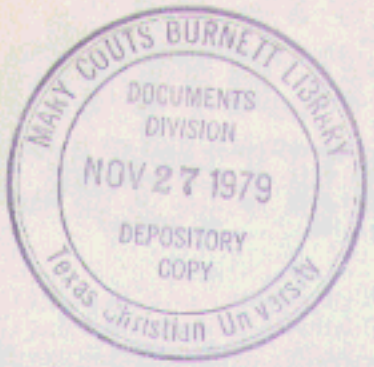
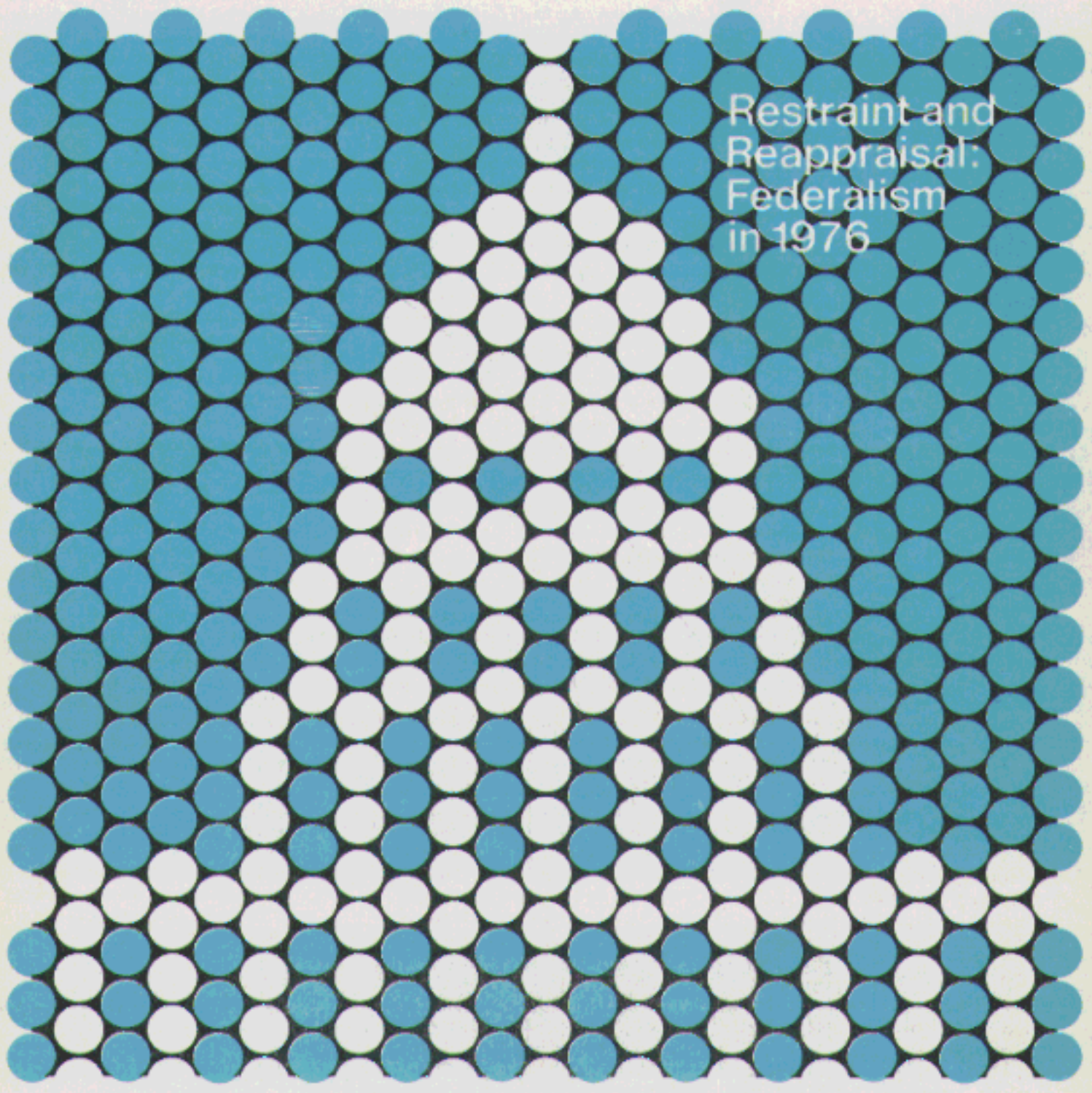


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Winter 1977 Vol. 3 No. 1



# Intergovernmental **PERSPECTIVE**



Restraint and  
Reappraisal:  
Federalism  
in 1976

# View From The Commission



Dear Reader:

Each year the Advisory Commission on Intergovernmental Relations undertakes an assessment of significant intergovernmental developments of the previous year. Our observations about 1976 will be found in this issue of *Intergovernmental Perspective*. As Chairman of ACIR, I would like to add my own personal comments about *emerging opportunities* for improving the delivery of services in the most unique intergovernmental system yet devised.

For the first time since Franklin D. Roosevelt, the Presidency of the United States in 1976 passed to the hands of a former governor. Since 1945, successive Presidents either have spent the bulk of their governmental careers in Congress or, in the case of Eisenhower, the military. Of the congressional presidents, only Harry Truman had ever served in state or local government.

During his presidential campaign, Governor Carter skillfully

stressed his role as the "outsider," and, while in the process of forming a new administration he has had to retreat somewhat from this position, the fact is that the 39th President will confront the problems of American federalism with a perspective not found in the last 30 years. Thus, the election of Governor Carter of Georgia must clearly rank in this writer's opinion, as the most significant development for American federalism in 1976.

Equally important, perhaps, is the growing recognition by congressional leaders that money alone will not solve all our problems. This concern was reflected in proposals for "sunset" review of all government programs every few years, the successful implementation of the Congressional Budget Reform Act, and the professed willingness once again to grant the President executive branch reorganization powers.

This new congressional attitude, when combined with the new presidential perspective, offers the best potential in many years for serious reassessment of governmental programs and roles at all levels.

Among items that should be high on this new agenda are proposals such as ACIR has long recommended for welfare reform and its federalization, greater state financing or public education, and greater state participation in and oversight of local government activity.

Additional critical agenda items for which groundwork was laid in 1976 are improved management, coordination, and direction of federal grant programs, including more effective leadership and direction by the President and his staff; better means of coping with balkanized

local governments' inability to deal with problems spilling inexorably over artificial political boundaries, and development of a coordinated national fiscal policy to deal not only with cyclical economic problems, but to recognize the interrelationships of all government spending on that economy. This latter problem is exacerbated by the continuing puzzlement about a new economic phenomenon—simultaneous high unemployment and inflation. None of the traditional, even opposing, economic theories seem to give us the right answers to this new phenomenon. Whatever the answer, it will dramatically affect our federal system for some time to come.

Some basic dysfunctions in American federal system probably defy solutions through the normal political processes. For this reason, ACIR last year endorsed the proposal by the National Academy of Public Administration to create a top-drawer national commission on American federalism, charged with the solemn responsibility to look at the processes of government, not programs or organizations, in all three branches, executive, legislative, and judicial, and at all three levels—federal, state and local. Such a long-term look at our system 200 years after its founding perhaps could give us some new guidelines as we grapple with governmental problems and complications which size and our complex modern society have thrust upon us.

A handwritten signature in cursive script that reads "Robert E. Merriam".

Robert E. Merriam  
Chairman

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# Washington Watch

## Congressional Action

Much of the legislation of the 94th Congress, which adjourned in early October, was a renewal or reconstitution of existing programs, many of which directly and vitally affect state and local governments. Most authorizations were approved at present levels or with only a slight increase.

A brief summary of some of the major congressional actions with intergovernmental significance follows.

**Revenue Sharing.** General revenue sharing was renewed for 3-3/4 years at a base authorization level of \$6.65 billion for each fiscal year. A \$200 million increase could occur during fiscal years 1978-1980 if revenues from the federal income tax increase by at least that amount.

The existing distribution formula was retained, however the funding mechanism was changed from a trust fund to a guaranteed entitlement. The eight "priority" funding categories for operating and maintenance expenses at the local level were eliminated. In addition, the provision which prohibited the use of revenue sharing funds as "match" for federal funds was deleted.

The new law also calls on ACIR to "study and evaluate the American federal fiscal system" and report its findings within three years.

**Tax Reform.** The Tax Reform Act of 1976 was passed after more than two years of extensive debate. The new law addresses a wide range of tax issues and extends the current anti-recession tax reduction.

Included in the law's provisions is language which implements two ACIR's recommendations: mandatory withholding of state income taxes for military personnel and an easing of restrictions on the states

regarding the use of the Internal Revenue Service to collect state as well as federal income taxes (piggybacking).

A third recommendation calling for a report on the effect of inflation on federal individual income tax liability, as part of the President's Economic Report, was not incorporated into the law. However, the congressional conference committee did urge the President to publish such a report voluntarily.

The conference committee also urged ACIR to study and recommend rules (if any) that should govern congressional regulation of state and local taxation of vessels, barges and other craft using navigable waterways in interstate commerce.

**Payments in Lieu of Taxes.** Legislation was enacted to provide federal payments to compensate local governments for the tax immunity of federal lands within their boundaries. The payments are based on an acreage formula for federal lands including national parks, national forests, wilderness areas, Bureau of Land Management lands, and water resource areas such as Bureau of Reclamation and Army Corps of Engineers project lands. Payments are limited by a per capita population factor and may be used for any general governmental purpose.

**Public Works Employment Act.** A major economic relief bill, the *Public Works Employment Act of 1976*, enacted during the session, authorizes \$2 billion in grants for state and local public works projects. No matching funds are required. In addition, \$1.25 billion is authorized for anti-recession grants to states and localities with unemployment rates exceeding 4.5 percent. The bill also allocates \$700 million for waste treatment facilities construction grants to be distributed to states according to a "needs" formula.

The act directs ACIR and the Congressional Budget Office to conduct a countercyclical study to determine how the federal government can most effectively stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward state and local governments. Additionally, the study, to be completed within two years, will include an analysis of the effect of the recession on state and local expenditures.

**Law Enforcement Assistance Administration.** Congress extended the LEAA program for three years at essentially the existing funding level. Provisions in the new law call for: the establishment of the state planning agency (SPA) by state statute by the end of 1978; strengthening provisions relating to the submission, approval, and funding of local plans from major localities, or combinations of units; increased judicial participation, greater attention to the funding of court-related programs and the creation of judicial planning committees; substantial new reporting and evaluation requirements for LEAA; and advisory reviews of state plans by state legislatures.

**Coastal Zone Management.** Amendments to the *Coastal Zone Management Act* were approved which will strengthen cooperative efforts of federal, state, and local governments to manage and control energy facility and resource development in coastal zone areas. The amendments also are designed to encourage oil and natural gas production in coastal zones.

The amendments provide for \$400 million in grants and \$800 million in loans to state, county, and city governments for both public facilities and public services generated by the impact of offshore drilling. Among provisions are new requirements for state coastal zone management programs. Under the

legislation, state planning efforts must consider beach and public coastal access, energy facility sitings, and shoreline erosion. The state coastal zone management agency must notify local governments of any decision conflicting with local zoning policies and provide those localities a 30-day comment period.

**Bankruptcy Act.** The first change in municipal bankruptcy laws in 30 years was enacted early in 1976. The revisions to Chapter IX of the Bankruptcy Act are in keeping with ACIR recommendations in the field. In its 1973 report, *City Financial Emergencies*, ACIR recommended that the law be updated to make it "more accessible to those who need to make use of it and more responsive to contemporary needs."

As amended, the law outlines a procedure by which a financially distressed municipality may seek the protection of a federal district court while it negotiates a plan of adjustment and settlement of its debts with its creditors. Additionally, the law prohibits creditors from suing to collect payments while a city is developing a debt adjustment plan, and reduces the requirement of creditor consent at the time of confirmation of the debt adjustment plan from two thirds of the total creditors to two thirds of those creditors who vote. The law also requires plan approval by a numerical majority of the creditors, as grouped by type of claim, and removes the requirement for creditor approval prior to filing for bankruptcy.

**Mid-decade Census.** Legislation was enacted calling for the Census Bureau to take a population count every five years, beginning in 1985. The mid-decade census, like the existing decennial census, will study population characteristics such as the number of poor, aged, and disabled. The Bureau will make an-

nual updates to the extent feasible.

The bill also codifies OMB Circular A-46 which requires federal agencies to use the most recent population data available in allocating federal funds or determining eligibility for programs. However, mid-decade census data will not be utilized in reapportioning congressional districts.

**Federal Aid Highways Act.** President Ford signed the *Federal Aid Highway Act of 1976* in May. The act is a two year extension of highway programs and the Highway Trust Fund which provides \$7.9 billion per year in fiscal years 1977 and 1978.

Previous "primary," "priority primary," and "urban extension of primary systems" categories were combined into one, funded at \$1.35 billion annually. Urban systems were financed at \$800 million per year; and secondary systems were continued at \$400 million annually. A new safer roads program was authorized at \$200 million annually and will be allocated according to a population formula. Priority will be given to low cost improvements with significant safety benefits.

Under the new *Federal Aid Highway Act*, funds can now be withdrawn from interstate projects and used for more locally-appropriate projects. Substitutions were previously limited to transit projects only.

Authorizations for bikeways were increased to \$45 million each year for two years. Bridge replacement was provided \$180 million annually, and rail crossing funds increased to \$125 million each year. Construction was redefined to include resurfacing, rehabilitation, and restoration.

**Airport and Airway Development.** Amendments extending *Airport and Airway Development Act* programs through fiscal year 1980 were enacted in July. Amendments redefined master planning to in-

clude planning for potential use and development of land surrounding actual and potential airport sites. Airport planning grants were re-authorized, and the federal share increased. A new demonstration program is provided under which four states will receive grants to administer federal grants for general aviation airports.

Airport development grants are to be distributed by formula based on number of annual passenger enplanements at airports. Grants are at 90 percent federal match to airports enplaning less than one-fourth of one percent of total passengers enplaned each year, and at 75 percent federal match to all other airports. The 90 percent match decreases to 80 percent in fiscal years 1979 and 1980.

Applications may contain both single and multi-year projects, all of which would begin in the fiscal year for which the application is approved. Terminal development for air carrier airports is made eligible for funding at 50 percent federal match, provided projects meet criteria including safety and use of terminal facilities. Funds for airport development can be used for purchase of snow removal equipment, noise diminishing facilities and for acquisition of land to insure its use for purposes compatible with airport noise levels.

**Solid Waste Management.** *The Resource Conservation and Recovery Act*, amending the *Solid Waste Disposal Act*, was enacted during the final days of the session. The new law provides for a planning process similar to that of the program set up by Section 208 of the *Federal Water Pollution Control Act* and encourages the designation of 208 agencies and regional bodies as planning units for solid waste management where appropriate. State and local planning and implementation grants are authorized to begin in fiscal year 1978.

Within the next few months, the Environmental Protection Agency (EPA) must publish guidelines for

the identification of solid waste planning areas. Regulations are to be developed in cooperation with federal, state and local officials. Six months after the guidelines are issued, governors, in consultation with locally elected officials, are to establish planning regions and identify the administering agencies. Existing local or regional 208 agencies are to be utilized to the extent possible.

One hundred percent federal funding will be available to those agencies with primary planning responsibilities.

#### **Economic Development Act.**

Programs of the Economic Development Administration (EDA) have been extended through Fiscal Year 1979. Included was a reauthorization of the EDA Title X "Job Opportunities Program," triggered by national unemployment exceeding seven percent. \$81.3 million is authorized per quarter for Title X, and, if fully funded, could provide 65,000 supplemental public works jobs annually.

Amendments to Title II of EDA provide new interest-free business development loans to redevelopment areas. Population requirements for such area designation have been lowered from 250,000 to 25,000. Amendments also require state plans to be developed in cooperation with substate districts and cities and to be consistent with local and regional plans to the extent possible.

**CETA—Title VI.** The CETA Title VI emergency jobs program was amended and renewed through fiscal year 1977. The extension bill authorized spending of such "sums as necessary." Through continuing resolution, Congress authorized CETA Title VI at present spending levels through March 1977, or until Congress passes a supplemental appropriation. This action continues support for 260,000 public service jobs across the country.

Amendments to Title VI include:

increasing allowable administrative costs from 10 to 15 percent of grant funds; permitting the transfer of Title VI jobholders to CETA Title II jobs in order to prevent layoffs; allowing prime sponsors to give preference to hiring public safety and health personnel; and authorizing CETA employees to work on weatherization projects for housing for the poor.

#### **Emergency Medical Services.**

Congress adopted a three year extension of the Emergency Medical Services (EMS) program and funded the program at existing spending levels by continuing resolution through March 1977. Early next session, Congress must pass a supplemental appropriation for EMS to expand the program as provided by the amendments. Provisions for emergency medical training grants and for a special burn injury program are included in the amendments.

Amendments also provide for second generation planning grants for the expansion and improvement of existing plans and for improving effectiveness of services to rural areas. Further, new research grants aimed at identifying and applying the results of research to aid rural areas with emergency medical services delivery are also included.

HEW will continue to provide technical assistance to applicants from rural areas in preparing applications and carrying out projects.

#### **Surplus Property Program.**

Congress amended the *Federal Property and Administrative Services Act* to provide a new GSA-administered system for distributing federal surplus personal property to public and non-profit agencies. The amendments consolidate approximately 30 existing federal surplus property distributing programs into one state-based system administered at the federal level by the GSA. The new program will take effect in October 1977. During

the next year, state legislatures will be developing each state's distribution plans.

**Outlook for 1977.** Several factors will influence the course of the legislative agenda during the 95th Congress. First, for the first time in eight years, the incoming Congress and Administration are of the same party. In addition, new leadership will direct the business of both the Senate and the House. A major reorganization of the Senate committee structure likely will be implemented. And, the Congress is expected to renew presidential authority to reorganize executive agencies. The impact of these factors on major intergovernmental legislation will be of particular interest.

In addition to those bills which were enacted in 1976, numerous other intergovernmentally-significant bills were considered and will likely be reintroduced during the 95th Congress.

Major carry-over legislation of intergovernmental significance includes:

- Lobby Disclosure Law
- Voter Registration by Mail
- No-Fault Auto Insurance
- Overhaul of Federal Banking Laws
- Clean Air Amendments
- Water Pollution
- Medicare/Medicaid Revision
- Criminal Code Revision
- Food Stamp Reform
- Intergovernmental Coordination Act
- Government Economy and Spending Reform
- Rural Mass Transit Assistance
- Allied Services
- Federal Program Information Act

Other important intergovernmental matters which may appear on the congressional agenda again next year include extension of the *Pension Reform Act of 1975* to cover public employee pension plans.

new efforts to extend collective bargaining laws to cover municipal workers, and provisions to require greater disclosure of the fiscal conditions of the issuers of municipal bonds.

Congress also will be faced with an unusually large number of major federal aid programs up for renewal in 1977. Each of the following has a significant enough impact on state and local governments to be of priority concern in a normal legislative year: Housing and Community Development; the Comprehensive Employment and Training Act; Medicaid; Primary and Secondary Education Act; the food stamp program, health services; and the Juvenile Justice and Delinquency Prevention Act.

#### Commission Reports

Reports of several commissions and other study groups containing recommendations with intergovernmental significance were released during 1976, including two reports on growth and development policy, and a look at the success of desegregation.

**Growth and Development.** Primary among the federal reports in this area was the biennial Report on National Growth and Development, which analyzed existing national growth patterns and trends and examined broad policy alternatives in several areas.

The report dealt with a broad range of concerns including the changing context of availability of capital for future growth needs, the shifting patterns of growth, family needs and resources, fiscal trends in government, growth vs. environmental issues, housing policy, and transportation systems.

It made three general and two specific recommendations to improve the collection of information for the next growth report:

Under the general supervision of the Domestic Council, an organized federal research program should assess the effects of federal actions

on states and communities;

A uniform public participation act should be passed to help modify and standardize all legislative requirements for citizen involvement; and

A designated element of the executive branch, under the auspices of the Domestic Council, should accomplish a rationalization of federal planning assistance programs and requirements across department and agency lines.

The report also recommended that work on the 1978 report begin at once and that a series of public seminars be held to solicit views on national growth issues and policy alternatives.

The growth report is required by Title VII, Section 703(a) of the *Housing and Urban Development Act of 1970*.

The Advisory Committee on National Growth Policy Processes made a series of recommendations to the Congress concerning the regional impacts of national policy. The Committee recommended that the Advisory Commission on Intergovernmental Relations be strengthened and work closely with a proposed National Growth and Development Commission and an expanded Council of Economic Advisors staff in the executive office of the President.

It also recommended establishment of regional centers to identify and consider regional problems requiring joint exercise of federal and state powers and to serve as clearinghouses for considering the impact of major federal, state, and local development decisions on the regions.

**Civil Rights.** Desegregation works was the primary conclusion of a report issued in 1976 by the U.S. Commission on Civil Rights.

In a report entitled *Fulfilling the Letter and the Spirit of the Law—Desegregation of the Nation's Public Schools*, the Commission found that 82 percent of the school districts which desegregated did so without serious disruption. In addition,

it said, statistics indicate that there are no significant differences between the loss of white students in districts desegregating under court and administrative pressures and in all districts throughout the country.

Superintendents in districts which have desegregated in the last 10 years report that parents (white and minority) generally support desegregation and that there has been a dramatic positive change in the attitudes of white parents, following desegregation.

The report's findings are based on a series of hearings and open meetings, a mail survey of respondents in 1,291 districts, and 900 in-depth interviews.

The Commission also made a series of recommendations to further the progress of desegregation in the schools. It urged that:

Congress rescind its prohibition against the use of federal financial assistance for student transportation for desegregation;

each state receiving federal housing and community development grants be required to establish a metropolitan agency with authority to plan and implement a program for metropolitan housing development, including provision of adequate, moderate- and low-income housing throughout the metropolitan area and various services to assist minority families secure housing outside central cities;

a special tax incentive be granted to families who select housing in areas where residents are predominantly of another race or ethnic group; and

HUD assign highest priority to the enforcement of fair housing laws, including an expanded Title VIII compliance program to require development of affirmative housing opportunities plans. Such a program would provide for review and revision of local zoning ordinances, building codes, land use policies, real estate practices, and rental policies that prohibit or discourage housing opportunities for minorities.

# State/Local Watch

Innovative state legislation which has, in the past, earned the title "laboratories of democracy" for state governments was curtailed in 1976, due primarily to fiscal restraint resulting from a tight economy and the political constraints inherent in an election year.

As in previous years, the debate over the proper role of each level of government in many different policy areas continued without resolution. In some areas, particularly public sector labor relations, strip mining, land use, and no fault automobile insurance, the states are still the "laboratories."

Yet, many state actions are taken in response to federal requirements. State standards on safe drinking water, regulation of the application and use of pesticides, statewide coastline planning, and broad-range housing programs are examples of state actions taken in 1976 in response to federal laws or regulations.

Each year the Advisory Commission on Intergovernmental Relations prepares *State Actions*, a summary of significant state constitutional, legislative, and executive actions of the previous year. *State Actions in 1976*, which will be available in February, examines 10 subject areas highly intergovernmental in nature. Highlights of actions in these areas follow.

**Fiscal Actions.** In 1976, 17 states increased their tax revenues from one or more of the major state levies. The largest single source of new funds will be the gross personal income tax enacted in **New Jersey**. Elsewhere, general sales taxes were most frequently tapped—rates of these taxes were increased in five states. Personal income tax rates were raised in three states. One state raised its corporate income tax rates, and eight states increased either their excise tax rates on motor fuels, alcoholic beverages, or tobacco.

Some of the increases realized in state-level taxes will be partially offset by reduction in other taxes. Fifteen states legislated reductions in one or more major tax sources. **Utah** reduced its personal income

tax; seven states reduced their personal and corporate income tax revenues by creating, expanding, or increasing standard deductions and personal exemptions. Four states reduced their sales tax revenues by either rate reductions on certain transactions or provision of additional specific exemptions from the general sales tax. And in order to offset the effects of inflation, at least 10 states in 1976 increased inheritance tax exemptions for all or certain categories of heirs.

**State Government Modernization.** In 1976, only one state—**Louisiana**—went through a complete state government reorganization. The method for determining the salaries of state officials was changed in four states—**Alaska, Idaho, and Maryland** created pay commissions, and **Arkansas** removed salaries from the state constitution to allow them to be set by statute. In two states—**Arkansas and Hawaii**—the voters approved the convening of a constitution revision convention, while **Georgia** voters approved a rewritten, modernized state constitution.

Complementary to structural modernization is an increased interest in assuring that state government programs are properly evaluated and held accountable. Thus, legislatures have been moving to strengthen their role in overseeing the executive branch.

In 1976, **Oregon** voters approved a constitutional amendment which allows the legislature to call itself into special session, independent of the governor. The power of the legislature to confirm gubernatorial appointments was strengthened in **Arizona and California**. **Colorado** and **West Virginia** became the 23rd and 24th states to adopt legislation establishing procedures for the legislatures to overturn state administrative agency regulations which run contrary to the intent of the law being administered.

A popular, new word in 1976 was "sunset." This pioneering concept requires legislatures to systematically review the operation and effectiveness of state agencies. Lacking positive action by the legislature,

the agency automatically goes out of business. Prior to 1976, there were no "sunset" laws; now there are enactments in four states: **Alabama, Colorado, Florida, and Louisiana**.

**Local Government Reform.** The 1976 legislative sessions saw approval of about the same number of local government reforms as in 1974 and 1975. Home rule powers were extended to **Idaho** municipalities. **Arkansas, Georgia, and Ohio** enacted statutes broadening local governments' discretionary powers to consolidate services. **Missouri** passed a new law allowing cities to consolidate. Local governments were granted wider latitude in determining their own structure by the **Colorado, Maine, Mississippi, and South Dakota** legislatures.

In 1976, three city-county consolidations were proposed—all in **Montana**—and two were adopted. However, the courts nullified another consolidation approved in 1975 (**Las Vegas and Clark County, Nevada**).

**Environment v. Growth.** An issue which has been debated consistently over the past decade has been how to protect the Nation's environment, scenic areas, and scarce resources without stifling the economic growth which is so often associated with the depletion of these national assets. The intergovernmental relationships in any effort to reconcile these sometimes conflicting aims are crucial: national, state, and local actions may often conflict.

While federal strip mining reclamation measures failed once again this year, two states—**Ohio** and **West Virginia**—enacted legislation in 1976 to strengthen their statutes designed to assure that mined lands will be reclaimed.

In the area of economic development and growth, **Massachusetts** in 1976, adopted a pair of far-reaching laws designed to revitalize depressed areas and create jobs. In addition, five states—**Arkansas, Colorado, Hawaii, Illinois, and Maryland**—passed bills which give greater authority to local governments to create development authorities or development districts



to encourage revitalization of older areas and to attract business and industry.

Two states enacted comprehensive land use planning measures. **California's** coastal preservation is the most comprehensive state action taken to date in response to the federal coastal zone management law. **Minnesota** adopted a land use planning law for the Twin Cities area which is significant for its intergovernmental system of planning.

**Energy.** Continuing state attention to the problems of conserving energy and planning for future energy needs was signified by the adoption of laws to create state bodies or expand the powers of existing energy planning entities in **Colorado, Georgia, Minnesota, New York, Ohio, Pennsylvania, Washington, and Wisconsin.**

Realizing that mere conservation of fossil fuels is not enough, the states have been moving to encourage the conversion to alternative energy sources. Legislation requiring state and local governments to consider conservation measures and/or alternative energy sources when constructing new government buildings was adopted by **California, Massachusetts, and Minnesota.**

The most popular type of energy policy activity in 1976 was the adoption of tax breaks for the installation of various types of alternative energy equipment in homes and businesses. Nine states adopted such incentives.

**Social Services.** Despite budgetary restraints, new programs to improve the quality of life were proposed, considered, and enacted in many states—programs running the gamut from protecting the rights of the mentally ill to providing state money or guarantees to assure that low- and moderate-income families and senior citizens can get adequate housing.

**Alaska, Florida, Georgia, and Hawaii** enacted provisions to broaden their state programs aimed at providing housing to those who need it but cannot afford it and to plan for future housing needs.

Four states—**Hawaii, Nebraska,**

**Pennsylvania, and Wisconsin**—adopted legislation to guarantee due process rights to the mentally ill. **Massachusetts** and **Ohio** passed laws to permit the creation of health maintenance organizations. And two states—**Minnesota** and **Oklahoma**—created new state departments of transportation, while **Delaware** strengthened its existing DOT.

**Consumer Protection.** The visibility of and citizen demand for consumer protection legislation continued to grow in 1976.

In the last five years, most states have adopted comprehensive statutes regulating landlord-tenant relationships. In 1976, most of the legislative activity in this area was directed toward amending existing laws to strengthen them or to bring new provisions (e.g., stricter regulation of security deposits) under them. **Alaska, Delaware, Georgia, Hawaii, and New York** took such actions in 1976.

Three states—**Hawaii, Ohio, and Pennsylvania**—adopted laws designed to strengthen the power of the state to enforce consumer protection laws.

**Alaska, Delaware, and Washington** passed stricter laws regulating the practices of utility companies, and **Alaska, Arizona, and Michigan** moved to regulate the insurance business.

**Equal Rights.** There were far fewer enactments dealing with women's rights in 1976 than in the few previous years. No state approved the proposed Equal Rights Amendment to the U.S. Constitution; the ERA is still four states short of ratification. **Massachusetts** voters approved an equal rights amendment to the state constitution, and **Colorado** voters defeated a referendum measure which would have repealed the state ERA.

The greatest legislative activity to assure equal rights in 1976 dealt with prohibiting discrimination against the handicapped in employment or housing. **Hawaii, Kentucky, Michigan, Missouri, Ohio, and Wisconsin** approved such laws. Legislation requiring that public buildings, sidewalks, or curbs be

made more accessible to those in wheelchairs was enacted in **Alaska, Delaware, Pennsylvania, and Wisconsin.** And two states—**Hawaii** and **Indiana**—have new laws giving preference to the purchase of state and local government goods and services from the handicapped.

**Criminal Justice.** During 1976, five states adopted new laws which will restructure their courts into a more unified system—**Colorado, Georgia, Kansas, Missouri, and West Virginia.** Seven states—**California, Connecticut, Florida, Maryland, New York, Vermont, and Wyoming**—enacted new standards or procedures regarding the selection or removal of judges on a merit basis.

The states' concern with their often antiquated, ineffective corrections systems continued. In 1976, **Maine, New Jersey, and Rhode Island** restructured their state departments of corrections. **Alabama** enacted a law to allow prisoners to participate in work release programs, and **Colorado** adopted a new statute which authorized the establishment of community-based corrections facilities and programs.

**Government Accountability.** In the past four years state governments have adopted or strengthened an array of measures intended to make state and local government more accountable to the people. Beginning with the overwhelming approval of citizen initiatives in **Colorado** and **Washington** in 1972, every state except **New Hampshire** has taken significant action to deal with such accountability issues as campaign financing, financial disclosure, open meetings, and lobbying disclosure.

With passage of comprehensive open meetings legislation in **New York** and **Rhode Island** in 1976, all 50 states now have open meetings laws that apply to state and local government. Thirty-three of these laws have been enacted or strengthened in the last four years. Thirty-seven now require advance public notice of meetings; 32 require minutes; and 34 provide sanctions against officials who violate the law.

# Restraint and Reappraisal: Federalism in 1976

By Carol S. Weissert

1976 was a year of restraint and reappraisal rather than venturesome policy making.

Highlighted by the presidential election and a continuation of 1975's fiscal squeeze, the Nation's bicentennial year saw more reevaluating of existing programs and a reluctance to pass new legislation; an unprecedented level of interest in legislative oversight at the federal and state levels; and a heightened awareness of economic problems in the Northeast and Midwest regions of the country that led to some new initiatives through regional organizations.

The Nation's economic conditions were the major determinants of decisions at all levels of government. The federal government used its economic leverage to provide some relief to recession-torn states and cities through countercyclical and public works programs; states raised taxes or implemented program and expenditure cutbacks in attempts to ward off upcoming revenue shortfalls; localities looked toward new and diversified taxes on income, sales, and gasoline to relieve the heavy burden on property owners.

Presidential candidates of both major parties emphasized economic issues in their campaigns—primarily unemployment, inflation, spending programs, tax reforms, and budget deficits. While such issues as welfare reform, Medicaid reform, federal aid distribution and administration, and help for the Nation's cities were not highly contested presidential campaign issues, they came to the surface again at year-end as interest groups lobbied a new administration beginning to set its program priorities for 1977.

Another offshoot of the economic situation was its disproportionate effect on the Northeastern and Midwestern sections of the country. These areas, already burdened with high energy and welfare costs, found added unemployment and related cost and revenue impacts a fiscal load too heavy to bear alone. Armed with research on the differential impact of federal aid, procurement policies, and military installation location, these regions urged the Congress and the President to redress what they believe to be inequitable distribution of federal funds and policies that further the economic deterioration of their states.

The year's two most dominant features, the presidential campaign and continued concern about economic stability, helped to generate these emerging trends:

- Considerable restraint and caution were exercised concerning new spending. Very few new or innovative programs were passed at either the federal or state levels.
- Complementary to this cautiousness was an increased willingness, particularly on the part of state and federal legislatures, to improve fiscal responsibility and accountability through new approaches to program oversight and broader involvement in fiscal decision making.
- There was a heightened awareness of multi-state regional problems and more attempts to deal with them through regional organizations, several of which were formed in 1976 specifically to confront these problems.
- Although urban problems were somewhat obscured in broader domestic issues discussed during the presidential campaign, toward the end of the year attention was focused on means to aid the Nation's cities. There appeared to be some shifting of emphasis away from sending more federal money and more towards reordering existing federal aid programs, improving local government capabilities to raise money and utilize current resources, and searching for workable solutions to aggravated metropolitan and political balkanization problems.

In this article, each of these trends is probed.

## Fiscal Restraint

At both the federal and state levels in 1976, the realities of a depressed economy, buttressed by an

## “The Second Session of the 94th Congress did not promise or deliver innovation—or new spending programs.”

electorate which was clearly not supporting new and expensive programs, produced caution in looking at spending proposals and more careful re-evaluation of existing programs.

President Ford keynoted this need for fiscal restraint in his 1976 State of the Union message: “In all that we do, we must be more honest with the American people, promising them no more than we can deliver and delivering all that we promise.”

The Second Session of the 94th Congress did not promise or deliver innovation—or new spending programs. The only two major programs renewed were not altered in program design or allocation level. What innovation there was came in the form of legislation designed to deal with economic conditions. Most notable among the enactments was a new program of countercyclical aid to state and local governments.

**Countercyclical Aid.** The countercyclical aid legislation was actually one section of the *Public Works Employment Act of 1976* (PL 94-369), a law that also provides \$2 billion for emergency support for public works projects and \$700 million for waste treatment programs. The countercyclical anti-recession aid for state and local governments was authorized at \$1.25 billion for five quarters beginning in July 1976, with allocations based on unemployment rates for the first three months of last year.

Title II of the law, entitled State and Local Government Grants, provides emergency support grants to state and local governments with unemployment rates exceeding 4.5 percent for a calendar quarter.

One-third of the funds go to states; two-thirds to local governments according to a formula which relates unemployment rates to each prospective recipient's Fiscal Year 1976 general revenue sharing allocation.

The program is administered by the Office of Revenue Sharing and may be used for operating expenses of state and local governments. Payments for the first two quarters were mailed in mid-November.

In the debate on this legislation, proponents argued that countercyclical aid is necessary to help stabilize state-local budgets and to prevent them from having to take steps, such as layoffs, hiring freezes, and capital project deferrals, which might in turn further aggravate the recession.

The program, they said, also has the advantage of giving the money to those who need it (those governments with high unemployment) and providing the funds quickly without undue red tape.

Arguments of opponents were primarily along the lines that state and local governments will waste the money or spend it in ways that create relatively few jobs and that such grants tend to insulate state and local governments from the “fiscal discipline” imposed by falling revenues.

The act also directs ACIR and the Congressional Budget Office to conduct a study of countercyclical aid to determine how the federal government can most effectively stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward state and local governments. The study, to be completed within two years, will also deal with stabilization during recessions.

Unemployment rates are also the basis for allocation of public works grants under Title I of the act. Seventy percent of the \$2 billion is targeted for areas where unemployment exceeds the national rate. Thirty percent goes to areas whose unemployment rates are above 6.5 percent but less than the national rate. Local governmental public works projects received the highest priority for this program. Title I monies may be used for construction, reconstruction, renovation, demolition or repair of any public facility or to match other federal or state public works programs. There is no state-local match required.

By early December, the administering agency, the Economic Development Administration, had received over 14,000 applications from state and local governments for public works projects totaling \$14 billion. The EDA awarded 1,076 grants on December 23 to 20 states, 93 counties, 750 cities, 135 school districts, 32 special purpose districts, and seven Indian tribes. There was some criticism concerning the allocation of awards. For example, National League of Cities' Executive Director Alan Beals said the announcements showed “disturbing evidence of serious disparities among the cities that cannot be traced to their not meeting the principal criterion for assistance: high unemployment.”

Title III authorizes \$700 million for Fiscal Year 1977 to states for construction of waste water treatment facilities.

A related public works bill which passed the second session of the 94th Congress was a three-year, \$4.8 billion extension of the *Public Works and Economic Development Act*, a comprehensive program established in 1965 to fund a variety of programs including grants, loans, and guarantees for public works and development facilities, efforts to help alleviate and prevent excessive unemployment, and economic development planning and regional planning commissions (Title V commissions). The law authorizes \$425 million in grants

for public works and development facilities in designated redevelopment areas and lowers the minimum population required for program eligibility from 250,000 to 25,000.

The law also directs the President to convene a White House Conference on Balanced Natural Growth and Economic Development in the fall of 1977 and to assist the states in organizing regional conferences on balanced growth and economic development.

An extension of Title VI of the Comprehensive Employment and Training Act was also authorized to provide through Fiscal Year 1977 the same number of job slots that existed on June 30, 1976.

Two other key intergovernmental programs up for renewal in 1976 were general revenue sharing and the Safe Streets Act. Both were reauthorized without fundamental changes.

**General Revenue Sharing.** Supporters of the *State and Local Fiscal Assistance Act of 1972* had hoped to see renewal of this legislation early in the 1976 session. This hope was not fulfilled. PL 94-488, the *State and Local Fiscal Assistance Amendments of 1976*, passed the Congress shortly before it adjourned in early fall and was signed by the President on October 13.

The renewal changes the funding mechanism from a trust fund to guaranteed entitlement financing and extends the program for 3-3/4 years at a base authorization level of \$6.65 billion for each fiscal year. A \$200 million increase could occur during fiscal years 1978-1980 if revenues from the federal income tax increase by a like amount.

Given the most conservative of inflation estimates, revenue sharing's purchasing power will decrease steadily below the original (1972) authorization level of \$6.5 million per year and the program is likely to decline as a percent of total aid to state and local governments.

The distribution formula in the 1976 legislation is the same as in the original law. Priority funding categories for local governments and the prohibition against using revenue sharing as a match for federal funds were eliminated.

The new law also calls on ACIR to "study and evaluate the American federal fiscal system in terms of the allocation and coordination of public resources among federal, state, and local govern-

ments." The mandate to ACIR specifies five elements: the allocation and coordination of taxing and spending authorities; state and local government organization; stabilization policies and the impact of state and local fiscal decisions on the economy; citizen participation; and the forces likely to affect the nature of the American federal system and possible adjustments to such system.

A final report, including findings, conclusions, and recommendations, must be submitted to the President and Congress not later than three years after funds are appropriated.

**The Safe Streets Act.** *The Omnibus Crime Control and Safe Streets Act* was extended for three years with authorization levels of \$880 million for Fiscal Year 1978 and \$800 million for each of the two following years. The Fiscal Year 1977 appropriation for the program was \$753 million.

The new law, although not substantially different from the previous authorization, did put into effect several recently adopted ACIR recommendations. These include:

- a strengthened mini-block grant provision, establishing a one-time grant from the state to localities (and combinations of units) of 250,000 population or more to reduce bureaucratic red tape between states and localities;
- the required establishment of a (criminal justice) state planning agency (SPA) by state statute by the end of 1978;
- advisory reviews of state plans by state legislatures;
- substantial new reporting and evaluation requirements for LEAA; and
- increased judicial participation (courts are guaranteed a minimum of three members on the state supervisory board and an "adequate share" of action program funds). The law also authorizes the establishment of judicial planning committees in each state to prepare an annual judicial plan.

Under the law, state legislatures must be permitted an advisory review of a state's comprehensive criminal justice plan before it is submitted to LEAA, but this advisory role does not constitute a veto of the plan or any of its parts.

The law calls for the creation of an office of community anti-crime assistance, authorized at \$15 million for each fiscal year. It also requires that 19.15 percent of all LEAA appropriations be expended for juvenile justice activities.

Other key federal laws enacted in 1976 include:

- Tax Reform.** A long and complicated tax reform measure was passed which extends through 1977 the anti-recession tax reduction which was enacted in 1975 and slightly expanded for 1976. The 1,000 page measure made hundreds of changes in the tax law relating to estate and gift taxes, tax shelters, business use of home, vacation homes, investment tax credits, oil and gas taxation, and

**“Supporters of the State and Local Fiscal Assistance Act of 1972 had hoped to see renewal of this legislation early in the 1976 session. This hope was not fulfilled.”**

pollution devices. Although these changes apply to many people, the bill makes no major changes for most individual taxpayers except to extend the tax reduction.

Two sections of the bill implemented ACIR recommendations by mandating the withholding of state income taxes for military personnel and through an easing of current restrictions on the states using the Internal Revenue Service to collect state as well as federal income taxes (piggy-backing).

The bill also requests the ACIR to recommend the rules (if any) that should guide congressional regulation of state and local taxation of interstate water transport (primarily barge traffic).

**Payments in Lieu of Taxes Legislation.** A bill to provide federal payments to compensate local governments for the tax immunity of federal lands within their boundaries was passed in 1976. Federal lands specified in the law include national forests, national parks, wilderness areas, Bureau of Land Management lands, and water resource lands such as Army Corps of Engineers and Bureau of Reclamation projects. Payments will be based on the amount of acreage within a county and limited by a per capita population factor.

**Mid-Decade Census.** This law calls for a population count every five years beginning in 1985. Availability of updated figures can be very important to formula allocations for federal grants which relate to factors such as population, percent of poverty, and per capita income.

Several other bills dealing with issues of significant intergovernmental impact surfaced in the 94th Congress but did not pass. Most will be introduced again in 1977 in their present or slightly revised form. These include:

**The Full Employment and Balanced Growth Act.** This bill, better known as the Humphrey-Hawkins bill, would attempt to bring unemployment down to three percent by 1980. It directs the President to submit to Congress a nationwide full employment and production program including recommendations on how to use fiscal and monetary policy, tax revision, and other tools to assure an adequate demand for labor. The bill also calls for the President to submit to the Congress each year a comprehensive proposal for reducing inflation. According to the bill's sponsors, costs of the and unemployment compensation benefits and an increase in the national output.

**The Government Economy and Spending Reform Act of 1976.** This legislation, introduced by Senator Edmund Muskie of Maine, would apply both sunset program evaluation and zero based budgeting techniques to the process of reauthorization of federal programs and agencies.

**Food Stamp Revisions.** All food commodity programs including food stamps are due to expire in 1977, thus highlighting the need for legislative

action. 1976 bills focused on cutting down the numbers of persons eligible for the program and eliminating students and strikers from the program. One proposal also called for states to pay two percent of the bonus cost of food stamps.

Welfare reform and national health insurance were key issues for public interest groups and congressional members, yet no major legislation was introduced on either subject during the year. The next session of Congress will probably consider both issues.

Early in 1976, President Ford introduced proposals for four block grants in the areas of social services, health, education and nutrition. However, these proposals were never under serious consideration during 1976.

**State-Local Fiscal Restraint.** In his 1976 state of the state message, Michigan Governor William G. Milliken summarized the feelings of many state officials when he said: "We are entering another year of hard decisions and real sacrifices. This year, as last year, we will have to deal with a depressed economy by appropriating wisely and managing well. There is no room for waste, or even for an overly generous definition of what is essential."

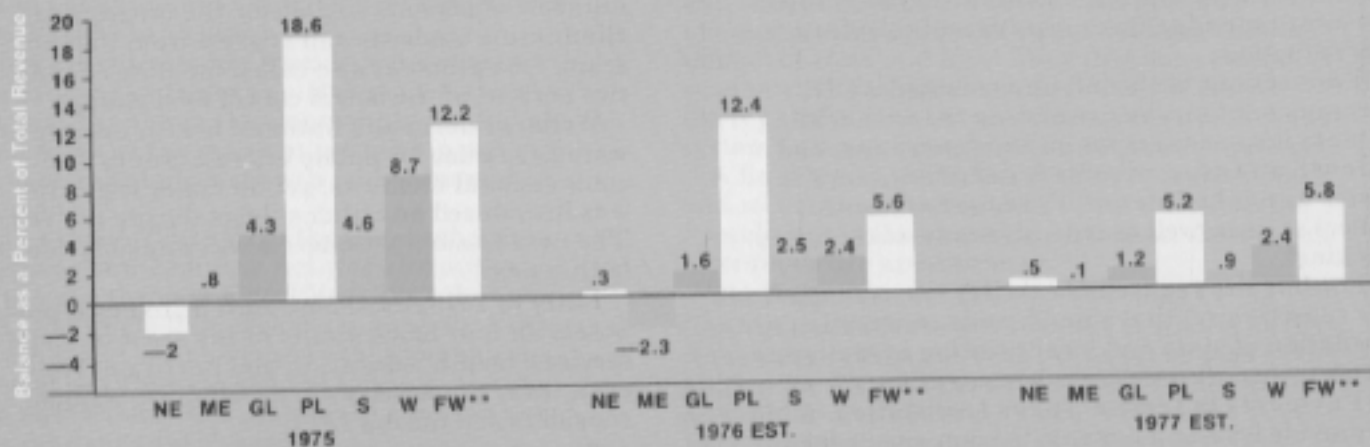
So it was in most of the states in 1976. A survey conducted by the National Association of Budget Officers (NASBO) for the National Governors' Conference showed that the governors looked at the upturn in the economy in the spring of 1976 not as a signal to "loosen the purse strings," but as an opportunity to "consolidate a balanced budget without new taxes."

During 1976, 17 states enacted new taxes or increased existing taxes. Passage of a personal income tax in New Jersey was the most dramatic tax action. New Jersey became the first state to adopt an income tax since 1971 and left only nine states without a broad based personal state income tax. At that, New Jersey acted in response to a court order.

The NASBO survey of 37 state governors found that the average increase in 1977 spending for those states was a projected seven percent over 1976 actual expenditures. This projected increase barely keeps pace with inflation and is lower than the 9.8 percent increase in 1976 over 1975 spending.

ACIR estimates of state balances in 37 states at the end of Fiscal Year 1977 show some deterioration in financial conditions of many states. The ACIR statistics, based on the NASBO survey, estimated that Vermont would end Fiscal Year 1977 with a deficit of \$2.7 million. States with estimated balances of less than \$1 million include New Hampshire, Rhode Island, Maryland, Michigan, Tennessee, Florida, Louisiana, and Oklahoma. Balances under \$5 million were estimated in Connecticut, New York, Delaware, South Carolina, Mississippi, and Arkansas.

End of Year Balance as a Percent of Total Revenue By Region: 1975, 1976 and 1977 est.\*



\*Based on 37 states with annual budgets.

\*\*States reporting are: Northeast (NE): Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut; Midwest (ME): New York, Delaware, New Jersey, Maryland; Great Lakes (GL): Michigan, Ohio, Indiana, Illinois, Wisconsin; Plains (PL): Minnesota, Iowa, Missouri, South Dakota, Nebraska, Kansas; South (S): Kentucky, Tennessee, South Carolina, Georgia, Florida, Mississippi, Louisiana, Arkansas; West (W): Oklahoma, Arizona, Montana, Idaho, Utah; Far West (FW): Nevada, California, Alaska, and Hawaii.

Source: ACIR computations based on data provided by the National Association of State Budget Officers from a survey of state fiscal conditions conducted for the National Governors' Conference.

The figures show a regional variation. Many of the Northeastern and Midwestern states have little if any "cushion." Outside of Michigan, most of the states in the Midwest and the fuel and farm states are fiscally sound (with surpluses over \$35 million). Yet, even those states have seen their surpluses decline dramatically from their 1975 year-end balances. For instance, Minnesota with an estimated 1977 surplus of \$44.6 million, had \$413.6 million in 1975; Iowa with an estimated \$62.9 million in 1977, had \$260.7 million in 1975; Missouri with \$35.6 million in 1977, had \$75.8 million in 1975; Kentucky with \$37.2 million, had \$125.2 million two years ago, and California, the leader in total revenue surpluses with \$350.2 million is down from \$673.7 million in 1975.

The accompanying table, showing the end of year balance as a percent of total revenue by region for 1975 and estimated for 1976 and 1977, further illustrates the downward trend. Only New England and the Mid-East regions could be said to be in a shaky fiscal position in 1975. By 1977, ACIR estimates show that these two areas are joined by the Great Lakes, the South, and the West, with even the two "leaders" the Plains and the Far West regions, far below their extremely solid positions in 1975.

There were actions in several states to relieve some of the pressure on local governmental finances, especially the property tax, by diversifying local revenue systems through such means as local sales and income taxes. For example, Florida authorized a one percent county sales tax; Virginia authorized an increase in local license taxes; New Mexico increased municipal sales taxes; and Missouri authorized counties to levy a cigarette tax.

There was also state action to control the taxing or spending powers of their local units of government. In a report issued in 1976, the ACIR studied 14 states and the District of Columbia which had enacted such controls since 1970. Each of these 14 states passed local levy controls and limits in conjunction with other state actions providing local revenue diversification and/or increased state financial aid.

Still another expression of fiscal cautiousness was in the number of proposed constitutional amendments on the November ballot calling for state and/or local fiscal limitations. Although voters in all six states rejected these proposals, the fact that they were on the ballot is in itself significant.

#### Fiscal Accountability

Complementary to the restraint exercised in enactment of programs, a new level of concern for fiscal accountability was displayed in the Congress and many state legislatures.

Budgetary processes, agency and program termination, and issues such as local tax lids and local governmental fiscal viability have not been perennial topics of debate in the halls of state houses or the Congress. Yet in 1976, these issues were of crucial concern to many legislators and were translated into state and federal statutes or adopted as required procedures.

The following sections discuss the primary accountability issues that were acted upon in federal, state, and local legislative arenas: legislative oversight, budgetary processes, fiscal responsibility of governments of all levels, and public sector labor relations.

**Oversight.** One method of legislative oversight

which enjoyed growing popularity in 1976 is a process known generally as "sunset."

Sunset legislation calls for a set schedule of legislative review of programs and agencies and automatic termination of those programs and agencies unless affirmative legislative action is taken to reauthorize them. Thus the "sun sets" on outdated and unnecessary agencies and programs.

The sunset approach first surfaced in the 1975 proposed Texas Constitution (which was defeated at the polls) in a provision that would have limited the lifespan of most statutory agencies to 10 years. The same idea gained acceptance in Colorado where, in 1975, Common Cause took the leadership in sponsoring a series of public hearings on the subject, working with an interim study committee of the legislature, and informing and receiving support from key legislators, the media, and top administration officials. With the foundation laid, a sunset bill had little trouble in gaining early passage in the 1976 Colorado legislature. The Colorado law calls for automatic termination of the state's regulatory agencies unless the agencies can meet certain criteria established by the Colorado legislature for continuation of those agencies. In January 1977, 13 of the state's 38 commissions, boards, and divisions will plead their cases before the legislature.

Three other states, Florida, Louisiana, and Alabama, also passed sunset bills in 1976. A bill was passed in Iowa but vetoed by the governor. Altogether, some form of sunset legislation was introduced in over 30 states.

A similar budgetary control which may be established statutorily or by executive order is zero based budgeting (ZBB). ZBB calls for the rejustification of all programs and activities in each year's budget—not just the justification of new programs and modifications of old ones. Frequently, ZBB procedures call for grouping related programs and activities together to facilitate evaluation, to expand opportunities of consolidation and simplification, and to help establish current priorities for the overall allocation of resources. The Louisiana and Alabama sunset laws contain some elements of the ZBB process as well as sunset provisions.

President-elect Carter has announced that immediately after his inauguration, he will require zero based budgeting for all federal departments, bureaus, and boards by executive order.

Federal legislation under consideration in 1976

**“The sunset proposals—at the federal and state level—have yet to be tested.”**

combined the elements of sunset and ZBB. If passed, the *Government Economy and Spending Reform Act of 1976* will provide that federal agencies and the programs they administer would terminate after four years unless the Congress expressly approved their renewal each time. Under that bill, the periodic congressional reassessment and renewal would be based upon a zero based review and evaluation.

The schedule for considering renewals would be by functional areas; that is, programs and agencies dealing in the same areas would be reviewed and in some cases terminated at the same time so that the Congress could get a complete picture of the range and effectiveness of federal programs in each broad area, thus pinpointing and potentially ending any overlapping or duplicative programs.

The bill's chief sponsor, Senator Edmund Muskie of Maine, sees the legislation as a means of improving the accountability of the Nation's legislature. "In too many cases, we in Congress have satisfied ourselves with the rhetoric of legislation, leaving the hard work of implementation—from the rule making to evaluation—to the executive branch. To put it another way, we in Congress haven't paid enough attention to how well the programs we adopted were working—at least not beyond a cursory review every few years."

The sunset proposals—at the federal and state level—have yet to be tested. Although many policymakers and citizen groups favor the concept of automatic termination, there are some skeptics. Herbert Kaufman, senior fellow at the Brookings Institution, is one. In a book entitled *Are Government Organizations Immortal*, he raises issues such as cost and possible immobilization of government as expiration deadlines near. He predicts that after some trial, the time limits would be abandoned and organizations routinely and uncritically renewed. "Things would soon revert to their present state," he said.

**Budgetary Procedures.** At the federal level, 1976 saw the implementation of new budget procedures set up by the *Congressional Budget Reform and Impoundment Act of 1974*. Although the act's procedures were in operation on a trial basis in 1975, the process was formally established October 1, 1976, with the beginning of Fiscal Year 1977. In September, the Congress adopted a spending limit of \$413 billion within which all spending programs must be fitted unless this budget limit is waived or an exempting resolution is enacted.

Congressmen and observers of the process were enthusiastic about its success in the early stages.

Representative Brock Adams of Washington, chairman of the House Budget Committee, said the budget resolutions were "right on target" with the initial budget goals set by Congress last May and demonstrated that Congress has now "gained control of the budget."

At the state level, the interest in budgetary procedures is directed primarily at increased legislative control over federal funds coming into the state.

Results of an ACIR survey published in 1976 highlighted the need for increased concern. A survey of state budget officers concerning state control of federal funds found:

about one-fifth of the 35 budget officers responding said their legislatures do not appropriate federal grant funds;

another one-third said that legislatures include only some of the grants in appropriations bills;

in those states where federal aid is appropriated—in whole or part—only one-third prohibit federal grants to be spent above the amount appropriated, and three-fourths do not establish priorities for spending within the formula grant.

The survey also asked about the types of legislative involvement in the grant application process. To the question, "What proportion of state applications for aid must be submitted for review by a legislative committee or staff agency prior to transmission to the federal agency," 28 of the 35 states responding said none. Four states said all; three said some.

Yet during the year there was considerable activity in state legislative, executive, and judicial branches to define and clarify the state legislative role in appropriating federal funds. In 1976, there were several key attorneys general's rulings, a court case, and legislative action. The ACIR and the National Conference of State Legislatures passed policy positions in support of increased legislative involvement.

The ACIR urged state legislatures to take "much more active roles in state decision-making relating to the receipt and expenditure of federal grants to the states" by including anticipated federal grants in appropriation or authorization bills; prohibiting receipt or expenditure of federal grants above the amount appropriated without the approval of the legislature or its delegate; and establishing sub-program allocations.

The National Conference of State Legislatures passed a policy position calling for "no federal domestic spending programs . . . which would enable the executive branch of state government to spend any money which passes through the state treasury without state legislative approval."

By far the most striking single event during 1976 which served to clarify the status of state legislative powers in appropriating federal funds occurred in Pennsylvania where the governor filed suit against the state treasurer and the general assembly seeking to invalidate legislation that clearly established a strong legislative role in the control of federal funds. The legislation, passed earlier in the summer, prohibited expenditure of federal grant monies coming into the state unless

**“At the state level, the interest in budgetary procedures is directed primarily at increased legislative control over federal funds coming into the state.”**

those funds were approved by the general assembly.

When the general assembly overruled the governor's veto of the measure, he took the issue to the state's commonwealth court.

The court, however, was unanimous in upholding the legislation. In its decision, the court said that any money paid into the state treasury, whether derived from state taxation or any other source, may be paid out of the state treasury only by legislative action in the form of an appropriation act or in the form of other statutory enactment of general or limited application as to particular subjects. "Such legislative action, of course, rests with the general assembly and it is within its exclusive power and authority to appropriate money out of the state treasury or to otherwise provide for disbursements therefrom."

The court rejected the arguments made by the petitioners that the law violated the Supremacy Clause of the Constitution and the contract clauses of the national and Commonwealth of Pennsylvania constitutions.

The decision has been appealed to the state's supreme court.

The Pennsylvania decision clearly validates legislative appropriation of federal funds in that state, but one related question is still unresolved. Delegation of the appropriation power is crucial in states whose legislatures meet infrequently and for short periods of time. Yet such delegation is clearly under fire. Two recent events suggest that such delegation is, in fact, unconstitutional.

The Alaska Attorney General this year rendered an opinion stating that legislative delegation of appropriating power to an interim legislative budget and audit committee was unconstitutional and infringed upon the duties of the governor as key executive of the state.

A similar ruling was handed down by the Montana Supreme Court in December 1975. It said, in part, "There can be no doubt that the legislature sitting in session, could determine whether or not to release money already appropriated from a source other than the general funds and not available for consideration by an earlier session of that same legislature. . . . But, the 1975 Montana Legislature, empowering the Finance Committee to approve budget amendments, delegated a power



properly exercisable only by either the entire legislature or an administrative officer or agency to one of its interim committees. Such a hybrid delegation does not pass constitutional muster.”

**Fiscal Responsibility.** In the still unfolding aftermath of New York City's 1975 financial crisis, the federal and state governments took several key actions during 1976 to strengthen state and local financing.

At the federal level, Congress passed a federal loan program for New York City, enacted new federal bankruptcy provisions applying to municipal default, and pursued its inquiries concerning federal regulation of state and local borrowing and pension plans. In addition, the previously mentioned countercyclical and public works bills provided assistance to help stabilize state and local budgets.

**New York City Loan Program.** In December 1975, the Congress rather hurriedly enacted the New York City Seasonal Financing Act (PL 94-143), setting up a special \$2.3 billion New York City Seasonal Financing Fund in the Department of the Treasury. Upon written request of the city or an agency authorized by state law to act on behalf of or in the interest of the city with respect to its financial affairs, the Secretary of the Treasury may make loans to the city or the financing agency. The loans are due on the last day of the city's fiscal year in which they were made with an interest of one percent per annum greater than the current average market yield on U.S. obligations.

Prior to passage of the federal legislation, the city had agreed to raise taxes and borrow from pension funds, and the state passed a three-year moratorium on maturing short-term city notes and agreed to provide additional monies to the city.

Although the federal action was warmly welcomed by the city and state, it inevitably opened the door for some additional federal involvement in city affairs.

For example, U.S. Treasury Secretary William E. Simon and the Senate Committee on Banking, Housing, and Urban Affairs, publicly expressed concern over continuation of the city's rent control and "liberal" fringe benefits for city employees. The Senate Committee, which has held and will

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continue to hold oversight hearings on the New York City financial situation, made a series of recommendations suggesting increased Treasury involvement in and oversight of New York's financial situation "to assure progress in meeting its fiscal responsibility under the seasonal financing programs."

The congressional and administrative interest was predictable, according to officials in New York who work closely with the loan program.

Felix G. Rohatyn, chairman of the Municipal Assistance Corporation, said that "any time somebody lends money to somebody else, it implies a certain degree of involvement. It automatically means a new type of relationship and one that involves a certain amount of intrusion."

As the latest chapter in the New York story, a court ruled in November 1976 that the state's moratorium on city bonds, passed a year earlier, was unconstitutional.

The state court of appeals ruled that the moratorium provision "violated the state constitution in denying faith and credit to the short-term anticipation notes of the city." It said: "The state constitution prohibits the city from contracting any indebtedness unless it pledges its faith and credit . . . the moratorium act, by depriving short-term note holders of judicial remedies for at least three years, makes meaningless the verbal pledge of faith and credit."

At the end of the year, a repayment plan had been devised but not yet accepted by the note-holders.

In late December, President-elect Carter, following a meeting with New York City Mayor Abraham Beame and Governor Hugh Carey; pledged to work to keep New York City out of bankruptcy, to assure that all its borrowing needs are met in the future, and to review systematically the actions he as President could take to help the City overcome its budget deficit in 1977.

President-elect Carter told the New York officials that "bankruptcy is not an option for New York City." He also asked his designated Secretary of the Treasury, W. Michael Blumenthal, to review such options as the continuation of the existing federal loan program, the creation of new loan guarantees, or the establishment of an urban development bank, an idea advanced by the U.S. Conference of Mayors, several congressmen, and Northeastern governors.

**Bankruptcy Laws.** Legislation to revise the Municipal Section (Chapter IX) of the federal bankruptcy laws was passed by the Congress and signed by President Ford in April.

The law outlines the procedure by which a financially distressed municipality may seek the protection of a federal district court while it negotiates a plan of adjustment and settlement of its debts with its creditors.

The law:

- removes the requirement for creditor approval prior to filing of bankruptcy;
- prohibits creditors from suing to collect payments while a city is developing a debt adjustment plan; and
- reduces the current requirement of creditor consent at the time of the debt adjustment plan is confirmed from two-thirds of the total creditors to two-thirds of those creditors who vote.

The enactment closely parallels an ACIR recommendation.

**State-Local Bond Market.** Two kinds of bills to change the current state-local bond market were seriously considered in the 1976 Congress and are expected to be major issues again in 1977: the taxable bond option and full disclosure requirements for municipal securities.

Subcommittees of both the Senate and House held hearings on legislation to create federal requirements for disclosure and reporting of governmental financing as a condition of issuing bonds.

With supporters including Senator Harrison Williams of New Jersey, chairman of the Senate Securities Subcommittee, and SEC Commissioner John Evans, the issue will again be given serious consideration in 1977. Senator Williams views such legislation as "an integral part of any congressional effort to aid the Nation's cities." Evans believes that there is a need for a "uniform standard of required disclosure to which issuers and underwriters can refer."

Evans expresses no hesitation about federal involvement in what has traditionally been a state-local domain. "When state and local governments voluntarily choose to raise funds for their operations by distributing securities to the investing public across state boundaries, such activities are no longer limited to the integral operations of traditional state or local governmental functions."

Many state and local officials prefer voluntary uniform guidelines, such as those developed by the Municipal Finance Officers Association. The second edition of the guidelines and a joint MFOA, National Governors' Conference, and National Conference of State Legislatures report on state actions in the area of financial management assistance and fiscal guidance to local governments are expected in January. Several states did consider disclosure legislation during 1976 and more are expected to deal with the subject in 1977.

Legislation calling for the option of taxable subsidized municipal bonds was reported by the House Ways and Means Committee during 1976 but never reached the House floor.

Under the taxable bond option the federal government would pay some portion of the annual interest expense incurred by those state and local units that choose to issue their bonds on a taxable rather than the current tax-exempt basis.

**“During the year, many states and local governments cut back or reduced their rate of growth, in many cases by tightening up their actions on employee salaries and fringe benefits.”**

**Pension Plans.** State-local pension programs were the subject of a highly critical report issued in April by the Pension Task Force of the House Subcommittee on Labor Standards. The interim report, to be expanded into a final report by early 1977, found what it called broad deficiencies and deceptions in several state and local pension systems. The report said that public pension plans in general are not operated within accepted financial and accounting parameters established by custom and practice in the private retirement field. It also criticized the use of pension funds to finance local governmental activities.

The House Subcommittee on Labor Standards held hearings on a bill, *The Public Service Employees Retirement Income Security Act of 1976*, which would establish reporting, disclosure, and fiduciary responsibility requirements for state and local pension plans.

**State Actions.** At the state level, too, a number of legislatures took additional steps, mostly modest and piecemeal, to improve local government financial administration.

The National Conference of State Legislatures, in a survey of the 50 states, found "a broad spectrum of state guidance control and financial oversight exists to monitor the economic conditions of cities, towns, and counties."

The NCSL survey cited recent state action in these areas: uniform accounting procedures which make it easier for state auditors to detect serious or potentially serious problems; marketing and monitoring of local debt through such means as a state bank; state maintenance of bond reserves or municipal debt commissions; and regulation of municipal short-term borrowing.

**Public Sector Labor Relations.** The fiscal austerity of 1976 had a pronounced impact on the relationship between public employee unions and municipal officials. It also resulted in more public awareness of collective bargaining and spawned interest in increasing the openness of labor negotiations.

The reaction was largely attributable to two causes. One was the downturn in the economy which caused certain unemployment-related increases in local and state spending at the very time when revenues were adversely affected. A second

factor was expanding awareness of and concern about the size of the public sector. Although the public sector has been growing steadily over the past few decades, in 1976 publication of more and more figures on this growth highlighted the issue and strengthened the resolve of citizen groups and politicians alike to look for places to cut spending.

ACIR had released its own figures in 1975 which documented a substantial growth in the public sector. Using government expenditures as a percent of gross national product, the total public sector has grown from just under 10 percent of GNP in 1929 to slightly over 34 percent (estimated) in 1976. Yet, most of this growth occurred in the 1930s and 1940s. Since 1969, the total public sector has increased less than four percent.

The largest increase in the state-local sector has come in the number of public employees. In the aggregate, the percentage change was 213 percent from 1949 to 1976. When figured per 1,000 population, the change was 117.6 percent. During the same period, there was an actual decline in number of employees per 1,000 population at the federal level.

Emile Sunley, in the Brookings Institution report entitled *Setting National Priorities: The Next 10 Years*, asserts that 1975 is the turning point for this growth, that during the next 10 years "many of the factors attributable to the expansion of the state-local fiscal sector will not grow as rapidly and as a result the financial pressure on state and local governments may ease."

During the year, many states and local governments cut back or reduced their rate of growth, in many cases by tightening up their actions on employee salaries and fringe benefits.

At the federal level, too, there was a curb on spending for employees. Civil service pay increases have been limited to about five percent in both 1975 and 1976. These increases were well below the amounts recommended by the President's Advisory Committee on Federal Pay, the Civil Service Commission, and the Office of Management and Budget, all of which recommended raises averaging around eight percent.

At the state level, several governors recommended no salary increases for state employees. Connecticut's Governor Ella Grasso supported legislation requesting state employees to work five extra hours (from 35 to 40 hours) per week without additional pay.

But it was at the local level in 1976 that the most dramatic confrontations between governmental officials and labor occurred. In San Francisco and New York, public employee unions were forced to settle for much less than in recent years due to the lack of local public money and the skeptical, cautious mood of the public. Public opinion was an especially important factor in the San Francisco case.

When the city's craft employees went on strike because the city supervisors cut their salaries, citizens organized volunteer crews to clean up downtown streets in place of striking street sweepers. In interview after interview, citizens voiced their views that the city should not give in to the union demands.

Even the other unions in the city failed to support the strike; indeed, four-fifths of the unionized workers in the civil service stayed on the job.

"Labor's day of running San Francisco is over," said Quentin L. Kopp, president of the board of supervisors. "What started it was New York. That scared people."

The strike was settled when both parties agreed to go along with a formula that would let a fact-finding committee decide what salaries the craftsmen should get.

Several types of responses are emerging from these confrontations between labor and management in cities. The public involvement and interest in the San Francisco strike and elsewhere, along with public concern for fiscal control in general, has led to passage of sunshine provisions applying to collective bargaining in several states. Florida was the first state to open up its bargaining to the public. Other states have followed.

While many see collective bargaining as a natural extension of openness in related public activities, others are concerned with the possible complications and delays resulting from open bargaining sessions. Sam Zagoria, Director of the Labor-Management Relations Service (LMRS) of the National League of Cities, U.S. Conference of Mayors, and the National Association of Counties, described the position of those who are less than enthusiastic about the concept when he said, "The public's right to know and to be heard are essential ingredients in the democratic process, but there is sometimes a price to be paid in fulfilling the obligation."

A survey of Florida school board members, superintendents and chief negotiators, conducted in 1975, found little opposition to open sessions. As reported in the LMRS publication, *Bargaining in Public: Help or Hindrance*, the survey found that some 68 percent of the school board members responding to the questionnaire favored retention of the law calling for collective bargaining in the sunshine. School superintendents also favored the sunshine provision and a majority said they had had no difficulties in open sessions. Only chief negotiators preferred the law be changed to permit bargaining in the shade but only by a slight majority.

#### Regional Cooperation

In 1975, the terms "sunbelt" and "frostbelt" made their way into the vocabulary of journalists,

political scientists, and politicians to describe the demographic and economic shifts from industrialized states in the Northeast and Midwest to those in the South and Southwest.

In 1976, the talk led to action on the part of state leaders in those states perceived to be on the losing end of the regional competition.

The idea for a regional coalition of governors to deal with some of the economic issues facing the Northeast was first voiced by New York's Governor Hugh Carey in his 1976 state of the state message. At that time he said, "I shall seek to form a common purpose with governors of the kindred states of our region to better coordinate our efforts in Washington, to restore economic vitality to the birthplace of industrial America. We can no longer afford to pump our revenues to other parts of our nation without a fair return."

In February, Governor Carey met with four other Northeastern governors to discuss the possibility of a regional coalition. The Coalition of Northeast Governors (CONEG) was formally created by seven governors in July. At that time, the newly formed group issued a statement saying, "As the nation has in the past recognized the development needs of various sections of the country, such as the western frontiers and the rural south, so now the nation must acknowledge a similar commitment to the older, yet still vibrant, Northeast."

The governors said they would work toward a united front in Congress for bills which would aid the Northeast. They would also undertake studies of key factors affecting industrial location, including energy supply and demand, and would develop and implement mechanisms and programs to spur development in the region by earmarking funds for industries and support services most needed, such as energy. The coalition held several meetings in 1976; one, at Saratoga in November, involved more than 100 experts and government officials who served on panels on energy, federal grant formulas, regional stabilization policies, manpower, regional development corporation, transportation and welfare reform. The governors then passed a series of policy positions on these issues.

One major recommendation of the governors envisions creation of a Regional Energy Development Corporation which would use federally guaranteed taxable bonds to finance projects to develop energy sources, especially eastern coal. With a proposed \$15 billion lending authority, the new corporation could also finance regional projects such as inter-region mass transit, transmission lines to bring cheaper hydroelectric power from Canada refineries, and a stockpile of oil for the Northeast.

Similar regional development proposals have been suggested by the New England Regional Commission and Congressman Michael Harrington

of Massachusetts.

Other recommendations of CONEG were:

- the federal government should turn back to the states three out of every four cents collected in taxes on a gallon of gasoline;
- revenue sharing and manpower funds should be administered by one agency;
- federal reimbursement for welfare costs should be increased from the present 50 percent to 75 and then 90 percent;
- limited countercyclical programs such as Title II of the *Public Works Employment Act* should be made permanent; and
- repayments of state loans from federal unemployment trust funds should be waived until unemployment falls below 4.5 percent.

The CONEG recommendations deal with issues outlined both in staff research and in reports of others who have looked into regional differences in such areas as federal aid, population shifts, loss of manufacturing jobs, and per capita income. Some of the findings on these subjects were:

**Federal aid.** In June 1976, a *National Journal* survey showed "that there is a massive flow of wealth from the Northeast and Great Lakes states to the faster-growing West and South." Although noting some key exceptions, the study "indicated a heavy flow of federal dollars away from—rather than toward—the states and regions of the Nation in the most severe economic straits."

Similar findings were revealed in an earlier Tax Foundation study which compared dollars going into the federal government to finance federal aid and dollars returned in federal aid for each state. It found that some states, including Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey and Pennsylvania, paid more than a dollar for each dollar they received in federal aid. Other "losers" in the study were several Midwestern states, including Ohio, Illinois, Indiana, and Kansas which contributed approximately \$1.40 for each \$1 received. However, New York, one of the leaders in the effort to inform national leaders of the fiscal difficulties of the Northeast, contributes only 85 cents for each dollar received, according to the study.

**Population shifts.** Between 1970 and 1975, states in the South had a 8.4 percent increase in population and Western states had a 8.7 percent increase. The Midwestern states' population increased by only 1.9 percent; the Northeast by less than one percent. In fact some states in the Northeast have lost population. New York has lost more than 100,000 in population since 1970; Pennsylvania more than 30,000.

**Manufacturing Jobs.** According to the *Empire State Report*, the Northeast is the only region which has suffered a net loss of manufacturing jobs over the past 15 years. The job loss was not new to 1976, of course. Yet indications are the

## “Acceptance of these descriptions of the plight of the Northeast and Midwest is not universal.”

trend is not slowing or reversing. Between 1970 and 1975, total non-farm employment rose 20 percent in the South, 33 percent in the Mountain contrast, non-farm employment increased only seven percent in New England, two percent in the Mid-Atlantic, and six percent in the Great Lakes states.

New York Commissioner of the Bureau of Labor Statistics, Herbert Bienstock, said in mid-October that the Northeast had added 7,000 new jobs between June 1975 and June 1976. In that same period, the South added 521,000; the North Central, 418,000; and the West 351,000.

□ **Per Capita Income.** According to ACIR statistics, regional disparities in per capita income have been greatly reduced during this century. In 1974, the per capita income of the Northeast was 116 percent of the average national average. The Southeast, historically the poorest section of the country, was 83 percent of the national average. These figures are even more startling when compared to 1929 when the Southeast was 53 and Northeast 150 percent of the national average.

Acceptance of these descriptions of the plight of the Northeast and Midwest is not universal. Some of the emerging research concludes that some of the figures are misleading, if not inaccurate. For instance, a study by the Economic Development Administration, released in November, concluded that “the recent arguments regarding the relative economic positions of the Northeast and the South are, at best, tenuous; at worst, they are severe distortions of reality.”

The EDA rebuttal included these points:

□ Although the Sunbelt did grow at a faster pace in population than did the Northern Tier states, the region's growth was somewhat skewed by the increase in one state, Florida, which had a growth rate of 22.9 percent, or over 30 percent of the increase in the entire region. When that state is excluded, the region's growth falls from nearly nine to approximately seven percent. Growth in the Northern states was 1.0 percent.

□ The relative per capita income in the Northern Industrial Tier is greater than that in the Sunbelt, even with an adjustment for cost of living differentials. In fact, the authors say, the size of the actual disparity in economic well-being indicated by comparisons of per capita income, adjusted or unadjusted, is understated because of the more unequal income distribution in the South and the far greater incidence of poverty there.

□ Migration of firms from the North to the Sunbelt has not been the major problem many make out, says the report. Over the past few years, the primary cause of declining employment in the North has been the death or closing of existing firms. In the South, the primary cause of the increasing employment has been the expansion of existing firms.

One difference in the EDA comparisons with others such as those of the *National Journal* is in the definitions of the regions. The EDA designation of “Sunbelt-South” does not include Delaware and Maryland and its “Northern Industrial Tier” omits Maine, New Hampshire, and Vermont which are included in other comparisons.

Yet much of the data and accompanying press coverage were in line with what the *New York Times* called the Northeast's “impressive case for consideration in Washington.”

The future of the Coalition of Northeast Governors is still uncertain. Several of the active governors will no longer be in office in 1977 and the full commitment of some of the others has still not been tested. Yet some feel the effort thus far has proven worthwhile.

“I don't know what will evolve,” said Felix G. Rohatyn, New York City's Municipal Assistance Corporation chairman who serves as Governor Carey's business representative to CONEG. “But surely we will have a much better, much more educated dialog on the issue, and there will be less resistance to change.”

Complementary to the governors' actions was formation of two other regional groups in the Northeast. The Northeast-Midwest Economic Advancement Coalition, made up of congressmen from 16 states from Maine to Minnesota, was formed in the fall. This group, chaired by Rep. Michael Harrington of Massachusetts has held hearings on federal aid and related economic issues and plans to look at possible further changes in federal aid formulas.

A Council of Northeast Economic Action was established in October with a grant from the federal Economic Development Administration. The Council has representatives of government, industry, labor and financial institutions in the Northeast. It hopes to provide research to back up the efforts of the CONEG, the congressional coalition, and others.

There have also been efforts in the Great Lakes region to establish a regional apparatus to stem the flow of federal resources toward the South and West. In October, members of the CONEG met with governors and their representatives from the Great Lakes region to discuss changes in federal aid formulas which would provide more money for industrial states.

The Western Governors' Conference is expected to accept a recommendation of its regional policy

management task force to set up a Western Governors' Policy Council, combining such existing regional organizations as the Federation of Rocky Mountain States, the Western Interstate Nuclear Board, and the Western Governors' Regional Energy Policy Office. Such a consolidation would strengthen the voice of the Western governors in five areas of top priority: energy resources, human resources, agriculture, natural resources, and water resources.

The Southern Growth Policies Board is spearheading an effort in that region to identify potential problems and work out reasonable solutions connected with growth and development in the Southeast.

Thus, the move toward regional efforts at problem solving is widespread and appears to be growing stronger. Whether this trend toward competitive sectionalism develops further or shifts toward a more unified effort to encourage expenditure of a larger portion of the Nation's gross national product for economic development purposes remains to be seen.

#### **A New Approach to Solving Urban Problems**

George Sternlieb, Professor at Rutgers University, reflected the view of many politicians and political scientists in 1976 when he told the Joint Economic Committee's Subcommittee on Urban Affairs in May, "For many people, the bulk of whom are voters, the American city is something they'd like to forget."

Some contended that this feeling was shared by the major candidates for the Presidency. David Broder expressed exactly this concern in a syndicated column published in August: "In three presidential and vice presidential debates, there has yet to be a single question directed specifically to the problems of the cities, and the candidates are equally reluctant to raise the subject on their own."

"The problems of the metropolitan areas—racial, social, economic, and governmental—will be there next January, awaiting whoever is President," he continued. "And they cannot be brushed aside in the four years as easily as they have been by the complicity of the opponents in this campaign."

By the end of the year, however, more attention was focusing on urban problems: the Nation's mayors called for a set of new urban priorities including a greater role in White House policy-making; congressional hearings were held on the "rebirth of the American city;" and several special committees studying the needs of urban areas offered their recommendations.

Perhaps more important than the renewed interest in problems of cities was the direction in which the solutions seemed to be heading. Mayors and congressmen alike appeared to recognize that

**“Whether this trend toward competitive sectionalism develops further or shifts toward a more unified effort to encourage expenditure of a larger portion of the Nation's gross national product for economic development purposes remains to be seen.”**

the days when more and more federal money will be available to cities may be over. Likewise, the realization seemed to be widely expressed that many urban problems result from structural and functional weaknesses in state and local governments and can best be dealt with by a concentrated and coordinated reform effort by cities, counties, states, and the federal government working together in a complementary and supportive partnership.

President-elect Carter, in a meeting with the Nation's mayors in June, expressed this view when he said that the federal government should be involved in helping cities solve their problems but that the cities must also work "to reorganize your own governments, to root out inefficiency and waste, to deal with administrative problems in a courageous way."

Some mayoral responses indicated agreement. Richard Hatcher, mayor of Gary, Indiana, said "we must draw upon our basic spirit to survive and rely upon our innate abilities to grow." New Orleans' Mayor Moon Landreau proposed that the President-elect use the moral power of the presidency to encourage regionalization of tax bases and services in the Nation's urban areas.

A list of urban priorities, drawn up at a meeting of the Nation's big city mayors soon after the election, reflected the mayors' understanding of the need for cooperation at all levels—and the limited prospects for massive new federal financial infusions. Although the priorities included two rather expensive federal programs—a call for more jobs in central cities and creation of an urban development bank to provide loans to businesses and cities for economic projects—there were also items of major concern which did not involve more federal aid.

Improved access to the White House for mayors and their staffs was given a high priority, as was development of a coherent national urban policy that would consolidate and provide cohesion for federal aid going to cities. In addition, they urged that all existing federal agencies consider the

effect of their programs on cities. The mayors pointed out that even those policies not perceived as affecting cities, such as federal tax policies, do in fact directly affect urban areas by influencing where capital investments are or are not made.

**Congressional Hearings.** "The Rebirth of the American City" was the theme of a week of hearings conducted this fall by the House Banking, Currency, and Housing Committee and organized around a book, *The Recovery of the American City*, by Paul R. Porter. Porter, the lead witness at the hearings, said that the recovery of the city "will be its regained ability to compete with its strongest suburbs as a place to live and to meet its needs from revenues of local origin, a freedom from financial dependency."

The House hearings were based on the thesis that "there are already major social and economic forces at work which can help the cities recover if they can be nudged in the right direction," said Committee Chairman Henry Reuss of Wisconsin in keynoting the session.

The 54 witnesses, who did not include elected officials or representatives of executive agencies or trade associations, discussed some of the long-standing problems of the city; namely, race, jobs, relocation, economic development, and division of governmental responsibility.

Important to any recovery, they said, were such issues as encouraging people to live near their jobs, rehabilitating older housing in cities, encouraging citizen participation, redefining the roles of federal, state, and local governments in sharing financial and operational responsibility for major programs, reforming local taxation as an aid to municipal finance, and setting priorities in allocating federal funds to cities.

ACIR Chairman Robert Merriam told the committee that meeting the needs of urban America is a job for all three levels of government. The state and local governments have the basic responsibility for meeting these needs, he said, but federal urban policies and financial assistance should facilitate the fuller exercise of these basic responsibilities and be sensitive to wide variations in state and local needs from one part of the Nation to another.

ACIR Assistant Director John Shannon testified that local fiscal conditions could greatly be assisted by a combination of equalizing state aid and federal takeover of public welfare. Since those states with the heaviest public welfare burdens are, for the most part, the very same states which must contend with the most acute central city fiscal problems, federal aid to those states might allow them to extend financial aid to their hardest pressed local governments.

**Committee Reports.** The President's Committee on Urban Development and Neighborhood Revitalization, chaired by Housing and Urban

Development Secretary Carla A. Hills, issued a report in October urging continued retooling of federal assistance by strengthening the decision-making roles of general purpose state and local governments. "The duplicative and restrictive requirements of current federal categorical programs diminish both their effectiveness in meeting local problems and the capacity of state and local government to link federal, local, and private resources in dealing with the complex problems of urban areas," the report said.

The interim report urged that more block grants be provided for state and local officials and named four areas of possible consolidation: housing assistance, urban surface transportation, health services, and education.

The Committee, composed of nine cabinet secretaries and six federal agency directors, also urged:

- a comprehensive review of present federal aid formulas to determine their impact on "declining" cities and the states in which they are located;
- a general review of federal tax policy with a view to providing greater incentives for the preservation and rehabilitation of homes and buildings;
- public and private sector initiation of new ways to increase employment opportunities for inner-city youths; and
- expansion of HUD's urban homesteading demonstration projects.

Another report on urban problems was released by the Task Force on Municipalities of the Business Roundtable (a group of leaders of over 150 major corporations) which urged its members to take on responsibilities for the "qualitative improvement of the nation's cities."

The report said a "broader, deeper" commitment of involvement from the corporate community was needed by inner city, suburban, and rural communities. Such involvement should include helping cities improve their management capabilities and lobbying for urban aid, especially welfare reform and revenue sharing.

#### **The Presidential Campaign**

The single most important event in 1976, of course, was the presidential election. As in past elections, personalities and events sparked most of the news coverage and the issues—particularly intergovernmental issues—were sometimes obscured though they did receive somewhat more

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attention in the primary campaigns. Presidential and vice presidential debates—the first since 1960—served to highlight some issues, although, understandably, economic matters and foreign policy got most of the attention.

Some of the key domestic issues discussed during the campaign, such as management of the economy and welfare reform, are highly intergovernmental and were so recognized during the campaign. For instance, welfare reform was couched in terms of relieving a burden on cities and states. National economic actions were seen as contributing to the plight of the cities. Federal job programs were discussed in terms of efforts to finance public works projects of the states and cities.

Thus, although these intergovernmental issues did not always rate newspaper headlines, the candidates' understanding of, and concern for, the intergovernmental impact of such programs was an important first step in strengthening the federal system.

The fact that 1976 was a presidential election year was important in the evolution of our national and state-local political parties, to an understanding of the intergovernmental significance of several key domestic issues, to campaign financing initiatives at federal and state levels, and to possibilities of reorganization of the office of the chief executive.

**Political Parties.** Although highly intergovernmental in nature, the evolution of political parties has often been ignored in evaluations of the federal system. Yet a significant intergovernmental change within the structure of the two major parties has been evident in the 1970s and was reinforced by several actions in 1976.

Traditionally, the two parties' organization has paralleled the "federal" approach to government; that is, state and local parties have been the building blocks of the national party, from selecting delegates to national conventions, to serving as communication links and coalition building forces necessary to the development of a national consensus on difficult policy questions.

Yet in recent years, the national party has increasingly dominated the party structure, which has perhaps contributed to a relative withering of many state and local party organizations. Actions in 1976 which contributed to furthering this domination were: increased dictation by the national parties (and the courts) of state and local procedures for nominating delegates to the national convention and conducting primary elections and caucuses; the serious consideration by the Congress of a national postcard registration law which would preempt an area of traditional state prerogative; the relative impotence of many state party hierarchies to influence the outcome of presidential candidate selection processes in their states; and the decrease in the budgets of state

parties during national campaigns as a result of spending limits in the new federal campaign finance law.

These factors may combine to affect the impact of the national, state, and local parties on the future pattern of intergovernmental decision making.

**Party Platforms.** One barometer of political awareness of intergovernmental issues may be the two major party platforms and their recognition of the importance of the intergovernmental component in federal policy making. This year, both in the treatment of intergovernmental issues and in their understanding of the intergovernmental impact of federal action on state and local governments, the party platforms registered improvement over previous years.

For instance, the Democratic platform on welfare reform highlighted the importance of relieving a fiscal burden on cities and states. It said, "As an interim step, and as a means of providing immediate federal fiscal relief to state and local governments, local governments should no longer be required to bear the burden of welfare costs. Further, there should be a phased reduction in the state's share of welfare costs."

Although supporting a different solution, the Republican platform was equally cognizant of state and local needs. It said that reform of the welfare system should "better coordinate federal efforts with local and state social welfare agencies and strengthen local and state administrative functions. We oppose federalizing the welfare system; local levels of government are most aware of the needs of their communities. Consideration should be given to a range of options in financing the programs to assure that state and local responsibilities are met."

Another example of intergovernmental recognition was in statements on federal aid, where the Democratic Party recognized that "an uncoordinated policy regarding eligibility requirements, audit guidelines, accounting procedures, and the like characterizes the over 800 categorical aid programs and threatens to bog down the more broadly conceived flexible block grant programs." Thus, the statement continued, "The Democratic Party is committed to cutting through this chaos and simplifying the grant process for both recipient governments and program administrators."

The Republican platform "promoted the new concept of federal block grants to localities for much greater flexibility. Under block grants, federal funds can be tailored by the states and localities to the wishes of each community."

**Campaign Law Reform.** The campaign law enacted by the Congress in 1974 had a major impact on the 1976 presidential election, primarily through its limit on individual and corporate contributions and through provision of federal



matching funds to help finance primary campaigns of presidential candidates who had demonstrated a reasonable level of national support.

In January, the U.S. Supreme Court struck down elements of that law as an unconstitutional curb on free speech while upholding other elements, including limits on spending by presidential candidates who accept public subsidies.

In addition to its impact on implementation of the federal law, the court ruling also affected state enactments based on the federal statute.

The court differentiated between contributions and expenditures. It upheld provisions of the law dealing with the former: specifically, provisions that set limits on how much individuals and political committees can contribute to a candidate, provide for the public financing of presidential primary and general election campaigns, and require the disclosure of campaign contributions of more than \$100 and campaign expenditures of more than \$10.

The court struck down the act's ceiling on independent expenditures; its limitation on candidate's expenditures from his own personal funds; and its ceiling on overall campaign expenditures.

Since several states had enacted new campaign financing laws providing for a state campaign fund for gubernatorial campaigns financed by a voluntary income tax check-off, the court's decision had an immediate effect at the state level. Following the court decision, judicial rulings in five states found state laws to be illegal and several states modified existing campaign finance laws to bring them into line with the Supreme Court ruling.

**Executive Office Reorganization.** A presidential election naturally heightens interest in executive office organization. Such interest is further augmented by election of a president who is not an incumbent and who announces his intention to make major changes in structure as well as personnel.

Three studies on the organization of the office of the presidency were released during 1976—one by ACIR. In addition, there were pressures on President-elect Carter at the end of 1976 from many quarters to increase the "access" of varied interest groups.

**“A presidential election naturally heightens interest in executive office organization.”**

ACIR's report, *Improving Federal Grants Management*, contains Commission recommendations on and background in the area of executive branch organization to improve the central management of the federal aid system and inter-governmental relations generally.

The report highlights the question of whether the current Domestic Council—Office of Management and Budget division should be retained. Currently the former is designed to assist the President in formulating domestic policy; the latter to determine how and how well objectives are achieved.

This distinction has caused problems from its establishment six years ago. While policy is supposedly left to the Domestic Council, OMB has retained considerable influence in many policy fields.

Another issue is the linking of management and budget within OMB. For although the renaming of the body (from Bureau of Budget to Office of Management and Budget) suggested a new emphasis on management, in fact, the agency is still primarily concerned with budget, with management being accorded secondary attentions at best.

Still another issue is intergovernmental liaison, management, and operation from the executive branch. The Commission stressed that the federal executive branch needs a stronger central management capacity. It called upon the President to exert vigorous and visible leadership in five central management activities, including intergovernmental liaison, government-wide grants management, budget preparation, domestic policy development, and legislative reference. The intergovernmental liaison responsibility could be lodged in a cabinet level department or an office of state and local government affairs within the executive office of the President.

Stopping short of specific recommendations, a related study, *Organizing the Presidency*, published by the Brookings Institution in the fall of 1976, looked at the role of the president as "manager."

The author, Stephen Hess, concluded that "the role of the President as manager has been distorted in theory and in recent practice, leading the President to become involved in tasks that can be performed better by others."

The presidential role as manager is ironic, according to Hess, since in attempting to increase his control over the executive branch, he "spends more and more time doing what he does badly, and presumably, has less and less time to devote to matters that only the President can handle."

A third look at management in the executive branch was made in a symposium entitled the President and Executive Management, sponsored in October by the National Academy of Public Administration. A summary of this symposium

highlights the areas where the participants felt management should be strengthened, including the Office of Management and Budget, the Civil Service Commission, and the General Services Administration.

**Interest Group Involvement.** Governors, mayors, state legislators, county officials, and representatives of the Northeastern states are among those persons representing intergovernmental constituencies who have urged improved access to presidential decision making affecting them.

"Mayors must have access to the White House if the federal-state-local system is to be made workable," said Newark Mayor Kenneth Gibson following a meeting of 100 mayors in mid-November where access was one of the key recommendations in an "urban agenda." Other representatives have expressed optimism concerning improved access to the White House since the President-elect is a former governor and thus has been on the receiving end of administrative regulations, unresponsive bureaucracies, and unproductive meetings with federal leaders and officials.

At the end of the year, some of these groups felt that indeed there might be more open communication with the Oval Office than in the past. Following a meeting with three governors, President-elect Carter pledged to seek the advice of his former colleagues and said, "there is no greater source of sound advice than the governors."

#### Courts

No intergovernmental survey of the year is complete without a look at the judicial impact on the workings of the federal system. In 1976, as usual, the impact of the courts was substantial.

At the federal level, by far the most significant intergovernmental decision during the year was *National League of Cities v. Usery*, a Supreme Court ruling which overturned provisions of federal legislation applying federal minimum wage standards to state and local government employees.

At the state level there were several cases calling for equalization of financing of public schools, which in one case led to a judicial mandate that a program providing this equalization be adequately funded.

**Fair Labor Standards.** After postponement of over a year, the U.S. Supreme Court, in June 1976, ruled in favor of the states and cities in *National League of Cities, National Governors' Conference et al. v. Usery*. The court ruled that the 1974 Fair Labor Standards Act Amendments which extended federal minimum wage and overtime pay protection to all non-supervisory state and local employees, including police and firemen, was unconstitutional.

Based on the concept of state sovereignty

guaranteed in the Tenth Amendment, the decision marked the first time the court has rejected a major piece of economic legislation by the Congress in 40 years and will limit congressional commerce clause powers as applied to state and local governments.

Justice Rehnquist, speaking for the 5-4 majority, said that Congress may not exercise its power under the Commerce Act "so as to force directly upon the states its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made."

The court also said that such assertions of power would "allow the national government to devour the essentials of state sovereignty."

The *New York Times* called the decision "a landmark ruling that strengthens state rights and limits the power of the federal government." The ruling was an apparent withdrawal from an earlier decision, *Maryland v. Wirtz* (1968), in which the court upheld the constitutionality of applying federal minimum wage standards to state-operated schools and hospitals.

Yet it must be noted that the decision is not totally conclusive on this issue. The court did not address the tangential issue of federal standards which are a prerequisite for receiving federal funds.

Other 1976 Supreme Court decisions with major intergovernmental significance were in the areas of zoning, housing, and patronage. Another significant ruling in a lower federal court concerned compliance with federal laws.

**Zoning.** In *City of Eastlake et al. v. Forest City Enterprises, Inc.*, the court ruled that it is constitutional for a city to require property owners who want their land rezoned to get the approval of the city's voters in a referendum. The provision in question was an amendment to the Eastlake, Ohio, city charter covering all zoning changes. Under the provision, anyone seeking a zoning variance applies to the city planning commission, which, if it approves, recommends the change to the city council. If the council approves the change, it is put to referendum, where it must be approved by a 55 percent vote.

The case was brought by a development company which sought a zoning change to allow construction of a high-rise apartment building. The proposed change was not approved at referendum and the landowner filed a suit to have the provision struck down as an unconstitutional delegation of legislative power.

The Supreme Court, however, seemed to place high value on the referendum process, saying that in our government, all power derives from the people who can delegate it to the legislature or retain it for themselves. It said that referenda provide a means for more "direct political participation, which amounts to a veto power over enactment of representative bodies."

**Housing.** The chief housing issue dealt with by the U.S. Supreme Court in 1976 involved creation of low cost public housing for minorities in a city's suburbs.

In *Hills v. Gautreaux*, the court said that federal courts can order suburbs to provide low cost public housing, even when the suburbs have not been guilty of racially discriminatory housing practices.

The court ruled specifically that the U.S. Department of Housing and Urban Development can be ordered to provide public housing in the suburbs if the government has been found to have contributed, through its public housing funding programs, to the segregation in the city.

**Patronage.** In *Elrod v. Burns*, the court struck down the Illinois patronage system saying it violated the First Amendment rights of those on the payroll who actively supported the candidate who lost.

In this case, the plaintiffs were non-civil service employees in the Cook County sheriff's department who were fired or threatened with dismissal upon the election of a sheriff of the opposite party because they neither supported nor were a member of the prevailing party.

Partisan employees have rights too, said the court. "Rights are infringed both where the government fines a person a penny for being a Republican and where it withholds the grants of a penny for this same reason," said Justice Brennan in writing the majority decision. No vital government interest is furthered by conditioning public employment on political activity, he said.

**City Employees.** Another case involving city employees was *Rizzo v. Goode*, where the court ruled that the federal court should refrain from involvement in local governmental administration.

The case was brought by a group of Philadelphia citizens who sued the mayor, the city managing director, and the police commissioner alleging "a pervasive pattern of illegal and unconstitutional police mistreatment of minority citizens in particular and Philadelphia residents in general."

The justices ruled that there was no real case since the plaintiffs had not been injured by the defendants but instead by a small, anonymous group of police and that the injury was not sufficient in numbers to put responsible officials on notice.

**Federal Aid.** Another federal case deserves mention due to its impact on state and local governments: *City of Hartford v. Hills*.

In this case, Hartford, Connecticut, brought a class action suit against the U.S. Department of Housing and Urban Development to keep seven of its suburbs from receiving funds under the Housing and Community Development Act of 1974. The city charged that these seven suburban communities had failed to provide or plan for their "fair share" of the region's needed low-and moderate-

income housing and thus were in violation of the intent of the act.

In January 1976, the federal district court issued a permanent injunction freezing the suburban communities' first-year community development funds. The suburbs submitted revised applications—and agreed to work with the city to solve the mutual housing and community development problems of the area.

**State Courts.** A New Jersey Supreme Court decision in 1976 resulted in passage of an income tax by the state's legislature. The impetus for the passage of this tax was a July 1 deadline set by the court for funding the *Public School Education Act* of 1975, which was itself passed due to court pressure.

The court ruled that if there was no funding provided by the legislature by that deadline it would enjoin "every public officer, state, county and municipal, from expending any funds for the support of any free public schools." In other words, the court would shut down all summer programs and possibly delay opening of the schools in the fall unless the legislature sufficiently funded the 1975 enactment.

In practical terms this funding had to come from a state income tax, rejected seven times in two years by the state's senate.

The schools closed for little over a week during July before the legislature passed the income tax.

In December 1976, the California Supreme Court reaffirmed its 1971 ruling in *Serrano v. Priest* where it said that the state's system of financing public schools through local property taxes was unconstitutional.

The court gave the legislature until September 1980 to enact a valid substitute. In a 4-3 opinion, the court said that the present system violates the state constitutional provision guaranteeing equal protection under the law since educational opportunity available to elementary and secondary students is based on the taxable wealth of the school districts in which they live.

A second important state court decision, *Shapp v. Sloan*, in Pennsylvania, was discussed earlier. This decision, on the state legislature's appropriating federal funds, is based on state constitutional language similar to that found in other states and thus may have a broad ranging impact on other rulings.

*Carol S. Weissert is information officer of the Advisory Commission on Intergovernmental Relations and serves as editor of ACIR's Intergovernmental Perspective.*

In light of the nature and theme of this issue of *Intergovernmental Perspective*, ACIR News will briefly review Commission activities and recommendations made during 1976.

The Commission adopted positions and made specific recommendations on five issues as part of the Commission's broad study of the intergovernmental grant system. These were health, community development, manpower, federal grant management and administration, and state aid to local governments. Another portion of that study, an evaluation of the *Safe Streets Act*, was completed in November 1975.

Other actions taken by the Commission during the year were in the areas of inflation and federal and state income taxes, property tax lids, cigarette smuggling, federal insurance of public deposits, and cash management of state and local funds.

**Health.** In its review of the first block grant passed by the Congress, *Partnership for Health*, the Commission urged the Congress to pass new and stronger federal legislation authorizing cost sharing in public health expenditures by the states. Such legislation would replace the current Section 314 d of the *Public Health Services Act* and 21 categorical grants in the preventive and protective health area by providing a federal reimbursement of a fixed percentage of state and local expenditures for a defined set of public health services.

The Commission suggested that health cost sharing legislation include a range of statutorily specified public health services, such as drug abuse and alcohol treatment programs, family planning projects, and community health centers. The cost sharing would be limited by a per capita ceiling within each state, modified according to appropriate need factors.

Each state, with local inputs, would develop its own comprehensive health plan, choosing from among the various federal services, the ones that best suit that state's needs. Federal health priorities could be reflected by permitting a

temporary higher variation in federal matching for these "preferred" services.

**Community Development.** The Commission has urged the Congress to renew the community development block grant portion of the *Housing and Community Development Act of 1974* with these changes:

- where possible, Title I programs should be coordinated and merged administratively with related community development programs;
- the Section 312 rehabilitation loans program should be merged with the community development block grant;
- funding of public services considered necessary or appropriate to community development activities should be allowed, as long as no more than 20 percent of the grant is used for that purpose and no other federal program funds are available;
- the housing assistance plan should be simplified; and
- all facilities consistent with the objectives of the act should be funded whether they are neighborhood or areawide.

The Commission recommended that a new fund be established to stimulate and support the direct performance of community development programs by any state which has a demonstrated interest and capacity in this area.

Older, deteriorating cities and small communities should be treated more equitably in funding, according to the Commission, and the "701" planning program should be continued with "adequate" funding.

The Commission further urged the Department of Housing and Urban Development (HUD) to keep the administrative requirements of the program relatively simple and to continue grantee performance reporting to monitor program effectiveness.

Where feasible, the Commission said, councils of governments (COGs) and other general purpose regional planning bodies should be authorized to prepare regional housing plans in lieu of local hous-

ing assistance plans. In addition, HUD should revise its guidelines to encourage these regional planning organizations to provide more technical assistance to applicant communities in preparing their housing assistance plans.

And, finally, the Commission recommended that Congress appropriate advance funds for the program for six years with provisions for periodic congressional review of the program's goals, operation, and effectiveness.

**Manpower.** The ACIR looked at Title I of the *Comprehensive Employment and Training Act of 1973* (CETA) which provides a program of block grant assistance to state and local governments for comprehensive manpower services, including training, employment, counseling, testing, placement, and supportive services.

The Commission report found that although 17 categorical grants in the manpower field were folded into Title I, it did little to curb the historic fragmentation of federal manpower programs and that substantial amounts of block grant funds have been used for meeting cyclical rather than structural unemployment needs.

Thus, the Commission recommended that Title I be improved and used more extensively as the preferred mechanism for providing and/or coordinating all federally aided manpower services designed to meet the needs of state and substate labor markets. Overall improvement might be along the lines of grant consolidation, federal government reorganization, joint funding, interagency agreements, more meaningful comprehensive manpower planning, and review and evaluation processes, and better interagency coordination. Other recommendations were that:

- Title I of CETA be amended to prohibit the use of block grant funds for public service employment or for equivalent programs, except under specified conditions;
- The Title I formula allocations be changed to rely on indices that gauge long-term structural unemployment;

- The "hold harmless" provision of the act be deleted;
- The Employment and Training Administration provide greater assistance to facilitate the operations of state manpower services councils; and
- Congress amend CETA to delete the youth employment provisions of Title III, Part A, and consider the advisability of establishing a Youth Employment Services title with a separate appropriation and allocation formula based on the relative amount of unemployed youth above the national average served by primary sponsors.

**Federal Grant Management and Administration.** The Commission concluded that the federal executive branch needs a stronger central management capacity. It called upon the President to exert vigorous and visible leadership in five central management activities: intergovernmental liaison, government-wide grants management, budget preparation, domestic policy development, and legislative reference.

The Commission also recommended that the President appoint a high-level assistant for intergovernmental affairs who would have direct access to the President and help him monitor the performance of the whole range of activities of intergovernmental concern. Departments are urged to designate points of contact for this assistant and to bring together leadership responsibility for departmental grants coordination activities in a single unit.

Recognizing the current organizational structure of the executive office, specific steps were proposed for strengthening the performance of the Office of Management and Budget (OMB) and the Domestic Council. These include:

- a thorough review by the Congress and the President of OMB organization, staffing, and procedures;
- provision for consultation between OMB and state/local officials on budgetary and fiscal issues;
- transfer to OMB of two management procedures (the TC 1082 grant

notification process and the A-85 regulation comment process);

- assignment of intergovernmental responsibilities to a key OMB official;
- more regular meetings of the full Domestic Council; and
- consolidation with the Domestic Council of overlapping interagency policy committees and boards.

Several of the recommendations specified additional activities for OMB. These included developing procedures for strengthening interagency agreements and interagency committees; organizing a review of grant standardization requirements; and improving the Catalog of Federal Domestic Assistance. Congress was called upon to provide specific statutory authorization for the management circulars and to vest responsibility for their interpretation and enforcement in OMB.

The Commission recommended a set of actions intended to strengthen the operation of the federal regional councils (FRCs).

**States As Providers, Administrators.** As part of its look at the federal grant system, the Commission studied the state's role as provider of aid to local governments and as administrator of federal aid channeled to the states.

In the first instance, the Commission found that state programs of general local government support, many of which are shared taxes returned to place of origin, are "commonly excessive in number, inadequate to equalize local fiscal capacities, and neglectful of urban needs."

Therefore, the Commission said, state aid programs should provide adequately funded programs of general local government support (revenue sharing), to be distributed by an equalizing allocation formula reflecting population, tax effort, and municipal overburden.

States with multiple programs of general support for local governments should consolidate the programs.

States with adequate programs of equalizing general government support should then rely on specific measures of program needs to allo-

cate grants for all conditionally aided public programs, other than minimum foundation education programs.

Since many state aid programs have been created through a series of piecemeal and largely *ad hoc* decisions, the Commission recommended that states periodically review their categorical aids in each functional area. As part of this review, the Commission recommended a "sunset" provision, calling for the simultaneous termination of aid programs in each functional area upon a specified review date and at regular intervals thereafter unless programs are reauthorized by legislative action.

Finally, the Commission urged state legislatures to provide advance funding of state aid, where appropriate, and to prescribe a uniform fiscal year for local governments, geared to the legislative appropriations calendar.

In their role as administrator of federal aid channeled to the state, the Commission recommended that state legislatures become more involved in determining how federal funds are used and that governors approve state agency actions related to the receipt of federal grants.

**Indexation.** As part of its study of public sector growth, the Commission looked at inflation's impact on taxpayers and governments. One way to alleviate that impact is use of "indexation."

Under a system of indexation, rate brackets and personal exemptions, credits and deductions, measured in fixed dollar terms, would be adjusted proportionately with the general price level changes. The effect would be a lifting of the tax burden, particularly on the low- and upper-income and on large families in all income brackets.

The Commission has recommended indexation of both federal and state income taxes.

In addition, the Commission recommends, in the interest of complete public information, that the amount of inflation-induced real federal and state personal income tax increases be calculated and publicized for each tax year.

**Property Tax Lids.** Although the Commission has long supported strong local authority to determine local tax and expenditure policies, in a series of recommendations made this year, it recognized that states may have a legitimate desire to stabilize local property tax levels through local property tax limits or ceilings on revenue from local property taxes.

The Commission recommended that:

such "lids" should be imposed only when the locality can use other revenue sources—such as income or sales taxes—or when the state provides additional funds to the local government to meet public demands;

local governments should institute a full disclosure policy whereby all proposed revenue increases are publicized and debated before final tax increase action is taken; and

states should include "fiscal notes" on major state legislation, setting out the costs of that legislation for local governments before the vote is taken.

**Cigarette Smuggling.** In a hearing before the Commission, state tax and law enforcement officials and representatives of groups interested in the subject described the problems with and some results of cigarette smuggling. Not only do the states lose some \$400 million annually, but organized crime now transports and sells contraband cigarettes for a considerable profit, according to witnesses at the hearing.

The Commission recommended both federal and state action. It urged the Congress to pass legislation making the interstate transportation of large number of contraband cigarettes a major federal crime and encouraged states, especially those with serious cigarette smuggling problems, to consider the adequacy of their enforcement efforts and take aggressive action to strengthen those efforts where appropriate.

In addition, the Commission recommended that:

high tax states enter into cooperative agreements with low tax

states to detect and report unusually large cigarette purchases that appear to be intended for illegal sale in high tax states;

current exemption of state and local sales taxes on military sales be removed;

states broaden their current cigarette laws to make it a felony to ship, sell, or possess a substantial number of contraband cigarettes and increase penalty provisions; and

public information programs be developed to aid in the enforcement of cigarette tax laws.

**Federal Insurance of Public Deposits.** Public Law 93-495, passed by the Congress in October 1974, requests the ACIR to conduct a study of the impact of increased federal insurance of public deposits on the state and local bond market, on funds available for housing and on other related areas. The Commission completed this study and made the following recommendation to the Congress: that the appropriate federal agency insure the full amount of public deposits in commercial banks, savings and loan associations, mutual savings banks, and credit units. Such federally-insured deposits must not be subject to any state pledging requirements and the total amount of public deposits in a single financial institution would be limited to a reasonable percentage of total deposits and/or total capital.

**Cash Management.** The Commission also examined state and local cash management practices and recommended that state and local governments be provided, through state law, with more flexibility in their choice of depository institutions, allowing them to seek out the most economic deposit relationships.

The Commission also recommended that:

legal pooling of separate funds be permitted, provided detailed and accurate accounting records are maintained for each fund;

constitutional and statutory restrictions upon the investment of governmental funds be removed;

pools of investment funds be

developed for those state and local governments electing to participate; and

programs of technical assistance in the area of cash management and the investment of idle funds be provided by the states for local governments.

**Future Activities.** At its meeting in December, the Commission authorized the staff to begin work on three major studies, two of which were requested by the Congress in laws enacted in 1976.

Intergovernmental economic stabilization and countercyclical aid was one issue requested by the Congress and approved by the Commission. The *Public Works Act of 1976* directs ACIR and the Congressional Budget Office to conduct a study of countercyclical aid to determine how the federal government can most effectively stabilize the national economy during periods of rapid economic growth and high inflation through programs directed toward state and local governments.

The Commission also authorized the staff to begin work on the topic of citizen participation, a topic proposed for ACIR study in the *State and Local Fiscal Assistance Amendments* of 1976.

The third area in which the Commission staff will soon begin work is interstate and interregional competition which will include at least three distinct elements: tax competition; distribution of federal aid, installations, payroll, other outlays, and tax expenditures; and growth and environment.

The Congress also requested ACIR to conduct four other studies: an evaluation of the allocation and coordination of taxing and spending authorities between levels of government; interrelationships in servicing and financing responsibilities among state and local governments and special districts; potential forces affecting American federalism and possible adjustment; and state taxation of water vessels, particularly barges. The Commission staff will begin work on these projects when additional funds are appropriated by the Congress.

# And Briefly: Books

During 1976, the Advisory Commission on Intergovernmental Relations published 11 reports. In light of the fact that this issue of *Intergovernmental Perspective* is a review of the year, each of these 11 publications is briefly described. The first two reports are recent publications and have not been announced in *And Briefly: Books*. The remaining nine reports, listed by ACIR section producing them, have been reviewed in a recent *Perspective*.

Single copies of every ACIR report can be obtained at no cost by writing the Advisory Commission on Intergovernmental Relations, 726 Jackson Place, N.W., Washington, D.C. 20575.

**Inflation and Federal and State Income Taxes (A-63).** This is a study of the impact of inflation on real individual income tax liabilities and the effect of this inflation-induced increase on the size of the public sector. One means to alleviate this impact is through indexation—the adjustment of rate brackets, exemptions, deductions, and credits for changes in the general price level.

This report outlines the impact indexation would have on federal and state income taxes and contains the Commission's recommendations that the Congress and the states consider indexation of federal and state income taxes and that the inflation-induced increase in income taxes be publicized each year.

**Block Grants: A Roundtable Discussion (A-51).** As part of its study of the intergovernmental grant system, ACIR convened a conference of researchers studying the five existing block grants to exchange information on the methodology, findings, and implications of the various studies. This report is an edited transcript of that meeting.

## *Taxation and Finance*

**1976 Changing Public Attitudes on Governments and Taxes (S-5).** For the fifth consecutive year, ACIR has commissioned a nationwide polling organization to gauge public opinion concerning taxes, intergovernmental fiscal relations, and the effectiveness of the levels of government.

**Significant Features of Fiscal Federalism—1976 Edition, Vol. 1 (M-106).** This volume is the first in the biennial publication *Significant Features of Fiscal Federalism* and is an updated and expanded version of the 1975 publication entitled *Trends in Fiscal Federalism, 1954-1974*.

Using charts and tables, this report traces the fiscal relationships and responsibilities among the levels of government from the 1950s to the mid-1970s.

**State Taxation of Military Income and Store Sales (A-50).** This report examines the issue of legal barriers to state and local taxation of sales on military bases and of compliance with state and local income taxes.

Commission recommendations included in this volume are that federal laws be changed to allow state and local income taxation on military sales and that military pay be taxable under the same jurisdictional rule that applies to other forms of compensation. The Commission also recommended withholding of state and local taxes from military pay.

**Understanding the Market for State and Local Debt (M-104).** During 1975, state and local governments marketed nearly \$60 billion in new debt in about 8,000 separate issues.

Even more significant than the amount is the market's growth. The annual dollar amount of debt issued by state and local governmental units in the early 1970s is more than double the amount issued in the late 1960s and about 10 times greater than in the early 1950s.

These facts—and the interest stimulated by the New York fiscal crisis—prompted this information report which outlines the essential characteristics of the state and local bond market.

**The Role of States in Strengthening the Property Tax, Vol. 1 (A-17).** ACIR has reprinted this 1963 volume with an updated introduction. The *Role of the States* deals with such fundamental and still timely issues as the place of the property tax in the state-local tax system, conflict of assessment law and practices, and the responsibilities of the states in

property tax administration and assessment.

## *Government Structure and Function*

**Pragmatic Federalism: The Re-assignment of Functional Responsibility (M-105).** In conjunction with the International City Management Association and the State University of New York, ACIR surveyed over 3,000 cities to determine how many functions the cities had shifted to counties or assumed from other sources, why these transfers were made, how the results were perceived, and what plans they might have for future transfers of function. The survey found that one-third of the municipalities had transferred some functional responsibility to the state or county level.

**Improving Urban America: A Challenge to Federalism (M-107).** This publication is an update of the Commission's 1969 report entitled *Urban America and the Federal System*. This new volume incorporates the work of this report with ACIR findings and recommendations from 1969 to 1975 and in the process, presents a review of urban America, its governmental capabilities, and an intergovernmental approach to urban problems.

## *Implementation*

**State Actions in 1975 (M-102).** Each year the ACIR surveys state constitutional, legislative, and executive actions during the previous year and compiles selected major institutional and functional policy activities in a volume entitled *State Actions*. This publication describes state action by functional area and highlights innovative actions and nationwide trends. For the first time, the 1975 volume also includes a comprehensive index.

**In Respect to Realities. A Report on Federalism in 1975 (M-103).** This report summarizes the major developments in intergovernmental relations in 1975, analyzes the state of the federal system, and highlights trends and key events at all levels. The 1976 report on federalism appears in this issue (Winter 1977) of *Intergovernmental Perspective*.

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The Chairman of the Advisory Commission on Intergovernmental Relations has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Commission. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through April 30, 1979.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS  
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**ADVISORY COMMISSION ON  
INTERGOVERNMENTAL RELATIONS**

Washington, D.C. 20575  
January, 1977

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## **ANNOUNCING... ACIR Internships in Intergovernmental Relations**

The Advisory Commission on Intergovernmental Relations (ACIR) announces its internship program in intergovernmental relations for the 1977-78 fiscal year. The program provides internship appointments of up to one year for a limited number of college graduates. It offers a unique opportunity for them to participate actively in the work of the commission and to acquire first-hand familiarity with the field of intergovernmental relations, an increasingly significant and complex dimension of American federalism.

The Advisory Commission on Intergovernmental Relations was established by federal law in 1959. It is a permanent, 26-member bipartisan body charged with giving continuing study to relationships among the local, state and national levels of government, analyzing emerging intergovernmental problems and devising ways of easing tensions and resolving conflicts. The commission represents the executive and legislative branches of all three levels of government; its membership includes nine members who represent the national government (three from each house of Congress, and three from the executive branch); 14 members who are elected officials representing state and local governments (four governors, three state legislators, four mayors, and three county officials); and three members representing the public at large.

The commission's staff conducts the research that serves as a basis for the commission's findings and policy recommendations, translates commission proposals for action into draft legislation or other appropriate form for implementation at the federal, State and local levels and serves as a clearinghouse and source of authoritative information on intergovernmental matters.

### **GENERAL INFORMATION**

**Number and duration of internship appointments.** As many as three applicants may be offered internship appointments for part or all of the 1977-78 fiscal year.

**Work assignments.** Each intern selected will work with the commission staff section of his or her choice (government structure and functions or taxation and finance) and will work on one or

*(please turn over)*

more projects during the period of his appointment. The interns may attend staff meetings and commission meetings, as well as conferences and other meetings that the commission convenes from time to time. Interns also will have an opportunity to become familiar with the major public interest groups that maintain Washington offices—including the National Governors' Conference, the Council of State Governments, the National Conference of State Legislatures, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, and the International City Management Association—and to observe national meetings that these organizations hold in Washington.

**Compensation.** Junior professional level interns are eligible for compensation at the annual rate of \$14,100. They are entitled to annual and sick leave accumulation at the rate of approximately one day per month and are eligible for government employee life and health insurance. Moving expenses cannot be paid.

## **BASIC REQUIREMENTS**

**Education.** To qualify, an applicant must have at least a baccalaureate degree from an accredited college or university, and preferably an advanced degree.

**Field of interest.** In the selection of interns consideration will be given to the applicant's special field of interest, demonstrated capacity and career goals. Special preference will be given to

applicants whose backgrounds and interests indicate that they can make a contribution to the commission's current and prospective research and implementation programs. The commission's brochure which outlines the commission's activities and areas of interest is available to prospective applicants upon request.

## **APPLICATION PROCEDURE**

Persons interested in applying for internship appointments should send letters of application and detailed resumes to:

**Ms. Esther Fried**  
**ACIR Internship Program**  
**Advisory Commission**  
**on Intergovernmental Relations**  
**726 Jackson Place, N.W.**  
**Washington, D.C. 20575**

In the letter of application, the candidate should outline his or her general and specific areas of professional interest, long range public service career goals, and the commission staff section for which he or she wishes to work.

Applications for appointment at the beginning of the 1977-78 fiscal year (October 1, 1977) must be received no later than March 1, 1977. Applications received after that date will be considered for subsequent internship vacancies.

After initial screening a limited number of applicants will be invited to come to Washington at commission expense for personal interviews.



**Advisory Commission on**  
**Intergovernmental Relations**

WASHINGTON, C.C. 20575 • JANUARY 1977