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Intergovernmental

PERSPECTIVE

The Case for
State-Local
Fiscal Fair Play



View From The Commission



Dear Reader:

State legislative and administrative actions interact with taxing and spending limits to produce intergovernmental tensions.

Local officials contend that states severely reduce the fiscal flexibility of local governments by restricting revenues on the one hand, and by mandating increased costs on the other. They would find limits less restrictive if they were assured that expenditures required by state actions would be financed by the state. And similarly, state legislators likely would be more willing to provide financial assistance for mandated costs when local governments are subject to some type of general fiscal control.

In 1962, the Commission supported a policy of local fiscal autonomy by adopting an approach that called on state governments to remove the "fiscal shackles" on local taxing and spending authorities. Recent events, however, indicate that an increasing number of states are fashioning new and more restrictive controls on local authority.

The Commission's primary concern is to develop a policy

to balance the conflicting interests of local fiscal flexibility and legitimate political concerns of state lawmakers.

My own State of California confronted this issue in the Fall of 1972. The Legislature enacted a major property tax relief and tax shift program (Senate Bill 90) which became effective on January 1, 1973. As a result, maximum property tax rate limits were set for cities and counties.

In response, the League of California Cities insisted that all future state mandated costs be fully reimbursed. The Legislature agreed. The resultant legislation provided for reimbursement in four areas: property tax exemption or classification; local sales and use tax exemption; legislative mandates; and administrative mandates.

Three major types of mandates — by the Federal Government, the courts and statewide initiative—are not reimbursable, but may be financed by a tax rate increase. Additionally, if a city has been providing a program or service which is subsequently mandated by the State, reimbursement is required. However, the city must reduce its maximum property tax rate by a like amount.

We believe that our experience in California has been very successful, and that the mandated cost reimbursement law has caused the defeat of many millions of dollars of costly mandates in the areas of collective bargaining, expensive property and sales tax exemptions, police and fire training

requirements, general plan elements and public safety employee retirement benefits. As an example, in 1975, 244 of the 1,284 bills passed by the Legislature were identified as having a state mandated local cost. Funding was provided for 22 of the bills, 213 bills contained legitimate disclaimers, and only nine "slipped through" without a disclaimer or an appropriation.

During the first three legislative sessions after enactment of the reimbursement law (1973, 1974 and 1975), the Legislature approved 46 reimbursement appropriations bills totalling nearly \$19 million.

The general uncertainty about the actual effects of taxing and spending limitations has hindered the discussion of their public policy aspects. Last year, the Commission addressed the "tax lids side" of this fiscal equation. At our next meeting on September 19 and 20, the Commission will focus on the other half of the equation — state mandated costs.

I hope that this issue of *Intergovernmental Perspective*, and the recommendations to be adopted by the Commission at its next meeting, will help guide state lawmakers and local officials alike as they confront this most important area of intergovernmental fiscal tension.

Jack D. Maltester
Mayor
San Leandro, California

Intergovernmental **PERSPECTIVE**

2 View from the Commission

Mayor Jack D. Maltester of San Leandro, California discusses the significance of taxing and spending limitations on local governments.

4 Washington Watch

First Reorganization Plan Submitted by President
Sunset Bill Approved by Senate Committee
Major Changes Anticipated at LEAA
Study Shows Revenue Sharing Value Eroded
Impact of Federal Budget on Cities
HUD to Review Low Income Housing Policy
Conferees Meeting on Juvenile Justice Act

6 State-Local Watch

Rhode Island Enacts Circuit Breaker Bill
State Finance Panels Upheld
Connecticut School Financing Ruled Unconstitutional
New York City to Review Zoning Laws
Pennsylvania Keeps Its Utility Tax

7 Tax Lids and Expenditure Mandates: The Case for Fiscal Fair Play

ACIR Assistant Director John Shannon and Senior Analyst L. Richard Gabler discuss state-local fiscal tensions surrounding taxing limitations and expenditure mandates and offer the ACIR's four rules of "fiscal fair play".

13 A Fiscal Note: State Funding of Schools Accelerates

14 ACIR News

ACIR to Meet in September
Military to Deduct State Income Taxes
ACIR Testifies on Federal Funds Oversight
Florida Enacts a State ACIR
ACIR Model for New Australian Council

15 And Briefly: Books

16 ACIR Members

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Washington Watch

First Reorganization Plan Submitted by President

President Carter has sent to Congress the first executive reorganization plan which reduces staff levels, creates a new policy management system and consolidates most of the existing Executive Office of the President (EOP) functions into a central administrative unit.

The proposed reorganization will discontinue the Domestic Council because it "has rarely functioned as a Council, because it is too large, and its membership too diverse to make decisions efficiently." It would be replaced by a domestic policy staff under the direction of an Assistant to the President for Domestic Affairs and Policy. This staff would coordinate a new policy management system which is designed to improve decisionmaking in the formation of domestic and economic policy. Under the system, policy agendas would be recommended by a committee of Presidential advisers under the chairmanship of the Vice President, and the role of Cabinet departments in policy development would be strengthened.

Among the other units to be discontinued are the: Office of Drug Abuse Policy, Economic Opportunity Council, Federal Property Council, Energy Resources Council and Office of Telecommunications Policy. The Council on Environmental Quality and the Council on Wage and Price Stability are to be retained, but with staff reductions in excess of 25 percent.

The proposed central administrative unit would provide administrative support for services common to all EOP units, and provide technical support and coordination of the zero-based budgeting system in the EOP.

Sunset Bill Approved by Senate Committee

The Senate Governmental Affairs Committee on June 28 voted favorably on S.2, the "sunset" bill which would require Congressional review of federal programs.

Under the proposal, nearly all federal departments, agencies, and programs would be reexamined every six years by Congress. Any agency or program which did not receive affirmative legislative reauthorization action would be terminated automatically. Programs with similar purposes or with related functions would be reviewed together.

In reporting the measure, the committee:

- deleted the "tax expenditure" title;
- adopted a procedure to permit Congress to establish priorities for the review process;
- approved a new procedure for automatically terminating unwanted programs, but assuring that no substantive law is repealed unintentionally;
- added a provision to assure the independence of the federal judiciary; and
- narrowly voted to retain a provision to establish a citizens' commission on government organization and operation.

Exempted from the measure are social welfare programs such as Social Security and Medicare, to which individuals contribute in expectation of benefits at a later date.

Over fifty sunset bills are presently before various House committees, although no hearing dates have been scheduled.

Major Changes Anticipated at LEAA

On June 30, Attorney General Griffin B. Bell released the long-awaited findings of a Justice Department study of the Law Enforcement Assistance Administration (LEAA). The report, which recommends a comprehensive restructuring of the agency, is the latest in a series of events suggesting that major changes are in store for the agency.

In addition to the study group report, Congress cut the LEAA appropriation by \$107 million, top Justice Department officials pub-

licly questioned whether or not LEAA should continue to exist at all, and an order was issued by the Attorney General closing the ten LEAA regional offices effective September 30. However, according to Deputy Attorney General Peter Flaherty, the closing of the regional offices was "unrelated to the overall LEAA reorganization study".

The major recommendations of the study group include:

- the existing block program should be replaced by a system of direct assistance to state and local governments;
- comprehensive plan requirements should be removed;
- a centralized basic and applied federal research effort and a national demonstration program should exist, and be linked to the state and local assistance program;
- minimum levels of support should be stipulated for functional (courts, corrections, etc.) areas;
- coordination among the components of the criminal justice system should be required, and state and local governments should be permitted to use direct assistance funds for this purpose;
- use of the funds should be limited to criminal justice system improvements and by statutory prohibitions against criminal misuse, discrimination and supplantation; and
- a single federal agency, preferably located within the Justice Department, should administer all components of the program.

The fiscal year 1978 LEAA appropriation of \$645.25 million represents a 14 percent (or \$107 million) cut in the current year's funding. It is the third consecutive reduction, representing a cumulative loss of \$240 million since 1975. Earmarked funds include: \$100 million for Juvenile Justice Act programs; \$15 million for community anti-crime; \$15 million for public safety officers' benefits; and \$30 million (and \$10 million more of recycled money) for the Law Enforcement Education Program. Planning and action grants will be cut 17 percent and 19 percent respectively.

Study Shows Revenue Sharing Value Eroded

According to a recent study by the Brookings Institution, revenue sharing dollars will be worth 17 percent less in 1980 than in 1972 because of inflation. The study focuses on the effects of the program in 65 jurisdictions.

Key findings include:

- the value of the program will have shrunk from \$5.31 billion in 1972 to \$4.4 billion in fiscal 1979, assuming a gross national product deflator of 5.5 percent;
- the more hard pressed central cities used the money simply to hold the line fiscally;
- a significant portion of the states' share of revenue sharing was channeled to localities in the form of state aid, and the largest increase was reported in school aid;
- revenue sharing has been an important factor in permitting some governments to stabilize or limit tax increases;
- smaller jurisdictions tend to use the funds for new capital improvement projects; and
- only counties have shown any significant tendency to use the funds for new or expanded operating programs.

The study also found little change in the traditional way in which spending decisions are made at the state and local levels. Of the 65 units studied, only 13 revealed a change either among the public officials or the outside interest groups which were included in determining how the money was to be spent.

Impact of Federal Budget on Cities

A recent report issued by the House Subcommittee on the City terms the federal budget as probably being "the single most important document affecting the well being of American cities." The report urges the House Budget Committee's Task Force on State and Local Government to "press for

active OMB participation in a cooperative effort to improve analysis of budget decisions affecting cities."

Rep. Henry Reuss (Wisconsin), who chairs the subcommittee as well as its parent Committee on Banking, Currency and Housing, stated that there is a serious deficiency of analysis regarding the overall impact on cities of grants-in-aid, income support payments (such as Social Security and welfare), and other government activities such as defense contracts. As a result of this lack of analysis and information, efforts to aid cities are handicapped.

The report notes that neither the Executive Branch nor the Congress systematically considers the impact of the budget on cities, especially central cities, as part of the budget-making process. The study continues that OMB appears "reluctant" to expand the special analysis of how much money goes to state and local units. As a result, the report calls for a breakdown of federal dollars flowing into cities of different sizes, suburban communities, and nonmetropolitan areas.

The report also urges that the newly established Interagency Urban and Regional Policy Group give high priority to the development of a budget impact statement for cities.

HUD to Review Low-Income Housing Policy

Housing and Urban Development Secretary Patricia Harris, in an address delivered at the annual meeting of the U.S. Conference of Mayors in June, warned that federal funds may be withheld from cities which fail to reduce the "isolation" of the poor. Harris told the Nation's mayors that HUD plans to strictly enforce Community Development Act guidelines which require cities to provide a "fair share" of grant funds for low- and moderate-income housing.

The impact of HUD's intention to strictly enforce this provision already has been felt in some communities. Boca Raton, Florida, in

order to avoid the loss of \$400,000 in grant funds, has chosen to add a clause to its application which assures the provision of low-income housing. Federal officials had warned city officials that the absence of this clause would result in HUD's denial of the grant application. Earlier this year, the Hempstead, New York, grant application was rejected because it did not comply with the HUD low-income housing performance level.

The number of communities which are refusing the grant funds is causing some HUD officials to question whether CDBG funds are an effective lever for the alteration of living patterns. Other plans under consideration by HUD would make the receipt of some nonblock grant funds conditional upon local housing policy. Suggested federal programs include highways, FHA financing, and environmental programs.

Another alternative would permit HUD to target housing money to cities which would use the funds to finance nonprofit housing organizations. These groups would then buy or build low-income housing in the suburban areas for the urban poor.

Conferees Meeting on Juvenile Justice Act

Senate and House conferees are continuing to meet in order to resolve the differences between S. 1021 and H.R. 6111, which would extend the *Juvenile Justice and Delinquency Prevention Act*.

To date, conferees have agreed to a three-year extension with authorization levels of \$150 million for fiscal year 1978, \$175 million for fiscal year 1979 and \$200 million for fiscal year 1980. It also has been agreed to permit private community-based delinquency prevention agencies to appeal directly to state planning agencies should their funding applications be denied by local governments.

As yet unresolved are the match requirements for state and local governments, and the amount of money to be made available to states for planning and administration.

State/Local Watch

Rhode Island Enacts Circuit Breaker Bill

Rhode Island has become the most recent addition to the list of states with a "circuit breaker" law. Wisconsin pioneered this form of property tax relief in 1964, and it now is in use in some form in over half the states.

The Rhode Island law includes both owners and renters, but is restricted to those persons aged 65 or older with an income of \$5,000 or less. For renters, 20 percent of their rent is counted as a property tax equivalent. Any property tax, or the rent equivalent, above the defined portion of income is considered "excessive," and qualifies for relief through an income tax credit. The maximum credit for 1977 will be \$55; in subsequent years the maximum will be \$150.

The new law does not affect local property tax relief programs. In addition, the program is funded from the state's own revenues, rather than placing an additional burden on local property tax revenues. Two million dollars have been appropriated for fiscal year 1978; the appropriation is expected to grow to \$4.2 million in fiscal year 1979.

State Finance Panels Upheld

A lower court decision challenging the Kansas Finance Council has been overturned by the Kansas Supreme Court. This was the third such challenge at the state court level in twenty years.

The council handles fiscal matters during the legislative interim. It consists of the governor, senate president, house speaker, minority leaders of both houses and the senate and house ways and means chairmen.

Last year the council was reconstituted to meet objections raised by the court in a previous case. The new law was challenged by the state attorney general on the basis of separation of powers and other constitutional grounds.

The state court ruled that the legislature could delegate some of its functions to the council if adequate standards exist to prevent arbitrary or unfair action. The court held that guidelines in the 1976 law were "constitutionally sufficient." The court also ruled that the finance council's power to transfer monies in the state educational building fund was not an unconstitutional usurpation of executive powers.

Legislative powers delegated to the finance council include the authority to authorize state agencies to expend appropriated expenditures or personnel levels, receive and spend federal grants, and increase expenditure limits in special revenue fund appropriations.

In other action, the Louisiana Supreme Court ruled that the governor does have the authority to appoint members of the budget committee. The state court ruling affirmed a lower court decision denying a challenge by the attorney general on the basis of the doctrine of separation of powers. During legislative interims, the committee approves budget changes and the expenditure of federal funds.

Connecticut School Financing Ruled Unconstitutional

The Connecticut Supreme Court has ruled that the state's school financing system, which relied heavily on the local property tax, is unconstitutional.

The court identified significant disparities among the abilities of localities to raise revenues through their property taxes. It also found that a direct correlation existed between the amount of money expended on education and the quality of education. State aid has been given without considering the abilities of localities to raise funds through use of their property tax.

The court did not provide specific guidelines; however, it did note that there was a need for significant state support to equalize disparities. Historically, the property tax has provided approximately 70 percent

of all school financing. The remainder of school costs has been provided by state per-pupil grants.

Governor Ella Grasso has announced that a panel would be organized to draft a plan to comply with the decision. The court did not stipulate a compliance deadline.

Similar decisions have been handed down by the state courts in New Jersey and California.

New York City To Review Zoning Laws

Mayor Abraham Beame has announced that the first comprehensive review of the city's zoning resolution will be undertaken since its adoption sixteen years ago.

The existing zoning resolution has been amended more than 3,000 times for changes ranging from simple rezonings to more complex building conversions. The resolution regulates the uses, floor area, lot coverage, heights and setback of buildings from the street, as well as the placement of signs and provisions for off-street parking and loading.

During the past few months, many public groups have been consulted about the study. Among the issues to be addressed are the impact of zoning on economic development, the environment and neighborhood stability; and the administration and enforcement of zoning regulations.

Pennsylvania Keeps Its Utility Tax

The U.S. Supreme Court has ruled that the Commonwealth of Pennsylvania is not required to share with its localities the funds collected in the first year application of the public utility realty tax.

The court ruled that the state may hold all of the \$30 million collected from public utility companies in 1970 because the enabling legislation permitting distribution of the realty tax funds to local taxing authorities was not passed until the second year that the tax was collected.

Tax Lids and Expenditure Mandates: The Case For Fiscal Fair Play

by John Shannon
and L. Richard Gabler

Tax lids and state mandated costs increasingly are becoming a “sore point” in state-local fiscal relations. Since 1970, 14 states and the District of Columbia have enacted some form of new control on local taxing and spending powers. ACIR research reveals that state mandating is widespread: the “average” state has 35 of 77 mandates analyzed in a recent research effort.

State-local fiscal tensions are rising due in part to both a resurgence of state interest in clamping tax and expenditure lids on local government and to growing local opposition to state mandated costs.

These developments also pose two tough questions for those interested in “cooling down” this intergovernmental conflict.

1. Under what conditions is a state justified in placing a lid on local property tax growth?
2. Under what conditions are local governments justified in urging controls be placed on the widespread state practice of mandating local programs, service levels, and personnel benefits?

It must be conceded at the outset that the more enthusiastic champions of state legal supremacy have a quick and easy answer to both questions. They would argue that because local governments are the legal creatures of the state, the legislature of a state possesses the unqualified right to impose tax lids and expenditure requirements on local governments at anytime it deems such action appropriate.

By the same token, the champions of local home rule also have a ready answer—“leave us alone!” They argue for the widest latitude in formulating tax and expenditure policies on the grounds that the locally elected officials in each community are closest to the people, and therefore are in the best position to assess the widely varying needs of each community.

The staking out of these extreme positions can be helpful if only for the fact that it leaves a broad middle ground in which to work out reasonable compromises.

THE TAX LIMIT ISSUE

When the Advisory Commission examined the tax rate limit issue last year, several major findings emerged.

- Since 1970, 14 states and the District of Columbia had enacted some form of new control on local tax and spending powers.
- This recent upsurge in state efforts to control local tax and spending powers can be traced to
 - the public demand for property tax relief;
 - state and judicial-mandated upgrading of assessment practices;
 - state assumption of an increasing share of state-local expenditure responsibilities, especially in the educational areas;
 - state efforts to control the growth in school spending; and

- a perception by state legislators that local officials need state-imposed restrictions to counter the pressure for additional spending in general, and for greater employee wages and fringe benefits in particular.

Although local tax lids do make a difference—localities with limits exhibit a 6-8 percent lower level of per capita expenditure—total state-local expenditures are not significantly lower in states with local tax lid provisions. This finding supports the corollary that tax lids cause heavier reliance on state taxes.

Current Policy Issues

At least six major policy issues are raised by the resurgent state interest in placing lids on local spending in general and on local property taxes in particular.

- If tax lids make sense at the local level, do they also make sense at the state level?
- How far can the state go in both restricting local tax bodies and encouraging voter referenda on tax issues without seriously compromising the principle of local representative government?
- What is the price of “permanent” property tax relief—a major new source of local revenue?
- Are there special circumstances that justify the building of various escape hatches into tax lid legislation?
- Is it desirable to distinguish between permanent and temporary tax lids?
- Perhaps the most basic question of all—is it possible to permit local officials to retain considerable fiscal power while at the same time allowing state officials to take political credit for the introduction of a property tax relief program?

Four Rules of Fiscal “Fair Play”

The Advisory Commission has attempted to answer most of these questions by urging state-local agreement on four rules of “fair play” to insure that neither state nor local officials hit below the belt.¹

First, the state is justified in imposing “permanent” lids on local property taxes only if the state is willing to provide adequate financial compensation to local governments. The tighter the lids—the more persuasive the case for a new source of local revenue. Adequate compensation could take the

form of a major new source of tax revenue for local governments or the enactment of a substantial state program of unconditional aid to localities.

Second, when state policymakers raise state taxes in order to finance a new program of local property tax relief, a “temporary” rollback of local government levies can be justified to insure that local property tax rates are stabilized at a lower level. This temporary stabilization action can be justified, for example, to insure that a state decision to finance a substantially larger share of school costs is not immediately wiped out by the decision of local officials to recapture for themselves (during a period of taxpayer confusion) that part of the property tax that has just been “freed up” by the state. Without this political heat shield, state officials can be expected to be very reluctant to assume the political risks involved in raising state taxes in order to underwrite this form of local property tax relief.

Third, a “temporary” local tax rate rollback can also be justified in those cases where the state tax department or the courts order a massive increase in local property tax assessment levels. Understandably, state officials do not want to be placed in a position of becoming the “fall guys” if local ratemakers (again during a period of taxpayer confusion) fail to cut back their tax rates roughly commensurate with an unusually large increase in the assessment base.

The emphasis, however, must be on the “temporary” character of state-mandated rollback action. Once the stabilization action has taken place, local decisionmakers should be allowed full access to the property tax on the assumption that they—not state policymakers—will then be held politically responsible for any subsequent increase in local property tax levels.

Alternatively, the new “truth in taxation” plan, pioneered by Florida and endorsed by ACIR, may prove to be superior to state mandated rollbacks in reconciling local legislative demands for fiscal flexibility and state legislative desire to fix political responsibility for higher property taxes. Under this approach, local legislative bodies are free to set tax rates as high as they desire, provided they follow a rigorous full disclosure procedure that reveals, for example, that it was the city council’s decision to increase expenditures—not the assessor’s action in raising assessments—that caused the general hike in property taxes.

Fourth, the state must recognize that a wide variety of extenuating circumstances call for the building of special relief provisions into a tax or expenditure control system. Allowances must be made in all state imposed limits on local levies and expenditures for cost increases mandated by the administrative, legislative, or judicial actions of federal and state governments; rapid changes

¹ACIR, *State Limitations on Local Taxes and Expenditures*, A-64.

in population; natural disasters; debt service; pay-as-you-go-capital outlay; and inflation. These extenuating circumstances underscore the inherent difficulty in applying "boiler plate" state-wide solutions to diverse local governments.

THE EXPENDITURE MANDATE ISSUE

It would be difficult to find an issue that sparks more resentment among local officials than that caused by state mandated expenditures. While virtually all observers of state-local relations agree that state governments must be allowed wide latitude on the mandating front, there is sharp disagreement on how far states should move into certain controverted areas.

Local authorities are especially bitter over the "end run play" by which local employee representatives (especially police and firemen) successfully obtain from the state legislature more generous personnel benefits on a mandated basis than they could obtain through negotiation with locally elected officials.

Mandating, however, goes far beyond personnel benefits. It covers the gamut of local government activities ranging from educational programs (where the state interest is clearly evident) to such items as parks and recreation programs and library hours (where local policies might be expected to be controlling). In effect, the state legislature can become the hunting ground where narrowly focused special interest groups seek to capture for themselves or their constituencies a larger slice of the local expenditure pie. Thus, the frequent imposition of special interest demands from "on high" necessitates a constant reordering of local budgetary priorities.

For these reasons, the local resentment of state mandates often goes far beyond the fiscal concern over added costs. Put simply: state mandates substitute state priorities for local priorities.

It must be emphasized, however, that there is little or no controversy over many mandates, particularly those relating to the organization and procedures of local government. State mandates can be justified to prescribe the optional forms of local government, the holding of local elections, and the designation of public officers and their responsibilities. Due process and regulatory mandates are needed to insure the equitable administration of justice and the tax laws, and to protect the public from malfeasance. State mandates also are necessary to require localities to act or to refrain from acting so as to avoid injury to or conflict with neighboring jurisdictions. Provided there is a clear statewide policy objective to be achieved, mandates affecting new programs or the enhancement of service levels of existing programs also are warranted. Such mandates, however, do

raise the issue of state reimbursement to help achieve accomplishment of the statewide objective.

It also must be acknowledged that expenditure mandates can provide local officials with a convenient scapegoat when it becomes necessary to increase taxes. State legislators can be blamed for this unpopular action even though, in some cases, the local officials may have urged state legislators to enact the proposed mandate.

Research Findings

Despite the widespread local concern about state mandates, there has been little systematic data available on the scope of the practice. To fill this gap, the Commission, in collaboration with Professor Joseph F. Zimmerman of the State University of New York, developed an extensive questionnaire on the range of mandates and the attitudes of state officials and the representatives of local officials on the "appropriateness" of these mandates.²

The major findings of the Commission's research were:

■ *State mandating is widespread.* The "average" state had 35 of the 77 mandates analyzed in this survey. Significant variations were found, however, both among regions and among states. The Southeastern states tend to mandate least, the regional average being 27; the states of the Far West mandate most frequently, with a regional average of 46. Among the heavy mandating states are New York (60), California (52), Minnesota (51), and Wisconsin (50). At the low end of the mandating spectrum are West Virginia (8), Maryland (20) and Delaware (21). (See Table.)

■ *Based on attitudinal responses, local opposition to program enhancement mandates can be substantially reduced in most cases if partial or full state reimbursement is provided.* This holds true for mandates affecting local program levels and employee retirement benefits.

■ *State mandates affecting local employee compensation, hours and conditions of employment were held to be inappropriate even if fully reimbursed by the state.* These responses clearly underscored strong local opposition to state actions that would undercut local managerial prerogatives and flexibility.

■ *The pieces of a "deliberate restraint" policy are beginning to fall into place.* At present, 17 states have a fiscal note policy—the attachment of cost estimates to state legislative proposals that would increase local costs. (See Table.) Most of these fiscal note requirements were enacted in the

²While the Commission's current research is limited to state mandates, federal mandates raise many of the same problems. However, a substantially different research methodology would be necessary to inventory federal mandates.

**THE CONDITION OF STATE-LOCAL FISCAL RELATIONS:
FIVE IMPORTANT INDICATORS**

State and Region	Number of State Mandates (77 Possibili- ties Surveyed)	Fiscal Note on Legislation Affecting Local Government	Type of State Limit Placed on Municipal Tax or Spend- ing Powers	Type of Compensation to Local Government for Tax Exempt State Property		State Share of State and Local Expendi- tures From Own Sources (Fiscal 1975)
				In Lieu Payment	Local Tax Permitted	
UNITED STATES	35 ¹	17	3	33	16	55.0 ¹
New England	35 ¹					60.3
Maine	39 ²	No	None		None	68.0
New Hampshire	40	No	None	X		51.0
Vermont	31	No	None	X	X	68.9
Massachusetts	46	No	None	X		56.8
Rhode Island	11 ³	No	None		None	62.4
Connecticut	45	No	None	X		54.5
Mideast	37 ¹					58.4
New York	60	No	Tax Rate	X	X	47.4
New Jersey	45	⁴	Expenditures	X	X	46.6
Pennsylvania	41	Yes	Tax Rate	X		63.3
Delaware	21	⁴	None		None	75.7
Maryland	20	Yes	Full Disclosure ⁵	X		59.0
District of Columbia	—	—	Full Disclosure ⁵			—
Great Lakes	37 ¹					56.6
Michigan	25 ²	No	Tax Rate	X	X	54.3
Ohio	49	⁴	Tax Rate	X	X	51.8
Indiana	26	Yes	Tax Rate and Levy	X		58.1
Illinois	37	No	Tax Rate	X		55.7
Wisconsin	50	Yes	Tax Levy	X	X	63.3
Plains	38 ¹					
Minnesota	51	⁴	Tax Rate and Levy	X	X	56.5
Iowa	33	Yes	Tax Rate and Levy		None	56.8
Missouri	32	No	Tax Rate	X		50.6
North Dakota	38	Yes	Tax Rate	X		64.0
South Dakota	39	⁴	Tax Rate	X		52.1
Nebraska	36	Yes	Tax Rate		None	44.0
Kansas	35	Yes	Tax Rate and Levy	X	X	51.7

Southeast	27 ¹						64.4
Virginia	46	No	Full Disclosure ⁵			X	58.8
West Virginia	8	No	Tax Rate		None		71.0
Kentucky	28	¹	Tax Rate		None		67.9
Tennessee	23	Yes	None		None		55.6
North Carolina	32	No	Tax Rate	X		X	67.9
South Carolina	27	No	None	X			72.8
Georgia	25	¹	Tax Rate	X			54.6
Florida	43	⁴	Tax Rate Plus ⁶	X			53.5
Alabama	11 ²	Yes	Tax Rate		None		62.5
Mississippi	29	No	Tax Rate	X			69.3
Louisiana	20	No	Tax Rate	X			69.2
Arkansas	33	No	Tax Rate	X		X	69.9
Southwest	33 ¹						60.7
Oklahoma	25	No	Tax Rate		None		58.7
Texas	33	Yes	Tax Rate	X		X	50.1
New Mexico	36	No	Tax Rate		None		72.5
Arizona	39	No	Tax Rate and Levy		None		61.6
Rocky Mountains	37 ¹						54.0
Montana	48	Yes	Tax Rate Plus ⁴	X			49.2
Idaho	41	Yes	Tax Rate	X			60.4
Wyoming	37	No	Tax Rate			X	45.9
Colorado	23	Yes	Tax Levy	X			50.9
Utah	35	Yes	Tax Rate	X			63.8
Far West	46 ¹						50.9
Washington	46	¹	Tax Rate and Levy	X		X	57.8
Oregon	45	No	Tax Levy	X		X	49.5
Nevada	44	Yes	Tax Rate			X	47.6
California	52	Yes	Tax Rate and Levy	X			48.7
Alaska	39	¹	Tax Rate and Levy		None		76.5
Hawaii	49	No	---		None		78.5

¹Averages

²In most cases, these state payments are for a small select category of property, and seldom provide for full coverage of state property.

³U.S. Totals: No limitations -- 9; Tax rate limits -- 24; Expenditure limits -- 1; Tax rate & levy limits -- 8; Tax levy limits -- 3; Full disclosure -- 3; and Tax rate plus -- 2.

⁴Based on partial response.

⁵Fiscal note information provided at request or on a permissive basis but not necessarily for a state government action.

⁶Full disclosure of effect of assessment increases on property tax rate.

⁷Tax rate limit plus full disclosure policy.

Source: Recent ACIR state surveys conducted in late 1976 and early 1977.

last few years, and this approach is currently under active consideration in at least a score of other states. California has instituted a reimbursement program for both legislative and administrative actions that increase local government costs, while Montana will provide either state reimbursement or authorize additional local taxes to help localities meet the costs of newly-mandated programs. Alaska, Louisiana and Pennsylvania have constitutional prohibitions restraining selected types of state mandates. Several other states—Wisconsin, New York, Connecticut, Oregon, Wyoming and Colorado—have recently issued special reports on mandates.

Policy Questions

The mandate problem bristles with tough policy issues.

- Can the state justify its existing mandates as meeting compelling statewide policy objectives?
- Can the proliferation of state expenditure mandates be slowed down by attaching fiscal notes?
- Under what conditions should the state partially reimburse local governments for state mandated costs?
- Are there certain types of state mandates that should require an extraordinary majority legislative vote or full reimbursement?
- How should state expenditure mandates be treated if the state also has imposed restrictive tax lids on local government?
- And again, the most important question—is it possible to reconcile the local government interest in setting its own fiscal priorities with the right of the state to mandate local action?

A "Deliberate Restraint" Policy

It is clear that only a state policy of "deliberate restraint" can reconcile the sharply opposing interests of state and local governments. This restraint policy could consist of one or more of the following components:

1. A fiscal note process on all state legislative and administrative mandates that adversely affect local government.³
2. A "compelling statewide interest" statement to accompany all proposed state mandates.
3. An inventory of existing mandates to ascertain whether they meet a compelling state interest test, and a "sunset" procedure for weeding out unnecessary mandates.

³The Advisory Commission has already endorsed this policy and will be considering the other components of a restraint policy at its next meeting.

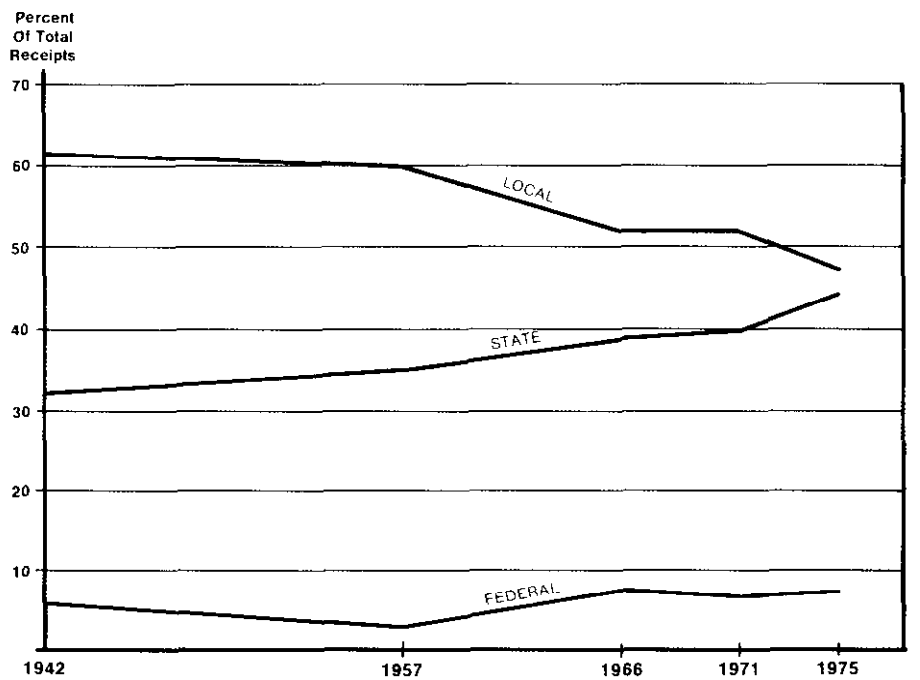
4. A partial reimbursement procedure to compensate local governments for those state mandates that prescribe program enhancement in areas of benefit "spillover"—education, highways, health, hospitals, and welfare.
5. Full state reimbursement for state mandates if state imposed tax lids seriously constrict local revenue raising ability.
6. Full state reimbursement to compensate local governments for those state mandates that erode the local tax base (i.e., the removal of business inventory and other private property from the tax rolls); also state compensation to local governments for tax exempt state property. (See Table.)
7. Special safeguards (such as extraordinary legislative majorities or full state reimbursement) to minimize state intrusion into matters of predominantly local concern—employee compensation, hours, and working conditions.

SUMMARY

It is increasingly apparent that state-local fiscal relations are poorly served by staking out extreme positions or by making exaggerated claims about state legal supremacy or local home rule. Despite the recent escalation in state-local tensions, or perhaps because of it, state and local officials are beginning to move toward the middle ground. State-local agreement on Marquis of Queensbury-type rules to govern the tax lid and expenditure mandate issues would help insure that neither side hits the other below the fiscal belt.

John Shannon is assistant director for taxation and finance and L. Richard Gabler is a senior analyst at the Advisory Commission on Intergovernmental Relations.

**PERCENTAGE DISTRIBUTION OF ELEMENTARY AND
SECONDARY SCHOOL RECEIPTS, BY SOURCE,
FOR SELECTED FISCAL YEARS**



A Fiscal Note

State Funding of Schools Accelerates

The long-run trend toward increased state funding of schools has accelerated in recent years as more and more states are becoming the senior partners—19 states by 1975.

The state share of total elementary and secondary school receipts rose from 32.9 percent in 1942 to 43.6 percent in 1975. During the same period, the local share fell from 61.4 percent to 48.6 percent and the federal share rose from 5.8 percent to 7.8 percent, remaining fairly stable at the 7 percent mark for the past ten years.

Recent court decisions mandating greater equalization of local school financing and the public demand for local property tax relief stand out as the two primary factors responsible for the significant increase in state financial participation since 1970.

The relative slowdown in the growth of total school financing also is significant. After growing at a consistently faster rate than the economy during the 50's and 60's, total school financing has now slipped behind the growth in the GNP.

Declining enrollments, increased taxpayer resistance, and growing skepticism about the efficacy of educational expenditures have all combined to produce this slowdown effect.

Elementary and Secondary School Receipts¹

Source of Funds	Fiscal Years				
	1975	1971	1966	1957	1942
Total (in millions)					
Federal	\$ 4,742	\$ 3,129	\$ 2,003	\$ 366	\$ 132
State	26,659	17,371	9,915	4,400	752
Local	29,699	22,938	13,439	7,228	1,405
Total	61,100	43,438	25,357	11,994	2,290
Per Capita					
Federal	\$ 22.25	\$ 15.17	\$ 10.24	\$ 2.14	\$ 0.98
State	125.09	84.24	50.70	25.70	5.59
Local	139.35	111.24	68.71	42.22	10.44
Total	286.69	210.65	129.65	70.06	17.06
As a Percent of GNP					
Federal	0.3	0.3	0.3	0.1	0.1
State	1.8	1.7	1.4	1.0	0.5
Local	2.0	2.3	1.9	1.7	1.0
Total	4.2	4.3	3.5	2.8	1.6
Percentage Distribution					
Federal	7.8	7.2	7.9	3.1	5.8
State	43.6	40.0	39.1	36.7	32.9
Local	48.6	52.8	53.0	60.3	61.4
Total	100.0	100.0	100.0	100.0	100.0

¹Revenue receipts available for expenditures for current expenses, capital outlay, and debt service for public schools. Local funds include gifts and tuition and fees from patrons.

Source: ACIR staff compilation based on various reports of the Governments Division, U.S. Bureau of the Census; National Education Association, *Estimates of School Statistics*, various years (Copyright by the National Education Association, all rights reserved); and *The United States Budget in Brief*, 1978.

ACIR to Meet In September

The Advisory Commission on Intergovernmental Relations will meet in Washington, D.C. on September 19 and 20. Included on the agenda are: a review of a study on state mandates, an examination of the national forest revenue sharing program, and a discussion of issues related to countercyclical aid.

Additional appointments to the Commission are expected before the September sessions.

Military to Deduct State Income Taxes

The Department of Defense has announced that military personnel in 34 states and the District of Columbia will have state income taxes deducted from their paychecks. The new taxation policy, implemented on July 1, follows the enactment of 1976 federal legislation permitting the withholding plans.

This partial implementation of a 1975 ACIR recommendation could provide a significant revenue source for those affected states. A federal study estimated that in fiscal year 1975, the military personnel income tax exemption cost the states and the District of Columbia \$94 million in revenues.

Thirty-five jurisdictions have requested that income taxes be withheld.

ACIR Testifies On Federal Funds Oversight

Speaker John Hanson Briscoe, member of ACIR, recently appeared before the Senate Subcommittee on Intergovernmental Relations in support of a more active state legislative role in the control of federal funds coming into the states. The single day of hearings was chaired by Senator Edmund Muskie (Maine), subcommittee chairman.

In a position adopted last year, ACIR recommended that state legislatures include all federal aid funds in appropriations bills, prohibit the expenditure of federal

funds in excess of the appropriated amount, and specify priorities by establishing sub-program allocations; and take a stronger role in determining the use of federal funds passed through the state to local governments.

Briscoe noted that the ACIR recommendation is based on the assumption that "State legislatures are a critical, if not primary, partner in the decisionmaking process at the state level. It is also rooted in the stark fact that federal aid is approaching the \$60 billion mark for this fiscal year." Briscoe concluded that to overlook the importance of the role of one of the three equal branches of state government would be "contrary to the doctrine of separation of powers with the legislative branch given the role of deciding how to allocate resources, one of the oldest and most important precepts on which our federal system is based."

Florida Enacts A State ACIR

During its 1977 session, the Florida Legislature passed a bill creating an Advisory Council on Intergovernmental Relations. The 17-member council will be composed of four members each from the state senate and house, and nine members appointed by the governor.

The Council is charged with evaluating the intergovernmental aspects of government structure, finance, functions and relationships in Florida, and reviewing and assessing the work and recommendations of ACIR. The council also is to issue an annual report of its findings to the governor and legislature, and is to prepare material for the Constitution Revision Commission after investigating the state's tax structure and other intergovernmental issues.

In addition, the council is directed to study the issue of double taxation and the problems associated with local government debt management, and to report its findings by March of next year. The council also is

responsible for the preparation of an analysis of any new program or increased service level mandated by executive, legislative or judicial action in terms of its effect on local government revenues and expenditures.

Political subdivisions of the state are authorized to appropriate funds for the purpose of sharing the operating costs of the council. The council is empowered to employ an executive director and appropriate staff.

ACIR Model for New Australian Council

An Advisory Council for Intergovernmental Relations has been established in Australia. The 22-member bipartisan panel is modeled on the ACIR, and is intended to bring together representatives of Commonwealth (federal), state and local governments, and private citizens to review improvements between the levels of government.

Members include five representatives of the Commonwealth (three Government and two Opposition members), six State representatives (one from each State Parliament), six local government members, and five citizens.

The first two issues before the Council are a feasibility study of an intergovernmental personnel exchange program and a broad study of the relationship between the three tiers of government.

A secretariat to staff the council is located in Hobart, Tasmania. Russell Mathews, a citizen member, has been appointed chairman.

According to Prime Minister Malcolm Fraser, in remarks before the Australian House: "An important role of the Council will be to promote discussion and disseminate ideas, to reach a wide audience, and to present to that audience an independent view on possible solutions to problems of inter-government relations. Such a role should do much to dispel the notion, so prevalent in recent years, that all wisdom resides at the centre."

And Briefly: Books

The first publications are recent reports of the Advisory Commission on Intergovernmental Relations, 726 Jackson Place, N.W., Washington, D.C. 20575. Single copies are free.

The Intergovernmental Grant System as Seen by Local, State, and Federal Officials (A-54). In order to obtain a current picture reflecting the working experience of local, state and federal officials in the state and federal aid system, ACIR conducted or used four surveys. The findings of these surveys are presented in this volume which is another in ACIR's series on the intergovernmental grant system.

State Limitations on Local Taxes and Expenditures (A-64). Recently, numerous states have instituted some method of control over local taxing and spending powers. Because of these developments, ACIR has looked at the theory and practice of fiscal controls and the effects of tax limits on expenditures and property taxes.

The recommendations resulting from this study attempt to reconcile the interests of local officials in maintaining a high degree of fiscal flexibility and the interests of state officials in achieving property tax relief and political accountability objectives.

Cigarette Bootlegging: A State and Federal Responsibility (A-65). Since 1965, interstate cigarette bootlegging has increased sharply resulting in revenue loss in high-tax states of \$391 million. This report examines the nature and causes of cigarette smuggling, its link to organized crime and current and proposed methods to reduce smuggling, and revenue loss.

Statistics on cigarette taxes are included.

Regionalism Revisited: Recent Areawide and Local Responses (A-66). This report updates developments in substate regionalism occurring since ACIR published its

6-volume report in 1973 and 1974 and presents the components of ACIR's overall substate regional strategy.

Information on current federal programs which support regional government activities is given as well as recent developments in efforts to coordinate federal programs on a regional level.

Understanding State and Local Cash Management (M-112). This publication examines a new specialization for government financial managers—cash management.

Statutory and constitutional provisions governing state and local government cash management are summarized and methods for an improved cash management system are described. Investment portfolio management is analyzed including the innovative methods of investment pools for local governments.

The Comprehensive Employment and Training Act: Early Readings from a Hybrid Block Grant (A-58). As part of its study of the intergovernmental grant system, ACIR has looked at the first of the federal-local block grants—*The Comprehensive Employment and Training Act*. Although the time period covered prevents an assessment of the impact of the act on unemployment and the economy, this report does examine how well this block grant has worked in relation to its intent and the changes required to improve its intergovernmental administration.

The following publications are available directly from the publishers cited. They are not available from ACIR.

Managing Human Services. International City Management Association, 1140 Connecticut Avenue, N.W., Washington, D.C. 20036. \$20.00 (\$19.00 if payment accompanies order). This new text in ICMA's "green book" series identifies and discusses the key managerial techniques of human services programs at the community level.

The editors are Bernard J. Frieden, Michael J. Murphy and Wayne Anderson, Executive Director of ACIR.

Facts and Figures on Government Finance. Tax Foundation, 50 Rockefeller Plaza, New York, New York 10020. \$10.00. This publication is the 19th biennial edition of the Tax Foundation's report on federal, state, and local finances. It provides a handy compendium of data from the *U.S. Budget*, Treasury Department, *Census of Governments*, and other statistical publications of the federal government.

Federally Assisted Areawide Planning: Need to Simplify Policies and Practices. Report to the Congress by the Comptroller General of the U.S. (GGD-77-24). U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street, N.W., Washington, D.C. 20548. Free for government officials, libraries, faculty members and students; \$1.00 for the general public. GAO reviewed 20 federally assisted planning programs to determine the problems state and local governments and regional organizations encountered including the *Intergovernmental Cooperation Act* (Title IV), Circular A-95, and other coordinated planning.

Federal Tax Policy. Joseph A. Pechman, Brookings Institution, 1775 Massachusetts Avenue, N.W., Washington, D.C. 20036. \$4.95.

The purpose of this book is to explain the federal tax system in a nontechnical manner. It includes major changes in the tax laws during the 1970's particularly those brought about by the *Tax Reform Act of 1976*.

Current issues covered in this third edition of Pechman's book are adjustment of income taxes for inflation, the use of taxes to achieve social policy, and the value added tax. There are chapters covering the major federal taxes including individual and corporate income, consumption, payroll and estate and gift, as well as a chapter on state and local taxes.

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