

CONTRACTING WITH AMERICA

**ACIR RECOMMENDATIONS
1961-1995**

Advisory Commission on Intergovernmental Relations
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Washington, DC 20575

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BALANCED BUDGET/LINE ITEM VETO

Statutory and Constitutional Approaches to Deficit Reduction. (A-107, 1987, p. 1)

The Commission recommends that the Congress and the President continue to develop and refine statutory controls over deficit spending for the purposes of eliminating such spending, except in cases of clear national emergency, and of reducing the nation's total debt to a level consistent with sound principles of political economy and responsibility. The Commission also endorses the principle of constitutional limitation on fiscal behavior, and thus urges the Congress to consider proposing a balanced budget amendment to the United States Constitution so as to ensure a level of fiscal discipline comparable to that found in the states.

Procedural Approaches to Deficit Reduction. (A-107, 1987, p. 1)

The Commission finds that the states have had degrees of success in promoting fiscal discipline by employing such mechanisms as biennial budgets, capital budgets, rules of germaneness with regard to all bills, and taxing and spending limits. The concept of unified budget also appears to hold promise as potential reform for both the states and the federal government.

The Commission recommends, therefore, that the Congress and the President consider the above mechanisms as potential means for achieving greater budgetary efficiency and greater fiscal discipline in the federal government.

Presidential Line-item Veto. (A-107, 1987, p. 2)

The Commission recommends that the President be provided with the power to exercise a line-item veto of appropriations voted by the Congress, subject to an appropriate override for the Congress.

BLOCK GRANTS

Substitution of a Single Block Grant for Existing Categorical Grants for Public Health Services. (A-2, 1961, p. 21)

The Commission does not favor at this time the substitution of a single block grant for the existing eight categorical grants to States for public health services; rather, it is recommended that legislation be enacted which would amend the Public Health Service Act of 1944 by authorizing, at the discretion of the Governor, the transfer of up to one-third of the funds in any one grant category to other programs in the group. It is recommended that this flexibility apply to the following categorical grants: general health assistance, venereal disease control, cancer control, heart disease control, tuberculosis control.*

*Secretary Flemming did not concur in this recommendation of the Commission. He expressed the belief that sufficient flexibility is possible within the existing categorical grant system to diminish support for less essential activities and to increase support for and emphasis on an attack on new and emerging problems.

The Secretary noted that the trend toward general health grants can be accelerated and through this means, informal understandings can be reached with the States in the use of part of such general grant funds to attack new and emerging problems of national concern. He also pointed out that another means of bringing attention to bear on new and emerging problems is the use of the project grant approach. This approach provides the means for the Federal Government to assure the marshalling of necessary resources to attack special problems and offers the possibility of assuring application of Federal funds to achieve certain specified objectives.

Lastly, the Secretary expressed the view that the States actually can achieve greater flexibility by simply reallocating their matching support from one category to another. In this connection he called attention to the fact that the States substantially overmatch the Federal Government and therefore they can reduce their emphasis on a particular program simply by reducing the extent to which they overmatch in the category concerned.

Authorize President to Submit Grant Consolidation Plans. (A-31 (V. I), 1967, p. xxii of Vol. I)

The Commission recommends enactment of legislation by the Congress authorizing the President to submit grant consolidation plans, such consolidations to be transmitted to the Congress and to become effective unless rejected by either House within a period of 90 days.

Broadened Fiscal Mix and Greater Fiscal Flexibility in Federal Aid to States and Localities. (A-31 (V. I), 1967, p. xxi-xxii of Vol. I)

The Commission concludes that to meet the needs of twentieth century America with its critical urban problems, the existing intergovernmental fiscal system needs to be significantly improved. Specifically, the Commission recommends that the Federal Government, recognizing the need for flexibility in the type of support it provides, authorize a combination of Federal categorical grants-in-aid, general functional block grants, and per capita general support payments. Each of these mechanisms is designed to, and should be used to, meet specific needs: the categorical grant-in-aid to stimulate and support programs in specific areas of national interest and promote experimentation and demonstration in such areas; block grants, through the consolidation of existing specific grants-in-aid, to give States and localities greater flexibility in meeting needs in broad functional areas; and general support payments on a per capita basis, adjusted for variations in tax effort, to allow States and localities to devise their own programs and set their own priorities to help solve their unique and most crucial problems. Such general support payments could be made to either State or major local units of government if provision is made for insuring that the purposes for which they are spent are not in conflict with any existing comprehensive State plan.* ** ***

Distribution of Funds by the States: Retaining the Block Grant.
(A-36, 1970, p. 58)

The Commission concludes that the block grant arrangement established by the Safe Streets Act, with its mandatory "pass through" of 75 percent of action funds, generally has worked well. A majority of State law enforcement planning agencies, the Commission finds, are allocating an adequate share of Federal monies to large urban and suburban areas where the incidence of crime is greatest. Further, many States have provided some financial assistance to local governments in their crime reduction efforts under the Act, and have furnished substantial financial aid in other crime prevention and control programs such as corrections, courts, prosecution, and police training.

The Commission strongly believes that, although there are presently some gaps in State performance under Title I of the Omnibus Crime Control and Safe Streets Act of 1968 in responding to the special needs of high crime urban and suburban areas, the block grant represents a significant device for achieving greater cooperation and coordination of criminal justice efforts between the States and their political subdivisions. The Commission therefore recommends that the block grant approach embodied in the Act be retained and that States make further improvements in their operations under it.

Maintaining Present Representation Requirements for SPAS. (A-36, 1970, p. 63)

The supervisory boards of most SPAS, in the Commission's judgment, are sufficiently representative of law enforcement and criminal justice agencies as well as elected policymaking officials of units of general local government.

The Commission recommends that the present provisions of Title I or the Omnibus Crime Control and Safe Streets Act, and of related program guidelines, providing for balanced representation of interests on the supervisory boards of State law enforcement planning agencies be retained.*

*Senator Muskie dissents from this recommendation and states:

"Concerning this recommendation, Table 6 of the Commission report indicates that locally elected officials compose only 11 percent of the State supervisory board membership. In the light of this fact, it would appear that some changes should be made in the Act itself, or the guidelines for its implementation, to provide for the greater degree of representation of local officials and local interests regarding the responsibility for planning and budgeting the law enforcement improvement program and the integration of these programs into total community improvement effort."

Modifying LEAA's Administrative Structure. (A-36, 1970, p. 66)

Reliance on a three-member Law Enforcement Assistance Administration, the Commission finds, has created obstacles to the effective, efficient, and economical administration of the Safe Streets Act. The Commission believes that these difficulties can only multiply as Congress appropriates greater amounts of funds for programs under the Act, and hence that continuance of this tripartite arrangement is unnecessary and undesirable.

The Commission recommends that Title I of the Omnibus Crime Control and Safe Streets Act of 1968 be amended to create the position of Director of Law Enforcement and Criminal Justice Assistance who, acting under the general authority of the Attorney General, would be responsible for administering the Act. He shall be one of the three man Law Enforcement Assistance Administration.

The Commission further recommends that the Director be appointed by the President with due regard to his fitness, knowledge, and experience to perform the duties of the chief administrator of the LEAA.*

*Senator Muskie dissents from this recommendation and states:

"This recommendation, as envisioned by the Commission's members approving it, would make the Law Enforcement Assistance Agency administrator a presidential appointment, without the advice and

consent of the Senate of the United States. Even if it were possible to support the proposition that there should be but one administrator, and hence support the goal of the recommendation in this regard, the important position held by the administrator within the whole intergovernmental law enforcement structure must be regarded as significant enough to justify Senate consent to the appointment."

Grant Consolidation Goal and Criteria. (A-52, 1978, p. 298, and A-62, 1978, p. 16)

Strongly implied in the foregoing analysis is the need for action to reduce the excessive fragmentation that continues to cause severe administrative problems and to trouble intergovernmental relations in the federal categorical assistance system. Hence, the Commission reaffirms its 1967 recommendation that Congress and the President adopt as a general goal the reduction in the number of categorical programs and urges that the following factors be used in attempting to identify the most likely candidates for consolidation: programs to be merged should be, or be capable of being made, (a) closely related in terms of the functional area covered; (b) similar or identical with regard to their program objectives; and (c) linked to the same type(s) of recipient governmental jurisdictions.

Possible Candidates for Consolidation. (A-52, 1978, p. 301-302, and A-62, 1978, p. 16-17)

On the basis of a preliminary review of the 442 categorical Bran that were operational in FY 1975 and using the criteria suggested in Recommendation 2 (but with primary emphasis on the functional interrelationship), the Commission concludes that the merger of at least 170 programs into no more than 24 grant consolidations appears to be both feasible and desirable. Hence, the Commission recommends that as a first priority, Congress and the administration give serious consideration to achieving grant consolidation in the following subfunctional areas:

Civil Defense System Administration and Operation (includes 3 categoricals),

Water Resources Planning and Research (involves 2 categoricals),

Forest Lands Management (involves 7 categoricals),

Fish and Wildlife Protection and Management (involves 3 categoricals),

Agricultural Extension Services and Research (involves 5 categoricals),

Highway Beautification (involves 3 categoricals),
Transportation Safety (involves 9 categoricals),
Comprehensive Regional Transportation (involves 10 categoricals),
Comprehensive State Transportation (involves 13 categoricals),
Pollution Prevention and Control (involves 9 categoricals),
Public Library Aid (involves 3 categoricals),
Programs for Older Americans (involves 4 categoricals),
Child Welfare Services and Facilities (involves 4 categoricals),
Fire Prevention and Protection (involves 2 categoricals),
Omnibus Education Assistance (involves 34 categoricals):
 (Education of the Handicapped--8 categoricals),
 (Educationally Deprived Children--4 categoricals),
 (Adult Education--3 categoricals),
 (Vocational Education--9 categoricals),
 (National Reading Improvement--2 categoricals),
(Strengthening State and Local Education Agencies--3 categoricals),
(Strengthening Instruction in Science, Math, Language, Etc.,-2 categoricals),
(Others--3 categoricals),
Vocational Rehabilitation (involves 7 categoricals),
Juvenile Delinquency (involves 4 categoricals),
Domestic Volunteer Services (involves 3 categoricals),
Child Nutrition and School Meals (involves 8 categoricals),
Law Enforcement (involves 3 categoricals),
Preventive and Protective Health (involves 22 categoricals),
Food Inspection (involves 2 categoricals), and
Regional Health Systems (involves 8 categoricals).

Presidentially Initiated Grant Consolidation Plans. (A-52, 1978, p. 303, and A-62, 1978, p. 17)

The Commission recommends that Congress enact legislation authorizing the President to submit plans for consolidating

categorical grant programs to the Congress, that Congress be required to approve or disapprove such plans by resolution within 90 days of submission, and that if approved, such plans to go into effect upon approval by the President of the joint resolution. The Commission further recommends that the legislation authorize the President to make modifications or revisions of plans submitted to Congress any time within 30 days after such submission.*

Improving Allocational Provisions. (A-52, 1978, p. 314 and A-62, 1978, p. 19)

The Commission concludes that in many programs and functional areas, formula-based grants are allocated among recipients according to very general statistical indicators of program need when more precise indicators are feasible and desirable. Furthermore the Commission believes increased attention should be given to assuring that grant funds are allocated in relations to actual service needs.

Therefore, the Commission recommends that grant formula allocation provisions be examined carefully by the appropriate legislative committees of Congress, as part of the review called for in Recommendation 5, and by the executive departments and agencies, and where desirable and feasible updated to include more precise and specific indicators of program need. The Commission further recommends that a critical review be given to formulas that distribute funds according to total population or equal shares; to minimum and maximum grant entitlements; and to any formula factors that may have inappropriately or unintentionally favored one set of recipients over another.

Administration of Generally Applicable Grant Requirements. (A-52, 1978, p. 316, and A-62, 1978, p. 19-20)

The Commission concludes that because of the number and importance of generally applicable requirements affecting federal grant programs, they need special attention. They affect widely divergent and fundamental matters such as civil rights, environmental protection, employment conditions, merit systems, wage rates, relocation benefits, access to governmental information, and rights of the handicapped. The general objectives of these requirements are desirable. Nevertheless, instead of standardizing and helping to simplify these elements in the administration of federal grants, across-the-board requirements have been administered, for the most part, in a manner that allows significantly different approaches among agencies, wide variances in compliance from one program to another, and even conflict in some cases.

Hence, the Commission recommends that:

a) Congress and the President review all new and existing statutory requirements that have general applicability to federal grant programs, and assign each such requirement to a single administrative unit within the executive branch, by legislation or executive order, with clear responsibility and authority for achieving standardized guidelines and simplifies administration for effective compliance by all affected federal agencies;

b) the Office of Management and Budget establish a clearinghouse for all such generally applicable requirements, monitor their administration, and bring to the attention of the President and the Congress from time to time any identified conflicts or duplications among such requirements and potential opportunities for resolving such conflicts, consolidating similar requirements, and simplifying administration;

c) all such generally applicable statutes and regulations be reviewed by Congress and the President for the purpose of consolidating those that are related to each other and of simplifying or terminating those that have proven to be excessively burdensome, either fiscally or administratively, or to be impracticable to implement;

d) in developing administrative regulations to implement generally applicable requirements, that the federal administrative units designated in part (a) of this recommendation consider the estimated costs as well as benefits of securing compliance under potential administrative measures, and that certification acceptance procedures be incorporated, whenever appropriate;

e) the added costs of generally applicable requirements--whether administrative or otherwise and whether incurred by the central administrative unit, the various federal agencies subject to compliance, or the nonfederal grant recipients--be recognized in law and that provisions be made for meeting them; and

f) federal administrative regulations to implement generally applicable requirements allow and foster the practice of contracting by grant recipients with other units of government--whether local, state, regional, or federal--better able to meet such requirements on behalf of such recipients.

Advance Funding. (A-52, 1978, p. 308, and A-62, 1978, p. 18)

The Commission finds that state and local performance of federally funded programs is affected adversely by the uncertainty of future levels of federal funding of those programs. The

Commission therefore recommends that Congress, in consultation with representatives of state and local governments, take steps to reduce funding uncertainties, including:

- a) evaluation by the Appropriations Committees of existing grant activities to determine whether any additional ones should be funded a year or more in advance;
- b) adoption of a rule for completing reauthorization action on grant programs a year before expiration of the authorization;
- c) establishment of a two-year appropriations cycle for grant programs that are amenable to such a cycle but that are now funded one year at a time; and
- d) setting budget targets for grant programs for two years beyond the budget year.

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- b) the Office of Management and Budget establish a clearinghouse for all such generally applicable requirements, monitor their administration, and bring to the attention of the President and the Congress from time to time any

identified conflicts or duplications among such requirements and potential opportunities for resolving such conflicts, consolidating similar requirements, and simplifying administration;

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e) the added costs of generally applicable requirements—whether administrative or otherwise and whether incurred by the central administrative unit, the various federal agencies subject to compliance, or the nonfederal grant recipients—be recognized in law and that provisions be made for meeting them; and

f) federal administrative regulations to implement generally applicable requirements allow and foster the practice of contracting by grant recipients with other units of government—whether local, state, regional, or federal—better able to meet such requirements on behalf of such recipients.

Improving Grant Information. (A-53, 1977, p. 285, and A-62, 1978, p. 23-24)

The Commission recommends that Congress and the Administration take steps to improve information that is available on grants-in-aid through the Catalog of Federal Domestic Assistance and other sources. Specifically, the Commission recommends that:

a) Congress amend Section 201 of the Intergovernmental Cooperation Act of 1968 to require Federal agencies, upon request of the chief executive or legislative body of larger cities and counties, to inform them of the purpose and amounts of grants-in-aid that are made directly to such localities;

b) the Office of Management and Budget publish annually, prior to the conclusion of each calendar year, a list of grant-in-aid programs that are scheduled to terminate in the following calendar year;

c) the Office of Management and Budget assume the initiative for assuring that all authorized programs are listed in the Catalog of Federal Domestic Assistance instead of relying on grantor agencies to identify such programs; and

d) the Office of Management and Budget revise the format of the Catalog of Federal Domestic Assistance so that each listing represents not more than one discrete program or clearly identifies the separate programs included under the listing; that all authorized programs are listed whether or not funds are appropriated there for; and that the program titles in the state and local government indexes show the code for the type of assistance provided (for example, formula grants, project grants, direct loans, technical assistance, training).

The Commission further recommends, in connection with paragraph (a) above, that states explore the possibility of providing their larger localities with information on the purpose and amounts of grants-in-aid which the state sends to such localities. Such information should cover both direct grants from the state and Federal grants passed through the state government.

Safe Streets Block Grant: Decategorization.* (A-55, 1977, p. 193 and A-62, 1978, p. 28)

The Commission finds that crime reduction and the administration of justice have been and continue to be mainly state and local responsibilities. Yet it is appropriate for the federal government to provide financial assistance to initiate innovative approaches to strengthening and improving state and local law enforcement and criminal justice capabilities and disseminate the results of these efforts; to help support the crime reduction operations of state and local agencies; and to facilitate coordination and cooperation between the police, prosecutorial, courts and correctional components of the criminal justice system.

The Commission concludes that the block grant approach contained in Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, generally has been effective in assuring that the national interest in crime prevention and control is being met while maximizing state and local flexibility in addressing their crime problems. However achievement of these objectives has been hindered by statutory and administrative categorization and by federal and state implementation constraints.

The Commission recommends that:

a) Congress refrain from establishing additional categories of planning and action grant assistance to particular functional components of the criminal justice system, repeal the Juvenile

Justice and Delinquency Prevention Act of 1974 and subsume its activities and appropriations within the Safe Streets Act, and amend the Safe Streets Act to remove the Part E correctional institutions and facilities authorization and allocate appropriations thereunder to Part C action block grants;

b) Congress refrain from amending the Safe Streets Act to establish a separate program of block grant assistance to major cities and urban counties for planning and action purposes; and

c) Congress amend the Safe Streets Act to authorize major cities and urban counties, or combination thereof, as defined by the state planning agency for criminal justice (SPA), to submit to the SPA a plan for utilizing Safe Streets funds during the next fiscal year. Upon approval of such plan, a mini block grant award would be made to the jurisdiction, or combination of jurisdictions, with no further action on specific project applications required at the state level.

*See ACIR, Safe Streets Reconsidered: The Block Grant Experience-1968-1975 (Report A-55), Washington, DC, January, 1977, and Safe Streets Reconsidered: The Block Grant Experience--1968-1975: Part B, Case Studies (Report A-55a), Washington, DC, January, 1977.

LEAA Oversight. (A-55, 1977, p. 198 and A-62, 1978, p. 27)

The Commission recommends that LEAA develop meaningful standards and performance criteria against which to determine the extent of comprehensiveness of state criminal justice planning and funding, and that it more effectively monitor and evaluate state performance against these standards and criteria.

Generalist Participation. (A-55, 1977, p. 202 and A-62, 1978, p. 28)

The Commission recommends that Congress amend the Safe Streets Act to (a) define "local elected officials" as elected chief executive and legislative officials of general units of local government, for purposes of meeting the majority representation requirements on regional planning unit supervisory boards, and (b) encourage SPAS that choose to establish regional planning units to make use of the umbrella multi-jurisdictional organization within each sub state district.

Further Coordination and Consolidation. (A-57, 1977, p. 77-78 and A-62, 1978, p. 29)

(a) The Commission concludes that the block and discretionary grant programs established by Title I of the Housing and Community Development Act of 1974 provide the most effective and efficient strategy for meeting the community development needs of general purpose units of local government in metropolitan and non-metropolitan areas. Therefore, the Commission recommends that efforts be made to coordinate and, where feasible, merge administratively the Title I program with those related community development grant programs now administered by other Federal departments and agencies.*

(b) The Commission further recommends that the Section 312 rehabilitation loans program be consolidated with Title I of the Housing and Community Development Act of 1974.

(c) The Commission concludes that the Community Development Block Grant, general revenue sharing, and other block grant programs have not diminished the necessity of Federal support for local, regional, and state planning, management, and technical assistance or capacity building activities. Therefore, the Commission recommends that Congress provide adequate funding for the Department of Housing and Urban Development's 701 comprehensive planning and management assistance program, until such time as a broader, consolidated, planning and management assistance program may be enacted.

*Among the specific programs which might be considered for consolidation are: Department of Agriculture, Farm Labor Housing Loans and Grants (10.405); Water and Waste Water Disposal Systems for Rural Communities (10.418); Rural Self-Help Housing Technical Assistance (10.420); Community Facilities Loans (10.423); Industrial Development Grants (10.424); Department of Commerce, Economic Development-Grants and Loans for Public Works and Development Facilities. (11.300); Economic Development-Public Works Impact Projects (11.304); Economic Development-Special Economic Development and Adjustment Assistance Program (11.307). Numbers refer to Catalog of Federal Domestic Assistance listing.

Greater Recipient Discretion (A-57, 1977, p. 79-80 and A-62, 1978, p. 29)

The Commission concludes that the CDBG program contains some program constraints which unnecessarily restrict the program discretion of its recipients. Therefore, the Commission recommends that Congress amend the act to allow greater discretion in identifying and designing the programs to be funded. Specifically, the Commission recommends that the act be amended to:

(a) allow for the funding of public services which are necessary or appropriate to support community development activities, pursuant to the objectives of the act provided

that no more than 20 percent of the recipient's grant be used for this purpose where other Federal program funds cannot be provided for social services;

(b) allow for the funding of all facilities, whether neighborhood or community wide, which are consistent with, and in support of, the community development objectives of the act; and

(c) simplify the requirements for the Housing Assistance Plan to the maximum degree possible consistent with the objectives of the act.

Continuing the Simplification of Administrative Requirements. (A-57, 1977, p. 81 and A-62, 1978, p. 30)

The Commission recommends that HUD remain sensitive to further opportunities for simplifying the administrative requirements of the CDBG program, and refrain from establishing additional procedural requirements which unnecessarily burden the application, administration, and performance reporting processes in the program.

The Federal Role in Performance Evaluation. (A-57, 1977, p. 82 and A-62, 1978, p. 30)

The Commission supports the legislatively established Federal role in using performance reporting in the CDBG program to monitor progress toward the program's national objectives and to assure that Federal funds are spent in accordance with them.

Building Greater Capacity of Block Grant Recipients. (A-57, 1977, p. 82-83 and A-62, 1978, p. 30)

The Commission recommends that:

(a) HUD step up its sponsorship of research and demonstration projects designed to enhance the capacity of local governments to use the CDBG with the broadest context of community governance;

(b) HUD make more effective use of its publications, public information program, field offices, and other mechanisms to provide technical assistance to CDBG recipients and potential recipients; and that Congress authorize the necessary resources for this purpose;

(c) Congress fund and HUD use Section 811 of the Housing and Community Development Act to support capacity building objectives in CDBG recipient and potential recipient governments, using

appropriate private state and area wide agencies as vehicles for training and technical assistance, where advantageous; and

(d) HUD make a special effort, in cooperation with the EPA, the Council on Environmental Quality, and other appropriate Federal agencies, to provide much more substantial technical assistance to CDBG recipients than is available for compliance with required environmental reviews.

The Role of Regional Bodies. (A-57, 1977, p. 84, and A-62, 1978, p. 30)

The Commission recommends that HUD revise its guidelines to encourage councils of governments and other general purpose regional planning bodies to provide more technical assistance to applicant communities in preparing their HAPS.

The Commission further recommends that Congress amend the act to authorize councils of governments and other general purpose regional planning bodies to prepare a regional housing assistance plan in lieu of local HAPS. Upon acceptance by the affected local units in accordance with the approval procedures of the area wide body within the region, the regional HAP would be submitted to HUD in fulfillment of the statutory application requirements.*

*Commissioner Dunn and Mr. White dissenting.

Strengthening the State Role. (A-57, 1977, p. 85, and A-62, 1978, p. 30-31)

The Commission recommends that Congress amend the act to establish a new Federal category to be used to stimulate and support the direct performance of community development programs by any state which has a demonstrated interest and capacity in this area, as evidenced by the state's: (a) having a community affairs agency, (b) engaging in planning for community development, (c) providing technical assistance to local applicants in community development programs, and (d) providing substantial amounts of its own funds for community development related purposes.**

A General Call for Allocation Revision. (A-57, 1977, p. 87, and A-62, 1978, p. 31)

The Commission recommends that Congress amend the act so that the funding allocation treats the older, deteriorating cities and small communities in metropolitan areas more equitably.

The Commission further recommends that in reviewing the operation of the funding allocation in preparation for recommending

improvements to the Congress on or before December 31, 1976, as provided in the act, the Secretary of HUD give special attention to the fiscal treatment accorded these two groups of recipients.

Advance Funding. (A-57, 1977, p. 92, and A-62, 1978, p. 31)

The Commission concluded that the physical development activities which the CDBG program supports can most effectively be implemented by the assurance of substantial and long-term fiscal commitments. therefore, the Commission recommends that Congress appropriate funds for the CDBG program for a six-year period of advance funding beyond the current funding entitlement with provisions for periodic Congressional review of the program's goals, operation, and effectiveness.

CETA and National Manpower Policy. (A-58, 1977, p. 65, and A-62, 1978, p. 28)

...the Commission recommends that CETA be retained, improved, and used more fully as the preferred mechanism for providing and/or coordinating all federally aided manpower services chiefly designed to respond to the needs of state and substate labor markets. The devices that should be considered for achieving fuller program coordination include grant consolidation; federal government reorganization; joint funding; interagency agreements; more meaningful comprehensive manpower planning, review, and evaluation processes; and stronger interagency coordination at the federal level through the Executive Office of the President and the federal regional councils.

**Commissioner Dunn dissented.

A More Focused Title I Block Grant. (A-58, 1977, p. 66, and A-62, 1978, p. 28)

...the Commission recommends that Title I of CETA be amended to prohibit the use of block grant funds for public service employment or for equivalent programs, except where prime sponsors certify that relevant and current private sector employment needs have been met and opportunities satisfied in their respective labor market areas.

A More Equitable Distribution Formula. (A-58, 1977, p. 67, and A-62, 1978, pp. 28-29)

...the Commission recommends that the act be amended to provide that the Title I formula allocations be distributed on the basis of indices that gauge long-term structural employment,

implementation of this formula change is dependent upon and must await development of reliable low-income and unemployment data produced through special interim studies and the 1980 census. The Commission further recommends that the hold harmless provisions of the act be deleted.

Federal Actions to Facilitate the States' Involvement in Title I.
(A-58, 1977, p. 68, and A-62, 1978, p. 29)

...The Commission recommends that the Employment and Training Administration (ETA) provide increased technical assistance and such other advice and support as may be necessary to bolster the role of state manpower services councils in reviewing prime sponsor plans, coordinating state and local manpower activities, and evaluating performance. The commission further recommends that the ETA continue its efforts to encourage prime sponsors to make greater use of the state employment service in the provision of manpower programs and, during the plan review process, ensure that the undertaking of duplicative services by the state employment service and CETA prime sponsors in the same labor market areas will be avoided.

The Special Problem of Youth Unemployment. (A-58, 1977, p. 68, and A-62, 1978, p. 29)

...the Commission recommends that the Congress amend the Comprehensive Employment and Training Act to delete the youth employment provisions of Title III, Part A. The Commission further recommends that the Congress consider the advisability of establishing a youth employment services title with a separate appropriation and allocation formula based on the relative amount of unemployed youth served by the prime sponsor above the national average.

Recasting and Reorganizing National Manpower Programs.* (A-58, 1977, p. 64-65, and A-62, 1978, p. 28)

The Commission recommends that the President and the Congress give high priority to sorting out, redefining, and articulating clearly, national manpower goals; relating to a range of coordinative management devices for their accomplishment at the community level; and to developing the necessary mechanisms for periodic evaluations of program progress and accomplishments. As a long-term objective, the Commission is convinced that reorganization of the federal agencies responsible for administering manpower programs and consolidation and redirection of grants-in-aid to state and local governments in this area are essential means of bringing the highly fragmented existing employment and training, vocational education, institutional

training, vocational rehabilitation, economic opportunity, and other programs into a more consistent, integrated, and coordinated strategy for meeting the manpower goals and needs of the nation's local communities in an efficient, effective, and equitable manner.

*See ACIR, The Comprehensive Employment and Training Act: Early Readings from a Hybrid Block Grant (Report A-58), June 1977.

Block Grant Purposes. (A-60, 1977, p. 42, and A-62, 1978, p. 24)

The Commission concludes that the block grant, like general revenue sharing, is a necessary component of federal intergovernmental assistance. This instrument balances the accomplishment of national purposes within broad functional areas with the exercise of substantial recipient discretion in allocating funds to support activities that contribute to the alleviation of state and local problems. With well designed allocation formulas and eligibility provisions, as well as adequate funding, block grants can be used to provide aid to those jurisdictions having the greatest programmatic needs, giving them a reasonable degree of fiscal certainty; accord recipients substantial discretion in defining problems, setting priorities, and allocating resources; simplify program administration and reduce paperwork and overhead; facilitate interfunctional and intergovernmental coordination and planning; and encourage greater participation on the part of elected and appointed generalist officials in decision making.

Therefore, the Commission recommends that the Congress use the block grant as the preferred instrument to provide federal financial assistance to state and local governments primarily in cases where:

- 1) a cluster of functionally related categorical programs have been in existence for some time;
- 2) the broad functional area to be covered is a major component of the recipient's traditional range of services and direct funding;
- 3) heavy support for those recipient services that the Congress determines also to have national significance is intended;
- 4) no more than mild fiscal stimulation of recipient outlays is sought;
- 5) a modest degree of innovative undertakings is anticipated;
- 6) program needs are widely shared both geographically and jurisdictionally; and

7) a high degree of Consensus over general purposes exists among the Congress, the federal administering agency, and recipients.

Recognition of Essential Block Grant Features. (A-60, 1977, p. 43, and A-62, 1978, p. 24-25)

The Commission concludes that the proper design of a block grant is a crucial factor conditioning the achievement of the basic purposes of this instrument. Hence, the Commission recommends that the following guidelines be taken into account when developing proposed block grant legislation:

- 1) The program objectives and priorities should be clear and precisely stated.
- 2) A substantial portion of total federal aid for providing services and facilities in the functional area involved should be encompassed.
- 3) Grants should be authorized for a wide variety of activities within the functional area covered, and recipients should be given significant discretion and flexibility in developing and implementing a mix of programs tailored to their needs.
- 4) Funds should be distributed on the basis of a statutory formula that accurately reflects program need and that is consistent with the purposes and priorities of the legislation.
- 5) Discretionary funds, if authorized, should account for not more than 10% of total appropriations.
- 6) Eligibility provisions should be specific, favor general purpose units of government, and reflect their servicing capacity, legal authority, and financial involvement.
- 7) Matching, if called for at all, should be statutorily fixed at a low and preferably uniform rate for all aided activities.
- 8) Planning, organizational, personnel, paperwork, and other requirements should be kept at the minimum amount necessary to ensure that funds are being spent in accordance with the program's authorized objectives.
- 9) The federal administering agency should have authority to approve, within a specified period, recipient plans and applications for conformance with legislative objectives and also to evaluate program results.

10) Capacity building assistance should be provided to recipients, as needed, to enhance their ability to effectively administer the program.

Avoiding Recategorization. (A-60, 1977, p. 46, and A-62, 1978, p. 25)

The Commission concludes that recategorization is an unfortunate occurrence that often is associated with Congressional deliberations over the reauthorization of block grant programs. To help preserve the balance between national objectives and state and local discretion, the Commission recommends that the Congress:

- 1) refrain from earmarking funds or authorizing new categories of assistance within the statutory framework of the block grant;
- 2) rely, to the maximum extent practicable, on capacity-building programs for recipients and on the federal administering agency—through its plan review and approval authority, technical assistance, and discretionary grants—when a redirection of the uses of block grant funds is sought to better achieve Congressional intent; and
- 3) authorize block grants for at least three years or for a period of time consistent with any sunset legislation that may be enacted, and make multi-year appropriations, so that recipients and the federal administering agency will have sufficient time to make the transition from categorical to block grant decisionmaking and to develop a solid record before reauthorization.

The States' Role in Block Grants. (A-60, 1977, p. 46, and A-62, 1978, p. 25-26)

The Commission concludes that, as a general principle, state governments with active interest and involvement in the functions aided by federal block grant programs should have a key role in planning, coordination, administration, service delivery, monitoring, and evaluation under such programs. Hence, the Commission recommends that under certain conditions the states be designated in future block grant legislation as the initial recipients of funds, and that they be required to pass through a stipulated portion of such monies to eligible general purpose units of local government in amounts at least proportionate to the local share of total state-local direct expenditures in the functional area covered during the immediately preceding three fiscal year period, to be used to support authorized local programs and projects. However, in order to be eligible for such designation, the state must demonstrate that:

- 1) appropriate policy, organizational, planning, and procedural arrangements have been established to ensure the efficient and effective use of federal aid;
- 2) the personnel to be assigned to block grant administration possess requisite planning, managerial, and other skills;
- 3) the state has demonstrated a substantial financial commitment to the functional area covered by the block grants; and
- 4) where matching is required and local units were previously the major recipients of federal aid in the functional area covered, the state is willing to assume at least one-half of the local matching share.

Where these criteria are not met, block grants should be provided directly to general purpose units of local government that individually or in combination are eligible for financial assistance. The states, however, should be authorized to apply for aid on behalf of jurisdictions that are not otherwise eligible for entitlement funding.

The Role of Regional Bodies. (A-60, 1977, p. 47, and A-62, 1978, p. 26)

The Commission concludes that block grant programs have spawned a large number of functional planning bodies at the sub state regional level that are not adequately coordinated with general purpose planning and grant review organizations, such as councils of governments and A-95 clearinghouses. Hence, the Commission recommends that where block grant legislation encourages or requires the establishment of regional planning units, the statutory provisions should specify, to the maximum extent practicable, the use of the boundaries and organization of existing area wide general purpose planning bodies.

*Governor Kneip dissented because he felt that block grants should be passed through the states as a matter of course, without special eligibility conditions, and that the governor should designate a state agency to perform certain administrative functions in the block grant program including: (1) review and comment on local plans and applications for Federal assistance; (2) monitor and evaluate implementation at the local, regional, and, if appropriate, state levels; and (3) make recommendations for improving coordination.

Improving Federal Grants Management: Basic Policy Position. (A-62, 1978, p. 27

On balance, while fully supporting the enactment of additional block grants where appropriate and the effective administration of existing ones, the Commission concludes that categorical grant programs will continue to be an integral component of the federal assistance system. Hence, the Commission believes that efforts must be continued to improve grant administration through such means as management circulars, measures to improve intergovernmental information and consultation, as well as procedures for strengthening state and local coordination and discretion. Hence...

The Commission recommends that the political branches of the federal, state and general units of local government assume their historic responsibility for jointly establishing and sustaining the necessary central management mechanisms to achieve improved operations of governmental programs and to render the civil service more fully accountable. The Commission further urges that the intergovernmental dimensions (fiscal, programmatic and policy) of public management be made an integral component of all such administrative systems.

The Partnership for Health Block Grant.** (A-62, 1978, p. 26)

The Commission recommends that Congress enact legislation authorizing federal cost sharing for a range of statutorily specified public health services up to an overall per capita ceiling within each state modified according to appropriate need factors, with the added provision that any changes in national health protection priorities, as determined by Congress, would be reflected in a temporary variation in cost sharing modified to recognize regional and state differences for the service(s) in question.

The Commission also recommends that, with enactment of this cost sharing program, Congress repeal section 314(d) of the Public Health Services Act and, over a reasonable period of time, fold into this program other public health programs.

The Commission further recommends that Congress include in this cost sharing legislation provisions requiring:

each participating state--in conjunction with the units of local governments involved, where appropriate--to develop a comprehensive annual plan applicable to its (their) program and priorities for rendering public health services;

such plans to be published and generally made available to the public for review and comments, before submission; and

the appropriate unit in the Department of Health, Education and Welfare to give substantive review in light of statutorily determined public health program goals and priorities, to approve such plans, to monitor the process by which they were developed as well as their implementation, and periodically to evaluate the effectiveness of this cost-sharing arrangement.

*Secretary Hills dissented from this recommendation, chiefly on grounds that it should include a non-matching provision. Mr. Cannon abstained from the final vote, citing his brief participation in the debate as the reason.

**See ACIR, The Partnership for Health Act: Lessons from a Pioneering Block Grant (Report A-56), Washington, DC, January 1977.

CHILD CARE

Provide Greater Consistency among Child Care Programs. (A-128, 1994, p. 3)

The Commission finds that the five key federally assisted child care programs (Child Care and Development Block Grant, Social Services Block Grant, Title IV-A, Title IV-A Transitional Child Care, and Title IV-A At Risk) are unnecessarily limited in their effectiveness by conflicting rules and regulations. At the same time, the state governments that administer these federal-aid programs have not always taken full advantage of opportunities to resolve these inconsistencies. The inconsistencies in programs make it difficult for child care providers to operate effectively and efficiently, and for consumers to find and take advantage of the services offered under these programs. When circumstances require parents to shift from one program to another, the rules change and services may be lost.

The Commission recommends, therefore, that federal rules be modified to provide greater consistency among programs and to permit the state discretion needed to administer the several child care programs in coordination with each other. The Commission recommends, in particular, that:

(a) State governments should not be required to charge low-income parents fees to participate in the IV-A Transitional Child Care program; and

(b) State governments also should be permitted to reimburse regulated and unregulated providers within the same category of care at rates that may vary by greater than 10 percent under the Child Care and Development Block Grant (CCDBG).

Correspondingly, the Commission recommends that state governments use the increased flexibility in federal programs to reduce confusion and ease transitions from one program to another, including adjusting reimbursement rates and regulatory requirements to maximize consistency across child care spending programs.

Link Child Care Programs to Other Children's Programs. (A-128, 1994, p. 5)

The Commission finds that, while child care is a very vital and essential service, it is just one step in developing good, law-abiding, and productive citizens to meet our country's needs in an increasingly competitive world. To be successful, child care programs need to be closely linked to a variety of other children's programs.

The Commission recommends, therefore, that federal, state, and local officials develop an integrated relationship between child care programs and other children's programs, such as: nutrition and feeding; child immunizations; routine medical checkups; child abuse identification; school readiness; and Head Start.

Federal, state and local governments, also should consider linking child care programs with programs to reduce child poverty and provide adequate housing. Arbitrary distinctions between programs, which make it difficult or impossible to administer them together on the same site, should be repealed.

The Commission recommends, furthermore, that school boards encourage and help to support before- and after-school programs, including development of policies to deal with:

- (a) In-kind contributions to child care facilities;
- (b) Legal responsibility of school districts vis-a-vis child care facilities;
- (c) School bus policies that facilitate trips before and after regular school hours;
- (d) Liability insurance for school-based child care programs, grafted onto the existing insurance policies;
- (e) School facility designs that make shared use easy; and
- (f) Making school facilities available to diverse programs that benefit children before class, after class and during the summer.

Finally, the Commission recommends that the federal and state governments sponsor and support innovative demonstration projects aimed at integrating child care programs with health care, education, employment and training programs. In establishing new programs and overhauling existing programs, the federal government should incorporate lessons from state and local experiences into child care and other similar programs.

Increase Federal Support for Child Care. (A-128, 1994, p. 6)

The Commission finds that child poverty has increased significantly since the late 1970s and that only 10-20 percent of the children eligible for federally assisted child care are being served by present programs. This deficiency puts at risk the national goal that every child be ready for school by the time he or she is of school age, and makes it more difficult for low-income working mothers to stay in the workforce.

The Commission recommends, therefore, that the federal government increase its financial assistance for child care to meet the needs of disadvantaged children more fully, including special provisions for supporting the care of poor infants and toddlers, as well as infants requiring exceptional care, because of the greater expense and shorter supply of this type of care. Two options that

should also be considered for increasing this federal aid, in addition to expansion of the block grant, are:

- (a) a means-tested Child Allowance Trust Fund; and
- (b) an expanded Earned Income Tax Credit linked to the costs of child care.

CRIMINAL JUSTICE/LAW ENFORCEMENT

Strengthening All Components of the Criminal Justice System. (A-36, 1970,

The Commission finds that while in 1969 State law enforcement planning agencies allocated inadequate amounts of Federal funds for improvements in court systems and correctional institutions, more attention has been given to these functions in some 1970 plans. The Commission concludes that the States should make greater efforts to upgrade all components of the criminal justice system.

The Commission recommends that no changes be made in Title I of the Omnibus Crime and Safe Streets Act of 1968 to require or encourage a greater channeling of Federal funds to court and corrections related projects, since modifications of this type would constitute an infringement on State and local discretion under the block grant approach contained in the Act. At the same time, the Commission urges that State comprehensive law enforcement plans should give greater attention to improving all components of the criminal justice system.

Authorizing Waiver of the Personnel Compensation Limit. (A-36, 1970,

Payment of realistic salaries is essential to improving State and local law enforcement and criminal justice administration capabilities and to reducing the incidence of crime. The Commission finds that the provision of the Safe Streets Act requiring that not more than one-third of the amount of an action grant may be spent for personnel compensation to some extent has hampered the efforts of state and local governments to recruit new personnel, and to retain their present employees.

The Commission recommends that the Law Enforcement Assistance Administration be authorized to waive the ceiling on grants for personnel compensation contained in Title I of the Omnibus Crime Control and Safe Streets Act of 1968.*

*Congressman Fountain, Budget Director Mayo, and Supervisor Roos dissent on this recommendation.

Improved Federal-State Court Relations. (A-38, 1971, p. 46)

The Commission urges State and Federal district judges, judicial officers and Bar Associations to initiate and support the development of State-Federal Judicial Councils composed of chief judges of State and appropriate Federal district courts to cooperatively explore problems of joint concern, including procedures for review of post-conviction petitions. Toward a More Balanced Approach to Judicial Intervention. (A-94. 1983,

In recent years, federal and state courts have vigorously examined the conditions that exist in both state prisons and local jails. As a result, many such institutions have been found unconstitutional due to overcrowding and other conditions.

The Commission applauds the judicial intent to alleviate long neglected, substandard conditions in jails and prisons and believes that remedies required to bring such facilities into compliance with the Constitution should be carried out expeditiously.

At the same time, the Commission believes that certain functions are distinctly legislative and executive--specifically, raising, allocating, and spending government funds. Recent judicial impositions of extremely specific court-designed plans demanding immediate compliance circumvent the regular legislative and executive processes. Moreover, the fact that federal judges have so often undertaken these functions with regard to sub national institutions implies serious circumvention of state and local legislative and executive processes by the federal government. Therefore,

The Commission believes that federal and state courts should confine their role to insuring that appropriate legislative and executive officers produce reasonable plans for bringing unconstitutional institutions into compliance with the Constitutional and that such plans are appropriately implemented. Further, the Commission urges both federal and state courts to avoid, except in the most extreme circumstances, using judicial decrees to prescribe detailed remedies.

Federal Research, Training, and Technical Assistance for Local Corrections. (A-94, 1983, p. 199)

The Commission finds that the magnitude of correctional problems nationwide demands a concerted effort on the parts of all levels of government--federal as well as state and local. Moreover, the Commission believes that even in an era of tight budgetary constraints, and taking into consideration the propriety of federal involvement in functions that are traditionally state and local, the federal government may still perform extremely valuable services through its research and development, training, and technical assistance activities. Hence,

The Commission recommends that the federal government continue its efforts in the areas of correctional research and development; in training local correctional personnel; and in providing technical assistance and information to local correctional agencies.

Amending the Federal Property and Administrative Services Act.
(A-94, 1983, p. 201)

The Commission recommends that Congress amend Section 203 of the Federal Property and Administrative Services Act of 1963 (40 U.S.C. 484) to authorize the Administrator of the General Services Administration, on the recommendation of the Attorney General, to donate surplus federal property to any state, county, municipality, or nonprofit organization for constructing and modernizing facilities used for:

- a) probation or parole, pre-adjudication and post-adjudication of offenders, or supervision of parolees;
- b) juveniles who are adjudicated delinquent, are neglected and awaiting trial, or are adjudged status offenders;
- c) the treatment, prevention, control or reduction of narcotic addiction or alcoholism;
- d) the treatment and care of the mentally ill and retarded in a community setting;
- e) community-based corrections programs; and
- f) other correctional facilities and programs, including jails as well as prisons.

No Federal Financial Assistance for Local Correctional Systems.
(A-94, 1983, p. 203)

The funding, operation, and management of jails are traditionally state and local concerns, and an expanded federal role in such areas should be based on a clear and convincing demonstration of national purpose. Lacking such a demonstration, the Commission recommends no new program of direct federal financial assistance to jails or local correctional agencies.*

*Commission member County Board Chairman Gilbert Barrett dissented.

Balancing the Criminal Justice System (A-125, 1993, p. 4)

The Commission recommends that state legislatures and the Congress reexamine their criminal justice systems to rectify imbalances among law enforcement, jurisdiction, and corrections capabilities. Any additional criminal justice mandates proposed in the Congress and state legislatures should be considered for enactment only after thorough system impact analyses have been prepared and aired with affected governments, and with affected law enforcement, prosecution, public defense, corrections, and crime

prevention interests. Special attention should be given to the following issues:

Prevention

A. The priorities and programs of family support, health, and education agencies are crucial in addressing the reasons why some children grow into a life of crime.

B. Intergovernmental coordination of the delivery of welfare, housing, education, employment, drug treatment, health, and other human services is essential to the success of prevention efforts.

C. It is particularly important that resources be directed to where crime is the highest and that citizens be empowered to reclaim their communities.

Policing

D. The proactive role of police and sheriff's deputies in crime prevention and in working with residents of high-crime communities should be promoted.

E. Police and sheriff's deputies should assist with the successful return to the community of persons on pretrial release, probation, and parole.

F. To protect the integrity of selection and training, surges in the hiring of police and sheriff's deputies should be avoided.

Adjudication

G. General government officials should facilitate improvements in court case management through relevant involvement of executive branch systems-support expertise. To the maximum degree appropriate, more use should be made of summons in-lieu of arrest, deferred prosecution, pretrial release, video depositions, expedited trials, and reminders to appear for trial.

H. Integrated state court systems, with state assumption of financing, should be considered where not in use to improve the functioning of lower courts.

I. States should support small prosecutor offices and courts by providing access to legal research, pertinent continuing legal education, and multijurisdictional support.

Jails

J. States should develop jail operating and construction standards, with particular attention to personnel requirements and training, and should provide technical or financial assistance to localities

in meeting such standards. Federal and state courts should avoid prescribing detailed remedies to jail and prison overcrowding, except in extreme cases.

K. Counties holding state prisoners should be paid at appropriate rates that are indexed to cost increases in comparable state facilities.

L. Separate facilities and services should be provided for mentally ill, inebriated, and drug dependent detainees.

M. Academic, job training, and substance abuse programs should be provided for inmates, in close cooperation with community agencies, to facilitate continued participation upon release.

Correction

N. Sentencing guidelines should be balanced against realistic estimates of incarceration capacities; the program capacities of probation, parole and alternative community sanctions; and the recidivism rates of persons in these alternative programs.

O. Community-based and institutional correctional programs, personnel, and staffing levels should be upgraded.

P. Academic, job training, and substance abuse programs and mental health services should be provided for inmates. Prison and jail industries, using private contractors, should be authorized as one means of giving offenders marketable skills, where such contractors would not create unfair competition with private business.

Q. The distinct functions of supervising probationers and gathering pre-sentence information on offenders should be separated and supported adequately.

R. Greater use should be made of community-based alternatives incarceration-such as community service, restitution, and enhanced supervision; community corrections acts to provide a framework for managing intermediate sanctions should be considered.

Improved Management

S. Professional administrators should be used to support officials throughout the criminal justice system in implementing needed management improvements.

T. When comparing privatization alternatives with public operations in criminal justice, full costs and liabilities should be considered, on both sides of the equation.

U. Multigovernment (regional) correctional, training, and other criminal justice activities should be authorized and encouraged by

states where they have the potential to produce cost savings and improved services.

Intergovernmental Funding

V. State and federal criminal justice grant formulas should direct funds to where the money could do the most to reduce crime.

W. State and federal grants should encourage community corrections for first-time and nonviolent offenders and emphasize cooperation between government entities.

X. State funding assistance to localities should be indexed to increase in comparable state criminal justice programs.

Y. The federal variable passthrough formula should be administered to ensure that federal money is apportioned according to the different degree of state and local criminal justice responsibility in each state.

Z. Federal grants should avoid earmarking that prevents use in efforts that address the range of needs across the states.

AA. Federal corrections research, training, technical assistance, and information-sharing programs, which are outstanding, should be continued and emulated in other fields of criminal justice. Additional research should be encouraged on identifying career criminals so they can be isolated more effectively from society.

Constitutional Balance

BB. Shifting the prosecution of criminal cases from states to the federal government and increased federalization of individual criminal activity (not based on multistate access, against a federal agency, or a threat to national security) should be curtailed.

Informing and Involving Policymakers

The Commission recommends that the chief elected officials of general government (1) insist on being informed about the basic characteristics, interrelationships, and current facts of the criminal justice system with which they interact; (2) hold criminal justice official accountable for supporting improved system performance by using budge leverage; and (3) actively engage the other key actors in the system and the public in exploring policy options that take into account a systemwide perspective. Clear distinctions should be maintained between policy setting by general government elected officials and detailed administration of programs by professional administrators and program officers. It is the responsibility of the general government elected officials to establish a clear, balanced, and workable framework for the

criminal justice system, but not to micromanage it so that appropriate administrative and professional discretion cannot be exercised.

Improving Information and Decision-Support Systems (A-125, 1993, p. 6)

The Commission recommends that the chief elected officials of general government support the development and use of enhanced criminal justice decision support performance indicators for key activities, and the collection of the required data. The Commission recommends, further, that these officials engage general government personnel from budgeting, data systems technology, and planning offices in the development and use of these information systems so that they will serve the needs of state and local decisionmakers realistically and reliably. In particular:

A. Criminal justice planning capacity is needed for (1) individual criminal justice agencies, (2) criminal justice coordinating bodies, (3) the chief executive and budget offices of municipal, county, and state governments, and (4) legislative committees responsible for criminal justice policies and appropriations.

B. Data collection and reporting to meet the needs of criminal justice planning should be independent of and insulated from political influence so that the data will be respected and used by all policymakers and program managers. Crime, arrest, conviction, and incarceration rates should be collected and correlated.

C. Information systems should be developed to support the preparation of fiscal impact statements. Such statements should be required for proposed changes in the criminal code and proposed budgets designed to fund each part of the criminal justice system. These statements should show the financial and workload effects of proposals on the other parts of the criminal justice system. States should develop the analytic capability to determine impacts on individual local jurisdictions. Localities should develop the capability to analyze the impact of state proposals on them.

D. Processes to estimate the need for additional prison and jail space should require involvement of all criminal justice agencies to document capacity limits, catalog alternative programs and policies that can reduce space needs, present an analysis of the specific types and numbers of offenders who can be diverted by these alternative programs, test assumptions against projected law enforcement activities and priorities, and demonstrate professional competence in making population projections.

E. Systems are needed that can reliably estimate the amount of general revenue relief that can be achieved from revenues (e.g.,

finer and program fees) produced within the criminal justice system.

F. Information gathered on offenders should be shared more readily between criminal justice agencies with the goal of improving the accuracy of the information used by each agency and eliminating redundant efforts.

FEDERAL MANDATES/PREEMPTION

No Further Federal Mandating. (A-35, 1969, p. 111)

The Commission recommends that Congress desist from any further mandating of requirements affecting the working conditions of employees of State and local governments or the authority of such jurisdictions to deal freely or to refrain from dealing with their respective personnel.*

*Additional view of State Senator Arrington: While I do not oppose this recommendation, I do not feel it has a place in a report which deals with the public employee relations of State and local governments.

Viewing the National Context of State Governments and Distressed Communities (The States and Distressed Communities--forthcoming)

The Commission urges, pending a reappraisal of relative responsibilities among federal, state, and local governments, that the national government refrain from further impeding or encumbering state and local governments with new regulatory mandates as they strive to meet increased responsibilities to their citizens in the wake of a reduced federal role. The Commission further suggests that the Congress authorize expanded flexibility for state and local governments to transfer funds among aid categories, within specified maxima, so that problems of the highest urgency which vary from state to state and from locality to locality may be addressed as adequately as possible.

Avoiding Unintended Impacts on State and Local Governments. (A-86 1981,

Fiscal Notes. The Commission finds that federally mandated legislation often imposes unanticipated burdens and costs upon state and local governments. Hence...the Commission recommends that Congress amend the Congressional Budget Act of 1974 to require the Congressional Budget Office (CBO), for every bill or resolution reported in the House or Senate, to prepare and submit an estimate of the cost which would be incurred by state and local governments in carrying out or complying with such bill or resolutions.**

**Some individual members of the Commission, notably Mayor Tom Bradley, strongly advocate the principle of federal reimbursement of state and local costs in carrying out federally mandated programs, and these proposals were the subject of discussion at the March 1980, and June 1980, meetings. However, reimbursement proposals raise a series of complex legal, fiscal, and political issues which have not yet been explored in sufficient detail by the Commission as a whole to provide a basis for its recommendations. The mandating issue has been identified as a high-priority area for future study.

Assuring Adequate Funding for New Federal Regulatory Statutes.* (A-95, 1984, p. 265)

The Commission finds that many governmental regulations impose substantial costs on state and local governments and constitute a major source of intergovernmental tension and conflict. Furthermore, the lack of adequate resources may seriously undermine successful program implementation and delay or obstruct attaining important national goals. Consequently, the Commission applauds the enactment of the State and Local Cost Estimate Act of 1981, implementing a 1980 ACIR recommendation to establish a fiscal notes process in Congress. To further address the problems of mandate funding...

The Commission recommends that Congress establish a system that guarantees full federal reimbursement to state and local governments for all additional direct expenses legitimately incurred in implementing new federal statutory mandates, including costs imposed by federal direct order mandates, crosscutting requirements, partial preemptions, and provisions enforced by crossover sanctions.

The Commission further recommends that the legislation establishing such a system specify that no state or local government be obligated to carry out a federal statutory mandate that does not fulfill this requirement.

*Senator Durenberger requested to be recorded as opposing this recommendation on the grounds that a selective, not a full, reimbursement policy is the only one that is currently realistic and fiscally responsible.

Improving the Effectiveness of Partial Preemption Programs. (A-95, 1984, p. 282-283)

The Commission recommends that the Congress and the President recognize that the device of partial preemption can be properly and successfully employed only in areas where Congress identifies broad national regulatory goals, while leaving primary responsibility for devising appropriate systems of implementation in the hands of the states. To this end, such programs must utilize regulations allowing states considerable flexibility in selecting among alternative effective and appropriate means for achieving national goals, in light of regional differences among the states and particular conditions unique to each state.

To be administered effectively, such partial preemption programs require the full cooperation and joint effort of the federal and state governments in both planning and implementation. Therefore, in instances in which states are expected to assume a co-regulatory role, the Commission recommends that the Congress and

the President provide for a system of improved consultation and coordination between the states and the federal government by:

- authorizing participation by states at an early stage in developing federal intergovernmental regulations and program standards;
- providing for a system of joint standard setting or of state concurrence in developing national program standards, while recognizing the ultimate authority of the federal government to issue such standards in the event of irreconcilable conflicts;
- establishing joint committees of federal and state officials to review each program, identify implementation problems, and advise the cognizant department or agency head on appropriate remedies;
- incorporating realistic statutory timetables for issuing federal regulations and for state compliance with federal standards; and,
- providing states with adequate advance notification of available federal funding to assist in meeting state program costs.

To assure that opportunities for state participation are extended on a truly voluntary and cooperative basis, the Commission further recommends that states be authorized to elect the option of direct federal administration without incurring any other legal or financial penalty. More specifically, the Commission recommends that Sections 107, 110, 113, 176, and 316 of the Clean Air Act of 1970 and Section 303 of the Federal Water Pollution Control Act Amendments be amended to conform with this cooperative principle.

Finally, the Commission further recommends, that, in those few program areas in which rigid, uniform national standards and implementation systems are clearly necessitated, the Congress consider full federal preemption, standard setting, and administration, while allowing for state administration by contact.

Promoting Equity and Effectiveness in Mandate Legislation (A-111, 1989, p. 5)

The Commission recommends that the Congress (1) serve as a model of leadership by applying to itself logically applicable mandates similar to those that are placed on federal and state agencies; (2) provide for recognition of the special compliance circumstances of certain state and local agencies similar to its recognition of the special compliance circumstances of certain federal agencies, provided that such agencies bear the burden of proof regarding their special circumstances; (3) not impose sanctions on state and local agencies for noncompliance unless comparable sanctions are imposed on federal agencies for noncompliance; (4) not "pass the buck" to state and local governments by enacting mandates with which the federal government itself would be unable or unwilling to comply, if it were required

to do so; and (5) not enact mandates without providing an equitable share of funding to implement the mandate.

In light of the need for such mandates as those guaranteeing the rights of persons with disabilities, and in light of the difficulties encountered in federal and state compliance, the Commission, also recommends that the Congress consult more closely with state and local governments when it is necessary to enact mandates affecting those governments in order to identify issues and problems in advance so as to design legislation that will achieve goals more effectively.

Reaffirmation of Requirements for Explicit Intent to Preempt and Principles for Limiting Federal Preemption (A-121, 1992, p. 2)

The Commission recommends that (1) the Congress not preempt state and local authority without clearly expressing its intent to do so; (2) The Congress limit its use of the preemption power to protecting basic political and civil rights, managing national defense and foreign relations, ensuring the free flow of interstate commerce, preventing state and local actions that would harm other states or their citizens, and protecting the fiscal and programmatic integrity of federal-aid programs into which state and local government freely enter; (3) the Executive Branch not preempt by administrative rulemaking unless the Congress has expressly authorized such action and established clear guidelines for doing so, and unless the administrative agency taking such action clearly expresses its intent to preempt; and (4) the federal courts not confirm the validity of statutory and administrative preemptions unless accompanied by a clear statement of intent to preempt and unless the extent of preemption is no greater than necessary to give effect to that intent within the limits of constitutional authority.

Congressional Preemption Notes and Executive Agency Notifications (A-121, 1992, p. 2)

The Commission recommends that the Congress provide by legislation for the preparation and consideration, in both committee and floor debate in both houses of the Congress, of preemption notes concerning any bill affecting the powers of state or local governments. Such notes should express, in clear language, any intent of the legislation to preempt or not to preempt state or local government powers, justify the preemption in accordance with the United States Constitution, stipulate and justify the scope of such preemption, present options for minimizing the extent of federal preemption and for providing flexibility to state and local governments in complying with any proposed preemption, and provide either for a sunset provision or for periodic review of the preemption.

The Commission recommends, furthermore, that the Congress amend the Administrative Procedure Act to provide that any administrative rulemaking proposed by the Executive Branch that would affect the powers of state or local governments be required to be published in the Federal Register with preemption note stating, in clear language, the extent of any federal preemption intended and citing the explicit statutory provision on which any preemptive rules would be based.

Preemption Notes in the Executive Branch (A-121, 1992, p. 2)

The Commission recommends that the executive branch of the federal government prepare a preemption note for any legislative or regulatory proposal affecting the powers of the states or their local governments and attach the preemption note to the proposal for consideration within the originating department or agency and any reviews by the Office of Management and Budget, the White House, The Congress, and formal rulemaking processes. The preemption note should be guided by the principles set forth in the Federalism Executive Order (No. 12612) and should be incorporated into any federalism assessment prepared thereunder. The preemption note should express, in clear language, any intent of the proposal to preempt or not to preempt state or local government powers, justify the preemption in accordance with the United States Constitution, stipulate and justify the scope of such preemption, present options for minimizing the extent of federal preemption and for providing flexibility to state and local governments in complying with any proposed preemption, and provide either for a sunset provision or for periodic review of the preemption.

Evaluation of Federal Preemption (A-121, 1992, p. 3)

The Commission recommends that greater effort be devoted to evaluating federal preemptions, including efforts by the executive and legislative branches of the federal government, and by the national associations representing state and local governments.

Federal Reimbursement of Mandated Environmental Protection Costs (A-122, 1992, p. 5)

The Commission recommends . . . that the Congress and the President enact legislation requiring the federal government to reimburse state and local governments for the additional costs of complying with federal environmental standards, over and above the costs of providing strictly state, local and private benefits. The costs to be shared equitably among all of the benefitted parties should include the full costs of maintaining healthy and stable ecologies over the long run.

Reconsidering the Constitutionality of Unfunded Federal Mandates
(A-126, 1993, p. 4)

The Commission recommends, therefore, that the Congress, the Executive Branch, and the federal Judiciary declare and honor a moratorium on the imposition of unfunded or underfunded mandates by statutory, administrative rulemaking, and judicial means for a period of at least two years, and that the Congress and the Executive Branch conduct a complete and thorough review of mandating for the purpose of restoring balance, partnership, and state and local self-government in the federal system.

The Commission recommends, furthermore, that the U.S. Supreme Court reexamine the constitutionality of mandating as a principle and also consider the constitutionality of particular mandates in the context of the cumulative impact of mandates on the federal fabric of the Constitution of the United States.

Guarding against Destructive Competition and Hasty Preemption (Fall 1993-Winter 1994, Vol. 20, No. 1, p. 36)

The Commission recommends, therefore, that state and local governments move away from forms of interjurisdictional competition based on publicly funded fiscal incentives that benefit particular investors, and that state and local governments work assiduously to develop rules of competition that level the playing field, distribute benefits broadly to all citizens, and produce a healthy, beneficial form of competition for economic development.

The Commission also reiterates its recommendations adopted on December 2-3, 1982, and March 20, 1987, to limit federal preemption of state and local authority. The Commission encourages the nation to consider carefully the benefits of a federal system in a global economy and to examine closely proposals to preempt state and local authority simply out of fear of international economic competition.

Federal-State-Local Relations (Spring 1991, Vol. 17, No. 2, p. 11)

The Commission recommends as follows:

When federal performance mandates for the states and local governments are contemplated, the Congress should determine the costs of state and local compliance just as if federal budget outlays were required. The increased costs of federal mandates should be paid for by the federal government. In a similar fashion, the increased costs of state mandates on local government should be paid for by state government.

Federal Mandate Relief Legislation (A-129, 1995, pp. 6-9)

The Commission recommends that:

1. The Congress and the President should enact mandate relief legislation in early 1995, and implement it expeditiously in full consultation with the state, local, and tribal governments.

2. Key provisions of federal mandate relief legislation should include:

The consensus definition of mandates contained in the draft legislation;

Use of cooperatively developed financial estimates, intergovernmental consultations, national debates on governmental priorities, and Congressional roll call votes throughout the legislative process to hold the Congress accountable for its mandate policies;

Use of sound financial estimates and intergovernmental consultations by federal agencies as they develop regulations to implement federal mandates, to minimize added burdens on state, local, and tribal governments;

A review of existing federal mandates, with recommendations to the Congress and the President for reducing their burdens on state, local, and tribal governments; and

Continual monitoring of the results achieved through implementation of the mandate relief legislation, with recommendations to the Congress and the President for improving the results.

3. Implementation of federal mandate relief legislation should be guided by the following principles:

Federal government restraint in mandating, using mandates only when constitutionally justified and clearly necessary;

Mutual trust and respect among the federal, state, local, and tribal governments;

Active partnerships among the federal, state, local, and tribal governments in developing and debating mandate legislation, estimating the costs and benefits of mandates, reviewing and reforming existing mandates, developing agency regulations to implement mandates, and implementing compliance with mandates;

Federal avoidance of unilateral shifts of functional responsibilities to state, local, and tribal governments without regard to the funding implications;

Maximum flexibility to allow state, local, and tribal governments the greatest possible choice of means in complying with federal mandates in their own circumstances; and

Federal technical assistance in the mandate compliance process to help empower the state, local, and tribal governments to make more effective and more efficient use of good science and good practices.

4. The critical role of benefit and cost estimates in the mandate relief process, and the difficulties in making sound estimates, should be recognized. The following realities should be incorporated into the process as follows:

Direct benefits and costs, and clearly identifiable cost savings to governments complying with federal mandates, should be estimated. It is not feasible, at the present time, to net-out general benefits, because of difficulties in capturing and allocating them among types of governments. However, every effort should be made to identify benefits associated with federal mandates.

The differential effects of benefits and costs on different types of communities or on individual governments should be a part of impact estimating, but such effects cannot now be calculated. Improved information systems to permit the calculation of them should be developed.

To inform the Congress about the benefit and cost implications of proposed legislation, a progression of estimates should be made at:

- (1) an early stage, before any committee action, and perhaps even before a bill has been drafted;
- (2) a middle stage, when specific legislation has been developed and begins to move toward markup, and
- (3) a late stage, after full committee markup, and extending until the bill is passed.

Uncertainties in these estimates should be brought to the attention of the policymakers using them.

Developing benefit and cost estimates to determine appropriate reimbursement amounts cannot be done with great accuracy during legislative consideration. Estimating can and should be improved by developing new tools and resources. Nevertheless, precise amounts can be known only after subsequent agency rulemaking.

Consultations with state and local governments beginning at an early stage in impact assessment are essential to improving the quality of estimates.

Estimates of the benefits and costs of enacted mandates do not exist, and calculating them will require substantial resources and time. It may be impossible to differentiate clearly the specific benefits and costs attributable to federal, state, and local actions.

5. Congressionally debated provisions calling for the following four types of studies in conjunction with federal mandate relief legislation are necessary and desirable for the effective achievement of mandate relief goals:

A review of existing statutory and administrative mandates, including recommendations for reform;

Annual reports on federal court rulings that impose mandates;

Regular reports monitoring and evaluating implementation of the legislation, and recommending improvements; and

Baseline estimates of the costs of existing mandates.

The Commission supports the authorization of these studies and reports, and is eager to assist the Congress in preparing them.

FEDERAL REGULATION

The Federal Role: A Uniform Comprehensive Policy. (A-43, 1973, p. 347-348)

The Commission finds that the national government, in fact, has assumed a prime role, especially during the past decade, in substate regional planning, programming, coordination, and institution building developments both in rural and urban areas within the States. It believes that most of these efforts, along with new ones even now on the horizon, are likely to continue. Yet the Commission is aware of the adverse effects on State and local governments as well as on substate regional instrumentalities that have arisen from the overlap, inconsistencies, and absence of concerted purpose and policy among the existing two dozen Federal programs with an areawide thrust. Hence...

The Commission recommends that Congress and the President enunciate a consistent, comprehensive Federal substate regional policy geared to providing a common framework for and a general purpose to existing and future Federal assistance programs—whether in the categorical, block grant, or special revenue sharing sectors—having sub state regional planning, programming, coordination, and/or districting provisions. With reference to the specific components of this policy, the Commission recognizes that some may be achieved by Executive Order, but others will require Congressional enactment. The Commission believes that such a national policy, at a minimum, should include the following:

A. A firm requirement, set forth in an amended Office of Management and Budget (OMB) Circular A-95, that, to the extent practicable, all existing and future categorical and block grants and, potentially, special revenue sharing programs which encourage or mandate areawide planning, programming, coordination, and/or districting, rely in each substate region on an umbrella multi-jurisdictional organization officially designated by the State and/or its localities or, when both fail to act, by OMB for implementation and/or areawide policy-development purposes; where statutory requirements relating to the composition of areawide bodies conflict with this goal, adoption of a binding OMB policy that permits specially constituted advisory councils to the multi-jurisdictional organization to satisfy the requirements of the law.*

B. Energetic encouragement of all States, save perhaps for the smallest in area and the most sparsely settled, to adopt a substate districting system whose boundaries recognize topographical, economic, social, communication, political, and jurisdictional factors, and whose purposes and district organizations are geared at least as much to State and local sub state regional needs as they are to those of Federally assisted areawide programs; and positive assurance, in the form of a strengthened Part IV of OMB Circular A-95 and

effective CMB followup action, that such Federal programs will align their boundaries to conform to or be consistent with those of State-delineated substate regions and rely primarily on officially designated district multi-jurisdictional organizations to permit maximum Federal-State-Local coordination of these joint undertakings.

C. Enactment of legislation that revamps and consolidates all areawide planning requirements associated with Federal categorical and block grants, and potentially special revenue sharing programs, with a view toward achieving a clear focus on:

1. substate districts as the primary substate areal concept;
2. the preferred multi-jurisdictional organization within each substate region as the basic policy-developing and/or, where designated by law, implementing institution; and
3. the linkage of comprehensive and functional planning as a means of achieving a better balance among and blending of area wide activities that most often, at present, are not consistent with each other.

D. Enactment with bonus provisions for State buying-in of a consolidated grant program of general planning, programming, and coordinative management assistance to officially designated umbrella multi-jurisdictional organizations and a corresponding repeal of existing comprehensive and functional area wide planning assistance programs.

E. Amendment of Section 402 of the Intergovernmental Cooperation Act of 1968 to give officially designated umbrella multi-jurisdictional organizations the power to review and approve or disapprove grant applications covered by the A-95 process which emanate from multi-jurisdictional special districts and authorities operating within these organizations' respective sub state regions.

F. Amendment of the Intergovernmental Cooperation Act of 1968 to give officially designated umbrella multi-jurisdictional organizations the authority to review grant applications covered by the A-95 process emanating from units of general local government within each organization's jurisdiction and to resolve any inconsistencies between such applications and officially adopted regional policies or plans, such applications to be processed by the pertinent Federal departments and agencies only when these inconsistencies have been resolved. The umbrella organization should exercise a similar role with reference to grant applications of State agencies for major capital facilities not having a multi-regional impact located within each organization's sub state region.

G. Amendment of the Intergovernmental Cooperation Act of 1968 to require that any major capital facilities projects having a pronounced areawide impact or intergovernmental effect, whether sponsored by a State agency, a multi-jurisdictional agency or authority, or a unit of general local government, must be reviewed and any inconsistencies between such projects and officially adopted regional policies or plans must be resolved by the officially designated umbrella multi-jurisdictional organization in the substate region wherein the project is scheduled to be located, provided Federal funds from block grants, or potentially from special revenue sharing programs, are involved.**

*Governor Evans did not concur in that portion of this component which provides for an ultimate OMB designating role in this process.

**Governor Evans dissented to that portion of this component which covers State agency projects on grounds that such projects may be part of an interregional or statewide program.

The Federal Role: A Supportive Role. (A-44, 1974, p. 171)

The Commission notes that actions of the Federal government directly affect local governmental institutions and the development of effective sub state regional systems. Hence, the Commission recommends that the Executive Branch of the Federal government and the Congress adopt policies which accommodate State and local actions to reorganize governments at the sub state and local levels.

Reforming Independent Regulatory Bodies to Better Meet Areawide Intermodal Transportation Needs. (A-49, 1975, p. 30)

The Commission recommends that the Congress and state legislatures consider amending their respective laws and interstate compacts establishing the independent transportation regulatory bodies with a view toward (1) consolidating them to combine separate transportation modes, where appropriate, in independent intermodal regulatory bodies; and (2) broadening the public policy objectives which shall be considered and promoted to the extent possible by these independent regulatory bodies to include--in addition to the traditional ones of safety and economics--modal productivity and efficiency, energy conservation, desired community development, environmental protection, enhanced mobility and unhindered access.

Continuing Regulatory Experimentation (A-115, 1990, p. 1)

The Commission finds that the differences in the nature of the intrastate intraLATA and interLATA markets create a diversity of requirements and that a number of states have been innovative in developing forms of regulation that are well tailored to differences in the competitive nature of their geographic market areas.

The Commission recommends, therefore, that states continue to explore alternative forms of regulation for their intrastate interLATA and intrastate interLATA markets in order to fulfill their roles as liberators for experimentation and creativity. Administration of OMB Circular A-95. (A-88, 1982, p. 461)

The Commission recommends that the President through his Office of Management and Budget initiate a more energetic and imaginative administration of Title IV of the Intergovernmental Cooperation Act of 1968 and OMB Circular A-95, especially its Part IV concerning the coordination of planning in multijurisdictional areas, and an expansion of the circular to require federal agencies to ensure consistency of reviewed projects with applicable federal policies as well as with state and area wide plans and policies.

Minimize Federal Intrusion into State Administrative Organization.
(A-88, 1982, p. 467)

The Commission recommends that the federal government curb its intrusion into state organization and procedures by amending Section 204 of the Intergovernmental Cooperation Act of 1968 to eliminate any federal assistance condition that requires a single state or local government department, agency, board or commission, or a single bureau, division, or other organizational unit to serve as the administrative focal point of an aided program, along with any provisions that dictate a specific headquarters-field administrative relationship within a state or sub state governmental department or agency.

Administration of Generally Applicable (Crosscutting) Grant Requirements. (A-95, 1984, p. 8)

Temporary Suspension of Crosscutting Policies. The Commission finds that the implementation of crosscutting policies sometimes results in unreasonable burdens on and serious disruptions to the intergovernmental system. Hence...the Commission recommends that Congress enact legislation authorizing standby authority to the President (acting through the Office of Management and Budget) to suspend temporarily implementation of enacted crosscutting national policy requirements when it becomes clear that serious and unanticipated costs or disruptions will otherwise occur. The Commission further recommends: (a) that prior to any suspension, the President ascertain through an assessment of the requirement's legislative history and, where needed, through direct contact with

the appropriate Congressional committees that the impending disruptions were not anticipated by Congress; (b) that the suspension of the implementation of any given policy requirement by the President be limited to no more than 180 days; (c) that the President immediately notify the appropriate committees of Congress of his action and the reasons for it; and (d) that within 60 days of the suspension, the President present to Congress an alternative remedial legislative proposal.

Regulatory Impact Analyses. The Commission finds that federal regulations often lack adequate prior assessments of the potential costs imposed upon state and local governments and the private sector by such regulations. Hence...the Commission recommends that the Congress enact legislation requiring each federal department and agency, including each of the independent regulatory agencies, to prepare and make public a detailed analysis of projected economic and noneconomic effects likely to result from **any major new rule** it may propose.

The Commission recommends that the President and Congress examine all applicable statutes and regulations and modify or eliminate, by statutory action where necessary, crosscutting requirements that have proven to be excessively burdensome, impracticable to implement, or otherwise no longer worth the effort required to implement them.

Whatever crosscutting requirements are retained should be administered effectively and efficiently by federal agencies.

The Commission therefore commends the President's Task Force on Regulatory Relief for initiating a process that highlights the unnecessary burdens imposed on state and local governments by particular crosscutting requirements.

The Commission reiterates its 1978 recommendation that Congress and the President assign each crosscutting requirement to a single unit within the executive branch, with clear responsibility and authority for achieving, in consultation with other affected federal agencies as well as state and local governments, standardized guidelines and simplified administration for effective compliance by all affected federal agencies; and that the Office of Management and Budget be authorized to establish a uniform procedure for developing, implementing, and evaluating all such guidelines and monitor their administration. To these ends, the Commission also reiterates its support for the enactment of Title III of the Federal Assistance Improvement Act of 1981 (S. 807) as introduced.

The Commission recommends that Congress provide a clear statutory indication of those crosscutting requirements applicable to each block grant and how responsibility for implementation is to be shared between the national government and recipient jurisdictions.

*Advisory Commission on Intergovernmental Relations, State Aid to

Local Government (A-34), Washington, DC, April 1969, p. vi. In 1969, when this recommendation was adopted, federal public assistance aid programs consisted of aid to families with dependent children (AFDC), old age assistance, aid to the blind, and aid to the permanently and totally disabled. Since then, the last three--the adult categories --have been federalized into the supplemental security income (SSI) program. AFDC and Medicaid (medical assistance for the poor and medically indigent) are still federal-state programs, and general assistance remains a state-local program.

**Representatives of HUD and OMB supported Recommendation 1, except for naming specific programs for full federal financial responsibility.

***The question of eligibility for benefits under this fully federal program was debated by the Commission at some length. The Commission agreed that coverage should extend beyond those holding citizenship, but perhaps not as far as to encompass illegal aliens. Since this issue was highly complex and beyond the scope of the research undertaken by the staff, the Commission did not adopt precise wording on the subject of eligibility.

****Advisory Commission on Intergovernmental Relations, Categorical Grants: Their Role and Design (A-52), Washington, DC, 1978, p. 298.

Eliminating Crossover Sanctions in Federal Grant Statutes. (A-95, 1984, p. 278-279)

The Commission finds that Congress has used the crossover sanction mechanism in several federal programs since 1965. The uses of this device have become a source of much concern among observers at all levels of government, who believe the penalty mechanism is excessively coercive and confrontation Al in character. Serious objections also have been raised about the practical effects of this device, which may involve penalties so severe that they can scarcely be invoked. Therefore,

The Commission recommends that Congress repeal the provisions of grant statutes that authorize the reduction or termination of funds from other specified grant programs, as well as from the grant program stipulating this requirement, when a recipient government fails to comply with all of the conditions of such a program. The Commission believes that such provisions alter drastically the traditional legal concept under which each grant is viewed as a quasi-contractual relationship, freely entered into but with differing obligations for the grantor and grantee that are clearly established by the statute authorizing such relationships in the program area covered by the grant. More specifically the Commission recommends that, among others, the relevant provisions of the Highway Beautification Act of 1965 (23 U.S.C. 131), the National Health Planning and Resource Development Act of 1974 (42 U.S.C. 300m(d)), the Federal Aid Highway Amendments of 1977 (42 U.S.C. 7506(c) and 7616) be amended to restrict the cut-off of

funds in the event of noncompliance to the specific aid programs containing the requirement.

Restoring Constitutional Balance in Intergovernmental Regulation.*
(A-95, 1984, p. 269-270)

(a) Reassessing Constitutional Boundaries

The Commission recommends a reassessment of the legal doctrines delimiting the boundaries of national Constitutional authority vis-a-vis the reserved powers of the states so that those reserved powers again become meaningful and viable. To help restore a sense of balance between the levels of government, the Commission urges reconsideration by the national legislative, executive, and judicial branches of current interpretations of the commerce and spending powers as they apply to the newer and more intrusive forms of federal regulation, such as partial preemptions, crosscutting grant requirements, crossover sanctions applied to federal aid, and direct orders.

(b) Judicial Interpretations

The Commission, therefore, expresses its hope that the federal judiciary will revive and expand the principles expressed in *NLC v. Usery*, particularly those addressing the basic attributes of state sovereignty and integral functions of state government.

The Commission expresses its further hope that the federal judiciary, when judging grantor-grantee disputes, will recognize that compulsion rather than voluntariness and coercion rather than inducement now characterize many federal grants-in-aid and their requirements.

(c) The Solicitor General's Role*

The Commission recommends that the Administration, through the Office of Solicitor General, show special sensitivity to the claims of state and local government in arguing or otherwise entering into relevant cases before the federal judiciary when such cases pertain to the newer and more intrusive forms of regulation described above.

(d) Supporting the State and Local Legal Center.

The Commission recommends that state and local governments and their association give full institutional and adequate financial support to the State and Local Legal Center in its monitoring, analytic, and training efforts and in its efforts to assist in presenting common state and local interests before the federal courts.

*Deputy Undersecretary Koch, County Executive Murphy, and County Supervisor Schabarum requested to be recorded as opposing this recommendation. Deputy Under Secretary Koch provided the following statement of her position, with County Executive Murphy concurring: It is the responsibility of the Solicitor General to represent his client—the United States government—in cases in which the U.S. is involved, and to defend the best interests of the U.S. as he sees them. The Solicitor General is not in a position to make policy decisions by modifying his actions to take account of the interests of opposing parties. In fact this could be seen as running directly counter to his duty. Such policy issues are properly directed toward Congress and the President. Therefore, it is inappropriate for ACIR to ask the Solicitor General to alter his manner of meeting his responsibility to the U.S. Government as this resolution suggests.

Principles Concerning Federal Regulation of State and Local Governments. (A-95, 1984, p. 258-259)

The Commission recommends that Congress and the Administration carefully consider the appropriate allocation of responsibilities among the different levels of government when establishing new regulatory programs or when evaluating existing ones. As a general principle, the Commission strongly recommends that the federal government strive to confine its regulation of state and local governments and their legitimate activities to the minimum level consistent with compelling national interests. Enactment of federal intergovernmental regulation may be warranted under the following circumstances: a) to protect basic political and civil rights guaranteed to all American citizens under the Constitution;

Increasing State and Local Government Participation in Intergovernmental Regulatory Policy Development and Regulatory Drafting. (A-95, 1984, p. 302-303)

The Commission believes that many of the problems of intergovernmental regulation stem from inadequate participation by state and local governments in the process through which rules are developed.

In part, this faulty participation results from the failure of the federal government to provide adequate opportunities for this throughout the rulemaking process. Therefore,

The Commission recommends that Congress and the Executive Branch recognize the right of state and local officials—both as individuals and through their national associations—to participate from the earliest stages in developing federal rules and regulations that have a significant impact upon their jurisdiction.

The Commission recommends that Congress amend the *Federal Advisory Committee Act* to exempt from the requirements of the act any national organization composed wholly of elected officials of state or local governments when acting in their official capacities or their representatives or representatives of their national associations when engaged in consultation with agencies for the purposes of rule making.*

The Commission further recommends that the President adopt a process providing for full state and local government consultation with federal agencies on rule makings expected to have significant intergovernmental effects, economic and noneconomic. The process should apply to grants as well as to non-grant related rulemaking. To ensure full consideration of the views of state and local governments, consultation should occur as early as practicable in the first stages of intergovernmental regulatory policy development and initial drafting, long before the publication of the Notice of Proposed Rulemaking in the Federal Register.

*Representative Fountain requested to be recorded as opposing this recommendation on the following grounds:

"I agree that state and local officials, and their national associations, should have the right and the opportunity to participate fully in the development of federal rules and regulations affecting them. However, amending the Federal Advisory Committee Act to exempt state and local officials from the act's requirements appears to be both unnecessary and unwise. I am sure there are many ways in which state and local governments can express their views on proposed rules and regulations without becoming subject to FACA.

"To exempt state and local officials and their national associations from the acts' procedural safeguards would surely invite demands for the exemption of other groups and, ultimately, could lead to the destruction of an important federal law.

"I believe this is the wrong remedy if FACA has been interpreted by federal agencies in a manner which unnecessarily obstructs early consultation by state and local officials in the development of intergovernmental regulations. This, surely, was not the intent of Congress. The proper remedy, in my judgement, would be to elicit a more reasonable interpretation of the act's requirements within the executive branch.

"To provide a firm statutory basis for such a consultation Process in all rule makings of intergovernmental significance, the Commission further recommends that Title IV of the Intergovernmental Cooperation Act of 1968 which requires that all viewpoints--national, state, regional and local--shall be fully considered and taken into account in planning federal or federally assisted development programs and projects be amended to include regulatory programs of intergovernmental significance."

An Omnibus Approach to State and Local Government Certification in Meeting Federal Rules and Regulations. (A-95, 1984, p. 313)

The Commission recommends that certification of state and local regulations, procedures, record keeping, and reporting requirements be used increasingly by the federal government to avoid duplication by equivalent federal requirements.

To encourage greater use of such certification, the Commission recommends that Congress and the President enact legislation encouraging the heads of all federal agencies regulating state and local governments to consider accepting the substitution of state and local regulations, procedures, record keeping, and reporting requirements in lieu of federal ones upon certification by the appropriate official or officials that applicable federal requirements will be met. Such self-certification shall no longer be accepted upon a finding by the head of the federal agency that the recipient government fails to comply with applicable federal laws and regulations adopted thereunder.

Ensuring Consideration of Intergovernmental Effects in Agency Regulatory Impact Analysis and Regulatory Review. (A-95, 1984, p. 311)

The Commission reaffirms its 1980 recommendation to the President that all federal agencies conduct regulatory analyses of proposed major rules and further recommends that agencies be required to incorporate into such analyses a full consideration of the intergovernmental effects—economic and noneconomic—of proposed regulations.

The Commission recommends that the President by executive order expand the current definition of major rules to include regulations requiring state and local governments to make significant changes in their laws, regulations, ordinances, organization and fiscal affairs. The Commission further recommends that when state and local governments determine in the 60-day comment period that a proposed rule or regulation requires such changes, the federal agency should be required to designate the rule as major or to issue a statement indicating that no such changes are required, thereby establishing a judicially reviewable basis for its finding and enabling state and local governments to bring a court challenge to an agency's refusal to designate the rule as major.

The Commission recommends that the President direct that in any review program or as part of the regulatory criteria established under such a program, full consideration be given to the intergovernmental effects—economic and noneconomic—that will be generated by any proposed rule.

State and Local Participation in the Notice and Comment Stage of Rulemaking: Including Federal Grants and Loans Under the Administrative Procedure Act. (A-95, 1984, p. 308)

The Commission recommends that Congress amend provision 5 U.S.C. 553 (a) (2) of the Administrative Procedure Act to eliminate its exemption of grants, loans, benefits and contracts from Notice and Comment rule making requirements.*

Toward Greater Flexibility: The Use of Alternative Means in Regulating State and Local Government. (A-95, 1984, p. 317)

The Commission concludes that, when the federal government regulates state and local governments, unnecessary burdens have arisen from an over reliance upon traditional, rigid, and increasingly intrusive means of regulation. The Commission finds that a range of alternative means of regulation exists that provides opportunities to increase flexibility and reduce the burdens of intergovernmental regulation. Indeed, some of those alternative means may enhance the achievement of national goals while reducing direct involvement by the federal government. Therefore,

The Commission recommends that the President, executive agencies, and independent regulatory commissions fully consider alternative means of regulation when making rules to implement legislation calling for federal regulation of state and local governments and that they seek to provide maximum flexibility to state and local governments consistent with national objectives and provisions of federal law. In cases where prescriptive federal law prohibits the flexible use of alternative means for achieving regulatory objectives, the Commission recommends that the President and Congress consider amending such legislation to allow the use of alternatives. Among the alternative regulatory means considered should be performance standards, special provisions for small governments, marketable rights, economic incentives, and compliance reforms.

Publishing Regulations. (States Transformed: Expanded Role, New Capabilities--forthcoming)

The Commission reiterates its support for and emphasizes the current relevance in the 1980s of state statutory enactments that would require publishing all proposed rules and regulations, maintaining current codifications of all rules and regulations then in effect, and reassessing them periodically.*

*The term benefit as used in this recommendation refers to payments made to an individual. The Administrative Conference of the United States has found that the exemption from APA participation

requirements has included not only rule making concerning benefits and benefit programs, but rule making in all matters related thereto. Thus, such an exclusion has been deemed to cover many programs administered by the states including AFDC, Medicaid, and unemployment insurance as well as such nationally administered ones as old age, survivors, and disability insurance.

Presidential Recommendation 1: Reissuance of Memorandum

The President should reissue the September 9 memorandum as an executive order with specific designation of the Office of Management and Budget to monitor and ensure implementation in a systematic and ongoing fashion. The agency so designated should possess the necessary authority and staff resources to effectively perform this task. It should widely publicize the executive order and should elicit the cooperation and support of the Public Interest Groups, the A-95 Clearinghouses, and the Agency Intergovernmental Relations Officers in detecting and resolving compliance problems.

Presidential Recommendation 2: Improvement of Regulation Process (Tab D of 65th Docket Book)

The president should seek to further improve the federal regulation process by establishing a formal communication mechanism for comment by state and local officials on the development of new or revised issuances. This process should clarify how and by whom Public Interest Groups, A-95 Clearinghouses, citizen groups, and individual state and local officials should be consulted. The President should designate the Office of Management and Budget to monitor the consultation process and to conduct inter program reviews to assure the consistency of promulgated regulations with the President's overall domestic policy and with Congressional intent. The Federal Register should be incorporated in the regulation development process by improving the indexing and labeling of proposed rules and regulations, printing application and reporting forms except when uniform forms are in existence, and describing agency grant review processes.

Presidential Recommendation 3: Simplification of Grant Application Process (Tab D of 65th Docket Book)

The President should further standardize and simplify the grant application process by permitting the submission of a single set of assurances as part of an annual jurisdictional certification for requirements which are generally applied to grant-in-aid programs. The panel endorses the principles relating to such cross-cutting requirements contained in Title I of both S. 3267 (the Federal Assistance Paperwork Reduction Act) and S. 3277 (the Small Communities Act of 1978), and requests Presidential support for these provisions. Furthermore, jurisdictional profiles containing statistical and narrative information generally required in grant

applications should be placed on file with each agency annually, and be made available for review by the public and federal agency officials.

State Regulation of Banks (A-110, 1988, p. 3)

The Commission finds that the nation's dual banking system has many benefits for citizens, states, and local communities. That system has been conducive to state experimentation, banking innovation, regulatory competition, and vitality in both banking regulation and banking activity. Further concentration of regulatory authority by the federal government in an already heavily regulated industry poses risks of stagnation and of further erosion of the balance of power in the federal system. Although there are problems in the nation's banking system, currently proposed measures for federal preemption do not address those problems. Many state regulators have used their authority responsibly in extending new powers pertaining to insurance, real estate, and securities to their state banks.

The Commission recommends, therefore, that the Congress not enact proposed legislation and that the Federal Reserve Board not promulgate proposed rules that would substantially preempt state regulatory authority over state nonmember bank activities in the field of insurance, real estate, and securities.

Promoting Universal Service and Access to the Benefits of the Information Age (A-115, 1990, p. 1)

The Commission finds that states are actively engaged in studying, planning, and initiating experiments to promote the economic competitiveness of their states by implementing policies that will encourage the development and spread of new technologies to all state residents.

The Commission recommends, therefore, that state legislators and regulators (and ACIR) continue to study the changing nature of the telecommunications infrastructure with respect to (1) adopting plans for the future needs of businesses and residents in rural as well as urban areas, and (2) the interests that all citizens of a state have in access to the benefits of the information age.

Strengthening Joint Board and Conference Procedures. (A-115, 1990, p. 1)

The Commission finds that the institutional processes associated with the joint boards and conferences could be improved by permitting the states, rather than solely the Federal

Communications Commission (FCC), to convene meetings and select board and conference chairpersons.

The Commission recommends, therefore, that their Congress amend 47 U.S.C. sections 410 (a), (b), and (c) to allow meetings of the joint board and the joint conference to be (1) initiated and convened upon motion of FCC or on vote of a certain percentage of the 50 states as determined by the National Association of Regulatory Utility Commissioners, and (2) that issues to be considered by the boards and conferences be drafted in partnership between FCC and the states. Finally, the Commission recommends the state and federal regulators continue to use the joint board and joint conference procedures as revised in order to build an integrated, competitive, national public telecommunications network.

Limit Federal Intervention in State Regulation of the Insurance Industry (A-123, 1992, p. 3)

The Commission recommends that (1) the federal government not preempt state government regulation of insurance; (2) the Congress pass laws to clarify that the Federal Priority Statute and the Federal Arbitration Statute do not take precedence over the McCarran-Ferguson Act, which gives states the sole authority to regulate the insurance industry; and (3) the federal presence be limited to an investigatory role, including, for example, conducting basic research and issuing reports on both the property-casualty and life insurance industries so as to help alert citizens to problems and assist states to strengthen and coordinate their regulation. The Congress should also (4) defer to the judgment of the states and move expeditiously to approve proposals for interstate compacts, where states demonstrate that these compacts represent the most appropriate tool for achieving desired uniformity of regulatory procedures among states.

Using Existing Mechanisms to Press Harder for Relief from Burdensome Federal Regulations (A-126, 1993, p. 4)

The Commission recommends, therefore, that those parties responsible for administering and utilizing the congressional fiscal notes process, the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Federalism Executive Order redouble their efforts to take fullest advantage of these mechanisms. The Commission recommends, further, that:

- (a) State and local governments (i) identify those bills pending in the Congress and regulations to be prepared within the executive branch of the federal government that may have significant effects on state and local government, (ii) press the committees and subcommittees of Congress responsible for

the identified bills, early and often, to consider the effects on state and local governments, (iii) call for preparation of fiscal notes by the Congressional Budget Office on significant provisions of those bills before final subcommittee and committee action, (iv) provide to the committees, subcommittees, and the Congressional Budget Office with relevant fiscal and other information that should be taken into account in the legislative process, (v) press for early access to the administrative rulemaking process; and (vi) educate the public and the press about the impact of federal regulation on state and local governments, for example, by indicating the cost of unfunded federal mandates on tax and utility bills.

(b) The Congress and all appropriate agencies of the federal government should make compliance with the letter and the spirit of the State and Local Cost Estimate, Paperwork Reduction, and Regulatory Flexibility Acts and the Federalism Executive Order a high priority.

(c) The federal, state, and local governments should continue to evaluate ways to improve regulatory relief mechanisms and give high priority to the development of a more effective, efficient, and equitable intergovernmental partnership to achieve shared objectives with minimal unilateral and costly regulation.

MEDICAID

Adherence to Existing 1975 Goal; Study of Possible Financial Involvement of Private Sector. (A-33, 1968, p. 60)

The Commission recommends that Congress and the Administration adhere to the goal of comprehensive care for "substantially all" the needy and medically needy established in Section 190(e) of the Social Security Act, and that they, along with the States and localities, take such steps as necessary to move toward that goal; however, the Commission further recommends that Congress and the Administration study the feasibility of broadening the financial base of the program through increased involvement of the private sector, including among other possibilities some form of employer-employee contributory health insurance.

Federal Matching for the Noncategorically Related Needy and Medically Needy. (A-33, 1968, p. 66-67)

The Commission recommends that the Federal Government provide matching funds for medical assistance for the noncategorically related needy and medically needy.

Federal Criteria for Evaluating State Resource Limitations Requirements. (A-33, 1968, p. 70)

The Commission recommends that Congress amend Section 1902(a)(17) of the Social Security Act to establish systematic criteria for evaluating those portions of State plans relating to resource limitations (cash or other liquid assets) used in establishing eligibility of the medically needy.

Continuation of Present Arrangements for Setting Income Eligibility Standards and 150 Percent Income Limitation for Medically Needy. (A-33, 1968, p. 62)

Although supporting greater interstate uniformity requirements as a long-range goal, the Commission recommends continuation of the present policy under Title 19 whereby the States establish standards of income eligibility for the needy and the Federal Government sets income limits for the medically needy that are related to these State established standards; in this connection, however, the Commission recommends that Congress Amend the Act to freeze the present 150 percent income limitation and not reduce this level of participation as is now scheduled.* **

*Professor Cline and Mayor Naftalin dissent from this recommendation and state: "The existence of widely variable and low standards of need for categorical assistance recipients is inconsistent with Title 19's expression of a national commitment to provide comprehensive medical care for the needy and medically

needy. We believe that to fulfill that commitment, the Federal Government must establish a national uniform standard of income eligibility which the States would have to meet."

**Congressman Fountain dissents from this recommendation and states: "The decision of Congress to establish 133-1/3 percent of the maximum AFDC payment as the level of income at which it will continue to share financially in State coverage of the medically needy was based on a careful analysis of the budgetary implications of various alternative levels of Federal financial participation. In view of our budgetary situation, I do not believe it is sound public policy at this time for the Federal Government to share the cost of medical care for persons whose incomes are more than 33-1/3 percent above their State's maximum payments for public assistance."

Full Discretion Regarding Local Matching Should be Left to States.
(A-33, 1968, p.72)

The Commission recommends that Congress amend Title 19 of the Social Security Act with respect to State and local government responsibility for the non-Federal share of medical assistance payments after July 1, 1969, by allowing each State to determine whether it will assume the full non-Federal cost or require that there be a local portion, such portion to be determined by a State-prescribed formula.**

*Professor Cline, Commissioner Dever, and Mayor Naftalin dissent from this recommendation and state: "We favor retention of the present lien and recovery provisions of Title 19, since they are basically consistent with the principle that an individual receiving medical care should be allowed to maintain a minimum reserve of unencumbered resources which is protected from use in the payment of medical care costs. Having available unencumbered resources is not only essential to the dignity of the individual and the security of the family; these assets may be utilized in such a manner as to enable a person eventually to be removed from the recipient rolls."

**Mayor Blaisdell, Professor Cline, and Mayor Walsh dissent from this recommendation and state: "We believe that the States should be required to assume the full non-Federal share of medical assistance costs. Local governments have enough problems of a local nature to consume their already hard-pressed resources. In addition, alleviation of indigence has increasingly been accepted as a responsibility of the State and National Governments; its causes are increasingly found in conditions over which local governments have diminishing control--national economic conditions, educational opportunities, and attitudes toward minorities."

Prepaid Group Practice. (A-33, 1968, p. 72)

The Commission recommends that States eliminate constitutional and legislative barriers to the establishment of prepaid group practice of health care.

Study of Allocation of Fiscal Responsibility Among Levels of Government. (A-33, 1968, p. 68)

Recognizing the fiscal problems which arise out of the Federal mandating of additional State and local responsibilities through Title 19 of the Social Security Act, the Commission recommends that Congress and the Administration study the present allocation of fiscal responsibility among the levels of government with special reference to the more circumscribed revenue capability of the States and their localities.

Deferment of Deadline for Initiating State Medicaid Program. (A-33, 1968, p. 61)

The Commission recommends that Congress amend the Social Security Act to permit States not participating in Medicaid to continue receiving Federal assistance for medical vendor payments until January 1 1972, provided that they have submitted a proposed State plan to the Department of Health, Education, and Welfare by 1971, and provided further that such plan must be operative by 1972.*

*Professor Cline, Mayor Naftalin, and Governor Rockefeller dissent from this recommendation and state: "States have known since passage of Title 19 in July 1965 that unless they initiated a Medicaid program by January 1, 1970, they would forfeit Federal assistance for medical vendor payments for welfare cases. Thirty-eight States acted by June 30, 1968 to come under Medicaid. In many cases this required difficult decisions in raising additional State and local revenue or in making budgetary adjustments. The remaining 12 States should be able to face up to their responsibility similarly in the remaining year and a quarter. Moreover if the date for initiating a minimum program were postponed from 1970 to 1972, States would find greater difficulty in meeting the 1975 goal of comprehensive care for all the needy and near needy, which this Commission has strongly endorsed."

Continuation of an Open-End Appropriation for Medicaid. (A-33, 1968, p. 64-65)

The Commission recommends that the present provisions of Title 19 of the Social Security Act be retained whereby Congress appropriates for Medicaid on an open-end basis, that is, without limits on the amount of money that may go to any single State.

Reimbursement Formula for Inpatient Hospital Services. (A-33, 1968, p. 73)

The Commission recommends that the Secretary of Health, Education, and Welfare rescind regulations that require reimbursements for hospital inpatient services under Medicaid to be on the same basis as such reimbursements under Medicare.

Flexibility in Allocation of Medical Services Among Eligible Groups. (A-33, 1968, p. 80)

The Commission recommends that Congress modify Section 1902(a)(10) of the Social Security Act to permit States to depart from the comparability of services requirement, subject to approval of the Secretary of Health, Education, and Welfare.

The Special Case of Indians, Eskimos, and Other Indigenous Groups. (A-33, 1968, p. 84)

The Commission recommends that the President direct the Secretaries of Interior and Health, Education, and Welfare to prepare and submit a joint report and recommendations to clarify the relationship between Medicaid and the medical services provided Indians, Eskimos, and other indigenous groups by the Department of Health, Education, and Welfare.

Increased Efficiency and Economy of Health Services. (A-33, 1968, p. 75)

The Commission recommends that pursuant to Sections 237 and 402 of the 1967 amendments to the Social Security Act, the States move vigorously to experiment with methods of increasing the efficiency and economy of health services under the Medicaid program. Such experiments should include (a) reimbursing hospitals contingent on their operating under an acceptable standard of management efficiency, (b) expanding prior authorization for elective surgical procedures, (c) payment for physicians' services on a basis other than usual and customary charges, (d) use of copayments for the purchase of specified health care services, and (e) improved techniques of utilization review.

State Experimentation With Simplification of Financial Eligibility Determination. (A-33, 1968, p. 82-83)

The Commission recommends that States move vigorously to experiment with simplified procedures for establishing financial qualifications for medical assistance under Medicaid. The Commission further recommends that Congress amend the Internal

Revenue Code in order to establish a specific procedure whereby State medical assistance officials would have access--on request--to individual Federal income tax returns for program inspection purposes.*

*Mayor Blaisdell, Professor Cline, Mayor Naftalin, and Mayor Walsh dissent from this recommendation and state: The fact that the States have long had the authorization and active encouragement from HEW to establish and use a simple declaration form, and yet have not seen fit to use it, leads us to conclude that adoption of this important reform will come only as the result of a Federal mandate. Such a nationally oriented approach to simplifying Medicaid application procedure has many advantages, including establishing uniformity, barring requirements that inflict the demeaning overtones of a means test, and eliminating cumbersome, sometimes intimidating, lengthy forms and procedures.

Increase State and Local Program Flexibility (A-119, 1990, p. 3)

The Commission therefore recommends:

(1) States, with the consent of the U.S. Secretary of Health and Human Services, should be allowed to experiment with case management systems and with setting up their own clinics. These experiments may be statewide or limited to areas where access to health care through enrollee-chosen providers is not feasible.

(2) Other states should be allowed to initiate their own programs without a waiver from the Health Care Financing Administration (HCFA), should these experiments prove successful, as determined by HCFA.

(3) The federal government should waive the requirement that state-run clinics meet federal requirements as long as comparable state requirements are met, as determined by HCFA.

(4) The federal government should not preempt comparable state laws regarding procedures and regulations for health care providers, as determined by HCFA.

(5) Medicaid enrollees should be permitted to use these state-run clinics with Medicaid reimbursement even if the clinics do not meet federal requirements, so long as comparable state requirements are met, as determined by HCFA.

(6) Health care providers should be eligible for Medicaid reimbursement if they conform to state standards, procedures, and regulations. Providers will not be reimbursed if federal standards, procedures, and regulations clearly offer better quality care, as determined by HCFA.

(7) States should have the option to require copayments and deductibles from certain Medicaid clients, based on income and/or asset levels, in circumstances where these copayments and deductibles would improve access to health care providers for a significant number of Medicaid enrollees.

For many Medicaid enrollees, especially those in sparsely settled rural areas and in inner cities, access to health care is often difficult. This results in their using hospital emergency rooms for primary care, which is costly and inefficient. Medicaid enrollees who do not have a primary medical care provider on a consistent basis are often sicker and require more services than other patients when they do seek medical care. To some extent, the difficulty faced by Medicaid enrollees in obtaining medical care is the result of low reimbursement rates for medical care providers.

Adopt Interim Modifications to Medicaid and Implement Comprehensive Health Care Reform by 1994 (A-119, 1990, p. 4)

The Commission therefore recommends that the interim modifications to Medicaid set forth here be adopted by Congress and a comprehensive reform of the U.S. health care system be implemented by 1994.

The current economic recession is causing fiscal stress in many states as revenue growth is slowed but expenditure needs, especially social service programs, increase. Medicaid expenditures account for slightly less than 15 percent of all state general expenditures. Steps taken now to reduce state Medicaid program costs would help reduce state fiscal stress.

Modifications to Medicaid will yield only marginal improvements in the health care system because Medicaid accounts for only 12 percent of all health care expenditures. Without effective methods of cost containment, any improvements in Medicaid's efficiency and effectiveness resulting from these improvements may be wiped out by rising costs.

Comprehensive health care reform would address all aspects of health care service delivery and financing, including (1) methods to control medical cost inflation; (2) methods to achieve universal access to health care; (3) the proper roles for the federal government, states, and local governments; and (4) the role of individuals in maintaining their health through lifestyle choices (e.g., proper diet and exercise, only moderate use of alcohol and tobacco, and reduced stress). Such reform is necessary to correct the problems with Medicaid and to correct problems in the overall health care system.

Transfer Local Medicaid Administrative and Program Costs to the States (A-119, 1990, p. 4)

The Commission therefore recommends that states that require local government participation in administering or financing Medicaid assume all Medicaid administrative and program costs currently borne by their local governments.

The federal government does not specify the extent of any involvement by local governments in Medicaid; therefore, this reform must be an initiative of the states. Local government revenue bases are less elastic than state revenue bases. It is more difficult for local governments to finance increases in Medicaid expenditures resulting from program expansions or deteriorating economic conditions. Further, Medicaid regulations require statewide uniformity in services and application of eligibility criteria. Satisfying this regulation would be more efficient under state administration.

Transfer the Cost of Long-Term Care to the Federal Government under Medicare (A-119, 1990, p. 4)

The Commission therefore recommends that the cost of providing care for the elderly and the disabled, including the mentally retarded, in skilled nursing facilities (SNF), intermediate care facilities (ICF), intermediate care facilities for the mentally retarded (ICF/MR), and home health care programs be assumed by Medicare.

The escalating cost of providing long-term care for the elderly and disabled currently enrolled in Medicaid will outstrip the ability of states, and in some cases local governments, to finance these services. For example, the annual cost of providing Medicaid services to an ICF/MR client was approximately \$50,000 in 1990. The long-term costs for these groups should be assumed by Medicare because Medicare has a more secure funding base than state governments and was established to provide for these groups.

Medicaid will continue to finance, for those elderly and disabled who are eligible, routine and preventive medical care as well as services that Medicare does not cover, such as eyeglasses, hearing aids, prosthetic devices, and dental examinations. The cost of these services and items may be quite burdensome for low-income elderly and disabled persons.

The amount of savings that would accrue to states by adopting this recommendation is difficult to determine. In 1990, Medicaid payments for SNF, ICF, and ICF/MR totaled \$25.0 billion-38.6 percent of all Medicaid expenditures. However, a portion of this total was spent for routine medical care, for example, regular visits to physicians, prescription drugs, eyeglasses, and other

sundries, some of which would still be covered by Medicaid under this recommendation.

If this recommendation were adopted, the federal government would assume all costs of providing medical care for the elderly, disabled, and mentally retarded. This action would reduce the fiscal burden on states; in 1990, these groups received 70.0 percent of all Medicaid vendor payments. To accomplish this task, all elderly persons (65 and over) would become eligible for Medicare regardless of previous employment. Currently, Medicaid enrollees over 65, if they were eligible, received Medicare benefits because states were required to "buy-in" to Medicare. Under this option, the custodial care costs of the elderly would be assumed by Medicare; similarly, the disabled, including the mentally retarded, would become eligible for Medicare immediately after they are certified as disabled.

Adoption of this Medicaid matching formula would target scarce federal funds to states with the lowest fiscal capacity more effectively than the current formula. However, studies indicate that for the large majority of states, the amount of federal Medicaid funds would be similar under both formulas. The political debate that would occur between the states that would stand to lose the most and those that would stand to gain the most from the proposed formula would be mitigated by the "hold-harmless" provision.

Improve Targeting of Federal Medicaid Funds to States with Greatest Need and Least Capacity to Meet Needs (A-119, 1990, p. 5)

The Commission therefore recommends that the state Medicaid matching formula be changed to the ratio of ACIR's measure of state revenue capacity to ACIR's estimate of cost-adjusted representative state expenditures as the measure of fiscal capacity. The Commission further recommends that states that would have their federal Medicaid funds reduced by adoption of the new formula should be "held harmless" for a period of two years to ease the transition.

TAX INDEXING

Amount of Inflation-Induced Federal Personal Income Tax Increase.
(A-63, 1976, p. 9)

Therefore, the Commission recommends, in the interest of complete public information, that the amount of the inflation-induced, Federal real personal income tax increase be calculated and publicized for each tax year.

Annual Indexation of the Federal Individual Income Tax. (A-63, 1976, p. 9)

...the Commission further recommends that the Congress give early and favorable consideration to indexation--the annual adjustment of the personal exemptions, the low-income allowance, the maximum limit of the standard deduction, any per capita credits, and the tax rate brackets of the Federal individual income tax by the rate of increase in the general price level.

WELFARE

Increased Discretion for the Secretary of Health, Education, and Welfare in Regard to the Operation of State Plans. (A-21, 1964, p. 95-96)

The Commission recommends that the Congress amend the Social Security Act to provide the Secretary of Health, Education, and Welfare with the same discretion for declaring parts of a State plan out of conformity with the Federal Act under Titles I (Grants to States for Old-Age Assistance and Medical Assistance for the Aged), IV (Grants to States for Aid and Services to Needy Families With Children), X (Grants to States for Aid to the Blind), and XIV (Grants to States for Aid to the Permanently and Totally Disabled) as is currently available to him in Title XVI (Grants to States for Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance for the Aged) of the Act.*

Establishment of a Permanent Public Assistance Advisory Council. (A-21, 1964, p. 97)

The Commission recommends that the Congress enact legislation establishing a permanent Public Assistance Advisory Council to advise the Secretary of Health, Education, and Welfare on proposed legislation, administrative regulations, and other related matters.*

*Secretary Celebrezze did not concur in this recommendation.

Modification of Federal Requirements Regarding Determination of Need and Eligibility for Public Assistance. (A-21, 1964, p. Ye)

The Commission concludes that it is neither feasible nor desirable to endeavor to impose at the present time a national standard of uniformity concerning need and eligibility for public assistance.

Modification of the Federal Appropriations Procedure for Public Assistance. (A-21, 1964, p. 99)

The Commission concludes that there should be no change in the Federal appropriations procedure for public assistance.*

*Governor Anderson and Mayor Goldner dissented from this recommendation and stated:

"We believe that the existing appropriation structure permits too great a variation among the states in program levels and size of recipient rolls. We are aware that some variations in program levels and size of recipient rolls are inevitable for a variety of reasons. However, some modification in the appropriation structure for public assistance is desirable in order to limit these

variations which have the effect of subsidizing prodigality and penalizing prudent fiscal management."

Exclusion of Mental and Tubercular Patients in Institutions from Public Assistance Payments. (A-21, 1964, p. 100)

As indicated earlier, the Social Security Act excludes from payments under the public assistance titles patients in institutions for tuberculosis or mental diseases, patients in medical institutions as a result of the diagnosis of tuberculosis or psychosis, and patients who have been in medical institutions longer than 42 days after the diagnosis of tuberculosis or psychosis is made.

The Commission recommends that the Social Security Act be amended to remove all prohibitions denying Federal participation in public assistance payments to mental and tubercular patients.**

**Secretary Celebrezze did not concur in this recommendation. Mayor Goldner dissented from this recommendation and states: "I believe that the Federal Government by participating fully in public assistance payments to individuals in institutions with a diagnosis of psychosis or tuberculosis would merely be relieving the States of part of their proper financial responsibilities and that there would be no improvement in the treatment of patients. I am opposed to transferring this State responsibility to the Federal Government.

Right of Appeal from Administrative Decisions. (A-21, 1964, p. 94)

The Commission recommends that the Congress amend the Social Security Act to give the States the right of appeal to the United States Court of Appeals--for the Circuit in which the State is located--from administrative decisions of the Secretary of Health, Education, and Welfare regarding the conformity of State plans under the public assistance titles of the Act. Court review of the decisions of the Secretary would take place before the proposed changes operative as a part of the State plan.**

**Secretary Celebrezze did not concur in this recommendation. Mayor Naftalin dissented from this recommendation and stated:

"I am concerned that the institution of judicial review procedure for decisions of the Secretary of Health, Education, and Welfare would slow down administrative actions in the public assistance programs. I believe it is absolutely necessary for the Secretary to have wide latitude for administrative discretion in the conduct of public assistance grants and that judicial review would tie the hands of the Secretary with consequent impairment not only of the Federal aspects of the program but of the State and local aspects as well.

Administrator Weaver dissented and states:

"This recommendation has implications for a wide range of Federal aid programs, despite its necessary limitation in this report to public assistance grants under the Department of Health, Education, and Welfare. I do not believe that either the need for judicial review of such administrative decisions or the potential consequence of such a procedure have been sufficiently determined or considered.

"Congress enacts a program to serve a public purpose and generally leaves to the administering agency the responsibility for developing appropriate procedures to implement the legislation. In carrying out this responsibility, the administering agency is necessarily concerned with achieving the most expeditious and efficient operation of the program. Where there is some question of congressional meaning or intent, or some significant problem of program administration not susceptible of satisfactory solution by the agency itself, the matter is normally referred back to Congress for clarification or any appropriate changes.

"Unless it is shown (1) that a significant administrative problem exists, and (2) that the normal Federal legislative--administrative process is unable to resolve the problem, judicial review should not be introduced into what is essentially a matter of authorized administrative discretion.

Modification of the Single State Agency Concept. (A-21, 1964, p. 96-97)

The Commission recommends that the Social Security Act be amended to give the Secretary of Health, Education, and Welfare discretion to waive the single State agency requirement for the public assistance titles to the extent necessary to enable States to organize the structure of the executive branch of State government in a manner compatible with their own organizational and administrative needs, so long as the Secretary is convinced that under such State organization the program objectives of the act will not be endangered.*

States Finance Half of Cost of General Assistance Welfare Programs. (A-25, 1965, p. 126)

The Commission recommends that the States finance at least one-half of the cost of general assistance welfare programs, accompanied by adoption of State standards for such programs.

Public Employment Services Provided to all Job Applicants. (A-25, 1965, p. 109)

The Commission recommends that Governors of the several States and the Secretary of Labor take steps to assure that public

employment services are provided to all job applicants and employees within metropolitan area labor markets regardless of State lines; these steps should include interstate agreements and action by the Secretary to assure himself that such arrangements are being effectively carried out as a condition to Federal grants for employment security administration.

Coordination of Job Creation and Job Training Programs Affecting the Poor. (A-29, 1966, p. 174)

The Commission recommends that the Economic Opportunity Council establish the necessary machinery to assure integrated planning at the State and Federal levels of the anti-poverty impact of job creation and job training programs including the preparation by States, in consultation with local public and private agencies, of program coordination plans which would be subject to unified Federal review and evaluation.

*Governor Rockefeller dissented.

National, State, and Local Policies Regarding Responsibility for Administering the Community Action Program at the Local Level. (A-29, 1966, p. 163)

The Commission recommends that (a) in communities in which general units of local government are able and willing to undertake an effective program to aid the poor, general units of local government organize the community action agencies; (b) in communities in which local governments do not prefer or otherwise have refrained from undertaking anti-poverty programs for which there is a clear need, private nonprofit groups, or a combination of public and private representatives, organize the community action agencies. The Commission further recommends that when it appears that a community action program can be administered equally effectively by either a governmental or a nonprofit organization, OEO guidelines and performance standards give preference to establishment of community action agencies by units of local general government. The Commission further recommends that States, in encouraging and assisting establishment of community action agencies, follow the general directions suggested above in advising on the public or private nature of such bodies.

The States and the Job Corps. (A-29, 1966, p. 187)

The Commission recommends that the Office of Economic Opportunity take positive steps to interest States in acting as prime or supporting contractors for Job Corps facilities, and fully inform the States of the opportunities for Federal assistance in the operation of State camps. The Commission further recommends

that States in which there is a need for Job Corps training for youths aged 16 to 21, establish State camps or offer to serve as contractors for Federal facilities.

Maximum Feasible Participation of the Poor. (A-29, 1966, p. 164)

The Commission finds that the requirement of the Economic Opportunity Act of maximum feasible participation of the residents of the area and members of the groups served is working reasonably well, and therefore recommends that the Congress make no change in this provision of the law.

Comprehensive Anti-Poverty Planning and the Local Level. (A-29, 1966, p. 166)

The Commission recommends that OEO require CAAs, as a condition of funding or refunding of a CAP component, to initiate within a specified period comprehensive plans to guide anti-poverty programs.

The Areawide Approach for the Community Action Program in Metropolitan Areas. (A-29, 1966, p. 168)

The Commission recommends that the OEO, in order to achieve the advantages of pooled leadership resources, a proper interrelationship among social, economic, and physical planning, and economies of scale for the Community Action Program in metropolitan areas, take administrative action to encourage separate CAAs in such areas to enter into agreements or contracts to conduct community action planning and appropriate administrative and other services on a joint basis throughout their jurisdictions.

Making the Section 612 Preference Provision Effective. (A-29, 1966, p. 171)

The Commission concludes that OEO, despite substantial efforts to date, has not fully implemented the Section 612 preference provision with regard to a number of significant Federal programs. However, the Commission recognizes that in view of the nature of the organization of the Executive Branch of the Federal Government, the way in which program responsibilities are assigned to major departments and agencies by the Congress, and the competing national goals set forth in existing laws, it is unrealistic to attempt to give community action programs more than the limited preference for Federal grants provided under the 612 provision.

In light of these facts, and the priority importance of the Economic Opportunity program among domestic programs, the

Commission recommends that the Director of OEO accelerate his efforts to achieve cooperation of Federal department and agency heads through interagency agreements and policy and procedural statements, so as to maximize the effectiveness of community action-related programs at the local level.

Increased Data Needs in Anti-Poverty Programs. (A-29, 1966, p. 178)

The Commission recommends that the OEO Director accelerate steps and Congress authorize the necessary funding to provide for the collection and availability of new types of and more current data by the appropriate departments and agencies on the incidence of poverty and on the way anti-poverty resources are being applied. This effort should be coordinated with the data planning of other Federal agencies administering related programs and activities.

Local Financial Participation. (A-29, 1966, p. 179)

The Commission recommends that the Congress amend the Economic Opportunity Act to provide that the present 10 percent non-Federal matching provision pertaining to the Community Action, Neighborhood Youth Corps, and Adult Basic Education programs be continued indefinitely, instead of increasing to 50 percent on July 1, 1967 as presently scheduled by law.*

*Congressman Fountain dissents.

Improving the Role of the States: The Governor's Veto. (A-29, 1966, p. 181)

The Commission recommends that the present veto provisions, under which the Director of OEO may override a Governor's veto in the Community Action, Neighborhood Youth Corps, and the Adult Basic Education programs be retained.*

Uniform Procedures for Handling Governors' Approval or Veto. (A-29, 1966. p. 183)

The Commission recommends, in order to minimize delay in processing and to keep Governors adequately informed, that OEO and the Federal departments and agencies administering delegated programs establish uniform procedures for notifying Governors regarding the status of applications and for fulfilling the gubernatorial approval and veto requirements. Such procedures should provide that: (a) a copy of an application be sent to the Governor either by the applicant at the time of submission or by the Regional Office as soon as it is found acceptable for processing; (b) the State poverty coordinators and the applicants

be kept fully informed as the application review progresses; and (c) the Governor receive, as the basis for his veto or approval review, a copy or complete summary of the application as approved by the Federal agency.

In many other programs in which the Federal Government offers assistance to solve problems which the States and localities have been unable or unwilling to tackle, the Governor is not called on to approve or disapprove federally assisted programs. In these programs, the level of Federal support is usually much lower than the 90 to 100 percent available under the *Economic Opportunity Act* and is of less significance to the people that need help. Furthermore, the limited use of the Governor's veto to date, or even his review, would indicate the veto has little value or significance.

*Mayor Blaisdell, Mayor Naftalin, and Mrs. Walters dissent from this recommendation and state:

"We believe that the Governor's veto should be abolished. In undertaking the war on poverty the Federal Government made a commitment to aid each individual who is in need of the benefits and services offered by the Act. It made this commitment regardless of the State in which the poor citizen lives, or whether he resides in a city or on a farm; and regardless of the willingness or unwillingness of State or local agencies to serve his needs. It is completely at variance with this national commitment to permit the Governor of a State to deny poor people the benefits of the anti-poverty program. Giving the Governor this negative authority is an unreasonable deprivation of the rights of the U.S. citizens as well as an unwarranted intrusion on the power of the Federal Government to meet the responsibilities imposed upon it by the Constitution. The veto gives the Governor an undesirable opportunity to impose his wishes, personal or political, on the development of local programs and organizations."

Scope of State Technical Assistance Activities. (A-29, 1966, p. 188)

The Commission recommends that the States fully utilize the grants available under the Economic Opportunity Act to undertake broad programs of technical assistance including: (a) public educational and informational services; (b) consultation in the organization of anti-poverty programs and agencies; (c) assistance in training personnel; (d) coordination of new and ongoing programs; (e) broad program research, planning, and development; (f) program evaluation and review; (g) anti-poverty policy staff assistance to the Governor; and (h) the development and testing of model projects and programs.

Removal of State Legislative and Administrative Barriers. (A-29, 1966, p. 188)

The Commission recommends that OEO, the heads of State technical assistance agencies, and the Council of State Governments and its affiliated organizations, in cooperation with the Commission's staff and the affected Federal departments and agencies, establish machinery to identify State administrative and legislative barriers to anti-poverty programs to study the State impact of poverty-related Federal legislation on State laws, and to prepare, as needed, model State statutes to remove unnecessary or unreasonable provisions or practices.

National Government Assumption of Full Financial Responsibility for Public Assistance (including General Assistance and Medicaid). (A-34, 1969, p. vi)

The Commission concludes that maintaining a properly functioning and responsive public assistance program as presently operating is wholly beyond the severely strained financial capacity of State and local government to support. The Commission therefore recommends that the Federal Government assume full financial responsibility for the provision of public assistance. The Commission further recommends that the States and local governments continue to administer public assistance programs.

The Commission wishes it understood that these recommendations are designed to relieve inequities of resource capacity among the levels of government and apply until such time as Congress and others shall determine a more efficient and appropriate method of welfare administration applicable to the Complex social problems of our time.*

*Congressmen Fountain and Ullman, Senator Knowles, and Commissioner McDonald dissented. Senator Mundt, Secretary Finch, Secretary Romney and Budget Director Mayor abstained.

Decongesting the Federal Grant System. (A-86, 1981, p. 111-112)

The Commission reiterates and strongly reendorses its earlier recommendation that the nation's excessively intergovernmentalized system be corrected by action of the Congress and the President to

- (1) reexamine federal, state, and local roles in contributions to the principal functional areas of public policy, including assessments of the desirability of fully nationalizing some functions while reducing, eliminating or forestalling federal involvement in others;

(2) assess the interrelationships among the full range of programs in each policy field; and

(3) consider the possible use of instruments other than grants-in-aid to realize national objectives.

The Commission also reaffirms its earlier recommendation that the federal government assume full financial responsibility for the provision of Aid to Families With Dependent Children, Medicaid, and General Assistance.*

The Commission now recommends further that, in addition to the above, the federal government move toward the assumption of full financial responsibility for those existing governmental programs which are aimed at meeting basic human needs for employment security, housing assistance, medical benefits, and basic nutrition.** In assuming full financial responsibility, the federal government should take steps to ensure uniform levels of benefits, adjusted for cost of living variations, and consistent nationwide administration.***

At the same time, separately or in conjunction with efforts to implement the above federal proposals, the Commission recommends that the number of remaining federal assistance programs should be reduced very substantially through termination, phase-out, and consolidation. As recommended by the Commission previously, the most likely candidates for consolidation should be those which are or could be made: (a) closely related in terms of the functional area covered; (b) similar or identical with regard to their program objectives; and (c) linked to the same type(s) of recipient governmental jurisdictions.**** The primary candidates for termination and phase-out should include: (a) the approximately 420 small federal categorical grant programs which account for only 10% of all grant funds; (b) programs in functional fields in which federal aid amounts to approximately 10% or less of the combined state and local outlays, including federal aid; (c) programs which do not embody essential and statutorily clearly stated national objectives, or which are too small to address significantly the need to which they relate; (d) programs, especially small ones, which have high administrative costs relative to the federal financial contribution; (e) programs which obtain—or could obtain—most of their funding from state and/or local governments, or fees for service, or which could be shifted to the private sector.

*Senator Hathaway supports the proposition that the President periodically ought to submit grant consolidation plans to Congress. However, he is concerned that any structure for implementing such plans not alter Constitutional separation of powers or undermine fundamental Congressional authority to legislate. Recommendation 4, by granting the President authority to propose detailed grant consolidation plans and by confining Congress to a position of

either approving or disapproving such plans within a set period of time would, in Senator Hathaway's view, reverse our current Constitutional structure.

**Advisory Commission on Intergovernmental Relations, Summary and Concluding Observations, The Intergovernmental Grant System: An Assessment and Proposed Policies (A-62), Washington, DC, June 1978, p.78

Developing a Community-Based Approach to a Public Assistance
(Spring 1991, Vol. 17, No. 2, p. 10)

The Commission therefore recommends as follows:

A. Public assistance policy should foster the development of community-based organizations, both public and private, that promote individual economic self-sufficiency and income opportunities for needy Americans, by including community organizations as an integral part of the implementation of public assistance programs. Such organizations include neighborhood associations, community development organizations, community-based training and employment organizations, community and youth enterprises, and tenant-management associations in public housing units, as well as community-based programs of local government. External support should be focused upon those tangible components of public assistance programs that community organizations have a comparative advantage in performing. Generalized support for community organization that is not closely tied to program objectives should be avoided in favor of more highly focused support. Experimental efforts will be needed to learn more precisely where the comparative advantage of community organization lies in relation to specific program objectives. These efforts must be carefully coordinated among relevant local, state, and federal agencies.

B. A variety of fiscal mechanisms can appropriately be used to like community-based organizations with external funding. A contractual relationship between funding agencies and recipient organizations best serves the purposes of community autonomy and fiscal accountability. Public assistance agencies therefore ought to contract with community organizations, where feasible, to deliver selected social services, and provide community organizations with key professional support services. In order to enhance program responsiveness to individual, public assistance agencies should also consider providing some services by means of vouchers that allow individuals to choose among community organizations offering somewhat different service packages. Project grants can also continue to make a contribution to the development of community-based public assistance, if used prudently, to support start-up costs and demonstration projects, with a clear focus on finding ways to fulfill specific program missions, such as affordable child care, lower rates of teen pregnancy, and job

training. Demonstration projects should not be undertaken, however, without the clear prospect of longer term funding on a contractual basis, contingent upon performance.

Intergovernmental Funding Arrangements for Community-Based Organizations (Spring 1991, Vol. 17, No. ,p. 11)

State and local governments should assume a leadership role in developing a community-based approach to public assistance policy. The participation of local government in this process is especially important, considering the primary local responsibility for community planning and service coordination. Federal grant requirements and restrictions that inhibit state and local governments in developing a community-based approach should be identified and removed.

The federal government should support these state and local efforts especially. Such support may entail an increase in overall federal funding of public assistance. Direct relationships between federal agencies and local community organizations should as a matter of policy be avoided.

Limited Waivers of Federal Law (Spring 1991, Vol. 17, No. 2, p. 11)

The Commission recommends as follows:

A. The authority to waive federal law should be limited, and specific waivers should be limited to a predetermined time and accompanied by systemic efforts to monitor experience with any waiver granted, so as to make appropriate modifications of law and/or regulations. All waivers should be contingent upon acceptance by the applicant of independent evaluation.

B. Monitoring the use of program waivers for the purpose of proposing appropriate changes in federal law and regulations is a worthwhile goal.

The Laboratory of Federalism (Spring 1991, Vol. 17, No. 2, p. 11)

The Commission recommends as follows:

A. State governments should include criteria of valid experimental design in welfare reform programs. Federal agencies charged with approving waivers of federal law and regulations should encourage such experimental designs.

B. The federal government should help fund systematic studies of welfare-reform experiments to be undertaken by objective third

parties and supervised by agencies not immediately involved in administering welfare programs or granting program waivers.

C. When program requirements are uniform for all states, reporting requirements should also be standardized as a matter of federal policy in order to facilitate state-by-state comparison in evaluating program results.