and planned for, or sudden and unexpected?
- Where is the development located in relation to existing public facilities and transportation?
- Is the development on previously undeveloped land or an in-fill site?
- Is the development single- or multi-family residential?
- What is the household income of the new residents?
- Are the newcomers mostly retirees, or young families with children?
- Is the development high- or low-density?
- What portion of infrastructure needs can be met through existing capacity?
- What are the investment specifics (interest rates, amortization period, expected life, etc.) of the publicly financed facilities?

Most of the literature reviewed for this report indicates that residential growth does not pay for itself. In order to pay for itself, residential growth has to return as much revenue to the host government as that government spends on all the services and facilities required to serve the new development at existing service levels. Some types of residential growth have more fiscal impact than others. For instance, high-priced developments for retirees will have little impact on schools and may actually make them more affordable. Development in in-fill areas where infrastructure is already in place may not require additional investments for water and sewer beyond relatively minor upgrades to old systems. Growth that can be served by surplus capacity will have no substantial effect on community resources.

There are numerous reasons why residential growth does not pay for itself. New residents usually require the full range of governmental services. Housing developments can generate substantial new up-front revenue needs that are immediate, compelling, and often overwhelming. In the face of political resistance to property tax increases—especially ones intended to serve the needs of newcomers—it is not surprising that the majority of states have now authorized impact fees. Enabling legislation has passed in other states in spite of the vigorous opposition of developers and realtors, and courts have consistently upheld it.

LOCAL REVENUE OPTIONS

Of the taxes available to most local governments, the two principle revenue producers are the property tax and the local option sales tax. It is these two taxes that most local governments must raise when additional revenue is needed. The restrictions on the sales tax, which is capped at a maximum local option rate of 2.75%, will often leave a cash-strapped local government with only a property tax increase as an option. The property tax has no legal maximum, and while Tennessee's property tax rates are well below the national average, this tax is nonetheless one of the most politically unpopular.[1]

The property tax can be a serious financial burden on households with incomes below the state average. Moreover rising property

There are numerous reasons why residential growth does not pay for itself:

- Expensive infrastructure such as new schools, new streets and expanded utilities, must be financed up front.
- Some growth related problems, such as traffic congestion and crime, require city- or county-wide service upgrades.
- In exurb areas, new residents often have higher incomes and demand more and better services.
- Rapid growth can lead to diminished financial reserves and high debt burdens that hurt local government bond ratings and increase the cost of borrowing.

assessments in high growth areas that result when an influx of new residents drives up the prices of both new and existing homes create resentment from long-time residents. It can be politically difficult to raise property tax rates in the face of such resentment, especially when growth is seen as the reason why more tax revenue is needed.

Furthermore, local jurisdictions without large business tax bases cannot export much of the property tax burden, so residents must bear more of the burden of increases. Business revenues often come from customers outside of the local jurisdiction so that a portion of business property taxes are paid by people who live elsewhere.

Several local governments have tried to reduce fiscal pressures by offering referenda authorizing or raising wheel taxes. These referenda often fail to pass. Likewise, referenda to increase the local option sales tax rate in counties where it is not already at the maximum rate often fail. Lacking public support for levying wheel taxes or raising the rates for property or sales taxes, local governments often turn to increased borrowing to finance new infrastructure. Local governments cannot use debt for operating costs. Rather, they refinance existing debt, often over longer periods, and, more recently, with interest only provisions for the early years of repayment. As another option, some local governments have implemented or attempted to implement impact fees or adequate facilities taxes. Some local governments have also pursued the possibility of levying a local real estate tax. Table 2 shows information for counties in Tennessee that levy impact fees and adequate facilities taxes. Appendix 1 provides adequate facilities tax and impact fee information for Tennessee cities. No local governments currently are authorized to levy a real estate transfer tax.

Historically, when local governments in Tennessee desired to pass a growth tax, they would come to the state legislature and ask for a private act or the equivalent to levy the new tax. As long as the private act had the support of the local government, the General Assembly usually passed it. However, this dynamic changed with the failure of two private acts in the 2004 legislative session. The two private acts that did not pass were SB 3482/HB 3582 and

SB 3523/HB 3614, both authorizing growth taxes. These bills were just two of the fourteen local bills dealing with local tax issues that were introduced in the 2004 legislative session. Almost all of the fourteen bills were passed without objection by the Senate. In the House, after some procedural wrangling, twelve of these bills ultimately passed, including two that specifically authorized local adequate facilities taxes or fees.[2]

The failure of SB 3482/HB 3582 and SB 3523/HB 3614 was unusual. An examination of bills going back to 1987 revealed no other local bills that failed to pass. Other growth tax bills had been previously passed, and SB 3523/ HB 3614 and SB 3523/HB 3614 had the support of their respective county legislative bodies. It is not apparent why the House of Representatives would pass two private acts allowing local growth taxes and then choose not to pass two other similar bills in the same year. The inequity of this outcome raises the issue of whether there is a need for a general statute enabling local governments to adopt growth taxes and impact fees and change them as needed.[3]

**Table 2. Tennessee Counties
With Adequate Facilities Taxes or Impact Fees
As of January 1, 2006**

County	Adequate Facilities Tax or Impact Fee
Cheatham	Adequate Facilities Tax: $3,750 per lot/unit and $1 gross sq. ft. residential.
Dickson	Adequate Facilities Tax: $0.50 gross sq. ft. residential; $0.25 gross sq. ft. commercial; $0.15 sq. ft. industrial.
Fayette	Adequate Facilities Tax: $0.20 gross sq. ft. residential; $0.15 gross sq. ft. commercial and industrial.
Hickman	Adequate Facilities Tax: $1 gross sq. ft. residential with $1,500 minimum; $0.25 sq. ft. commercial.
Marshall	Adequate Facilities Tax: $0.70 gross sq. ft. residential; $0.30 gross sq. ft. commercial. Not to exceed $1 gross sq. ft. residential and commercial.
Macon	Impact Fee: $1 gross sq. ft. residential property; $0.25 gross sq. ft. commercial property.
Maury	Adequate Facilities Tax: $0.50 gross sq. ft. residential; $0.30 gross sq. ft. non-residential.
Montgomery	Adequate Facilities Tax: $250 on each new residential lot and $250 on each single or multi-family dwelling unit. The tax increases 6% annually until it reaches a combined maximum of $1000.
Robertson	Adequate Facilities Tax: $1.50 gross sq. ft. residential; $0.30 gross sq. ft. commercial.
Rutherford	Adequate Facilities Tax: $750 upon plat approval and $750 upon issuance of building permit residential.
Sumner	Adequate Facilities Tax: $0.70 gross sq. ft. residential; $0.40 gross sq. ft. industrial.
Trousdale	Adequate Facilities Tax: $1000 per dwelling residential.
Williamson	Adequate Facilities Tax: $1 gross sq. ft. residential; $0.44 gross sq. ft. commercial; $0.68 gross sq. ft. residential within city boundaries. Not to exceed $1 gross sq. ft. residential and $2 gross sq. ft. non-residential.
Wilson	Adequate Facilities Tax: $3000 per residential unit.

Source: Information provided to TACIR by local governments

Growth taxes were again a controversial issue in 2005, when the General Assembly referred fourteen bills to TACIR for study. These bills included both impact fees and adequate facilities taxes, as well as local real estate transfer taxes. TACIR heard from various interests about growth taxes and fees at its September 2005 meeting and made recommendations regarding these bills at its December 2005 meeting.

IMPACT FEES

One of the bills referred to TACIR, SB 2352/HB 2367, would have authorized an impact fee for the city of Columbia. One county and seven cities in Tennessee currently levy impact fees; most were authorized to do so by private act. In addition, cities with either a Mayor-Aldermanic (sixty-seven cities) or a City Manager-Council (two cities) form of government have general authorization to levy such fees.

Impact fees derive from a government's power to regulate, called its "police power." They apply to all types of development, not just residential. General enabling legislation, as well as local ordinances and case law in states where local governments impose impact fees without general enabling legislation, usually requires that there be (a) a connection between the new development subject to such fees and the purpose of the fee and (b) that the fees be proportionate to the costs of the capital improvements attributable to the new development. Development subject to the fees should also (c) directly benefit from the infrastructure spending that occurs. The impact fees (d) should be used only for capital improvements and not to finance ongoing operations. Often the enabling legislation requires that the procedure for establishing the level of impact fees be well documented, including studies by outside consultants specializing in such analyses.

Generally, builders, developers and new homebuyers find impact fees among the least onerous of development taxes. Impact fees are set to cover only the actual costs of infrastructure required by the development; they are required to be used to build such infrastructure, so new homeowners know they are getting services for the impact fees paid; and they fully cover developers' obligations

in a predictable way, eliminating the need for negotiations and set-asides.

Impact fees are often, but not always, calculated as net amounts after credits for various types of other payments made by developers and homebuyers. This would include on-site and off-site improvements by developers that are allowed as credits against impact fees, but also such things as credits for future property tax payments by new homeowners for interest and principal payments on new infrastructure built with funds raised from new general obligation bonds. Without providing some credit for such future property tax payments, new residents, builders, or developers might be subjected to double payment for the same facilities.

Although none of the presenters at the September 2005 TACIR meeting spoke specifically against impact fees, a representative of the Home Builders Association of Tennessee, Mr. James Carbine, spoke against all forms of taxes and fees on growth. He likened such levies to "sin taxes" levied on products like tobacco and alcohol, often with at least the partial aim of slowing the use of those products. He claimed that, when all of the benefits of growth are counted, it more than pays for itself. The literature on financing residential growth, however, generally says otherwise. This argument could be taken up with local governments when they are considering levying an impact fee or when they are reviewing the studies by which they would set impact fee rates.

ADEQUATE FACILITIES TAXES

Eight of the bills referred to TACIR in 2005 would have authorized adequate facilities taxes for five counties (Rutherford, Blount, Williamson, Jefferson [two bills], and Bedford) and two cities (Columbia and Oakland). Several counties and cities in Tennessee currently levy adequate facilities taxes, all of which were authorized by private act. The bills referred to TACIR generally echo the language in private acts previously approved by the General Assembly.

Adequate facilities taxes are generally levied in response to rapid growth, with such growth serving as the basis for the tax, but they are different from impact fees in their legal basis, as well as in their use. Adequate facilities taxes derive from a government's power to

tax, not the power to regulate, and they need not reflect actual costs of growth. Nor must the proceeds be used to build the infrastructure required by that growth, though some local tax legislation does require that.

Builders, developers and new home owners generally dislike adequate facilities taxes more than impact fees. They note that adequate facilities tax rates do not have to be linked to actual costs associated with development, and the revenues from them do not have to be spent to cover those costs. Some have voiced concern that local legislators may be tempted to levy adequate facilities taxes at rates higher than the actual costs growth require because these taxes are, by definition, levied on "someone else." Current residents and property owners do not pay them unless they move into newly constructed buildings.

Builders, developers, and new home owners generally dislike adequate facilities taxes more than impact fees.

If legislators do levy facilities taxes at rates higher than necessary to provide facilities to newly-developed areas, and if they do so as a revenue-raising tactic, they may defeat their own purposes by making new developments too expensive for the market to bear. If they set such rates with an eye toward slowing development, they may achieve that aim, but raise little revenue in the process. By both raising revenue and slowing development, adequate facilities taxes may help compensate current owners for quality of life issues related to growth, as well as for actual, measurable costs. These issues might include increased traffic, increased crime, and a loss of the rural nature, or "small town charm" of an area.

REAL ESTATE TRANSFER TAXES

Three of the bills referred to TACIR in 2005 would have enabled counties to assess real estate transfer taxes upon a two-thirds vote of the county legislative body. Two of the bills would have set a maximum rate of 0.25% while the third would have allowed the rate to match that of the state, currently 0.37%. The two 0.25% bills would have required the county to be experiencing "rapid growth" in order to adopt such a tax, while the third would have extended the ability to all counties, regardless of their growth rates.

"Rapid growth" was not defined in the bills, though a requirement was included that

> the resolution imposing such tax shall contain sufficient information and data demonstrating the need for this tax due to rapid growth patterns necessitating the need for the construction of infrastructure improvements and other expenditures related to such growth and there is insufficient revenue derived from real property and other county taxes to provide for such needed infrastructure improvements and other expenditures.

Real estate transfer taxes draw from a broader base than taxes and fees levied directly on development and are not true "growth" taxes.

Real estate transfer taxes draw from a broader base than taxes and fees levied directly on development and are not true "growth" taxes. All transfers of real estate are taxed, including existing businesses and homes, but businesses and residents that stay in their existing locations do not pay the tax. One of the problems created by rapid development is that existing homeowners may have difficulty paying property tax bills that have increased because growth has driven up property values in general. While that appreciation is a positive thing for homeowners who anticipate selling or wish to cash in on the equity in their homes, those with fixed incomes and no wish to sell or borrow may find themselves unable to afford the increased taxes on their property. When people are priced out of their own neighborhoods in this way, they may be forced to sell their homes in order to realize the windfall. People in this position can create political pressure to lower property taxes and slow development.

The larger base of this tax, and its lack of direct connection to growth, could benefit local governments in areas that are not experiencing rapid growth. If the requirement that counties be experiencing rapid growth is included, however, that would not be the case.

At the September 2005 TACIR meeting, Bob McNamara, of the National Association of Realtors, spoke against a real estate transfer tax, saying that such taxes price people out of the housing market and make home buying more difficult. The National Association of Realtors is a proponent of Tax Increment Financing (TIF) as an alternative. As with impact fees, TIF revenues, which are not the result of new taxes, are earmarked. All new revenue from existing

taxes, generally measured as the incremental increase since the development, is deemed the result of the development and set aside to pay for the needs created by it. It does not actually raise revenue; it simply earmarks the increase in a specific geographic area for costs associated with development of that area. Opponents to TIF, however, argue that it has not been shown to adequately cover major infrastructure financing for residential development.

Mr. McNamara suggested that, should the state allow local real estate transfer taxes, some sort of exemption for first-time home buyers and low income home buyers would make it less of a drag on the housing market. Senator Henry pointed out that the sale of real estate is already taxed at a much lower rate than the sale of most other goods in Tennessee. Memphis Mayor A C Wharton added that increasing real estate agent commissions from 6% to 7% had not seemed to depress the housing market, suggesting that a tax rate set at a quarter of that increase would not depress it either. Real world data on the effect of real estate transfer taxes on housing markets is difficult to separately evaluate when other, more important, factors, such as inflation and interest rates are frequently changing at the same time.

DECEMBER 2005 TACIR GROWTH TAX AND IMPACT FEE BILL RECOMMENDATIONS

Following its review of material provided by staff and the presentations by local governments, real estate and home building industry representatives, and community interest groups, the Commission adopted several recommendations concerning the fourteen bills at its December 2005 meeting:

- **Adequate Facilities Tax and Impact Fee Bills:** In order to provide more flexibility to local governments and allow them to shape and better plan for growth, TACIR recommends general enabling adequate facilities tax legislation and TACIR recommends general enabling impact fee legislation.

- **Local Real Estate Transfer Tax Bills:** The real estate transfer tax is imposed on all property transfers rather than just new

homes and businesses. It is, therefore, a general tax rather than a growth tax. Nonetheless, because it gives local governments the freedom to use a more broad-based tax that will still provide increased revenues with increased growth, TACIR recommends general enabling legislation authorizing a local real estate transfer tax.

- **Additional Recommendations:** In addition to the above recommendations on the specific bills referred to TACIR for study, the Commission also recommends
  - that cities be included in any local fiscal flexibility legislation,
  - that a simple majority vote (or as provided in the city charter) of the local legislative body serve as the requirement for passage of any local taxes authorized by general enabling legislation, and
  - that the General Assembly remove the referendum requirement for local option sales tax rate increases.

LEGISLATIVE ACTION: 2006

The General Assembly took action in 2006 on only two of the bills referred to TACIR for study in 2005. HB 2405, which would have amended an existing private act authorizing an adequate school facilities tax in Williamson County was recommended for passage in the House State and Local Government Committee. The Senate companion, SB 2195, remained on the desk. HB 2404, authorizing a development tax in Bedford County, was officially taken off notice. Its Senate companion, SB 2388, remained on the desk. All twelve of the tax and fee bills, as well as the two broadly captioned tax bills, referred to TACIR in 2005 died with the end of the 104th General Assembly.

The General Assembly introduced nine additional impact fee, adequate facilities tax and real estate transfer tax bills in 2006. Only one of these bills, SB 3839/HB 3469 (The County Powers Relief Act, Public Chapter 953, discussed in box on next page), passed, with the rest dying with the end of the 104th General Assembly.

The County Powers Relief Act of 2006

Public Chapter 953, Acts of 2006, the County Powers Relief Act (SB 3839/HB 3469), authorizes counties to levy a $1 per square foot privilege tax on the residential development of property in order to defray the cost of providing school facilities to meet the needs of the citizens of the county as a result of population growth. A copy of PC 953 is located at Appendix 3 of this report.

To be eligible for the tax, a county must meet at least one of two growth measures:

(1) The county experienced a growth rate of 20% or more in total population from the 1990 federal census to the 2000 federal census, or the county experiences growth of 20% or more between any subsequent federal decennial censuses; or

(2) The county experienced a 9% or more increase in population over the period from the year 2000 to 2004 or over a subsequent four-year period according to U.S. Census Bureau population estimates.

The triggers section of this report provides a discussion of the relative strengths and weaknesses of the triggers used in PC 953, comparing them to alternative triggers developed by TACIR staff. Table 10 on page 40 of this report lists the thirty-nine counties that currently pass at least one of these triggers.

The rate cannot be increased for four years after passage of the adequate facilities tax, and then by no more than 10%. Once raised, the rate cannot be raised again for four years. Again, any increase is limited to no more than 10%.

After the effective date of the bill, no county could enact an impact fee on development or a local real estate transfer tax by private or public act. The bill does not prevent a municipality or county from collecting similar development taxes or impact fees as authorized by a private act already in effect. A county already levying a development tax or impact fee by private act would not be able to levy the tax authorized in this bill as long as the private act is in effect.

GROWTH

Many public officials limit their definition of growth to population growth. Typically, more people means more services required, and rapid increases in population can overwhelm a local government. Table 3 shows the top twenty Tennessee counties by percentage of growth in population for 2000-2005. These counties are certainly growing quickly compared to the rest of Tennessee, but not nearly as quickly as some other counties in the United States. The percentage population growth for the entire state for 2000-2005 was 3.8%,[4]

much slower than the national growth rate of 5.3%.[5] The fastest growing county, by percentage growth, in the United States for 2000-2005 was Flagler County, Florida, with a 53.3% increase in population. This rate is more than double the rate of growth for Williamson County, which ranked first in Tennessee and eighty-seventh in the nation for percentage growth. With an increase of 26,587 people, Flagler had a nearly identical nominal gain to Williamson. Thirty-nine of the top 100 U.S. counties, ranked by percentage gain, had a larger nominal gain than Williamson.[6]

Table 3. Nominal and Percent Population Growth, 2000-2005
Top 20 Tennessee Counties, Ranked by Percent Growth

County	Percent Growth	Nominal Growth	Rank
Williamson	19.88%	25,474	1
Rutherford	18.98%	34,821	2
Fayette	18.32%	5,336	3
Wilson	12.56%	11,216	4
Bedford	11.56%	4,374	5
Sequatchie	11.18%	1,276	6
Loudon	10.60%	4,158	7
Sevier	10.56%	7,573	8
Sumner	10.56%	13,847	9
Monroe	10.21%	3,999	10
Robertson	10.07%	5,522	11
Maury	9.40%	6,558	12
Cumberland	9.18%	4,319	13
Montgomery	8.84%	11,961	14
Blount	8.74%	9,286	15
Tipton	8.61%	4,439	16
Jefferson	8.54%	3,807	17
Grainger	7.54%	1,562	18
Cheatham	6.89%	2,489	19
Union	6.74%	1,205	20

Source: U. S. Census Bureau

Tennessee's recent population growth rate is not unprecedented. There was a robust 17% gain in population statewide from 1970 to 1980. This outpaced the U.S. growth rate of 11% for the same period. The state then lagged behind the U.S. in growth, 6% versus 10%, from 1980 to 1990. Tennessee again grew faster than the U.S. as a whole from 1990 to 2000, 17% versus 13%, before being overtaken again from 2000-2005.

Population growth, while easy to understand, does not necessarily indicate the relative impact on service demands or the requirements of distinct segments of the population. For example, two counties could have the same population increase, but one could have a larger increase among school-age children, thus causing a greater demand for education services. Also,

there is the question whether to measure growth as actual (nominal) growth or as a percentage of the total population. A county with a small population can gain a small number of people and have larger percentage growth in population than a county with a much larger population that has gained many more people. For example, even though Shelby County's population only grew an estimated 1.2% from 2000-2005, its nominal gain of 10,770 people was larger than the gain for all but five of the top twenty counties in Table 3 (see Table 4).

Table 4. Nominal and Percent Population Growth, 2000-2005
Top 20 Tennessee Counties, Ranked by Nominal Growth
(Counties in Top 20 for Both Measures Highlighted)

County	Percent Growth	Nominal Growth	Rank
Rutherford	**19.00%**	**34,821**	**1**
Williamson	**19.90%**	**25,474**	**2**
Knox	5.80%	22,160	3
Sumner	**10.60%**	**13,847**	**4**
Montgomery	**8.80%**	**11,961**	**5**
Wilson	**12.60%**	**11,216**	**6**
Shelby	1.20%	10,770	7
Blount	**8.70%**	**9,286**	**8**
Sevier	10.60%	7,573	9
Maury	**9.40%**	**6,558**	**10**
Robertson	**10.10%**	**5,522**	**11**
Fayette	**18.30%**	**5,336**	**12**
Davidson	0.90%	5,311	13
Washington	4.70%	5,037	14
Tipton	**8.60%**	**4,439**	**15**
Bedford	**11.60%**	**4,374**	**16**
Cumberland	**9.20%**	**4,319**	**17**
Loudon	**10.60%**	**4,158**	**18**
Putnam	6.60%	4,117	19
Monroe	**10.20%**	**3,999**	**20**

Source: U. S. Census Bureau

Finally, population growth may or may not correspond to growth in jobs and the economy or growth in demand for such service as new roads, sewers, etc. Indeed, no single measure captures the full breadth of growth. For this reason, TACIR staff has used a growth methodology that is more comprehensive than population alone to identify high-growth areas.

GROWTH TYPOLOGY

In 1999, the TACIR devised a growth typology in order to more systematically assess growth for Tennessee counties. It emphasizes the fact that community growth can be seen as a combination of multiple factors. The original typology included three measures, population,

The TACIR devised a growth typology in order to more systematically address growth for Tennessee counties.

average daily membership (public school enrollment), which is an indicator of service burden, and payroll data as an economic indicator. The updated version of the typology used in this report replaces payroll data with wage data and includes a fourth measure, daily vehicle miles traveled, as an indicator of commuter and transportation growth.[7] The typology measures both nominal and percentage growth and combines results for each of the four measures into a "super rank." The data used is for the period 2000-2004 as data is not available for 2005 for all of the sets. The methodology is as follows:

1. Population Indicator. Each county is ranked highest to lowest for both nominal and percentage growth in population for 2000-2004. The higher of the two rankings (either the ranking for nominal growth or the ranking for percentage growth, whichever indicates the most growth relative to other Tennessee counties) is indicated as the "Best Rank" for the population indicator.
2. Service Burden Indicator. Public school enrollment, kindergarten through grade twelve, measured as Average Daily Membership (ADM), is used as a proxy for service burden growth. Each county is ranked highest to lowest for both nominal and percentage growth in ADM for 2000-2004. The higher of the two rankings is used as the "best rank" for the service burden indicator.
3. Economic Indicator. This measure uses total wage growth as calculated using U. S. Bureau of Labor Statistics data. Each county is ranked highest to lowest for both nominal and percentage growth in total wages for 2000-2004. The higher of the two rankings is used as the "best rank" for the economic indicator.
4. Transportation Indicator. Growth for 2000-2004 in daily vehicle miles of travel (DVMT), as reported by the Tennessee Department of Transportation, is used as an indicator for growth in commuting and related transportation service needs. DVMT is the

average estimated daily vehicle miles of travel for each year on a county's urban freeways, principal and minor arterial roads, and major and minor collector roads. It excludes Interstate miles traveled in order to discount the effect of drivers just passing through the county. To that extent, the methodology understates the effect of growth in local traffic on Interstate routes, especially in counties such as Unicoi that had new Interstate construction during this period; however, staff believe the strength of the methodology is greater when this traffic is excluded than when through travel is included. Each county is ranked highest to lowest for both nominal and percentage growth for total wages. The higher of the two rankings is used as the "best rank" for the transportation indicator.

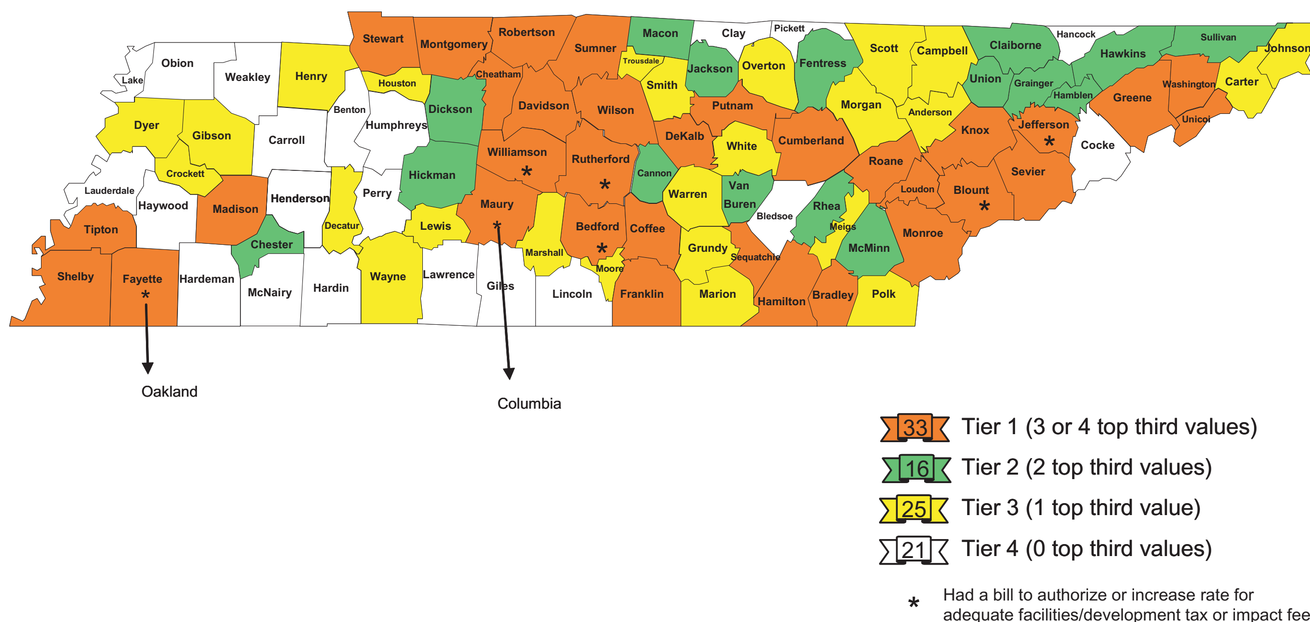
5. Super Rank. The super rank is calculated for each county by counting the number of indicators with a best rank in the top third of counties for the state.
6. Counties with three or four top third best ranks are Tier I growth counties, counties with two top third best ranks are Tier II growth counties, counties with one top third best rank are Tier III growth counties, and all others are Tier IV growth counties.

Appendix 2 provides data for each indicator used in the typology for each county.

Tier I counties have the highest growth by this comprehensive measure. They rank among the top third of Tennessee counties in nominal or percent growth for at least three of the four growth typology indicators. Using both nominal and percent growth and allowing the counties to rank in the top third of any three of the measures in order to be placed in Tier I allows for a more inclusive indicator of growth than using population alone. This typology reflects the fact that growth, and the pressure caused by growth, comes in different forms. Later in this report, Tier I counties are examined in terms of indicators of fiscal pressure. The growth and fiscal pressure indicators are combined to develop a potential growth tax trigger.

Looking at Tennessee's three Grand Divisions, Middle Tennessee had the largest number of Tier I counties, but then Middle Tennessee has the largest number of counties among the three divisions. Of Middle Tennessee's forty-one counties, sixteen (39%) were Tier I. East Tennessee also had 39% of its counties, thirteen of thirty-three, in Tier I. Only four of West Tennessee's counties (19%) made Tier I. As shown in Figure 1, the most growth occurred in and around the state's more urban counties (Davidson, Hamilton, Knox, Madison, Montgomery, Shelby, and Washington).

Figure 1. TACIR Growth Typology Super Rank Tiers by County, 2000-2004



FISCAL PRESSURE

Just as with growth, measuring fiscal pressure is complicated. There is no obvious formula for evaluating which governments are under fiscal pressure and which are not. Fiscal pressure results when a government cannot finance needed or demanded services. Fiscal pressure is often a side effect of rapid growth, but the issue is not straightforward. Fiscal pressure can be intensified by increases in capital spending needs resulting from aging infrastructure or from population growth requiring new infrastructure. Fiscal pressure can also be the result of the persistent inability of residents to raise enough tax revenue to adequately fund necessary services because of insufficient economic activity in the area.

Local jurisdictions with high growth rates are not the only ones finding themselves under fiscal pressure. Some local governments are consistently unable to fund necessary services

despite level or declining populations and regular tax rate increases. Some local governments have very little in the way of business tax bases and must rely primarily on their residential tax bases, and these bases often consist of households with relatively low incomes compared to the state as a whole. Signs of this type of stress include high tax rates coupled with low or negative growth rates and flat income growth. Governments facing this type of fiscal pressure are unlikely to be helped very much by local fiscal flexibility to pass growth taxes or fees, as their financial pressure usually stems from relatively low fiscal capacity and little economic activity. Such local flexibility would still allow them to select the tax mix that serves them best and may help to alleviate their fiscal pressure. The problems these counties face are significant and warrant further study; however, this report is focused on growth-induced fiscal pressure because of the fourteen bills assigned to TACIR for study.

There is no obvious formula for measuring fiscal pressure.

Fiscal pressure resulting from rapid growth may be linked to overall growth in population; growth in certain segments of the population, such as school-aged children or the elderly; lack of adequate sales or property tax bases; or a combination of these or other factors. The cost of providing public services and infrastructure can quickly overwhelm communities when population and housing increase rapidly and business activity does not.[8]

Because of data limitations and the dominant role of counties in providing services in the majority of Tennessee's counties, TACIR staff reviewed fiscal pressure at the county level. TACIR staff used local tax rates and per capita debt as indicators of fiscal pressure, but it is important to recognize that fiscal pressure defies clear identification. The indicators used here suggest areas that may be under fiscal pressure, but it is far from clear that they identify all counties under fiscal pressure.

LOCAL OPTION TAX RATES

The expectation for counties under fiscal pressure is that many will make use of most or all local option taxes and have relatively high rates for some of the more important among those taxes, with importance being determined by revenue-raising ability.[9] High rates for the property tax, the local option sales tax, and the wheel tax can be seen as indicators of fiscal pressure.

PROPERTY TAX RATES

Staff used equalized property tax rates to compare Tennessee's counties. Equalized rates are the actual rates multiplied by an appraisal ratio. This allows for a more accurate comparison of rates between counties by adjusting actual rates for estimated changes in the value of property since it was last appraised. These appraisal ratios are calculated by the Division of Property Assessment of the Tennessee Office of the Comptroller based on sales of similar properties in the same county.

Table 5 shows the thirty-three counties (top third plus ties) with the highest county property tax rates. These are the rates for only the county government and do not include municipal, special school district, or other rates. The average (unweighted mean) property tax rate for the thirty-three counties in Table 5 is $2.85 per $100 of assessed value, while the average equalized rate for all ninety-five Tennessee counties is $2.31. Most Tennessee counties have property tax rates between $2 and $3 per $100 of assessed value. Significantly high rates in some counties undoubtedly skew the statewide mean, making direct comparisons to the average more difficult. Staff used an unweighted mean to ensure that these two large counties did not overly influence the average. Eight counties have rates above $3; two of these, Davidson and Shelby Counties, have rates higher than $4 per $100 of assessed value.

Fifteen of the thirty-three counties in Table 5 are Tier I growth counties based on the TACIR typology; six are Tier II, seven are Tier III, and five are Tier IV. This suggests some degree of overlap between growth and higher than average property tax rates. The Tier I counties in Table 5 had an average rate of $2.91, while Tier II counties an average of $2.69, Tier III an average of $2.93, and Tier IV an average of $2.74. It is essential to remember that this comparison includes only county property tax rates and does not separate the rates for school districts or municipalities. This is an area that the TACIR plans to study in more depth for future reports. Also, the TACIR plans to consider the potentially disproportionate burden of growth borne by regional hubs.

**Table 5. Equalized Property Tax Rate Per $100 of Assessed Value
Top Third of Tennessee Counties by Rank
and TACIR Growth Typology Tier, 2005**

County	Equalized Property Tax Rate	Rank	Tier
Shelby	$4.09	1	I
Davidson	$4.04	2	I
Morgan	$3.31	3	III
Marshall	$3.14	4	III
Trousdale	$3.08	5	III
Giles	$3.07	6	IV
Montgomery	$3.03	7	I
Dickson	$3.01	8	II
Cheatham	$2.93	9	I
Franklin	$2.91	10	I
Hamilton	$2.89	11	I
Houston	$2.84	12	III
Coffee	$2.83	13	I
Anderson	$2.82	14	III
Hickman	$2.80	15	II
Grundy	$2.77	16	III
Maury	$2.77	17	I
Benton	$2.75	18	IV
Lawrence	$2.75	18	IV
Macon	$2.70	20	II
Knox	$2.69	21	I
Rutherford	$2.68	22	I
Tipton	$2.63	23	I
Clay	$2.63	24	IV
Jackson	$2.61	25	II
Crockett	$2.58	26	III
Williamson	$2.57	27	I
Robertson	$2.54	28	I
Sullivan	$2.53	29	II
Stewart	$2.50	30	I
Cannon	$2.50	31	II
Wilson	$2.48	32	I
Cocke	$2.48	32	IV

Source: TACIR calculation using Tennessee Comptroller of the Treasury Data.

Note: The Davidson County and Trousdale County rates shown are for the general services district of these metropolitan counties. The rate for the urban services district is $4.69 per $100 of assessed value for Metro Nashville and $4.45 for Metro Trousdale.

SALES TAX RATES

Table 6 lists the thirty-three Tennessee counties that have adopted the highest allowed local option sales tax rate, 2.75%. The average (unweighted mean) sales tax rate for all ninety-five Tennessee counties is 2.42%.

Table 6. Tennessee Counties With Maximum Local Option Sales Tax Rate (2.75%) as of January 1, 2006 by TACIR Growth Typology Tier

County	Tier	County	Tier
Bedford	I	Smith	III
Cumberland	I	Warren	III
Greene	I	Wayne	III
Madison	I	Benton	IV
Putnam	I	Carroll	IV
Rutherford	I	Clay	IV
Unicoi	I	Cocke	IV
Chester	II	Hardeman	IV
Dickson	II	Haywood	IV
Grainger	II	Henderson	IV
Hawkins	II	Lake	IV
Hickman	II	Lauderdale	IV
Jackson	II	Lawrence	IV
Van Buren	II	Obion	IV
Crockett	III	Pickett	IV
Dyer	III	Weakley	IV
Houston	III		

Source: Tennessee Department of Revenue

Only seven of the thirty-three counties in Table 6 are Tier I growth counties based on the TACIR typology. Another seven of the counties are Tier II, and six are Tier III. Thirteen of the counties are Tier IV. This would seem to indicate that, while a maximum sales tax rate may be an indicator of fiscal pressure, there is little overlap between high growth and high sales tax rates. The sales tax seems to be relied upon more by low growth counties, perhaps indicating an attempt by these counties to compensate for a small sales tax base. Another issue to keep in mind with the sales tax is that a referendum is required to raise local option rates. Several local governments have recently tried and failed to pass such referenda.

WHEEL TAXES

Fifty-five Tennessee counties have wheel taxes, with an (unweighted) average rate of $35 per vehicle. The average rate for the top third[10] of counties, shown in Table 7, is $44, while the highest rate, in Crockett County, is $70.

The wheel tax is also used by ten of the thirty-three Tier I growth counties. These ten counties levy the wheel tax at an average rate of $44 per vehicle. Four Tier II counties levy a wheel tax (average rate of $49), twelve Tier III counties (average rate of $42), and seven Tier IV counties (average rate of $44). So, while the wheel tax is used by nearly a third of all Tier I counties, on average, it is levied at a lower rate than in several Tier II and III counties. It is

important to note that, like the sales tax, several local governments have tried and failed to pass a referendum authorizing the adoption of or an increase in a wheel tax. From 2002-2005, there were ten referenda that failed to impose a new wheel tax (two of them were in Blount County) and eight that failed to increase the rate of the existing tax.

Table 7. Wheel Tax Rate, 2005
Top Third of Tennessee Counties
by Rank and TACIR Growth Typology Tier, 2000-2004

County	Wheel Tax Rate	Rank	Tier
Cheatham	$50.00	9	I
Davidson	$55.00	7	I
Knox	$36.00	21	I
Montgomery	$30.00	29	I
Robertson	$35.00	22	I
Rutherford	$40.00	16	I
Shelby	$50.00	9	I
Stewart	$35.00	22	I
Sumner	$50.00	9	I
Tipton	$60.00	4	I
Chester	$65.35	2	II
Dickson	$60.00	4	II
Hickman	$30.50	27	II
Macon	$40.00	16	II
Campbell	$35.00	22	III
Crockett	$70.00	1	III
Decatur	$30.00	29	III
Dyer	$60.00	4	III
Gibson	$35.00	22	III
Henry	$33.50	26	III
Houston	$45.00	14	III
Marshall	$50.00	9	III
Overton	$30.00	29	III
Trousdale	$40.00	16	III
Warren	$30.00	29	III
Wayne	$41.25	15	III
Carroll	$30.00	29	IV
Hardin	$46.00	13	IV
Haywood	$30.50	27	IV
Lake	$62.00	3	IV
Lauderdale	$55.00	7	IV
Obion	$40.00	16	IV
Weakley	$40.00	16	IV

Source: University of Tennessee, County Technical Assistance Service

PER CAPITA DEBT

Local governments under fiscal pressure are more likely to be carrying heavier-than-average per capita debt. Debt data are not easy to come by; this analysis makes use of data from the U.S. Census Bureau's 2002 Census of Governments (COG). The COG data has some widely recognized problems that result from voluntary participation by local governments as well as inconsistent and incomplete reporting. For example, no debt data is available for Davidson, Moore, and Trousdale Counties, which, being metropolitan governments, are treated as cities in the Census data. Data is also lacking from four other counties: Giles; Grainger; Grundy; and Haywood. Nonetheless, it is the best data available on local per capita debt.

Table 8. Per Capita Debt
Top Third of Tennessee Counties, 2002

County	Per Capita Debt	Rank	Tier
Humphreys	$4,453	1	IV
Marshall	$2,538	2	III
Shelby	$2,309	3	I
Williamson	$2,273	4	I
Madison	$2,242	5	I
Maury	$2,165	6	I
Hamilton	$2,097	7	I
Dickson	$2,048	8	II
Hancock	$1,914	9	IV
Blount	$1,843	10	I
Lincoln	$1,781	11	IV
Stewart	$1,697	12	I
Montgomery	$1,668	13	I
Rutherford	$1,607	14	I
Houston	$1,605	15	III
Crockett	$1,558	16	III
Unicoi	$1,402	17	I
Putnam	$1,373	18	I
Smith	$1,339	19	III
Pickett	$1,321	20	IV
Dyer	$1,242	21	III
Bledsoe	$1,206	22	IV
Wayne	$1,198	23	III
Overton	$1,150	24	III
Lawrence	$1,109	25	IV
Macon	$1,093	26	II
McNairy	$1,082	27	IV
Knox	$1,052	28	I
Perry	$1,042	29	IV
Cheatham	$1,031	30	I
Anderson	$1,024	31	III
Loudon	$1,018	32	I

Source: U. S. Census Bureau

Among the eighty-seven Tennessee counties for which data is available, the average debt was $1,004 per capita. Per capita debt ranged from $76 in Gibson County, which does not fund public schools, to $4,453 in Humphreys County.[11] Table 8 shows the reported per capita debt for the top third of counties by this measure. Their average debt was $1,640 per capita. The fourteen Tier I counties in Table 8 had average per capita debt of $1,698, while the two Tier II counties averaged $1,570, the eight Tier III counties averaged $1,457, and the eight Tier IV counties averaged

$1,738. The Tier IV counties included one significant outlier, Humphreys County, with reported per capita debt of $4,453. Removing this outlier produces an unweighted average per capita debt of $1,351 for the other Tier IV counties and an unweighted average of $1,549 for the other thirty-one counties in Table 8. The unweighted average per capita debt for Tennessee's counties other than Humphreys is $967. The Tier I growth counties appear to rely on debt significantly more than other Tennessee counties. As shown in Table 8, several slower growing counties also rely on debt more heavily than average.

TRIGGERS

The County Powers Relief Act (Public Chapter 953), passed by the General Assembly in 2006, allows county governments who have exhibited signs of rapid population growth to enact an adequate facilities tax to fund education facilities. Additionally, two of the three real estate transfer tax bills referred to TACIR by the General Assembly in 2005 would have required that counties exhibit "rapid growth" before adopting the tax. The requirement for evidence of growth before a tax intended to fund the cost of growth can be adopted has been described as a "trigger." A trigger in this context is a threshold that must be met before growth is considered serious enough to warrant a legislative grant of authority for local governments to adopt a new tax. Impact fees, which are based on the actual costs of growth, have such a requirement built into them. The Commission chose not to make a recommendation regarding the use of triggers.

The use of triggers is a controversial topic. Arguments against their use include the difficulty in selecting a proper trigger, concerns with curbing local autonomy, and the fact that several local governments already possess the authority to levy growth taxes trigger free. Several expert witnesses testified before the Commission that every county and city is its own special case, that blanket restrictions from the legislature diminish their ability to create the best tax structure for their communities, and that local officials can best decide what local governments need and are directly accountable to local residents. Also, many local officials prefer to prepare for rapid growth and to address it as it is beginning

A proper trigger can limit new taxing authority to those needing it to address fiscal pressures.

rather than waiting for a financial crisis. However, some question remains whether local governments should be considered to be under fiscal pressure if they are not fully exploiting the tax bases available to them. Are local governments looking for new tax bases because that is more politically palatable than raising existing tax rates, or are existing tax bases reaching a point of diminishing revenue returns? This topic will be explored in more depth in follow-on reports to this study.

An advantage of proper triggers is that they limit new taxing authority to those actually needing it to deal with infrastructure and service pressures caused by high levels of growth, assuming such limits are desirable and appropriate. However, establishing a proper trigger is not an easy matter. As discussed earlier, there is no obvious standard for identifying "problem" growth or in differentiating between fiscal pressure caused by growth and that caused by other factors. In addition, there are technical concerns about developing proper triggers:

- Developing triggers for cities is more difficult because data for cities is not as readily available as it is for counties.
- Triggers based on some specific level of growth may deny broader taxing authority to a local government falling only marginally below the trigger or cutoff.
- If tax effort is included as part of the trigger mechanism, what level of tax effort should be chosen? And which tax or taxes should be included?

After an extensive review of relevant data and literature and the input of Commission members, the TACIR staff identified what it considers five essential characteristics of a proper, or good, trigger.

A good trigger

- accurately identifies growth-related fiscal pressure,
- recognizes that any various growth measures can evidence growth-related fiscal pressure,

- allows local governments to respond to fiscal pressures quickly and does not delay action until after the damage is already done,
- should be easy to explain and understand, and
- should use data that is readily available and regularly updated.

The state legislature was tackling this topic at the same time as TACIR staff, and the different criteria each developed show how the types of triggers one chooses can lead to vastly different outcomes.

Staff assessed the potential for using the TACIR growth typology as a trigger for growth taxes. The Tier I counties are among the top third of Tennessee counties in nominal or percentage growth in at least three out of four growth measures: population, ADM, wages, and DVMT. These counties are obviously among the fastest growing in the state, but are they necessarily under fiscal pressure? The review of growth tiers for each of the fiscal pressure indicators shows some overlap, but certainly not enough to use the growth typology as a stand-alone trigger.

Staff also assessed each of the fiscal pressure indicators discussed in this report as triggers, but none possessed all five essential characteristics of a good trigger. First, using higher than average tax rates and higher than average debt as triggers partially defeats the purpose. Forcing a local government to wait until it is under fiscal pressure before it can address the costs of growth prevents that government from planning effectively. Also, the review of growth tiers by fiscal pressure indicator shows that several counties with high rankings on various fiscal pressure indicators are not growing very quickly. This reinforces the concern that, while growth can contribute to fiscal pressure, other factors, such as high poverty or high service expectations, can also cause fiscal pressure. Growth taxes would not be an effective solution for these counties.

Choosing just one measure fails to acknowledge the combined effect of different types of growth in creating fiscal pressure. The variability of individual local circumstances makes it difficult to develop a trigger that would accurately and fairly identify fiscal pressure for

all local governments. A solution to this problem may be to use a two-step, multiple trigger approach. This approach would first identify high growth counties and then test those counties using a list of acceptable triggers, but require local governments to meet only a portion of the criteria:

1. The TACIR growth typology is used to identify rapid growth. All Tier I counties are considered high growth counties.
2. Each of these counties is then tested for fiscal pressure using equalized property tax rates, local option sales tax rates, wheel tax rates, and per capita debt as pressure indicators. Tier I counties ranking in the top third of all Tennessee counties for at least three of these four indicators would meet the trigger and be authorized to levy a growth tax.

Table 9 shows that this trigger mechanism as described above would authorize six counties to levy growth taxes. Those counties include Cheatham, Knox, Montgomery, Rutherford, Shelby, and Stewart. Davidson County would likely be the ninth such county if debt data were available for it from the U. S. Census. Williamson County, which did not pass the test is an example of a Tier I growth county that has recently tried and failed to raise the rate of its wheel tax. Regardless, Davidson and Williamson Counties already possess authority for an adequate facilities tax through private acts. Three of the six qualifying counties in Table 9, Cheatham, Montgomery, and Rutherford, also already possess the authority to levy some form of growth tax, as do six more counties that do not meet the criteria.

While the two-step method shows the counties experiencing high pressure as a result of high growth, it has shortcomings. It does not reflect counties experiencing high fiscal pressure for other reasons. And, of course, by requiring a trigger, it can be argued that this method infringes upon local autonomy. Finally, with only six counties passing the trigger, it might be too restrictive to be politically viable. If this test is deemed too restrictive, the threshold for passing could be lowered. For example, reducing the threshold so that Tier

Table 9. Tier I Counties 2-Step Trigger Test Results
Counties Passing the Test Highlighted

Tier I County	Equalized Property Tax	Local Option Sales Tax (Maximum Rate: Yes or No)	Wheel Tax	Per Capita Debt	# of Top Third Rankings	Pass
Bedford	no	yes	no	no	1	no
Blount	no	no	no	10	1	no
Bradley	no	no	no	no	0	no
Cheatham	**9**	**no**	**9**	**30**	**3**	**yes**
Coffee	13	no	no	no	1	no
Cumberland	no	yes	no	no	1	no
Davidson	2	no	7	no	2	no
Dekalb	no	no	no	no	0	no
Fayette	no	no	no	no	0	no
Franklin	10	no	no	no	1	no
Greene	no	yes	no	no	1	no
Hamilton	11	no	no	7	2	no
Jefferson	no	no	no	no	0	no
Knox	**21**	**no**	**21**	**28**	**3**	**yes**
Loudon	no	no	no	32	1	no
Madison	no	yes	no	5	2	no
Maury	17	no	no	6	2	no
Monroe	no	no	no	no	0	no
Montgomery	**7**	**no**	**29**	**13**	**3**	**yes**
Putnam	no	yes	no	18	2	no
Roane	no	no	no	no	0	no
Robertson	28	no	22	no	2	no
Rutherford	**22**	**yes**	**16**	**14**	**4**	**yes**
Sequatchie	no	no	no	no	0	no
Sevier	no	no	no	no	0	no
Shelby	**1**	**no**	**9**	**3**	**3**	**yes**
Stewart	**30**	**no**	**22**	**12**	**3**	**yes**
Sumner	no	no	9	no	1	no
Tipton	23	no	4	no	2	no
Unicoi	no	yes	no	17	2	no
Washington	no	no	no	no	0	no
Williamson	27	no	no	4	2	no
Wilson	32	no	no	no	1	no

Source: TACIR analysis using data from the U. S. Census Bureau, U. S. Bureau of Labor Statistics, Tennessee Department of Education, Tennessee Office of the Comptroller, Tennessee Department of Transportation, and UT-CTAS.

I counties would only need to rank in the top third for two of the four indicators would allow fifteen counties to pass the two-step test.

The legislature took a more expansive approach, with a requirement of either a 20% increase in population between the two most recent decennial census population estimates or a 9% increase in population over the most recent four years of census estimates. Table 10 shows the thirty-nine counties that qualify to make use of the new privilege tax. Fourteen of them are Tier I counties in the TACIR typology; nine are Tier II; seven are Tier III; and nine are Tier IV.

Table 10. Counties Qualifying Under the County Powers Relief Act

County	July 1, 2004	July 1, 2000	Change from 2000	Percent Change	April 1, 2000 Census	April 1, 1990 Census	Change from 1990	Percent Change	Growth Tier
Bedford	41,153	37,830	3,323	**8.8%**	37,586	30,411	**7,175**	**23.6%**	**I**
Bledsoe	12,794	12,412	382	**3.1%**	12,367	9,669	**2,698**	**27.9%**	**IV**
Blount	113,444	106,249	7,195	**6.8%**	105,823	85,962	**19,861**	**23.1%**	**I**
Cannon	13,285	12,915	370	**2.9%**	12,826	10,467	**2,359**	**22.5%**	**IV**
Cheatham	37,982	36,114	1,868	**5.2%**	35,912	27,140	**8,772**	**32.3%**	**I**
Chester	15,813	15,547	266	**1.7%**	15,540	12,819	**2,721**	**21.2%**	**III**
Cumberland	50,187	47,027	3,160	**6.7%**	46,802	34,736	**12,066**	**34.7%**	**I**
DeKalb	18,158	17,459	699	**4.0%**	17,423	14,360	**3,063**	**21.3%**	**III**
Dickson	45,366	43,342	2,024	**4.7%**	43,156	35,061	**8,095**	**23.1%**	**IV**
Fayette	33,562	29,122	4,440	**15.2%**	28,806	25,559	**3,247**	**12.7%**	**II**
Grainger	21,885	20,721	1,164	**5.6%**	20,659	17,095	**3,564**	**20.8%**	**II**
Hardeman	28,138	28,137	1	**0.0%**	28,105	23,377	**4,728**	**20.2%**	**IV**
Hawkins	55,589	53,709	1,880	**3.5%**	53,563	44,565	**8,998**	**20.2%**	**III**
Hickman	23,670	22,440	1,230	**5.5%**	22,295	16,754	**5,541**	**33.1%**	**II**
Jefferson	47,541	44,587	2,954	**6.6%**	44,294	33,016	**11,278**	**34.2%**	**II**
Johnson	18,020	17,515	505	**2.9%**	17,499	13,766	**3,733**	**27.1%**	**III**
Lewis	11,460	11,375	85	**0.7%**	11,367	9,247	**2,120**	**22.9%**	**IV**
Loudon	42,267	39,229	3,038	**7.7%**	39,086	31,255	**7,831**	**25.1%**	**I**
Macon	21,355	20,454	901	**4.4%**	20,386	15,906	**4,480**	**28.2%**	**III**
Marshall	27,950	26,878	1,072	**4.0%**	26,767	21,539	**5,228**	**24.3%**	**IV**
Maury	74,738	69,734	5,004	**7.2%**	69,498	54,812	**14,686**	**26.8%**	**II**
Meigs	11,495	11,130	365	**3.3%**	11,086	8,033	**3,053**	**38.0%**	**IV**
Monroe	42,118	39,186	2,932	**7.5%**	38,961	30,541	**8,420**	**27.6%**	**I**
Montgomery	141,806	135,241	6,565	**4.9%**	134,768	100,498	**34,270**	**34.1%**	**I**
Moore	5,981	5,768	213	**3.7%**	5,740	4,696	**1,044**	**22.2%**	**IV**
Putnam	65,739	62,463	3,276	**5.2%**	62,315	51,373	**10,942**	**21.3%**	**I**
Robertson	59,197	54,857	4,340	**7.9%**	54,433	41,492	**12,941**	**31.2%**	**II**
Rutherford	209,739	183,471	26,268	**14.3%**	182,023	118,570	**63,453**	**53.5%**	**I**
Sequatchie	12,328	11,415	913	**8.0%**	11,370	8,863	**2,507**	**28.3%**	**I**
Sevier	77,153	71,709	5,444	**7.6%**	71,170	51,050	**20,120**	**39.4%**	**I**
Smith	18,397	17,815	582	**3.3%**	17,712	14,143	**3,569**	**25.2%**	**IV**
Stewart	12,793	12,449	344	**2.8%**	12,370	9,479	**2,891**	**30.5%**	**II**
Sumner	141,732	131,162	10,570	**8.1%**	130,449	103,281	**27,168**	**26.3%**	**I**
Tipton	54,634	51,559	3,075	**6.0%**	51,271	37,568	**13,703**	**36.5%**	**II**
Trousdale	7,504	7,323	181	**2.5%**	7,259	5,920	**1,339**	**22.6%**	**III**
Union	18,883	17,871	1,012	**5.7%**	17,808	13,694	**4,114**	**30.0%**	**II**
Wayne	16,893	16,835	58	**0.3%**	16,842	13,935	**2,907**	**20.9%**	**III**
Williamson	146,992	128,121	18,871	**14.7%**	126,638	81,021	**45,617**	**56.3%**	**I**
Wilson	97,793	89,292	8,501	**9.5%**	88,809	67,675	**21,134**	**31.2%**	**I**

Source: TACIR analysis using U.S. Census data.

The legislature's method proved much more inclusive, qualifying thirty-nine counties, as opposed to the six that qualified in the TACIR methodology. Even TACIR's less restrictive two-stage test qualified only fifteen counties.

Another weakness of the TACIR methodology is that it does not allow counties that are experiencing the kind of growth that may lead to fiscal pressure to act early, and this is one of the qualities of a good trigger identified by TACIR. The legislature's method, on the other hand, violates another principle by failing to consider that growth-related fiscal pressure can be evidenced by more than one kind of measure of growth. The TACIR method, then, allows only those counties already under fiscal pressure to act. Nine Tier IV counties qualify under the legislature's criteria. These counties have experienced growth, but do not show any signs of fiscal pressure. The legislature's method would allow them to address their fiscal needs before pressure grows too strong.

But the legislature's method leaves out two counties that have been under severe fiscal pressure, Shelby and Knox. These two counties have not had recent percentage increases in growth large enough to qualify, but they are experiencing rapid nominal growth. Because they are more populous, their population growth percentages are not terribly high. They nonetheless have to build new schools and provide services to all of the new residents. The legislature's method might be improved if it allowed counties to meet either a nominal or a percentage growth trigger in order to qualify for the privilege tax.

Setting an effective trigger is a balancing act. Some triggers might have such loose requirements that many of the counties that qualify do not really need the tax. But if need has been positively established, then the county has been unable to use the privilege tax to help plan and control its growth and has had to wait for a crisis before being allowed to address its needs. And even a trigger with criteria that allow many counties to qualify may inadvertently leave some counties that are under fiscal pressure out by focusing on only one of type of growth. These are all difficulties that must be considered when deciding whether or not to include a trigger requirement in any future enabling legislation or modifications to the County Powers Relief Act.

CONCLUSION

Despite ample anecdotal reports of fiscal pressure at the local government level, it is difficult to define fiscal pressure objectively. It is also difficult to identify the specific growth factors that contribute to this pressure. Though this report shows that several measures can help describe elements of growth, there is no single measure that adequately conveys the fiscal pressure aspects of growth. Thus, no one measure would serve as a trigger for allowing growth taxes. The TACIR staff believes that using a two-step multi-trigger approach is more satisfactory, but still entails several concerns, including issues of local flexibility and local autonomy. The members of the TACIR have chosen not to make a recommendation regarding triggers or requirements that they be included in general enabling legislation for growth taxes. The General Assembly has adopted the use of simple population percentage growth triggers with the passage of the County Powers Relief Act of 2006.

ENDNOTES

[1] See Lorelli, Michael Fitzpatrick. 2001. *State and Local Property Taxes. Special Report No. 106*. Washington, DC: Tax Foundation, for property tax burden comparisons and Scherer, Ron. 2005. States try to ease property-tax rise. *The Christian Science Monitor.* June 7, 2005: 1, for a discussion of the political mood concerning property taxes.

[2] Green, Harry A. and Leah Eldridge. 2004. *Financing Growth in Tennessee: Local Development Taxes and Impact Fees*, TACIR Staff Research Brief Number 11. Nashville, TN: Tennessee Advisory Commission on Intergovernmental Relations, p. 3.

[3] Ibid, p. 4.

[4] Population Division, U.S. Census Bureau. Table 2: Cumulative Estimates of Population Change for Counties of Tennessee and County Rankings: April 1, 2000 to July 1, 2005 (CO-EST2005-02-47), Release Date: March 16, 2006.

[5] TACIR calculation using U.S. Census Bureau data.

[6] U.S. Census Bureau, Table CO-EST2005-09 - Population Estimates for the 100 Fastest Growing U.S. Counties in 2005: April 1, 2000 to July 1, 2005, Release Date: March 16, 2006.

[7] Another example of a growth typology is: English, Mary R. and Sean T. Huss, *County Growth Typology, 2000 Data*, University of Tennessee, Knoxville, August 2002. This methodology was prepared under contract with the University of Tennessee Energy, Environment and Resources Center. The UT typology offers a complementary, more complex method to the TACIR methodology. The UT methodology provides insights into several growth-related measures for Tennessee counties, but it does not provide a single, overall growth indicator for those counties. The UT authors noted that the TACIR typology methodology is a quick and fairly easily understood way to assess growth.

[8] Various estimates of the per capita local government costs of population growth have been made. Fodor (1998) estimated the per capita costs in Oregon at $16,000, while an earlier estimate by Minnesotans for Sustainability (1997) for Nashville is only $7,000 per capita. Rhody estimated the per household capital costs of new growth at slightly more than $19,000 (or approximately $5,500 per capita, 1995 data).

[9] While it is possible that the BEP funding mechanism will partially offset the fiscal pressures identified, this issue will be postponed for now and evaluated later in the report.

[10] The top third for this indicator actually includes forty-one counties, rather than thirty-two, due to several counties having the same rates.

[11] U.S. Census Bureau, “Finances of County Governments”, Volume 4, Number 3, February 2005, pp. 199-202.

APPENDIX 1

TENNESSEE CITIES WITH ADEQUATE FACILITIES TAXES OR IMPACT FEES, AS OF JANUARY 1, 2006

City	Adequate Facilities Tax or Impact Fee
Brentwood (Williamson County)	Impact Fee: $598 single family; commercial rate varies depending on type of development
Fairview (Williamson County)	Adequate Facilities Tax: $500 and .25 gross sq. ft. residential; $500 and .60 gross sq. ft. commercial
Franklin (Williamson County)	Adequate Facilities Tax:.46 gross sq. ft. residential; .77 gross sq. ft. non-residential Impact Fee: the city levies a road impact fee, the rate varies
Kingston Springs (Cheatham County)	Adequate Facilities Tax: .40 gross sq. ft. residential
Lavergne (Rutherford County)	Impact Fee: $1,307 single family; $902 multi-family per unit; commercial fee varies
Mount Juliet (Wilson County)	Impact Fee: .50 gross sq. ft. residential
Nolensville (Williamson County)	Adequate Facilities Tax: .65 gross sq. ft. residential; .74 gross sq. ft. commercial
Pegram (Cheatham County)	Adequate Facilities Tax: .70 gross sq. ft. residential; .40 gross sq. ft. commercial
Smyrna (Rutherford County)	Impact Fee: $1,827 single unit; $1,187 per unit multi-family; $1,172 mobile homes; commercial rate varies based on type of development
Spring Hill (Maury County)	Adequate Facilities Tax: .50 gross sq. ft. residential
Spring Hill (Williamson County)	Adequate Facilities Tax: $1 gross sq. ft residential Impact Fee: .25 gross sq. ft. and $500 residential
White House (Robertson)	Impact Fee: $1,250 residential; commercial rate varies depending on type of business

Source: Information from various sources including local government officials and newspaper articles.

APPENDIX 2

TACIR GROWTH TYPOLOGY, RANK BY CATEGORY AND OVERALL GROWTH TIER, 2000-2004

	Population				ADM				Wages				DVMT					
County	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Super Rank	Tier
Anderson	1.28%	64	914	45	-3.11%	76	-388	93	18.66%	32	$238,410,305	10	1.32%	75	21,054	60	1	III
Bedford	9.70%	5	3,647	15	10.98%	3	672	11	28.41%	15	$104,770,185	22	-1.61%	91	-14,740	92	3	I
Benton	-0.12%	81	-20	80	-5.93%	91	-154	77	-5.38%	90	-$5,070,026	89	-6.00%	94	-25,211	93	0	IV
Bledsoe	3.38%	40	418	59	1.64%	39	29	47	-27.63%	95	-$13,444,741	91	6.83%	37	15,670	65	0	IV
Blount	7.49%	12	7,921	7	4.74%	15	765	10	32.12%	10	$350,258,208	8	10.42%	11	219,506	6	4	I
Bradley	3.67%	36	3,231	19	1.68%	37	223	22	17.34%	35	$177,164,849	15	5.83%	46	88,772	15	4	I
Campbell	1.64%	59	653	53	-5.65%	90	-366	92	33.87%	7	$67,982,081	29	-0.74%	87	-4,847	88	1	III
Cannon	4.00%	33	513	55	3.65%	21	75	35	25.10%	21	$9,335,912	66	4.36%	59	12,843	70	2	II
Carroll	-0.38%	84	-111	87	-4.88%	87	-249	87	15.37%	50	$26,830,323	47	-1.64%	92	-12,518	91	0	IV
Carter	3.31%	43	1,880	30	-3.64%	80	-300	89	10.45%	63	$24,502,391	49	-5.16%	93	-54,742	95	1	III
Cheatham	5.90%	20	2,120	28	-0.14%	53	-10	56	33.25%	8	$56,468,974	31	12.72%	5	72,145	22	3	I
Chester	1.50%	60	233	67	2.27%	31	56	42	2.27%	79	$1,874,784	81	8.99%	19	31,765	47	2	II
Claiborne	2.89%	49	864	46	-1.42%	66	-67	68	21.22%	25	$37,363,624	37	8.38%	24	58,238	27	2	II
Clay	0.38%	74	30	76	-5.60%	89	-68	69	8.24%	70	$3,517,053	78	1.40%	72	2,284	80	0	IV
Cocke	3.31%	44	1,110	39	1.24%	47	66	38	1.73%	81	$3,343,158	80	4.56%	57	27,316	55	0	IV
Coffee	4.49%	29	2,158	27	1.77%	35	156	26	30.81%	12	$195,149,968	12	8.54%	23	82,720	19	4	I
Crockett	0.14%	78	21	78	-1.14%	63	-30	58	3.86%	76	$3,564,681	76	8.76%	21	37,440	42	1	III
Cumberland	7.01%	15	3,282	18	4.49%	16	300	16	13.90%	54	$48,506,888	34	9.60%	15	86,730	16	3	I
Davidson	0.45%	72	2,584	22	1.61%	40	1,100	7	9.59%	66	$1,480,729,633	2	1.44%	71	137,142	10	4	I
Decatur	-0.69%	88	-81	85	-17.34%	95	-314	91	16.01%	43	$13,628,272	59	10.28%	13	30,158	51	1	III
Dekalb	4.53%	28	790	48	-1.68%	67	-44	61	50.37%	1	$52,556,132	32	7.86%	27	30,541	50	3	I
Dickson	5.06%	23	2,183	26	2.47%	29	195	25	-0.33%	83	-$1,326,710	87	1.36%	73	13,203	69	2	II
Dyer	0.92%	69	342	64	-0.08%	52	-5	53	15.84%	45	$70,600,103	27	3.67%	64	35,314	44	1	III
Fayette	16.73%	1	4,818	12	-6.30%	92	-231	86	21.66%	24	$31,051,258	43	11.43%	8	96,366	13	3	I
Fentress	2.39%	53	398	60	-4.05%	83	-95	73	27.71%	16	$20,370,323	52	9.67%	14	36,396	43	2	II
Franklin	3.65%	37	1,432	32	-0.80%	58	-47	62	23.49%	22	$51,848,311	33	6.13%	42	48,175	32	3	I
Gibson	-0.06%	80	-28	81	-2.53%	70	-214	84	-3.44%	87	-$15,026,207	93	8.15%	26	84,309	18	1	III
Giles	-0.65%	86	-192	91	-4.69%	86	-218	85	-6.55%	91	-$18,659,326	94	-1.14%	88	-7,900	90	0	IV
Grainger	6.14%	17	1,269	37	4.06%	20	130	28	5.39%	72	$4,260,664	72	6.04%	44	34,689	45	2	II

APPENDIX 2

TACIR GROWTH TYPOLOGY, RANK BY CATEGORY AND OVERALL GROWTH TIER, 2000-2004 (CONTINUED)

	Population				ADM				Wages				DVMT					
County	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Super Rank	Tier
Greene	2.88%	50	1,809	31	1.55%	42	147	27	21.78%	23	$147,541,394	16	4.74%	56	64,821	24	4	I
Grundy	0.93%	68	133	71	-3.01%	74	-70	70	29.15%	13	$10,213,286	62	2.99%	66	7,117	74	1	III
Hamblen	2.34%	55	1,361	34	2.38%	30	213	24	15.50%	49	$144,316,777	18	-0.20%	85	-2,479	86	2	II
Hamilton	0.80%	70	2,475	24	-3.05%	75	-1,262	95	12.04%	61	$691,793,365	6	3.90%	62	237,588	5	3	I
Hancock	-2.11%	93	-143	89	-8.02%	93	-90	72	-0.82%	85	-$146,289	83	1.11%	77	1,069	82	0	IV
Hardeman	0.21%	75	59	72	-3.46%	79	-160	79	15.75%	47	$28,043,282	45	6.86%	35	44,481	35	0	IV
Hardin	1.38%	63	353	63	-2.97%	73	-115	74	3.72%	77	$7,305,814	68	0.91%	80	5,736	76	0	IV
Hawkins	4.27%	30	2,288	25	3.18%	24	243	19	9.71%	65	$33,792,766	39	1.30%	76	13,395	68	2	II
Haywood	-0.92%	89	-183	90	-4.07%	84	-149	76	14.74%	51	$21,424,918	51	2.43%	68	10,653	73	0	IV
Henderson	2.93%	48	747	50	1.59%	41	68	36	13.02%	55	$33,612,876	40	6.14%	41	40,977	37	0	IV
Henry	1.26%	65	391	61	-3.26%	77	-156	78	3.22%	78	$9,505,237	65	7.31%	29	54,804	30	1	III
Hickman	5.91%	19	1,317	35	5.97%	12	216	23	12.26%	59	$8,313,462	67	3.81%	63	17,227	62	2	II
Houston	-1.19%	91	-96	86	2.79%	25	39	45	12.88%	56	$3,550,584	77	1.34%	74	1,759	81	1	III
Humphreys	1.18%	67	212	69	-0.47%	56	-14	57	1.95%	80	$3,636,878	75	-1.20%	89	-5,193	89	0	IV
Jackson	1.47%	62	162	70	5.46%	13	86	31	39.90%	2	$15,909,890	55	0.93%	79	2,285	79	2	II
Jefferson	7.45%	14	3,299	17	7.40%	8	485	12	10.94%	62	$32,169,185	41	7.18%	31	63,133	25	3	I
Johnson	3.14%	46	550	54	-2.19%	68	-51	64	36.45%	5	$26,003,939	48	5.57%	50	18,983	61	1	III
Knox	4.72%	26	18,029	3	1.80%	34	929	9	19.90%	27	$1,213,823,186	3	6.90%	34	385,596	3	4	I
Lake	-3.75%	95	-298	93	1.48%	44	13	50	18.42%	34	$3,910,584	73	0.29%	83	294	83	0	IV
Lauderdale	-1.01%	90	-273	92	-1.13%	62	-52	65	-7.83%	92	-$14,155,670	92	2.12%	69	12,637	71	0	IV
Lawrence	2.35%	54	938	44	-2.72%	71	-187	81	14.10%	52	$39,589,007	36	5.81%	47	47,721	33	0	IV
Lewis	0.45%	73	51	73	3.60%	22	68	36	-0.83%	86	-$414,259	84	1.97%	70	3,845	77	1	III
Lincoln	2.56%	52	801	47	-5.04%	88	-265	88	15.77%	46	$30,272,958	44	3.93%	60	30,838	49	0	IV
Loudon	8.06%	10	3,151	20	4.17%	19	276	17	34.71%	6	$95,927,832	24	8.83%	20	70,128	23	4	I
Macon	4.98%	24	1,015	41	1.69%	36	59	41	12.73%	57	$11,511,993	60	10.93%	9	38,468	41	2	II
Madison	2.79%	51	2,560	23	-1.36%	64	-188	82	12.33%	58	$194,322,701	13	4.86%	54	107,229	12	3	I
Marion	-0.41%	85	-115	88	-1.37%	65	-62	66	19.22%	30	$27,739,718	46	0.58%	81	3,646	78	1	III
Marshall	4.57%	27	1,224	38	1.66%	38	79	33	-16.29%	94	-$55,392,184	95	0.98%	78	6,033	75	1	III
Maury	7.47%	13	5,194	10	-2.73%	72	-312	90	5.12%	73	$62,318,573	30	7.07%	32	129,632	11	3	I
McMinn	4.01%	32	1,966	29	0.39%	50	31	46	15.97%	44	$78,620,667	25	3.92%	61	38,893	40	2	II
McNairy	2.02%	56	499	56	1.93%	33	79	33	-0.62%	84	-$1,264,786	86	3.14%	65	23,560	58	0	IV

APPENDIX 2

TACIR GROWTH TYPOLOGY, RANK BY CATEGORY AND OVERALL GROWTH TIER, 2000-2004 (CONTINUED)

	Population				ADM				Wages				DVMT					
County	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Super Rank	Tier
Meigs	3.95%	35	438	57	3.59%	23	64	40	8.48%	69	$3,450,328	79	6.86%	36	17,148	63	1	III
Monroe	7.98%	11	3,109	21	4.20%	18	267	18	25.72%	18	$73,894,419	26	11.52%	7	94,040	14	4	I
Montgomery	5.52%	22	7,436	8	6.40%	11	1,502	5	19.02%	31	$183,203,482	14	9.42%	17	218,244	7	4	I
Moore	4.15%	31	238	66	-0.04%	51	0	51	16.78%	38	$6,060,801	69	-0.66%	86	-1,013	84	1	III
Morgan	1.90%	58	375	62	0.88%	48	28	48	-3.66%	88	-$2,136,702	88	7.26%	30	25,872	56	1	III
Obion	-0.18%	82	-57	83	-0.90%	59	-49	63	0.87%	82	$3,902,039	74	4.37%	58	40,664	39	0	IV
Overton	1.50%	61	301	65	7.37%	9	225	21	18.47%	33	$17,908,154	53	5.04%	52	25,159	57	1	III
Perry	0.55%	71	42	74	-3.70%	82	-44	60	-11.44%	93	-$8,088,030	90	6.82%	38	13,717	67	0	IV
Pickett	-1.29%	92	-64	84	-8.40%	94	-64	67	-5.35%	89	-$1,113,556	85	-1.55%	90	-1,739	85	0	IV
Polk	-0.06%	79	-9	79	10.48%	4	238	20	9.55%	67	$5,257,331	71	6.70%	39	29,719	53	1	III
Putnam	5.85%	21	3,648	14	4.86%	14	457	14	16.30%	41	$127,247,762	20	5.69%	49	59,237	26	4	I
Rhea	4.90%	25	1,392	33	0.44%	49	20	49	16.35%	40	$46,980,218	35	13.54%	4	85,268	17	2	II
Roane	1.95%	57	1,010	42	1.43%	45	104	30	16.57%	39	$99,822,453	23	6.04%	43	56,018	28	3	I
Robertson	8.98%	6	4,889	11	-0.79%	57	-77	71	28.93%	14	$110,109,902	21	5.88%	45	55,335	29	3	I
Rutherford	15.38%	3	28,002	1	15.57%	1	4,770	1	32.31%	9	$777,503,915	4	8.71%	22	302,758	4	4	I
Scott	3.37%	41	711	51	-1.03%	61	-40	59	7.26%	71	$10,149,128	63	9.48%	16	40,870	38	1	III
Sequatchie	8.72%	7	991	43	6.94%	10	125	29	19.78%	28	$11,067,634	61	10.71%	10	33,630	46	4	I
Sevier	8.57%	8	6,100	9	7.84%	6	951	8	19.52%	29	$133,815,913	19	8.33%	25	167,689	9	4	I
Shelby	1.19%	66	10,703	5	1.40%	46	2,249	3	16.93%	36	$2,912,667,554	1	7.00%	33	1,048,165	1	4	I
Smith	3.96%	34	701	52	-0.18%	54	-6	54	10.13%	64	$14,400,058	56	7.77%	28	27,697	54	1	III
Stewart	3.44%	39	425	58	2.65%	26	54	43	27.45%	17	$17,835,664	54	10.30%	12	30,143	52	3	I
Sullivan	-0.36%	83	-550	94	-2.40%	69	-553	94	16.89%	37	$354,125,806	7	2.67%	67	79,333	20	2	II
Sumner	8.56%	9	11,162	4	7.69%	7	1,714	4	14.09%	53	$147,035,182	17	0.41%	82	10,943	72	3	I
Tipton	6.73%	16	3,451	16	4.38%	17	468	13	12.14%	60	$33,799,334	38	5.52%	51	51,022	31	3	I
Trousdale	3.10%	47	225	68	-0.22%	55	-3	52	4.48%	74	$1,561,826	82	9.05%	18	17,038	64	1	III
Unicoi	0.20%	76	36	75	2.64%	27	65	39	25.30%	20	$32,092,719	42	18.25%	2	79,210	21	3	I
Union	6.04%	18	1,076	40	1.53%	43	46	44	25.53%	19	$13,694,009	58	4.77%	55	14,602	66	2	II
Van Buren	-0.67%	87	-37	82	-1.01%	60	-8	55	20.22%	26	$5,329,008	70	13.69%	3	21,167	59	2	II
Warren	3.35%	42	1,283	36	-3.40%	78	-212	83	16.22%	42	$69,450,358	28	5.03%	53	41,155	36	1	III
Washington	3.54%	38	3,798	13	2.52%	28	384	15	15.75%	48	$233,565,447	11	-0.15%	84	-2,751	87	3	I
Wayne	0.16%	77	27	77	-4.39%	85	-118	75	30.88%	11	$21,816,091	50	-8.51%	95	-31,378	94	1	III

APPENDIX 2

TACIR GROWTH TYPOLOGY, RANK BY CATEGORY AND OVERALL GROWTH TIER, 2000-2004 (CONTINUED)

	Population				ADM				Wages				DVMT					
County	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Percent Growth	Rank	Nominal Growth	Rank	Super Rank	Tier
Weakley	-3.33%	94	-1,162	95	-3.69%	81	-184	80	3.87%	75	$10,134,542	64	6.24%	40	44,863	34	0	IV
White	3.27%	45	755	49	2.10%	32	80	32	8.51%	68	$14,178,832	57	5.76%	48	31,428	48	1	III
Williamson	16.03%	2	20,297	2	12.06%	2	2,758	2	36.62%	3	$738,454,510	5	21.41%	1	475,451	2	4	I
Wilson	10.23%	4	9,082	6	8.93%	5	1,271	6	36.61%	4	$287,002,217	9	11.64%	6	202,899	8	4	I

Source: TACIR analysis using data from U. S. Census Bureau, Tennessee Department of Education, U. S. Bureau of Labor Statistics, and Tennessee Department of Transportation

APPENDIX 3

CHAPTER NO. 953

HOUSE BILL NO. 3469

By Representatives Curtiss, Rinks, Maddox

Substituted for: Senate Bill No. 3839

By Senators Ramsey, Kyle

AN ACT to amend Tennessee Code Annotated, Title 67, relative to taxes and licenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following as a new part 29:

§67-4-2901. This part shall be known and may be cited as the "County Powers Relief Act."

§67-4-2902. The purpose of this part is to authorize counties to levy a privilege tax on persons and entities engaged in the residential development of property in order to provide a county with an additional source of funding to defray the cost of providing school facilities to meet the needs of the citizens of the county as a result of population growth.

§67-4-2903. As used in this part, unless the context otherwise requires:

(1) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home. "Building" does not mean any structures used primarily for agricultural purposes.

(2) "Building permit" means a permit for development issued in the county, whether by a county, metropolitan or municipal government.

(3) "Capital improvement program" means a proposed schedule of future capital projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of physical assets.

(4) "County" means a county or metropolitan government.

(5) “County school facilities privilege tax” means a tax on new residential development as defined herein.

(6) "Development" means the construction, building, erection, or improvement to land by providing a new building or structure which provides floor area for residential use.

(7) "Dwelling unit" means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly or longer basis; physically separated from any other room, rooms or dwelling units which may be in the same building; and containing independent cooking and sleeping facilities.

(8) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, or attics, which is heated or air-conditioned living space.

(9) "Governing body" means the county legislative body or metropolitan council.

(10) "Person" means any individual, firm, partnership, limited liability company, joint-venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and the plural as well as the singular number.

(11) "Place of worship" means that portion of a building, owned by a religious institution which has property tax exempt status, which is used for worship services and related functions; provided however, that a place of worship does not include buildings and portions of buildings which are used for purposes other than worship and related functions or which are intended to be leased, rented or used by persons who do not have a tax exempt status.

(12) "Public building" means a building owned by the state of Tennessee or any agency or political subdivision of the state of Tennessee, including, but not limited to, counties, metropolitan governments, municipalities, school districts or special districts, or the federal government or any agency thereof.

(13) "Residential" means the development of any property for a dwelling unit or units.

§67-4-2904. Engaging in the act of residential development within a county, except as excluded by this part, is declared to be a privilege upon which a county, by resolution or ordinance of its governing body, may levy a tax subject to the conditions and limitations contained in this part. Such resolution or ordinance shall be adopted by a two-thirds vote (2/3) of the entire membership of the county legislative body at two (2) consecutive, regularly scheduled meetings.

§67-4-2905. After levying the tax, the county governing body shall, by resolution or ordinance adopted by majority vote, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer and enforce the provisions of this part.

§67-4-2906. This part shall not apply to development of:

(1) Public buildings;

(2) Places of worship;

(3) Barns or other outbuildings used for agricultural purposes;

(4) Replacement buildings or structures for previously existing buildings and structures destroyed by fire or other disaster;

(5) A building or structure owned by a nonprofit corporation which is a qualified 501(c)(3) corporation under the federal Internal Revenue Code, as amended; or

(6) A building or structure located in any census tract of the county that has been designated by the federal government as being eligible for federal incentives because of blight, economic distress or urban renewal, upon a proper finding by the county legislative body that said exemption is necessary to stimulate growth in these economically challenged areas.

§67-4-2907. A governing body is prohibited from levying a tax pursuant to this part unless the county meets one (1) or more of the following criteria:

(a) The county experienced a growth rate of twenty percent (20%) or more in total population from the 1990 federal census to the 2000 federal census, or the county experiences growth of twenty percent (20%) or more between any subsequent federal decennial censuses; or

(b) The county experienced a nine percent (9%) or more increase in population over the period from the year 2000 to 2004 or over a subsequent four (4) year period according to U.S. Census Bureau population estimates.

§67-4-2908. For the exercise of the privilege of development, a county may levy a tax based upon the floor area of residential development. A county initially levying a tax under the authority granted by this part may levy such tax at a rate not to exceed one dollar ($1.00) per square foot on residential property. Whenever a county has levied a tax pursuant to this part or increased the rate of the tax as provided below, it may not increase the rate of such tax or levy an additional tax on the privilege of development for a period of four (4) years from the effective date of the tax or rate increase. After four (4) years from the date the county initially levies the tax or from the date of the last increase in the rate of the tax, the county legislative body may increase the rate of the tax by a percentage not to exceed ten percent (10%).

§67-4-2909. A governing body shall not levy a tax pursuant to this part unless it has adopted a capital improvement program. The adopted capital improvement program may be amended by the governing body.

§67-4-2910.

(a) Any tax levied pursuant to this part shall be collected in the following manner:

(1) At the time of application for a building permit for residential development, the municipal or county official issuing the permit shall compute the estimated tax liability for the county school facilities privilege

tax, based upon the proposed square footage of the facility to be built and the current rate of the county's school facilities privilege tax. As a condition of receiving the permit, the applicant shall sign a form indicating that the applicant recognizes the liability for the tax. The official shall keep one (1) copy of the form for his or her records and shall provide a copy to the applicant. If the permit is issued by a municipal building official, such official shall also forward a copy of the form within thirty (30) days of the issuance of the building permit to the county official or employee who has been designated by the county legislative body to collect such tax. As an alternative, the county and any municipality within the county may provide by interlocal agreement for the municipal building official to be designated as a collector of the tax and provide for a commission to be paid to the municipality for such services.

(2) The tax shall not be due until the earlier of one (1) year from the date of issuance of the building permit or thirty (30) days after the first transfer of title to the property being developed after the building permit is issued. If, after one (1) year from issuance of the building permit, the building or structure is not complete or title has not been transferred, the permit holder may, in lieu of paying the tax, request an extension for one (1) year. The permit holder may request a maximum of two (2) extensions. Such extensions shall not be denied if the permit holder makes a showing to the official responsible for collecting the tax that the building or structure is not complete.

(3) Once it becomes due, the tax shall be paid to the official or officials designated by the county governing body to collect the tax. At the time of payment, the official shall review the tax liability to determine whether the square footage of the completed building or structure corresponds to the initial estimated square footage in the building permit. The tax shall be computed using the actual square footage of the completed building or structure, but the rate of the tax shall be based upon the rate applicable at the time the permit was issued.

(4) The revenue from the tax shall be paid over to the county trustee within thirty (30) days for deposit in accordance with §67-4-2911.

(b)

(1) If the tax is not paid by a permit holder within ninety (90) days of the due date, the official responsible for collection of the tax shall report this delinquency to the county's delinquent tax attorney. The delinquent tax attorney shall bring an action against the permit holder for the full amount of the tax plus statutory interest and a penalty of fifty percent (50%) of the amount of tax owed. The compensation of the delinquent tax attorney for such services shall be determined by agreement between the county trustee and the delinquent tax attorney.

(2) No permit holder who owes delinquent school facilities taxes shall be eligible to receive a building permit for any other project in the

county until such time as the delinquency, plus and penalties and interest, are paid in full.

§67-4-2911. The taxes collected pursuant to this act shall be remitted by the collector to the county or metropolitan government trustee who shall place such tax proceeds in such fund or funds as designated by the governing body, but such tax proceeds shall be used exclusively for the purpose of funding capital expenditures for education, including the retirement of bonded indebtedness, the need for which is reasonably related to population growth.

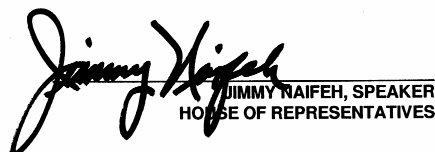
§67-4-2912. Any county or metropolitan government levying a tax pursuant to this part shall provide by resolution or ordinance a procedure whereby any person aggrieved by the decision of any responsible official in administering this tax may obtain review of the official's decision administratively. The result of the administrative decision shall be subject to judicial review in accordance with law.

§67-4-2913. After the effective date of this act, no county shall be authorized to enact an impact fee on development or a local real estate transfer tax by private or public act. In addition, this part shall be the exclusive authority for local governments to adopt any new or additional adequate facilities taxes on development. However, the provisions of this part shall not be construed to prevent a municipality or county from exercising any authority to levy or collect similar development taxes or impact fees granted by a private act that was in effect prior to the effective date of this act or from revising the dedicated use and purpose of a tax on new development from public facilities to public school facilities. A county levying a development tax or impact fee by private act on the effective date of this act shall be prohibited from using the authority provided in this part so long as the private act is in effect.

SECTION 2. The general assembly shall, in the legislative session of 2010, review the provisions of this act to ascertain the effect on and the needs of those counties not granted local enactment authority under this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 26, 2006



APPROVED this 20th day of June 2006

TACIR Members

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

Legislative

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

Statutory

Representative Craig Fitzhugh, Chairman, Finance Ways & Means Committee
Senator Douglas Henry, Chairman, Finance Ways & Means Committee
Comptroller John Morgan

Executive Branch

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

Municipal

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

County

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

Private Citizens

John Johnson, Morristown
Leslie Shechter Newman, Nashville

Other Local Officials

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

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