REPORT OF THE JOINT SUBCOMMITTEE REVIEWING THE RECOMMENDATIONS OF

The Joint Legislative Audit and Review Commission Concerning Highway Program Financing

TO THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA



Senate Document No. 14

COMMONWEALTH OF VIRGINIA RICHMOND 1985

MEMBERS OF THE SUBCOMMITTEE

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Background

The 1982 Appropriations Act directed the Joint Legislative Audit and Review Commission (JLARC) to study the reasonableness, appropriateness, and equity of the current statutory provisions for allocating highway construction funds. Interim analysis, dealing solely with construction allocations, was reported to the General Assembly in January, 1983.

Subsequent to this interim report, the General Assembly directed that JLARC's study be expanded to include other major programs supported by the Highway Maintenance and Construction Fund. Accordingly, JLARC's study included a review of (i) county maintenance spending, (ii) urban street payments, (iii) public transportation assistance, and (iv) funding for Arlington and Henrico counties. In addition, its analysis of construction allocations was brought up to date.

The results of this study were presented to the 1984 General Assembly in the report "Equity of the Current Provisions for Allocating Highway and Transportation Funds in Virginia" (House Document No. 11, 1984). Because of the complexity of the issues involved, the extensiveness of the changes which the report proposed, and the shortage of time for consideration of these matters prior to the end of the 1984 Assembly, Senator Hunter Andrews, the out-going Chairman of JLARC, sponsored Senate Joint Resolution No. 20 (SJR 20) in the General Assembly to provide for a review of the JLARC recommendations between the 1984 and 1985 Sessions of the Assembly.

Following the resolution's approval, a fifteen-member joint subcommittee was established, composed of members of the House Committees on Roads and Internal Navigation, Appropriations, and Finance and the Senate Committees on Transportation and Finance. The group began its work in August, electing Delegate L. Cleaves Manning, the in-coming Chairman JLARC, as its chairman.

Subcommittee Activities

The Joint Subcommittee held nine meetings in the course of its work. It was briefed by JLARC staff on the methodology, findings, and recommendations of its study (August 22); it heard the reactions of the Virginia Department of Highways and Transportation (VDH & T) (September 4); and it considered the several points on which JLARC and VDH & T were in agreement (September 25) before conducting a series of public hearings on the more controversial propositions (Newport News on October 12, Blacksburg on November 2, Fairfax on November 9, and Richmond on December 18). In these hearings the group took testimony from members of the General Assembly; state, regional and local officials; representatives of citizens groups; and business and industrial spokesmen. (Those interested in the detail of testimony before the subcommittee should consult the group's minutes, on file with the Division of Legislative Services.)

Findings

The JLARC study sought to bring about absolute equity in the distribution of highway program revenues in Virginia. However, it quickly became painfully obvious to the Joint Subcommittee that this absolute equity could be achieved only at a considerable price. Since no proposals had been put forward by JLARC for an increase in the revenues supporting highway programs, redistribution of existing resources became a "zero sum game". In order to give funds to some parts of the Commonwealth or to one highway system, they had to be taken away from other parts of the Commonwealth or another highway system. No matter how the "pie" was sliced, there still would not be enough to go around. The Joint Subcommittee, accordingly, chose to take a step toward equity, as a compromise between doing nothing (on the one hand) and recommending the complete JLARC package (on the other).

Recommendations

JLARC proposals No. 1, 3, 4, 8, 10, 17, and 18, dealing with nonstate matching funds, funds for mass transit, allocations for snow-removal, distribution of primary system construction funds on the basis of planning district boundaries, and variances for pavement widths, were not recommended. The proposed resolution concerning the implementation by VDH & T of a pavement management system was endorsed as put forward by JLARC (see Appendix). The remainder of the JLARC package was blended into one comprehensive bill (see Appendix) embodying a number of compromises aimed at moving toward funding equity while doing the least possible harm to those areas, systems, and projects from which resources would be transferred. As recommended by the Joint Subcommittee this bill would:

1. Provide a definition of "maintenance";

2. Allocate forty percent of construction funds to the primary system, thirty percent to the secondary system, and thirty percent to the urban system;

3. Provide that interstate matching funds exceeding twenty-five percent a district's primary system construction allocation will come from a special interstate matching fund;

4. Create a special fund for bridge construction, reconstruction, and replacement;

5. Allocate primary system construction funds among the nine construction districts on the basis of a three-factor formula: vehicle miles traveled (70%), primary system lane mileage (25%), and primary road need (5%);

6. Repeal the 1976-77 "hold harmless" restriction on secondary system construction funding and allocate secondary system construction funds among counties on the basis of population (80%) and area (20%);

7. Allocate urban construction funds among cities and qualifying towns on the basis of population;

8. Increase the size of the "Dirt Road Fund" from 3.75% of total construction funds to 5.67%;

9. Provide for a functional classification of city and town streets as either "principal and minor arterial road" or "collector roads and local streets", use these categories as the basis for allocation of urban system maintenance funds (\$17,787 per moving-lane-mile for the latter category) and consolidate provisions on urban street maintenance payments in one section; and

10. Change the method of funding secondary roads in Henrico and Arlington County so that both counties receive (i) construction allocations calculated in the same manner as other secondary system allocations and (ii) additional payments on a per-lane-mile basis (\$3,616 per lane-mile for Henrico and \$7,201 per lane-mile for Arlington).

Even though the enactment of these proposals into law will not achieve absolute equity, it is hoped their approval will result in the greatest good for the greatest number.

Respectfully submitted, L. Cleaves Manning, Chairman Charles L. Waddell, Vice Chairman Robert B. Ball, Sr. Peter K. Babalas V. Earl Dickinson* J. Robert Dobyns* Clive L. DuVal, 2d. Raymond R. Guest, Jr.* Donald A. McGlothlin, Sr.* Lewis W. Parker, Jr.* William T. Parker N. Leslie Saunders, Jr.* Vivian E. Watts Lawrence Douglas Wilder Edward E. Willey

*See Dissenting Remarks

DISSENTING REMARKS

No disagreements are found with the statements presented in the paragraphs entitled "Background, Subcommittee Activities, or Findings of this Report."

We commend the dedicated work of the JALRC staff, the Department of Highways, and the Highway Commission, for without their continuous input this subcommittee could not have carried out its mission.

Special credit and thanks go to the Chairman, Delegate Cleaves Manning, for his untiring ability to get the facts and to give an opportunity for citizens across this Commonwealth to have an input in this complicated process of allocating highway construction funds.

However, we believe further elaboration on the findings are necessary. In noting that "in order to give funds to some parts of the Commonwealth or to one highway system, they had to be taken away from other parts of the Commonwealth or another highway system," and after receiving testimony at each hearing, the need for additional revenue was apparent. Therefore, a motion was made at the closing meeting of this subcommittee that we defer redistribution of existing resources until the next session, at which time the biennium budget will be prepared and we could better address and support increased revenues in order that there may be more adequate revenues to go to each system in a fair and equitable manner, thereby reducing the impact of loss of funds, particularly to many rural areas of our Commonwealth.

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A change of formula or percentage or repealing priorities in one system reflects a corresponding change in all the other systems in the highway program, for we have not changed the size of the "pie." We heard at each hearing how important highways were to the economic growth in their particular area.

It is not the intent to polarize rural versus urban or suburban in analyzing the needs of road funds for each contributes in a unique way to the economic, health, and safety of our citizens in this Commonwealth.

The farm-to-market road is equally as important as the urban and suburban roads and streets, bridges, and interstate. However, equal definition is not given to all roads--poor road condition leads to reduced level of traffic.

The subcommittee was constantly given revised revenue projections for 1985 to 1990, combined with many options involving formula changes as it related to our system. This will not be well understood by the majority of legislators in the short time prior to the introduction of a bill in this Session. It would appear that this information should be given to all legislators well in advance so that they can analyze how it affects their particular area, and the State as a whole, before voting on this extensive departure from the present system.

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Respectfully submitted,

The Honorable V. Earl Dickinson

The Honorable J. Robert Dobyns

The Honorable Raymond R. Guest, Jr.

The Honorable Donald A. McGlothlin, Sr.

The Honorable Lewis W. Parker, Jr.

The Honorable N. Leslie Saunders, Jr.

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APPENDIX

Recommended Legislation

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend and reenact §§ 33.1-23.1 through 33.1-23.5 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 33.1-23.02, 33.1-23.1:2, 33.1-23.1:3 and 33.1-41.1, and to repeal §§ 33.1-41, 33.1-43, 33.1-43.1, 33.1-80, 33.1-81 and 33.1-83 of the Code of Virginia, the amended, added and repealed sections relating generally to allocation of funds for highway construction and maintenance.

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.1 through 33.1-23.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 33.1-23.02, 33.1-23.1:2, 33.1-23.1:3 and 33.1-41.1 as follows:

§ 33.1-23.02. Definition of the term "maintenance"—For the purpose of this title, unless otherwise explicitly provided, the term "maintenance" shall include ordinary maintenance, maintenance replacement, and any other categories of maintenance which may be designated by the Commissioner.

§ 33.1-23.1. Allocation of funds among highway systems.—A. The State Highway and Transportation Commission shall allocate each year from all funds made available for highway purposes such amount as it deems reasonable and necessary for the maintenance of roads within the interstate system of highways, the primary system of state highways, the secondary system of state highways and for urban street payments made pursuant to \$ 33.1-41 and 33.1-43 city and town street maintenance payments made pursuant to \$ 33.1-80 et seq. 33.1-41.1 and payments made to Arlington and Henrico Counties pursuant to \$ 33.1-23.5 of this Code.

B. After funds are set aside for administrative and general expenses and pursuant to other provisions in this title which provide for the disposition of funds prior to allocation for highway purposes, and after allocation is made pursuant to subsection A of this section, the State Highway and Transportation Commission shall allocate each year the remaining funds available for highway purposes, exclusive of federal funds for the interstate system, among the several highway systems for construction first pursuant to § § 33.1-23.1:1 , 33.1-23.1:2 and 33.1-23.1:3 and then as follows:

1. Fifty per centum Forty percent of said the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the primary system of state highways, including the arterial network, and to the interstate system as federal matching funds in addition, an amount shall be allocated to the primary system as interstate matching funds as provided in paragraph 23 of § 33.1-23.2.

2. Twenty-five per centum Thirty percent of said the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to urban highways for state aid pursuant to \S 33.1-44.

3. Twenty-five per centum Thirty percent of said the remaining funds exclusive of federal-aid matching funds for the interstate system shall be allocated to the secondary system of state highways; provided, however, that the total of the funds allocated to the secondary system for construction under this subsection and the funds allocated for maintenance of the secondary system under § 33.1-23.1 A shall not be less than twenty-eight per centum of funds available to the Highway and Transportation Commission for highway purposes, exclusive of federal funds for the interstate system.

 \S 33.1-23.1:1. Unpaved secondary road fund created; allocations.—A. Before funds are allocated for distribution for highway construction pursuant to \S 33.1-23.1 B 1, B 2, and B 3, a fund shall be established for the paving of nonsurface treated secondary roads which carry fifty

vehicles or more per day (V.P.D.). Such fund shall contain three and three fourths 5.67 percent of the total funds available for highway construction under § 33.1-23.1 B 1, B 2, and B 3.

B. Such funds shall be distributed to counties in the secondary system based on the ratio of nonsurface treated roads in each county carrying fifty vehicles or more V.P.D. per day to the total number of such nonsurface treated roads in the State Commonwealth for the paving of such nonsurfaced treated secondary roads. Any funds allocated to any county under this section, if not used by the county to which they are allocated during the fiscal year in which they are so allocated, may be held for such purpose for three years, after which they shall be reallocated for use in paving nonsurface treated roads in the other counties.

§ 33.1-23.1:2. Allocation of funds for interstate match.—After making the allocations provided for in subsection A of § 33.1-23.1, but before making any allocations under subsection B of § 33.1-23.1, a fund shall be established for matching federal-aid interstate funds.

This fund shall be established annually by allocating to it all federal-aid interstate matching f: Is needed for the year, less the total amount of district primary allocations for the interstate federal-aid match allocated under subsection B of § 33.1-23.2.

§ 33.1-23.1:3. Special bridge fund created; allocations.—Before funds are allocated for highway construction pursuant to subsection B of § 33.1-23.1, a fund shall be established to provide for special bridge needs throughout the Commonwealth. This fund shall consist of all federal bridge replacement aid available for bridge construction, replacement, or reconstruction and required state matching funds therefor.

Allocations shall be made by the State Highway and Transportation Commission from this fund to specific projects on the basis of (i) need as determined by inspections and surveys conducted by the Department of Highways and Transportation. (ii) the volume of traffic per lane using the facility, and (iii) such other criteria as may be established by the Highway and Transportation Commission.

Allocation of funds from this fund for bridge construction, replacement, or reconstruction shall not operate to reduce the amount of funds otherwise allocable to any district or locality.

§ 33.1-23.2. Allocation of construction funds for primary system and interstate match.—A. The State Highway and Transportation Commission shall allocate such funds as are available under § 33.1-23.1 B 1 to the primary system of state highways, including the arterial system network, for construction and shall apportion such funds among the nine construction districts so that each construction district shall be allocated a share of such funds equal to the proportion that such construction district bears to the Commonwealth as a whole in terms of: area, population and vehicle-miles traveled on the primary system, primary road lane mileage and a primary road need factor which adjusts the weights in the allocation formula for the construction district with the largest under-allocaton of relative primary need, these factors with vehicle-miles traveled weighted forty seventy percent ; and vehicle registration, primary road lane mileage weighted forty twenty-five percent ; and ; lane mile the primary road need factor ; weighted twenty five percent.

B. Out of each district's total allocation of primary funds pursuant to provision 1 of paragraph B of § 33.1-23.1, the Commission is hereby authorized to utilize as great a portion of such district funds as it deems necessary for federal interstate matching shall allocate all needed interstate federal-aid matching funds, up to a maximum of twenty-five percent of the district's primary allocation. Any additional interstate federal-aid matching funds needed in a district shall be allocated by the Commissioner from the Interstate Federal-Aid Matching Fund established in § 33.1-23.1:2.

C. Notwithstanding subsection A of this section, the Commission may provide for exceptionally heavy expenditures for repairs or replacements made necessary by highway damage resulting from accidents, severe weather conditions, acts of God or vandalism.

D. Such funds allocated to the interstate and primary systems system shall, as far as possible, be allotted prior to the commencement of the fiscal year and public announcement made of such allotment but the Commission shall not approve such allotment until after a public

hearing at which political subdivisions of the Commonwealth and interested citizens may be heard.

In any case where any allotment of funds is made under this subsection to any county, all or a part of which subsequently is incorporated as or into a city or town, such allocation shall not be impaired thereby and the funds so allocated shall be expended as if such county or any part thereof had never become an incorporated city, but that portion of such city shall not be eligible to receive funds as a city during the same year it receives the funds allocated as a county or as any part of a county.

§ 33.1-23.3. Allocation of construction funds for urban highways.—Such funds as are allocated to urban highways pursuant to provision 2 of paragraph B of § 33.1-23.1 B 2 shall be apportioned among the cities and towns of this State Commonwealth by the State Highway and Transportation Commission taking into account statewide urban construction needs in such a manner that each city or town to which these funds are allocable receives the same proportion of total funds available as the population of that city or town bears to the total population of all cities and towns among which such funds are allocable. For the purposes of this section, the term "population" shall mean either population according to the latest United State census or the latest population estimate of the Tayloe Murphy Institute of the University of Virginia, whichever is more recent.

No apportionment hereunder shall be made to any city or town which does not have an urban project or projects approved by the Highway and Transportation Commission and in no case shall the apportionment to any city or town exceed the total estimated cost of the project or projects for which funds are allocated. Such funds shall, as far as possible, be allotted prior to the commencement of the fiscal year and public announcement made of such allotment $\frac{1}{7}$ but the Commission shall not approve such allotment until after public hearing at which political subdivisions of the State and interested eitizens may be heard.

§ 33.1-23.4. Allocation of construction funds within secondary system.—A. From the funds allocated to the secondary system of state highways pursuant to § 33.1-23.1 B 3 the State Highway and Transportation Commission shall set aside a sum not to exceed two and one-half million dollars annually to establish and maintain a special road and bridge fund from which the Commission may make allocations, by need, as determined by the Commission, for use in counties in the secondary system of state highways for road or bridge construction or replacement.

B. After allocation pursuant to subsections A and D, each year an amount equal to that allocated to the secondary system for construction in fiscal year 1976-77 shall be set aside and distributed among the counties in the system in the same amounts as each such county received for that fiscal year; but, in the event the funds remaining after allocation under subsections A and D do not equal that available for such purposes in fiscal year 1976-77, each county's allocation for construction shall be diminished in proportion to the percentage of the shortfall of such amount.

C. The funds remaining after moneys are set aside under subsections A, B, and D Such funds as are allocated to the secondary system of state highways pursuant to provision 3 of paragraph B of § 33.1-23.1 shall be apportioned among the several counties in the secondary system by the State Highway and Transportation Commission so that each such county shall be allocated a share of such funds equal to the proportion that such county bears to the State Commonwealth as a whole in terms of area; and population; secondary road mileage, vehicle registration and vehicle miles traveled, each factor given equal weight with population being weighted eighty percent, and area being weighted twenty percent. The factor of secondary road mileage, as applied in this subsection, shall, in addition to actual mileage, be weighted to include 1 additional mile for each nonsurface treated mile in the secondary system which earries 50 to 99 vehicles per day (V.P.D.), and 2 additional miles for each nonsurface treated mile in the system which carries 100 or more vehicles per day. For the purpose of this section, "area" means the total land area of a county reduced by the area of any military reservations and state or national parks or forests within its boundaries and such other similar areas and facilities of five square miles in area or more, as may be determined by the Highway and Transportation Commission.

For the purposes of this section, the term "population" shall mean either population according to the latest United States census or the latest population estimate of the Tayloe Murphy Institute of the University of Virginia, whichever is more recent.

D. Before allocating funds under subsection \mathbf{B} C of this section the Commission may provide for exceptionally heavy expenditures for repairs or replacements made necessary by highway damage resulting from accidents, severe weather conditions, from acts of God or vandalism.

§ 33.1-23.5. Funds for Arlington and Henrico.- Notwithstanding any other provision of law, for fiscal year nineteen hundred seventy-six and thereafter The Highway and Transportation Commission shall pay make the following payments to the following counties which have withdrawn from the secondary system of State state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932, and which have not elected to return ; \therefore to Henrico County an amount equal to 1.825 per centum of the net revenue available for highway purposes under Chapter 13 of Title 58 (§ 58-686 et seq.) \$3,616 per lane-mile for each fiscal year 1786 and to Arlington County an amount equal to 1.281 per centum of the net revenue available highway purposes under said chapter \$7,201 per lane-mile for each fiscal year 1986. The f€ anocations under this subsection shall be the only entitlements of Henrico and Arlington counties with respect to the motor fuel tax levied under said chapter by virtue of having withdrawn from the secondary system. Further, notwithstanding any other provision of law to the contrary, the Commission shall, before apportioning secondary funds derived from the nineteen hundred sixty-four and nineteen hundred sixty-six sessions of the General Assembly to the counties in the secondary system, pay to the counties which have withdrawn their roads from the secondary system a portion of such revenue equal to 1.825 per centum in the case of Henrico County and 1.281 per centum in the case of Arlington County. The entitlements of those counties from all other sources shall be computed as provided by law. These amounts shall be adjusted annually by the Commission in accordance with procedures established for adjusting payments to cities and towns under § 33.1-41.1. Arlington County and Henrico County shall, in addition, each receive for construction an annual amount calculated in the same manner as payments for construction in the state secondary highway system are calculated.

Payment of the funds shall be made in four equal sums, one in each quarter of the fiscal year, and shall be reduced, in the case of Arlington County, by the amount of federal-aid construction funds credited to Arlington County, and, in the case of Henrico County, by the amount of federal-aid construction funds credited to Henrico County.

§ 33.1-41.1. Payments to cities and certain towns for maintenance of certain highways.-The State Highway and Transportation Commissioner, subject to the approval of the State Highway and Transportation Commission, shall make payments for maintenance of highways. as hereinafter provided, to: (i) all incorporated towns having more than 3,500 inhabitants according to the last preceding United States census; (ii) all incorporated towns which, according to evidence satisfactory to the State Highway and Transportation Commission, have attained a population of more than 3,500 since the last preceding United States census; (ii) all incorporated towns which, on June 30, 1985, maintained certain streets under § 33.1-80 as then in effect; and (iv) all cities operating under charters designated them as cities, regardless of their populations. Such payments, however, shall only be made if, in the opinion of the State Highway and Transportation Commission, such highways are maintained in accordance with the applicable standards of the State Highway and Transportation Commission.

No payments shall be made by the Commissioner to any such city or town unless the portion of the highway for which such payment is made either (a) has (i) an unrestricted right-of-way at least fifty feet wide and (ii) a hard-surface width of at least thirty feet; or (b) has (i) an unrestricted right-of-way at least eighty feet wide and (ii) has a hard-surface width of at least twenty-four feet and (iii) there are approved engineering plans for the ultimate construction of an additional hard-surface width of at least twenty-four feet and (ii) has an unrestricted right-of-way at least forty feet wide and (ii) has an unrestricted right-of-way at least forty feet wide and (iii) a turnaround that meets applicable standards of the State Highway and Transportation Commission; (d) either (i) has been paved and has constituted part of the secondary system of state highways prior to annexation or incorporation, or (ii) has constituted part of the secondary system of state highways prior to such annexation or incorporation and is paved to a minimum width of sixteen feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof which have previously been maintained

under the provisions of § 33.1-79 or § 33.1-82; or (e) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985.

For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (i) principal and minor arterial roads, and (ii) collector roads and local streets. Payments to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in each category of highways in that locality. For the fiscal year 1986, payment to each city and town shall be an amount equal to \$7,787 per moving-lane-mile for principal and minor arterials and \$4,572 per moving-lane-mile for collector roads and local streets.

The Department of Highways and Transportation shall establish a statewide maintenance index of the unit costs for labor, equipment, and materials used on roads and bridges in the fiscal year 1986, and use changes in that index to calculate and put into effect annual changes in the base per-lane-mile rate payable under this section.

2. That \$\$ 33.1-41, 33.1-43, 33.1-43.1, 33.1-80, 33.1-81 and 33.1-83 of the Code of Virginia are repealed.

Recommended Legislation

HOUSE JOINT RESOLUTION NO.....

Requesting the Virginia Department of Highways and Transportation to develop and implement a pavement management system.

WHEREAS, a pavement management system is used to collect and analyze data on highway pavement conditions and monitor changes over time; and

WHEREAS, a pavement management system can make possible the establishment of an objective pavement quality "trigger" for maintenance activities, without which the need for and most efficient timing of overlays and maintenance replacement work cannot be fixed with certainty; and

WHEREAS, the 1982 and 1983 Appropriations Acts (Item 649.3) required the Department of highways and Transportation to develop and implement "...an up-to-date pavement management system which provides data on pavement and bridge conditions on all highway systems"; and

WHEREAS, such pavement management system was to have been developed by January 1, 1983, but is still incomplete; now, therefore, be it

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RESOLVED by the House of Delegates, the Senate concurring, That the Virginia Department of Highways and Transportation is requested to accelerate the development and implementation of a pavement management system, as required by the 1982 and 1983 Appropriations Acts. In order that the General Assembly monitor the Department's progress, the Commissioner of Highways and Transportation is requested periodically to report on the status of the pavement mangement system to the Senate Committee on Transportation, the Senate Committee on Finance, the House Committee on Roads and Internal Navigation, and the House Committee on Appropriations. The Department is further requested to ensure that sufficient priority will be given to the development of the pavement management system for that system to be in use in the budgeting process for the 1986-1988 biennium.