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PERSPECTIVE

ACIR and the Federal System 1959-1989



ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The Chairman's View

The ACIR, now celebrating its 30th birthday, has reached a milestone. As with any small, independent federal agency, ACIR has had its ups and downs in the policymaking community. At one level, the Commission has been through a few tough years, but all indications are that we are back on a strong track. This year, the House and Senate reversed a long slide in our budget by voting to increase our appropriation to a level that makes it possible for us to operate effectively. State financial contributions are at an all-time high, and 1989 will be one of the most productive in terms of the number and quality of studies issued by the Commission. Not a bad record.

Yet, we must ask ourselves whether we are fulfilling our mission, and we must identify the critical issues facing the Commission in the next five years.

A look at our history allows us to answer this question. The ACIR was formed to foster greater intergovernmental cooperation between partners in the federal system. Its membership was consciously designed to foster discussion and debate between key members of the intergovernmental community. In 1959, state and local governments enjoyed considerably more autonomy than they do today, and establishing a forum where partners could build a consensus on their roles and functions in the federal system was appropriate. During the 1960s and into the 1970s, the Commission was quite successful in building this consensus. ACIR has always been proud, for example, of its role in helping to develop general revenue sharing.

This past summer, I traveled extensively to state and local government meetings. I talked about ACIR and what I saw as the most pressing intergovernmental problems today. I also attended numerous panels and listened to what elected officials were talking about. While I am happy to report that there is life and vitality west

of the Potomac, I also found a number of pressing problems facing the federal system. Three sets of problems seem particularly worthy of ACIR's attention in the coming years.

First, it seems to me that the foundations of the partnership that drives our federal system are in need of repair. Increasingly, state and local officials are unsure of what their powers are, whether they are partners to federal policymaking, and whether their concerns are taken seriously in Washington. It is my judgment that ACIR has a key role to play in facilitating an ongoing discussion between all levels of the federal system on emerging issues and the division of powers.

Second, I found a similar set of problems facing state and local governments. These include such intergovernmental issues as the criminal justice system, unfunded mandates, and the political organization of metropolitan areas. Clearly, these are not administrative problems, nor are they problems that can be solved by federal regulations. They are basic political problems that require political solutions. Again, the ACIR can play a key role in undertaking studies that outline ways of solving these problems, and then hope that the expanding network of state ACIRs can tailor approaches to the needs of their specific states.

Third, I am becoming more aware of growing problems in program implementation. Federal and state policy increasingly mandates that problems such as solid waste be solved by local governments. But mandating and solving are two quite different tasks. To solve these problems, local governments must build the consensus that allows solutions to be developed and implemented. Good administration only follows good political decisionmaking. Yet, issues like solid waste management, siting facilities, or building low-income housing are politically risky ventures for local officials. In many cases, a single community is taking on risks that benefit neighboring commu-

nities. I am convinced that state and federal policymakers have to start designing policies that reward local communities for making the hard decisions to implement programs that they see as beneficial to the larger communities. We hope that ACIR can take the lead in making recommendations to federal and state officials in this area.

As it has for the last three decades, clearly, the ACIR has a number of important roles to play in the coming years. The federal system has never been static. The great genius of the founding fathers was that they put in place a system that allows for change and flexibility. What we must do in the coming years is make sure that we have real partners in the federal system to deal with the increasing complexity of solving problems.

Robert B. Hawkins, Jr.

In This Issue

To celebrate ACIR's 30th anniversary, this issue looks at the last three decades from the perspectives of the accomplishments of the Commission and of the major issues in the federal system. Bruce McDowell and Robert Ebel trace ACIR's policy recommendations and their impact on the system. Former Executive Directors William Colman, William MacDougall, Wayne Anderson, and John Shannon, and current Executive Director John Kincaid each give a brief look at the most important intergovernmental issues of their years at ACIR. A view of the federal system in the next few years is given by the presidents of the National Governors' Association, the Council of State Governments, National League of Cities, National Association of Counties, and National Association of Towns and Townships.

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The Research Agenda—1990-1993

Following extensive work by the Research Review Committee, the Commission approved the following research program for the next three years. The projects are listed in order of priority within each of three categories: monitoring the federal system, topical research, and projects for which outside funding will be sought.

Monitoring the Federal System

Intergovernmental Perspective (Quarterly Magazine)

Significant Features of Fiscal Federalism (Annual)

Microcomputer Data Services (Annual)

Measuring State Fiscal Capacity and Effort (Biennial)

Changing Public Attitudes on Governments and Taxes (Annual Public Opinion Poll)

Catalog of Federal Grant-in-Aid Programs to State and Local Governments (Biennial)

Topical Research

A Decade of Change in American Federalism: A Passing Phase or Enduring Era?

A. State Courts and Local Autonomy
Immigration and Federalism: Costs, Civil Liberties, Foreign Policy, and Intergovernmental Tensions

Federal, State, and Local Compliance with Mandates: The Case of Environmental Protection

Federalism Impact Analyses: The Federalism Executive Order, Fiscal Notes, Regulatory Relief, and Waivers for Small Governments

Siting Locally Unwanted Land Uses
Public Works Perspectives

The Role of the National Guard in Protecting the Nation and the States
Monitoring Developments in State Taxation and Regulation of Banking
Medicaid: Intergovernmental "Pac Man"?

Home Rule: A Survey of Local Usage
State Assumption of Local Functions

Financing Streets and Highways: Who Pays for Potholes and Interstates?

Shifting Functions in the American Federal System

Strengthening State and Local Revenue Systems for Equity and Efficiency

The Property Tax: Flexible or Obsolete?

State-Local Relations: A Reconnaissance of Salient Issues (Conference)

State Taxation of Insurance

Local Fiscal Capacity and Fiscal Equalization

Benefit Financing

World Competitiveness in Telecommunications: The Critical Role of the States and Localities

The Interplay of Federal and State-Local Tax Reform: Implications for Low-Income Families

Intergovernmental Personnel Policy: Portable Public Service Careers and Pensions

Presidential Management of Intergovernmental Relations

Statewide Information and Data Networks

State-State and State-Federal Taxation and Regulation Compacts

Antitrust Policy in the Federal System

Outside Funding

The Role of General Purpose Governments in the Administration of Justice

Improving Educational Outcomes (Conference)

Coordinating Governments in the Federal System for Effective Drug Abuse Law Enforcement

Solid and Hazardous Waste Management (Conference)

Housing Assistance in the American System

Welfare Reform in the Intergovernmental System: How Well Is It Working?

Child Care

Interjurisdictional Tax and Policy
Competition and Cooperation: Metropolitan Area Case Studies

State Support for ACIR

The Commission would like to thank the following states for their recent financial support of ACIR in 1989: Alaska, Arkansas, Delaware, Florida, Indiana, Missouri, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, and Washington.

Intergovernmental Approaches to Work Force Preparation (Conference)

Federal Grant Formulas: Matching Variables and Structures to Objectives (Conference)

Enterprise Zones in the American Federal System

Tribal Governments in the American Federal System

President Appoints New Commissioners

President George Bush appointed four new members of ACIR in September.

Debra Rae Anderson is Deputy Assistant to the President and Director of Intergovernmental Affairs. She is a former member of the South Dakota House of Representatives.

Arthur J. Holland is Mayor of Trenton, New Jersey. He is the past president of the United States Conference of Mayors.

Mary Ellen Joyce is the State Government Relations Representative for the American Petroleum Institute. She is former Executive Assistant to Governor John H. Sununu.

Samuel K. Skinner is U.S. Secretary of Transportation. He served as chairman of the Regional Transportation Authority of Northeastern Illinois, and is a former U.S. Attorney for the Northern District of Illinois.

THE WHITE HOUSE
WASHINGTON

September 14, 1989

I am pleased to send my warmest greetings and congratulations to everyone celebrating the 30th anniversary of the Advisory Commission on Intergovernmental Relations.

State and local governments are indispensable elements of American democracy. By promoting federalism and cooperation among all levels of government, the ACIR helps to keep these institutions strong and effective, while preventing excessive concentration of power in Washington. The Commission's research and policy recommendations have enabled public officials at all levels to better serve the American people. In fact, your efforts have helped make our system of government a model for freedom-loving peoples around the world.

I congratulate the members of the Advisory Commission of Intergovernmental Relations on three decades of achievement. You have my best wishes for continued success in the years to come. God bless you all, and God bless America.



Partnership Task Force Meets at White House

ACIR Chairman Robert B. Hawkins, Jr., and Executive Director John Kincaid were among those who attended the Intergovernmental Partnership Task Force meeting with Governor John Sununu at the White House on August 15.

The elected officials participating in the session were: Tennessee Senator Douglas Henry, New York State Senator John Marchi, Louisiana Senator Samuel Nunez, Ohio Senator Stanley Aronoff, Delaware Representative Jane Maroney, New Hampshire Representatives Joanne O'Rourke and Paul LaMott, Salt Lake County Commissioner Michael Stewart, and North Dakota Senator David Nething. The other participants were: Carl Stenberg and Norman Beckman, Council of State Governments; Lance Simmons, U.S. Conference of Mayors; Jon Felde, National Conference of State Legislatures; Ralph Tabor, National Association of Counties; Rich Bartholomew, New York State Legislature; Mary McClure, Special Assistant to the President, and Debra Anderson, Special Assistant to the President.



Pictured here (left to right) are John Kincaid, David Nething, Jane Maroney, John Marchi, Douglas Henry, Robert Hawkins, John Sununu, and Joanne O'Rourke.

ACIR—The Beginning

In the early part of his first term, President Dwight D. Eisenhower became concerned that the federal government was reaching too deeply into the affairs of the states and their political subdivisions. On March 30, 1953, the President sent a message to the Congress proposing a special temporary study commission to make the first official study of "National-State-local relationships" since the Constitutional Convention in 1787. Legislation to establish that commission was approved within a few months.

The chief concern was that federal aid to state and local governments, though only about 7 percent of the national budget at that time, had been growing rapidly, encompassing many new functions of government traditionally reserved to the state and local governments, and carrying with it increasingly intrusive national requirements.

Sixteen volumes and two years later, this study commission concluded in its final report to the President that its work was "just the beginning rather than the end of a contemporary study of the subject of intergovernmental relations." Recognizing the impossibility of "providing universally satisfactory answers to all of the difficult questions that are under discussion at any particular moment," the commission recommended permanent mechanisms within the national government to give *continuing attention* to "interlevel relations." Those mechanisms were to be in the Congress, the White House, the Office of Management and Budget, many federal agencies, and a special "advisory board." Four years later, on September 14, 1959, the Advisory Commission on Intergovernmental Relations was established by Public Law 86-380.

Declaration of Purpose

Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between the levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

It is intended that the Commission, in the performance of its duties, will—

- (1) bring together representatives of the Federal, State, and local governments for consideration of common problems;
- (2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;
- (3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;
- (4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;
- (5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;
- (6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of governments; and
- (7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between levels of government and to reduce the burden of compliance for taxpayers.

Three Decades of Policy Pioneering at ACIR

Bruce D. McDowell

The legislation that created the ACIR in the fall of 1959 assigned to the Commission the task of encouraging "discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation." ACIR has been pioneering intergovernmental policies ever since. Some of the issues engaged by the ACIR have affected the federal government directly, while others have had an impact primarily on state and local governments.

A rundown, decade by decade, of some of the contributions that ACIR has made to resolving and clarifying issues facing the American federal system during the past 30 years reveals as much about the recent history of intergovernmental relations as it does about the history of the Commission.

The 1960s

As the 1960s opened, ACIR was getting organized, and the nation was both embracing and struggling with the unleashed forces of suburbanization that had built up during the Great Depression and World War II. Metropolitan problems were in the air, and many state legislatures, with their rural dominated leadership, routinely turned away urban elected officials when they came for help.

ACIR took up the challenge of these urban problems, recommending federal assistance for comprehensive local and metropolitan planning, federal coordination of federal aid in metropolitan areas, advance federal approval of interstate compacts for the 30-some metropolitan areas that cross state lines, and an intergovernmental review and comment process to ensure that all affected state and local governments would have an opportunity for input before federal aid could be authorized.

The most influential of these recommendations was the one for the review and comment process. This process was enacted twice by the Congress, using language suggested by ACIR—in 1965 for physical development programs in metropolitan areas and in the *Intergovernmental Coopera-*

tion Act of 1968 for a broader range of programs both inside and outside of these areas. Widely known as the A-95 process for many years, it now operates under Executive Order 12372, signed by the President on July 14, 1982. The reviews are carried out through state agencies and areawide clearinghouses designated by the states, such as regional planning organizations and councils of governments. ACIR reviewed this process and recommended improvements several times through the 1970s and 1980s.

For a number of years during the 1960s and 1970s, ACIR, with OMB, operated another review and comment process that was designed to provide state and local governments with early access to proposed federal regulations affecting them. Known as the A-85 process, it was superseded by formal public notices of rulemaking and opportunities for comment published in the *Federal Register*.

During the 1960s, ACIR also was influential in the enactment of:

- Amendments to give local government officials a role in decision-making within the anti-poverty program;
- The *Uniform Relocation and Real Property Acquisition Act of 1970*, which provided for equal treatment of persons and businesses displaced by federal and federally supported programs regardless of which agency was involved; and
- The *Intergovernmental Personnel Act of 1970*, which provided for uniform merit principles throughout the federal-aid system (rather than different ones for the programs of different agencies), for training state and local personnel in federal programs, and for intergovernmental personnel mobility assignments to facilitate the interchange of personnel among governments that could improve cooperation and operational capabilities.

With regard to broad national issues, ACIR initiated a proposal for en-

The ACIR over the years has provided the intellectual leadership to help the unique American federal system perform its magic. Federalism is a concept that all Americans cherish and that few understand in the same way. In fact, most Americans don't think much about it at all; they just assume it will always be there. But, as is true with other important institutions, unless we constantly strive to understand it, nourish it, and keep it up to date, we stand in danger of losing it. The role that ACIR has played so well is to force the attention of America's opinion leaders to the problems and the potential of the federal system.

R. Scott Fosler

Committee for Economic Development

Happy Birthday ACIR! All who have been affiliated with the Commission can be proud of its contribution to intergovernmental relations in the last 30 years. Over that time, the Commission has accomplished one of the great balancing acts of modern government. It has addressed the cutting-edge issues as well as the long-term concerns of our system. It has appealed to an audience ranging from academicians to the array of elected officials. It has striven mightily to be political without becoming politicized. And it has accomplished all of these goals with a remarkable degree of success. The current budget constraints and increasing service demands are creating new tensions and stresses on intergovernmental relations in our nation. These challenges make the mission and role of the Commission every bit as relevant now as they were in 1959. All who know and care about ACIR await its solutions to these problems.

Michael C. Mitchell
Governmental Affairs Committee
U.S. Senate

As former Vice Chairman of ACIR, I commend the Commission for the positive influence it has had over the last 30 years in promoting cooperation and understanding between all levels of government. Your support of traditional concepts of federalism and your taking the lead in restoring balance to the system has been a major and very important contribution to the strength of this great country.

John H. Sununu
Chief of Staff, The White House

In the mix of federal, state, and local offices in which I have been privileged to serve over several decades, none has been of more value and interest to me than my service as a member of the Advisory Commission on Intergovernmental Relations. Among many other projects, I think particularly of the unique contribution made during my time as Counselor to the President when we appraised and then implemented revenue sharing and brought it to reality, with its attendant strengths and frailties. Certainly, it was a most useful exercise in the viability of our federal system, and, as we continue to struggle for resources at every level of government, the importance and need for the Commission must be increasingly underscored.

Robert H. Finch
*Former Counselor to the President,
and Former Secretary of Health,
Education, and Welfare*

"Can ACIR help?" This is a key question we ask when GAO is examining federal programs with an intergovernmental dimension. Invariably, the answer is "yes." ACIR's reports, historical data bases, and staff have been an invaluable resource in GAO's work. A prime example is the Commission's extensive work in the mid-1970s on block grants. This was a valuable resource for our assessment of the Reagan administration block grants in the 1980s. Beyond data, ACIR serves an important role as a forum for clarifying intergovernmental issues facing the federal system. Because ACIR consistently includes all levels of government in carrying out this role, it probably could not be done as well by anyone else.

John Kamensky
U.S. General Accounting Office

actment of a requirement that the President submit to the Congress a biennial national growth policy. That document, prepared in every even-numbered year beginning in 1972, was refocused on "urban policy" during the 1970s. A separate requirement for an annual rural development policy was enacted in 1980.

ACIR recommendations to state and local governments in the 1960s concentrated on "an arsenal of remedial weapons" for local governments to draw on in their quest to solve metropolitan problems and for states to use in strengthening their governments.

The local government arsenal included home rule, annexation, county modernization, consolidation and dissolution powers, neighborhood subunits, supervision of special districts, interlocal agreements, transfers of functions, multijurisdictional organizations, and other measures. Recognizing that no single solution would be right for every situation, the Commission prepared and vigorously promoted suggested state legislation to authorize these various approaches.

On the state strengthening issue, ACIR recommended reapportionment of the state legislatures (its report was cited in the Supreme Court's 1964 *Reynolds v. Sims* decision), year-round staffing and annual sessions of legislatures, modernization of committee structures, executive budgets, appointment of cabinet members by the governor, and four-year terms for governors with the opportunity to succeed themselves in office. ACIR prepared and promoted suggested state legislation on these matters.

ACIR was also influential in carving out a state role in establishing building codes where local governments do not provide them and when manufactured housing is involved, and helped to establish a national association of state building code officials. Finally, ACIR set forth one of the earliest blueprints for state and local growth management programs.

The 1970s

The decade of the 1970s was spent detailing many aspects of the issues broached during the Commission's first decade. On the federal side, most of ACIR's energy went into federal en-

couragement of regional organizations and improved management of the expanding federal grant-in-aid system.

ACIR's support for regionalism helped to expand the coverage of substate regional organizations in metropolitan and nonmetropolitan areas to about 90 percent of the country's land area. Similar coverage was also attained by two sets of larger multistate organizations, one for economic development purposes and one for river-basin planning and coordination.

ACIR's pioneering role in the federal grant system contributed significantly to enactment of general revenue sharing and the establishment of several block grants. Both forms of aid were seen as being substantially less burdensome for state and local governments to administer than the categorical grants that had monopolized the system. ACIR was also very active in supporting the development of standard grant administration procedures (under OMB Circular A-102) for reporting, procurement, matching, property management, and auditing. These procedures, applicable throughout the grant system, mean less red tape and fewer differing rules for state and local governments.

It was in the 1970s that ACIR began to study the criminal justice system. This work began with a 1970 study of state and local roles in criminal justice. The federal government was brought into the picture with a 1977 study of the Safe Streets block grant and a study of jails in 1984. This issue is still on the front burner, with ACIR likely to study it again in the near future.

ACIR's state and local contributions in the 1970s focused on the establishment and operation of regional organizations under state law, the use of interstate compacts in regional affairs, the growing burden of state mandates on the limited resources of local governments, the need for state ACIRs, and a recommendation that states replace their separate single-mode transportation agencies with a comprehensive, multimodal transportation department. Most states now have DOTs. ACIR's influence was greatest, perhaps, in raising the nation's consciousness about mandates and encouraging more restraints by the

federal government as well as the states, and in providing assistance for the establishment of state ACIR counterparts. Four state groups were created before the 1970s, and nine during the 1970s; in the 1980s, 16 were created, more than doubling the number to 29 at present.

The 1980s

The 1980s have seen a substantial shift in intergovernmental relations. As the federal budget tightened, squeezing federal aid to state and local governments from a high of more than 17 percent of all federal expenditures down to about 10 percent today, ACIR recommended (and provided technical assistance for) a systematic sorting out of responsibilities and revenue sources. In 1982 and 1983, the White House and the governors, led by ACIR member Governor Richard A. Snelling of Vermont, negotiated long and hard for a major "swap" of program responsibilities. More than 60 different combinations of programs were considered, with ACIR providing the analysis of state-by-state fiscal effects. In the end, no agreement was reached, but many intergovernmental issues were thoroughly aired.

In 1985, ACIR recommended a renewed sorting-out effort and offered five additional illustrative packages of potential programs for consideration. Then, in 1987, the Commission recommended as a long-term goal the turning back to the states of all non-Interstate highway programs and an equivalent portion of the federal gasoline tax, with immediate and intermediate goals to ease the transition.

Meanwhile, the Commission pioneered the study of a new field of "regulatory federalism." The issue of federal preemption of state and local authority had lain dormant since the Kestnbaum Commission on Intergovernmental Relations had studied it in the mid-1950s. This issue, and the related issue of federal reimbursement of mandated costs to state and local governments, were brought back onto the intergovernmental agenda in a wide-ranging ACIR report published in 1984. Now, in a forthcoming report, ACIR documents for the first time the federal government's use of statutory preemption powers decade by decade. The conclusion is that this activity has accelerated greatly in the 1970s and 1980s.

On the strength of its 1984 study of regulatory federalism, the Commission supported recent efforts to provide greater flexibility in the means of complying with federal regulations, further simplification of such regulations, and waivers of some regulations for small governments under the *Regulatory Flexibility Act of 1980*. The Commission also initiated, and the Congress enacted, a "fiscal notes" process requiring the Congressional Budget Office to estimate the financial costs to state and local governments of bills reported out of congressional committees before a floor vote can be held. Following its initial five-year trial period, this procedure was reenacted.

Finally, the Commission has been playing a major role over the past several years in attempting to restore constitutional balance to the federal system. Following recent U.S. Supreme Court decisions that appear to leave protection of states' rights under the Tenth Amendment up to the Congress, the Commission has recommended strengthening that provision of the U.S. Constitution and giving the states greater access to the process for amending the Constitution.

The Commission chronicled the resurgence of state governments in its 1985 report *The Question of State Government Capability*. In 1989, the Commission produced a study of issues and innovations in state constitutional law, recommended that this new field of study be further developed and recognized as a foundation of American federalism, and published the first wide-ranging book of law cases and other materials for use in teaching this long-neglected topic.

Conclusion

The Commission, of course, has done much more than can be highlighted in a short article. But the partial listing above illustrates the seriousness with which the Commission takes its statutory mandate to engage emerging issues that call for intergovernmental cooperation. There is no lack of such issues on the horizon. The next decade will hold its own unique challenges for the American federal system. The Commission is eager to play its role in taking up those challenges.

Bruce D. McDowell is director, Government Policy Research, ACIR.

I consider myself fortunate to have experienced the work of the Commission from several perspectives—as a researcher in state and local public finance who has found the reports and analyses to be invariably informative and insightful; as a Commission employee who gained a real appreciation of the dedication of the staff and the fascinating deliberations of the Commission itself; and as a state and local government consultant who has come to realize the high regard in the field for the Commission's work. ACIR has made major contributions not only in public policy but also in broader public understanding of the meaning of our system of federalism.

Harvey Galper
Peat Marwick

Congratulations on the 30th anniversary of the ACIR. Government runs on information, and in Montana we rely on the ACIR to develop new policies and to answer old questions for the cities and towns in our state. We operate on the philosophy that it isn't necessary to reinvent the wheel every time a problem comes along, and the ACIR gives us the ability to review similar situations in other parts of the country and to come up with a solution that has been proven in practice. The ACIR stands for the idea that government, from Congress to the smallest towns in Montana, is a community of common interests, and as long as it steers by this star, the organization will celebrate many successful anniversaries.

Alec Hansen
Montana League of Cities and Towns

For 30 years, the ACIR has contributed a service of great value to these United States of America, and to the cities, towns, counties, and other units of government in which the people live and practice democracy. It is not enough to talk about federal systems or about shared responsibilities. An ongoing effort is needed to study the effectiveness of the myriad combinations of responsibilities that are possible if we are to explore the full potential of our system. The ACIR helps us reach toward national standards of decency and public expectation, while striving to keep as much democracy and decision-making as possible as close to the voters as possible.

Richard A. Snelling
Former Governor, Vermont

Three Decades of Fiscal Federalism at ACIR

Robert D. Ebel

The Advisory Commission on Intergovernmental Relations has a 30-year record of success. Where there could be acrimony, instead there is amity. Where there is potential for controversy, instead common ground is found. That's an impressive achievement, in which the ACIR can take great pride. The Commission has fostered an environment of respect and cooperation between federal, state, and local officials that has enhanced governing in America. Federalism has flourished because of the work of the Commission. Those of us who have served on the Commission have gained individually and governments have gained collectively from the Commission's steadfast commitment to America's unique system of government.

Gwendolyn S. King
Commissioner of Social Security

In 1959, the Congress had the foresight to create a body that would serve as a link between the various levels of government and private citizens. Now, as the Advisory Commission on Intergovernmental Relations prepares to celebrate its 30th anniversary, I would like to commend it for its dedication to the pursuit of excellence in government. ACIR has brought together successfully private citizens and representatives from federal, state, and local governments to discuss and exchange ideas. The Commission recognizes that only through the awareness of the problems facing our society are governments able to improve the quality of life for our citizens.

Mark M. Rogacki
Wisconsin Counties Association

Issues of fiscal federalism are, fundamentally, those of intergovernmental relations and their effects on the achievement of the goals of fairness, equity, efficiency, liberty, and self-government in our democratic society. To put it in more general terms, the intergovernmental fiscal system is more than a compendium of tax law and arcane economic data; it is an expression of relationships among individuals, among governments, and between the people and their governments.

Fiscal analysis is, therefore, a key tool in understanding and strengthening the American federal system, which, in turn, is one of the most important contributions of this nation to the workings of democracy.

The Role of ACIR

Within the broad framework of federalism and democracy, the ACIR has been charged with a unique role. As a permanent bipartisan agency that is not "dominated or controlled by any one level of government," the Commission has made major contributions with respect to:

- Monitoring the federal system;
- Strengthening the fiscal position of state and local governments;
- Promoting balance in the federal system;
- Maintaining the vitality of the federal system by suggesting policies for improving fiscal performance; and
- Advocating accountability.

Monitoring the Federal System

For 30 years, the ACIR has been collecting and organizing fiscal data to help policymakers and practitioners alike to identify trends, turning points, and periods of federal or state-local activism in intergovernmental relations.

Since its inception in 1961 as *Tax Overlapping in the United States*, and now as the annual *Significant Features*

of Fiscal Federalism, ACIR's survey of the fiscal character of the federal, local, and state governments has been an essential tool for tracing long-term trends and other changes in the intergovernmental system. Since 1986, much of the information has been made available in computer format, increasing its reach and usefulness.

In 1962, the ACIR pioneered a new method for measuring the fiscal capacities of state and local governments—the Representative Tax System (RTS). After several refinements, the RTS and, since 1985, the somewhat broader measure of the Representative Revenue System, have become widely (though not universally) accepted, and are used to facilitate fiscal comparisons among the states and to provide benchmarks for the design of federal grant programs. RTS has been incorporated into several congressional proposals for grant legislation and also has been modified for use in distributing federal-provincial grant funds in Canada. Now, ACIR has taken another step toward improving the measure of fiscal capacity with a Representative Expenditure System, which estimates spending "needs" among the states.

An important development, particularly in the last few years, has been the adaptation of the RTS and RRS for use by state legislatures as they look at state programs of aid to local governments. State-local fiscal relations are becoming increasingly important in part because state policymakers face rising demands on limited financial resources in an era of declining direct federal involvement in state and local fiscal affairs.

The Commission also produces a *Catalog of Federal Grant-in-Aid Programs to State and Local Governments*, which lists and briefly describes each program of federal grants that is actually funded. The catalog, an outgrowth of a multivolume ACIR study on the intergovernmental grant system in

1975, is the only volume of its kind, making it a document widely used by intergovernmental finance practitioners.

Finally, since 1972, ACIR has been asking the public for its opinions on the "worst" or least fair tax and which government gives the taxpayers the most or the least for their money. This widely cited annual poll (several topical questions also are asked each year) provides 18 years of trend data on public attitudes toward taxes in the federal system.

Strengthening State and Local Governments

The Commission's record of identifying and researching issues of both emerging and long-term importance has helped to establish it as a forum and source of ideas for developing policies intended to strengthen all the elements of the federal system. The Commission has demonstrated an ability to identify issues for analysis that, while they may be largely unnoticed at the time, soon rise to the top of the nation's intergovernmental agenda. During the last 30 years, ACIR's recommendations for strengthening state and local governments have ranged from emphasizing techniques and policies for improving the administration of state income and sales taxes to providing guidelines for local fiscal policies, such as targeted property tax relief and local revenue diversification. In addition, the Commission was the major promoter of the idea that the adoption of broad-based taxes is part and parcel of strengthening the fiscal position of state and local governments and harmonizing—and thereby enhancing—the federal-state-local system as a whole.

Since the mid-1960s, the incorporation into tax law of many key elements of fiscally strong state and local revenue systems is in good measure due to ACIR efforts—property tax "circuit breakers," truth-in-taxation provisions, federally conforming state income taxes, user fee financing, and tax credits for targeting tax relief to low-income families.

Promoting Balance

When the ACIR was established in 1959, even many ardent advocates of

the merits of a unitary system of government recognized the need for decentralizing some of the power that the federal government had accrued during the 1940s and 1950s.

One of the first important questions to arise was how to promote and achieve decentralization in a manner that would have real political effectiveness and permanence.

Strengthening the state and local revenue system while at the same time promoting federal/state-local fiscal coordination was, and remains, critical, but it was only part of the answer. Just as important at the time was the need to redirect some of the federal government's overwhelming fiscal resources to what were then viewed as the lower levels of government.

On the fiscal side, the Commission came up with a bold strategy: a tripartite restructuring of the federal grant system. In 1967, the Commission's *Fiscal Balance in the American Federal System* called on the Congress to enact a combination of federal categorical grants-in-aid, general functional block grants, and general support payments. Other recommendations followed, including a call for general revenue sharing. The Commission's work on the structure of intergovernmental grants has had an enduring impact, from the introduction in Congress of specific ACIR suggested legislation to a broad restructuring of federal aid programs along the lines advocated by the Commission.

Improving Fiscal Performance

A close companion to strengthening the fiscal position of specific governments and ensuring balance among governments in the federal system as a whole is improving the operation of the fiscal system. There are several areas where the ACIR has, and will continue to have, an impact on the practical operation of intergovernmental fiscal affairs.

A notable contribution was the Commission's work on city financial emergencies. Questions were just beginning to be raised regarding the financial stability of large cities when, in 1973, ACIR released a policy report setting out warning signals of an impending crisis and suggesting appropri-

My experience with ACIR spans the better part of its history. In the 1960s, as a legislative campaign volunteer, the most useful things I did resulted from translating ACIR data to fit our state and situation. Later, as a researcher in economics and government, Commission materials provided useful inputs, particularly on trends. As a state finance director in the 1970s, an ACIR concept and ACIR data on business taxes were a key part of revising the state's tax policies. Working as a tax policy consultant for another state, ACIR's representative tax system was extremely useful in relating individual state systems and options to nationwide patterns and policies. Now, as editor of publications used by state policymakers, the most useful ACIR contributions are the 50-state policy comparisons that nearly everyone likes to use but no one else has the combination of resources and credibility to do.

Hal Hovey
State Policy Reports

I applauded when Congress enacted the ACIR legislation and cheered at the appointment of a marvelous team to launch the new enterprise. The many ACIR studies they and later leaders initiated provided assessments, goals, and implementation guidance for making the federal system highly coordinated and productive. Federal, state, and local officials were fortified with compelling recommendations. University instructors gained authoritative reference materials. Effective use of ACIR and its materials would assure the advance of intergovernmental cooperation and a far better sharing of responsibility among governments in coping with domestic functions.

Donald C. Stone
*Coalition to Improve Management
in State and Local Government*

I would like to express my congratulations to ACIR on its 30th anniversary. I pay my total respect to the impressive fact that, with three decades of remarkable achievement, the Commission has been seeking an effective federal system and cooperation among levels of government. Japan, since the post-war period, has had a federal-local system of government like that of the United States. We now are facing the need for its reform as the needs of society change. The Commission continues to be important and resourceful, not only to the governments here but also to our governments in Japan. In fact, even before our organization was established, ACIR provided *State and Local Roles in the Federal System* for Japanese translation. I certainly hope to develop a closer relationship with ACIR in the future.

Yoshimi Minami
*Japan Local Government Center,
New York*

I would like to take the occasion of the 30th anniversary of the ACIR to congratulate the Commission for its outstanding work. I am especially impressed by what the Commission has been able to do during these more austere years of the 1980s. Having been present at the creation of the ACIR, and having served on the Commission from 1959 to 1977, I have a strong commitment to the principles of federalism and intergovernmental cooperation that underlie the work of the Commission. I wish the Commission every success, therefore, in helping all of us to confront the new and grave challenges to the viability of our federal system today.

Edmund S. Muskie
Former U.S. Senator, Maine

When President Reagan took office, he knew from his experience as California Governor that the states were well equipped to handle many matters better than the federal government. He wanted to decentralize government. And it was the outstanding professional work of the ACIR that helped us fashion block grants, regulatory relief, and other programs to achieve some real devolution. ACIR, with its bipartisan membership from all levels of government and its highly professional staff, has been an invaluable arena for research, public policy debate, and practical proposals to keep our federal system strong.

Richard S. Williamson
Chicago

ate state, local, and federal roles in the event of an actual emergency. Three years later, the default on billions of dollars of New York City notes, plus a rash of fiscal crises in other part of the country, became front page news and a top agenda item in Washington as well as in state capitals. That report and its 1985 update—along with complementary reports on local cash management and state and local debt—remain important reference works.

ACIR's recommendations on the structure of state school aid systems merit special attention. School finance was a hot topic when the Commission first studied it in the late 1960s (*State Aid to Local Governments*, 1969), again in the mid-1970s (*Financing Schools and Property Tax Relief—A State Responsibility*, 1974), and in the mid-1980s (*Strengthening the Federal Revenue System*, 1984). Now, school finance is about to become a hot topic again as policymakers strive to address the critical issue of educational change and performance. Several states presently are examining ACIR's recommendations regarding the extent of the state role and the structure of school finance.

ACIR reports also have highlighted problems for state tax administrators resulting from organized crime taking advantage of large-scale differentials in state-levied excise taxes. The Commission's initial research on cigarette bootlegging played an important role in 1978 when, for the first time, the Congress specifically made interstate tax evasion a crime. As a result, in a follow-up report (1985), the Commission was able to report that cigarette tax evasion, particularly large-scale organized smuggling, had declined dramatically since the 1970s.

Advocating Accountability

There have been some important ACIR legislative "victories" in terms of "fiscal fair play" or governmental accountability. For example, the ACIR made important contributions to the congressional adoption of the fiscal notes process and indexation of the personal income tax. And the Congress may yet act on an ACIR recommendation to permit states that have a sales and use tax to enforce use tax collection on out-of-state mail order sales.

On the other side of the ledger, Commission recommendations that the federal government pay local property taxes (either directly or on an in-lieu basis) and that states begin at least partial reimbursement of certain types of state mandates of local expenditures have been ignored or not widely implemented to date. However, given the widespread recognition of the importance of the issues raised by intergovernmental tax immunities and unreimbursed mandates, these ACIR reports and recommendations remain important.

The Challenge for ACIR

The credibility of the Commission as a forum for strengthening the ability of the federal system to meet the problems of an increasingly complex society is grounded in its unique structure as a broadly representative and genuine intergovernmental body, and in the quality of its research products.

Fiscal research is a powerful tool for analyzing the nature of the complex relationships in our federal system, and ACIR's contributions to that research and policy process over the past 30 years have been significant. The challenge for ACIR in the years ahead is to maintain that record of performance.

Robert D. Ebel is director, Government Finance Research, ACIR.

Refitting the Federal System

William G. Colman

I was appointed executive director of the Commission at its second meeting, on February 10, 1960. At the end of my service, the ACIR annual report in January 1970 described the federalism trends of the 1960s as having begun "with a continuing disenchantment with 'layer cake' federalism and the laggard response of state government to escalating urban needs. . . . At mid-point in the decade, public sentiment for the 'Great Society' programs was at a peak, accompanied by a . . . belief that only national action was sufficient or appropriate to meet the challenges of poverty, civil rights, and urban decay. However, the Sixties are ending with a strong flow of power back to the states and localities, a growing disillusionment [with national action] and substantial sentiment in support of a 'New Federalism.' " With benefit of 20 years' hindsight, I would concur with this overall assessment.

At the beginning of and through the Sixties, four conditions—one long standing and three emerging—were undermining the strength and impairing the effectiveness of the American federal system. They were:

1. The structural weakness, policy timidity, and narrow perspective of state governments (with a few exceptions), causing them to fail the test of public confidence and credibility through their continuing failure to discharge *state responsibilities*, and thereby rendering rather hollow their strident clamoring for "states rights."
2. A rapid expansion of the national government's activity and role in domestic governance, accompanied by a growing disdain for state-local roles, with consequent confusion, inefficiency, inequity, and tension in national-state-local relationships.
3. Growing interlocal economic, fiscal, and social disparities in the nation's metropolitan areas, with concurrent shifts in population, wealth, and economic opportunity from central city to suburban jurisdictions and residents.
4. A continuing decline in the academic rigor, quality of governance, and adequacy of state-local gov-

ernment-school district intergovernmental structures and processes for elementary and secondary education, especially in large cities.

Today, the first of the foregoing, with few exceptions, has essentially disappeared; the second has improved and stabilized on the service side, but not the regulatory side; the seriousness of the third continues; and the fourth has reached disaster proportions in many cities. In 1960-70, ACIR generally responded quite well to the first and third of these problems. To the second, its response stressed issues of structure and process, with, consequently, relatively less attention to major functional programs and state-local regulatory activities. ACIR responded firmly to the third problem, with measurable results. However, the ACIR failed to delve into the public education area, except fiscally (this disinclination has continued to the present).

Structural and policy deficiencies of state government were well recognized by 1960, and the worth of certain reforms was demonstrated in a few states. A "long ballot," restrictions on the number and length of gubernatorial terms, brief biennial legislative sessions, and overlapping state court systems with little attention to court administration was the general pattern. On the policy side, callous state-local relations, particularly for urban areas, and inadequate revenue systems were characteristic.

Drawing on earlier studies and successful state experiences, ACIR recommended:

1. State legislative reapportionment on a population basis;
2. Short ballot, gubernatorial reorganization authority, annual legislative sessions, and year-round professional staffing of key committees;
3. Expanded use of the income tax by state governments and authorization for piggy back use by larger local units;
4. State authorization for city-county functional transfers by governing body action; and

(continued on page 16)

The value of ACIR goes far beyond its hallmark research and analysis. The Commission played a large role in the enactment of federal block grants and general revenue sharing. The ACIR's work in identifying costs imposed by state and federal mandates led to the inclusion of fiscal notes in legislation affecting local governments. And the success of the Commission as a forum whereby federal, state, and local elected officials meet to discuss intergovernmental issues also has had a significant impact on state-local relations.

Kathryn Feidelson
*Connecticut Conference
of Municipalities*

On the occasion of the 30th anniversary of the ACIR, I am pleased to express my congratulations to the Commission for a history of leadership and success in championing the American federal system. The research conducted by the Commission is highly regarded, and its reports have reflected a reasoned view of some of the most important issues pertaining to intergovernmental relations in the United States. In addition, the Virginia Local Government Advisory Council, a state ACIR, has enjoyed a long and cordial relationship with the Commission and its staff. As America moves into the 21st Century, I am confident that the Commission will be in the forefront in addressing those public issues that will shape the governance of this nation in the future.

Robert H. Kirby
Virginia Local Advisory Council

We are particularly pleased to join in the celebration of ACIR's 30th anniversary. The excellence of ACIR's research is well known and respected among the municipal governments of Florida. The Commission's outstanding efforts prompted the establishment of a Florida ACIR, and we are proud to have supported that legislation.

Raymond G. Sittig
Florida League of Municipalities

Recognizing Our Interdependence

William R. MacDougall

Over the past 30 years, the ACIR has served as the major beacon of bipartisan expertise on intergovernmental relations. Throughout its history, the ACIR has brought together the best minds in government to put forth policy recommendations on the "system" issues of federal-state-local relationships, creating a professional context for better-informed policymaking at all levels. Recently, ACIR has been in the vanguard of the movement to create ACIRs at the state level and, through its success, has contributed strongly to a multiplication of its most valuable traits.

David W. Russell

*Connecticut Advisory Commission
on Intergovernmental Relations*

From 1965 to 1980, I had the privilege of listening to the political leaders who served on the Commission set out a series of recommendations that suggested how to achieve fiscal balance among nation, state, and local government. The Commission reports reflected a respect for the task of governing in a complex society, and an awareness of the role of all governments to provide political, economic, and social justice for the citizenry. Commission recommendations stand as the foundation on which states to this day retain their capacity to serve as laboratories for testing effective governmental practice. I was and am proud to have been a participant in the effort.

Will S. Myers

National Education Association

Congratulations on ACIR's 30th anniversary. ACIR fills a role that becomes more essential in each decade. Missouri has benefited from ACIR's work in several areas, both in research projects and, most importantly, assistance in establishing the Missouri Commission on Intergovernmental Cooperation. ACIR's advice and encouragement is vital to our ongoing success. Because of its unique role, ACIR is in a position to improve federal, state, and local government relations and practices. This is an extremely important job, which ACIR does very well.

Lois Pohl

*Missouri Commission
on Intergovernmental Cooperation*

The major intergovernmental issues facing the United States in the early 1970s were not new. Some had their roots in the beginning of our republic, while others were a more recent heritage stemming from the turbulence of the 1950s and 1960s.

The first half of the 1970s were years that were neither the best nor the worst for the great intergovernmental issues that pervade the fiscal and structural framework of federalism. They were (and are) issues that fuel the debate over the nation's goals. Foremost in those days were the issues of attaining governmental fiscal balance while at the same time striving valiantly, and occasionally desperately, to modernize the nation's local, state, and national structural framework.

Specifically, issues such as welfare reform, criminal justice, transportation, the environment, and balanced growth commanded the attention of those concerned with the intergovernmental future of America. These issues will be in the forefront still as the decade of the 1990s begins.

The one issue that overwhelmed all others was the struggle for and the attainment of general revenue sharing. At the beginning of the 1970s, general revenue sharing by the federal government appeared to be a vital, but slightly improbable, objective. To the amazement of some, in less than five years, general revenue sharing not only had been achieved but also was the subject of much activity related to its extension and renewal. Only history not yet written will reveal whether or not the states and localities can survive permanently without such a program.

Suffice it to say that the general jubilation over the achievement of federal revenue sharing produced a euphoric atmosphere in which progress was able to be made on other pressing intergovernmental issues.

Federalization of the public assistance categories was partially attained, even though what had been heralded as "total welfare reform" did not occur. Block grants and grant consolidation programs were much discussed, and some progress toward them was made.

The support of the public schools continues to be the subject of much debate. Its intergovernmental aspects in

the early 1970s included both discussion of the need to protect local administration of school systems and a need to provide relief from the crushing burden of local property taxes as the principal source of school support.

There was thus emerging the rough outline of a new fiscal frame with a heavy intergovernmental emphasis. Fortunately, it was realized that governmental forms to match the progress in fiscal federalism were much needed. Consequently, the modernization of state government became a popular topic, and progress was recorded there and in the fields of criminal justice and urban transportation.

By 1974, the Commission recognized the need for a national discussion of all of these issues. It therefore ordered the holding of a "National Conference on American Federalism in Action," which was convened in Washington in February 1975. For three days, federal, state, county, and city governmental leaders and eminent observers of the governmental scene discussed the state of federalism, expressed their confidence in it, and outlined future solutions to problems.

The issues identified above received proper attention. However, a new emphasis was apparent, categorized at this conference as "decentralization: federalism's recurring challenge." Thus there was recognized the emerging importance of possible realignment and reassignment of the levels at which various governmental functions and services may best be lodged. At the least, there was recognition that the monumental fiscal changes occurring merited a reexamination of "who does what." At the most, there was an awakening to the probable truth of the concept that the nation could not forever afford the costs of duplication, fragmentation, and lack of responsiveness among its several thousand governments.

In the mid-1970s, it became evident that the time had passed when major decisions at any level of government could be made in a vacuum. The pervading interdependence seemed generally recognized.

William R. MacDougall was ACIR executive director from 1970 to 1974.

Reevaluating the System and "Sorting Out" Responsibilities

Wayne F. Anderson

My service at ACIR, from 1974 to 1982, spanned the last ten days of the Nixon Administration, all of the Ford and Carter Administrations, and the first year of the Reagan Administration. The intergovernmental scene was bustling and marked by excesses that inevitably gave way to the cooling of the 1980s.

From the vantage point of 1989, many intergovernmental "stories" that were prominent in the newspapers and journals in the mid-1970s have since been overrun by events, or would now be seen as fizzles or not very important. That list might include:

- The New York City fiscal emergency (1975);
- The *National League of Cities v. Usery* decision (1976);
- The general revenue sharing re-enactments (1976 and 1980);
- The Sunbelt-Frostbelt and other regional tensions that were intensified by the energy crisis of 1974;
- President Carter's "urban policy" initiative; and
- President Reagan's "New Federalism" effort to reassign functions and turn back revenues to states.

Which developments were of first-rank importance? Five went on to shape intergovernmental relations in the 1980s and are still with us:

Federal Aid Growth and Peaking. The federal aid system, which has long been the central focus of intergovernmental relations, continued to grow rapidly until 1978, when its real purchasing power peaked. Some 50 programs were added between 1974 and 1978, and aid doubled from \$43 billion to \$85 billion.

Federal Regulation of State and Local Governments. Regulation expanded at least as rapidly as federal aid. ACIR counted 13 crosscutting regulation statutes enacted between 1974 and 1978, and there also was notable growth in program regulations, direct orders, and preemptive actions by Washington.

Deterioration of the Federal Government's Finances. The deterioration

proceeded unabated as the income tax was shot full of loopholes and as relatively high inflation set the stage for indexation, as the Social Security tax was exhausted by pushing the rates to the limits of taxpayer tolerance, and as annual deficits doubled the national debt. This deterioration plus the 1981 Reagan tax cuts conditioned intergovernmental relations in the 1980s more than any other development.

Proposition 13 and the Tax Revolt. By the time the taxpayers' revolt had subsided, there were new or tightened tax or spending lids on thousands of local governments. There also were constraints on the budgets of 19 states, a new development in American public finance. The intergovernmental and service effects in states such as California and Massachusetts have been pronounced.

Strengthening and Modernization of the States. Continued significant changes in state constitutions, legislatures, governors' offices and executive branches, courts, and tax systems during this period positioned the states for the somewhat larger and more aggressive roles they have been called on to play in the 1980s.

Intergovernmental developments that do not qualify for my "Big Five" list, but that should be recalled, include the 1974 and 1979 energy crises, the Nixon and Reagan block grants and all the questions and expectations they raised, the awakening of local governments to their state mandate burdens, and the unsuccessful push by state legislatures to secure a constitutional amendment requiring federal budgets to be balanced. And always present as incalculable intergovernmental problems are the cities and the underclass, rural as well as urban. These problems are so constant, so multifaceted, and so daily in their manifestations that we tend not to think of them as events, trends, or developments.

There are at least two ways of identifying the major intergovernmental issues from 1974 to 1982. We can first ask which issues were the most hotly contested by the intergovernmental play-

The ACIR's three decades have witnessed vast ebbs and flows in the relative health and strength of the federal partners, and every such change has underscored the Commission's value as the partners' unique meeting ground. The third century of federalism may resemble the first as much as the second, as technology and economic change pull decisionmaking downward and outward from Washington. These should be great years for the ACIR and those fortunate enough to serve it.

Mitchell E. Daniels, Jr.
Hudson Institute, Indianapolis

As a member of the Advisory Commission on Intergovernmental Relations while serving as mayor of Salt Lake City, I found ACIR to be a valuable and important forum for discussion of significant issues spanning all levels of government. Such an opportunity for local officials to share information and ideas is also essential for the efficient operation of our system of government. The constitutionally provided separation of powers and division of public responsibilities in an increasingly complex world make this dialogue even more essential. I applaud the work of the Commission and am proud to have been a part of its 30-year history.

Jake Garn
United States Senator, Utah

On the occasion of the national Commission's 30th anniversary, the South Carolina ACIR sends its sincere congratulations and appreciation. The U.S. ACIR represents the finest combination of blue chip national leaders and a renowned staff producing the highest quality research. The contribution the agency has made in shaping public policy is a benefit to us all. The creation of counterpart groups by 29 states is fine testimony to the validity of ACIR.

Dan B. Mackey
South Carolina Advisory Commission on Intergovernmental Relations

Following the lead of the national ACIR and other states, the Louisiana Municipal Association and other interested groups banded together to successfully legislate and implement the Louisiana ACIR. In only one year, the Louisiana ACIR has made quite an impact: the legislature has become increasingly aware of the need for more local fiscal authority and true fiscal reform, and has ordered a comprehensive study on state-imposed mandates and their effects on local jurisdictions. These actions clearly show the value of the ACIR concept in promoting dialogue among state and local officials.

Charles J. Pasqua
Louisiana Municipal Association

On behalf of the counties represented by the Pennsylvania State Association of County Commissioners, we congratulate the ACIR on its 30th anniversary. You have weathered the changing tides of federalism (and statism and localism) admirably. Particularly at the county level, where we face service delivery pressures from fiscally strapped states and organizationally strapped local governments, the information and assistance provided by ACIR has been invaluable. Annual publications such as *Significant Features of Fiscal Federalism* and other reports and projects have given us tools we need to make sound decisions on policies that will carry us into the next era.

Douglas E. Hill
*Pennsylvania State Association
of County Commissioners*

ers—presidents, the Congress, governors, state legislatures, mayors, county officials, interest groups, and others. For which purposes were the strongest campaigns mounted, maximum energies expended, or peak decibel levels reached? On this basis, the Everest of intergovernmental issues was clearly the reenactment of general revenue sharing each time it came up. But, in a more general sense, expansion of the federal aid system was the overwhelming, consuming preoccupation of most of these players so long as it was relatively unchecked by fiscal exhaustion or political philosophy. State and local governments and interest groups wanted the money, and they put their energies there, not into hard bargaining on the regulatory front. Finally, Proposition 13 and the all the tax revolts that preceded or followed it were issues of high intensity in the states where these battles ensued.

The other vantage point from which I can address these issues is that of the ACIR. ACIR is an active participant in some of the issue arenas, but it has the luxury of observing and studying the intergovernmental system in a more objective, balanced, and less self-interested way than does a competing government or interest group. ACIR therefore can think more in terms of historic perspective and the long-term health and balance of the American federal system. ACIR, in a way, observes current issue wrangles and considers some of them appropriate and constructive, but would like to change the agenda and works to do so.

It follows that ACIR's major concerns during the 1974-to-1982 period were the overcentralization of decisionmaking and finance in Washington, the related system overload there, the serious need to improve the design of federal grants to upgrade their effectiveness, the need to reevaluate the federal role in our system and to "sort out" responsibilities, the regulation excesses by both the federal and state levels, the family of fiscal balance issues and tenable limits on taxing and spending, and, finally, the growing role of the courts and their impact on the place of the states in the system. ACIR's work program for these years reflected these priorities and its continuing responsibility to improve unity, equity, diversity, responsiveness, effectiveness, and accountability of the federal system.

Wayne F. Anderson was ACIR executive director from 1974 to 1982.

Colman (continued from page 13)

5. Creating state local affairs offices.

Several ACIR reports addressed problems of the federal grant system, with resulting proposals for consolidating related categorical grants into broad block grants, modifying administrative-type requirements attached to federal grants, federal revenue sharing with state-local governments, federal consultation with local officials on federal projects having an impact on land use considerations, and review of local grant applications by an areawide body prior to submission to a federal agency. Several of these proposals were contained in the *Intergovernmental Cooperation Act of 1968* and in revenue sharing and block grant legislation in the early 1970s.

Responses to metropolitan disparities included substantive proposals for incorporation of intensified equalization emphasis in state aid formulas, building code uniformity and increased state activity in this field, state control of new incorporations and local boundary adjustments and confinement of zoning authority to larger local governments in order to curb exclusionary zoning, a uniform federal relocation assistance policy for persons and businesses displaced by federally aided construction (enacted in 1972), expanded use of rent supplements in housing programs, and stronger urban county governments authorized to deliver urban services.

In school finance, ACIR suggested increased aid to poor city school districts. A proposal was adopted in 1969 for state assumption of all financial responsibility for public K-12 education, concurrent with federal assumption of all welfare and Medicaid costs. (ACIR rescinded both of these recommendations in the early 1980s, and, I believe, wisely so.)

In 1960-70, the most far-reaching intergovernmental change was the reemergence of state governments as key players in the federal system and their becoming, once again, the nation's "laboratories of democracy." Refitting those governments in terms of structure, revenue systems, and policy priorities was the general focus of much of ACIR's attention during the Sixties. The enlarging laboratory role for state governments continues today, as all governments face new and awesome challenges.

William G. Colman was executive director of ACIR from 1960 to 1970.

Competitive Federalism—Three Driving Forces

John Shannon

If students of American federalism were asked to make a list of the most significant intergovernmental developments of the last three decades, three actions of the 1985-87 period probably would survive the final cut:

- The U.S. Supreme Court decision in *Garcia v. San Antonio Metropolitan Transit Authority* (1985)
- The reform of the federal income tax (1986)
- The demise of the federal revenue sharing program (1986)

The Garcia Decision

In a 5-4 vote, *Garcia* overturned *National League of Cities v. Usery* (1976) by holding that the commerce clause of the Constitution granted the Congress the authority to regulate the wages of local government transit workers. In this case, it required the local authority to adhere to national minimum wage standards.

Garcia also conveyed a far broader message—the announcement that the U.S. Supreme Court was abandoning its historic role of refereeing commerce power disputes between the Congress and the states. These controversies arise from the congressional exercise of its constitutionally delegated commerce power and state demands for protection from congressional encroachment into areas of authority that they claim are reserved to the states by the Tenth Amendment. As long as *Garcia* stands, these conflicts will be viewed by the Supreme Court as political issues to be fought out in the congressional arena—not, as in the past, constitutional issues to be adjudicated by an impartial third party, the Supreme Court. Thus, instead of having their claims of unconstitutional encroachment heard by the federal court, the states will have to fend for themselves in the rough and tumble of the congressional political process.

From an historical perspective, *Garcia* can be viewed as putting one of the finishing judicial touches on a congressional deregulation process that

began in earnest during the Depression. That searing national crisis forced the Congress and a reluctant Supreme Court to accede to the Roosevelt Administration's call for a New Deal—the unprecedented use of national government power to overhaul and jump-start a badly stalled economy. By 1942, the nation had witnessed the collapse of most of the constitutional barriers to federal entry into areas once considered the exclusive preserves of the states.

Federal Tax Reform

The far-reaching overhaul of the federal income tax code in 1986 produced some pluses and minuses for the state-local sector. On the plus side, there emerged the revenue windfall opportunity. By broadening the federal individual income tax base, the Congress automatically created a revenue windfall opportunity for those income tax states that conform their tax base definitions to those in the federal tax code. Not wanting to be viewed as taking advantage of this situation, most of the income tax states returned the "windfall" to their taxpayers by lowering tax rates and raising personal exemptions and standard deductions. On the minus side, federal income taxpayers can no longer claim the payment of state and local sales taxes as itemized personal deductions on the federal 1040. Congress also substantially reduced the range of permissible uses for which state and local bonds can qualify for the all-important federal tax exemption.

The sharp reduction in the top federal corporate and individual income tax rates also puts a keener edge on state and local tax competition. Because the cut in federal tax rates reduced the amount of state and local taxes that can be "written off" on the federal tax returns, upper income taxpayers and business firms are now more sensitive to interjurisdictional tax differentials. To stay competitive, virtually all of the income tax states with high nominal rates (ranging from 10

ACIR is perhaps the most effective organization in the United States in resolving disputes among all levels of government. Its years of research and its objectivity have established the Commission as a viable common-sense professional organization. The value of its contributions over the past 30 years to the quality of the intergovernmental system is unmatched in this country. I join with all former ACIR Commission members in extending my congratulations on its 30th anniversary, and wish it ongoing success.

Scott M. Matheson
Former Governor, Utah

Fundamental changes occurring in our federal system are forcing state and local governments to reexamine the services they provide and the means of financing them. The U.S. ACIR is playing a pivotal role in that vital process. Already, for example, ACIR has facilitated the "rebirth" of state-level counterpart organizations seeking to improve intergovernmental relations, and as that counterpart agency in New York State, we have drawn heavily from ACIR research and information exchanges.

Melvin N. Zimmer
New York State Legislative
Commission on State-Local Relations

Few governmental agencies have as important and as challenging a role as does the ACIR. It has a critical responsibility in guiding our nation's effort to strengthen our government's capability for dealing with our pressing problems, many of which will not yield to constructive remedies until we have improved the relations among the different levels and branches of our federal system. Such improvement requires a sustained, nonideological, and nonpartisan effort that the ACIR is best suited to provide. Thus it performs a function of vital importance to our future. I join in commending the ACIR for its 30 years of constructive service and wish it even greater success in its future endeavors.

Arthur Naftalin
Professor Emeritus, University
of Minnesota,
and former Mayor of Minneapolis

There can be no doubt that the U.S. ACIR has made a valuable contribution over the last 30 years in the pursuit of an effective federal system of government. The ACIR has sensitized public and private leaders to the critical issues and trends involving the effective and efficient "mix" of governmental powers, roles, capacities, and relationships. Moreover, the ACIR has served to challenge political leaders continually to work toward a properly balanced and supported system of intergovernmental relationships. Best wishes to ACIR on its 30th anniversary.

Charles D. Griffiths
Pennsylvania
Intergovernmental Council

The last 30 years have been marked by dramatic changes in federal, state, and local governments. The reasonable demands of a growing society and the additional complexities of a nation becoming increasingly urban have forced governments at all levels into new pursuits and into increasingly complex, sophisticated, and necessary duties. A most important tool for governments at all levels during this time of change has been the Advisory Commission on Intergovernmental Relations. Its nonpartisanship, the fact that it was not driven by any particular ideology, its fairness, and its expertise made it the most reliable and credible resource. Good government at all levels in the United States has benefited from the splendid work of the ACIR. One of my greatest pleasures in the public service has been to serve as a member of the Commission.

Joseph P. Riley, Jr.
Mayor, Charleston, South Carolina

The Alabama League of Municipalities and its member cities and towns are very appreciative of the work of the ACIR. Research reports produced by ACIR over the past 30 years have proven to be most valuable to our state. We wish the ACIR much success in future projects for the mutual benefit of all levels of government.

Perry C. Roquemore
Alabama League of Municipalities

percent up to 16 percent) pulled their rates down into the high single-digit range.

The Death of Revenue Sharing

The federal revenue sharing program passed away slowly. By freezing the outlays year after year, a fairly hostile Congress made sure that this aid program would twist slowly in the inflationary winds. Pushed by the Reagan Administration, the Congress finally put an end to its revenue sharing with local governments in 1986—six years after lopping off the state portion.

A brief epitaph for the federal revenue sharing program might read as follows:

- 1964—first proposed to reduce an expected federal budget surplus
- 1972—finally pushed through a reluctant Congress
- 1986—sacrificed on the Gramm-Rudman-Hollings altar of fiscal discipline

The rise and fall of federal revenue sharing serve as sharp reminders of the remarkable turnabout in the fiscal fortunes of Washington and the state-local sector over the last two decades. In the mid-60s, the massive fiscal advantage enjoyed by the national government triggered the demand for revenue sharing to redress this intergovernmental fiscal imbalance. By the mid-80s, towering federal budget deficits prompted the Congress to zero it out.

The fall-off in federal aid flows and the wipeout of revenue sharing have caused a sea change in the expectations of state and local officials—when forced to search for "new money," they look to their own resources.

A Summing Up— Competitive Federalism

Three disparate developments—the *Garcia* decision, federal tax reform, and the revenue sharing wipeout—all have one thing in common. In each instance, the action gave competitive (fend-for-yourself) federalism a vigorous push forward.

Several considerations suggest that the adjective "competitive" best describes the current state of Ameri-

can federalism. Unlike the situation that prevailed over the first 150 years, the national government is no longer constitutionally restricted to a narrow area of governance. Now, a "deregulated" federal government can move into virtually any domestic area and compete for policy leadership. Unlike the more recent past (the 1950s and 1960s), however, Washington no longer possesses a towering fiscal advantage over the state and local governments. Thus, federal, state, and local governments must now compete head on for the political and fiscal support of federalism's ultimate arbiters—the voters/taxpayers. Over the last decade, states and localities have fared better in this competitive struggle than most students of federalism would have predicted a couple of decades ago.

The current state of competitive federalism is not without its sharp critics. Those critics with a liberal point of view emphasize the equity problem—that fend-for-yourself federalism does poorly by those who are least able to fend for themselves—poor people and poor governments. Many federalists (joined by many state and local officials) paint a grim scenario of things to come—a constitutionally unconstrained but financially strapped Congress is likely to be pushed by special interests to make ever-increasing use of unfunded mandates and in this process transform elected state and local officials into Washington's hired hands.

Neither concerns about inequities nor fears of power grabs can obliterate a striking reality: A deregulated Congress has not created a highly centralized national state—the Orwellian outcome that many had predicted. On the contrary, 50 years after the collapse of most of the constitutional and political constraints on the Congress, the resilient states and localities are very much alive, and most of them are doing quite well. It is the national government that is experiencing a considerable degree of fiscal distress—a chronic budgetary ailment caused by Washington's habit of biting off more expenditure commitments than its revenue dentures can chew.

John Shannon was ACIR executive director from 1985 to 1988.

Currents of Change in the Federal System

John Kincaid

Having served as Executive Director of ACIR for less than two years—one spanning the last year of the Reagan administration and one covering the first year of the Bush administration—my feet are planted firmly in quicksand when it comes to speaking about major trends and issues in federalism today.

The full effects of the Reagan administration have not yet been felt throughout the federal system (e.g., will Executive Order 12612 make any difference?). The Bush administration has not yet set a clear federalism course, although by all accounts the White House has an excellent intergovernmental affairs staff, the President has shown a willingness to work with the states, and Governor John H. Sununu, former Vice Chairman of ACIR, continues to support federalism reform.

It remains to be seen, then, whether current trends will continue through the 1990s or whether a substantial change in course will occur during the next decade. I suspect that current trends will pretty much dominate the first half of the 1990s, but that issues will begin to break open sufficiently to set new directions for federalism in the latter half of the decade.

A cutting-edge issue today is the question of restoring constitutional balance in the federal system, either by a change in the U.S. Supreme Court policies on federalism or by some form of constitutional revision undertaken by the states and the Congress. The Court's holding in *South Carolina v. Baker* (1988) did not break new doctrinal ground, but it did dig deeper the grave into which the Court has been pushing the Tenth Amendment for the past 50 years.

A second cutting-edge issue involves the potential effects of Western European integration on American federalism. The buzz word is "reciprocity." Already, concern about a united European Communities having uniform economic rules and standards has prompted suggestions that we increase

federal preemption of state and local economic authority and otherwise reduce state powers so as to create an even more uniform national marketplace than we have now—a mirror image of the new European marketplace.

However, whether there will be a sufficient lowering of international barriers in Europe to create an economic dynamo capable of surpassing North America and Japan by the late 1990s remains to be seen, and whether a further across-the-board lowering of interstate barriers in the U.S. will be economically efficient is an unanswered question. The decline of the U.S. economy relative to the developed world is due to many factors, of which state-centered federalism may be only a minor one compared to the problems that have arisen under nation-centered federalism, such as the federal deficit, the savings and loan crisis, \$600 toilet seats, and the HUD scandal.

A third and related issue is the apparent rise in interjurisdictional competition, especially for economic development. Certainly the most publicized cases of competition suggest ill-considered behavior on the part of more than a few states and localities. At the same time, though, research by ACIR and others indicates that certain kinds of interjurisdictional competition can be beneficial. Can it be all that bad, for example, if competition improves public-sector efficiency, or if states compete to be number one in literate high school graduates? The trick is to get states and localities to compete in constructive rather than destructive games, and without the fiscal equivalents of steroids and growth hormones.

Surely a big question for the end of the 1980s is: whatever happened to cooperative federalism? Cooperative federalism went from being a two-way street to being a one-way street in which cooperation was defined as the willingness of state and local governments to implement policy set by the national government in the 1970s and then to implement and also pay for pol-

The quality and integrity of ACIR research and reports, and the involvement of ACIR leaders, have been most instrumental in fostering intergovernmental improvements in Indiana. Most notably, ACIR resources were helpful in the legislature's establishing a Local Government Study Commission, which resulted in numerous administrative home rule provisions, and in the formation in July of the Governor's Local Government Advisory Council—the first intergovernmental affairs body in the state's history. We will continue to rely on ACIR's resources for support in the decades to come.

Michael J. Quinn
Indiana Association of Cities and Towns

I have been an admirer of the Advisory Commission on Intergovernmental Relations since its earliest days. The research and recommendations this unique organization provides have been particularly helpful to state, municipal, and federal governments as relationships have become more complex. I salute the Commission for three decades of productive work.

Terry Sanford
U.S. Senator, North Carolina

The New Mexico Municipal League is grateful for the work of the ACIR. In municipal government, we constantly feel the effects, good or bad, of decisions made at other levels of government. We strive to influence those decisions, but, often, we are so enmeshed in immediate problems that we cannot stop to examine their broader implications. We rely strongly on ACIR's excellent reports and predictions of shifting philosophies and trends in relations among local, state, and federal governments. ACIR fills a real need that would not otherwise be met.

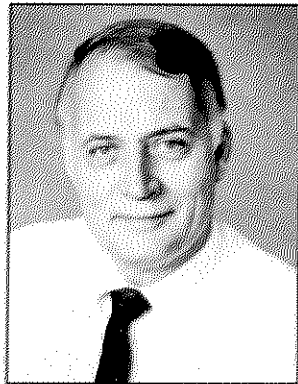
William F. Fulginiti
New Mexico Municipal League

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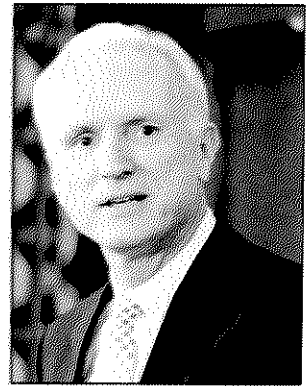
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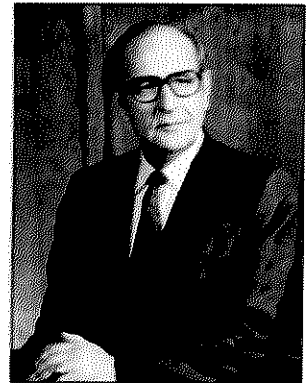
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John Ashcroft



Robert Hawkins



Robert Isaac



Daniel Elazar



Arthur Holland

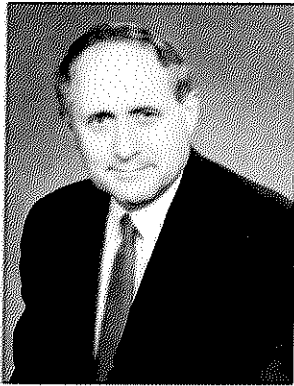


John Bragg



Mary Ellen Joyce

Members Intergovernmental Relations



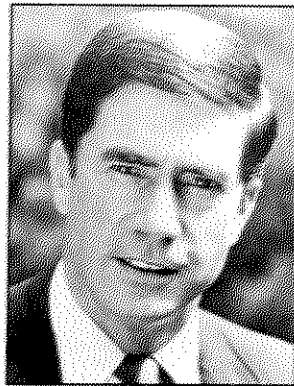
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Sander Levin



David Nething



Charles Robb



Harvey Ruvin



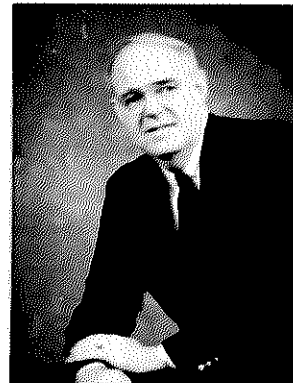
George Sinner



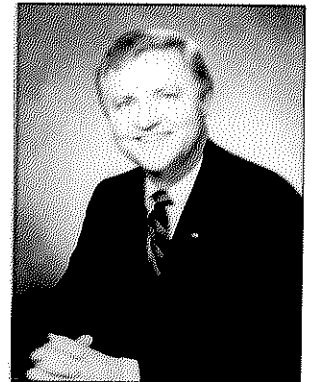
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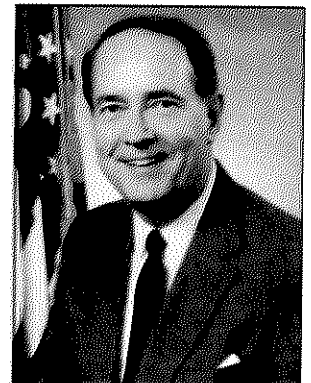
Sandra Smoley



James Snyder



Ted Strickland



Dick Thornburgh



Ted Weiss

Please accept my congratulations for 30 years of outstanding service in promoting a better working relationship between federal, state, and local governments. The ACIR has made a substantial contribution, and the development of similar organizations among state governments indicates the growing recognition of the value of your work. A Louisiana ACIR was organized a year ago, and we are hoping that it will help to shape a better future for our citizens.

James T. Hays
Police Jury Association of Louisiana

The Arkansas Municipal League appreciates greatly the in-depth research done on pertinent municipal topics. It is very helpful to us in determining our policy positions. We find the state-by-state comparisons particularly helpful. Congratulations on ACIR's anniversary.

Don A. Zimmerman
Arkansas Municipal League

I want to join in extending my congratulations to the Commission on the occasion of its 30th anniversary. ACIR has long since established itself as the leading and most authoritative organization in the nation in the field of intergovernmental affairs. The Commission has served as the focal point for research and policy analysis on issues involving federal, state, and local interaction. Its contributions have been substantial.

John E. Trafford
*New Jersey State League
of Municipalities*

Over the past three decades, the Advisory Commission on Intergovernmental Relations has contributed to the vitality of the U.S. federal system. It has generated ideas that have helped harmonize the relationships among the federal, state, and local governments. It has produced quality information on numerous topics, especially concerning governmental finance, that have served as the cornerstone for countless other studies in the field. Importantly, the ACIR has reminded national audiences of the significant roles played by state and local governments in serving the needs of the nation.

Dan Bucks
Multistate Tax Commission

Kincaid (continued from page 19)

icy set by the national government in the 1980s. In our 200-year-old republic, more than 50 percent of all federal preemption statutes have been enacted within the last 20 years. It will be a healthy development, therefore, if the presidential-gubernatorial "education summit" turns out to be a harbinger of future intergovernmental relations.

One exception to this potentially bright harbinger, however, is local governments, which were not invited to the summit, although local elected officials and state legislators did meet with the President prior to the summit. The avowed policy of the Reagan administration was to cut local governments out of the post-New Deal federal-state-local intergovernmental loop. One indicator of the near success of this policy is that federal revenue as a percentage of local government revenue dropped from 9.0 percent in 1978 to 4.2 percent in 1987, compared to a drop from 22.3 percent for states in 1978 to 18.5 percent in 1987. What local governments are looking for in the 1980s, therefore, is a "new partnership."

The newest "new partnership" that needs to be developed, however, is the state-local partnership. The attenuation of direct national-local ties has given a new urgency to state-local relations. One indicator of this urgency is that the number of state ACIR-counterpart bodies doubled during the 1980s. More states are likely to establish such bodies in the early 1990s. In many respects, local governments have virtually the same complaints about state government policies that states have about national government policies (e.g., unfunded mandates, excessive regulation, bureaucratic red tape).

Indeed, in an ironic twist of fate, after decades of policy enactments intended to make local governments better governments and more effective in delivering public services, most local governments are better governments, but they often find themselves constrained by state and federal rules and regulations that make it difficult for them to be fully effective. Even so, when asked in ACIR's 1989 national poll which government spends money most wisely, responds best to needs,

has the most honest officials, and needs more power today, more respondents picked local governments first, followed usually by state governments and then by the federal government.

For too long, we have tried to reform the intergovernmental system according to a UPS model of federalism. UPS, which says that it runs "the tightest ship in the shipping business," has exhaustive rules governing every facet of its operations, down to the hand that delivery-truck drivers should use to fasten their seat belts (the left hand). These detailed rules may work well for a shipping company, which does not have to engage in democratic debates about whether an addressee has a right to receive his or her package, but such rules cannot work in the intergovernmental arena if we are to have an efficient federal democracy in which state and local elected officials make many decisions about who gets what, when, and how.

The problem is that we have completely reversed the order of our thinking about the federal system. The national government was established originally as a kind of special district government, a jurisdiction assigned functions appropriate to its service area, such as foreign affairs, defense, and interstate commerce. Today, however, the national government is widely regarded as having virtually plenary powers. Meanwhile, the states, which were originally our plenary governments, are now widely viewed as administrative subdivisions of the national government, with local governments being the primary service deliverers.

It is worth noting that, despite, or perhaps because of, its fine attention to detail, UPS still missed the big picture, namely, the internationalization of the economy. Brussels-based DHL, founded in 1969, has the largest international delivery network, and Federal Express jumped the gun by purchasing Flying Tigers. UPS is now playing catch up. Likewise, the more we view local officials as public-service delivery-truck drivers, state officials as regional warehouse clerks and managers, and national officials as headquarters officers, the more we, too, are likely to miss the big picture, indeed the whole point of having federalism in a diverse, dynamic, democratic society.

John Kincaid has been ACIR executive director since 1988.

Consensus for Change in the Federal System: Education and the Environment

Terry E. Branstad

What will the world be like for our children in the 21st century? Will the world we have prepared for them offer hope and opportunity? Will the schools we have supported have given them the tools they need to live productive and happy lives? Will the environment we have left for them provide clean air to breathe, enough rain to make crops grow, enough trees to offer shelter from the sun?

These are important questions for critical times. The decisions we make in the 1990s will determine how these questions are answered in the next century. Our task as governors must be to forge a consensus to take action on two of the most important concerns that affect the quality of life in America in the 21st century: education and the environment.

A healthy environment and well-educated people will be the key factors in determining our quality of life and standard of living. Evidence abounds that urgent action is needed. Our natural and human resources have been the sources of our success as a nation for more than 200 years. Today, that edge has dulled, and the key in the year 2000 will be the plan we design during the 1990s.

The governors have responded to past challenges with practical solutions, common sense, and a bold vision of the future. We now must face our environmental and education problems in the same tradition.

We Must Look to the Future and Set Clear Goals for the 21st Century

We must define several goals that spell out clearly where we need to go and what we need to achieve for our environment and our educational system. And we must be able to measure our progress objectively in the years ahead.

We Must Build a Broad Consensus

We want to develop an action plan that is supported by business, environ-

mental, and educational leaders, and other concerned citizens. We need to work cooperatively toward creative solutions. Without a consensus, we will be stymied. We share a common future, and we require common solutions.

We Must Develop an Action Agenda for Each Goal

Each action agenda should be thorough, measured, and deliberate. This race is a marathon, not a sprint. The agenda also must acknowledge the economic tradeoffs involved. There are few, if any, free solutions. However, we must make progress if we are to ensure a clean environment and a healthy economy driven by a well-educated workforce.

We Need Leadership

For each of these challenges there is a proper local and federal role, but the states, working together with business, education, and citizen groups, can be the principal architects of the solutions:

- The response to global climate change may require changes in energy use, greater efficiency in the use of our natural resources, better protection of open spaces, and other steps that will be carried out primarily by states or entities regulated by states.
- Solid waste has always been the responsibility of state and local governments and will remain so. The disappearance of landfill capacity and the need for new solutions will be felt at the state and local level.
- Education is primarily a state and local responsibility as well. In the last seven years, the governors have been active leaders in education reform and have led efforts to focus the education system on results. That role must increase in the years ahead.

ACIR's activities have focused the attention of public officials and others over the past three decades on the appropriate role of each level of government in providing efficient and responsive government. Its excellent research publications have provided valuable data and resource materials for public officials at all levels. The Advisory Commission on Intergovernmental Relations provides one of the strongest continuing assurances that the proper role and interrelationships of federal, state, and local governments will not be overlooked.

Kenneth G. Bueche
Colorado Municipal League

Across three decades, the Commission's work has addressed relationships among the levels and divisions of public authority through which the American people address their common affairs. During that time, those relationships have evolved relentlessly and with unceasing importance. The Commission's efforts to understand and prescribe for these technically complex and politically demanding connections have been tenacious and of singular importance.

Alexander Heard
Chancellor Emeritus,
Vanderbilt University

The New Hampshire Municipal Association, in advising its members and representing them before the state legislature, very often uses ACIR materials. Of particular use has been the series of discussion papers and model legislation on taxation. I look forward every year to *Significant Features of Fiscal Federalism* as a reference tool and for use in the preparation of legislation and testimony. We are very appreciative of the work ACIR does.

John B. Andrews
New Hampshire Municipal Association

As a respected source of analytical data on federal, state, and local governments, ACIR publications are a centerpiece in my office library and have been for years. In preparing legislative testimony on various issues, ACIR provides a credible source of information. The objective and bipartisan nature of the Commission is enviable. The national ACIR serves to stimulate a climate of partnership and also of encouragement in efforts to build state ACIRs. Congratulations on your 30th anniversary.

Gordon Morris
Montana Association of Counties

The Advisory Commission on Intergovernmental Relations deals with an extremely broad range of subjects, many of which demonstrate an amazing awareness of impending state issues. Its staff reports are of the highest caliber and are greatly appreciated by state legislators and their staffs. My service on the Commission was one of the most rewarding experiences of my 40 years of public service.

William F. Passannante
New York State Assembly

It is especially gratifying for us at the Ohio Municipal League to extend to the Advisory Commission on Intergovernmental Relations our heartfelt congratulations on the organization's 30th anniversary. Through ACIR's research and other efforts, the work, the success, and the knowledge of local governments has been greatly enhanced during one of the most challenging periods in our nation's history for urban government. We can think of no finer base for a great future than that built by your organization's efforts during the last three decades.

John P. Coleman
Ohio Municipal League

We Must Act Now

The problems are urgent, and we cannot afford to delay.

Global climate change will be difficult or impossible to reverse, so prevention is all the more critical. We must act now, before further damage is done.

The solid waste crisis is already acute in some areas, and no region will be spared. Even areas with plenty of space for new facilities may soon have to decide whether to accept waste from other regions.

Our standard of living depends on a highly skilled workforce, yet our students lag far behind students in other countries in important academic areas. And far too many of our youth fail to complete their education or acquire even the rudimentary skills that will equip them for the workplace. The education system is our best hope that our children will have the skills they need for productive employment, responsible citizenship, and wise stewardship of the planet. We must act now to ensure that our children and our society can meet the challenges of the future.

The Strategy

As chairman of the National Governors' Association, I am creating three special task forces:

A Task Force on Education

A Task Force on Global Climate Change

A Task Force on Waste Management

These issues present both the need and the opportunity for action. Each of these task forces will develop an action agenda for the governors and for the American people. The process will involve advisory groups of business, environmental, and education leaders, and local, state, and federal officials. Each action agenda will include:

A description of the problems and the issues facing state decisionmakers.

A consensus on reasonable and achievable goals for America in the 21st century.

Practical ways to achieve these goals, which can be implemented nationally or selected by governors to fit the circumstances of individual states.

These action agendas can make a major contribution to the quality of our lives in the future. But the process itself is important as well. Bringing together differing views to develop a consensus can provide a model for individual states, governors, and others who want to tackle difficult issues.

We Can Make a Difference

We must look for better ways of doing things—in the environment encouraging recycling, using energy recovery techniques to recapture energy even as we dispose of waste, finding ways to use fewer disposable materials, limiting the pollutants that go into our air, walking more and driving less; and in education teaching our children the skills they need to be productive citizens in the next century.

We Can Make a Difference

We can develop well-educated, environmentally conscious citizens who impart the same attitudes to their children.

We Can Make a Difference

All of us, working together, can be part of the solution. We will find the things we can do as individuals, work together on the things that require cooperation, and build a strong consensus for change.

Terry E. Branstad is governor of Iowa and chairman of the National Governors' Association.

The Future of the Constitutional System

Arnold Christensen

I am pleased to comment in my capacity as chairman of the Council of State Governments on current and future prospects for our federal system.

As a citizen, state senator, and chairman of a national organization comprised of elected and appointed officials from all three branches of state government, I am most concerned with the preemptive actions taken by all three branches of the federal government in matters properly within the constitutional powers reserved to the states.

The most important issue facing the intergovernmental system in the next five years is to seek and achieve constitutional reform permitting the states to redress the creeping imbalance that is taking place in our federal system. Two constitutional amendment proposals to face up to and deal with this issue are as follows:

Tenth Amendment Reform: Making U.S. Supreme Court Jurisdiction over Federalism Questions Explicit

Whether a power is one reserved to the states, or to the people, shall be a matter to be decided by the Courts.

This addition to the Tenth Amendment would incorporate the conclusion of the dissenters in the Supreme Court's decision in *Garcia v. San Antonio Metropolitan Transit Authority* (1985) that "judicial enforcement of the Tenth Amendment is essential to maintaining the federal system so carefully designed by the framers and adopted in the Constitution." It would call for the judicial branch to adjudicate constitutional questions of federalism and, thereby, return the Supreme Court to its position as umpire of the federal system. This proposal would preserve the supremacy of the federal government within its realm of delegated powers under the Constitution. It would not alter the Supreme

Court's jurisdiction, power, or authority. Nor would this proposal bring about a radical change in the constitutional system. In short, such language would serve as a contemporary instruction to the Court that the Tenth Amendment is not merely a truism to be ignored by the federal courts.

Article V Reform: Authorizing State-Initiated Amendment Proposals with Congressional Power to Veto Such Proposals

Whenever three-fourths of the Legislatures of the several states deem it necessary, they shall propose amendments to this Constitution that, after two years, shall be valid to all intents and purposes as part of this Constitution, unless disapproved by two-thirds of both House of Congress within two years of the date the amendments are submitted to Congress.

The current mode for states to initiate a constitutional amendment response to weaknesses in the Constitution has proven unworkable. The people should retain an option to speak through their state legislatures for specific amendments to the Constitution. This reform elevates the role of the state legislatures without diminishing that of the federal government. It would eliminate the need for a constitutional convention and for an extended ratification process by permitting three-quarters of the state legislatures to propose amendments for disapproval by the Congress. A streamlined and orderly process would allow states to initiate amendment proposals to protect their powers in the federal system while still giving the Congress the power to protect the national government against state encroachment.

Let me illustrate with some specificity what is happening, and why these amendments, among other reforms, are needed. I can do that best by citing the actual experiences and conclusions

Congratulations on 30 years of service. That is an enviable record. The Advisory Commission on Intergovernmental Relations has made a valuable contribution to efficient government through its constant dedication to excellence in research and publications.

David L. Chambers
League of Nebraska Municipalities

During the period I served as an ACIR Commissioner, I found its combination of shared information, deliberative processes, and in-depth research made an important contribution to American federalism. The coming together of local, state, and federal officials in a forum where the exchange of ideas and concerns is encouraged builds understanding. The deliberative process of deciding priorities for ACIR attention helps build consensus about those priorities. The in-depth research done by the ACIR professionals represents some of the best thinking about those national problems that transcend all levels of government. On its 30th anniversary, ACIR deserves America's congratulations.

Robert S. Walker
U.S. Representative, Pennsylvania

I would like to commend the work of the ACIR and offer my congratulations on the Commission's 30th anniversary. The quality research and information produced by the Commission staff is very helpful and useful to those of us who work with city officials each day.

J. McDonald Wray
*Municipal Association
of South Carolina*

Congratulations to ACIR on its 30th birthday. The organization has made significant contributions through its research and publications, providing objective, accurate, basic data on state and local government and intergovernmental relations. I use ACIR reports as readings for students and as sources for my own research. The ACIR's work as a watchdog of the federal system, supplying information and promoting cooperation, must merit appreciation from officials at all levels of government.

Mavis Mann Reeves
University of Maryland

Congratulations to ACIR on its 30th anniversary. Over the past three decades, the Commission has been in the forefront of exploring a more rational and efficient way to deliver basic public services. As the Commission enters its fourth decade, the challenge to fulfill its mission is probably greater than it has been in recent memory. Although the challenge is great, so, too, is the opportunity. I'm sure the Commission will meet the challenge head on, and we look forward to working with you "for a more perfect union."

Edward C. Farrell

*New York State Conference of Mayors
and Other Municipal Officials*

It has been a pleasure for the County Supervisors Association of California to work with the ACIR over the last three decades, from its historic study and effort on general revenue sharing to many current excellent reports and surveys. Keep up the good work.

Larry E. Naake

*County Supervisors Association
of California*

In my 21 years of public service, I have had numerous opportunities to use the research done by ACIR. Without ACIR, I don't know where I would have gone for the help. ACIR has proven to be invaluable.

Robert H. Miller

South Dakota Municipal League

Since the formative years of the Commission, county government in North Carolina and this association have found invaluable the research, information, and leadership provided by the ACIR. On several occasions, we have utilized in our work the model legislation prepared by the ACIR. We have also found the statistical abstracts particularly valuable as we analyze the intergovernmental fiscal system in North Carolina compared to other states.

C. Ronald Aycock

*North Carolina Association
of County Commissioners*

of several representative constituents of the Council of State Governments—the Clearinghouse on Licensure Enforcement and Regulation, the National Association of State Personnel Executives, and the National Association of State Treasurers.

Clearinghouse on Licensure Enforcement and Regulation (CLEAR)

State agencies are improving their regulatory efforts, to ensure that only professions and occupations that really require licensure are licensed. The states are working more closely with each other to reduce interstate mobility of incompetent and unethical licensees. Still, the federal government apparently has decided to make decisions for us and impose more requirements on states that are already faced with staff and financial restrictions. State regulatory agencies should not be forced by the federal government, using unreasonable grant-in-aid mandate requirements, to implement regulations that are not directly related to their statutory responsibilities. Should this trend continue, states and state regulatory agencies will indeed be reduced to 50 administrative units of the federal government.

National Association of State Personnel Executives

In the past several years, four major pieces of legislation have had an adverse impact on state personnel management, both administratively and financially. The *Drug-Free Workplace Act*, Section 89 of the *Internal Revenue Code*, the *Consolidated Omnibus Budget Reconciliation Act (COBRA)*, and the *Fair Labor Standards Act (FLSA)* rulings have all imposed increased administrative burdens on the states, in addition to an enormous monetary burden.

The last case cited highlights how Washington is taking an increased role in state governance. One subject not addressed by the Congress in the 1985 amendments to the *Fair Labor Standards Act* was the interpretation of so-called "white-collar" exemptions as they apply to state and local government positions. Those exemptions ex-

cluded from the minimum wage and overtime requirements individuals employed in bona fide "executive, professional, and administrative" positions.

The immediate problem was created on April 12, 1988, when the wage-hour administrator, the Labor Department official charged with the administration of the FLSA, issued an opinion letter taking the position that a "probation officer" did not qualify for the administrative exemption because the duties of the position amounted to the "production work" of the department.

The Department of Labor's narrow interpretation of the "administrative" exemption, based on standards established in private industry, poses a serious and costly threat to state and local governments. It appears that the impact of this decision on other state occupational positions could be substantial. Nine southeastern states have estimated that the loss of the exemption for probation officers and similar job categories would affect more than 35,000 employees and add costs of between \$500,000 and \$15 million to their payrolls.

National Association of State Treasurers

The association's position echoes that of Justice Sandra Day O'Connor regarding the impact that the *South Carolina v. Baker* (1988) case has on state and local governments' ability to repair the nation's transportation network, rebuild schools and colleges, and enhance our deteriorating infrastructure. The states' chief financial officers have resolved to:

Create and participate in a coalition to fight for intergovernmental tax immunity and lead an effort to work with members of Congress to inform their constituents and their states of the loss of reciprocal tax immunity, and

Support an amendment to the U.S. Constitution to restore intergovernmental tax immunity in order to protect the continued sovereign status of state and local governments.

If we expect to make progress, it will be important for the state and local

(continued on page 28)

Responsibility, Resources, Accountability: Maintaining the Creative Partnership

Bob Bolen

Thirty years ago, cars were sporting tail fins, Washington had a baseball team, and Massachusetts had a junior senator named John F. Kennedy. The American people liked Ike and loved Lucy. In the international arena, we were engaged in a cold war and a space race with the Soviet Union. On the domestic front, a new Advisory Commission on Intergovernmental Relations had come into existence to help build a cooperative process for improving the way our system of government works.

The fins are gone, and so are the Senators. The memory of President John F. Kennedy burns as an eternal flame at his memorial overlooking the nation's capital. Time hasn't changed how we think about Lucy, but our attitudes and policies regarding the Soviet Union have gone through a stunning transformation that may herald a pivotal epoch in global relations.

Yet, here in hometown America, while much has changed in terms of what our different branches, agencies, and levels of government do, many of the same issues that spurred the creation of ACIR are still very much with us. Not dusty from neglect or indifference, they are issues and obstacles that have proven much more formidable than expected, even after three decades of discussion, debate, experimentation, and analysis.

Two landmark events in the evolution of intergovernmental relations in the United States have come and gone during this period: the general revenue sharing program (1972-86) and the Supreme Court's ruling in *National League of Cities v. Usery* (1976). The birth, life, and demise of the concepts embodied in these two recent episodes of creative federalism carry a strong message about the most important issues facing our intergovernmental system.

First is the matter of assigning resources along with responsibilities in the process of carrying out national priorities. When cities work, our nation works. When cities fail, our nation fails. This linkage is inescapable, and it underscores the importance of build-

ing and maintaining a creative partnership, not a "go it alone" federalism.

The cities and towns of America are where we are fighting the war against drugs, trying to keep our kids in school and out of trouble, helping the hungry and homeless find food and shelter, and using all the resources at our disposal to help keep alive the American dream of a good job, a good home, a good life, and an even better future for our children.

General revenue sharing was not a fiscal policy tail fin; it was not a passing fad or disposable frill bolted onto the framework of our national budget priorities. Its underlying premise is a fundamental and essential one: national resources should be made available to help local governments shoulder the responsibilities imposed on them by national policies. That concept is just as sound and valid now as in 1972, and I believe we will have to revisit this vital issue as the pressure of constraints on local revenue systems becomes more severe in the very near future.

Second is the message of the *Garcia* decision, through which the Supreme Court gutted the Tenth Amendment concepts it proclaimed in *National League of Cities v. Usery*. By choosing to substitute a political process for its role in upholding the sound principles and common sense of the Tenth Amendment, the Supreme Court assigned cities and states to become pleaders competing for the ear of the Congress rather than partners in defining the public agenda.

This kind of tone-deaf democracy is the same kind of folly that caused Washington to lose the Senators. The value of the team's presence in the larger scheme of things was either unrecognized or scoffed at by those who let the franchise falter. Its contributions to the community were not understood or appreciated. When a better offer came, the team took it and took off.

In the *Garcia* decision, the Supreme Court told cities and states that despite the Tenth Amendment they really don't have a special place in the

The Advisory Commission on Intergovernmental Relations was born in the growing domestic turmoil of the post-World War II federal system. Its contributions to our knowledge of federalism and to the solution of federal-state-local problems has been immeasurable. ACIR is one of those vital organizations that make the public sector work more effectively.

Harry A. Green
*Tennessee Advisory Commission
on Intergovernmental Relations*

The Advisory Commission on Intergovernmental Relations has provided valuable insight into the unique problems faced by our changing communities, state, and nation. Now, more than ever before, we need the research and leadership provided by the Commission to meet this challenge.

Robert S. Hadfield
Nevada Association of Counties

The Advisory Commission on Intergovernmental Relations has had a major substantive impact on state-local and local-local relations, as well as on the federal-state-local system. Its 1963 landmark report on the *Performance of Urban Functions: Local and Areawide* has had an incredible impact on a generation of state and local decisionmakers. The Commission's current challenge is to integrate its advocacy for very small local governments with the lessons learned from its earlier studies.

David C. Mattek
*New Jersey County
and Municipal Government
Study Commission*

During the first two decades of its existence, the ACIR was an extremely valuable resource with an enviable reputation, doing great and important work. During the 1980s, however, ACIR has gone down in every way. It was obvious that no one in the Reagan Administration cared about monitoring or analyzing the federal system. At present, ACIR is a pale shadow of its former self. This is a real tragedy. Today, our formerly vital and dynamic system of inter-governmental relations is extremely, if not terminally, ill.

Ed Young
Tennessee Municipal League

ACIR, to me, means coordination, efficiency, and performance in government at the highest level. The Commission's approach to local government is straightforward and honest, and sharing your insights on local government's role and whether there is a partnership in the federal system demands another 30 years of ACIR. Congratulations.

James N. Callahan
Michigan Association of Counties

The U.S. ACIR is an invaluable resource to the academic community working in public finance, economic development, community development, and city and regional planning. The annual publication of *Significant Features* and *State Fiscal Capacity* alone would justify ACIR's existence, but it does so much more. During my years as a senior resident (1984-85) academic colleagues were shocked to find how small a staff had for the amount of quality work it turned out. The secret was no bureaucracy! My continued association with ACIR has been an enjoyable and productive one. Happy 30th birthday.

Holley Ulbrich
Clemson University

larger scheme of things. In the arcane process of deciding what to regulate and what to mandate as national policy, our protests about preemption and intrusion took a back seat to the broad prerogatives of the federal government to do whatever it thought best.

Baseball isn't the only activity that left town and is now flourishing outside of Washington. The creative talent and energy of public officials, business leaders, community and nonprofit groups, volunteers, and concerned individuals are producing an explosion of new ideas and creating a new generation of leaders not unlike those proclaimed in John F. Kennedy's inaugural address.

And a torch passing may also be in the works as a result of the challenge conveyed by the *Garcia* decision. Two years ago, the National League of Cities established an Election '88 Task Force to prepare and carry out a political education program that would inject a set of important hometown issues into the national elections. Its successes and invigorating effects assure that there will be more such activity in the future to bring our issues into national focus.

Some of the Election '88 issues—such as drugs, education, and child care—have risen to the top of our national policy agenda. Even before that happened, however, cities and states had taken the lead and moved the real field of action into our own jurisdictions, where we are putting our ideas to work. Sound national policy should support and extend these programs, not overlay them with boilerplate standards and inflexible rules.

With these and a host of other issues involving hometown America and intergovernmental relations, I believe that official Washington trails well behind the American people and the local officials who are the closest to them. Our people want responsible action to address the needs and problems that create anguish and despair throughout our society. How well we respond through our system of government will depend heavily on how these questions of resources, accountability, and coequal partnership are resolved in the years ahead.

Bob Bolen is mayor of Fort Worth, Texas, and first vice president of the National League of Cities. He will become president of NLC on November 30.

Christensen (continued from page 26)

governments to avoid fragmentation of effort. We need to compare notes, strategies, and priorities across all three branches of state governments, and with our county and city counterparts. We, therefore, are cooperating with the National Governors' Association, the National Conference of State Legislatures, and the organizations of local elected officials in this common endeavor.

The two constitutional proposals provide an effective step toward restoring balance in the federal system. In themselves, the proposals do not alter the balance of power; instead, they restore to the Constitution provisions that assist the states in addressing the imbalances of power. The proposals are procedural, and, therefore, neutral with respect to future debates over public policy and the appropriate responsibilities of the governments that make up our federal union.

Enactment of these two proposals for constitutional reform is essential for the future vitality of our nation because our federal union, now in its third century, needs to enter a new phase. During the early periods of our history, the states generally dominated the federal union, often creating imbalances that worked to the disadvantage of the national government. Today, however, the national government generally dominates the federal union, creating imbalances that work to the disadvantage of state and local governments. The proposals for constitutional change are meant to be complementary to a range of needed legislative and public education initiatives to be undertaken with the Congress, the Chief Executive, and the public generally to maintain the vitality of state and local governments within the federal system.

Arnold Christensen is president of the Utah Senate and chairman of the Council of State Governments.

The Federal-Local Partnership: The Rebuilding Is Beginning

Ann Klinger

One of the major national issues facing county government today is restoring the federal-local partnership. This follows eight years of erosion, when local government seemed to be viewed as just another private interest group instead of an intergovernmental partner. The Bush administration and the 101st Congress seem to have a better understanding of the implications of federal government actions and how they affect local governments. In my view, the rebuilding is beginning.

During the 1988 election year, the four national organizations representing local government in Washington—counties, cities, mayors, and regional councils—in an historic joint effort, called for the restoration of the partnership between the federal government and its local governments. By summer 1989, a long-time Washington observer called the response equivalent “to throwing a pebble in the Potomac.” This may now be changing.

Adding to the complexity in recent decisions, the U.S. Supreme Court has, in effect, told local governments to look to the political process, not to the courts, for relief—thus declaring federalism to be a political issue rather than a constitutional guarantee. Admittedly, prospects for action ending unfunded mandates in the current congressional session appear slim. Realistically, future prospects for adopting a “Mandate Participation Act” in view of the federal deficit are not much brighter. There are, however, other hopeful signs of restoring local governments as full and equal partners in the federal system.

President George Bush has demonstrated good faith by appointing former local government officials to his Office of Intergovernmental Affairs and by maintaining a nonpartisan pol-

icy. Federal action and leadership on two major issues—the war on drugs and needed changes in the educational system—could help determine the measure of success in restoring the federal-state-local partnership. In keeping with his commitment for a voice in decisionmaking, President Bush met twice in September with state and local government representatives in small groups to discuss these issues.

There is now more cause to hope for a new vision. First, there is the possibility that the Congress may repeal “Section 89,” a step in the right direction to restore local powers in employee matters. Further, the Congress may respond positively to “fine tuning” current tax-exempt bond law, which could improve the feasibility of funding needed by local projects using tax-exempt bonds. Both of these are very important issues facing the intergovernmental system in the next five years. Another is the authority to develop new sources of revenue for counties.

The Council of State Governments and ACIR are providing exceptional leadership in bringing about a public sector consensus on the need to address the Supreme Court’s erosion of the Tenth Amendment.

As county officials work to spotlight county government in order to gain a greater understanding of what we do and the challenges we face, I believe additional opportunities for coordination and cooperation will be there. It’s up to us to tell the county story in a way that counts.

Ann Klinger is a county supervisor, Merced County, California, and president of the National Association of Counties.

In establishing the Advisory Commission on Intergovernmental Relations, the Congress provided a forum for discussion and research on the dynamic nature of the relationship between the federal and state governments and the relationship of local government to each of the others. ACIR has fulfilled its mission with commitment and vision. During the past 30 years, it has been invaluable in focusing on the changing dimensions of federalism. ACIR research has been of great use to the municipalities and staff of the Municipal League. Michigan has looked to ACIR as a model in establishing the Michigan Commission on Intergovernmental Relations, and we look forward to joining with ACIR in the dialogue on federalism.

George D. Goodman
Michigan Municipal League

ACIR has provided consistently high quality research and policy guidance throughout its 30 years, a difficult feat for any organization and certainly a standard to which all similar organizations aspire. ACIR has been able to provide policymakers and practitioners with data, options, and background information that reflect the real environment within which the issues surface and the solutions are hammered out. With its members selected from and speaking for the various levels of government, ACIR has been able to address issues that emerge at the grass roots as well as those that are perceived as important by those in Washington.

Blaine Liner
The Urban Institute

The League has been involved in and with the ACIR for 30 years, and highly respects and commends the Commission.

G.P. Etcheverry
Nevada League of Cities

Resources, Regulation, and Realism: Small Governments in the Federal System

B. Kenneth Greider

The National Association of Towns and Townships (NATaT) represents more than 13,000 units of general purpose local governments across the United States. These mostly small, mostly rural communities are typical of the majority of the nation's 39,000 local governments; in fact, 72 percent of general purpose governments in the United States have populations of less than 3,000, and half are under 1,000.

These localities are significantly different from their urban and suburban counterparts in terms of staff and resources; for the most part, they have few paid staff accountants, lawyers, or professional managers. There are no environmental engineers on the payroll (there may not even be a payroll), and in many cases there is not even a computer. And these places are the overwhelming majority of the localities in the federal-state-local partnership.

The Need for Realism in Federal Regulations

Since most of America's governments are small and have limited resources, it stands to reason that federal policy developed for "state and local governments" should be designed with this reality in mind. Instead, legislation and regulations are written with the assumption that there basically is no difference between a community of 500 and a municipality of 500,000, that their resources are the same. As a result, responsibility for program implementation and funding is given to units of local government without a realistic assessment of whether they are able to comply. Thus, current policy creates problems rather than solving them. For example, local officials are anxious to address environmental concerns through regulations that will work. However, as currently structured, many regulations give us communities that remain unprotected—because their governments cannot bear the financial, technological, or administrative burden for accomplishing what is mandated. Risk is higher—because the perception of risk is gone. And local officials, who are mostly volunteers to begin with, are directed by federal law to do what is impossible or suffer the consequences.

The irony is that the consequences—from an environmental and liability standpoint—increase, and the federal government loses credibility in the process.

This situation is not limited to the Environmental Protection Agency. It is true that environmental laws and regulations, because of their scope and cost, have the highest visibility right now, but the same problem is evident in Department of Labor regulations, Justice Department rules, revenue rulings from the Internal Revenue Service, and most federal loan and grant formulas, which ignore the reality of local government resources.

The Promise of Reg Flex

The *Regulatory Flexibility Act of 1980* (Reg Flex) continues to be a very valuable, cost-effective tool that can be used throughout the federal government. At the moment, however, it is essentially being ignored, especially with regard to small governments. We strongly recommend that Reg Flex be enforced and strengthened.

There are several reasons for this recommendation: First, it is impossible for an organization such as NATaT to put out all the separate regulatory "fires"—to address each proposal individually, generate data, research, and present appropriate alternatives. But even more importantly, the Congress has instructed the regulatory agencies to do that job through Reg Flex, which places the Congress clearly on record as supporting flexibility and creative approaches in rulemaking for small governments.

The act establishes as a principle of regulatory issuance that agencies should "endeavor to fit regulatory requirements to the scale of the governmental jurisdiction," and to that end *requires* them, when publishing any proposed rule, to do both an initial and a final Reg Flex analysis. Without going into detail on specific requirements of the legislation, there is clear direction that the analysis must discuss:

- Significant alternatives to the rule that would minimize economic impact;

- Different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Tiering of regulations according to population size; and
- An exemption from coverage of the rule, or any part thereof, for small entities.

Publication of the actual Reg Flex statement itself may be less important than the process by which the analysis is conducted by federal agencies—which requires agencies to take a hard look at the implications of their proposals. This process is vital. It requires rulemakers to think ideas through from the point of view of a small government: Would this approach work? Could they afford to do it? Could they do something else and accomplish the same—or nearly the same—regulatory objective?

In effect, Reg Flex shifts the burden from localities to the federal government—a refreshing innovation and one that recognizes the vastly superior resources of the national government when contrasted to local governments. If one measures this process against the alternative—that small governments don't do anything at all because they can't comply—then the requirements of the *Regulatory Flexibility Act* become particularly significant.

NATaT's Suggestions for Reg Flex

We have several suggestions for improving the Reg Flex process and making it more realistic. First, a major loophole in the law should be closed, that in Sec. 605(b), which provides that an agency head may stipulate, without providing any evidence, that the proposed rule would have no "substantial impact on a significant number of small entities." This option is exercised almost as a matter of course, often because small governments are not even considered by the agency. It is our belief that, given the number of small governments, the "significant number" criterion is almost always satisfied and that the "substantial impact" would emerge if cost impact analyses were done for small government budgets.

Second, there should be a provision in Reg Flex for judicial review. Small governments currently have no recourse to the most blatant abuse of the Reg Flex provisions. In the absence of judicial review, or perhaps in addition to it, the Office of Management and Budget should be required to develop a Sec. 605(b) certification process—a standard, governmentwide process that would assure Reg Flex compliance by establishing criteria to be met before OMB approval is given to publication of regulatory proposals.

Such an approach would also ensure that the resources of the federal government would be brought to bear on behalf of America's small communities. It would stimulate creative thinking about new, appropriate technologies, alternative regulatory processes, and innovative techniques to accomplish statutory requirements. And that, we believe, is what the *Regulatory Flexibility Act* was meant to do.

In addition, we would recommend that regular, cumulative cost estimates

be developed by each agency to determine the total regulatory burdens of current and proposed regulations that are being placed on small governments under their jurisdictions. We would recommend that the results of such estimates be published by each agency in its twice-yearly regulatory calendar, and that they be provided to the legislative committees of jurisdiction in both the House and Senate.

The Congress should use those estimates when designing new legislation. Cost estimates of proposed legislation should be provided as part of requested comments. Cumulative cost burdens must be considered whenever new legislation is designed.

Senator John Glenn is introducing legislation to strengthen the *Regulatory Flexibility Act* and to make improvements in the way the federal government develops data on small governments. The bill also would install a system for gathering input from small communities—the majority of local

governments—as the federal government crafts intergovernmental policy.

NAT&T strongly endorses Senator Glenn's initiative and is gratified to have been a part of its development. We believe that such legislation will help to restore realism to the federal-state-local partnership, allow small communities to assume the responsibilities which the federal government devises for them, and afford protection to the millions of Americans who do not live in metropolitan areas.

Success of this approach would address, we believe, a crucial issue in current intergovernmental relations. Without systematic relief of this kind, many of the nation's intergovernmental partners will face collapse from unnecessary, overly burdensome, unrealistic federal policy.

B. Kenneth Greider is executive director of the Pennsylvania State Association of Township Supervisors and president of the National Association of Towns and Townships.

Plan to Attend

State Taxation and Regulation of Banking: Time for Reform?

December 13, 1989 Grand Hyatt Hotel Washington, DC

Few sectors of our economy are changing as rapidly as banking and financial services. Interstate banking and innovations such as "branchless banking" are undermining the traditional approaches that states have used to tax and regulate financial institutions. Traditionally, states have taxed banks where they are physically located, but this approach is becoming outmoded in an era when bank activities increasingly cross state lines. Several states have reformed their approach to taxing this industry, but most states have yet to confront the challenge. Similarly, traditional approaches to bank regulation are coming under scrutiny as the distinctions between banks and other financial institutions becomes blurred and the range of banking services widens.

This is the first national meeting to be devoted exclusively to the array of state tax and regulatory issues raised by the recent and impending developments.

Sponsored by the U.S. Advisory Commission on Intergovernmental Relations, the Multistate Tax Commission, the National Center for Policy Alternatives, and the National Conference of State Legislatures.

Plan to attend if you are a state legislator or legislative staff member, tax administrator, banker or bank regulator, or other citizen concerned about state bank policies.

Registration Form

Name: _____ Title: _____

Organization: _____

Address: _____

City & State: _____ Zip Code: _____

Registration Fees: Legislative and Other Government Personnel

If Mailed Prior to November 27 \$150

On-Site Registration \$175

All Other Attendees \$215

Amount Enclosed: _____

Mail registration form with check to:

National Conference of State Legislatures
Attn: Seminars Department
1050 17th Street, Suite 2100
Denver, Colorado 80265

ACIR Membership 1959-1989

Private Citizens

Frank Bane, <i>Chairman</i> (Virginia, D)	1959
John E. Burton (New York, R)	1959
James K. Pollock (Michigan, R)	1959
Howard K. Bowen (Iowa, D)	1962
Don Hummel (Arizona, D)	1962
Thomas H. Eliot (Missouri, D)	1964
Adelaide Walters (North Carolina, D)	1964
Farris Bryant, <i>Chairman</i> (Florida, D)	1967
Dorothy I. Cline (New Mexico, D)	1967
Price Daniel (Texas, D)	1967
Alexander Heard (Tennessee, D)	1967
Howard (Bo) Callaway (Georgia, R)	1969
Robert E. Merriam, <i>Chairman</i> (Illinois, R)	1969
Edward C. Banfield (Massachusetts, D)	1971
Robert H. Finch (California, R)	1973
John H. Altorfer (Illinois, R)	1975
F. Clifton White (Connecticut, R)	1976
Richard W. Riley (South Carolina, D)	1977
Bill G. King (Alabama, D)	1978
Abraham D. Beame, <i>Chairman</i> (New York, D)	1978
Mary Eleanor Wall (Illinois, D)	1980
Eugene Eidenberg (Washington, DC, D)	1981
Robert B. Hawkins, Jr., <i>Chairman</i> (California, R)	1981
James S. Dwight, Jr. (Virginia, R)	1983
Mary Kathleen Teague (Washington, DC, R)	1983
Daniel J. Elazar (Pennsylvania, R)	1986
Mary Ellen Joyce (Virginia, R)	1989

United States Senators

Sam J. Ervin (North Carolina, D)	1959
Karl E. Mundt (South Dakota, R)	1959
Edmund S. Muskie (Maine, D)	1959
Charles H. Percy (Illinois, R)	1972
Ernest F. Hollings (South Carolina, D)	1973
William V. Roth (Delaware, R)	1975
William Hathaway (Maine, D)	1977
Lawton Chiles (Florida, D)	1977
James R. Sasser (Tennessee, D)	1979
Dave Durenberger (Minnesota, R)	1981
Carl Levin (Michigan, D)	1988
Charles S. Robb (Virginia, D)	1989

U.S. Representatives

Florence P. Dwyer (New Jersey, R)	1959
L.B. Fountain (North Carolina, D)	1959
Wilbur D. Mills (Arkansas, D)	1959
Frank Ikard (Texas, D)	1961
Eugene J. Keogh (New York, D)	1962
Al Ullman (Oregon, D)	1967
Clarence J. Brown, Jr. (Ohio, R)	1973
James C. Corman (California, D)	1975
Richard Vander Veen (Michigan, D)	1976
Charles B. Rangel (New York, D)	1977
Barney Frank (Massachusetts, D)	1982
Robert S. Walker (Pennsylvania, R)	1983
Ted Weiss (New York, D)	1983
Sander Levin (Michigan, D)	1985
Jim Ross Lightfoot (Iowa, R)	1987
Larkin Smith (Mississippi, R)	1989

Members of the Federal Executive Branch

Robert B. Anderson (Secretary, Treasury, R)	1959
Arthur S. Fleming (Secretary, Health, Education and Welfare, R)	1959
James P. Mitchell (Secretary, Labor, R)	1959
C. Douglas Dillon (Secretary, Treasury, R)	1961

Appointed

Abraham A. Ribicoff (Secretary, Health, Education and Welfare)	1961
Arthur J. Goldberg (Secretary, Labor, D)	1961
Anthony J. Celebrezze (Secretary, Health, Education and Welfare, D)	1962
Robert C. Weaver (Secretary, Housing and Urban Development, D)	1962
Orville L. Freeman (Secretary, Agriculture, D)	1965
Henry H. Fowler (Secretary, Treasury, D)	1965
Farris Bryant (Director, Office of Emergency Planning, D)	1967
Ramsey Clark (Attorney General, D)	1967
Price Daniel (Director, Office of Emergency Planning, D)	1967
Robert P. Mayo (Director, Bureau of the Budget, R)	1969
George H. Romney (Secretary, Housing and Urban Development, R)	1969
Robert H. Finch (Secretary, Health, Education and Welfare, R)	1969
George P. Shultz (Director, Office of Management and Budget, R)	1970
Kenneth R. Cole, Jr. (Assistant to the President for Domestic Affairs, R)	1972
Caspar W. Weinberger (Secretary, Health Education and Welfare, R)	1973
James T. Lynn (Director, Office of Management and Budget, R)	1975
James M. Cannon (Assistant to the President for Domestic Affairs, R)	1975
Carla A. Hills (Secretary, Housing and Urban Development, R)	1975
Thomas B. Lance (Director, Office of Management and Budget, D)	1977
W. Michael Blumenthal (Secretary, Treasury, D)	1977
Juanita M. Kreps (Secretary, Commerce, D)	1977
James T. McIntyre (Director, Office of Management and Budget, D)	1978
Moon Landrieu (Secretary, Housing and Urban Development, D)	1979
G. William Miller, Secretary, Treasury, D)	1980
Samuel R. Pierce (Secretary, Housing and Urban Development, R)	1981
James G. Watt, <i>Chairman</i> (Secretary, Interior, R)	1981
Richard S. Williamson (Assistant to the President for Intergovernmental Affairs, R)	1981
Lee L. Verstandig (Assistant to the President for Intergovernmental Affairs, R)	1983
William P. Clark (Secretary, Interior, R)	1984
Raymond J. Donovan (Secretary, Labor, R)	1984
William E. Brock, III (Secretary, Labor, R)	1985
Mitchell E. Daniels, Jr. (Deputy Assistant to the President; Director, Office of Intergovernmental Affairs, R)	1985
Edwin Meese, III (Attorney General, R)	1985
Gwendolyn S. King (Deputy Assistant to the President; Director, Office of Intergovernmental Affairs, R)	1987
Andrew H. Card (Special Assistant to the President for Intergovernmental Affairs, R)	1987
Ann McLaughlin (Secretary, Labor, R)	1988
Richard L. Thornburgh (Attorney General, R)	1988
Debra Rae Anderson (Deputy Assistant to the President; Director, Office of Intergovernmental Affairs, R)	1989
Samuel K. Skinner (Secretary, Transportation, R)	1989
Karen Spencer, Special Assistant to the President for Intergovernmental Affairs, R)	1989

Governors

Ernest F. Hollings (South Carolina, D)	1959
Abraham A. Ribicoff (Connecticut, D)	1959
Robert E. Smylie (Idaho, R)	1959
William G. Stratton (Illinois, R)	1959
John Anderson, Jr. (Kansas, R)	1961
Michael V. DiSalle (Ohio, D)	1961
Carl E. Sanders (Georgia, D)	1963
Terry Sanford (North Carolina, D)	1963
John N. Dempsey (Connecticut, D)	1964
Nelson A. Rockefeller (New York, R)	1965
John A. Volpe (Massachusetts, R)	1967
Buford Ellington (Tennessee, D)	1967
James A. Rhodes (Ohio, R)	1967
Spiro T. Agnew (Maryland, R)	1968
Raymond P. Shafer (Pennsylvania, R)	1969
Warren F. Hearnes (Missouri, D)	1969
Ronald Reagan (California, R)	1970
Dale Bumpers (Arkansas, D)	1971
Richard B. Ogilvie (Illinois, R)	1971
Richard F. Kneip (South Dakota, D)	1972
Daniel J. Evans (Washington, R)	1973
Robert D. Ray (Iowa, R)	1973
Philip W. Noel (Rhode Island, D)	1975
Otis R. Bowen (Indiana, R)	1976
Reubin O'D. Askew (Florida, D)	1977
Richard A. Snelling (Vermont, R)	1977
Bruce Babbitt (Arizona, D)	1978
John N. Dalton (Virginia, R)	1979
Richard W. Riley (South Carolina, D)	1979
Lamar Alexander, <i>Vice Chairman</i> (Tennessee, R)	1981
Forrest H. James, Jr. (Alabama, D)	1981
Scott M. Matheson (Utah, D)	1983
Richard L. Thornburgh (Pennsylvania, R)	1983
John H. Sununu, <i>Vice Chairman</i> (New Hampshire, R)	1984
John Carlin (Kansas, D)	1985
Ted Schwinden (Montana, D)	1985
John Ashcroft (Missouri, R)	1986
George A. Sinner (North Dakota, D)	1989

State Legislators

Elisha Barrett (New York Senate, R)	1959
Leslie Cutter (Massachusetts Senate, R)	1959
John W. Noble (Missouri Senate, D)	1959
Hal Bridenbaugh (Nebraska Senate, R)	1960
Robert A. Ainsworth, Jr. (Louisiana Senate, D)	1961
Robert B. Duncan (Oregon House, D)	1962
John E. Powers (Massachusetts Senate, D)	1962
Graham S. Newell (Vermont Senate, R)	1962
Harry King Loman (Kentucky House, D)	1963
Marion H. Crank (Arkansas House, D)	1964
Charles R. Weiner (Pennsylvania Senate, D)	1964
C. George DeStefano (Rhode Island Senate, R)	1965
Ben Barnes (Texas House, D)	1967
Jesse M. Unruh (California House, D)	1967
W. Russell Arrington (Illinois Senate, R)	1969
Robert P. Knowles (Wisconsin Senate, R)	1969
B. Mahlon Brown (Nevada Senate, D)	1969
Charles F. Kurfess (Ohio House, R)	1973
John H. Briscoe (Maryland House, D)	1974
Martin O. Sabo (Minnesota House, D)	1977
Fred E. Anderson (Colorado Senate, D)	1978
Jason Boe (Oregon Senate, D)	1979
Leo T. McCarthy (California House, D)	1979
Ross O. Doyen (Kansas Senate, R)	1981
Richard Hodes (Florida House, D)	1981
David E. Nething (North Dakota Senate, R)	1982
William F. Passannante (New York Assembly, D)	1983
Miles Ferry (Utah Senate, R)	1984

Appointed

John T. Bragg (Tennessee House, D)	1985
Ted L. Strickland (Colorado Senate, R)	1988

Mayors

Anthony J. Celebrezze (Cleveland, D)	1959
Gordon S. Clinton (Seattle, R)	1959
Don Hummel (Tucson, D)	1959
Norris Poulson (Los Angeles, R)	1959
Richard Y. Batterton (Denver)	1962
Leo T. Murphy (Santa Fe, D)	1962
Neal S. Blaisdell (Honolulu, R)	1962
Arthur Naftalin (Minneapolis, D)	1962
Raymond R. Tucker (St. Louis, D)	1962
Arthur L. Selland (Fresno, R)	1963
Herman W. Goldner (St. Petersburg, R)	1964
Richard C. Lee (New Haven, D)	1965
Theodore R. McKeldin (Baltimore, R)	1967
Jack D. Maltester (San Leandro, D)	1967
William F. Walsh (Syracuse, R)	1967
Richard G. Lugar (Indianapolis, R)	1969
C. Beverly Briley (Nashville, D)	1969
Lawrence F. Kramer, Jr. (Paterson, NJ, R)	1970
Harry G. Haskell, Jr. (Wilmington, R)	1972
John D. Driggs (Phoenix, R)	1973
Edwin J. Garn (Salt Lake City, R)	1974
John H. Poelker (St. Louis, D)	1974
Harry E. Kinney (Albuquerque, R)	1975
Tom Moody (Columbus, Ohio, R)	1976
Thomas Bradley (Los Angeles, D)	1978
Richard E. Carver (Peoria, R)	1978
John P. Rousakis (Savannah, D)	1978
Margaret T. Hance (Phoenix, R)	1981
Richard Hatcher (Gary, D)	1981
James Inhofe (Tulsa, R)	1981
Joseph P. Riley, Jr. (Charleston, SC, D)	1981
Ferd Harrison (Scotland Neck, NC, D)	1983
William H. Hudnut, III (Indianapolis, R)	1984
Robert Martinez (Tampa, R)	1984
Henry W. Maier (Milwaukee, D)	1987
Robert M. Isaac (Colorado Springs, R)	1987
Donald M. Fraser (Minneapolis, D)	1987
Arthur J. Holland (Trenton, D)	1989

Appointed**Appointed****County Officials**

Edward O'Connor (Wayne Co., Michigan, D)	1959
Clair Donnerwirth (Plumas Co., California, D)	1959
Edwin G. Michaelian (Westchester Co., New York, R)	1959
Barbara A. Wilcox (Washington Co., Oregon, R)	1962
Angus McDonald (Yakima Co., Washington, R)	1962
William O. Beach (Montgomery Co., Tennessee, D)	1966
Gladys N. Spellman (Prince George's Co., Maryland, D)	1967
John F. Dever (Middlesex Co., Massachusetts, D)	1968
Edwin G. Michaelian (Westchester Co., New York, R)	1969
Lawrence K. Roos (St. Louis Co., Missouri, R)	1969
Conrad M. Fowler (Shelby Co., Alabama, D)	1970
John H. Brewer (Kent Co., Michigan, R)	1974
William E. Dunn (Salt Lake Co., Utah, R)	1975
Doris W. Dealaman (Somerset Co., New Jersey, R)	1976
Lynn G. Cutler (Black Hawk Co., Iowa, D)	1977
William O. Beach (Montgomery Co., Tennessee, D)	1978
Roy Orr (Dallas Co., Texas, D)	1981
Peter F. Schabarum (Los Angeles Co., California, R)	1981
Gilbert Barrett (Dougherty Co., Georgia, D)	1982
William J. Murphy (Rensselaer Co., New York, R)	1983
Sandra R. Smoley (Sacramento Co., California, R)	1983
Philip B. Elfstrom (Kane Co., Illinois, R)	1985
Harvey Ruvin (Dade Co., Florida, D)	1988
Sandra R. Smoley (Sacramento Co., California, R)	1989
James J. Snyder (Cattaraugus Co., New York, R)	1989

Appointed

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Revenue and expenditure tables for state-local, state, and local governments, by source or function, percentage distribution, per capita, and as a percentage of personal income

Other data include: historical federal, state, and local fiscal trends; aggregate government fiscal trends; intergovernmental revenues and expenditures; ACIR measures of state fiscal capacity and effort; budget processes and tax and expenditure limitations; and state rankings of state-local revenue and expenditure items.

M-163-II

1989

224 pages

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