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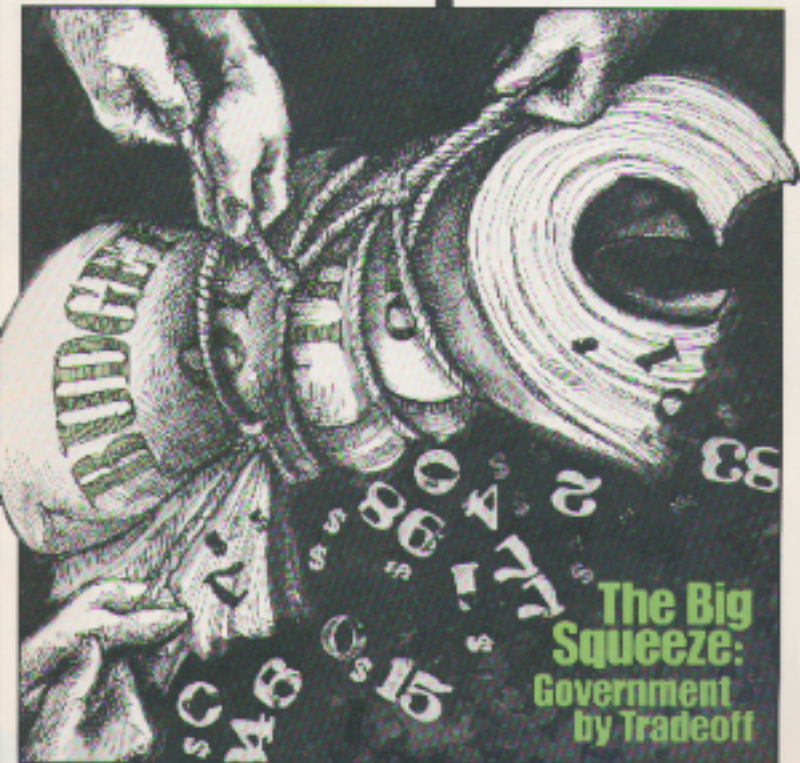
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THIRTEEN

Intergovernmental

PERSPECTIVE



The Big Squeeze:
Government
by Tradeoff

View From The Commission



Dear Reader:

One of the primary challenges facing American federalism today is the need for more economy and efficiency in the massive intergovernmental aid system. As ACIR has amply documented, in recent years the federal grant system has become excessively bigger, broader, and deeper. It has grown from some \$7 billion in 1960 to \$83 billion in fiscal year 1980, with an annual rate of growth during the last decade of about 15% or \$6 billion a year. In that period the number of categorical grants has grown from 130 to nearly 500. At the same time, the scope of the grant-in-aid system has expanded to the point where virtually all general purpose local units, and many special purpose ones, now receive federal funds. Some jurisdictions—particularly the nation's cities—are heavily dependent on federal funds to sustain their service delivery systems. In addition, the federal government is now providing money—and guidance—for scores of functions which were traditionally state-local responsibilities including pot hole repair, fire protection, and libraries.

Perhaps even more significant is the increasing depth of federal influence. More and more conditions

and requirements are being attached to federal grants, many of which are extensive, expensive, and excessively intrusive. Of particular note is the increasing tendency for Washington to use the federal grant system to achieve national policy goals such as citizen participation, ensuring building access for handicapped persons and environmental protection—meritorious objectives but often completely unrelated to the purpose of the grants to which they apply.

The federal grant system is coming under increasing scrutiny as we enter the 1980s due to the growing pressure on Washington to reduce spending and deficits. We have already seen calls for major reductions in aid programs—notably the state share of General Revenue Sharing. It is therefore incumbent on us to make every effort to make best use of smaller amounts of federal aid. This means we must reform the way that federal aid is allocated, regulated, and administered. As chairman of the Senate Subcommittee on Intergovernmental Relations, I support a three-part agenda for federal aid reform, made up of regulatory reform, sunset review, and grant reform legislation.

First, we should pass the regulatory reform legislation now pending in the Senate Governmental Affairs Committee which would require new, streamlined, and economically balanced analysis of major rules that have major economic impact on the economy, and on the prices and costs of governmental services. A pending amendment sponsored by Sen. William V. Roth and myself would require this type of regulatory analysis for grant programs to state and local governments.

Secondly, we need to pass sunset legislation as a way of providing periodic review and assessment of federal programs. A sunset bill (S. 2) will be marked up by the Committee immediately after we finish our work on regulatory reform.

And, finally, grant reform legislation is a necessary part of any agenda for federal aid improvement. The legislation currently pending before my subcommittee (S. 878) would implement a number of ACIR's grant reform recommendations by providing a procedure whereby grant consolidations could be proposed and considered, strengthening the joint funding programs, and simplifying and standardizing crosscutting requirements attached to federal aids.

This issue of *Intergovernmental Perspective* documents our efforts in the Congress—and those on the part of the Executive Branch—to enact these reforms. The path is not an easy one. Opposition to reforms comes from individuals, interest groups, and constituencies who believe their particular programs might be threatened. But we in Congress must accord priority to the needs of all citizens not narrow special interests. This is how our system of federalism was built and how it must be maintained. As Chairman of the Senate Subcommittee on Intergovernmental Relations, I am making every effort to enact these measures into law. It may take time, but I believe the combination of national fiscal pressures, strong state and local support, cooperation with the Administration, and the manifest need for basic reforms in the system will force serious consideration—and ultimate adoption—of these key reforms.

U. S. S.

Jim Sasser
United States Senator
Tennessee

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The taxpayer revolt—best epitomized by California's Proposition 13 and subsequent Spirit of "13" spending limit adopted in 1979—was still rolling as the 1980s began. The responsiveness of government to taxpayer demands was most evident at the state level in 1979 where nearly half of the states initiated or expanded various property tax relief programs for homeowners and renters, 15 states reduced the sales tax, and a number of others reduced income tax liabilities through passage of indexation, increased exemptions and deductions or new or expanded income tax credits. All in all, 37 states voted some kind of net tax reduction in 1979.

The Nation's legislators were far from immune to constituents' repeated calls for more efficient government for fewer tax dollars. In case the idea didn't get through, 30 state legislatures sent Congress resolutions calling for a constitutional convention to require a balanced federal budget. Numerous proposals were considered in Washington ranging from rather tame statutory spending limits to all encompassing constitutional changes requiring a balanced budget. Funding for several existing federal grant-in-aid programs—most notably the state portion of General Revenue Sharing—was endangered during 1979 and only narrowly escaped without major appropriation cuts, for the next year at least.

A PERIOD OF TRADEOFFS

It became clear in 1979 that a period of tradeoffs had indeed set in. Guns or butter, economy or environment, more spending or reducing taxes, deficits or inflation were all tradeoffs that made their way into decisions made in 1979 and that will continue to confront elected officials at all levels in the foreseeable future.

The year also illustrated how difficult it is to make these tradeoffs. In spite of announced intentions to be an "oversight Congress," the House and Senate in 1979 had a mediocre oversight record, were unable to pass tough measures calling for systematic review and assessment of existing programs and had even more difficulty in saying "no" to well organized interest groups urging new and expanded aid programs. As noted in this issue of *Perspective*, in 1979, in spite of increased citizen calls for less government, the Congress spawned more, not less, government and launched what well may be the worst of all possible intergovernmental scenarios—more categorical grants with fewer dollars.

As the year ended, the likelihood of passage of some type of windfall profits tax made a considerable improvement in the 1980 federal revenue forecast. Yet the long-term federal fiscal prognosis remained fairly bleak due to these factors:

- Commitments to increased defense spending, along with "uncontrollable" costs of social programs indexed for inflation, put major constraints on federal policymakers who want to control spending levels;
- The federal government can no longer shift resources from defense to nondefense functions as it has for a number of years (defense spending as a percent of GNP peaked in 1954);
- Congress is running into increasing resistance in its efforts to raise social security taxes to cover the vast expansion in benefits;
- The federal income tax is now badly hobbled—as repeatedly Congress has had to cut taxes to spur the economy, offset inflation, or compensate for social security tax hikes; and

The Big Squeeze: Government by Tradeoff

If 1979 is viewed as a threshold year for the 1980s, it portends a number of changes ahead on the intergovernmental horizon. For the Nation entering the decade of the 1980s is very different from the Nation which launched the 1970s ten short years ago. Tradeoffs, cutbacks, and slowdowns have replaced expansion, innovation, and improvements as major elements in the governmental lexicon. Instead of increased spending and large tax cuts, we can expect slowed spending at all levels and fewer tax reductions, particularly at the federal level. Federal domestic spending, state and local spending, and perhaps most importantly, federal aid, which increased dramatically throughout the late 1960s and early 1970s, slacked off as the decade drew to a close.

- The extremely high inflation rates make it increasingly untenable for the federal government to paper over revenue shortfalls with large deficits.

The continued federal attachment to the myriad of administratively inefficient and costly categorical programs is particularly ironic as we enter the 1980s, in light of the improved fiscal ability and programmatic experience of the states. For at a time when the Federal Treasury appears to be more and more strapped, many states—particularly those in the Sunbelt or those blessed with energy rich natural resources—appear to be on fairly secure financial footing. In addition, the record of the states in some areas where the federal government once had to step in to provide assistance is good or improving. There is accumulating evidence that the states are doing more to respond to needs of their inner cities, the poor, and other special constituencies who have long preferred to deal with Congress rather than their state capitols. Yet there is little recognition by Congress that states have the ability to take over the financing and administrative responsibilities for programs for these and other groups.

The effect of the taxpayer revolt as we enter the 1980s is predictably hardest for local governments. Big cities, especially, will suffer more from expected cut-backs in federal aid since they are the most reliant on federal dollars. There are indications, as noted in this issue of *Perspective*, that states are moving to provide additional assistance to them and to their beleaguered property taxpayers. Yet localities are commonly still boxed-in by restrictive state laws limiting the home rule and annexation they need on one hand and their ability to raise revenues with new taxes or levies on the other. Another pinch relates to the impact of Proposition 13 and other local tax restricting measures of its ilk. In California, and perhaps elsewhere, these measures are leading to a loss of local autonomy to state governments—a centralizing force resulting in a setback in recent gains for local governments in control over their own fates.

Both state and local governments recognize that tradeoffs are in the cards—particularly in the area of federal grants-in-aid. As early as 1978, the National Governors' Association and National Conference of State Legislatures offered to trade fewer federal dollars for more discretion over uses of federal funds. These and other public interest groups representing cities and counties have made efforts to identify those aid programs which could be consolidated—or perhaps even taken over by state or local governments—in exchange for more program control or flexibility.

RECONSIDERATION OF FUNCTIONAL ASSIGNMENTS

In the 1970s, the intergovernmental system became much more complex and confusing than it has ever been, as governments at all levels shared funding of—and responsibility for—virtually all governmental functions. Even the most “local” services—fire protection and pot hole repair—were funded in part by Washington and state capitols. More complicated areas of welfare, energy conservation, and education were indeed a mishmash of governmental responsibilities and regulation. Perhaps the 1980s—an era of tradeoffs—will be the time when fiscal constraints will cause reconsideration of these divisions of responsibility at all levels—to determine who should do what—and, perhaps more importantly, who should take responsibility for what. The ultimate functional tradeoff—where Washington should completely take over provision of some services and get out of other areas and leave them to state and local governments or the private sector—might

well begin to take place in the 1980s.

Movement toward such tradeoffs, however, is not guaranteed by shrinking federal resources. To the contrary, history and line-of-least-resistance politics makes it more likely that we will continue to move toward the “worst case” for the federal, as well as the state and local, levels—that is, more programs, more restrictions, more government from Washington, but fewer real aid dollars. Chances of relieving the system “overload” seem mainly dependent on leaders at all three levels better comprehending how our present intergovernmental relations are damaging their units and the effectiveness of government as seen by the American people. Such improved comprehension will fuel the search for tradeoffs.

—C.S.W.

National Events In 1979: The New Austerity Takes Hold

by
Michael C. Mitchell

Governmental action rarely is marked by dramatic events like the sudden termination of programs, stark changes in policies of long standing or the launching of major innovative initiatives. In several senses, national level actions of intergovernmental significance in 1979 fit this pattern. Witness the failure of a thorough program oversight effort to materialize in Congress, the slow progress of executive reorganization efforts, and the continued inability in Washington to gain consensus on processes for program review and grant consolidation.

One intergovernmental event occurred in 1979, however, which sets the year apart from those of the recent past, and raises important questions for the future of American federalism. In 1979, federal aid to state and local governments, which had undergone a long period of rapid growth, peaked and actually declined in real dollar terms. The Administration's and the Congress' desire to reduce the budget deficit and to control inflation led to a closer scrutiny of the intergovernmental assistance system. This fuller realization of the new era of limits within which government must operate in 1979 caused a redoubling of interest in the concepts of economy and efficiency through better management and greater productivity.

In opposition to these efforts toward control and restraint in government were the ubiquitous forces encouraging program growth and an expanded federal role. In 1979 these again made their mark. The clash between these conflicting forces created new friction points and rekindled old ones in the federal system. These relationships have yet to be understood and assessed fully, let alone resolved. This article will review the most prominent intergovernmental events which occurred at the national level in 1979 and will describe some of the tensions they produced.

CRESTING FEDERAL AID AND OTHER FISCAL CONCERNS

Curbing inflation was a primary objective of the Carter Administration in 1979. The earliest indication—and the one perhaps most significant to state and local governments—came in January with the fiscal year 1980 Budget Message, in which grants-in-aid were a key target of efforts to reduce federal spending. The budget statement called for federal aid growth in FY 1980 of only 1%, from \$82.1 billion to \$82.9 billion, a rate far slower than that which permitted a tenfold increase in federal aid dollars in the last 20 years. The 1980 aid total represents an actual decline of some \$3 billion in assistance between 1979 and 1980 when adjusted to real dollar terms. Federal aid as a percentage of state and local expenditures, which had undergone an extended period of growth, is forecasted to decline from 25.4% in 1979 to 23.6% in 1980.

This apparent cresting of the federal aid wave holds intergovernmental importance for a number of reasons. First, after years of rapid growth, it represents a dramatic reversal of the expansionist trend. The last 15 years were characterized intergovernmentally by the spirit of "bigger is better" and the attitude that every societal problem can be overcome by a federal aid program and a bureaucracy to administer it. The grant system which was nurtured on this philosophy expanded rapidly in program numbers and dollars, and with it came a breadth and depth of national level influence that would have been deemed revolutionary in the early 1960s.

The dramatic slowing of federal aid growth in 1979 is significant also because all indications are that it is not a short-term phenomenon. Most economists interpret the current inflation as a factor now built into our economy that will be sustained over time. Therefore, the effort to defuse inflation by curbing federal spending may be a long-term phenomenon as well, ushering in a new era of limits in Washington. The growing pressure for increased defense and social security system spending also will restrict the so-called "controllable" budget funds and in particular will erode further the state and local share.

This prospect of shrinking resources may encourage the often invoked, but seldom acted upon, procedural and structural improvements such as regulatory reform, grant

consolidation, and program elimination—improvements long needed and overdue in the intergovernmental aid system. In their exploration of regulatory reform, program review, and grant consolidation in 1979, the Administration and Congress began to make progress on these reform fronts.

Another potential effect of the aid slowdown may be the delegation of functional and administrative authority to the proper governmental level instead of the fragmented and heavily shared intergovernmental responsibility for domestic services existing today. In the decades since the 1930s, the federal government has moved into program delivery areas traditionally the domain of state and local governments. This development has eroded recipient control, blurred accountability, disrupted the intergovernmental power balance, and confused the public. The capping of federal aid growth may slow or reverse this 40-year federal growth trend and begin to restore the lost equilibrium by generating more conscious attention to concerns about appropriateness of federal involvement and a greater commitment to sorting out governmental roles and responsibilities.

Ironically, the new federal aid developments are likely to have their greatest consequences at the state level. Not only will states be forced to make do with fewer federal resources, but if fiscal constraint causes a willingness to divest certain functions, the states may inherit more administrative and servicing responsibility. This development, in conjunction with the increasing centralization at the state level brought about by the efforts to limit tax and expenditure authority at the local level, could greatly enhance the states' role in our system. Pressures for more state involvement at a time of diminishing resources, however, will require difficult political decisions at the state level, as elected officials ponder the reduction or elimination of programs, the transfer of funds within program areas, or the sources of new revenues.

Congressional Budget Process

While these trenchant intergovernmental issues must await analysis in future annual reports, one clear winner—but just barely—in this year's budget cycle was the Congressional budget formulation process. This process, created by the 1974 Congressional Budget and Impoundment Process Control Act, experienced a year of false starts and delays. The appropriations bills moved at the slowest pace since the new budgetary timetable was established. There were still ten outstanding money bills on October 1, long past the early September deadline. The second budget resolution required a 23-day conference to resolve House and Senate differences, and the revised resolution, due on September 15, was not approved by the Senate until November 28.

Complicating the traditional differences between Senate support for defense spending and House support for social welfare programs were the Strategic Arms Limitation Talk (Salt II) debate, and Senate interest in five-year budget projections. The Senate's desire for "reconciliation" also caused conflict. Reconciliation is a process empowering the budget committees to order the trimming of already passed appropriations bills in order to meet the budget resolution. Although reconciliation did not receive House approval in 1979, it is a budget tool that is likely to be employed in future budget deliberations. These delays notwithstanding, the budget process did perform adequately, and the majority-minority cooperation exhibited on the Senate Budget Committee was a crucial ingredient in this performance. The final conference-backed resolution placed the deficit at \$29.8 billion which, while high, is only \$.8

billion over the target set by President Carter in his FY 1980 Budget Message. Compared to budget deficits in recent years, which have ranged as high as \$66.4 billion in 1976, the proposed deficit is rather low.

Call for a Balanced Budget

Clearly one of the factors motivating Congress to trim the federal budget deficit was the states' effort to seek a constitutional convention to consider a balanced budget amendment. This activity provided one of the more interesting intergovernmental interplays of 1979, as the petitions submitted by the states neared the number required to call the convention.

Under Article V of the U.S. Constitution, if two-thirds of the states (34) petition for a constitutional convention, Congress must convene it. Any amendment proposed by the convention becomes part of the Constitution when ratified by three-fourths of the states (38).

State level proponents of the convention approach point to the need to prod Congress into action to control large federal deficits which they perceive to be a cause of high inflation. But critics of the budget balancing amendment cite several weaknesses in the state argument. For example, a balanced budget requirement would tie the hands of Congress during times of economic downturn or a national security emergency when deficit spending may be necessary. Some fear a constitutional "witch hunt" in the convention, creating amendment proposals wholly unrelated to budgetary issues. Others warn that a budget balancing amendment would result in the radical reduction in nominal federal aid dollars to state and local governments; aid now pegged at one-quarter of state and local own source revenues. Congressional distaste for the convention approach was echoed by President Carter, who labeled the effort "political gimmickry" and created a White House task force to head off additional state support for a constitutional convention.

Historically, unsuccessful state convention drives have elicited Congressional action. In the last 80 years, state convention calls have preceded Congressional submission of four constitutional amendments and passage of one major legislative program. In 1979, Washington's response to state pressure for a balanced budget was apparent not only in the rhetoric of Congress but in its close hewing to the Carter budget deficit figure and in December 19 passage of a constitutional amendment to require a balanced federal budget by the Constitutional Subcommittee of the U.S. Senate Judiciary Committee. Although they have not yet been considered, numerous bills that would set the ground rules for a constitutional convention are now before the Congress. Many other members of Congress have proposed legislation setting forth a variety of spending limits tied to specified percentages of a national income measure. These

“Clearly one of the factors motivating Congress to trim the federal budget deficit was the states' effort to seek a constitutional convention to consider a balanced budget amendment.”

General Revenue Sharing and the Congress in 1979

One near "victim" of the states' call for a balanced federal budget in 1979 was the state share of General Revenue Sharing (GRS). Although the current program does not expire until September 30, 1980, battle lines were drawn and the first salvos fired in what will be a difficult reauthorization fight. GRS has never enjoyed strong support in Congress, and professed interest this year in reducing the federal deficit made this program—especially the state share—a prime target for reduction or elimination. An additional irritant to many Congressmen was the bountiful fiscal condition of some states.

Legislation introduced early in the year by Senators Bentsen (TX) and Proxmire (WI) proposed to terminate the state portion of GRS funds beginning with fiscal year 1980 and the first House budget resolution omitted the \$2.3 billion state share of the program. Although these funds were restored in conference, anti-GRS sentiment ran high.

In an attempt to offset some of antistate share sentiment, the ACIR at its March 23 meeting called upon the Administration to support, and the Congress to renew, the revenue sharing program in its present form, except that funding levels be indexed to account for inflation.

Commission members described GRS as the best of the block grants and the federal aid program that dollar for dollar affords the most efficient use of funds. The members also requested that General Revenue Sharing when renewed should not be burdened with additional administrative conditions, and that if grant-in-aid funds must be reduced, categorical grants should be the primary target of the budgetary scalpel.

As the year progressed, advocates of GRS renewal became more vocal. Sen. Moynihan (NY) said "... revenue sharing is simple, it is easy to understand, its benefits are conspicuous and direct, and it has created no bureaucracy. ... for Heaven's sake, let's not wreck one of the really fine pieces of intergovernmental exchange machinery which we have created." Although by year's end the Administration had not announced its stance on GRS, indications were that the President would call for a "more heavily targeted" revenue sharing program. Others have said that the Administration will call for GRS renewal with additional requirements. One proposal floated by the Treasury Department at the end of the year tied receipt of state revenue sharing dollars to the establishment and performance of state-local relations study groups set up with part of the states' revenue sharing entitlements. The purpose of the commissions would be to encourage state and local cooperation in the improvement of financial management practices.

Congressional responses seem to have contributed to a slowdown in state petitioning for a convention. In late September, however, 30 of the required 34 state petitions had been received and any Congressional effort to abandon the budget balancing goal in 1980 is likely to rekindle the constitutional convention fires.

Additionally, passage of the Long Amendment in Public Law 96-5 will keep the balanced budget issue in the public policy forefront. This stipulation requires the President and the Budget Committees to submit balanced budget alternatives to unbalanced budgets that are developed.

"THE OVERSIGHT CONGRESS"

Congressional handling of program oversight provided one of the fundamental ironies of the last year. For, although many Congressmen came to Washington in January 1979 urging more review of existing programs and careful attention to new spending proposals, there was little evidence that the 96th Congress lived up to the hopes of those who had dubbed it "The Oversight Congress."

Instead of cutting back, Congress created more new programs, spent more money, and intruded further into the affairs of other governmental levels and the lives of the ultimate service recipients. The record of the first session of the 96th Congress affirms what journalist George F. Will has stated about government generally: that it is "responsive to a fault. . . . There's a sense in which the government exists only to respond to whatever felt stimulus it receives. . . . Government increasingly, it seems to me, looks upon itself as a burger king. It exists to take special orders from whomever comes through the door." Congressional activity in 1979 continued the trend which in recent decades has created a critical mass of policy actors in Washington, including the Congress, the bureaucracy, and an ever growing number of well articulated special interests. The continuation of this trend exacerbated one of the basic tensions in our federal system as more programs were created at the same time that financial resources were declining.

More Government, Not Less

The interaction of these forces in 1979 spawned more government, not less, particularly with energy and in the social welfare areas of education, health care for poor children, and welfare reform. Among these developments, the greatest innovation occurred in the energy area where, at year's end, Congress had nearly completed approval of a \$227 billion federal "windfall" tax on oil company profits, a \$20 billion program to develop synthetic fuel sources, conservation requirements to be placed on the states in times of energy emergency, and a new federal energy mobilization board.

Energy Mobilization Board. The most intergovernmentally significant of these actions was the federal energy board proposal. The purpose of the mobilization board would be to cut through red tape and bureaucratic snarls which, in this time of energy shortage, can hinder the development of energy sources and the construction of extraction, refinery, and transportation facilities. Advocates of this approach point to the years required to establish such facilities because of the duplicative federal, state, and local government review procedures. Such delays also would hinder development of the synthetic energy sources, which form a major component of the President's energy program.

State and local officials opposing the board view it as another federal usurpation of their decisionmaking authority. Gov. Richard Lamm of Colorado, in calling the proposal a "meat ax" approach, reflected the concern of those who fear further disruption of the intergovernmental balance. Environmentalists see the board as a tool to override natural resource compromises they worked years to achieve.

Both Houses of Congress have passed versions of the energy board proposal but before the board is put into place, several important questions relating to its authority must be resolved in conference. For example, the committee must decide whether the board will expedite or merely

encourage priority energy projects. To expedite these projects, can it waive state and local laws? How will enforcement take place and to what extent will judicial review be applicable to the board's decisions? Answers to these questions will come in the second session of the 96th Congress. Regardless of their outcome, however, the energy mobilization board potentially will reorder the relationship between federal, state, and local governments in the energy area, with the likely outcome a greater centralization of authority in federal hands.

LEAA. Late in the year, the Congress approved and the President signed a measure to restructure and reauthorize for four years the often criticized Law Enforcement Assistance Administration (LEAA) program. Under the new organization, four staff units have been established: a reconstituted LEAA that retains responsibility for most state and local grant programs; a new Bureau of Justice Statistics and a new National Institute of Justice which assume the statistical and research duties formerly performed by LEAA; and a new Office of Justice Assistance, Research and Statistics that coordinates the activities of and provides direct staff support to the other three units. All four of the offices are under the authority of the Attorney General.

Of particular interest to state and local governments is the reformulated grant-making authority of the new LEAA that replaces the planning, action and corrections portions of the former block grant program. These three "categories" have been eliminated and replaced by a formula grant program that provides assistance to state governments as well as direct entitlements to cities, counties and combinations of local units with a population of 100,000 or more. Funds will be limited to innovative programs which have been proved effective, have a record of proven success, or have a high probability of improving the functions of the criminal justice system. Twenty-two program areas are identified in the law, ranging from specific activities such as "combatting arson" to the more general category of "improving law enforcement." LEAA also may authorize grants in a twenty-third category for "any other innovative program" that has been proved effective, has a record of proven success, or has a high probability of improving the functions of the criminal justice system.

Countercyclical Aid. Antirecession assistance was another program which faced a rocky road in the first session of the 96th Congress. Along with measures replicating the proposals that failed in the last Congress, the Administration introduced a two-phase version of the aid plan. The first phase called for targeted fiscal relief for local governments with high unemployment rates. Part two of the plan, antirecession assistance, would have provided funds for states and localities once the nation entered a recession.

A Senate-passed version called for \$340 million to localities for the targeted fiscal assistance program, and a \$1 billion standby program for states and localities as the second phase. A similar two-stage bill passed the House Government Operations Committee, although there were formula changes that stressed real decline in wages and salaries and tax effort, rather than unemployment figures. On December 14, the House considered the bill which was later withdrawn after a call for reduced funding from \$250 million to \$150 million for the first phase was adopted. The House is scheduled to reconsider the measure in the second session.

The original countercyclical aid program, which expired September 30, 1978, distributed some \$3.5 billion to states and localities between 1976 and 1978.

ACIR has recommended that Congress establish a permanent "accordion-type" antirecession program which would automatically increase funding to states and localities as unemployment rises and would shrink funding levels as unemployment falls.

Mortgage Revenue Bonds. Congressional efforts to curb state and local use of housing mortgage revenue bonds was another important intergovernmental issue of 1979 that remained up in the air at the end of the year. In the past year, more and more local governments have issued mortgage revenue bonds to allow middle and moderate income buyers to purchase houses at below-market interest rates. The loser in such transactions is the federal treasury, since the interest on the bonds is exempt from federal taxation. The U.S. Treasury Department states that by 1984 these bonds could finance as much as 50% of the single-family mortgage market and could cost the federal government as much as \$11 billion a year.

The original intent of legislation to correct this situation was to restrict severely the issuance of these bonds by states and localities. An amendment to the bill, which was added as an alternative to housing bonds, calls for a tax break for savings accounts as a way of encouraging savers, thus providing more money for home mortgages. The House is expected to consider the measure in January.

ACIR's position, adopted in June, calls for only two limitations on the issuance of housing mortgage revenue bonds: the total volume of bonds within a state should be held to 5% of the total mortgages for single family housing originated in that state during the previous year, and eligibility for low and moderate income homeownership programs should be limited to 120% of local median family income, except for urban revitalization areas where higher limits are appropriate. The Commission urged that any federal legislation on this subject only define general standards for determining eligible programs, allowing all remaining program specifics to be developed by state governments.

Electoral College. In 1979 Congress turned back another attempt to do away with electoral college. This much criticized system for selecting presidential winners is now 190 years old and has been used in 48 Presidential elections. Critics who describe the system as archaic and undemocratic point to the potential constitutional crisis that would arise if the electoral college selected a candidate who had not garnered a majority of the popular votes. In 1976, for example, if less than 10,000 votes had shifted from Jimmy Carter to Gerald Ford in Ohio and Hawaii, the electoral college would have selected Ford as President, despite his 1.7 million popular vote deficit.

Supporters of the current system, on the other hand, argue that it has proven itself through its lengthy and successful period of evolution. To alter the system, they argue, would permit other unforeseen constitutional problems by disrupting the balance between total vote numbers and the geographical dispersion of votes, concurrent majorities, and its check on third, fourth, and fifth parties.

The language of the constitutional amendment to abolish the electoral college was simple, calling for election of the President by direct popular vote in place of the existing state appointed electors. Should no candidate

receive 40% of the popular vote, a runoff would be held between the top two candidates. But when the decisive Senate vote came on July 10, the proposal tallied 15 votes shy of the required two-thirds of those present and voting to receive approval.

Federal Aid and Regulatory Reform

Congressional proposals to improve the federal grant system, institute systematic program review, and simplify regulations moved very slowly in 1979, although some might optimistically cite their introduction and serious consideration as a step in the direction of more effective program oversight, review, and restructuring.

Sunset. Passage of sunset legislation would establish periodic review of federal aid programs to eliminate those which have fulfilled their purpose or otherwise have become inappropriate. When first proposed four years ago, sunset called for the review of all federal programs every four years. Programs would have passed out of existence unless Congress specifically renewed them. President Carter has called for the sunset's passage since early in his Administration, and the ACIR has long advocated this concept. In late 1978, the Senate passed sunset by a vote of 87 to 1, but the House did not act.

In 1979, sunset advanced in both houses of Congress, but at a price. Under the revised proposals, the Senate and House would review only preselected programs. Furthermore, the committees responsible for initial enactment of the programs would have a major voice in the preselection process. In the House, the critical automatic termination aspect of sunset fell by the wayside as well. Under the new House version, programs would expire only when voted out of existence by the Congress. The House subcommittee with jurisdiction over sunset began markup late in the year. Action is expected by the Senate Governmental Affairs Committee in 1980.

Legislative Regulatory Reform. Reform of federal regulations, which are widely considered to be too complex, costly, and intrusive, was to have been a high priority in this session of Congress. Over 150 regulatory reform bills were introduced in Congress in 1979, but no final actions were taken by year's end.

After lengthy hearings, the Senate Governmental Affairs Committee marked up legislation (S. 262) proposed by Chairman Abraham Ribicoff (CT) and the Administration's omnibus proposal (S. 755). These related proposals are designed to assess and control the cost of proposed regulations and to assure a periodic review of certain existing rules. Specifically, they would:

- reduce regulatory delays by curtailing some appeal procedures, expediting some less formal administrative law procedures, and requiring deadlines for agency decisions in major cases;
- require agencies to carry out sunset review of existing regulations according to a published schedule; and
- require agencies to publish semiannual agendas of forthcoming major regulations, and to publish regulatory analyses that will include cost/benefit comparisons and alternatives to the proposed rule.

While the Senate Judiciary subcommittee worked on a number of proposals designed to ease public and private regulatory burdens as well, no floor action occurred in this session. The Administration proposal and steps to reduce the regulatory impact on small businesses received

committee attention in the House but no final action was taken there either.

Federal Aid Reform. A third area of Congressional action dealt with the procedural and structural aspects of the system by which \$83 billion in federal aid funds are distributed to state and local governments. Numerous commentators—including ACIR—have pointed to the inefficiency of this system and its improper use as a vehicle for the recent wave of federal policy dictation. Governors and state legislators have publicly stated they would sacrifice some federal aid funds in return for increased flexibility and a reduction in the complex procedures by which the funds are dispensed. The statements of these officials and others encouraged a modicum of Congressional action on this front in 1979.

In the House, concern was expressed over the growing tendency of the federal government to mandate activity by lower level governments. This concern was reflected in two pieces of legislation. Rep. Elizabeth Holtzman (NY) introduced a measure to require the Congressional Budget Office to estimate the cost to state and local governments of all federal legislation. This fiscal note approach to controlling mandates received the support of over 100 co-sponsors, and companion legislation may be introduced in the Senate early in the new year. The second bill, H.R. 2842, sponsored by Rep. John Burton (CA), permits members of Congress to request the Congressional Budget Office (CBO) to estimate additional costs to state and local governments that might be imposed by proposed federal legislation. The cost estimates would cover the first five years the proposed legislation would be in effect. Should the CBO identify additional costs to state and local governments, the Congress would be prohibited from considering the legislation until federal appropriations are authorized to cover those costs.

Under the leadership of Sen. James Sasser (TN), the Senate Subcommittee on Intergovernmental Relations moved on legislation confronting several of the fundamental weaknesses in the federal assistance system. The focus of the subcommittee's action in hearings and markup was S. 878, "The Federal Assistance Reform Act." This five title proposal deals with structural, procedural, and basic management aspects of the aid system. Title I calls for simplification of the more than 30 national policy requirements. Title II would create a process to expedite the consideration of grant consolidation proposals in Congress. Title III renews and strengthens the 1974 joint funding act by mandating fuller federal agency participation in the process. Title IV encourages advanced appropriations to facilitate recipient planning, and Title V calls for standard maintenance of effort provisions, better information on grant funds disbursed to local as well as state governments, and a more inclusive waiver of the single

“Reform of federal regulations, which are widely considered to be too complex, costly, and intrusive, was to have been a high priority in this session of Congress.”

state agency requirement. This legislation was marked up in conjunction with Sen. John Danforth's (MO) small communities legislation (S. 904), and the combined proposal will go to full committee early in the second session of this Congress.

While this legislation has undergone lengthy deliberations, the Sasser subcommittee successfully moved a simple renewal of the 1974 Joint Funding Simplification Act, due to expire in 1980. This renewal was passed by the full Senate on December 18. Joint funding, which had a disappointing record in its early years of existence, has experienced greater success in recent months. Twenty-seven of the 40 funded joint projects are less than two years old. Nine of these are at the substate regional level, and 18 originated at the federal level in response to the Administration's urban policy initiatives.

The omnibus grant reform proposal and the simple joint funding renewal are now before the House Subcommittee on Intergovernmental Relations and Human Resources. While these proposals were not considered by the subcommittee in the first session, supporters of grant reform are seeking hearings in the House during 1980.

ADMINISTRATIVE PROPOSALS

A primary aim of the Carter Administration is a restoration of the American public's confidence in its federal government by improving the organization and the processes of government. Attention was paid to these issues in 1979 as the Administration pursued regulatory reduction, executive branch reorganization, and federal paperwork reduction reforms. The national urban policy, which experienced a troubled birth in 1978, was targeted increasingly in 1979 to distressed communities in nonurban as well as urban locales. As the urban policy became more targeted, programs were developed as well for troubled rural and suburban communities.

Administrative Regulatory Reform

Stacks of public and private sector studies have pointed to the mounting costs of governmental rules and regulations—economic strangulation through regulation. The first two years of Jimmy Carter's tenure saw several efforts to assess the cost of regulatory requirements and to mitigate those rules found to be excessively burdensome. Two key innovations were the establishment of a Regulatory Analysis Review Group to identify and reduce the costs of proposed major regulations, and a new U.S. Regulatory Council, composed of 35 heads of regulatory agencies, to coordinate regulatory policy, reduce its costs, and publish a semiannual regulatory calendar of important proposed regulations.

In February 1979, the U.S. Regulatory Council published its first edition of the regulatory calendar which contained 109 proposed regulations in 20 executive agencies. These rules were divided among the five categories of health and safety (46), natural resources (29), human resources (15), transportation and communications (14), and trade and commerce (5). proposals selected for review could cost the public and/or private sector \$100 million or more annually.

The intent of the calendar is to provide information on objectives and benefits, identify sectors of the economy affected, explore alternative rules, and stipulate economic effects. While these cost impacts proved very difficult to pin down, about one-third of the calendar entries had dollar figures attached. Most of the controversy centered on the health and safety areas, as labor unions and environmentalists argued that worker safety and environmental

protection should outweigh cost considerations.

Upon completion of the first calendar, the Regulatory Council began to review the effects of federal regulation on the steel industry, housing, health care, and financial institutions. Along with regulatory cost assessments, one of the primary aims of this effort is better coordination of fragmented regulatory activity.

While the Regulatory Council was expanding its agenda, the White House Regulatory Analysis Review Group (RARG) was noticeably quieter than it had been in 1978. The Review Group in 1979 issued a list of rules which might be reviewed, but by year's end no analysis had actually taken place. Despite this slowdown, the RARG in one instance was used as the basis for direct Presidential participation in the regulatory reform process. This occurred when President Carter backed the relaxation of certain occupational health and safety standards. And, as a former head of RARG noted, the group asserted the President's right to direct the regulatory actions of federal executive agencies.

While progress was slow on the regulatory cost estimate front in 1979, some positive reforms were achieved. The Occupational Safety and Health Administration discarded some of its most picayune and nettlesome requirements in exchange for broader, more realistic standards for the business community. The Consumer Product Safety Commission similarly began to rely more on standards set by the manufacturers and to encourage the recall of hazardous products.

Perhaps the most innovative regulatory reform approaches in 1979, however, emanated from the Environmental Protection Agency (EPA), the federal unit most responsible for regulatory costs. Of particular note is the "bubble concept," which permits individual plants with multiple pollution sources to adjust environmental standards within each facility, as long as the aggregate level of pollution is below the specified standard.

The Carter Administration also worked closely with the Congress on legislative approaches to regulatory reform by seeking to achieve a compromise between the President's proposal (S. 755) and the Ribicoff proposal (S. 262).

Reorganization

Executive reorganization was a second major Carter campaign pledge and is a primary policy aim of his Administration. The President's reorganization powers were reauthorized in 1977 under P.L. 95-17, which permits the President to transfer federal program authority among cabinet departments, subject to Congressional veto. A simple majority vote in either House kills a plan, but if such a plan is not disapproved within 60 days, it automatically goes into effect. Creation or elimination of an executive department requires legislation.

In the first two years of his office, President Carter used these reorganization powers to scale down the size of his executive office and to consolidate and reorganize several federal agencies including the U.S. Information Agency, Civil Service Commission, and federal emergency preparedness operations.

However, the wholesale reduction of the number of government agencies and the size of the federal establishment promised by candidate Carter has not been accomplished. In fact, a number of reorganization plans receiving much attention at the beginning of the year were diminished in scope through the early months and ultimately were set adrift. Two of these proposals would have consolidated natural resource programs in one body and economic development programs in another, transforming the Interior Department into a new Natural Resources Department,

and the Department of Housing and Urban Development into a new Development Assistance Department.

The Administration initially expressed strong support for these plans, but a full Congressional agenda marked by budget and Salt II debates signaled early trouble for reorganization proposals on the Hill. This, in combination with cabinet level concerns, ephemeral support in Congress, and special interest opposition caused the plans to come a cropper and the Administration ultimately withheld their introduction.

Department of Education. Reorganization advocates fared better and President Carter fulfilled a campaign promise in the field of education, as Congress approved legislation to establish a new cabinet-level Department of Education. The new Education Department will be the smallest of the 13 Cabinet departments in terms of employees, but will have the fifth largest budget (\$14 billion). The new department will be made up of the old Office of Education, which was formerly in the Department of Health, Education, and Welfare, employees of the Defense Department's overseas schools, and some smaller educational programs. The department will not contain child nutrition, "head start," and Indian education programs which were included in earlier versions of the plan.

Critics of the Education Department proposal cited it as one more example of federal intrusion and control and an opportunity for more bureaucratic procedure and pressure group dictation instead of any real focus on teaching and learning. Of primary intergovernmental significance to this development is the fact that a cabinet department was created for a function that historically has been a state responsibility and for which 93% of the money is supplied by state and local governments. Some wags even tagged the new unit the Department of Public Education (DOPE) to express their dissatisfaction with its creation.

Advocates of the reorganization counter that national education programs will no longer get lost in the HEW labyrinth and that this will have a beneficial effect on our national education system.

Mark Twain said that soap and education are not as sudden as a massacre but in the long run are twice as deadly. The accuracy of Twain's observation relative to the new department will be determined only after the new unit is in place and functioning. Several points are clear, however, even at this juncture. First, the organizational plan which was designed to unite the education community did indeed fragment it over the issue of degree of federal control. The Administration and the new department's head, Judge Shirley M. Hufstедler, must salve these wounds before the Education Department will ever function as a cohesive unit. Secondly, the trauma of this reorganization fight graphically illustrates the difficulties encountered in altering complex bureaucratic institutions. The intensity of this effort does much to explain why the Carter reorganization task forces, which began with such high hopes in a broad range of functional areas, have experienced three years of frustration and limited success.

Federal Regional Councils. In the midst of these efforts to reorganize the federal executive structure, President Carter also moved to upgrade some of the organizations which facilitate relationships between the federal government and subnational governments. In particular, an effort was made to move the federal regional councils (FRCs) out of the state of near suspended animation that they had been in for several years. These bodies were established

during the early Nixon years to decentralize authority for handling certain intergovernmental and interagency actions and issues. By 1976, the FRCs could report only an uneven record, and they had earned the enmity of candidate and then President Carter. Some talk was heard in Washington in early 1977 about abolishing the FRCs.

By early 1979, however, the President's faith in the Councils' potential efficacy had apparently been lifted. In January 1979, the Administration announced the abolition of the existing supervisory body, the Under Secretaries Group, and the establishment of a direct relationship between the FRCs and the Interagency Coordinating Council (IACC) headed by Presidential Assistant Jack Watson. The January statement assigned the FRCs responsibility for ensuring that regional level implementation of federal policies is consistent with overall Administration policy and that the implementation process is responsive to the concerns of state and local governments; goals originally enunciated by President Nixon.

In early 1979, the President moved to strengthen the Title V Regional Planning Commissions in response to recommendations of the 1978 White House Conference on Balanced National Growth and Economic Development. The Commissions, established by Title V of the Public Works and Economic Development Act of 1965 and bolstered by the Regional Development Act of 1975, were created to encourage economic and community development in multistate regions. By a memorandum in January 1979, President Carter instituted a regional growth policy for the Title V Commissions requesting closer working relationships with the appropriate federal agencies and greater emphasis on state and substate plans in the development of multi-year regional development plans and annual investment strategies.

Paperwork Reduction

The elimination of unnecessary federal paperwork requirements is another way in which the Administration has sought to make government work better. This effort was maintained in 1979 as the Administration continued to seek implementation of the 520 recommendations produced by the Commission on Federal Paperwork.

The Office of Management and Budget issued its third report to the President and the Congress on paperwork and red tape reduction in September 1979. This report stated that 269 of the 520 Paperwork Commission recommendations directed to the Executive Branch had been implemented, with 80 recommendations rejected and 171 still pending. The report further noted that since 1977 the Administration's efforts in this area have been responsible for a reduction of more than 125 million hours per year in the time the public spends in filling out federal forms.

These paperwork reduction efforts were supported on November 30, 1979, with the signing of Executive Order 12174. The seven primary provisions of the order require additional federal paperwork reduction through:

- federal agency simplification or elimination of unnecessary federal agency reporting and record keeping requirements;
- federal agency designation of an existing official to oversee the restriction of paperwork in proposed legislation and regulations;
- federal agency focus on special information burdens of individuals and small organizations by greater use of sampling, less frequent reports, and elimination of reports;

- federal agency preparation of an annual paperwork budget estimating total hours required for information requests;
- federal agency sunset review of existing paperwork requirements;
- federal agency information locator system to avoid duplicative and overlapping information requests; and
- Office of Management and Budget audit and review of agency compliance with these provisions.

At the same time, the President voiced strong support for passage of paperwork reduction legislation now pending before the House and Senate. This would provide a statutory basis for several of the provisions in Executive Order 12174.

Urban Policy

A national urban policy, the subject of so much Washington attention in 1978, was given a much lower profile in 1979. Only two of the four major legislative components of the policy not passed in 1978 were reintroduced. These modified versions of countercyclical aid and urban development bank failed to receive Congressional approval once more. The urban policy which came forth in 1979 was distinguished by federal programs targeted to notably distressed communities. The primary vehicles for distributing this aid were the reformulated Comprehensive Employment and Training Act (CETA) programs, the community development funds provided in the 1978 program expansion, the urban development action grant (UDAG) program, and a collection of economic development initiatives.

Seemingly the Administration enjoyed better success as the urban policy was reformulated into a distressed community policy. While the Administration's announcement of its Small Community and Rural Development Policy contained no legislative proposals and was purely administrative in nature, it apparently offered promise of better federal program service delivery in America's small towns and rural areas. This November 6, 1979, announcement expands a policy initiated in 1978, to better target federal funds to rural communities exhibiting the most need and to facilitate communication between federal agencies operating in the same jurisdiction. The original six program areas dealt with in the rural initiatives were water and sewer,

communications, energy, transportation, housing, and health. The November announcement added management capacity building, rural credit, legal services and small town business district revitalization components to the program.

The rural initiative in the health area is representative of this new approach. The core of this effort is an agreement between the Department of Health, Education, and Welfare (HEW) and the Department of Agriculture (USDA) that provides for loans to construct needed health care facilities for people in the underserved areas. The Farmers Home Administration (FmHA) in USDA provides the loans to build, expand, or better equip nonprofit health care units in the chosen areas. The Bureau of Community Health Services (BCHS) in HEW ensures that these facilities are appropriately staffed and that operating expenses will be provided for the life of the loan. The architects of this agreement hope that the combined federal agency effort will overcome the current health care trend toward specialized training and the development of sophisticated technology, neither of which meets the basic health care needs of rural people. This new rural emphasis is placed instead on developing primary health care disciplines and encouraging individuals with this training to locate in rural areas.

Another Administration policy announced in late 1979 would analyze the economic effect of proposed suburban shopping malls on small town as well as large urban business districts. Historically, suburban mall development has lured business away from downtown areas and contributed to urban decline. Under this new policy, which received wide acclaim from mayors and environmentalists, local officials can request an economic impact analysis of proposed mall projects under provisions of the Urban Conservation Policy and the National Environmental Policy Act. If such an analysis finds that a proposed suburban mall would undermine an urban or small town business district, or significantly increase gasoline demand, federal funds would be withheld. This Administration policy has been used successfully in Charleston, WV, where suburban mall construction was halted and development funds went instead to a downtown shopping project.

THE COURTS

In the last 50 years the courts have played an increasingly

Implementation of Cigarette Bootlegging Law Is Intergovernmental Task

One intergovernmental footnote to these federal executive branch programs with system-wide significance was implementation of the new federal contraband cigarette control law. Transportation of these untaxed cigarettes in interstate commerce has resulted in large tax losses, particularly in the 23 states with the highest cigarette taxes.

The state tax losses as well as organized criminal involvement in the bootlegging activity were identified in the ACIR 1977 report **Cigarette Bootlegging: A State AND Federal Responsibility**. On the basis of these research findings the Commission recommended federal enforcement

involvement in this interstate issue, and testified before Congress in support of the measure ultimately enacted as P.L. 95-575.

In early 1979 the responsibility for implementation of the new law was granted to the Bureau of Alcohol, Tobacco and Firearms (ATF) in the Department of Treasury. Throughout 1979, ATF worked closely with state level enforcement officials to train personnel and carry out cooperative investigations. The fruits of these efforts were seen in the first six months of the program's operation, as 203 criminal investigations were launched, eight criminal cases involving 14 defendants were completed, and over 18,000 cartons of contraband cigarettes were seized. All but one of the eight completed cases involved cooperative federal and state enforcement actions. New York State in particular witnessed a significant reduction in their tobacco tax loss in the wake of the new federal legislation. ATF estimates indicate that state tobacco tax losses decreased by nearly \$80 million in 1979, the first year the federal legislation was in effect.

significant role in American federalism. The fundamental intergovernmental result of court action is seen in the steady erosion of constitutional and judicial barriers to the growth of the federal government. This development has permitted federal authority to flow into health, transportation, education, environmental, and social welfare policy areas traditionally the domain of state and local governments and the private sector.

Court action in 1979 gave every indication that this trend will continue. Cases announced near the end of the Supreme Court's term supported massive busing orders for desegregation in northern cities, expanded the rights of prisoners to win federal review and reversal of their convictions in state courts, backed the voluntary adoption of affirmative action programs to improve job opportunities for blacks and other minorities, and upheld teenagers' rights to abortions without their parents' consent.

In 1979, as in the past few years, several significant cases were decided relating to federal grants. Litigation surrounding federal grants, which is one of the newest and most rapidly expanding areas of contemporary case law, has mushroomed as the recipients, potential recipients, and ultimate beneficiaries of grant programs are using the courts with increased frequency to seek redress for conditions, award decisions, and grant interpretations they feel are unjust.

One 1979 grant law case of considerable intergovernmental significance involved interpretation of Section 504 of the **Rehabilitation Act of 1973**, which prohibits discrimination on the basis of handicap. In a unanimous ruling on July 11, the Supreme Court found that higher educational institutions are not required to lower their standards to make expensive modifications in their programs to admit and accommodate handicapped persons. The case, **Southeastern Community College v. Davis**, was the first Supreme Court case covering the regulations emanating from Section 504, and was a major setback for the handicapped lobby since it also found that Section 504 does not mandate affirmative action.

In **Goolsby v. Blumethal**, the U.S. Court of Appeals ruled that only those requirements specifically noted in the text of the revenue sharing act are applicable to the revenue sharing program. This decision reversed the decision of a three-judge appellate panel that ruled that the **Uniform Relocation Assistance and Real Property Acquisition Policies Act** does apply to projects when the only federal involvement is the presence of revenue sharing funds. The Court of Appeals ruling is in line with prior case law which has ruled that revenue sharing funds must be treated as funds collected by state or local governments, not as categorical aid funds. The earlier **Goolsby** decision threatened a dangerous precedent since there are over 30 generally applicable national policy requirements which apply more or less across the board to all grant programs.

On April 27, the Supreme Court refused to hear Florida's appeal on a Fifth Circuit Court of Appeals decision (**Florida Department of Health and Rehabilitative Services v. Califano**) requiring the state to comply with Congressionally dictated organization of its vocational rehabilitation system. This action lets stand the lower court decision that the state's umbrella organization of its human services agency did not comply with federal requirements for a single organizational unit to administer vocational rehabilitation programs. The State of Florida in response is seeking to contract the vocational rehabilitation programs to private nonprofit organizations, rather than disrupt the

state's social service organization.

One grant case which was initiated in 1979 seemingly threatens the tenets on which much of contemporary grant law rest—the principle established in **Massachusetts v. Mellon** in 1923 that jurisdictions which do not wish to comply with federal grant conditions need only refuse federal grants. The case, **Angell v. Zissman**, pending in district court, involves the city of Manchester, CT, which pursuant to a referendum wants to withdraw from the community development block grant program because it apparently does not wish to comply with the planning requirements for low income housing. The U.S. Justice Department has entered the case which could result in a decision saying the city cannot pull out of the program it has participated in for several years.

In 1978, ACIR identified **Thornburgh v. Casey** as the likely premiere case for 1979. On March 6, however, the Supreme Court refused to hear the case, letting stand the earlier **Shapp v. Sloan** State supreme court decision that Pennsylvania's legislature does have the right to appropriate federal funds. Yet the **Shapp v. Sloan** decision stands as a significant victory for those who, like ACIR, believe state legislatures should have a significant role in the full control of state purse strings, including the acceptance and use of federal funds. The lack of a "substantial federal question" cited by the Supreme Court, however, means in all probability that the Pennsylvania ruling will not have national application and that similar cases will continue to be settled in the state courts.

CONCLUSION

National events in 1979 clearly depicted the tension between continued pressures for growth of the federal government and the realities of fiscal constraint that will characterize the 1980s. Spurred on by powerful special interests and entrepreneurial policymakers, the federal role continued to expand in 1979, both in terms of program numbers and influence. Greater centralization and further erosion of the autonomy of subnational governmental units were results of this growth.

Washington in the last year, however, also showed an increased awareness of, and responsiveness to, the new austerity embodied in the weakened national fiscal capability. This dimension of national events in 1979 is reflected in response to the balanced budget pressure percolating up from the states, the cresting of the federal aid wave, and a reemphasis on management efficiency techniques. The manner in which this tension between the forces of growth and constraint is resolved holds great impact for the future of American federalism. Continued categorical expansion during this period of shrinking financial resources will compound the managerial and structural problems manifested in the general public dissatisfaction with government. If, however, an awareness and understanding of the new austerity gains a foothold in Washington, this pressure for expanded government will be counteracted. This development might lead to a clearer division of programmatic responsibilities and the trading off of functions between governmental levels. This clarification and untangling of each government's role represents the most favorable intergovernmental scenario for the 1980s.

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States Respond To Tough Fiscal Challenges

By Jane F. Roberts

As the decade of the Seventies drew to a close, the aftershocks of the Proposition 13 "tax revolt" in California—together with double-digit inflation, the threat of a recession, skyrocketing energy costs, and unrest on the international scene—continued to affect domestic policies and programs at all levels of the intergovernmental system. To no one's surprise, an early-in-the-year survey of state executives and legislators by the Council of State Governments revealed that the priority issues for 1979 would be taxes, tax relief, and government spending.

Typical of the responses was that of California Gov. Edmund G. Brown, Jr. who stated: "It is a time to get off the treadmill, to challenge the assumption that more government spending automatically leads to better living." Although most leaders recognized the realities of reduced spending, they also indicated their intentions to continue to work for government efficiency and improved service delivery. As Michigan Gov. William Milliken noted: "The age of limits can, and must, also be an age of innovation and creativity." As a reflection of the new realities of limits, few Governors proposed sweeping new programs or called for major expenditures in their legislative or budget messages.

While generally dominating the year's state agendas, taxes and spending were not the only issues addressed during 1979. Energy production and consumption were critical issues in many states. Officials sought ways to deal with both rising energy costs and the serious hazards associated with nuclear power so dramatically demonstrated by the Three Mile Island incident in Pennsylvania. Utility rate regulation and fuel adjustment clauses also received considerable attention. Education financing and state aid adjustments were debated, as were criminal justice issues, transportation, human services, water rights, foreign and federal land ownership, state and local organizational and service issues, and state aid to distressed communities.

This article describes many of these actions and highlights the key intergovernmental trends in the states during 1979—the majority of which were conditioned heavily by the aftershocks of that California proposition earthquake that registered a "13" on the public policy and service scale.

PROPOSITION 13 AFTERMATH

One of the first long-term studies of efforts to put limitations on taxing and spending authority is being conducted by the Rand Corporation, in an attempt to trace the roots of the Proposition 13-type measures and to assess their impact. Thus far, the study has concluded that Proposition 13 and its "clones" are "no fleeting expression of taxpayer discontent, but a herald of a new era of scaled-down government." The study also has found evidence to support the contention that the public has a deeply rooted dissatisfaction and disenchantment with the quality of services received for the taxes they pay. The study cites four factors contributing to this sentiment: a continuing rise in the overall tax burden; inflation and slow growth in real income; a shifting of government services and expenditures from broadly beneficial programs to programs which are targeted to specific groups; and rapid increases in public employee salaries.

Three Impressionistic Tests

It is still too early to measure precisely the effects of the tax revolt on the intergovernmental system. However, there would appear to be at least three impressionistic tests which could provide a reading of whether the tax revolt is still alive and what impact it is having. ACIR has termed these approaches: the "meat cleaver impact test," the "public opinion vitality test," and finally the "legislative activity impact test."

The Meat Cleaver Test. This test addresses the question: have significant reductions been made in the public sector? The answer, thus far at least, is a qualified "no" in both California and elsewhere. The California economy did lose over 100,000 (about 7%) state and local government jobs in the period May 1978-May 1979, mostly in education.

While most (perhaps 80%) of the reduction in these jobs can be attributed to retirements and voluntary departures, they are nevertheless a loss to the economy.

In the long-term, however, a far more significant drop in public employment is predicted. In California, for example, public employment had been growing at an annual rate of 8.6% prior to Proposition 13. Had that trend continued, the state would have had added double the number—or about 200,000—of the jobs that it actually lost. In light of the dwindling state surplus that has been used to help offset local budget cuts, the downward public sector trend likely will continue, and perhaps at a greater rate. To date, however, the state's economy probably has not been affected adversely by the decline in public jobs in view of the ever-broadening manufacturing base, and an above national average for new job creation. In fact, some claim that California business has been helped—at least in the short-run.

The Public Opinion Test. A second test to determine whether the tax revolt has vitality is to analyze public opinion findings. Last summer, pollsters Harris and Roper both announced that the tax revolt was dead. They based this conclusion on a significant drop in antigovernment and antitax feelings registered in their polls.

Two factors would appear to support the contention that the Harris and Roper conclusions are premature. First, a recent public opinion poll taken for ACIR revealed that there has been a significant shift in attitudes over the last year—the public is now more antifederal government and more prolocal government. The study also revealed a significant growth in antifederal income tax feeling and some diminution in antilocal property tax feeling. This shift in public opinion was most dramatic in the West. Last year, just before Proposition 13, the respondents in the West identified the local property tax as the major villain; now Westerners have selected the federal income tax as the most unfair tax.

If these ACIR findings represent a view of things to come, it would suggest that the public still is quite concerned about tax and spending developments, but that the focus of attention and anger is shifting from local government and the property tax to the federal government and the income tax.

A second reason for believing that the tax revolt still has vitality is the fact that the underlying causes for the so-called tax revolt—inflation and high taxes—have not disappeared. On the contrary, double-digit inflation is inexorably pushing more and more taxpayers into higher federal and state income tax brackets.

For example, consider a family of four whose money income increases from \$15,000 to \$16,500 to keep pace with one year of 10% inflation. Although its purchasing power (its “real income,” in economists’ terms) is the same, the family is jumped from the 18% tax bracket to the 21% bracket, the value of its \$4,000 in personal exemptions drops by 10%, and its federal income tax bill increases from \$1,242 to \$1,530. Overall, the family's tax bill has increased more than 23%, while its money income has grown only 10%, and its real income has not changed. While 8.3% of family income was paid in taxes before the salary increase, the effective tax rate afterward stands at 9.3% simply because of the interaction of inflation with the tax structure.

In short, “taxflation” is helping to fuel and fan the tax revolt fires. This factor is, in fact, borne out by the Rand study findings mentioned earlier.

The Legislative Activity Test. The final test measures the legislative actions and reactions of state and federal lawmakers. When applied, it is evident that there has been a considerable number of aftershocks generated by the Proposition 13 quake:

- In the seven year period between 1970 and 1977, 14 states had imposed various restraints on local property tax authorities; in the first eight months of 1979 alone (post-Proposition 13), 14 states took similar action.
- State legislatures also have stepped up efforts to provide property tax relief. Over 20 states either initiated or expanded various tax relief programs for homeowners and renters (See *Table I*).
- During 1979, three states enacted local property tax levy limits (See *Table I*). In Florida and Massachusetts, a specific lid was imposed (5% and 4% respectively), while in New Mexico a formula was devised for determining the magnitude of allowable increases for individual local governments.
- Five states—California, Massachusetts, Nebraska, Nevada, and Utah—also imposed overall local expenditure limits (See *Table II*). In each case, provisions have been incorporated which ensure some flexibility for local officials, but only in California are local governments assured of increases which keep pace with the rate of inflation. In a period of double-digit price increases, these limitations can be expected to actually reduce the size of the local public sector rather than simply restrain real growth.
- There also has been a rapid growth in the number of lids imposed on state spenders. Only four states had state lids prior to Proposition 13; now there are 12 states with explicit revenue/expenditure lids. Six were adopted in 1979 (See *Table II*).
- Dramatic changes in the number of state income and sales tax reductions were apparent in 1979. While the existence of large state surpluses probably would have generated considerable tax relief action even without Proposition 13, there is little doubt that the tax revolt “fever” prompted state legislators to earmark a much larger share of their surpluses for tax relief action and much less for program expansion and for “rainy day” contingencies. Surely 1979 will go down as a year when state legislators put the taxpayers first (See *Table I*).
- Growing inflation and the Proposition 13 fever are responsible in large part for the fact that six states have indexed their personal income taxes against inflation during the last two years. In the latter part of 1978, Arizona, Colorado, and California partially indexed their states' income taxes; in 1979, Wisconsin, Iowa, and Minnesota took similar action. Oregon also enacted an indexing measure, but it must be ratified by the voters at the polls in 1980. With indexing, certain fixed-dollar features of the income tax code are adjusted annually by the rate of inflation. ACIR has urged that both state and federal income taxes be indexed to ensure that higher effective income tax rates are the product of overt legislative action rather than the silent, automatic consequence of inflation.
- Finally, there has been a discernible increase in support for austere policies at the federal level. The fiscal restraint mood of the Nation's taxpayers is reflected strongly in the general fiscal conservatism of the new members of Congress, as well as in an increasing number of its senior legislators.

Table 1

SELECTED TAX REDUCTIONS AND RESTRICTIONS 1979

	State Personal Income Tax			State General Sales Tax		Local Property Tax			
	Rate Reduction	Base Reduction	Indexation	Rate Reduction	Base Reduction	Homeowner Tax Relief	Rate or Levy Limit	Assessment Constraint	Truth-in-Taxation
Arizona		X ²						X	
Arkansas					X	limited			
California		X ²	X ^a						
Colorado		X ^{1, 2}			X				
Delaware	X								
District of Columbia						general ^{1, 2}			
Florida						general ^b	X		
Georgia					X	limited ^c			
Idaho								X	
Illinois				X					
Indiana	X	X ^{1, 2}				general ¹			
Iowa		X ^{1, 2, 3}	X			general ²			
Kansas		X ^{1, 2}			X	general ²			
Kentucky					X		X		X
Louisiana		X ²							
Maryland		X ^{1, 2}			X	general ²			
Massachusetts		X ¹					X		
Michigan		X ²					X		
Minnesota	X	X ^{1, 2}	X		X	general ² , limited		X	
Mississippi		X ¹			X				
Missouri		X ²			X	limited			
Montana		X ¹				general ¹			
Nebraska	X								
Nevada					X	limited	X		
New Mexico		X ²					X		
New York	X	X ²			X				
North Carolina		X ¹							
North Dakota		X ²				limited			
Ohio						limited			
Oklahoma		X ¹				general ² , limited			
Oregon		X ^{1, 2, 3}				limited			
Pennsylvania			X ^b			general ^{1, 2}		X	
Rhode Island		X ²				limited			X
South Carolina				X ^d		limited			
South Dakota				X		limited			
Tennessee						limited			X
Texas						general ^{1, 2} , limited			
Utah		X ²						X	
Vermont	X	X ²							
Virginia									X ^e
Washington						limited			
West Virginia				X ^f					
Wisconsin	X	X ^{1, 2, 3}	X		X	general ^{1, 2}			
Wyoming					X	general ¹			

Legend:

State Personal Income Tax "Base Reduction:"

1 = New or expanded exemptions or deductions.

2 = New or expanded credits (including renters' property tax credit).

3 = Rebates.

Local Property Tax "Homeowner Tax Relief:"

general¹ = New or expanded tax relief with no age or income restrictions.general² = New or expanded tax relief with income restrictions.

limited = New or expanded tax relief with age or disability qualifications.

(a) The 3% threshold in the personal tax inflation adjustment factor was eliminated.

(b) Pending voter approval of proposed constitutional amendment.

(c) The legislature approved several proposed constitutional amendments, which if approved by the voters, would provide tax relief in individual Georgia counties.

(d) The sales tax on residential fuel will be phased out over next three years.

(e) Tightened restrictions on existing truth-in-taxation law.

(f) Sales tax on food to be phased out over next two years.

Source: ACIR staff compilations based on Commerce Clearing House, State Tax Reporter.

Table II

STATE AND LOCAL REVENUE/EXPENDITURE LIMITS 1979 ACTIONS

State	State Lid	Local Lid	Remarks
California	X	X	Annual increase in state and local appropriations tied to changes in population and cost of living.
Louisiana	X		State tax revenues can rise only as fast as the increase in personal income.
Massachusetts		X	Annual increase in property tax levies and the expenditures of local governments dependent upon the property tax limited to 4%.
Nebraska		X	No political subdivision may adopt a budget in which the anticipated combined receipts exceed the current year's by more than 7%.
Nevada	X	X	State budget limited to 1975-77 biennium budget adjusted for population changes and inflation. Local budgets tied to 1979 fiscal year budgets adjusted for population changes; a partial inflation adjustment also is allowed.
Oregon	X		Increase in state spending for 1979-81 biennium tied to rate of growth in state personal income in previous two years.
Utah	X	X	Annual increase in state appropriations limited to 85% of percentage increase in state personal income. Annual increase in local appropriations limited to 90% of percentage increase in state personal income, with further adjustments allowed for population change.
Washington	X		State revenues can grow as fast as personal income, averaged over the previous three years.

Source: ACIR Staff Compilation

Tax and Expenditure Lids

Legislatures in six states enacted limits on the revenue/expenditure authority of state and/or local governments during 1979—Louisiana, Massachusetts, Nebraska, Nevada, Oregon, and Utah (See *Table II*). In addition, limits were approved by the voters in California and Washington.

In California, Proposition 4 (known as the "Spirit of '13" measure and spearheaded by Proposition 13 co-author Paul Gann) was approved overwhelmingly by the voters by a nearly 3 to 1 margin. The limit contained in the measure will hold state and local spending to the levels for fiscal 1981, with adjustments for population growth and inflation. The limit may be overridden by a majority vote of the residents of a jurisdiction, but only for a period of four years. In emergency cases, a governing body may override the limit without a public vote; however, expenditures which are made in excess of the limit must be deducted from appropriations made during the ensuing three years. Collections in excess of the spending limit must be returned to taxpayers within two years.

As the year ended, still another initiative qualified for the June 1980 ballot. Called *Jarvis II* (for its sponsor Howard Jarvis), this new proposal would cut the state income tax in half and would have the most powerful impact on state revenues of any measure.

The Washington proposal limits growth in state tax revenues to the growth in personal income. The limit will go into effect in fiscal 1981, using 1979 collections as a base. The state also must fund those programs it transfers to localities, thus blocking a shift in state expenditures that might effectively circumvent the limit. The limit may be overridden by a two-thirds vote of each house of the legislature.

The Pennsylvania legislature approved a constitutional amendment to limit state spending to 80% of the previous two years' average percentage increase in personal income. The measure must be reapproved in the 1981-82 session before it can be submitted to the voters.

Michigan implemented its constitutional state and local spending limit approved in 1978—the Headlee Amend-

ment. After considerable debate, statutory language was approved implementing the property tax rollback, payments for state mandated costs, and state assistance to local governments provisions of the amendment (see box).

The Property Tax

Property tax relief was enacted in varying forms in nearly half of the states. In some cases, states also provided direct aid to local governments in response to public reactions against the property tax. For example:

Rhode Island enacted the **Property Tax and Fiscal Disclosure Act of 1979**. The comprehensive measure establishes property tax and fiscal disclosure requirements, puts limits on local deficit spending, requires the periodic revaluation of all property in the state, and provides guidelines for reimbursing cities and towns for the cost of state mandated programs.

In Idaho, the implementation of a Proposition 13-style initiative, approved by the voters in 1978 that would cut property taxes 66% statewide, was postponed for a year. The legislature froze property tax valuations at the 1978 level to prevent local assessors from raising assessments to offset the loss of revenue. The legislature also increased the state school subsidy to help local districts which rely heavily on the property tax for revenue. However, the state attorney general has ruled that the provisions to freeze property tax valuations are inconsistent with other state statutes. The matter will be taken up again in 1980.

In Texas, the Governor signed a property tax reform bill that requires that all property be assessed at 100% of its full market value. The law goes into effect January 1, 1981, and invalidates the widely varying assessment ratios currently utilized by local jurisdictions.

The Missouri legislature also acted to eliminate disparities in land valuations which are central to the property tax system. Under its plan, guidelines were approved for the state tax commission to reassess all property in the state. Much of the legislature's work was in response to a state supreme court decision in support of equitable assessments.

Under the new plan, reassessments will be effective

January 1, 1984. Local governments will be required to rollback their tax rates if assessments rise sharply in order to prevent windfall revenues.

The Property Tax and Schools

In 1979, several states acted in the school finance area. In Vermont, the Governor proposed that the state take over the administration of school-related local property taxes. The Washington legislature used a state surplus to advance that state's plan for full state funding for education by one year. In Georgia, the legislature adopted a gubernatorial proposal for property tax relief to provide direct aid for local schools.

The Florida Governor and legislature agreed to a school property tax rollback proposal that may reduce taxes by as much as \$177 million. In addition, cities and counties generally have been prohibited from increasing their property tax collections by more than 5% for a year.

One of the most significant developments occurred in Connecticut, where school finance has been a predominant issue since 1977. At that time, the state supreme court ruled that the state relied too heavily on the property tax to finance schools. As a result, students from poor urban and rural areas were at a disadvantage. In 1979, the legislature approved a school financing formula that weights community wealth, tax effort, population, and number of poor families. The five year plan is expected to cost nearly \$400 million, an amount that could have significant ramifications for the state's fiscal position during the 1980s.

In Ohio, the state supreme court upheld that state's equal yield formula that relies on both state and local tax effort. A lower court had ruled that the system discriminated against pupils in poorer districts. The high court acknowledged that the system would cause some "inequality" among districts, but added that "we cannot say that such disparity is a product of a system that is so irrational as to be an unconstitutional violation."

The Arkansas legislature ran counter to the national tax cutting trend and approved substantial hikes in both state taxes and spending. Included in the raises was a 20% boost in state aid to schools, the largest increase in the state's history.

Indexation

During 1979, 13 states considered indexation legislation. Three states (Iowa, Minnesota, and Wisconsin) adopted new laws, and Arizona and Colorado amended their statutes. In Oregon, the legislature enacted an indexing measure, but it must be ratified by the voters in 1980. A

“Despite the large number of new Governors who took over the reins of state government in 1979, there was not a high level of activity in the area of major reforms and reorganizations in state executive branches.”

Montana indexing bill was vetoed by the Governor. These actions bring to six the number of states with indexation statutes (Arizona, California, and Colorado acted in 1978).

The Iowa legislation indexes tax rate brackets for the 1979 and 1980 tax years. The adjustment for 1979 is one-fourth of the change in the consumer price index (CPI) published by the U.S. Bureau of Labor Statistics—or 2.3%. The adjustment for 1980 will be one half of the calendar year change in the CPI. No adjustments for inflation are to be made if the unobligated state general fund is less than \$60 million as of June 30.

Minnesota enacted legislation to index tax rate brackets starting in 1979 and personal credits beginning in 1981. The adjustments for 1979 will be 10.1%.

A Wisconsin law to index the tax rate brackets will go into effect in 1980. Adjustments will be limited to 10%, and will be based on the increase in the CPI for all urban consumers for the month of June.

STATE LEVEL ORGANIZATION AND PROCESSES

The 1978 election season provided a bumper crop of new state executives and lawmakers who officially assumed office early in the year. Twenty new Governors (from the 36 states which held gubernatorial contests) and a number of new legislators were installed as the legislative sessions opened. In addition, two more states (Kentucky and Mississippi) elected new Governors in the fall of 1979.

Executive Organization

Despite the large number of new Governors who took over the reins of state government in 1979, there was not a high level of activity in the area of major reforms and reorganizations in state executive branches. However, many Governors continued to offer reorganization proposals along functional lines, and in many cases continued to fine tune the more comprehensive reorganizations which had been instituted in previous years.

In Florida, the legislature approved a new "Executive Office of the Governor," and transferred many of the duties of the department of administration (headed by the Lieutenant Governor) and the department of community affairs to its jurisdiction. In Illinois, a new department of commerce and community affairs was created to help consolidate economic and community development programs which had been fragmented among several agencies. The new department encompasses the programs and activities formerly administered by the Governor's manpower and human development office, the department of business and economic development, and all components of the department of community affairs except those dealing with tax administration and research which were transferred to the revenue department. A new process also was approved in Illinois to provide for a greater legislative role in the review and approval of executive reorganization orders issued by the Governor.

State planning received a boost in New York with the creation of an office of developmental planning that will coordinate the economic development activities of state agencies. The new agency also will be responsible for reviewing federal legislation that may have impact on state development efforts, coordinate the state's involvement with such multistate organizations as the Appalachian Regional Commission, and work with private sector advisory groups. The director of the office also serves as the staff director of the Governor's economic affairs cabinet.

Michigan Implements Its Headlee Amendment

In 1978, the voters in Michigan adopted one of the tightest constitutional spending lids in the country—the Headlee Amendment. It applies to both state and local governments and can be lifted only when a majority of qualified voters approve.

During 1979, the legislature's task was to develop legislation which would implement the amendment's provisions. Of major concern were the issues of property tax rollbacks, state mandated costs, and the level of state payments to local units of government.

Rollbacks

The first issue tackled by the legislature was the property tax rollback section of the amendment. It was of particular importance to local governments because the approach to be taken would have a significant impact on fiscal 1980 local budgets: how much property tax revenue could be collected?

Two related questions marked the debate. The first involved whether the property tax rollback should be applied to the maximum rate that is authorized by statute or charter or to the rate that actually is levied by the local government. The legislature opted for application to the maximum authorized rate when the growth in the state equalized value of personal and real property exceeds the growth in the consumer price index (CPI). A companion question concerned what would be done in the event that the state equalized value grew at a slower rate than the CPI. The amendment did not specifically address the question of a rollback in this situation, so it was left to the legislature to decide whether the reduced maximum rate would be rolled back permanently or whether the original maximum rate could be restored.

The legislature decided upon an "in between" procedure that would allow the maximum rate to increase in line with the growth in the CPI but not exceed the original maximum rate. For the 1979 tax year, the legislature's actions are expected to reduce statewide property tax collections by about \$50 million. The state's department of management and budget estimates that about half of Michigan's cities, 57 counties, almost 900 townships, over half of the state's villages and about 75% of the school districts will incur reductions in their maximum tax rates.

Mandates

The Headlee Amendment stated that local governments could not be required to expand an existing service or activity or undertake new responsibilities "unless a state appropriation is made and disbursed" to pay for any resultant increased costs. The implementation of this portion of the amendment quickly became the object of controversy as local interests sought enactment of a strict interpretation and state interests worked to find areas which would not be included. One of the first bills, for example, included 26 areas that would be excluded from

coverage. This proposal quickly was dubbed the "A to Z" bill, and immediately was rejected by local interests.

After considerable debate, the legislature passed a bill that included far fewer exceptions than the "A to Z" draft, but strongly was opposed by local governments nevertheless. For example, under provisions of the law, if new requirements are imposed on "optional" local services such as refuse collection, the state will not pay for any increase in costs resulting from the mandate. State standards affecting fire, police and emergency medical services are excluded from the optional services category, so it is assumed that the state would pay for new state-mandated costs in these areas.

Another exception deals with requirements which affect the private sector as well as local governments, such as mandates which apply to both private and public hospitals. In such cases, the state will not pay for the additional costs incurred by local governments. Yet another exemption would permit the state to pass on the costs of implementing certain federal aid requirements to local governments.

From a local standpoint, however, the most costly loophole deals with the definition of activities and services. Specifically excluded from the definition are new state mandates applicable to public employee protection and benefits such as occupational health and safety requirements, minimum wage, compulsory arbitration awards, and overtime.

Court challenges to this portion of Headlee implementation currently are under consideration.

State Payments

One of the least publicized sections of the Headlee Amendment requires that "the proportion of state spending paid to all units of local government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-1979." Preliminary figures indicated that slightly more than 41% of the state's expenditures went to local government in some form (state revenue sharing, school aid, grants, etc.) for the base period. Implementing legislation was enacted and became effective July 7, 1979.

Later in July, however, the legislature cut nearly \$18 million earmarked for state revenue sharing to local governments from a fiscal 1979 supplemental appropriations bill to help offset a projected budget shortfall. Those moneys were appropriated later in the year, not as a restoration of the 1979 cut but rather as part of a fiscal 1980 measure.

According to the Michigan Municipal League: "The transfer of the \$18 million from the base year to the second year dealt local governments a double-whammy. Not only is the base year (FY 1978-79) local government proportion lower (by some 0.6%), part of the second year (FY 79-80) proportion will be eaten up by the \$18 million to local governments that originally was intended to have been appropriated in the base year." In light of the large amounts of money involved, the League suggested that the provision also could "become the basis for battles among municipalities, school districts, counties, etc., fighting for their share of the local government portion of the state budget."

Litigation challenging the legislature's "transfer" of local government appropriations is contemplated.

Three legal challenges to gubernatorial authority also surfaced during the year. In California, the case involved the role of the Lieutenant Governor (a Republican) when the Governor (a Democrat) was absent from the state. The issue arose when the Lieutenant Governor made a judicial appointment without consulting the Governor during the Governor's absence from the state. The Governor withdrew the appointment upon his return. The Lieutenant Governor claimed that the state constitution gave him the authority to make the appointment under the provision that calls upon the Lieutenant Governor to "act as Governor during the impeachment, absence from the state, or other temporary disability of the Governor." The Governor countered that although physically absent from the state, modern communications enabled him to perform his duties and oversee his office, and hence there was no "temporary disability." In late December, the state supreme court overwhelmingly ruled in favor of the Lieutenant Governor's right to exercise gubernatorial powers in the Governor's absence. However, it also ruled that at least in this instance, the Governor could withdraw the appointment upon his return.

In North Dakota, the new statutorily created office of federal aid coordination survived a complicated test in the state's high court. The court ruled that the Governor did not have the authority to veto the portion of the bill that placed the new office within the office of the Lieutenant Governor. However, the court also ruled that portion of the law was unconstitutional anyway. Meanwhile, the Governor has re-established the office in the Governor's office and has named the Lieutenant Governor as its coordinator. As a result, the Lieutenant Governor remains the head of the office that will administer about \$19 million in federal aid programs.

In Nevada, the Governor vetoed a measure that would have stripped him of his power to veto joint resolutions enacted by the legislature. The Governor maintained that the resolution had the effect of law and therefore "must be validated by the executive branch of government."

Legislative Processes and Organization

Major actions were taken in at least two states to revise and strengthen legislative processes, and in a third state, a drive was begun to set up a unicameral legislature. In Kentucky, voters approved a shift from odd-numbered to even-numbered years for state legislative elections. Under the new format, the General Assembly will meet for a ten-day organizational session in January to elect officers, to adopt rules of procedure, and to select committees. The biennial session is to convene the following year. This new process eliminates the post-election turnover that has occurred between the interim period and the regular session, and offers a full interim year before the regular legislative session begins.

Voters in Washington approved a constitutional amendment providing for annual legislative sessions. Beginning in 1980, the legislature will be permitted to meet for not more than 60 days during even-numbered years, and for a maximum of 105 days in odd-numbered years. Special sessions still may be convened by gubernatorial proclamation or by a two-thirds vote of each chamber, but are limited to 30 consecutive days.

An initiative to create a unicameral legislature qualified for the 1980 ballot in Montana. If approved by the voters, Montana would become the second state (the other is Nebraska) to have a single-house legislature. The proposal

would set up a chamber called the senate that would begin operation in 1983. Members would serve four-year terms, half elected every two years.

During 1979, the Wisconsin legislature joined the growing ranks of state lawmakers seeking greater control over the administrative rules procedures of executive agencies, but not without opposition and controversy. The Governor vetoed the bill that would require state agencies to submit their proposed administrative rules to legislative committees before they are to be implemented, but the veto was easily overridden in each house. Under provisions of the bill, committees have 60 days in which to act. If no action is taken, the rule automatically goes into effect. However, if a rule is rejected in either house, a joint committee must review the rule. This committee can reverse the decision on the rule, but if it upholds the rejection, then a vote must be taken in both houses ratifying the rejection. The affected rule may not be implemented until this process is completed.

It is expected that the new law will be challenged on the basis that the procedure is an infringement of the executive branch's authority to execute laws. Its constitutionality will be decided by the state supreme court.

Hawaii also enacted a law that will subject executive rules and regulations to legislative review to determine if they violate the purpose and intent of the statutes under which they were issued.

Legislators in other states also took steps during the year to meet the challenges of better managing workloads and work flows. For example, the Nebraska legislature adopted rule changes to reduce the number of bill introductions, while the Florida House set noon on the first day of the session as the deadline for bill introduction—one of the most stringent rules in the country. According to the National Conference of State Legislatures, 36 states now have some type of introduction deadline. Another 22 state legislatures also have established cut-off dates for requesting bill drafting by their legal staffs.

In other oversight actions, at least four more states (Illinois, Nevada, West Virginia, and Wyoming) enacted sunset legislation that sets up a schedule for legislative review and reauthorization of executive branch programs and agencies. Several states also modified their existing sunset statutes and procedures. A sunset law was vetoed in Michigan, while the expansion of an existing sunset statute was vetoed in Alaska.

The 1979 legislative season also produced an interesting situation in two states—Washington and Minnesota—where their house chambers were evenly divided along party lines. As a result, both groups had to abandon the traditional principle of organizing by majority rule, and initiate their own strategies for designating leadership, chairmanships, assignments, and operating procedures.

“Legislators in other states also took steps during the year to meet the challenges of better managing workloads and work flows.”

The Washington House devised a "sharing" approach, whereby every leadership post would be shared equally. That is to say, two persons occupy each position, and act as co-speaker, co-floor leader, co-chief clerk, co-sergeant at arms, and co-committee chairman. The speakers preside on alternate days, but issue joint rulings. Because committees are divided evenly, more than the "normal" amount of negotiation has been needed to get legislation to the floor.

When the plan was announced, observers nearly were unanimous in their assessment: it would never work. But the plan has worked and the house was able to conduct its business. The major contributing factor to the workability of the arrangement has been the spirit of cooperation exhibited by the house leadership and members of both parties.

The Minnesota House used a different approach to deal with its evenly divided membership. The chairmanship positions of committees and divisions were divided equally. The speaker's post was awarded to the Republicans, as were key chairmanships of divisions of the appropriations and tax committees. In return, the Democrats were given one-vote majorities on the tax and rules committees, as well as the committee chairmanships of rules, tax and appropriations. Committee membership in all other cases was divided evenly.

While the speaker's post remains a powerful position, the agreement did call for some of his powers to be shared with the party caucuses. For example, the caucuses have been empowered to appoint committee chairmen and members, and either caucus leaders or a bill's chief patron may challenge the speaker's referral of a measure to committee.

As a result of a special election late in the session, the Democrats were able to break the tie and now hold a two-vote majority. A question does remain, however, whether they will have a working majority during the 1980 session in order to recapture the leadership posts.

Legislative Oversight of Federal Funds

Prior to 1979, legislative oversight of federal funds was primarily a state executive-legislative battle. However, developments during 1979 would seem to indicate that the issue now has become a state-federal matter, with Governors and legislators joining together to address such questions as how many federal dollars are coming into the state and how those dollars really are being used.

In 1979, California began implementation of a law that calls for significant changes in the tracking and accounting of federal aid—as well as state revenues and expenditures. The law also stipulates that the budget bill must appropriate federal funds received by the state and deposited in the state treasury. The measure calls for a four-year phasing in of the program, with the first phase—the establishment of a federal trust fund—completed in July 1979. Data from the new system will be available to both legislative and executive branches.

Other states have approached the issue with similar care. One popular way adopted by several states was to launch an in-depth study of federal dollars and their impact on state and local government. The Virginia approach is typical. The General Assembly directed its Joint Legislative Audit and Review Commission to conduct a two-year study of federal funds coming into the Commonwealth, focusing on such issues as dollar amounts, distribution, dependence of the state and its localities on the funds, the influence of federal funds on state and local policies and programs, and the methods and procedures by which

“ In 1979, relatively few proposals for state constitutional changes were considered, in part because it was an off-year for elections in most states. ”

federal funds are sought, utilized, monitored, and controlled.

Similar studies now are underway in Iowa, Massachusetts, Ohio, and Rhode Island.

In addition, several states enacted measures relating to legislative review of agency applications for federal aid. Connecticut's bill calls for the appropriation committees to receive grant applications and federal form TC 1082 information. It also calls for the identification of federal grants in the Governor's budget. A new Michigan law requires the department of management and budget to submit a list of "notices of intent to apply for federal funds" and "grant awards received" to the legislature. A new Ohio law calls for federal fund information to be provided to the legislative budget office. Measures were vetoed in both Arizona and New Hampshire which provided for legislative review of state agency applications for funds prior to their submission to a federal funding agency.

One state, Nevada, enacted a measure that requires the legislature to authorize the receipt and expenditure of federal grants of \$50,000 or more—an approach similar to that used in Vermont, where the legislature has the authority to accept federal funds on behalf of the state.

In 1979, the U.S. Supreme Court refused to hear a state court case involving the Pennsylvania Legislature's right to appropriate federal funds (*Thornburgh v. Casey*), citing want of a substantial federal question. Although the refusal does not mean that the issue has been settled completely, the short-term ramifications are certain: The state courts will be the arbiters of issues relating to legislative appropriation issues, and—for now at least—the U.S. Supreme Court will steer clear of the issue.

State Constitutional Changes

In 1979, relatively few proposals for state constitutional changes were considered, in part because it was an off-year for elections in most states. In fact, with only 30 proposed amendments before the Delaware legislature and the voters in 11 other states, it was the most inactive year for constitutional change during the entire decade.

Constitutional committees continued their work in Georgia, North Dakota, and Utah, and legislative committees in Alaska and Vermont were charged with the responsibility of determining the need for revisions of their state's constitutions.

The Arkansas state constitutional convention was the only one in operation during the year. The convention will reconvene for a brief period in mid-1980 to review public comments, and final proposals will be submitted to the voters at the November 1980 general election.

In 1979, 25 constitutional amendments were approved in 12 states: California, Delaware, Kentucky, Louisiana, Maine, Mississippi, Missouri, New York, Pennsyl-

vania, Texas, Washington, and Wisconsin. The major proposals offered in California, Kentucky, and Washington are discussed elsewhere in this article. In addition, results in three other states are of particular interest:

- in Mississippi, provisions for legislative reapportionment and a new judicial performance commission were approved;
- voters in Texas rejected legislative review of executive branch agency rule-making; and
- four amendments were adopted in Wisconsin providing for a succession procedure when there is a vacancy in the office of the Governor, legislative confirmation of a replacement when a vacancy occurs in the office of Lieutenant Governor, elimination of the Lieutenant Governor's role as presiding officer of the senate, and clarification of the provisions relating to constitutional officers who have been elected for four-year terms since 1970.

In Alabama, Gov. Forrest James' proposal for a new constitution failed in the legislature. The effort was a major part of the Governor's legislative program and will be a top priority in 1980. The state's constitution was adopted in 1901 and has been amended nearly 400 times since then.

THE STATES AND THEIR LOCALITIES

According to an ACIR report issued in May 1979, states substantially have increased economic development and financial assistance efforts to aid their distressed urban and rural communities.

This stepped-up level of state activity is a relatively recent phenomenon. The ACIR report notes that while the results so far have been "modest at best in terms of effecting qualifiable improvements in overall conditions," it is significant that "a framework for future endeavors has been established." The *New York Times*, for example, has observed that if these state efforts continue, they could signal "the beginning of a basic change in American government."

One of the most striking findings from ACIR's work is the extent to which state governments are fashioning economic and community development programs which meet distinctively regional needs. For example, northeast and north central states have directed their local assistance efforts toward their older central cities, while southern states have focused on the development needs of smaller towns and rural communities, and states in the west and northern plains regions are tackling the difficulties associated with "boom town" development and too-rapid economic growth.

In summarizing ACIR's report findings at the 1979 annual session of the National Governors' Association, Commission Chairman Abraham Beame stated: "While much remains to be done, we found a marked upswing in community aid activity during 1977 and 1978, a heightened awareness among state officials of the need for strong local economies and capital investment, and an impressive amount of innovation. In many states, a durable framework for future local development actions has now been established."

The trends described in the ACIR report seemingly were sustained to a great degree through the close of 1979. States did act on a number of fronts—functionally, fiscally and structurally—to help strengthen local jurisdictions. For example:

“ States did act on a number of fronts—functionally, fiscally, and structurally—to help strengthen local jurisdictions. ”

- Washington, Florida, New York, and Wisconsin are developing local distress criteria under current state planning initiatives; the need criteria to emerge from these exercises will presumably be utilized for a more precise targeting of state aid funds.
- Connecticut adopted as its own local distress criteria the same yardsticks employed in HUD's Urban Development Action Grant (UDAG) program.

In addition, at least two more states established growth commissions, while a third panel issued its report.

- In Nevada, legislation was enacted establishing the Commission on the Future of Nevada to develop the first growth management plan for the state. It has an 18-month charge and a membership roster that encompasses the social, geographic and economic diversity of the state.
- The North Carolina Balanced Growth Policy Act was adopted by the legislature early in the year, declaring that it is the policy of the state "to support the expansion of the state and to designate growth areas or centers with the potential, capacity and desire for growth." A State Goals and Policy Board was created to advise the Governor in setting statewide growth policy and to work with local governments and the Local Government Advocacy Council in developing a state-local partnership to determine jointly agreed upon strategies and objectives.

In New York, the Governor's Panel on the Future of Government reported that government has gotten "too ambitious for its own good," and called for such remedial actions as taxing and expenditure limits, cutbacks and consolidations to help restore balance. The panel observed: "(We believe) that a decent future for government in New York requires that lawmaking bodies practice a self-restraint unknown in New York; that they withhold their legislative hands from attempts to resolve any and every 'problem' that engages public attention. . . . For the future, the bias should be: that ought not to be a law."

Specifically, the panel recommended legal controls on state and local taxation, revised civil service laws to facilitate promotions based on merit, removal of legal and constitutional obstacles to local government service consolidation, controls on state and local spending, and a prohibition on state laws which mandate new local services but which do not provide the money for them. The study group also proposed the creation of a permanent state agency—such as an ACIR—to conduct an on-going analysis of public management policies.

In Ohio, initiatives were approved to help attract new industry to that state. In Idaho, the Governor proposed a new state revenue sharing program, while in Michigan legislation was enacted assuring that local governments

will receive the same proportion of state funds in future years as they received in fiscal 1979.

One major example of state aid efforts last year is the California "bailout" program that was devised to help offset the impact of Proposition 13. In final form, \$4.8 billion from the state surplus was distributed to local governments. Continued state aid to local governments is in serious doubt, however, as the state surplus (that accounted for about two-thirds of all surplus public funds nationwide at its peak in 1979) dwindles. Most projections peg a surplus of only about \$1.75 to \$2 billion for 1980.

As Watsonville Mayor Rex Clark, 1979 president of the League of California Cities, observed: "As we enter the fiscal year 2 A.J. (after Jarvis), the long term financial outlook for cities and other local governments is as murky as it was last year at this time. The extent to which local purse strings have been relinquished to the states as a result of Proposition 13 becomes more and more apparent as the legislature and the Governor continue to propose re-financing plans. Compounding the uncertainties involved are the Gann spending limitation initiative, the proposed Jarvis initiative to cut state income taxes and freeze the sales tax, and the initiative to eliminate the sales tax. These measures, coupled with the predicted economic recession, make both the federal and state governments very reluctant to enact fiscal commitments to local government."

These actions, as well as those described elsewhere in this report, are indicative of the continuing progress—albeit labored and slow-paced in some cases—that is being made in the area of state assistance to local jurisdictions.

State Mandates and Fiscal Notes

ACIR has recommended that states alleviate difficulties in mandating local expenditures by defining and cataloging new and existing mandates, and by providing full or partial reimbursement. According to a recent survey, 15 states considered mandates legislation during 1979. Illinois, Michigan, Tennessee, and Rhode Island enacted measures.

In Illinois, a mandates bill that closely follows the ACIR model was approved and will go into effect January 1, 1981. Under provisions of the measure, the state will be required to fund any local programs it mandates.

The Michigan legislature, under a time limit imposed by a constitutional amendment, passed a state mandates bill that requires the state to catalog all state mandates on the books with ten statutory exceptions. Future legislation imposing state mandates must contain funds to cover the cost of the mandates.

Tennessee enacted legislation to implement a constitutional amendment requiring that cities and counties be reimbursed for state mandates. The Tennessee legislature provided, however, that funds returned to counties and municipalities as part of state-shared taxes would be used to help pay the state costs of mandates.

The Rhode Island law calls for towns and cities to be reimbursed for the cost of state mandates. State mandates were defined to include state statutory or executive actions, as well as state actions taken to achieve compliance with federal statutes, regulations or court orders. Mandates also include requirements imposed upon local governments when discretionary federal statutes, regulations or court orders are made mandatory by the state. The state budget officer must annually include as a line item in the state budget the statewide costs of state mandates as reported by

the department of community affairs.

The voters in Washington, pursuant to its constitutional amendment to limit the growth in state tax revenues, also approved a reimbursement procedure for programs the state transfers to localities.

ACIR also has recommended that states include an explicit note with all major state legislation and proposed administrative regulations affecting local governments that sets out the fiscal impact on those governments. Generally, fiscal notes add a new dimension to the legislative process by making legislators more aware of both the benefits and the costs of programs. Although few states require that fiscal notes be attached to proposed rules or regulations, 26 states have enacted such a procedure for legislation. Of these states, ten require the procedure as a matter of statutory law while most of the other fiscal note procedures are required by joint legislative rules.

New Hampshire enacted such a statute during 1979. A special committee was organized to review ACIR's model bill, as well as legislation in other states. During the numerous committee meetings held early in the spring, the special committee reviewed the cost and personnel needs of such a system of fiscal review and invited officials from Maryland and Rhode Island to discuss fiscal notes in their states. After the committee and the legislature reviewed options on how to keep costs within reason while making the fiscal note sufficiently detailed, the bill was enacted and became effective in July.

Similar bills were enacted in Arizona, Connecticut, Missouri, and Virginia.

Compensation for State-Owned Property

ACIR has called upon each state to examine the impact of state-owned land on local government finances and to compensate their local jurisdictions for any adverse effects of state-owned property. At least seven more states addressed the issue of providing state compensation for state-owned property during 1979, and four states—Iowa, Minnesota, Missouri, and Pennsylvania—enacted measures.

- In Iowa, the legislature included an appropriation to reimburse school districts for taxes lost due to state acquisition of lands for the state's open spaces program. Payments are to be made according to prescribed assessment practices or reduced proportionally if the total taxes exceed the appropriated \$35,000.
- Minnesota provided payments to local governments in lieu of taxes on lands presently owned by the state. Payments are to be made on a flat rate per acre basis, with the rate depending upon the nature of the property. The law requires that 40% of the payments be deposited in the general fund for property tax reduction purposes, and further prescribes a distribution scheme for the balance of the payments.
- A joint resolution was passed by the Missouri General Assembly as a constitutional amendment, requiring the conservation department to pay counties taxes for property that it purchases. The amendment will be on the ballot for voter approval or rejection at the next election.
- A new Pennsylvania measure provides for an annual charge to be levied on all lands acquired by the Commonwealth, or by the federal government for forest reserves, water conservation, or flood control. A payment of 13 cents per acre is to be made to each

county, school district and township in which the property is located. The charges are authorized until they equal or exceed the amount paid by the state in lieu of taxes under a 1935 law. A separate measure also provides for a payment in lieu of taxes to municipalities that is apportioned on the basis of the number of state employees working and the amount of state-owned property in the municipality in relation to the total number of state employees and the total amount of state-owned property statewide.

State compensation also is under study in several other states.

Local Accounting, Auditing, Budgeting

The fiscal problems faced by Cleveland, New York, and several other large American cities over the past decade—and those encountered by Wayne County (MI) in 1979 (see box)—have increased nationwide interest in sound local accounting, auditing and financial reporting practices.

A 1978 ACIR survey of state statutory and constitutional regulations of local government accounting and auditing practices indicated that while 42 states required some type of accounting system for municipalities, only a handful expressly required local government systems to conform to generally accepted principles of government accounting. Furthermore, an examination of the laws of each state revealed that requirements vary greatly and that their implementation is uneven. In 1979, at least two more states took important actions in this area.

The Florida legislature further strengthened state regulation of local auditing and reporting practices by passing the Local Government Financial Emergency and Accountability Act. Effective October 1, all local governmental units are required to complete, within 90 days of the fiscal year's end, financial statements prepared under generally accepted government accounting principles. Within 180 days of the fiscal year's end, a financial report certified by an independent certified public accountant must be submitted to the state department of community affairs. In addition, the state auditor general will make post audits of a locality's records and performance audits of the financial reporting system.

Prior to 1979, counties, cities and towns in Virginia could request assistance from the State Auditor of Public Accounts in establishing a system of bookkeeping and accounting. Under newly enacted legislation, all local units of government now may request and receive assis-

The fiscal problems faced by Cleveland, New York, and several other large American cities over the past decade . . . have increased nationwide interest in sound local accounting, auditing and financial reporting practices.

Local Financial Emergencies Revisited

In the fall of 1979, the Nation's third largest county was confronted with a major fiscal crisis. The situation arose when Wayne County, Michigan—that surrounds Detroit—could not meet its payroll and was denied permission by the state's municipal finance commission to borrow short-term funds. Although that commission had approved such borrowing for the three previous years, it also had warned the county to stop running a budget deficit and to end its reliance on tax anticipation notes. When the county did not comply, the commission blocked further borrowing.

Comparisons inevitably will be made between the Wayne County emergency and the problems encountered by New York and Cleveland. However, a key difference does exist: unlike the two cities, Wayne County has no long-term debt. Rather, its problems have resulted from short-term borrowing necessitated by the growing budget deficit.

Contingency plans were formulated by the county to discharge its work force of about 5,000 employees. Immediately thereafter, essential personnel (about half the total), primarily in the public safety and health areas, were recalled. Those workers who were not recalled were eligible for unemployment compensation.

Further state pressure was applied when Gov. William Milliken line item vetoed money bills which would have helped the county meet its shortfall. His action was based on the contention that the county had not heeded state warnings in the past and had not done enough to find better ways to manage its own affairs. Specifically at issue was a call to reorganize the county's government and provide for a better central management capacity.

As the crisis unfolded, a task force comprised of both state and local officials was appointed to develop a plan to restructure the Wayne County government. Two major pieces of legislation were introduced late in the year addressing county reorganization and will be taken up early in 1980.

In the interim, the state funds which were the subject of gubernatorial veto were finally released, and additional state revenue sharing funds for all local governments were approved by the legislature. With these resources at their disposal, Wayne County was able to ride out the remainder of its fiscal year. The basic problems though—i.e., those relating to how the county is organized to conduct its affairs—are still to be resolved. Currently, Wayne County is governed by a 36-member commission and independently elected department heads.

At issue will be what form of government will be acceptable politically in the county as well as by the state, and how quickly the changes will be implemented—in the hope of avoiding the same fiscal problems which were confronted this past year.

tance from the state auditor in establishing a system of bookkeeping and accounting that conforms to generally accepted accounting principles. For the first time, towns with a population of 3,500 or more may request assistance in the installation of an accounting system.

The legislation also requires the state auditor to establish a uniform system of fiscal reporting for use by all counties and cities, all towns constituting a separate school division, and any other town having a population of 3,500 or more. Finally, the legislation established a uniform fiscal year to begin on the first day of July each year for any local government unit with a population of 3,500 or over, and broadened the powers of the state auditor, enabling him to examine the books and accounts of towns, as well as counties or cities which he already was empowered to investigate.

The legislation resulted from a major study of the local government code in Virginia, and in part was aimed at addressing problems that the state auditor's office was experiencing in meeting its statutory obligation of publishing annual comparative cost data on local governmental units in Virginia.

Structural Reforms

State actions to strengthen local government authority and organization are fundamental to intergovernmental relations. While there were no comprehensive actions taken during the year, developments in several states—particularly in the area of annexation—warrant attention.

In Colorado, Gov. Richard Lamm vetoed a bill that would have repealed the authority of municipalities to unilaterally annex nearby or totally contiguous property. Although local governments were successful in protecting their annexation power this year, future attacks on the law are expected.

Annexation also was a major issue in Tennessee and Virginia.

In Tennessee, the state supreme court held that the questions of annexation were matters for a jury, with a unanimous verdict required to approve the annexation. The decision effectively squelched municipal annexation authority that has been exercised for 25 years.

In response to the court's decision, the General Assembly created a special study committee to review the issue and to make recommendations for changing the annexation laws. The committee will report to the 1980 legislature.

The Tennessee Municipal League (TML) has designated reversal of the decision as a top priority. According to TML's President, Nashville Mayor Richard Fulton: "We will be seeking to impress upon members of the committee that nothing is to be gained by any area or group if annexation is brought to a standstill. No one gains, including those living in municipal fringe areas, where the central city stagnates and dies because of an inability to grow." The defendant in the case, Johnson City, has applied to the court for a rehearing.

The Virginia General Assembly enacted a package of three bills that substantially altered annexation procedures which had been in use for 30 years. The package provides compensation funding for core cities boxed in by annexation immunity, modernizes annexation laws, and addresses the inequities of state aid to local governments. Basically, the measures lift the moratorium on city annexation and city formation, and establish criteria whereby certain counties are protected from city-initiated annexation.

In addition, the legislation created a five-member

“During 1979, five states acted to establish, modify or activate state-local relations panels such as a state ACIR.”

commission, appointed by the Governor, to investigate, analyze and "make findings of fact" regarding the annexation of territory by towns and cities, immunity from annexation based upon the provision of urban services exclusion, municipal incorporations, and county-to-city transitions. Local units intending to pursue any of these actions are required to notify the commission prior to filing a request with a court. The commission has six months to compile its report (that is admissible in court) and is empowered to negotiate a settlement between the affected jurisdictions.

At the request of a court, the commission also may participate in the resolution of other boundary disputes and the establishment of economic growth-sharing agreements among localities. In addition, the commission is responsible for preparing estimates of the fiscal impact of proposed local government legislation when the legislative services agency ascertains that a proposed measure may affect local expenditures.

In other developments:

- Discussions were initiated for city-county consolidation in at least two areas—Louisville/Jefferson County, Kentucky and Clarksville/Montgomery County, Tennessee.
- Under authority of the Voting Rights Act of 1965, the U.S. Department of Justice suspended municipal elections in Houston early in the year. At issue was the level of minority representation. After considerable debate, the city agreed to a new districting plan that would create a 14-member city council. Five members would be elected at-large, and nine members would be elected from single-member districts. Elections finally were held in November under the new plan.
- A new home rule law was enacted in New Hampshire that permits communities to adopt a charter similar to any one of the five prevalent forms of government found in New England. Prior to enactment, local charter changes generally had to be approved by the state legislature.
- Legislation to reform county government in Maine was passed by the legislature, but the Governor took no action. The legislation provided for a county charter form of government, and would allow the charter commission to give the county authority to adopt its own budget. Under current law, only the legislature has this authority. It is expected that the bill will be reconsidered in 1980.
- At least five states—Alabama, Indiana, Kentucky, Maine, and Vermont—undertook major studies of local government issues. The Alabama study is being conducted by a legislative interim committee and is reviewing a wide range of issues affecting local government. The Indiana study is addressing the organization, financing and administration of municipalities. In Kentucky, the municipal code and reforms of

on many occasions.

However, in 1864 and in response to the Court's ruling, the Congress conditioned Nevada's admission on the territorial legislature's renouncing all claims on public lands. Many Nevadans have regarded this stipulation as an unconstitutional condition to statehood since that time, but a legal challenge has been impossible because the federal government invoked its sovereign immunity power to prevent litigation. According to Nevada's attorney general: "Nevada and many of the other western states contend that they were deprived of their legitimate birth-right as states when they were forced to disclaim any interest in the public lands as a condition to achieving statehood. The disclaimers came into vogue upon Nevada's admission, which occurred toward the end of the Civil War, a time when states' rights and sovereignty were at a low ebb. Since then, states (have been) admitted to the Union in status more nearly akin to colonies than states." In 1976, Congress also passed a federal lands policy act that permits the federal government to retain public lands in perpetuity.

In 1979, the Alaska legislature passed a resolution supporting Nevada's efforts, and the Utah legislature called upon Congress to return the public lands in that state. The California legislature enacted a measure requiring an investigation to determine whether certain federal lands should be under state control, but the bill was vetoed by the Governor. Legislation similar to the Nevada measure likely will be under discussion in at least a half dozen western states during 1980.

The key issue now is whether this unprecedented challenge to federal land ownership led by Nevada will reach the U.S. Supreme Court. If it does, the outcome could have enormous and long-term consequences for state-federal relations.

The Drive For A Balanced Federal Budget

The publicity has abated, but the drive for a constitutional convention on an amendment to require a balanced federal budget remains very much alive. The number of states calling for a convention reached 30 by year's end, and supporters believe that they can find the needed four more next year.

Should the drive reach its goal of 34 state calls for a convention, the next step may be court tests of many of the resolutions. In one of the first extensive studies of the convention calls, Duke Law Professor Walter Dellinger concluded that most of them are constitutionally questionable. Dellinger has noted that 22 of the resolutions limit the convention to an amendment requiring a balanced budget, but he contends that neither the states nor Congress is empowered to impose such a restriction, and that convention calls may not be limited to the consideration

of any particular amendment. If he is correct, the door would be open to a wide and disparate list of issues for a convention. Not everyone accepts Dellinger's interpretation (including a committee of the American Bar Association and former U.S. Senator Sam Ervin), but the question very well may help define the parameters of the next stage of the balanced budget battle.

An added dimension to the drive for a constitutional convention concerns the effect such efforts will have on the renewal of General Revenue Sharing in 1980. The warning flags already have been hoisted in Washington that continued state pressure for a balanced federal budget convention will further jeopardize the reauthorization of the state's favorite (and to some the most important) federal assistance program.

ARE WE READY FOR THE EIGHTIES?

In 1969, Sundquist and Davis observed in their book, *Making Federalism Work*, that "In a democratic, pluralistic society, no system of intergovernmental relations can be established through a single action, or even a series of actions; it evolves." The actions taken in and by the states this past year indeed have contributed to the evolutionary process of intergovernmental relations. The question remains, however, about how well the process is moving along and whether it can keep pace with the economic, demographic and social pressures which have come into focus in recent years and months. To borrow from a contemporary popular song title: Are we ready for the Eighties?

An added dimension to the intergovernmental discussion, that has been chronicled for 1979 here, will be presented by the decennial census. Predictions are that the outcome of the 1980 census could have a major impact on intrastate as well as on interstate political balances nationwide, not to mention federal aid allocations.

For example, if initial Bureau of the Census projections are proved correct, there could be a switch of some 14 seats in the U.S. House of Representatives for the 1982 elections. States in the south and far west would gain representation at the expense of those in the midwest and northeast. While national headlines no doubt will focus on these regional shifts, the intrastate adjustments also will be significant.

Although some states won't gain or lose, they may realign existing boundaries to obtain districts of roughly the same size. As a result, voters not only will be electing their state lawmakers in 1980, but they also will choose the people who—for the most part—will redraw the boundary lines after the census. Historically, this process has been highly political in nature, and there is no reason to believe that the upcoming redistricting activities will be any different. The 1980 election season then will present the last opportunity to obtain control of the statehouse before the boundaries are redrawn. A shift of six seats or less this next election year, for example, could alter party control in 29 of the 98 state chambers which are organized along partisan, two-house lines.

The reapportionment necessitated by the upcoming census also will have some long-term implications for the kinds of programs and policies which will be developed in the states. One California political editor, Ed Salzman, put it this way for his state: "The reapportionment of 1981 probably will be an all-Democratic apportionment in terms of the Democrats having control of both houses of the legislature and the Governor's office. But it does not mean

“The publicity has abated, but the drive for a constitutional convention on an amendment to require a balanced federal budget remains very much alive.”

that it is going to be an apportionment that greatly benefits the Democrats, and the reason for that is that the shift in population has been to the suburbs and to the rural areas. The central cities are going to be hurt by this next reapportionment, and the central cities are where the hard-core Democratic vote is located. . . . So what you're going to have in the next reapportionment is more unsafe seats and therefore you're going to have more jittery legislators of both parties and that tends to lead to conservatism and a lack of response to the kind of urban legislation that cities have traditionally sought."

A sampling of opinion from local officials from throughout the country would appear to support the view that the wave of conservatism, so visibly manifested by Proposition 13, and the importance of such economic issues such as energy likely are to condition intergovernmental actions at all levels for some time.

Columbus (OH) Mayor Tom Moody has observed: "I personally believe that this nation will face a kind of quiet revolution with regard to the energy situation. This will have major impact on the domestic economy while our country is in very perilous waters internationally. The Middle East situation, for example, can have far more impact on the local economies of our cities than we have yet dreamed."

Phoenix (AZ) Mayor Margaret Hance has warned that "now we have a 'Prop 13 wave' around the country and I feel there will be further loss of our authority and autonomy to the state governments. I think it is reaching a crisis as far as local autonomy goes. If this continues there will be very little need for Mayors and city councils down the road 20 years from now."

On a more optimistic note, Savannah (GA) Mayor John Rousakis has said: "I think we are going to have a rough time but I think the Administration, the nation, the states and local governments are going to move into a partnership to correct our problems."

At least one alternative has been forwarded by Newark (NJ) Mayor Kenneth Gibson: "The 1980s, in my opinion, should deal with the basics. The cities have the responsibility of providing basic services such as police services, fire protection and sanitation. Our tax structures really direct that this is what we should provide and the 1980s should, in my opinion, be a return to these basics."

Whatever the responses are as the decade of the Eighties opens, the observation offered by Abraham Lincoln in 1858 in his historic "house divided" speech has as much relevance today as it did then: "If we could first know *where* we are, and *whither* we are tending, we could then better judge *what* to do and *how* to do it."

Jane F. Roberts is State-Local Relations Associate at the Advisory Commission on Intergovernmental Relations.

An added dimension to the intergovernmental discussion, that has been chronicled for 1979 here, will be presented by the decennial census.

The Great Transformation—Growth to No Growth

After growing almost twice as fast as the economy for a quarter of a century (1949-75), aggregate state and local spending has lagged the nominal growth in Gross National Product since 1975. What we have is the great transformation of the state and local sector from a fast growth to a no growth industry.

STATE AND LOCAL EXPENDITURES, INCLUDING FEDERAL AID SELECTED YEARS 1949-80

Calendar Years	As Percent of GNP	Per Capita (Constant Dollars)
1949	7.8%	\$189
1959	9.6	302
1969	12.5	528
1975	15.1	670
1976	14.6	682
1977	14.3	691
1978	14.3	710
1979	13.9	688
1980 est.	13.7	656

The no growth character of the state and local sector is also dramatically underscored when per capita expenditures are adjusted for inflation. For the calendar year 1980, we estimate that per capita state and local expenditures will total \$656 (constant dollars)—somewhat less than the \$670 figure registered five years earlier.

Underlying Causes

Much of this striking change in recent state and local fiscal behavior can be attributed to fundamental changes in our society.

- **Public opinion change**—from support, or at least toleration, of fast growth to a demand for slower growth. Many of the recent lids imposed on state and local spenders are designed so as to prevent state and local taxes from growing at a faster rate than the income of the taxpayers.
- **Economic change**—from that characterized by significant real growth to that marked by slow or no real growth and high rates of inflation. Among other things, inflation injects high octane fuel into the fires of local property tax discontent. The recent explosion in California serves as the most dramatic case in point. It also shows portents of sparking an indexation fire among income taxing governments.
- **Demographic change**—during most of the post World War II era, steadily rising school enrollments exerted enormous upward pressure on state and local fisces. Now declining enrollments have tended to stabilize the pressure on this important expenditure front.

Beame Reappointed Chairman, Three New Members Join ACIR

Treasury Secretary G. William Miller, Housing and Urban Development Secretary Moon Landrieu, and Mary Eleanor Wall of Elmhurst, IL, were recently appointed by President Carter to ACIR.

The President also reappointed Abraham D. Beame, former Mayor of New York City, as Commission chairman.

Prior to becoming Treasury Secretary in August 1979, Secretary Miller served as head of the Federal Reserve Board. He has also been president, chairman and chief executive officer of Textron, Inc. He has served as chairman of the President's Committee on HIRE—concerned with employment of veterans—and co-chairman of the U.S.—USSR Trade and Economic Council. He was also a director of the Federal Reserve Bank in Boston.

Secretary Landrieu was Mayor of New Orleans for eight years. While mayor, he served as president of the U.S. Conference of Mayors and a member and chairman of that organization's Legislative Action Committee. He has also served in the Louisiana Legislative and as councilman-at-large on the New Orleans City Council.

Ms. Wall, appointed to the Commission in one of three private citizen positions, has been active in local government in the Chicago area for a number of years. She currently serves as chairperson for the DuPage County Regional Planning Commission and is state president of the American Association of University Women. She is a former member of the DuPage County Board.

Since assuming the role of chairman of ACIR in February 1978, Abraham Beame has been active in providing testimony to the Congress in areas such as sunset legislation and renewal of General Revenue Sharing.

Chairman Beame began his career of public service in 1946 as assistant budget director for New York City and was promoted to budget director

in 1952. He was elected to two terms as New York City Comptroller (1962-65 and 1970-73) and served as the city's 104th Mayor from 1974-77.

ACIR Testifies on Grant Consolidation, Welfare Reform

Reform of the Nation's welfare system and grant consolidation were issues addressed in recent ACIR testimony before two Senate Subcommittees.

ACIR Vice Chair Lynn Cutler, testifying before the Senate Subcommittee on Public Assistance February 7, urged federal takeover of full financial responsibility for the provision of public assistance, including general assistance and Medicaid. She also recommended that any such federal policy strive to achieve a more equitable distribution of the financing burden among the 50 state-local fiscal systems.

In testimony before the Nutrition Subcommittee of the Senate Agriculture Committee December 11, 1979, ACIR Assistant Director Carl Stenberg outlined ACIR's recommendations and findings regarding consolidation of federal grants-in-aid and described several recent experiences with various types of consolidation.

He noted that the legislation under consideration, S. 605, the "Food and Nutrition Program Optional Consolidation and Reorganization Act of 1979," would provide interested states with a statutorily based option of choosing increased flexibility of consolidation programs or retaining the present system with the burden of grant oversight on the federal government. "If the procedural approach of S. 605 proves successful in reducing administrative burdens and increasing recipient discretion, it may eventually lead to more structural consolidations in this area," he said.

"Consolidation is a means of un-fettering the current highly conditioned grant system," he continued. "Ultimately, consolidation could redress the growing imbalance now

apparent in our intergovernmental system."

Federal Fiscal Constraint, Pensions Subjects of ACIR Recommendations

Alternatives to promote fiscal constraint at the federal level and recommendations relating to regulation of state and local pensions were primary subjects on which the ACIR acted at its meeting on December 7, 1979.

Relating to fiscal constraint at the federal level, the Commission rejected possible recommendations urging constitutional or statutory balanced budget or spending limitations and chose a more moderate approach. It said that recent Administration and Congressional initiatives calling for a greater measure of fiscal discipline have made some progress and should be given a chance before other policies are considered.

On the state-local pensions subject, the foremost recommendation adopted by ACIR opposes federal regulation of state and local pensions, saying "such a policy represents unjustified and undesirable intrusion into the sovereignty of state and local governments in the fundamental area of personnel and their compensation."

In addition, the Commission:

- urged Congress to refrain from mandating compulsory social security coverage of state and local employees;
- recommended that the current option for state and local governments to choose to withdraw from social security remain unfettered; and
- recommended that Congress amend the Internal Revenue Code so that state and local retirement systems are not required to conform to the non-discrimination qualification in order to receive "qualified" tax treatment in the future.

A final recommendation underscored that state and local governments are responsible for taking certain actions to assure that their pension systems are financially sound and well managed.

And Briefly: Books

The following publication is a recent report of the Advisory Commission on Intergovernmental Relations, Washington, DC 20575.

The Inflation Tax: The Case for Indexing Federal and State Income Taxes. (M-117).

The prospect of an extended period of inflation and the desire among citizens for lower tax rates and greater fiscal responsibility in government have sparked interest in indexation of personal income taxes. Because most state and federal income tax features are in fixed-dollar terms, inflation effectively reduces after-tax purchasing power and provides increased revenue for government. One solution to this problem is indexation of the tax system whereby certain fixed-dollar features of the income tax code are adjusted annually by the rate of inflation. With indexation, individual tax burdens are not increased and governments do not gain increased revenue due to inflation.

Six states and Canada have enacted indexation measures and 13 states considered proposals in 1979. A variety of indexation bills have been introduced in Congress.

This report discusses the effect of inflation on federal and state income tax burdens and the experience of the various states that have enacted indexation measures. It updates an earlier ACIR report, **Inflation and Federal and State Income Taxes**, (A-63), issued in 1976.

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

Bypassing the States: Wrong Turn for Urban Aid, National Governors' Association, Hall of the States, 444 North Capitol Street, Washington, DC 20001. \$3.

Tax Exempt Financing of Housing Investment, by George E. Peterson and Brian Cooper, Urban Institute, 2100 M Street, N.W., Washington, DC 20037. \$4.50.

Fiscal Federalism and Grants-in-Aid, edited by Peter Mieszkowski and William H. Oakland, Urban Institute, 2100 M Street, N.W., Washington, DC 20037. \$5.50.

Tax Wealth in the Fifty States: 1977 Supplement, U.S. Department of Health, Education and Welfare, National Institute of Education, U.S. Government Printing Office, Washington, DC 20402.

The Politics of Raising State and Local Revenue, by Richard D. Bingham, Brett W. Hawkins, and F. Ted Hebert, Praeger Special Studies, 383 Madison Avenue, New York, NY 10017.

Property Tax Relief, by Steven David Gold, Lexington Books, D.C. Heath and Co., 125 Spring Street, Lexington, MA 02173.

Rights and Remedies Under Federal Grants, by Richard B. Cappalli, Bureau of National Affairs, Inc., 1231 25th St., N.W., Washington, DC 20037. \$25.

Federal Grants Management Reform. Hearings before the Subcommittee on Intergovernmental Relations of the Senate Committee on Governmental Affairs, U.S. Government Printing Office, Washington, DC 20402.

Open Meetings: Exceptions to State Laws; Open Meetings: Types of Bodies Covered; Open Meetings: Actions and Meetings Covered, The National Association of Attorneys General, Committee on the Office of Attorney General, 3901 Barrett Drive, Raleigh, NC 27609. \$18 for the set.

Evaluating Federal Social Programs: An Uncertain Art, by Sar A. Levitan and Gregory Wurzburg, W. E. Upjohn Institute for Employment Research, 300 South Westnedge Avenue, Kalamazoo, MI 49007. \$3.50 paper.

Public Works, Government Spending, and Job Creation: The Job Opportunities Program, by Robert Jerrett, III, and Thomas A. Barocci, Praeger Publishers, 385 Madison Avenue, New York, NY 10017. \$26.95.

Fiscal Crisis in American Cities: The Federal Response, edited by L. Kenneth Hubbell, Ballinger Publishing Co., 17 Dunster Street, Harvard Square, Cambridge, MA 02138. \$22.50.

Federalism: Recent Developments, Future Directions, by Charles S. Rhyne, National Institute of Municipal Law Officers, 1000 Connecticut Avenue, N.W., Suite 800, Washington, DC 20036. \$10. paper.

1980 Suggested State Legislation, Council of State Governments, P.O. Box 11910, Iron Works Pike, Lexington, KY 40578. \$10 paper.

The Quality of Federal Policy-making: Programmed Failure in Public Housing, by Eugene J. Meehan, University of Missouri Press, 103 Swallow Hall, Columbia, MO 65201. \$16.50.

The Practice of Local Government Planning, International City Management Association, 1140 Connecticut Avenue, N.W., Washington, DC 20036. \$31.50.

Managing With Less: A Book of Readings, edited by Elizabeth K. Kellar, International City Management Association, 1140 Connecticut Avenue, N.W., Washington, DC 20036. \$6.75.

State Agricultural Land Issues, by Leonard U. Wilson, Council of State Governments, P.O. Box 11910, Iron Works Pike, Lexington, KY 40578. \$4.00.

The States and Natural Hazards, Council of State Governments, P.O. Box 11910, Iron Works Pike, Lexington, KY 40578. \$5.

Policy Studies Review Annual, 1979, Vol. 3, edited by Robert H. Haveman and B. Bruce Zellner, Sage Publications, Inc., 275 South Beverly Drive, Beverly Hills, CA 90212. \$32.50.

Urban Fiscal Stress: A Comparative Analysis of 66 U.S. Cities, by James M. Howell and Charles F. Stamm, Lexington Books, D.C. Heath and Co., 125 Spring Street, Lexington, MA 02173. \$18.95.

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