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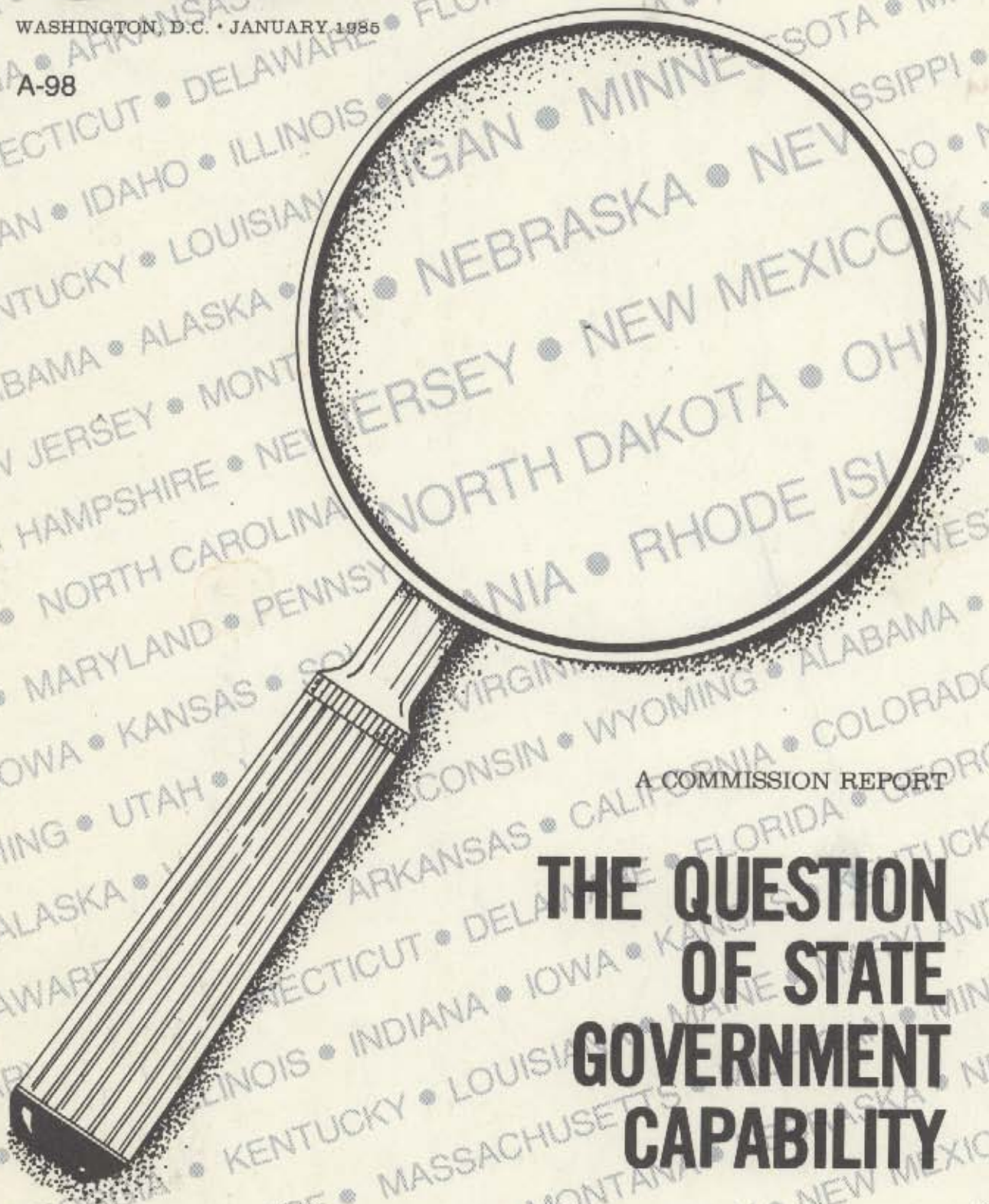

A COMMISSION REPORT

THE QUESTION OF STATE GOVERNMENT CAPABILITY

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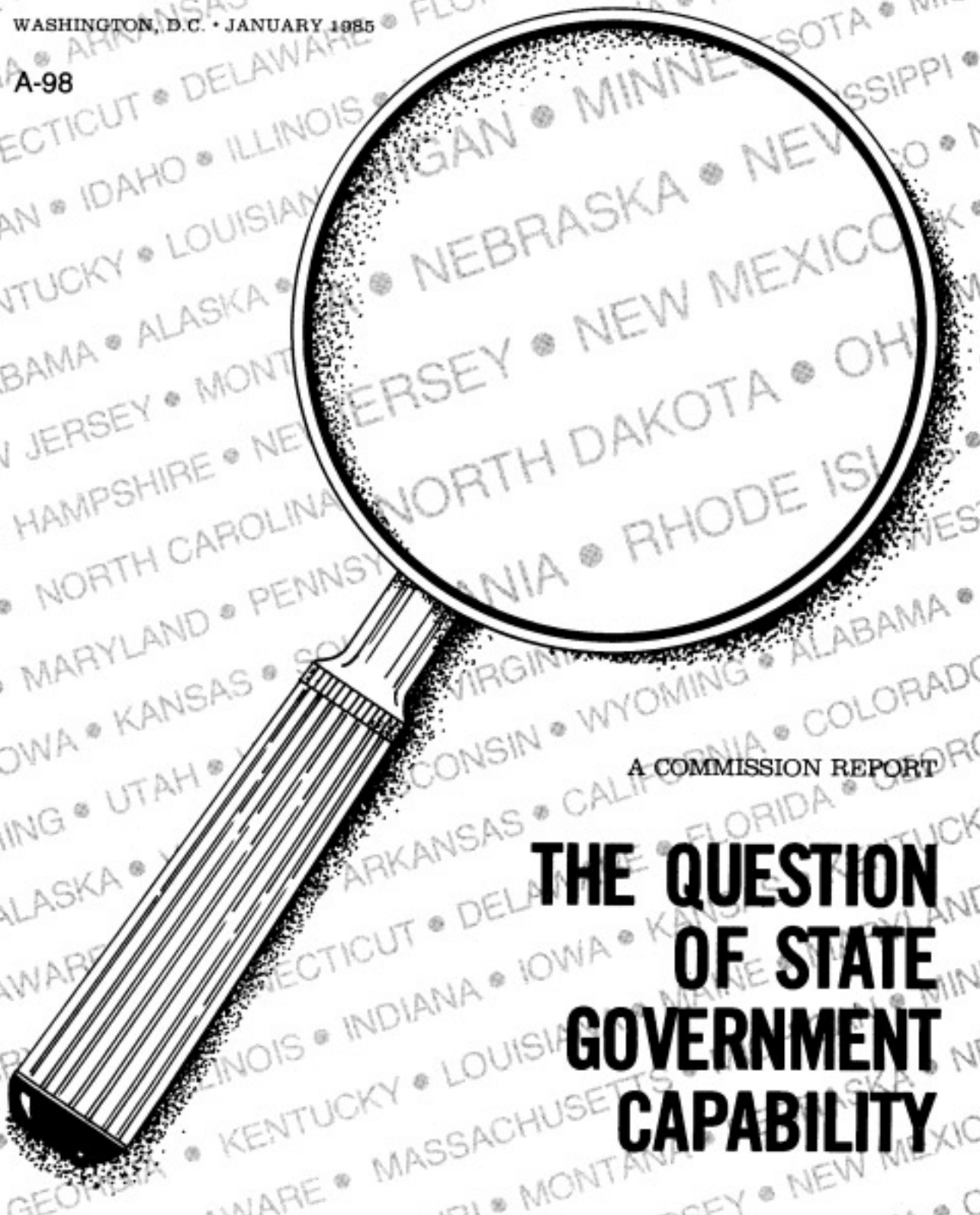

A COMMISSION REPORT

THE QUESTION OF STATE GOVERNMENT CAPABILITY

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Executive Director

David B. Walker
Assistant Director

Preface

The report that follows, as the title suggests, examines how and the extent to which state governments have changed over the past 30 years. It concludes that state governments have been transformed in almost every facet of their structures and operations. It stops short, however, of attempting to draw normative conclusions as to the desirability or undesirability of this transformation nor does it draw evaluative conclusions as to what difference the chronicled changes have made. In short, this study is a descriptive analysis intended to place state governance in an historical context. It asks the question: How were states structured and how did they operate then and now?

Any study such as this faces a major methodological dilemma: how to bring coherence and organization to the mass of data and information that characterizes 50 separate governments during a 30-year period of substantial change. In other words, a framework of analysis is required lest the effort result in a disjointed narrative. The framework chosen here was to divide state governance into numerous structural and functional areas (state constitutions, state legislatures, financial administration, etc.), each to serve as a baseline against which to measure change in that area over time.

It is important for the reader to understand how these various criteria were selected and then employed in the study. The criteria derive from two basic sources. In many of the areas under consideration, substantial criticism of state governments had developed over time and had generated a reformist literature. In many cases the reformists' theories were embraced by broad segments of the academic and public-interest-group communities. Eventually, a conventional wisdom of reform would develop and manifest itself in comprehensive reform proposals or comprehensive sets of criteria which, if satisfied, would ensure realization of the reformists' intentions. For purposes of evaluating many of the areas considered in this report, such reformist-movement criteria were chosen to measure the changing nature of state governments. For example, in considering state constitutions, the study employs a set of criteria for an effective state constitution set out in 1967 by the National Governors' Conference (now the National Governors' Association). Likewise, in the case of state legislatures, the study employs a set of criteria for state legislative capability developed in 1969-70 by the Citizens Conference on State Legislatures (now known as LEGIS 50).

The other source of evaluative criteria consists primarily of scholarly work. In some instances, the report draws upon the received wisdom of specific academic disciplines as summarized by a leading scholar in the field. Such is the case in the area of executive branch organization where the standards of reorganization used for evaluative purposes were drawn from public administration as reflected in Professor A.E. Buck's 1938 book, *The Reorganization of State Governments in the United States*. In other instances, the academic conventional wisdom was not succinctly compiled, and the author of this report had to synthesize the existing literature to derive widely agreed upon criteria of evaluation. This procedure was followed in defining the requisites of a quality tax system.

Employing this two-pronged methodology, the following report provides a valuable historical record of how states have been transformed over the years. None of the criteria, principles, requisites, standards or other evaluative devices used should, however, be construed to represent the position of ACIR unless specifically so indicated. In some instances, the criteria conform closely to existing ACIR policy recommendations. For example, ACIR has long supported a diversified revenue system. In other cases, ACIR simply has no policy positions of any sort corresponding to the criteria used. Finally, in some instances, ACIR policy is directly contrary to the criteria used to evaluate the changing nature of state governments. For example, ACIR rejects boundary commissions for local governments and full-time state legislatures.

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The Question of State Government Capability

Writing during the depression period of the 1930s when states appeared to be unable to meet the needs of their citizens, Luther H. Gulick raised the question of whether the state is "the appropriate instrumentality for discharging these sovereign functions." He answered his own query by announcing the death of the states in these words:

> The answer is not a matter of conjecture or delicate appraisal. It is a matter of brutal record. The American state is finished. I do not predict that the states will go, but affirm that they have gone.[1]

Although Gulick, according to his own account, was administering a shock treatment to a group of engineers,[2] other observers shared this pessimism about the condition of the states, referring to these units as the "weak sisters," "fallen arches" and "weakest links" of the federal system. As recently as the early 1970s, there were calls for the replacement of states with large regional units.[3]

Critics pointed to outmoded constitutions, jerry-built governmental structure, and unrepresentative legislatures. They deplored the inadequate tools and cumbersome procedures employed by state governments. They charged state governments with lack of openness, with inaction in meeting public needs and with corruption.

Much of this censure was deserved. States in

the middle of the 20th century had failed to modernize their governments and to change with the times. Their legislatures were malapportioned, their constitutions archaic and their governmental structures and process in need of remodeling. They often neglected to deal with the pressing public problems facing them, especially as these related to urban areas. In many instances, particularly in the south, they were more concerned with promoting states' rights than with protecting the rights of their citizens and assuring them equal access to governmental institutions and services. In words attributed to Adlai Stevenson, "There would be less talk about states rights if there had been fewer state wrongs."[4]

One by one and little by little, states undertook to reform their institutions and processes, particularly in the decades of the 1960s and 1970s. The changes were so piecemeal and intermittent, so disconnected in geography and so unrelated in media notice, however, that few people have yet realized the profound restructuring of the governmental landscape.

Some did recognize the extent of these developments and spoke out in behalf of the states. Terry Sanford defended their place in the American system of government.[5] Ira Sharkansky rejected much of the criticism, referring to the states as "maligned."[6] Daniel J. Elazar spoke of the "quiet revolution" underway in state government and Parris N. Glendening wrote that "rather than being the 'fallen arch' of American federalism, today states may be referred to more properly as the 'keystone' of federalism."[7]

Obviously, from the vista of the 1980s, the states did not die. Gulick, of course, long ago recognized this fact.[8] States have prospered, in fact, and continue as vital partners in the American federal system. Nevertheless, some students question their political viability. James A. Stever writes:

> We are currently facing the extinction of states and localities as meaningful political entities. Rather than remain viable political units, they have become extensions of a national society. Political institutions at this level have little freedom to make policies that deviate from national standards because they will either be challenged in federal court or denied economic aid by agencies of the federal government.[9]

Other critics continue to doubt their capability, to question whether states have modernized their machinery and processes so that their governments are more representative, responsive, efficient, open and accountable. They raise the issue as to whether state capacity to fulfill their obligation to their citizens and to the rest of the nation has improved.

This study is an examination of that question. It was undertaken to document the extent to which state governments today have changed from those of a quarter-century ago. The year 1955 was chosen as the base year because the Commission on Intergovernmental Relations (Kestnbaum Commission), appointed to consider the turnover of federal programs to the states, criticized state operations.[10] Now that the nation is engaged in another debate over proposals to vest additional responsibilities in the states, it is appropriate to examine the changes that have been made over the years.

This study concludes that state governments have been transformed in almost every facet of their structures and operations. True to the diversity that marks a federal system, all states have not altered past patterns to the same degree. Nor is the character of the changes they have made identical. Nevertheless, all have participated; all have reformed substantially. Far from being its "fallen arches," states are the "arch supports" of the federal system. Reformed and revitalized in the past quarter century, they undergird American federalism. Their increased capacities and responsibilities enable them to play an even greater role in national and local activities as well as to perform their own functions with increased efficiency, effectiveness, responsiveness, openness and accountability.

This research cannot answer the more important question of what difference these changes have made. The results of some alterations, such as improved registration and election procedures, are apparent, but the determination of whether reorganized and revitalized state governments pursue "better" public policies must remain for future research. The question of

what is "better" is incomplete, after all. It needs to be amended to address the issue of better for whom and better according to what standards. One of the virtues of a federal system is that people with different values are not placed in straight-jackets to ensure uniformity. Californians and Virginians can see matters in different lights and respond in diverse fashions. The public policies adopted by the states are too numerous, their implementation too varied, and each value system on which citizens base judgments as to what is "best" for them so unique as to make a definitive determination of outcomes of state reform almost impossible. Nevertheless, it can be said that all the states are better equipped to make the decisions and implement the policies their citizens deem "best."

The question of what constitutes "capacity" is also a difficult one since there are not universally accepted standards as to what distinguishes a capable state.[11] As used in this study, capacity will not be limited to administration. It follows Robert B. Hawkins, Jr.'s perspective that:

> Capacity building is a concept that encompasses a broad range of activities that are aimed at increasing the ability of citizens and their governments to produce more responsive and efficient public goods and services. At its core capacity building is concerned with the selection and development of institutional arrangements; both political and administrative.[12]

The measures of capacity employed in this study are those proposals advanced by reformers over the years as to the changes that need to be made to improve state institutions and processes. They may not work as intended and, indeed, may have unintended consequences and create other problems.[13] Nevertheless, they appear to be the best indicators available for now.

The reforms employed were drawn from political science literature, the proposals of practitioners concerned with the operations of state government, and the reports of various citizens' organizations and interest groups. Determination as to whether or not a proposal should be included was based on the prominance of the proposed reform and its possibility for making state institutions and processes more efficient, effective, responsive, open, or accountable. Sometimes, of course, reforms advancing one of these criteria adversely affected another. There is no universal agreement as to the suitability of the proposals selected.

Before dealing with the question of capacity, however, it would be fruitful to examine the role of the states in the American governmental system. It may enhance our understanding of what state governments are being upgraded to do.

FOOTNOTES

[1]Luther H. Gulick, "Reorganization of the State," *Civil Engineering*, August 1933, pp. 420–21.

[2]Telephone conversation with Mavis Mann Reeves.

[3]Rexford Guy Tugwell, *A Model Constitution for a United Republic of America*, Santa Barbara, CA, Center for the Study of Democratic Institutions, 1970; and Leland D. Baldwin, *Reframing the Constitution: An Imperative for Modern America*, Santa Barbara, CA, Clio Press, 1972.

[4]Larry Sabato, *Goodbye to Goodtime Charlie: The American Governor Transformed, 1950–1975*, Lexington, MA, Lexington Books, 1978, p. 172.

[5]Terry Sanford, *Storm Over the States*, New York, McGraw-Hill Book Company, 1967.

[6]Ira Sharkansky, *The Maligned States*, New York, McGraw-Hill Book Company, 1972.

[7]Daniel J. Elazar, "The New Federalism: Can the States Be Trusted?," *The Public Interest*, No. 35, Spring 1974, p. 90; and Parris N. Glendening, "The Public's Perception of State Government and Governors," *State Government* 53:3, Summer 1980, p. 116. For other favorable assessments, see also Parris N. Glendening and Mavis Mann Reeves, *Pragmatic Federalism: An Intergovernmental View of American Government*, 2nd. ed., Pacific Palisades, CA, Palisades Publishers, 1984, Chapter 9; Richard H. Leach, "A Quiet Revolution, 1933–1976," *Book of the States, 1976–77*, pp. 21–27; Leon Epstein, "Old States in New Systems?" in *The American Political System*, Anthony King, ed., Washington, DC, The American Enterprise Institute for Public Policy Research, 1978; and Jerome T. Murphy, "The Paradox of State Reform," *The Public Interest* 64, Summer 1981, pp. 124–39, among others.

[8]See, for example, Luther H. Gulick, *The Metropolitan Problem and American Ideas*, New York, Alfred A. Knopf, 1962, p. 164, in which he discusses the states as the key to improved governmental arrangements in metropolitan areas.

[9]James A. Stever, *Diversity and Order in State and Local Politics*, Columbia, SC, University of South Carolina Press, 1980, p. xv.

[10]Commission on Intergovernmental Relations, *A Report*

to the President for Transmittal to the Congress, Washington, DC, U.S. Government Printing Office, 1955.

[11]For a discussion of capacity, see Beth Walter Honadle, "A Capacity-Building Framework: A Search for Concept and Purpose," *Public Administration Review*, Vol. 41, No. 5, September/October 1981, pp. 575–89; and John J. Gargan, "Consideration of Local Government Capacity," *Public Administration Review*, Vol. 4, No. 6, November/December 1981, pp. 649–58.

[12]Robert B. Hawkins, Jr., Extension Project: *Capacity-Building for Small Units of Rural Governments*, prepared for U.S. Department of Agriculture, Extension Service, unpublished final draft, 1980, p. 2, as quoted in Honadle, *op. cit.*, p. 577.

[13]See Elinor Ostrom, "Institutional Arrangements and the Measurement of Policy Consequences in America," *Urban Affairs Quarterly* 6, June 1971, pp. 447–76, and Murphy, *op. cit.*

Chapter 2

The State Role in the Federal System

The growth of the national government's role in the American federal system is well documented by the Advisory Commission on Intergovernmental Relations (ACIR).[1] Much of the expansion revolved around the dramatic increase in the number and amount of federal fiscal assistance programs for state and local governments. State responsibilities grew concurrently as these jurisdictions undertook their own new activities, matched and managed the national funds and programs directed to them, and assumed increasingly important tasks as managers of federal funds passed through state hands to local governments. The latter activities made them essential to the successful operations of federal assistance programs.

The growth of state responsibilities in federal program management altered the emphasis given by states to their traditional activities. Their role as middlemen in the federal system became an important preoccupation. Nevertheless, their traditional role remains strong and more important. States continue as political entities, governing, in the broadest sense, their respective populations and territories.

THE TRADITIONAL STATE ROLE

Traditionally, states have had primary responsibility for domestic government in the United States. They have been the repositories of the reserved powers under the Constitution

and, thus, the chief resisters to centralization of governmental powers and functions in national hands. They have been powerful representatives of their differing electorates. Through our uncentralized political parties, they have played a strategic role in the selection of national officials and the maintenance of political balance in the federal system. In addition, they have been: (1) the foremost instruments of public choice in certain areas, such as public morals; (2) direct service providers in their own right, particularly in the fields of criminal justice, health and hospitals, transportation, higher education and business relations through commercial codes; (3) prime regulators in guarding the public health, safety, welfare, good order and convenience of their citizens through the use of their police power, (4) architects and empowerers of local governments; (5) innovators in public policies; and (6) to some degree, middlemen in federeal grant-in-aid programs.

CHANGES IN THE STATE ROLE

State roles have evolved over time. Samuel Beer points out that modernizing forces in society have resulted in modifications in the American federal system, changing intergovernmental relations and the role of state government. According to his theory, advances in science and the democratization of wants resulted in states evolving from the principal mechanisms for social choice during the Jacksonian era to "laboratories of experimentation" during the period of Republican control. Then, under the New Deal, the federal government assumed the ascendancy as the primary innovator and as the main instrument of social choice. Now, according to Beer, states function as planners and controllers of large intergovernmental programs and as mobilizers for political consent. They use their intermediate position in the federal system toward these ends.[2]

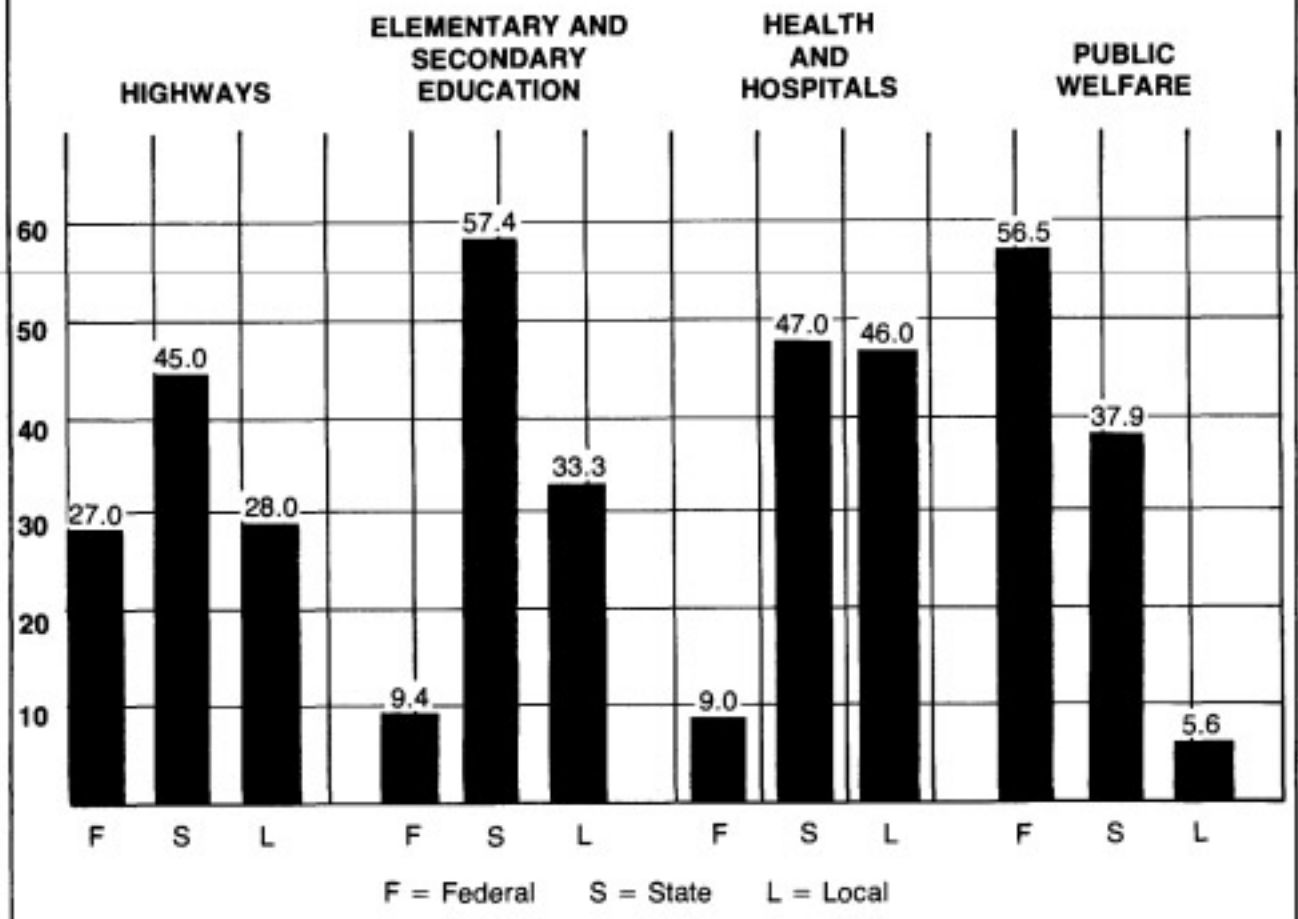
Although their role as governing polities is their major one, in the past two decades, states have taken on new importance in the intergovernmental system. As the decade of the 1980s began, states engaged more heavily as intergovernmental bankers, regulators and administrators than ever before. This is not to say that most of the intergovernmental monies came from the states' own source revenues (although they provided the bulk of intergovernmental financial assistance to local governments), but that states were the principal recipients and disbursers of federal fiscal aid as well as local financial backers in their own right. Although these were not new roles for them, the extent and intensity of state involvement made these jurisdictions more critical to the management of today's intergovernmental system than they were to its predecessor of a generation ago. Then, they directed some federal programs and exercised traditional administrative controls over their local units. Today, the federal government relies on them to superintend an even greater number of federally aided and in some cases heavily state-matched, activities, some of which are more properly national in nature. While many factors, including the modernization thrust cited by Beer, contributed to the changes in the states' role, the impact of federal grants-in-aid, mandates, and other requirements, as well as state initiatives appears to have been especially significant and will be examined here.

THE INFLUENCE OF FEDERAL GRANTS-IN-AID

Grants-in-aid from the federal government to state and local governments grew, both in number and dollar amounts, until 1978, when funding (in constant dollars) began to decline. The number of federal fiscal assistance programs rose from 160 in 1962 to 379 in 1967, reached 498 by 1978, and numbered over 534 by 1981.[3] During the first year of the Reagan Administration (1981), 77 were consolidated into nine block grants and the President proposed further consolidation under his New Federalism Program. In dollar amounts, the rise was dramatic as well. By 1980, grant funds were 11 times what they were in 1962, and they have more than tripled since 1970. Federal grants totaled $7.9 billion in 1962 (current dollars), increased to $24 billion in 1970, and to $94.8 billion by 1981. In constant 1972 dollars, this amounted to a rise from $11.2 billion in 1962 to $26.2 billion in 1970, and $48.5 billion in 1981. In constant dollars, grant funding peaked in 1978 at $51.8 billion and declined to $42.8 billion in 1982. The decline in current

Graph 2–1

EXPENDITURES BY GOVERNMENTAL SOURCE, 1981–82, SELECTED FUNCTIONS, BY PERCENTAGE



Source: Compiled by ACIR staff from U.S. Bureau of the Census figures.

dollars began in 1982, when assistance fell 7% to $88.8 billion.[8]

States provide large sums of money to match federal grants; or, if one considers the level of government traditionally performing the function, it might be said that the federal government matches state outlays. In education, highways, hospitals and some other functional areas, federal grants have supplemented the larger state outlays already provided for these programs. *Graph 2–1* illustrates this pattern.

Until recently, federal grants constituted a rising portion of state and local budgets. In 1955, they amounted to 11.8% of the money states and localities raised themselves. By 1970, they had increased to 22.9%, and by 1978 amounted to 31.7%. The 1982 figure was 25.4%.[5]

As far as state revenues are concerned, the national government's aid equaled 32.1% of the funds states raised from their own sources in FY 1982, a rise from 20.9% in 1955 and 32.3% in 1965, but a decline from 39.1% in 1976.[6] The increases since 1955 can be seen in *Table 2–1*.

States pass through to their local governments almost 20% of the federal funds they receive. This amounted to approximately $17 billion (current dollars) in 1980, as compared to $7.3 billion in 1971–72.[7] With the pass-through comes the responsibility for state management to insure that local governments ac-

count for the money received and comply with federal standards and conditions.

Functional diversification of federal grants over the years also increased state involvement. Federal assistance moved away from an earlier domination by income security and transportation functions in the 1960s. Although awards in these areas continued to grow, they fell to less than one-third of the total by 1980, as grants for social programs (including health, education, training, employment and social services) became the big money categories comprising more than 40% of the total. *Table 2–2* reflects this development.

In addition, federal grants pervade state administrations to a greater extent than they once did. According to the American State Administrators Survey for 1974 and 1978, the proportion of state agency heads reporting that their agencies received federal aid was 74% in 1978, up from 63% in 1974. Furthermore, more than one-third of the ultimate recipients got aid from three or more agencies and 15% of them depended on aid for more than three-fourths of their budgets.[8]

The consolidation of categorical grants into block grants to be administered by the states under the Reagan Administration's New Federalism augmented state responsibilities, both administratively and financially. The *Omnibus Budget Reconciliation Act of 1981*[9] consolidated 75 categorical grants and two former block grants into nine block grants, eliminated 62 others and reduced funding.

These developments mean that the responsibilities of the states for the expenditures of federal monies, either directly or by pass-through to local governments, substantially exceed those of past decades. The proliferation and diversification of grant programs during the 1960s and 1970s and the growth in the amount of funds necessitated more attention to the handling of federal money. States had to hire more employees and devote more time and funds to the management of federally sponsored and

Table 2–1

STATE INTERGOVERNMENTAL REVENUE FROM FEDERAL GOVERNMENT, 1955–82

Fiscal Year	State Aid from Federal Government (in millions)	As a Percentage of General Revenue From Own Sources
1955	$ 2,762	29.9%
1960[1]	6,382	31.0
1965[1]	9,874	32.3
1970[1]	19,252	33.5
1971[1]	22,754	37.1
1972	26,791	37.9
1973	31,353	39.0
1974	31,632	35.5
1975	36,148	37.3
1976	42,013	39.1
1977	45,938	37.9
1978	50,200	37.0
1979	54,548	36.1
1980	61,892	36.6
1981	67,868	36.2
1982	66,026	32.1

[1]Partially estimated.
SOURCE: Advisory Commission on Intergovernmental Relations, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, Table 40, p. 67, updated by ACIR staff.

Table 2–2

GRANT-IN-AID OUTLAYS OF $1 BILLION OR MORE, BY FUNCTION, SELECTED YEARS, 1950–80

(millions of dollars)

Function	1950	1955	1960	1965	1970	1975	1980	1982
Income Security	$1,335	$1,715	$2,648	$ 3,530	$ 5,813	$ 9,279	$18,364	$21,930
Transportation	—	—	3,001	4,100	4,545	5,872	11,520	12,171
Education, Training, Employment, and Social Services	—	—	—	—	5,745	11,638	21,865	16,589
Health	—	—	—	—	3,831	8,810	16,209	18,839
Community and Regional Development	—	—	—	—	2,428	3,335	5,786	5,379
Revenue Sharing and General Purpose Fiscal Assistance	—	—	—	—	—	6,971	8,763	6,347
Natural Resources, Environment, and Energy	—	—	—	—	—	2,479	5,293	4,871
TOTAL	$2,253	$3,207	$7,020	$10,904	$24,018	$49,723	$88,945	$88,194

SOURCE: Executive Office of the President, Office of Management and Budget, "Federal Government Finances," unpublished tables, January 1976, pp. 51–53; *1981 Budget*, Special Analysis 1–1, p. 241, as presented in Advisory Commission on Intergovernmental Relations, *A Crisis of Confidence and Competence* (Report A–73), Washington, DC, U.S. Government Printing Office, July 1980, p. 70; and *Special Analyses: Budget of the United States Government, Fiscal Year 1984*, Washington, DC, U.S. Government Printing Office, January 1983, pp. H-27–H-37.

aided programs, although federal funds often paid for these. When the consolidations and cutbacks occurred, states were faced with additional financial responsibilities in areas where federal programs were cut as well as with increased decision making chores associated with the allocation of the monies under the new block grants.

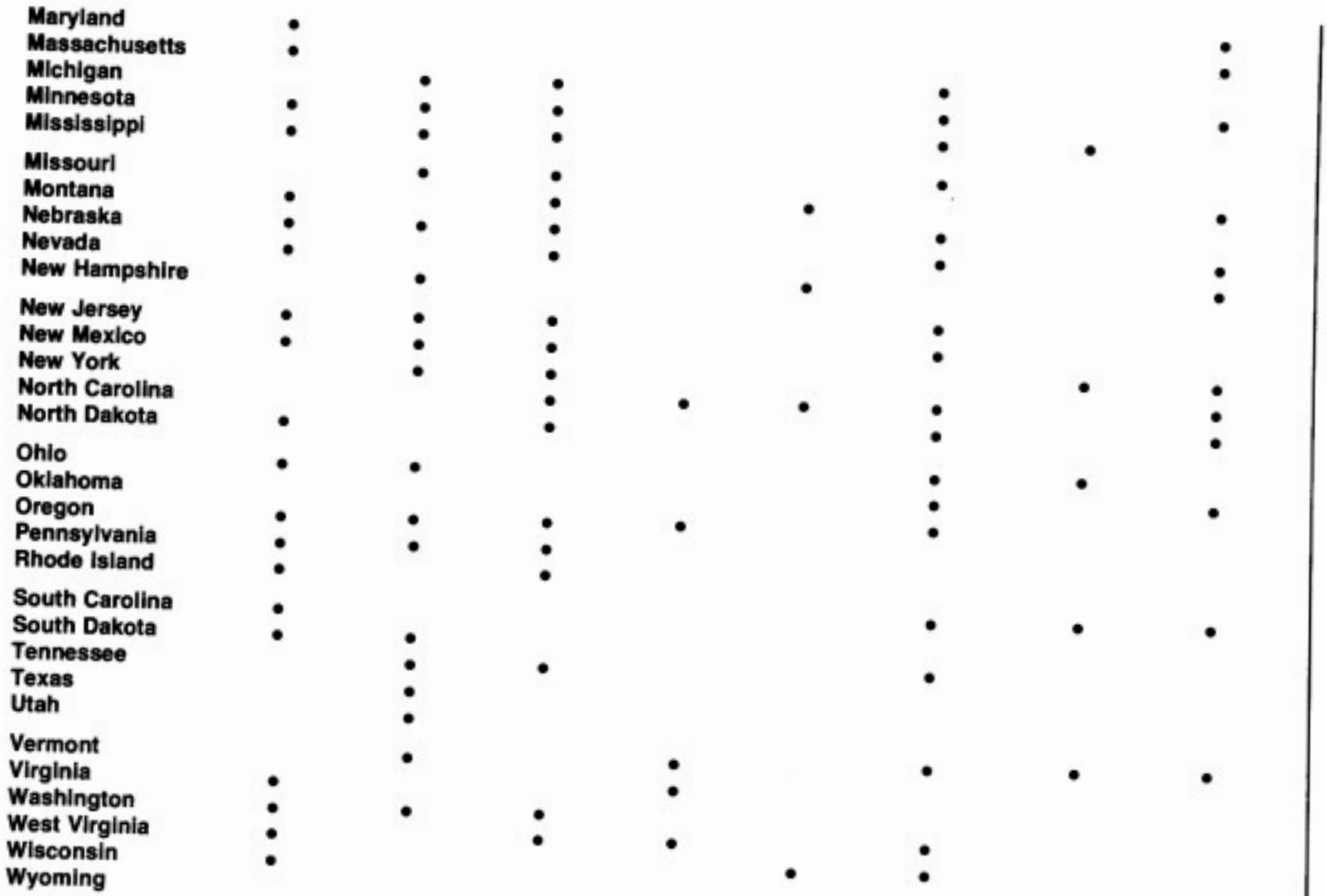
As far as state-local expenditures are concerned, federal grants are stimulative. A study of the effects of grants-in-aid indicates that for every dollar of federal assistance reeived in 1972, the funds spent at the state-local levels increased significantly.[10] The study also found a direct relationship between federal grants and state-local employment levels. Higher levels of federal grants are associated with higher levels of employment.[11] It should be kept in mind that different types of grants have different impacts.

Recent actions by state legislatures attest to the increased attention and time devoted to federal aid programs. Following the Pennsylvania legislature's successful effort during the 1970s to establish control over grants-in-aid awarded the state, over three-fourths of the states now exercise some authority over federal grants. At least 11 of these actively appropriate the monies received.[12] That is, they make detailed itemization of all federal funds in appropriations acts, set legislative priorities for expenditure of block grants and General Revenue Sharing monies, and establish some mechanism for providing approval when

Table 2–3

STATE ACTIONS IN RESPONSE TO FEDERAL BLOCK GRANTS AS OF DECEMBER 15, 1981

States	Executive Actions				Legislative Actions			
	Established Lead or Coordinating Agency	Created New Agency, Committee or Task Force	Conducted Public Hearings	Convened Convocations, Retreats	Called into Special Session	Established New Committee or Gave Existing Committees Responsibility to Oversee Block Grants	Made Changes in the Authority of the Governor (over block grants)	Made Changes in the Authority of Legislature (over block grants)
United States	30	32	31	7	6	29	7	15
Alabama	•	•	•			•		
Alaska	•							
Arizona		•	•	•				
Arkansas						•		
California						•	•	
Colorado		•				•		
Connecticut	•	•	•		•	•		•
Delaware		•	•					
District of Columbia	•	•						
Florida		•	•			•		
Georgia	•	•						
Hawaii		•						
Idaho		•	•					
Illinois	•	•	•					
Indiana	•	•	•			•		
Iowa	•	•	•	•		•	•	•
Kansas	•		•			•		
Kentucky			•			•		
Louisiana		•	•			•		
Maine	•		•		•			•



SOURCE: ACIR, *Intergovernmental Perspective*, Vol. 8, No. 1, Winter 1982, p. 32.

Table 2–4

STATE AID OUTLAY* IN RELATION TO LOCAL OWN SOURCE REVENUE, 1954, 1964, AND 1969 THROUGH 1981

Fiscal Year	Total State Aid•		General Local Government Support	Education	Highways	Public Welfare•	Others
	Amount	As a Percent of Local General Revenue From Own Sources					
	Amount (In millions)						
1954	$5,679	41.7	$ 600	$2,930	$ 871	$1,004	$ 274
1964	12,968	42.9	1,053	7,664	1,524	2,108	619
1969	24,779	54.0	2,135	14,858	2,109	4,402	1,275
1970	28,892	56.2	2,958	17,085	2,439	5,003	1,408
1971	32,640	57.3	3,258	19,292	2,507	5,760	1,823
1972	36,759	57.0	3,752	21,195	2,633	6,944	2,235
1973	40,822	57.9	4,280	23,316	2,953	7,532	2,742
1974	45,600	59.4	4,805	27,107	3,211	7,369	3,108
1975	51,004	60.5	5,129	31,110	3,225	7,136	4,404
1976	56,678	60.8	5,674	34,084	3,241	8,307	5,372
1977	61,084	59.9	6,373	36,975	3,631	8,756	5,349
1978	65,815	59.4	6,819	40,125	3,821	8,586	6,464
1979	74,461	63.5	8,224	46,196	4,149	8,667	7,225
1980	82,758	63.6	8,644	52,688	4,383	9,241	7,802
1981	91,307	62.7	9,570	57,257	4,751	11,026	8,703

Annual Percentage Increase or Decrease (–)

1954	—	—	—	—	—	—	—
1964[1]	8.61	—	5.81	10.11	5.81	7.71	8.51
1969[2]	13.82	—	15.22	14.22	6.72	15.92	15.62
1970	16.6	—	38.5	15.0	15.6	13.7	10.4
1971	13.0	—	10.1	12.9	2.8	15.1	29.5
1972	12.6	—	15.2	9.9	5.0	20.6	22.6
1973	11.1	—	14.1	10.0	12.2	8.5	22.7
1974	11.7	—	12.3	16.3	8.7	–2.2	13.3
1975	11.9	—	6.7	14.8	0.4	3.2	41.7
1976	11.1	—	10.6	9.6	0.5	16.4	22.0
1977	7.8	—	12.3	8.5	12.0	5.4	–0.4
1978	7.7	—	7.0	8.5	5.2	–1.9	20.8
1979	13.1	—	20.6	15.1	8.6	0.9	11.8
1980	11.1	—	5.1	14.1	5.6	6.6	8.0
1981	10.3	—	10.7	8.7	8.4	19.3	11.5

Percentage Distribution

1954	100.0	—	10.6	51.6	15.3	17.7	4.8
1964	100.0	—	8.1	59.1	11.8	16.3	4.8
1974	100.0	—	10.5	59.4	7.0	16.2	6.8
1978	100.0	—	10.4	61.0	5.8	13.0	9.8
1979	100.0	—	11.0	62.0	5.6	11.6	9.7
1980	100.0	—	10.4	63.7	5.3	11.2	9.4
1981	100.0	—	10.5	62.7	5.2	12.1	9.5

*State Intergovernmental Expenditure less State to Federal Intergovernmental Expenditure ($1,873 million in 1981). State Supplementary security income payments to Federal ($1,857 million in 1981) have been subtracted from Public Welfare figures cited.

[1]Annual average increase 1954 to 1964.

[2]Annual average increase 1964 to 1969.

SOURCE: ACIR staff calculations based upon U.S. Bureau of the Census, *State Government Finances in* [*year*], (Tables 10 & 11 in 1981 edition). ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 69.

the legislature is not in session. Moreover, as *Table 2–3* reflects, the block grant consolidation effected by the *Omnibus Budget Reconciliation Act of 1981* produced a flurry of state actions.

STATE FINANCIAL ASSISTANCE TO LOCAL GOVERNMENTS

On their own initiative, states provided more financial resources for their local units in the past two decades. Although the percentage increase did not equal that of federal largesse, total state aid (including pass-through federal aid) grew from $5.9 billion (current dollars) in 1955 to $89 billion in 1981, as set out in *Table 2–4*. Relative to local revenue, state funds increased from 41.7% of local own-source general revenues in 1954 to 63.5% in 1979, and fell back to 62.7% in 1981.[13]

When federal pass-through funds are eliminated from state aid, the total declines, although it is still a substantial sum. *Table 2–5* breaks out the pass-through funds both as to percentage and dollar amount and reflects the changes between 1971–72 and 1976–77. *Table 2–6* shows the federal component of state aid for 1977. These are the latest figures available. Passs-through funds for 1980 were estimated to be approximately $17 billion.[14]

In another form of financial assistance, states assumed fiscal responsibility for at least 90% of the state-local welfare costs in at least 24 states and paid more than 80% of the aggregate state-local costs nationwide. They also became the senior partners in the funding of public elementary and secondary education on a nationwide aggregate basis and outspent local governments for this function in 26 states.[15] In addition, 22 states have taken over most or all of the costs of court financing, previously borne locally. (See *Chapter 8.*)

States have assisted local governments financially in other ways, as well. They supplemented cash grants with payments in kind, gifts of state real and personal property, and the sharing of facilities. Additionally, some states have made payments in lieu of property taxes to local jurisdictions in which state facilities are located.

INCREASED FEDERAL AND STATE REGULATION

As federal grants multiplied, so did the requirements and regulations attached to them, except that the increase in the latter was all out of proportion to the number of programs adopted. The following testimony before a U.S. Senate Committee indicates what happened in regard to federal regulatory activity in general:

> . . . . 67 federal agencies, departments and bureaus having rule-making authority, adopted 7,596 new or amended regulations, while Congress during the same period enacted 404 public laws, a ratio of 18 to 1.[16]

Further evidence of expansion of federal regulatory activity is reflected in the increase in the number of pages in the *Federal Register*, in which proposed regulations are listed. Between 1956 and 1980, almost 90,000 pages were added to the length of the *Federal Register*.[17] *Graph 2–2* illustrates this growth as well as the subsequent sharp decline. All of these regulations, of course, do not relate directly to state and local governments. Many concern the private sector. Nevertheless, the state and local share is significant, thus complicating administration and increasing costs at those levels.[18] A move to reduce the regulatory impact was undertaken by the Reagan Administration almost immediately on taking office.

Most regulations associated with grant programs are specific to one program or project. Numerous cross-cutting requirements exist, however, that apply to all federal assistance programs—even General Revenue Sharing, which was intended to be entirely discretionary with the recipient government. Depending on how one counts, from 34 to 59 regulations apply to all federal grant programs. These include:

- prohibitions against use of the funds for lobbying;
- restrictions on use of the funds for debt retirement;
- compliance with the prevailing wage standards under the *Davis Bacon Act*;
- requirements for citizen participation;
- restrictions against discrimination in recruitment and employment against various sectors of the population including minorities, women, various ethnic groups, the handicapped and others;

Table 2–5

CHANGES IN INTERGOVERNMENTAL AID TO LOCAL GOVERNMENTS, IN AMOUNT AND PERCENT OF CHANGE, 1971–72 to 1976–77

Intergovernmental Aid Flows	Amount of Change (millions of dollars)			Percent of Change		
	All	Education	Non-education	All	Education	Non-education
Nominal Federal Aid to States	$19,099	$ 3,051	$16,048	71.3%	51.0%	77.1%
Nominal Federal-Local Aid	12,003	276	11,727	263.7	26.8	333.1
Nominal State-Local Aid	25,141	15,779	9,362	71.5	76.3	64.7
Pass-Thrqugh	4,977	2,116	2,861	68.3	69.4	67.5
Net Federal Aid to States	14,122	935	13,187	72.4	31.8	79.6
Net Federal-Local Aid	16,980	2,392	14,588	143.4	58.7	188.0
Net State-Local Aid	20,164	13,663	6,501	72.4	77.5	63.6

SOURCE: U.S. Bureau ofthe Census, Census of Governments, 1972 and 1977, Vol. 4, No. 5, *Compendium of Government Finances, 1972 and 1977*, Washington, DC, U.S. Government Printing Office; and Methodological Appendix of this report.

Table 2–6

INTERGOVERNMENTAL AID AND THE FEDERAL COMPONENT OF STATE AID TO LOCAL GOVERNMENT, NATIONAL TOTALS, 1977

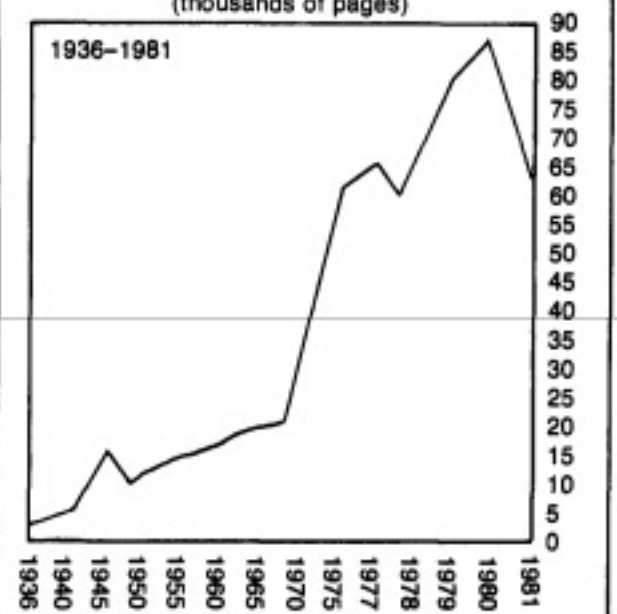
(millions of dollars)

Intergovernmental Aid Flows	Expenditure Function					
	Total Expenditure	Education	Highways	Public Welfare	Health and Hospitals	All Other
Nominal Federal Aid to States	$45,890	$ 9,035	$6,363	$18,723	$1,532	$10,237
Nominal Federal-Local Aid	16,554	1,312	98	162	206	14,776
Nominal State-Local Aid	60,277	36,428	3,467	9,243	1,411	9,728
Pass-Through	12,262	5,164	232	4,971	413	1,482
Net Federal Aid to States	33,628	3,871	6,131	13,752	1,119	8,755
Net Federal-Local Aid	28,816	6,476	330	5,133	619	16,258
Net State-Local Aid	48,015	31,264	3,235	4,272	998	8,246
Percent Difference in Federal-Local Aid Due to Pass-Through	74.1%	393.6%	236.7%	3,068.5%	200.5%	10.0%
Pass-Through as a Percent of Total Federal Aid	19.6%	49.9%	3.6%	26.3%	23.8%	5.9%

SOURCE: U.S. Bureau of the Census, Census of Governments, 1977, Vol. 4, No. 5, *Compendium of Government Finances*, Washington, DC, U.S. Government Printing Office, 1979, Tables 30 and 31; *State Government Finances in 1977*, Washington, DC, U.S. Government Printing Office, 1978.

Graph 2–2

PAGES IN THE *FEDERAL REGISTER*



SOURCE: "Monthly Regulatory Indices," *Regulatory Eye*, Washington, DC, Vol. IV, No. 1–2, January–February 1982, p. 24.

- prohibitions against discrimination by subcontractors; and
- restrictions on discrimination in the provision of municipal services.

See *Figure 2–1*. The U.S. Office of Management and Budget reported that of the 37 crosscutting regulations involving socioeconomic factors, 32 are based in public law and five in executive orders.[19]

Regulation has become more compulsory as well. In addition to the crosscutting or generally applicable requirements imposed as across-the-board grant conditions, the federal government has resorted to the use of direct orders carrying civil or criminal penalties for noncompliance, crossover sanctions and partial preemption. Crossover sanctions impose fiscal penalties in one program area or activity to force state and local governments to comply with requirements to another. The provision of *The Emergency Highway Energy Conservation Act of 1974* prohibiting the approval of *any* highway construction funds in states with a speed limit in excess of 55 mph, is a case in point. Partial preemption occurs when the federal government establishes basic policy and allows state and local governments to set standards for administration within their own boundaries. The federal government retains authority to enforce federal standards if state or local authorities do not respond satisfactorily.[20]

As major managers of federal programs and as conduits for the pass-through of federal funds, states are adding their own requirements to "pass through" federal aid as well as to their own grant programs. Research on wastewater treatment grants in Maryland, for example, reveals that that state's Environmental Health Administration sets priorities determining which local governments will qualify for the federal funds.[21] Similarly, the state added a host of new regulations to the requirements for funds from the federal Law Enforcement Assistance Administration.

State budget officers were questioned about the attachment of state requirements to federal pass-through funds in a 1975 survey by ACIR and the International City Management Association. When asked whether there were any pass-through funds on which the state did *not* add *procedural* conditions, such as auditing, reporting or accounting requirements, 14 answered "yes" and 20 answered "no," indicating that the practice of adding procedural requirements is fairly prevalent. The reverse was true of performance standards. When asked if there were any pass-through funds on which the state did *not* add program performance standards, 19 answered "yes" and 14 answered "no." This indicates that, while a significant number of states add performance standards, more were likely to attach procedural requirements. The respondents who replied that their states had not imposed procedural or performance requirements were asked to estimate the percentage of the total pass-through funds on which the state had refrained from attaching conditions. The 16 responding reported that an average (mean) of 39% of their pass-through funds contained no additional state-imposed conditions. Replies indicated that new requirements were more likely to be added to project grants than to formula-based grants.[22]

Figure 2–1

MAJOR FEDERAL STATUTES REGULATING STATE AND LOCAL GOVERNMENTS, MARCH 1982

Title	Objective	Public Law	Type[1]
Age Discrimination Act of 1975	Prevent discrimination on the basis of age in federally assisted programs.	94–135	CC
Age Discrimination in Employment Act (1974)[2]	Prevent discrimination on the basis of age in state and local government employment.	93–259; 90–202	DO
Architectural Barriers Act of 1968	Make federally occupied and funded buildings, facilities and public conveyances accessible to the physically handicapped.	90–480	CC
Civil Rights Act of 1964 (Title VI)	Prevent discrimination on the basis of race, color or national origin in federally assisted programs.	88–352	CC
Civil Rights Act of 1968 (Title VIII)	Prevent discrimination on the basis of race, color, religion, sex or national origin in the sale or rental of federally assisted housing.	90–284	CC
Clean Air Act Amendments of 1970	Establish national air quality and emissions standards.	91–604	CC, CO, PP
Coastal Zone Management Act of 1972	Assure that federally assisted activities are consistent with federally approved state coastal zone management programs.	94–370	CC
Davis-Bacon Act (1931)[3]	Assure that locally prevailing wages are paid to construction workers employed under federal contracts and financial assistance programs.	74–403	CC
Education Amendments of 1972 (Title IX)	Prevent discrimination on the basis of sex in federally assisted education programs.	92–318	CC
Education for All Handicapped Children Act (1975)	Provide a free appropriate public education to all handicapped children.	94–142	CO[4]
Emergency Highway Energy[5] Conservation Act (1974)	Establish a national maximum speed limit of 55 mph.	93–239	CO
Endangered Species Act of 1973	Protect and conserve endangered and threatened animal species.	93–205	CC, PP
Equal Employment Opportunity Act of 1972	Prevent discrimination on the basis of race, color, religion, sex or national origin in state and local government employment.	92–261	DO

Figure 2–1 (continued)

MAJOR FEDERAL STATUTES REGULATING STATE AND LOCAL GOVERNMENTS, MARCH 1982

Title	Objective	Public Law	Type[1]
Fair Labor Standards Act Amendments of 1974	Extend federal minimum wage and overtime pay protections to state and local government employees.[6]	93–259	DO
Family Educational Rights and Privacy Act of 1974	Provide student and parental access to educational records while restricting access by others.	93–380	CC
Federal Insecticide, Fungicide, and Rodenticide Act (1972)	Control the use of pesticides that may be harmful to the environment.	92–516	PP
Federal Water Pollution Control Act Amendments of 1972	Establish federal effluent limitations to control the discharge of pollutants.	92–500	CC, PP
Flood Disaster Protection Act of 1973	Expand coverage of the national flood insurance program	93–234	CC, CO
Hatch Act (1940)	Prohibit public employees from engaging in certain political activities.	76–753	CC
Highway Beautification Act of 1965	Control and remove outdoor advertising signs along major highways.	89–285	CO
Marine Protection Research and Sanctuaries Act Amendments of 1977	Prohibit ocean dumping of municipal sludge.	95–153	DO
National Energy Conservation Policy Act (1978)	Establish residential energy conservation plans.	95–619	PP
National Environmental Policy Act of 1969	Assure consideration of the environmental impact of major federal actions.	91–190	CC
National Health Planning and Resources Development Act of 1974	Establish state and local health planning agencies and procedures.	93–64	CO
National Historic Preservation Act of 1966	Protect properties of historical, architectural, archeological and cultural significance.	89–665	CC
Natural Gas Policy Act of 1978	Implement federal pricing policies for the intrastate sales of natural gas in producing states.	95–621	PP
Occupational Safety and Health Act (1970)	Eliminate unsafe and unhealthful working conditions.	91–596	PP
Public Utilities Regulatory Policies Act of 1978	Set federal standards in the pricing of electricity and natural gas.	95–617	DO

Figure 2–1 (continued)

MAJOR FEDERAL STATUTES REGULATING STATE AND LOCAL GOVERNMENTS, MARCH 1982

Title	Objective	Public Law	Type[1]
Rehabilitation Act of 1973 (Section 504)	Prevent discrimination against otherwise qualified individuals on the basis of physical or mental handicap in federally assisted programs.	93–112	CC
Resource Conservation and Recovery Act of 1976	Establish standards for the control of hazardous wastes.	94–580	PP
Safe Drinking Water Act of 1974	Assure drinking water purity.	93–523	CC, PP, DO
Surface Mining Control and Reclamation Act of 1977	Establish federal standards for the control of surface mining.	95–87	PP
Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970	Set federal policies and reimbursement procedures for property acquisition under federally assisted programs.	91–646	CC
Water Quality Act (1965)	Establish federal water quality standards for interstate waters.	88–668	PP
Wholesome Meat Act (1967)	Establish systems for the inspection of meat sold in intrastate commerce.	90–201	PP
Wholesome Poultry Products Act of 1968.	Establish systems of the inspection of poultry sold in intrastate commerce.	90–492	PP

[1]Key: crosscutting requirement (CC), crossover sanction (CO), direct order (DO), partial preemption (PP).
[2]Coverage of the act, originally adopted in 1967, was extended to state and local government employees in 1974.
[3]Although the *Davis-Bacon Act* applied initially only to direct federal construction, it has since been extended to some 77 federal assistance programs.
[4]Although participation is voluntary, the failure of a participating state to comply with federal requirements can result in the withholding of funds from several federal handicapped education programs. The requirements of PL 94–142 are nearly identical to those established by the Department of Education under Section 504 of the *Rehabilitation Act*, a crosscutting requirement.
[5]A permanent national 55 mph speed limit was established by the *Federal-Aid Highway Amendments of 1974* (PL 93–643), signed into law January 4, 1975.
[6]Application was restricted by the Supreme Court in *National League of Cities v. Usery*, 426 U.S. 833 (1976).
SOURCE: Compiled by ACIR staff.

FEDERAL PROVISION FOR A STATE MANAGEMENT ROLE

Recent federal statutes and regulations often specify directly an intergovernmental management role for the states. In regard to education for example, Title I of the *Elementary and Secondary Education Act of 1965*, provided a role for the states in the administration of programs under the act. States were to direct local school agencies in determining which schools among eligible areas having high concentrations of low-income families would receive Title I services. They also were required to supervise the development of programs for eligible children. More recently, the 1978 amendments to this legislation created monitoring and enforcement functions for state educational agencies

that previously had not exercised that kind of authority.[23] They are expected to make regular imspections of the practices of local school districts and to insure that an audit is conducted every two years.[24] In another instance, Section 504 of the *Rehabilitation Act of 1973*, which prohibits discrimination against the handicapped, holds state educational agencies responsible for the compliance of all local jurisdictions.

In the area of environmental protection, the Environmental Protection Agency (EPA) operates in a highly decentralized fashion. It often asks states to assume difficult administrative and regulatory environmental functions, especially those it does not want or cannot perform. As a consequence, the volume of responsibility thrust upon the states often exceeds the volume of funds. For example, EPA promulgated tough sanitary landfill standards under the federal *Resource Conservation and Recovery Act*.[25] To comply with the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," established under Section 4004, appropriate departments of state government are required to inspect, inventory and grade all solid waste disposal facilities in the state. Any local government maintaining a site that receives a failing grade can be forced to close it or be required to meet a compliance schedule for bringing the facility up to standard.

The federal government encouraged states to take on the responsibility for development and enforcement of health and safety standards under the *Occupational Safety and Health Act of 1970*.[26] State standards must meet federal standards and are subject to the approval of the Secretary of Labor. Similarly, the *Surface Mining Control and Reclamation Act* (1977) attempts to stimulate state regulatory action in regard to strip mining.[27] Requirements for state planning are widespread, having been incorporated in programs ranging from law enforcement[28] to Crippled Children's Services.[29] Many of the "plans" are employed to acquire federal funds and do not necessarily reflect state priorities and needs or serve as management tools. all too often they do not. According to a 1976 report, the then Department of Health, Education and Welfare required each state receiving funds under its 46 formula grant programs "to submit or annually update 24 separate state plans."[30] Federal management requirements apply in other functional areas as well.[31]

THE CONTEMPORARY ROLE

Although states currently exercise important functions as intergovernmental middlemen, being heavily involved in intergovernmental financing, regulating and managing, their performance of their more traditional role remains strong. They continue as major polities.[32] Politically, the states still are the balance wheels of the federal system, helping to maintain the equilibrium between national and subnational interests. They constitute the prime impediments to centralization at the national level. Even in an era when federal largesse is welcomed, resistance is still marked. State reactions to the U.S. Department of Education's directives regarding institutions of higher learning are cases in point as is Connecticut's resistance to allowing double-rigged trucks to use her highways.

Although managerial, administrative, and other factors contribute, the ability of states to act as balance wheels is based largely on their political power in a system characterized by plural power bases. This pluralism is tied to the uncentralized political party system in the United States, state responsibilities in regard to enfranchisement of voters and the conduct of elections, the power states wield in the presidential nominating conventions and in the electoral college, the attention given to their governors (individually or singly) and legislatures when they speak out on public issues, state potential for amending the Constitution by petitioning the Congress to call a convention for that purpose, and for ratifying proposed amendments.

Several recent developments have compromised state political strength to some extent. The Supreme Court's decision on *Cousins v. Wygoda* (1975)[33] gave precedence to the rules of the Democratic National Convention over Illinois statutes regarding the selection of that state's delegates to the convention, thus reducing state control of party matters and moving toward centralization of party power at the national level. State control of elections was weakened further by a 1981 Supreme Court decision that upheld the national Demo-

cratic Party's right to restrict participation in Democratic presidential preference primaries to party members.[34] Wisconsin's open primary in which voters could participate regardless of party affiliation was at issue. National political party reforms relating to selection of delegates undercut state party power as well. The *Voting Rights Act of 1965* and the 18-Year Old Vote Amendment also infringed on state powers to control the franchise and conduct elections.

Moreover, in case after case, the Supreme Court's decisions to place individual rights ahead of states' rights have undercut state authority. One constitutional law casebook reported that of the 56,922 private cases (not involving the federal government or its officers) raising a federal question that were filed in the United States District Courts in 1976, a total of 17,543 were against state and local officials for civil rights violations.[35] In cases involving racial justice, equity, civil liberties, criminal justice and official immunity from suit, the court has invoked the due process and equal rights clauses of the 14th Amendment in a manner that has diminished state authority. The *Brown v. Board of Education*[36] case in 1954 stimulated a wave of cases aimed at racial justice. *Reynolds v. Sims* (1964)[37] and subsequent reapportionment cases limited state options in drawing district lines for representation in legislative bodies. *Roe v. Wade* (1973),[38] recently strengthened by a 1983 decision, restricted state authority to ban abortions. *Gideon v. Wainwright* (1963)[39] established the right of the accused in criminal cases to counsel, thus, in effect, requiring states to provide it. Employment of personnel on a patronage basis came under attack in *Elrod v. Burns* (1976),[40] when the Court held that employees' First and 14th Amendment rights were violated when they were discharged for partisan reasons. *Branti v. Finkel* (1980)[41] followed this reasoning.

The major significant victory for states occurred when the court decided in *National League of Cities v. Usery (1976)*[42] that Congress did not have the authority to extend to state and local employees provisions of the *Fair Labor Standards Act* relating to overtime hours and wages. Even so, four years later the Supreme Court ruled in *State of Maine v. Thiboutot* (1980)[43] that state and local officials were liable for violations of civil rights in administering public programs and that attorneys' fees could be recovered in successful challenges. Moreover, in case after case, the Court modified the impact of *Usery* and, in 1983, held that the 1974 amendments to the *Age Discrimination in Employment Act* applied to Wyoming's employment of gas wardens.[44] While none of these court decisions has destroyed the pluralism inherent in the American system, all except *Usery* have whittled away at the core of state political power.

Nevertheless, the states remain the repositories of much of the political power in the nation. A factor in maintaining this posture is the revitalization of their political processes, thanks in an ironic way to the reapportionment decision of the Supreme Court and the voting rights legislation of Congress. These processes now are more open, more competitive and characterized by broader participation than ever before. And from them are formed 50 different governing and representational systems, whose varying values, policy and program preferences, fiscal arrangements, and approaches to local governments suggest other than a managerial intergovernmental program role.

States, for example, still provide their citizens ample opportunity for choice among key public policies. Witness the diversity of public assistance support, legislation on punishment for capital offenses, funding for abortions, and ratification of the Equal Rights Amendment, as well as public sector collective bargaining and right to work laws. Opportunity for choice among values diffuses opposition to government and builds support for the regime.

The states' differing roles as direct service providers continue substantially intact, although sharing of functions is greater and governmental services in general are more intergovernmentalized. States are the dominant service providers—providing more than 55% of the expenditures in most of the states—in six functional areas: highways, state-local public welfare, hospitals, health, natural resources and corrections. In addition, they now pay most of the court and school costs. In other areas, such as water transportation, they often provide most of the financing (see *Table 2–7*) and they have become increasingly important in mass transit services. Even when their traditional functions such as highways and health are heavily assisted by federal grants, states

Table 2-7

DOMINANT SERVICE PROVIDER* BY TYPE OF GOVERNMENT AND FUNCTION, 1967, 1972 AND 1977

	Education	Highways	Public Welfare	Hospitals	Health	Police	Fire Protection	Sewerage	Other Sanitation	Parks & Recreation	Natural Resources	Housing/ Renewal	Airports	Water Transport**	Parking	Correction	Libraries	General Control	General Public Buildings
1977																			
State	1	39	43	24	30	—	—	—	—	3	48	3	6	16	—	46	2	7	5
County	2	—	1	4	4	—	—	1	1	1	—	—	9	3	—	1	9	1	8
Municipality	—	—	1	—	—	27	48	33	44	24	—	16	26	20	47	—	19	—	1
Townships	—	—	—	—	—	—	—	—	2	—	—	—	—	1	—	—	—	—	—
School Districts	37	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Special Districts	—	—	—	1	—	—	—	4	—	2	—	21	5	6	1	—	2	—	—
More than one provider*	10	11	5	21	16	23	2	12	3	20	2	10	4	1	2	3	18	42	36
1972																			
State	1	48	39	27	27	—	—	—	—	—	49	4	7	16	—	46	2	7	6
County	3	—	8	8	7	—	—	2	—	2	—	—	8	—	—	2	12	26	19
Municipality	—	—	1	—	—	44	49	37	48	43	—	17	25	16	48	—	26	1	7
Townships	—	—	—	—	—	—	—	1	1	—	—	—	—	—	1	—	—	—	—
School Districts	40	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Special Districts	—	—	—	2	—	—	—	2	—	1	—	26	7	8	1	—	3	—	—
More than one provider*	6	2	2	13	16	6	1	8	1	4	1	3	3	—	—	2	7	16	18
1967																			
State	1	49	36	31	31	—	—	—	—	—	49	3	5	17	—	49	1	4	5
County	3	—	10	6	2	—	—	—	—	1	—	—	6	—	—	—	6	7	7
Municipality	—	—	2	—	1	33	50	38	48	44	—	22	27	15	47	—	21	—	1
Townships	—	—	—	—	—	—	—	1	1	—	—	—	—	—	1	—	—	—	—
School Districts	37	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Special Districts	—	—	—	1	—	—	—	3	—	2	—	23	5	8	1	—	2	—	—
More than one provider*	9	1	2	12	16	17	—	8	1	3	1	2	7	2	1	1	20	39	37

*A dominant service provider is one that accounts for more than 55% of the direct general expenditure in a particular function. "More than one provider" indicates there is no dominant service provider.

**Only 42 state-local systems exhibited this function in 1967, 40 in 1972, and 47 in 1977.

SOURCE: Derived from U.S. Bureau of the Census, Census of Governments, 1967, 1972, and 1977, *Vol. 4, Governmental Finances, No. 5, Compendium of Government Finances*, Washington, DC, U.S. Government Printing Office, 1969, 1974, and 1979, Tables 46 and 48 for 1967 and 1972, Tables 47 and 49 for 1977. Compiled by the staff of the Advisory Commission on Intergovernmental Relations.

continue to support them with large outlays.

If one looks only at broad functional areas and not at their components, the picture is clouded and there appears to be a resultant diminution of the importance of state participation in service delivery. One must remember, however, that states provide some components of activities financed primarily by other governments. In the functional area of education, for example, where major responsibility for financing until recently rested with local governments, states have been major deliverers in public higher education, educating three-quarters of the nation's college students. Similarly, within the general area of police protection, states frequently provide crime laboratories.

Often overlooked are the major state responsibilities in the provision of criminal justice and the regulation of business. States are the prime designers of the criminal justice system and determine state and local responsibilities within it. Their courts handle more than 90% of the cases tried in the United States. They also provide other related services such as prisons and correctional institutions, state police, and financial and technical assistance for local activities in this area.

State responsibilities for the regulation of business encompass almost every phase of business activity, and include the enactment of commercial codes governing business relations; entrance into business; laws on contracts; legal provisions for property ownership, use and disposal; taxation; sale of securities; and unfair business practices, among other things. They regulate closely certain businesses such as utilities, banks, common carriers and insurance companies; license professions and occupations; and institute certain provisions relating to labor and employment. Moreover, to a limited degree, states engage in business themselves. They may sell alcoholic beverages; operate toll roads, bridges and wharfs; run lotteries; or maintain funds for malpractice insurance, for example. North Dakota goes furtherest in this connection, operating a bank as well as grain elevators and a mill, and maintaining a casualty and bonding insurance business.[45] Moreover, states do all kinds of other things that affect the quality of life of their citizens, particularly in the exercise of the police power to protect the public, and theirs is likely to be the first response to major emergencies and disasters.

Although federal preemption has siphoned off some of the regulatory powers of the states, their overall regulatory capacity remains strong. While they were losing some authority to the federal government, they took on other areas of activity. Among the new areas are surface mining regulation, consumer protection, hazardous waste disposal, radiation risk prevention, and land use regulation (especially wetlands), to name only a few. In other areas, they increased both the scope and intensity of their regulations. Their traditional role in licensing professions has expanded to include new occupations and activities. Arizona, for example, now issues guidelines for the education of radiologic technologists and certifies them. States now do more in environmental protection, both on their own and at the instigation of the federal government. They also have moved to prescribe standards for both mobile and modular home construction, nuclear waste disposal, and nursing homes, for example, and prohibited such actions as the use of children for pornographic pictures and job discrimination between sexes.

All of these activities, and many more, follow different patterns, for the most part, in each of the 50 systems. These diverse models reflect the various compromises reached within each state as a result of differing political and societal values and economic resources.

States remain the architects and empowerers of local governments within their boundaries with substantially undiminished control. Only insofar as General Revenue Sharing and direct federal grants to local governments have shored up local political power has their position changed in this respect.

Long called the "laboratories of democracy," states today are making a reality of this textbook description, which applied only in a limited sense in the period from the late 1920s to the early 1960s. Actually, states ordinarily do not engage in calculated experiments in the scientific sense. They undertake innovations in order to solve the different problems they face. Such initiatives broaden the scope of choices for policymakers at all levels and enable small scale testing of untried programs and procedures. Such innovations as sunset legislation, zero based budgeting, equal housing, no fault

insurance and the senior executive service had their beginnings in the states. Pioneering actions in gun control, pregnancy benefits for working women, limited access highways, education for handicapped children, auto pollution standards and energy assistance for the poor are only a few instances of other innovative state actions. There is no reason to believe that such resourcefulness will not continue, but again within 50 different political cultures.

These numerous "independent" actions suggest that the states have not scrapped the traditional role that stems from their being differentiated political and representational systems. If anything, some would argues this role has been revitalized in the past decade and a half, even as the role of planner, partial banker and coordinator of big, largely intergovernmentally financed, programs emerged.

There are at least two basic roles, then, the states now have assumed, and neither eclipses the other. Sometimes they complement one another (as when the national government is looking for new policies that have been "tested" or when federal grant programs require cost-sharing or a differentiated approach to implementation). But in other instances, they conflict, as have the federal mandates, intrusive conditions attached to grant programs, and other federal actions that undermine the very political processes that federal actions in the mid-1960s did so much to reform.

To sum up, the states have assumed a major coordinative, planning and funding role in big domestic programs, and they have reasserted themselves as vital governing entities and representatives of 50 varying political, social and fiscal value systems. The two combined, whether complementary or in conflict, suggest a major revitalization of the states' overall functional role in the federal system. They have become its arch supports.

FOOTNOTES

[1]See Advisory Commission on Intergovernmental Rela-
[1]See Advisory Commission on Intergovernmental Relations [ACIR], *A Crisis of Confidence and Competence*, A-77, *The Condition of Contemporary Federalism: Conflicting Theories and Collapsing Constraints*, A-78, *Public Assistance: The Growth of a Federal Function*, A-79, *Reducing Unemployment: Intergovernmental Dimensions of a National Problem*, A-80, *Intergovernmentalizing the Classroom: Federal Involvement in Elementary and Secondary Education*, A-81, *The Evolution of A Problematic Partnership: The Feds and Higher Ed*, A-82, *Protecting the Environment: Politics, Pollution, and Federal Policy*, A-83, *Federal Involvement in Libraries*, A-84, *The Federal Role in Local Fire Protection*, A-85, *An Agenda for American Federalism: Restoring Confidence and Competence*, A-86, *Hearings on the Federal Role*, A-87, Washington, DC, U.S. Government Printing Office, 1980–82

[2]Samuel H. Beer, "The Modernization of American Federalism," *Publius: The Journal of Federalism*, Vol. 3, No. 2, Philadelphia, PA, Temple University Center for the Study of Federalism, Fall 1973, pp. 53–91.

[3]ACIR staff calculations.

[4]ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition*, M-135, Washington, DC, U.S. Government Printing Office, 1983 p. 66.

[5]*Ibid.* 1982 figures compiled by ACIR staff.

[6]Ibid., p. 67. 1982 figures compiled by ACIR staff.

[7]*Ibid.*, p. 67; ACIR, *Recent Trends in Federal and State Aid to Local Governments*, M-118, Washington, DC, U.S. Government Printing Office, 1980, p. 10. The 1980 figure was estimated on the basis of 1977 data (the latest available).

[8]ACIR, *State Administrators' Opinions on Administrative Change, Federal Aid, Federal Relationships*, M-120, Washington, DC, U.S. Government Printing Office, 1980, Chapter 2.

[9]PL 97-35.

[10]The amounts varied with the methodology used in the calculation. Using a traditional model for computation, the net effect of a dollar of federal aid was the expenditure of $1.12 per capita. Computed under a public employment model, the amount was $2.22. See ACIR, *Federal Grants: Their Effects on State-Local Expenditures, Employment Levels, and Wage Rates*, A-61, Washington, DC, U.S. Government Printing Office, February 1977, p. 65. Computation was by the Maxwell School at Syracuse University.

[11]*Ibid.*, p. 61.

[12]Carl S. Weissert, "State Legislatures and the Appropriation of Federal Funds: An Issue for the 1980s," *Publius: The Journal of Federalism*, Vol. 11, No. 3–4, Summer 1981, p. 70. See, also, Comptroller General of the United States, *Federal Assistance System Should Be Changed to Permit Greater Involvement by State Legislatures* (GGD-81-13), Washington, DC, General Accounting Office, December 15, 1981. These developments are discussed further in *Chapter 4*.

[13]ACIR, M-135, *op. cit.*, p. 69.

[14]ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition*, M-132, Washington, DC, U.S. Government Printing Office, 1981, p. 59.

[15]ACIR, M-123, *op. cit.*, pp. 35, 41, 59.

[16]Testimony of Rep. Elliott Levitas, May 26, 1976, in *Improving Congressional Oversight of Regulatory Agencies*, Hearings before the Committee on Government Operations, U.S. Senate, 94th Congress, 2nd session, pp. 186–87.

[17]"Monthly Regulatory Indices," *Regulatory Eye*, Washington, DC, Vol. IV, No. 1-2, January-February 1982, p. 24.

[18]For a regulatory model of federal grants-in-aid, see George F. Hale and Marian Lief Palley, *The Politics of Federal Grants*, Washington, DC, Congressional Quarterly, Inc., 1981, especially Chapters 2 and 6.

[19]U.S. Office of Management and Budget, *Managing Federal Assistance in the 1980s, Working papers*, Volume I, Washington, DC, U.S. Government Printing Office, 1980, p. A-2-17.

[20]See David R. Beam, "From Law to Rule: Exploring the Maze of Intergovernmental Regulation," *Intergovernmental Perspective*, Vol. 9, No. 2, Spring 1983, p. 10.

[21]Brian Gardner, "Intergovernmental Fiscal Relations and Local Government Policy: A Study of Federal Wastewater Treatment Grants in Maryland," Ph.D. dissertation, University of Maryland, 1980.

[22]ACIR, *The Intergovernmental Grant System As Seen by Local, State, and Federal Officials*, A-54, Washington, DC, U.S. Government Printing Office, 1977, p. 91.

[23]Edith K. Mosher, Anne H. Hastings, and Jennings L. Waggoner, Jr., *Pursuing Equal Educational Opportunity: School Politics and the New Activists*, New York, Clearing House on Urban Education, Teachers College, Columbia University, 1979, p. 21.

[24]Donald W. Burns, "Federal Involvement in Education," in *Government in the Classroom: Dollars and Power in Education*, ed., Mary Frese Williams, New York, The Academy of Political Science, Columbia University, 1978, p. 94.

[25]PL 94-580.

[26]PL 91-596.

[27]PL 95-87.

[28]See, *Criminal Justice Planning in the Governing Process: A Review of Nine States*, Report of a panel of the National Academy of Public Administration, under a grant from the Law Enforcement Assistance Administration, U.S. Department of Justice, February 1979.

[29]42 U.S. Code 704; 42 *Code of Federal Regulations* 51(a), Subpart A.

[30]*Ties That Bind ... HEW National Management Planning Study, 1976*, Seattle, WA, U.S. Department of Health, Education, and Welfare, Region 6, Office of the Regional Director, July 4, 1976, p. 16.

[31]For a discussion of some of the management problems created by federal aid, see Mavis Mann Reeves, "Galloping Intergovernmentalization as a Factor in State Management," *State Government*, Vol. 54, No. 3 (1981), pp. 102-07.

[32]See Daniel J. Elazar, "The States as Polities in the Federal System," *National Civic Review*, New York, NY, Citizens Forum on Self-Government, February 1981, pp. 77-82.

[33]419 U.S. 477.

[34]*Democratic Party of the U.S. v. La Follette*, Docket No. 79-1631, decided February 24, 1981.

[35]P. Bator, P. Mishkin, D. Shapiro and H. Weschler, *The Federal Courts and the Federal System*, 2nd ed., Supp. 1977, as cited in A.E. Dick Howard, "States and the Supreme Court," *Symposium: State and Local Government Issues before the Supreme Court*, reprinted from *Catholic University Law Review*, Vol. 31, Spring 1982, p. 279.

[36]347 U.S. 483.

[37]377 U.S. 533.

[38]410 U.S. 113.

[39]372 U.S. 335.

[40]965 U.S. 2673.

[41]Docket No. 78-1654, preliminary publication (March 31, 1980).

[42]426 U.S. 883.

[43]448 U.S. 1.

[44]EEOC *v. Wyoming*, 103 S. Ct. 1054 (1983).

[45]Russell W. Maddox and Robert F. Fuquay, *State and Local Government*, 3rd ed., New York, D. Van Nostrand Company, 1975, p. 585.

Chapter 3

State Constitutions

IMPORTANCE OF STATE CONSTITUTIONS

The political life of each state takes place within the boundaries established by the federal and state constitutions. These fundamental documents provide the basic rules by which the game of politics is played and according to which governments operate. Their provisions handicap some individuals and interests and offer advantages to others. Since the national Constitution leaves to the states or to the people all powers not denied the states or granted to the national government, either directly or by implication, the state constitutions impose the major legal restraints on state action.

A constitution determines the structure of government in a state to a substantial degree. Here is where the decision is made as to whether the legislature will be bicameral or unicameral, whether judges will be appointed or elected, and what other elective officers there will be. Here is where the basic state and local government structures often are set out and where the powers of government are distributed among levels, branches and agencies according to the prevailing theory as to how they should be divided.

Table 3–1

GENERAL INFORMATION ON STATE CONSTITUTIONS
(As of December 31, 1981)

State or other jurisdiction	Number of constitutions*	Dates of adoption	Effective date of present constitution	Estimated length (number of words)	Number of amendments	
					Submitted to voters	Adopted
Alabama	6	1819, 1861, 1865, 1868, 1875, 1901	Nov. 28, 1901	129,000	582	383
Alaska	1	1956	Jan. 3, 1959	12,880	23	16
Arizona	1	1911	Feb. 14, 1912	28,779(a)	171	102
Arkansas	5	1836, 1861, 1864, 1868, 1874	Oct. 30, 1874	40,469(a)	148	67(b)
California	2	1849, 1879	July 4, 1879	33,000	735	438
Colorado	1	1876	Aug. 1, 1876	39,800	218	101
Connecticut	4	1818(c), 1965	Dec. 30, 1965	7,900	17	16
Delaware	4	1776, 1792, 1831, 1897	June 10, 1897	18,700	(d)	107
Florida	6	1839, 1861, 1865, 1868, 1886, 1968	Jan. 7, 1969	25,000	53	32
Georgia**	9	1777, 1789, 1798, 1861, 1865, 1868, 1877, 945, 1976, 1982	July 1, 1983	25,000	0	0
Hawaii	1(f)	1950	Aug.21, 1959	17,450(a)	79	74
Idaho	1	1889	July 3, 1890	21,323(a)	173	94
Illinois	4	1818, 1848, 1870, 1970	July 1, 1971	13,200	5	2
Indiana	2	1816, 1851	Nov. 1, 1851	10,225(a)	63	34
Iowa	2	1846, 1857	Sept. 3, 1857	12,500	46	43(g)
Kansas	1	1859	Jan. 29, 1861	11,865	107	80(g)
Kentucky	4	1792, 1799, 1850, 1891	Sept. 28, 1891	23,500	53	25
Louisiana	11	1812, 1845, 1852, 1861, 1864, 1868, 1879, 1898, 1913, 1921, 1974	Jan. 1, 1975	35,387(a)	8	8
Maine	1	1819	March 15, 1820	13,500	170	146(h)
Maryland	4	1776, 1851, 1864, 1867	Oct. 5, 1867	40,775	221	189
Massachusetts	1	1780	Oct. 25, 1780	36,612(a,i)	139	115
Michigan	4	1835, 1850, 1908, 1963	Jan. 1, 1964	20,000	34	13
Minnesota	1	1857	May 11, 1858	9,491(a)	197	103
Mississippi	4	1817, 1832, 1869, 1890	Nov. 1, 1890	23,500	117	48
Missouri	4	1820, 1865, 1875, 1945	March 30, 1945	40,134(a)	81	52
Montana	2	1889, 1972	July 1, 1973	11,812(a)	12	7
Nebraska	2	1866, 1875	Oct. 12, 1875	18,802(a)	265	176
Nevada	1	1864	Oct. 31, 1864	19,735	149	94(g)
New Hampshire	2	1776, 1784(k)	June 2, 1784	9,175	173(j)	75(j)
New Jersey	3	1776, 1844, 1947	Jan. 1, 1948	17,086	38	28
New Mexico	1	1911	Jan. 6, 1912	27,066	205	99
New York	4	1777, 1822, 1846, 1894	Jan. 1, 1895	47,000	256	191
North Carolina	3	1776, 1868, 1970	July 1, 1971	10,500	21	19
North Dakota	1	1889	Nov. 2, 1889	30,000	193(k)	110(k)
Ohio	2	1802, 1851	Sept. 1, 1851	36,300	234	140
Oklahoma	1	1907	Nov. 16, 1907	68,500	233(l)	107(l)
Oregon	1	1857	Feb. 14, 1859	25,000	335	169

Table 3–1 (continued)

GENERAL INFORMATION ON STATE CONSTITUTIONS (As of December 31, 1981)

State or other jurisdiction	Number of constitutions*	Dates of adoption	Effective date of present constitution	Estimated length (number of words)	Number of amendments	
					Submitted to voters	Adopted
Pennsylvania	5	1776, 1790, 1838, 1873, 1968(m)	1968	21,675	20(m)	15(m)
Rhode Island	2	1842(c)	May 2, 1843	19,026(a,l)	81	43
South Carolina	7	1776, 1778, 1790, 1861, 1865, 1868, 1895	Jan. 1, 1896	22,500(n)	626(o)	443(o)
South Dakota	1	1889	Nov. 2, 1889	23,250	173	89
Tennessee	3	1796, 1835, 1870	Feb. 23, 1870	15,300	54	31
Texas	5	1845, 1861, 1866, 1869, 1876	Feb. 15, 1876	61,000	391	247
Utah	1	1895	Jan. 4, 1896	17,300	112	64
Vermont	3	1777, 1786, 1793	July 9, 1793	6,600	205	48
Virginia	6	1776, 1830, 1851, 1869, 1902, 1970	July 1, 1971	18,500	14	13
Washington	1	1889	Nov. 11, 1889	29,350	131	73
West Virginia	2	1863, 1872	April 9, 1872	25,550(a)	88	53
Wisconsin	1	1848	May 29, 1848	13,435	159	116(g)
Wyoming	1	1889	July 10, 1890	27,600	84	47

*The constitutions referred to in this table include those Civil War documents customarily listed by the individual states.

**Georgia adopted a new constitution in 1982, effective July 1, 1983.

(a) Actual word count.

(b) Eight of the approved amendments have been superseded and are not printed in the current edition of the constitution. The total adopted does not include five amendments that were invalidated.

(c) Colonial charters with some alterations served as the first constitutions in Connecticut (1638, 1662) and in Rhode Island (1663)

(d) Proposed amendments are not submitted to the voters in Delaware.

(f) As a kingdom and a republic, Hawaii had five constitutions.

(g) The figure given includes amendments approved by the voters and later nullified by the state supreme court in Iowa (three), Kansas (one), Nevada (six) and Wisconsin (two).

(h) The figure does not include on amendment approved by the voters in 1967 that is inoperative until implemented by legislation.

(i) The printed constitution includes many provisions that have been annulled. The length of effective provisions is an estimated 24,122 words (12,490 annulled) in Massachusetts and 11,399 words (7,627 annulled) in Rhode Island.

(j) The constitution of 1784 was extensively revised in 1792. Figures show proposals and adoptions since 1793, when the revised constitution became effective.

(k) The figures do not include submission and approval of the constitution of 1889 itself and of Article XX; these are constitutional questions included in some counts of constitutional amendments and would add two to the figure in each column.

(l) The figures include one amendment submitted to and approved by the voters and subsequently ruled by the supreme court to have been illegally submitted.

(m) Certain sections of the constitution were revised by the limited constitutional convention of 1967–68. Amendments proposed and adopted are since 1968.

(n) Of the estimated length, approximately two-thirds is of general statewide effect; the remainder is local amendments.

(o) Of the 626 proposed amendments submitted to the voters, 130 were of general statewide effect and 496 were local; the voters rejected 83 (12 statewide, 71 local). Of the remaining 543, the General Assembly refused to approve 100 (22 statewide, 78 local) and 443 (96 statewide, 347 local) were finally added to the constitution.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 134–35.

Because constitutions are less easy to change than ordinary legislation in most instances, they settle some controversies on a more or less permanent basis.[1] Thus, they provide a certain degree of orderliness and stability to state government. Constant dispute over executive authority, civil rights or taxing power would make government inoperable. Although placement of these provisions in a constitution does not mean that they can never be changed, alteration is more difficult, both because of stricter requirements for constitutional amendment and because of the widely held feeling that constitutional provisions are more permanent and should not be tampered with in haste.

ESSENTIAL ELEMENTS OF STATE CONSTITUTIONS

Although they differ widely in their substantive provisions, the 50 state constitutions set out the basic framework of state government. They prescribe the essential structure of government—a structure that invariably includes a governor, a legislature and a court system. They distribute powers among the executive, legislative and judicial branches, as well, often stating specifically that the three branches "shall be separate and distinct." As in the federal Constitution, each branch is given some means of protecting itself against infringement by the others: for the governor, the veto (except in North Carolina), authority to convene special legislative sessions, and in some states, power to appoint judges; for the legislature, authorization to impeach judges and executive officers, power to approve gubernatorial appointments and final budgetary determination; and for the courts, judicial review of the actions of the other branches.

Constitutions also set out qualifications for office holding and for participating in the electoral process. (It should be noted that suffrage qualifications, long a state prerogative, have been substantially nationalized by amendments to the federal Constitution and Congressional legislation.) In addition, each state charter sets out a bill of rights restraining governmental interference with the liberties of individuals. these normally parallel the provisions of the federal bill of rights, although, frequently, other rights—such as prohibition against discrimination on the basis of sex and restrictions on wire tapping—may be included. Finally, most of the constitutions stipulate some method of change.

DEVELOPMENT OF STATE CONSTITUTIONS TO THE MID-20th CENTURY

Americans are devoted to written constitutions. In addition to the reverence with which they view the federal document, they have written 146 constitutions for the states and literally thousands of city charters. *Table* 3–1 reflects the number of constitutions for each state and territory.

These documents have their roots in European and, particularly, British ideas and events. Beginning with the Magna Carta in which King John promised his barons that in the future he would not infringe upon their "customary privileges, franchises and liberties," rights of Englishmen developed that the colonists carried with them when they settled the new world. The British subsequently rejected the idea of a written constitution; nevertheless, at the time their American colonies were settled the English promoted the concept of a written document by granting brief colonial charters to trading companies establishing settlements. Later more elaborate documents were issued for the colonies.

With the coming of Independence, the new states began replacing their colonial charters, a difficult process without precedent, which was completed by 1780. The new documents were drafted by the state legislatures or revolutionary conventions but were not submitted to popular vote except in Massachusetts. New Hampshire employed the popular referendum process when it replaced its original document with one subject to referendum in 1784. Earlier, in 1638–39, the colonists in Connecticut had drafted what was probably the first popularly drawn constitution—the Fundamental Orders of Connecticut. Nevertheless, the actions of Massachusetts and New Hampshire inaugurated the practice of calling special elections to choose delegates to a constitutional convention and popular ratification of constitutions later used by other states[3] and adopted by the Philadelphia Convention in 1787 for ratification of the United States Con-

stitution. Thus it was the states that established the model of constitution drafting long before the federal document was written.[4]

IN THE BEGINNING... STRONG LEGISLATURES

The constitutions of the new states were similar in their ideas of government, despite the fact that at least two—Connecticut and Rhode Island—were simply modifications of the colonial charters of those states. References to the king were changed and bills of rights added, but, in general, the documents were brief, rarely exceeding 5,000 words, and did not provide fully for all aspects of government.

Most of the new documents expressly stated that all governmental powers were derived from the people, although they made popular exercise of it difficult by requiring religious and property ownership qualifications for voting and office holding. Each provided for three branches of government and either implied or specifically expressed a doctrine of separation of powers. Again, they impeded implementation of the expressed intent by establishing legislative supremacy.

The framers' distrust of the executive was not surprising given their experience during the colonial period. The colonial governors, as representatives of the crown, had the responsibility for enforcing royal orders and acts of parliament. Rightly or wrongly, they came to personify oppression to the colonists. Consequently, when the initial constitutions were written, every effort was made to limit executive power to do wrong. This was carried to such an extreme that the new state governors had little authority to do anything at all. In most instances the governors were chosen by the legislatures for one-year terms and all but one—the governor of Massachusetts—was denied the veto power. Moreover, governors often were allowed to perform executive duties only in conjunction with an executive council that the legislature appointed. The legislatures chose the judges as well.

State legislatures, in contrast, were held in high esteem by the constitution makers. During the colonial period it had been the representative bodies that protested official British actions. Moreover, the Continental Congress had organized and supported the colonial military effort in the Revolutionary War. It is not surprising, then, that those responsible for allocating powers of government gave broader powers to the legislature than to the other branches. Legislative authority was so strong that, even after it had been whittled away for decades, Lord Bryce could write in *The American Commonwealth:*

> The legislature ... is so much the strongest force in the several states that we may almost call it the government and ignore all other authorities.

The inclusion of a provision for separation of powers in the new state constitutions was an expression of faith in an idea that did not materialize in general practice. The legislature was supreme.

DECLINE IN LEGISLATIVE AUTHORITY: 1800–28

One of the major trends in state government during the 19th century was the reduction in powers of state legislatures. Very early the concentration of power in this branch came under attack. Thomas Jefferson, in commenting on legislative strength in the first Constitution of Virginia, noted that "173 despots would surely be as oppressive as one."

The legislatures proved to be ineffective rather than despotic, however. In the first quarter of the 19th century, the legislation they enacted concentrated on parochial concerns and laws to benefit private interests rather than on defining policies that served the state as a whole. Not surprisingly, legislatures were ineffective as administrators, also. Nevertheless, their committees exercised a substantial portion of what administrative authority was necessary. Confidence in them declined, resulting in constitutional amendments to strengthen the executive and judicial branches of government and to increase popular control by elimination of property qualifications for voting.

The office of governor gained vitality at the expense of the legislature as states began to provide for popular election of governors instead of legislative selection and to lengthen their terms from one to two or four years. They also acquired the power to veto acts of the legislature. Gubernatorial power to manage state

affairs remained weak, nonetheless. The legislature retained the power to appoint other state administrative officials such as the secretary of state, attorney general and treasurer, although the governor could, by now, request written reports from them.

Along with being ineffective, legislatures of the period occasionally were forerunners of later malpractices. Consequently, constitutions adopted by the newer states just entering the Union in the early 1800s circumscribed the power of the legislatures in attempts to prevent particularly appalling misuses of legislative authority, such as the Yazoo land frauds of Georgia and irresponsibility in the issuance of banking charters in some states.[5] The new documents generally prohibited the chartering of any bank other than a state bank, limited legislative authority to enact special legislation granting divorces, and imposed restraints on the solons' power to increase salaries of public officials by setting out salaries in the constitutions.[6]

Legislative omnipotence declined in relation to the judiciary as well since the courts began to assert more freely the right of judicial review of legislative acts. While this practice was not new, having been exercised in some states prior to *Marbury v. Madison* (1803), it became more widely practiced.

THE JACKSONIAN LEGACY: FRAGMENTED, IMPOTENT GOVERNMENTS

The egalitarian influences of the frontier brought a wave of change to state constitutions in the decades prior to the Civil War. Andrew Jackson's image as a fighter for popular interests enhanced the view of the chief executive. Governors came to be regarded as champions of the people against aristocratically controlled legislatures. The movement toward strengthening the executive gained momentum and constitutions were changed to lengthen gubernatorial terms to four years, increase the difficulty of impeachment by raising the number of votes required for impeachment, and award governors greater pardoning and appointment powers.

At the same time, executive control over administration continued to be limited by pressures for increased rotation in office of administrative officials and by popular election of more officials at the state level. By 1860, the average state elected a lieutenant governor, secretary of state, attorney general and treasurer. In addition, some states elected a board of public works, a superintendent of public instruction or an auditor. According to Allan R. Richards, Oregon elected a state printer, California a surveyor general, and New York 12 minor executive officers.[7] Thus began the trend toward fragmentation of the executive.

Legislatures continued to decline in power and prestige. Part of the popular discontent with them reflected the lack of equitable apportionment of seats, particularly in the hinterland, despite constitutional requirements for reapportionment. Legislatures received a substantial portion of the blame, as well, for failure to provide adequate internal improvements, repudiation of state debt, and the panic of 1837. Consequently, attempts to mitigate the problems were directed toward limiting legislative power.

Failing to recognize the distinction between the fundamental statements of a constitution intended to establish basic principles and statutory laws used to deal with changing situations, those involved in revising constitutions during this period wrote into these documents detailed language that would have been more suitable for statutes. Included were limitations on the amount of state and local government debt and clauses outlining the purposes and methods of borrowing. Often exact dollar figures were used. Ceilings on the tax rate along with the earmarking of funds for special purposes, usually education, frequently accompanied these provisions. In addition, legislatures were restricted in the exercise of their traditional practices of chartering corporations, granting divorces, and establishing lotteries by special acts. Limitations were placed on their authority to create banks, as well.[8]

Responsible for the addition of constitutional detail were the following:

- growing and more urbanized population;
- industrialization; technological developments;
- assumption of more and increasingly complex functions by the states;
- growth in the number of elective officials; and

- the adoption of the initiative and referendum in some states.

Each interest that prevailed in its quest to have its particular policy approved sought to have its made part of the constitution in order to protect it from counter efforts at repeal. Much of the new verbiage was of a statutory and nonfundamental nature.

Constitutional provisions relating to legslative procedure placed additional limits on the activities of these bodies. Although terms were increased from one to two years for the state houses of representatives and to four for the senates, biennial sessions replaced annual meetings in many instances. Furthermore, when Minnesota came into the Union, its new constitution initiated the practice of limiting sessions of the legislature to 60 days. In line with an old Kentucky saying, "The legislature meets 60 days every two years. I wish it met two days every 60 years," constraints of this kind still exist in many state constitutions, reflecting the belief that the less the legislature meets the less mischief it can do.

As the social and economic make-up of the country changed, the scope of constitutional restrictions grew and contitutional detail increased. The results were longer constitutions, transfer of determination of some issues from the legislature to the courts as they more frequently engaged in judicial review of legislative acts, and an expanded necessity for further constitutional amendment as provisions of the fundamental documents became more explicit.

The pre-Civil War era saw changes in regard to constitutional amendment processes as well as in content. A number of states required that the question of calling a constitutional convention be submitted to popular vote at frequent intervals. Moreover, popular referenda on constitutions became common. Seven of the nine states entering the Union between 1828 and 1860 stipulated popular approval of constitutions in their fundamental documents. Older states accomplished the same purpose by statute.

THE CIVIL WAR AND ITS AFTERMATH

The Civil War and Reconstruction period saw substantial changes in state constitutions, much of it quite rapid. During the decade of 1860 alone, 27 constitutions, mostly in the south, were revised. Five southern states—Alabama, Arkansas, Florida, Georgia and Louisiana—adopted three constitutions each during this decade, a reflection of the unsettled conditions of the times. This period witnessed the most fervent constitutional activity in the history of the Republic. See *Graph 3–1*.

The constitutions adopted during the latter half of the century tended to be longer than those of an earlier era, principally because more and more restrictions were imposed on legislatures. Esteem for these bodies continued to decline, sparked by actions of the southern Reconstruction legislatures that were composed of newly freed blacks and carpetbaggers, many of whom had never seen the state until after the war, the complaints of populists in the west, and the financial bonanzas allowed railroads in some states. At least one constitution drafted during the period, that of West Virginia, contained a prohibition against salaried officers of railroads serving in the legislature.

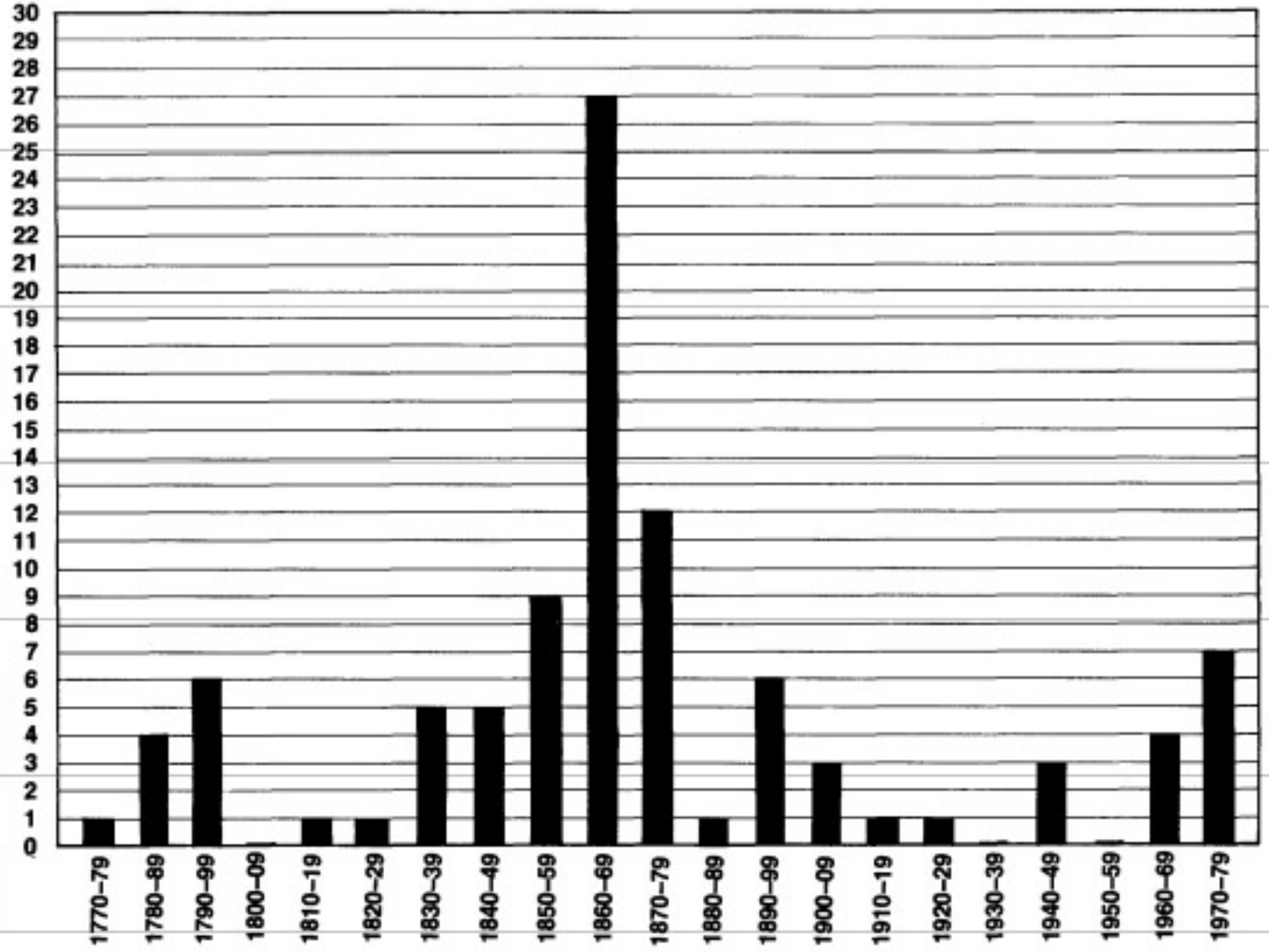
At the same time, gubernatorial powers increased with the addition of the item veto permitting the rejection of one section of a bill and approval of the remainder. The governor still had little executive power, nevertheless. Legislative committees attempted to manage many of the affairs of the states although not always successfully. Instead of making the governor responsible for administering the regulatory programs adopted during this time, the legislature often opted to vest that authority in commissions it chose or in ones elected by the people. Consequently, the governor was unable to control the administration and there grew up a collection of multiple-headed agencies competing with him for authority. Bossism developed as well—a development made easier by the fragmentation of executive authority—and corruption ran rampant in some states.

THE ERA OF POLITICAL REFORM: 1900–20

The turn of the century brought with it efforts to reform the political system. Energized by the muckrakers who wrote at this time, citizens began to seek means of curtailing bossism and improving government operations. The principle focus of the reform movement was on the political process. This era saw the adoption of the mandatory direct primary to replace the

Graph 3–1

NUMBER OF STATE CONSTITUTIONAL REVISIONS BY DECADE, 1776–79*



*Does not include adopting of original constitution.
SOURCE: Compiled from *Table 3–1*. Hawaii was added to the decade of the 1970s because of extensive revisions to its 1950 constitution.

convention nomination of candidates at the state level. In addition, the nonpartisan primary, corrupt practices acts, campaign spending regulations, and restrictions on corporation contributions were added in many states.

Some states preceded the federal government in extending the suffrage to women and, although Negro voting in the states of the old Confederacy was prevented by other means, legal universal suffrage was in effect. Popular control of government was extended further by constitutional provision for the initiative, referendum and recall. The initiative was used in many states to amend antiquated constitutions although it was not permitted in all states. In general, it was confined to western states.

At the same time that moves to adopt the initiative, referendum and recall were lengthening the ballot, a counter move by those trying to strengthen the hand of the governor was working to shorten it. The short ballot movement sought to eliminate the host of elected administrative officials that had been added to the ballot and that fragmented the executive authority. The theory was that the governor could be a more effective manager if he could control the entire administration. As a consequence of this movement, the constitutional addition of elective officials slowed although the legislature continued to create by statute numerous boards and commissions outside gubernatorial control. Consequently, governors continued to be weak.

Lethargy settled over the states with the coming of the 20th century as far as constitutional revision was concerned. In the 60 years between 1900 and 1960, only eight new constitutions were adopted, although about one-fourth of the states held conventions. The period between 1910 and 1940 was particularly unproductive with only one state adopting a revised constitution: Louisiana rewrote its constitution twice. Such changes as were made in existing documents came in the form of constitutional amendments. In the use of piecemeal change, the states were not slackers. In the first two decades of the century, approximately 1,500 constitutional amendments were proposed and 900 adopted.[10]

THE STATES ASLEEP: 1920–55

By 1920 many states operated under the handicap of out-of-date, restrictive constitutions that impaired their ability to meet the crisis imposed by the Great Depression of the 1930s. The constitutional emphasis was on restricting state action rather than on facilitating problem solution. When constitutional deficiencies were coupled with unrepresentative state legislatures, weak governors and financial distress, the states lost public confidence and were ripe for legislative and administrative reform. Nevertheless, during the near quarter of a century from 1921 to 1945, no state adopted a new constitution; however, Virginia (1928) and New York (1938) did make extensive revisions.[11] What governmental changes there were—and President Taft's Economy and Efficiency Commission, appointed in 1910, stimulated extensive activity in the realm of state executive reorganization—took place through statutory action rather than through constitutional revision. Georgia and Missouri finally broke the seeming impasse with new constitutions in 1945, followed by New Jersey in 1947.

CRITICISMS OF STATE CONSTITUTIONS AT MID-CENTURY

States arrived at mid-century with criticism of their constitutions swirling around them. Their fundamental documents were denounced for: (1) their length and detail and the statutory nature of some of their provisions; (2) the fact that they were outmoded; (3) their lack of clarity; (4) the trivia they included; and (5) their difficult amending processes. More important to effective government were criticisms about the inadequate governmental structure they provided and the "shackles" they placed on various government entities, impeding efforts to deal with the state and local problems. Some documents, in addition, were poorly organized, ungrammatical and contained spelling errors and misnumbered sections. They often needed tidying up in many little ways.

PROFUSE DETAIL AND EXCESSIVE LENGTH

Louisiana's Constitution of 1921, replaced in 1974 by a shorter document, long furnished the primary example of wordiness and excessive detail. Containing 253,000 words, it ran 27

times as long as the federal document.[12] The Alabama Constitution, with its estimated 123,900 words, is next longest, although until 1983 it ranked behind Georgia's massive 1976 document.[12] The latter contained approximately 583,500 words, if one included provisions that were not applicable statewide. Without them the printed document included an estimated 48,000 words and Georgia dropped behind Oklahoma and Texas in verbosity. See *Table 3–1*. Georgia's 1983 Constitution is less than half the size of the 1976 charter.

This wordiness reflects the elaborate detail in which many of the constitutions still deal with various subjects, although, in general, the most emphasis centers on finance, highway systems and local governments. Oklahoma, for example, has 14 pages on the division of the state into counties and a description of their boundaries (Art. XVII), and Maryland sets out the structure of the government of Baltimore City in its constitution and devotes an entire article to off-street parking in that jurisdiction (Art. XIC). A few additional examples illustrate the extent to which framers went in specifying some matters. The South Carolina Constitution limits local debt and then employs 14 pages to list exceptions to the limit (Art. VIII, Sec. 7). It also includes 12 pages of exceptions to revenue raising provisions (Art. X, Sec. 5).[3]

The all-time championship for detail probably belongs to Louisiana's now-replaced Constitution of 1921 that included several thousand words on the one-cent-per-gallon tax on nonmotor fuels, although Oklahoma's current document goes so far as to establish the flash point for kerosene oil designed for illuminating purposes at 115° and establishes the specific gravity test for such oil as 40° Baume (Art. XX, Sec. 2).

Such detail not only necessitates more frequent amendment—a process that usually increases the length—it also provides an advantage for those who want to block government action by preventing legislation from taking effect. Even though a legislative proposal may have been approved by a majority of the voters, those opposing it can usually find some small procedural detail that can be used to get the courts to invalidate it and prevent it from becoming operational. At least its effect will be delayed. In elaborating on this point, Duane Lockard illustrates one possible consequence of an excess of detail with the following account:

> In Louisiana, a few years after that state had by various means got out from under the direct rulership of the Huey Long political machine, a governor instituted a move to reorganize the executive branch to improve its efficiency. Since the state constitution provided in great detail for the creation of, and the interrelationships between the various major agencies of the executive, it was necessary to resort to a constitutional amendment in order to make the change. The governor had to battle powerful opposition to get approval of the amendment, but finally it was approved both by the legislature and in a popular referendum, and accordingly he recast the state's administrative structure. Immediately the validity of an action of an administrator was challenged in a taxpayer's suit, claiming that the constitutional amendment was itself invalid, even though duly passed by the people, because it had dealt with more than one subject and because the legislature had not specified precisely at which election the amendment would be submitted to the voters. In a federal court such a suit would be thrown out for want of proper standing to bring such suit, but state courts do entertain such suits and the Louisiana courts found no fault with this one. Indeed, they blithely invalidated the amendment on the grounds that it had covered more than one subject (and how could it do otherwise if its objective was to reorganize scattered administrative agencies?), and because of the unclarity about which election the legislature intended for the referendum. This sounds like a very close and proper reading of the constitution, something the court might say that it felt itself obligated to do in view of the explicitness of its language. The trouble is that the supreme court went on to say that the margin in favor of the amendment had only been 6,667 votes. If the court's argument is in fact

> constitutional, then the size of the majority is utter (sic) irrelevant. If the court is making a frankly political decision, then the meager margin is of some significance.[14]

David Fellman summarized the objections to excessive detail as follows:

> Excessive constitutional detail is bad for many reasons. It solidifies the entrenchment of vested interests. It makes temporary matters permanent. It deprives state legislatures and local governments of desirable flexibility and diminishes their sense of responsibility. It encourages the search for methods of evading constitutional provisions and thus tends to debase our sense of constitutional morality. It makes frequent recourse to the amending processes inevitable. It hinders action in time of special stress or emergency. It stands in the way of healthy progress. It blurs the distinction between constitutional and statute law, to the detriment of both. It creates badly written instruments full of obsolete, repetitious, misleading provisions. Above all, it confuses the public, and in fact makes it certain that few will ever bother to read the state constitution. This is extremely unfortunate, since one of the main purposes of a constitution is to educate the public in first principles. How can the people be expected to respect a constitution they never read, and which may in fact be altogether unreadable?[15]

Much of the time those who write into constitutions provisions that should more properly be left to statute are simply trying to prevent abuses or to protect a cherished arrangement—such as a merit system, low taxes or frequent rotation in office—from being repealed. Other times, perhaps, they may regard themselves as possessed with more wisdom than they think future state leaders are likely to have. A member of the Illinois Constitutional Convention of 1870 is reported to have chided his fellow delegates in the following manner:

> It is assumed that when we depart from this hall all the virtue and all the wisdom of the state will have departed with us. We have assumed that we alone are honest enough to determine for the people the ordinary, and in many instances even the most trivial, questions affecting the public welfare; as if the mass of people of the State of Illinois were not as competent hereafter to select others that are honest and capable as they were to select us.[16]

Constitutional scholar John P. Wheeler, Jr., warns that placing a wealth of constraints into a state constitution in an attempt to prevent irresponsibility by anticipating every exercise of it is self-defeating. He states the argument succinctly:

> The notion is still too widely accepted that the only insurance against irresponsible government is constitutional restraint; that, for example, the only defense against a legislature spending a state into bankruptcy is a constitutional restriction on the power to appropriate. This approach has consistently proved self-defeating for it has prevented states from meeting the needs of a dynamic society. It is better to give power to the organs of government and then seek means to keep public officials honest and responsible than seek to deny them power. The constitution is a poor place to seek complete insurance against irresponsible government.[17]

OUTMODED PROVISIONS

Numerous examples of outmoded constitutional provisions dot state constitutions. While usually harmless in themselves, a few could deny the ordinary rights of citizenship. Others make government operations difficult. Among the examples of outmoded, needless sections are those contained in several constitutions limiting the suffrage to male citizens, a measure in violation of the 20th Amendment to the federal document, and to 21-year-olds, a violation of the 26th Amendment.

Other provisions that speak of a bygone age can be found as well. For example, the Texas constitution bars "outlawry" or transportation

out of the state for any offense committed in Texas (Art. I, Sec. 20), and Kentucky prohibits dueling (Sec. 239). Hereditary privilege is banned constitutionally in West Virginia (Art. III, Sec. 19) and in Oregon, which also prohibits titles of nobility (Art. I, Sec. 29).

More important are constitutional requirements that impose outmoded procedures and practices on current governmental operations. For example, constitutions may allow the governor only five days to consider legislation enacted by the legislature.[18] At a time when government was simple, this may have been a reasonable expectation of gubernatorial diligence; however, in a period when the legislature may send to the executive at the end of the session several hundred bills, some of which involve technical matters such as nuclear waste disposal or run to 40 or 50 pages, it imposes an impossible burden on the governor. The result may be an arrangement for the legislature to delay presentation of bills in order to extend the time period—a move that circumvents constitutional intent.

CONSTITUTIONAL TRIVIA

Some provisions are so trivial that they should never have been included in state constitutions in the first place. One wonders what was in the minds of delegates to constitutional conventions in some states when they chose to include in their basic documents a requirement for "stock feeding" to be taught in the public schools of Oklahoma (Art. XIII, Sec. 7) and authorization of a twine and cordage plant at the state penitentiary in South Dakota (Art. XI, Sec. 1). Such measures lengthen constitutions needlessly and detract from the dignity of the documents.

MEANINGLESS AND CONTRADICTORY CLAUSES

State constitutions contain clauses that mean nothing. Provisions such as Pennsylvania's stipulation that "the sessions of each House and of committees of the whole shall be open, unless when the business is such as ought to be kept secret" (Art. II, Sec. 13) defy interpretation.

Other constitutions contain contradictory phrases. The South Carolina Constitution specifies in one place that the general assembly "shall make no law respecting an establishment of religion or prohibiting the free exercise thereof" (Art. I, Sec. 2) and in another says that "no person who denies the existence of a Supreme Being shall hold any office under this constitution" (Art. XVII, Sec. 4).

DIFFICULT AMENDING PROCESSES

Few would argue that constitutions should be as easy to change as statutes. Nevertheless, a few states have imposed amending processes that seriously hinder the prospects of change. For example, Tennessee's amending provision requires approval twice by a majority of all members *elected* to the legislature (and a 2/3 vote the second time) and then submission to referendum where it must be approved by a majority equal to, or greater than a majority of those voting for governor (Art. XI, Sec. 3). Thus, a person who votes in the gubernatorial election but not in the referendum is, in effect, casting a vote against the amendment. As a consequence of this stringent procedure, not one amendment was adopted between 1870, when the constitution became effective, and 1953—a period of 83 years.[19] While other states have less restrictive procedures, some do make change difficult. A few limit the number of amendments that can be placed on the ballot at any one election and some require passage at two successive legislative sessions.

INADEQUATE GOVERNMENT STRUCTURE

Among the strongest criticisms directed at state constitutions are those concerning the inadequate government structures that they provide. While those trying to upgrade state government do not agree completely as to what constitutes an adequate governmental framework, there is substantial consensus that many state constitutions, especially those adopted late in the last century, create enfeebled institutions and then hobble their operations. One leading scholar points to the following deficiencies of state constitutions in this respect:

- ☐ a cumbersome, unrepresentative legislature, inadequately staffed to perform the lawmaking function intelligently, with excessively restricted powers, often unresponsive to public needs, espe-

cially in urban areas, and subject to manipulation by selfish interests;

- a distintegrated and enfeebled executive with power widely dispersed and responsibility divided among a large number of elective officials on all levels, and an administrative structure of great complexity featured by duplication, overlapping, inefficiency and waste;
- a diffused, complicated and largely uncoordinated judiciary, often lacking independence, with judges selected on a political basis and frequently without professional qualifications on the lower levels;
- rigid restrictions on local government that seriously impede home rule.[20]

An ACIR publication points out:

> Inflexible provisions in state constitutions have weakened both the legislative and executive functions. As a result, neither the legislature nor the governor is able to assert the full strength and potential of state government in dealings with federal and local officials and agencies.[21]

These sentiments are echoed by the prestigious Committee on Economic Development when, in speaking of the priority of constitutional revisions for modernizing state government, it says:

> ... stress should be placed on repealing limitations that prevent constructive legislative and executive action, on clarifying the roles and relationships of the three branches of government, on permitting thorough modernization of local government in both rural and urban areas and on eliminating matters more appropriate for legislative and executive action.[22]

HOGTIED GOVERNMENT

Although the verbosity of state constitutions and the trivia and outmoded materials included in them create confusion and sometimes disadvantage individuals, and the amendment process may be cumbersome in some states, the greatest shortcoming of lengthy state constitutions lies in the hobbles placed on state and local governments. Long lists of "thou shalt nots" in fundamental documents have, in the past, left state and/or local governments with few options, limiting their ability to respond to public needs. In James W. Fesler's words:

> Unfortunately, most of the constitutions reflect 19th century distrust of state governments generally and distrust of each branch particularly. The result was an excess of democracy, expressed in withholding of powers from the legislature, mincemeating of the executive and politicalization of the judiciary. Hogtied, drawn and quartered, many a state government was no government at all. The kingdom was but the sum of its numerous petty and often unpretty principalities. With such a heritage, state governments today find it hard to do the kind of job that will restore public confidence. Even where there's a will, there may be no way.[23]

Such restraints make change difficult and often result in circumvention. Ernest Bartley points up efforts by states to overcome strict prohibitions on state debt as a significant area of subterfuge.[24] Forbidden by constitutional language to "borrow," many states have issued revenue bonds rather than pledging their own credit to secure necessary funds. These instruments are then repaid by earnings of the program or project rather than from taxes. The result is higher interest rates.

Another example lies in legislative effort to get around the constitutional limits on length of legislative sessions. For years, many routinely set back the clock in the legislative chamber at midnight on the designated day of adjournment so that additional time could be had for the last minute rush of business. Some may still follow this practice.

Constitutional restrictions have other effects as well. They help to destroy the confidence of citizens in a government that "can't act," and they encourage citizens to look to Washington rather than to their state and local governments for solutions to their problems. The latter point is emphasized in a statement from an ACIR publication:

> Restrictive provisions in state constitutions which were designed originally to protect citizens against powerful government have often kept states from becoming fully effective partners in the American federal system. The effect of many of these provisions has been to prevent states from discharging their responsibilities in a responsive and expeditious fashion, thereby requiring a more dominant role for the national government than would have been the case under conditions of adequate state performance.[25]

The restrictions in regard to finance and local government are particularly onerous. The former often result in higher government costs. As Wheeler says:

> ... too often the cost of financing legitimate needs is increased by continuing restrictive constitutional provisions. At the same time that the financing of private automobiles, homes and television sets is being simplified, the financing of public services continues to follow complex and outmoded procedures. A constitutional framework must be provided to permit the development of sound fiscal policies and to facilitate the financing of needed programs.[26]

Constitutional provisions relating to local governments often impair their effectiveness and impede modernization. Constitutional provisions requiring the election of the sheriff, for example, may retard the development of professional police forces. Ceilings on taxes and debt inhibit local ability to deal with local problems, and detailed prescriptions of boundaries and functions can make consolidation and intergovernmental cooperation difficult at best.

In an era when greater representativeness in state legislatures and local governing bodies has been assured by *Baker v. Carr* (1962)[27] and subsequent U.S. Supreme Court decisions relating to apportionment and when governments are expected to engage in more activities, the inclusion of numerous restraints and encumbering minutiae in fundamental documents often does more harm than good. Most important, in Wheeler's words, they often "hamstring majority rule" and "may very well establish rule by entrenched minorities."[28]

RECENT REVISION EFFORTS, 1955–82

THE MOVE FOR REVISION

Georgia and New Jersey stood alone as precursors of overall constitutional revision when, in 1955, the Commission on Intergovernmental Relations, better known as the Kestnbaum Commission for its chairman, Meyer Kestnbaum, reported to the President that:

> ... many state constitutions restrict the scope, effectiveness and adaptability of state and local action. These self-imposed constitutional limitations make it difficult for many states to perform all of the services their citizens require, and consequently have frequently been the underlying cause of state and municipal pleas for federal assistance. ...
>
> The Commission believes that most states would benefit from a fundamental review and revision of their constitutions to make sure that they provide for vigorous and responsible government, not forbid it.[29]

This recommendation from a commission established to recommend the "return" of certain functions of state governments attracted nationwide attention and lent impetus to efforts already underway for revision of state constitutions.

The Kestnbaum Commission was only one of many voices urging reform of state fundamental charters. For example, the National Municipal League designed its first *Model State Constitution* in 1921, and continued its advocacy of revision through research publications and by offering assistance to those concerned. The American Assembly, meeting at Columbia University in 1955, recommended that:

> ... those states which have not already done so, should take steps to secure a modernized, short, basic state constitution; further, that in every state citizens be given the right to call constitu-

tional conventions at periodic intervals.[30]

The Committee on Economic Development, the National Governors' Conference, the Council of State Governments, the Public Administration Service of Chicago, state Leagues of Women voters, other citizens' groups, and numerous individual governors and other leaders added their voices to the clamor for constitutional modernization. Terry Sanford, former governor of North Carolina, writing in 1967, recommended in his influential book, *Storm Over the States*, that:

> State constitutions, for so long the drag anchors of state progress, and permanent cloaks for the protection of special interests and points of view, should be revised or rewritten into more concise statements of principle.[31]

Interest in constitutional revision in this period did not arise overnight, nor was it primarily the outcome of the Kestnbaum recommendations. It resulted from a convergence of forces from many different directions and culminated years of effort to achieve reform.

Revision was compelled to some degree by the U.S. Supreme Court's decisions on reapportionment in the early 1960s. The "one man, one vote" requirements established by the Court necessitated state constitutional change. As Elmer E. Cornwell, Jr., Jay S. Goodman, and Wayne R. Swanson pointed out:

> The Supreme Court's decisions concerning reapportionment opened the floodgates for wholesale constitutional reform in the 1960s. The Court's pronouncements not only called attention to one major deficiency in state constitutions but resulted in the election of a new breed of legislators who were not as tied as their predecessors to the interests that were protected by the existing constitutions. The new legislators were free to experiment with wholesale constitutional change.[32]

In Hawaii, for example, a federal judge ordered the question of calling a constitutional convention placed on the ballot in 1965, after ruling that apportionment of that state's senate was invalid. The voters approved the call in 1966, and Hawaii's relatively new constitution was revised extensively.[33]

State courts added to the pressure as well. The New Jersey Supreme Court, for example, is credited with precipitating the New Jersey Constitutional Convention of 1966.[34] In other states, court involvement was less direct.

Another consequence of the court requirements of reapportionment, in the opinion of a long-time advocate of state government reform, John Bebout, was the removal of some of the resistance to constitutional change on the part of those who had opposed revision in the past for fear it would lead to alteration in existing legislative apportionment.[35] With reapportionment mandated, other changes appeared less threatening.

It became increasingly apparent to leaders and thoughtful citizens throughout the country that states were not equipped to deal with the problems created by rapid urbanization, population growth and shifts, technological development, rising minority pressures for equal treatment, and an increasingly demanding society. The limits of the federal government's ability to deal with all these developments were recognized at the same time that the capacity of the states to assume their share of the problem was questioned. Furthermore, earlier publicity surrounding the drafting of constitutions for the new states of Alaska and Hawaii stimulated some states to act.

EXTENT OF REVISION EFFORTS

In the quarter of a century since the Kestnbaum Commission pointed up the weaknesses of state constitutions, there has been almost frenzied activity in the realm of state constitutional revision. While the number of states adopting revised constitutions did not reach the peak of the 1770s or 1860s, Sturm wrote in 1977 that there had been "official action to modernize constitutions in more than four-fifths of the states since mid-century."[36] Since 1955, a total of ten states, excluding Alaska still operating under its original document of 1956, have adopted new, revised constitutions. These are: Connecticut (1965), Florida (1968), Georgia (1976 and 1983), Illinois (1970), Louisiana (1974), Michigan (1963), Montana (1972), North Carolina (1970), Pennsylvania (1968), and Virginia (1970). Hawaii's Constitu-

Table 3–2

SUBSTANTIVE CHANGES IN STATE CONSTITUTIONS PROPOSED 1970–71, 1972–73, 1974–75,

Subject Matter	Total Proposed						Total Adopted					
Proposals of Statewide Applicability	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81
Bill of Rights	300	389	253	283	295	254	176	275	171	189	200	160
Suffrage and Elections	13	26	9	10	17	13	11	22	6	6	15	10
Legislative Branch	39	34	23	17	12	5	23	24	20	14	9	5
Executive Branch	42	46	40	40	37	43	19	25	27	18	25	21
Judicial Branch	27	36	34	32	16	21	22	25	20	23	12	10
Local Government	17	35	20	34	25	23	11	26	18	32	19	17
Taxation and Finance	21	30	13	7	27	11	15	23	12	3	13	4
State and Local Debt	50	85	49	56	68	77	29	56	33	41	39	52
State Functions	25	24	18	36	19	20	10	15	6	20	9	13
Amendment and Revision	46	40	23	42	31	23	26	36	16	25	24	16
general Revision Proposals	13	19	8	2	11	9	7	12	7	1	10	7
Miscellaneous Proposals	7	2	12	1	1	1	3	1	3	1	1	0
Local Amendments	*	12	4	6	31	8	*	10	3	5	25	5
	103	141	99	116	100	134	48	93	85	91	77	112

*Not compiled for 1970–71.
SOURCE: *Book of the States, 1972–73* and *1982–83*, Lexington, KY, Council of State Governments, 1972 and 1982, p. 6 and p. 126, respectively.

tion can be considered significantly revised since it adopted 34 amendments proposed by convention in 1978. In addition, New Hampshire completed the process of considering 27 amendments submitted in a series beginning in 1974 and culminating in 1980.[37] Since the 1976 Georgia revision was largely editorial, voters adopted a new document in 1982, effective in 1983.[38] These figures do not reflect all of the efforts at constitutional reform. While in some states efforts to convene conventions were unsuccessful, most states had constitutional commissions at work during the period, and conventions were held in a large number of states. The work of conventions in Arkansas, Florida, Maryland, New Jersey, New York, New Mexico, North Dakota, Rhode Island and Virginia was rejected at the polls and efforts of contitutional commissions sometimes came to naught. Diligence was freqently rewarded, nonetheless, as portions of the rejected documents were submitted piecemeal by the legislature and adopted. These frequently revised entire articles and contained major reforms. For example, reformed judicial structures in the states sometimes were the result of articles excerpted from documents the voters refused to ratify in toto.

SUBSTANCE OF CONSTITUTIONAL CHANGES

Data on the substantive changes in state constitutions during the period from 1970–71 through 1980–81 are reflected in *Table 3–2*. Of the 1,774 changes of statewide applicability proposed and the 1,171 adopted during the period, more concerned taxation and finance than any other substantive area. A total of 275 amendments were related to income and expenditures. The next largest concern was with the state legislature with 157 proposals approved for alterations in this branch. Least likely to be considered were general revision proposals, and changes relating to amendment and revision. All in all, the table reflects a nationwide dissatisfaction with state constitutions as they existed in 1970 and pronounced efforts to change them, efforts that were successful in most instances.

The developments in these areas during the 1970s can be summarized as follows:[39]

Bills of Rights: Added protection for individuals against discrimination (racial, and in some instances, sexual) was in-

AND ADOPTED 1976–77, 1978–79, 1980–81

Percentage Adopted I0000					
1970 –71	1972 –73	1974 –75	1976 –77	1978 –79	1980 –81
58.2%	70.7%	67.6%	66.8%	67.8%	63.0%
84.6	84.6	66.7	60.0	88.2	76.9
59.0	70.6	86.9	82.4	75.0	100.0
45.2	54.3	67.5	45.0	67.6	48.8
81.5	69.4	58.8	71.9	75.0	47.6
64.7	74.3	90.0	94.1	76.0	73.9
71.4	76.7	92.3	42.9	48.1	36.4
58.0	65.9	67.3	73.2	57.4	67.5
40.0	62.5	33.3	55.6	47.4	65.0
56.5	90.0	69.6	59.5	77.4	69.6
53.8	63.1	87.5	50.0	90.9	77.8
42.9	50.0	25.0	.0	.0	0
*	83.3	75.0	83.3	80.6	62.5
46.6	65.9	85.9	78.4	77.0	83.6

cluded in practically all new or revised documents and a few added prohibitions against wire tapping and protections for privacy.

Suffrage and Elections: Proposals to conform state law to federal requirements were adopted. Liberalization of voting and office-holding requirements continued. Provisions were made for lower residency requirements, reduction of the age of majority to 18, and the officeholding age to 21, and for legislative determination of residency and registration requirements for voting. In addition, stipulations for bipartisan state boards of election were included. Amendments requiring disclosure of election campaign expenditures and for legislative establishment of campaign spending and contribution limits were included in a few stats as were measures providing for public financing of political campaigns.

Legislative Branch: Changes here were extensive: annual session, open session and committee meetings, apportionment by bipartisan commission, single-member district election for members, increases in terms from two to four years for the more popular house, staggered terms for senators, additional session to consider vetoed measures, legislative compensation commissions, and authorization for the legislature to convene itself in a special session. A total of 14 stats instituted annual session during the last ten years.

Executive Branch: In general, the changes reinforced an integrated executive branch. They included joint election of the governor and lieutenant governor, provision for appointment rather than election of many previously elective state administrative officers, change of dates for election of state officials to non-presidential years, a two-consecutive term limit for the governor, gubernatorial authority to reorganize state agencies subject to legislative veto, limitation of the number of executive departments, reduction in age qualification for the governor and lieutenant governor from 30 to 25, procedures for determining gubernatorial disability, amendatory

veto power for the governor, and elimination of the pocket veto.

The Judiciary: More than three-fourths of the states moved to a unified court system and others modified the methods of choosing judges in attempts to ensure merit selection. Some states required screening of candidates for the judiciary. Four-fifths established bodies to investigate, review, acquit, censor, or remove judges when necessary.

Local Government: Most provisions related to home rule for both municipalities and counties, reorganized local government, intergovernmental cooperation and consolidation. Some provisions modernized local government structure and liberalized powers.

Finance and Taxation: Financial proposals always rank high in state concern, and their position in constitutional amendments is no exception. Included during the 1970s were taxing limitations, such as California's Proposition 13, restrictions on debt, authorization for special bonding arrangements, changes in school financing, and tax relief for certain categories of citizens such as the elderly, the handicapped, and veterans.

Governmental Functions: Amendments during the 1970s concerned equalization of educational opportunity, lotteries, gambling, the death penalty, housing, and environmental protection, among other subjects.

Constitutional Revision: Revisions or amendments provided for periodic submission of the question of calling a constitutional convention to the voters, removal of limits on the number of amendments submitted to the voters at any one election, authorization of the constitutional initiative, and a decrease in the size of the majority required for adopting amendments.

CRITERIA FOR AN EFFECTIVE STATE CONSTITUTION

The criticisms directed at state constitutions at mid-century, some of which apply today in some states, suggest the existence of a model against which present documents might be measured. Because each state has its individual political culture, "strictly speaking, there can be no such thing as a 'model state constitution,' "[40] to use the words from the introduction to the National Municipal League's *Model State Constitution*. Variations in fundamental documents throughout the country reflect this. Nevertheless, there are some generally accepted principles that have been developed as a result of what has and has not worked in the past. Prominent among them are those advanced by the National Municipal League, which has been preparing and publishing model state constitutions since 1921. Drafted by committees of practitioners and scholars, these principles serve as guidelines for constitution drafters and reflect basic elements of effective constitutions.

In general, state constitutions are best when they are brief and written in simple, clear language, when they include provisions of lasting duration rather than those transitory in nature, and when they are unencumbered by restraints on the state government that are unlikely to be needed. Each, also, should provide for adjustment to emerging conditions by orderly change through amendment and revision.

Specific suggestions, often reflecting the concerns of ACIR and the National Municipal League, as well as the governors, were set out

in the 1967 Report to the National Governors' Conference (now Association (NGA)) by its Study Committee on Constitutional Revision and Government Reorganization. As stated in the report, these are:

1. The state constitution should express only fundamental law and principle and omit procedural details except, of course, for procedural provisions in the bill of rights.
2. Outmoded, obsolete detail should be removed from the constitution, and material relating to a common subject should be placed in the same article.
3. The legislature should be permitted to meet in annual sessions of unlimited length.
4. More authority, fiscal and otherwise, should be granted to local governments, in order to allow governors and legislatures to concentrate on state problems.
5. One of the most challenging areas of constitution reforms is the fiscal article, which is often a jungle of lengthy and tangled provisions and restrictions; this article should have high priority in revision, and the legislature should be allowed the widest possible range of tax and appropriation alternatives.
6. The amendment process should be liberalized to allow legislatures to submit more amendments of greater scope and with more frequency; submission of whole articles dealing with the same subject which would permit more rapid constitutional improvement.
7. Revision of the executive, legislative, and judicial articles should be on the basis of a "whole article" rather than a piecemeal approach.
8. There should be provision, in addition to legislative option, for placing before the voters at stated intervals the question of whether a constitutional convention shall be called; voters should also have the power, through the initiative process, to call a convention and propose amendments.
9. A constitutional commission composed of persons representing the public as well as the government is the best instrument for studying and recommending provisions under (1) and (2) above.[41]

These principles can be used as one yardstick for measuring the progress states have made in revising their constitutions to provide for more effective government.

REVISION OUTCOMES

Has all the revision activity of the past quarter century followed these precepts? Do states have significantly improved constitutions as a result of the revision and amendment processes?

An exact assessment is impossible to make. The sheer volume of amendments precludes a careful comparison with the material they replaced. Moreover, differing political cultures and circumstances among the states may make an advance in one setting a regression in another. In addition, the results are mixed. While some states undoubtedly have more workable documents, changes in others added further shackles.

Nevertheless, in general, present day constitutions conform more closely to the general principles of brevity, simplicity, basic provisions, lack of encumbering restraints, and a reasonable process for amendment or revision as well as to the more explicit standards of the National Governors' Association set out above. An examination of the alterations in terms of the latter clarifies the picture.

1. The state constitution should express only fundamental law and principle and omit procedural details except, of course, for procedural provisions in the bill of rights.

The states still have a long way to go in devesting state constitutions of procedural details. Yet, some progress has been made, particularly in the revised constitutions. Six out of ten of these have substantially fewer words. More than 200,000 words were deleted in the Louisiana revision alone and more than 25,000 in the 1983 Georgia document. On the other hand, the unrevised documents tend to be longer and more detailed than they were in 1969, as a result of continuing amendment over

Table 3–3

COMPARISON OF STATE CONSTITUTIONS BY LENGTH 1969 and 1981

	Effective Date of Present Constitution	Shorter (−) Longer (+) About same (0)	Estimated Length (number of words)		Number of Amendments	
			1969	1981	1969	1981
Alabama	1901	+	95,000	129,000	284	383
Alaska	1959	+	12,000	12,880	2	16
Arizona	1912	+	24,500	28,779(a)	65	102
Arkansas	1874	−	45,900	40,469(a)	60	67(b, d)
California	1879	−	62,000	33,000	227	438
Colorado	1876	+	32,800	39,800	45	101
Connecticut	1965	−	7,960	7,900	0	16
Delaware	1897	−	20,000	18,700	48	107
Florida	1969	−	39,000	25,000	152	32
Georgia	1983	−	47,500	25,000(c)	654	0
Hawaii	1959	+	15,000	17,450(a)	28	74
Idaho	1890	+	14,000	21,323(a)	81	94
Illinois	1971	−	21,700	13,200	14	2
Indiana	1851	−	10,400	10,225(a)	22	34
Iowa	1857	+	11,300	12,500	29	43(d)
Kansas	1861	+	8,500	11,865	56	80(d)
Kentucky	1891	+	21,500	23,500	18	25
Louisiana	1974	−	253,800	35,387(a)	530	8
Maine	1819	+	12,950	13,500	110	146(f)
Maryland	1867	+	40,368	40,775	125	189
Massachusetts	1780	+	17,200	36,612(a,e)	91	115
Michigan	1964	+	19,510	20,000	3	13
Minnesota	1858	−	15,065	9,491(a)	92	103
Mississippi	1890	+	22,268	23,500	44	48
Missouri	1945	+	30,951	40,134(a)	22	52
Montana	1973	−	22,000	11,812(a)	37	7
Nebraska	1875	−	19,000	18,802(a)	125	176
Nevada	1864	+	17,000	19,735	78	94(d)
New Hampshire	1784	−	12,200	9,175	60	75
New Jersey	1948	+	15,000	17,086	12	28
New Mexico	1912	+	24,000	27,066	73	99
New York	1895	−	50,000	47,000	168	191

Table 3–3 (continued)

COMPARISON OF STATE CONSTITUTIONS BY LENGTH 1969 and 1981

	Effective Date of Present Constitution	Shorter (−) Longer(+) About same (0)	Estimated Length (number of words)		Number of Amendments	
			1969	1981	1969	1981
North Carolina	1971	−	19,375	10,500	69	19
North Dakota	1889	+	20,000	30,000	90	110(g)
Ohio	1851	+	32,400	36,300	57	140
Oklahoma	1907	+	63,170	68,500	79	107(d)
Oregon	1859	+	23,400	25,000	132	169
Pennsylvania	1968	+	13,750	21,675	84	15(h)
Rhode Island	1843	+	16,000	19,026(a, e)	30	43
South Carolina	1896	−	33,000	22,500(i)	330	443(j)
South Dakota	1889	−	25,000	23,250	75	89
Tennessee	1870	+	11,500	15,300	18	31
Texas	1876	+	46,000	61,000	191	247
Utah	1896	−	20,600	17,300	65	64
Vermont	1793	+	5,000	6,600	44	48
Virginia	1971	−	35,000	18,500	35	13
Washington	1889	−	30,000	29,350	54	73
West Virginia	1872	+	22,600	25,550(a)	39	53
Wisconsin	1848	+	11,000	13,435	99	116(d)
Wyoming	1890	+	15,600	27,600	32	47

(a) Actual word count.
(b) Eight of the approved amendments have been superseded and are not printed in the current edition of the document.
(c) Georgia adopted a new constitution in 1982, of approximately 25,000 words.
(d) Includes amendments approved by voters and later nullified by the courts: Arkansas—5; Iowa—3; Kansas—1; Nevada—6; Oklahoma—1; and Wisconsin—2.
(e) The printed constitution includes many provisions that have been annulled. The length of effective provisions is: in Massachusetts, estimated 21,555 words (12,445 annulled); in Rhode Island, 11,399 words (7,627 annulled).
(f) The figure does not include one amendment adopted in 1967 and inoperative until implemented by legislation.
(g) These figures do not include the adoption of the constitution of 1889, and of Article 20. These are constitutional questions included in some counts.
(h) Amendments adopted since 1968 when the constitution was revised.
(i) Of the estimated length, approximately two-thirds are of general statewide effect; the remaining are local amendments.
(j) Ninety-six amendments apply statewide, 347 are local.

SOURCE: Prepared from the *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982.

Table 3–4

STATE CONSTITUTIONAL CHANGES BY METHOD OF INITIATION 1970–71 through 1980–81

Method of Initiation	Number of States Involved						Total Proposals					
	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81
All methods	48	47	48	42	43	46	403	530	352	399	395	388
Legislative Proposal	47	46	47	42	40	46	392	497	332	369	319	362
Constitutional Initiative	4	7	7	8	10	11	5	16	13	18	17	18
Constitutional Convention	2	4	2	1	3	2	6	17	7	12	51	8
Constitutional Commission	—	—	—	—	1	—	—	—	—	—	8	—

	Total Adopted						Percentage Adopted					
	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81	1970–71	1972–73	1974–75	1976–77	1978–79	1980–81
All methods	224	368	256	280	277	272	55.6%	69.4%	72.7%	70.2%	70.1%	70.1%
Legislative Proposal	222	356	244	273	223	265	56.6	71.6	73.5	74.0	69.9	73.2
Constitutional Initiative	1	3	8	3	6	5	20.0	18.8	61.5	16.7	35.2	27.8
Constitutional Convention	1	9	4	4	48	2	16.7	52.9	57.1	33.3	94.1	25.0
Constitutional Commission	—	—	—	—	0	—	—	—	—	—	0	—

SOURCE: *Book of the States, 1976–77* and *1982–83*, Lexington, KY, Council of State Governments, 1976 and 1982, p. 163 and p. 118, respectively.

the decade. More than half of them are longer. States are making an effort, nonetheless. Eleven states with older constitutions managed to eliminate considerable detail by piecemeal amendment. All of these trends are reflected in *Table 3–3*.

2. Outmoded, obsolete detail should be removed from the constitution, and material relating to a common subject should be placed in the same article.

Many outmoded details fell by the wayside in the new constitutions adopted since 1955, and approval of new or revised documents provided an opportunity for incorporating all material previously scattered through numerous amendments into unified articles. Both Georgia and North Carolina edited and rearranged their entire documents. Often editing is a prelude to article by article revision such as that undertaken by Georgia. Georgia's article by article revision was unsuccessful and the state subsequently set about to revise the entire document for 1982 ratification, which was successful.

Examination of the older charters reveals improvements as well. For example, a staff report of the California Joint Interim Committee on Constitutional Revision, prepared in 1947–48, is reported to have listed 81 provisions of that state's constitution as obsolete.[42] Many of these were removed in the early 1970s. Included were prohibitions against slavery (Art. I, Sec. 18), sections dealing with emergency relief administration in the 1930 Depression (Art. XVI, Sec. 10), San Francisco's powers in regard to the 1915 World Fair (Art. XI, Sec. 8a), and the assessment of property damaged by the earthquake of 1933 (Art. XIII, Sec. 8a), among others.

In addition, several states deleted references to male suffrage that are contrary to the 19th Amendment to the federal constitution as well as reducing the age for voting from 21 to 18 to conform to the 26th Amendment. Moreover, such provisions as West Virginia's prohibition against salaried officers of railroads serving in the legislature fell victim to revision as did New York's reference to feudal land tenures. New Hampshire removed an authorization for towns to support "protestant teachers of piety, religion and morality," which spoke to another age as did the deleted Oklahoma section defining races of people. Tennessee dropped its prohibition against interracial marriage and

other states eliminated sections relating to slavery, dueling and other anachronisms. A check of obsolete provisions cited by David Fellman in a study published in 1960[43] revealed that, by 1980, states had pared many of them out of their constitutions.

3. **The legislature should be permitted to meet in annual sessions of unlimited length.**

Progress has been marked in regard to state legislatures. A total of 36 states allow annual sessions. Of these, 14 instituted annual sessions during the last ten years. Furthermore, 28 legislatures can call themselves into special session.[44] In some instances, the length of legislative sessions has increased, but, for the most part, state legislatures are still limited to a specified number of days. Overall, they have more control over their meetings and are spending more time in session than was previously the case. Legislatures will be discussed in detail in *Chapter 4*.

4. **More authority, fiscal and otherwise, should be granted to local governments to allow governors and legislatures to concentrate on state problems.**

State performance in regard to this recommendation is mixed. Although in recent actions states generally have loosened the apron strings attached to local units—especially counties—in terms of home rule and general authority, they have tightened financial controls. Forty-one states now have constitutional home rule for at least some classes of cities and 28 states give similar authority to counties.[45] In addition, there has been greater devolution of powers, that is, the authority to exercise all powers not denied them. The 1978 Iowa constitutional amendment granting home rule authority to cities did so by the devolution of powers approach.[46]

Tax limitation fervor accompanying the 1978 adoption of California's popularly initiated Proposition 13, which severely restricted local taxes, led to stricter state control over local spending in a number of states. In 1978 alone, constitutional propositions relating to local tax or spending limitations were on the November ballot in seven states and were adopted in four. As of June 1981, all but seven states had some kind of a taxing or spending limit on local governments and some had more than one.[47] Some of these antedated Proposition 13. Imposition of financial limitations will be discussed in greater detail later.

5. **One of the most challenging areas of constitutional reform is the fiscal article, which is often a jungle of lengthy and tangled provisions and restrictions; this article should have high priority in revision and the legislature should be allowed the widest possible range of tax and appropriation alternatives.**

No one can say that states neglected fiscal matters when amending their constitutions in recent years. A glance at *Table 3–2* will confirm that more constitutional amendments during the 1970s related to taxation and finance than to any other subject. On the average, the states enacted about four amendments apiece concerning fiscal matters during the decade. Authorizations for a state income tax provided more options for the legislature in securing revenues, but the existence of this new alternative was offset in eight states by limits placed on taxes or spending.

States made progress in regard to NGA criteria 6, 7, 8, and 9, all of which relate to the revision and amending process. Before discussing state actions in this respect, an examination of the various procedures for formally altering state constitutions will be presented in order to clarify the criteria and the actions taken.

PROCEDURES FOR FORMAL CONSTITUTIONAL CHANGE

Two steps ordinarily are involved in altering a constitution: initiation and ratification. There are four basic methods of initiating constitutional amendments, although the details vary among the states. Change through legislative proposal and popular initiative usually relates to individual amendments, while constitutional conventions and constitutional commissions are likely to be used for complete revision. The ratification process is more standard. In all states except Delaware, proposed alterations must be submitted to popular vote and usually are adopted when a majority of those voting on the amendment approves. In Delaware, the constitution may be changed by a two-thirds vote of those elected to the legislature in two successive sessions. *Table 3–4*

portrays the use of the various methods during the 1970s.

LEGISLATIVE PROPOSAL

Legislative proposal is the most common form of initiating individual amendments, being authorized in all states. It is also the most frequently used. The details of the process vary from state to state, but most state constitutions reflect the belief that constitutions are superior to statutory law by requiring majorities larger than that needed for passage of statutory legislation or by stipulating that the proposal must be approved by two successive sessions of the legislature. Thirty states provide that the proposal receive a 60% vote in the legislature and 15 states provide for approval by two successive sessions of the legislature before submission to popular vote. *Table* 3–5 sets out the state provisions for this type of proposal.

Legislative initiation most often is employed for limited constitutional changes. Nevertheless, states have used this method to revise their constitutions extensively. Those with the power to bring about change in a state's fundamental charter often opt for the legislative proposal device for reasons of cost, political considerations or because they can control the process better when this method is used. While change is easier to accomplish through this technique than through complete revision, the result is sometimes a hodge-podge of provisions that do not necessarily complement each other.

In regard to submission of individual amendments, the National Governors' Association recommended that:

> **The amendment process should be liberalized to allow legislatures to submit more amendments of greater scope and with more frequency; submission of whole articles dealing with the same subject which would permit more rapid constitutional improvement.**

Procedures for legislative submission of amendments have been liberalized in recent years. Montana eliminated its constitutional limitations on the number of amendments that could be submitted at any one election and Kentucky raised its ceiling from two to four. By 1981, only four states—Illinois, Arkansas, Kansas and Kentucky—placed limits on the number that could be placed on the ballot in any one year. Moreover, Vermont reduced the intervals for submission of amendments from ten to four years and West Virginia allowed referenda on amendments at special elections. In a slight modification, Illinois lowered the legislative vote required for proposal from two-thirds to three-fifths. Nationwide, since 1966, constitutional revision by all means has been made easier in 28 states.

Except in the few states, such as Tennessee, where the amending process is fraught with unusual difficulty, the restrictiveness of the amending process does not seem to determine the frequency with which constitutions have been amended. *Table* 3–1 reflects the number by states.

As of December 31, 1981, the states had adopted a total of 4,741 amendments to their constitutions. South Carolina has the dubious distinction of having the most (443), followed by California (438), Alabama (383), Texas (247), New York (191), Maryland (189), Nebraska (176) and Oregon (169). All these states, except Nebraska, have constitutions well above the medium in length. At the other end of the scale are Illinois with two, Montana (7), Louisiana (8), Virginia (13), Michigan (13), Pennsylvania (15) and Connecticut (16). All of these are states with relatively brief documents. The constitutions with the fewest amendments are new, all having been ratified since 1963, while those with the most amendments are older—but far from the oldest—approved between 1857 and 1901. Constitution making and revision appears to be a major pasttime in many states, particularly Georgia, which has had ten constitutions.

The National Governors' Association also recommended that:

> **Revision of the executive, legislative and judicial articles should be on the basis of a "whole article" rather than on a piecemeal approach.**

This recommendation resulted from difficulties with amending articles of constitution that limited each amendment to one existing section or subject. In states where a legislative or executive article had been amended before, aggregation of the entire verbiage relating to that branch was impossible.

Performance here is mixed, although states have made efforts to revise entire articles and some succeeded. Whole-article revision has most often been used to improve the judiciary article since the adoption of unified court systems usually involved major changes. With most states reforming their judiciaries in the last 20 years, states get good marks on this aspect of entire article revision. Several states also adopted new executive articles. For the most part, however, amendments to legislative and executive articles affected only parts of them.

POPULAR INITIATIVE

Proposal of constitutional amendments by popular initiative is not as widely used as submission by the legislature of constitutional convention. Only 17 states allow its use and one of these, Illinois, limits it to constitutional provisions relating to the legislature. Moreover, in Massachusetts the initiative measure must be approved at two sessions of the legislature by not less than one-fourth of all elected members sitting in joint session. *Table 3–6* sets out provisions for use of the initiative.

In most states using this device, the proposed amendment must be accompanied by a petition containing a specified number of signatures. Requirements usually range between 4% and 15% of the voters in the last election for governor, although in North Dakota, a number of signatures equal to 4% of the state's population is required. In some states there is a distribution requirement, specifying that a certain percentage of the signatures must be from each, or a number of, counties or congressional districts. Ratification ordinarily requires a majority vote on the amendment, but in a few instances higher figures are required or approval must occur at two successive general elections.

Amendments proposed by the popular initiative do not enjoy the same degree of success at the polls as those put forward by other techniques. During the period from 1970–71 through 1980–81, fewer than one-third (29.8%) of the initiative proposals were ratified, compared to more than two-thirds of the legislative proposals (69.7%), and more than half (57.4%) of those submitted by conventions.[48]

CONSTITUTIONAL CONVENTIONS

Most extensive constitutional revision occurs by the convention method with a popularly elected convention drafting a document and submitting it for ratification. Sometimes, however, a constitutional commission is appointed either to do the initial work or to prepare a document for popular vote. The commission and convention may be used in combination with the commission working in advance of the convention and presenting suggested revisions to it. Although constitutions in nine states do not provide specifically for conventions, courts generally have deemed this an inherent power of the people. *Table 3–7* shows state procedures for calling constitutional conventions.

The convention process brings into play a host of political actors and complicated maneuverings because an unlimited convention can propose alterations to every aspect of state and local government. Tremendous effort and a correspondingly high degree of political power are required to achieve a new document.

The convention process in most states involves, first, the submission to the voters of the question of calling a constitutional convention. In this connection, the National Governors' Association recommended:

> **There should be provision, in addition to legislative option, for placing before the voters at stated intervals the question of whether a constitutional convention shall be called; voters should also have the power, through the initiative process, to call a convention and propose amendments.**

As *Table 3–7* indicates, 14 states have constitutional requirements for placing the issue on the ballot at specified intervals, ranging from nine to 20 years. In other instances, the legislature on its own may call a convention. At the present time, no state constitution includes a provision permitting voters, through popular initiative, to have the question of calling a convention placed on the ballot.

Should the voters approve the convention call, the legislature must then enact enabling legislation providing for the election of delegates, specifying the time, place and financing of the convention, and generally defining the terms and scope of the meeting. Except in Dela-

Table 3–5

CONSTITUTIONAL AMENDMENT PROCEDURE: BY THE LEGISLATURE, 1981

State or Other Jurisdiction	Constitutional Provision: Legislative Vote Required for Proposal(a)	Constitutional Provision: Consideration by two Sessions Required	Vote required for Ratification	Limitation on the Number of Amendments Submitted at One Election
Alabama	3/5	No	Majority vote on amendment	None
Alaska	2/3	No	Majority vote on amendment	None
Arizona	Majority	No	Majority vote on amendment	None
Arkansas	Majority	No	Majority vote on amendment	3
California	2/3	No	Majority vote on amendment	None
Colorado	2/3	No	Majority vote on amendment	None(b)
Connecticut	(c	(c)	Majority vote on amendment	None
Delaware	2/3	Yes	Not required	No referendum
Florida	3/5	No	Majority vote on amendment	None
Georgia	2/3	No	Majority vote on amendment	None
Hawaii	(d)	(d)	Majority vote on amendment(e)	None
Idaho	2/3	No	Majority vote on amendment	None
Illinois	3/5	No	(f)	3 articles
Indiana	Majority	Yes	Majority vote on amendment	None
Iowa	Majority	Yes	Majority vote on amendment	None
Kansas	2/3	No	Majority vote on amendment	5
Kentucky	3/5	No	Majority vote on amendment	4
Louisiana	2/3	No	Majority vote on amendment(g)	None
Maine	2/3(h)	No	Majority vote on amendment	None
Maryland	3/5	No	Majority vote on amendment	None
Massachusetts	Majority(i)	Yes	Majority vote on amendment	None
Michigan	2/3	No	Majority vote on amendment	None
Minnesota	Majority	No	Majority vote in election	None
Mississippi	2/3(j)	No	Majority vote on amendment	None
Missouri	Majority	No	Majority vote on amendment	None
Montana	2/3(h)	No	Majority vote on amendment	None
Nebraska	3/5	No	Majority vote on amendment(e)	None
Nevada	Majority	yes	Majority vote on amendment	None
New Hampshire	3/5	No	2/3 vote on amendment	None
New Jersey	(k)	(k)	Majority vote on amendment	None(l)

New Mexico	Majority(m)	No	Majority vote on amendment(m)	None
New York	Majority	Yes	Majority vote on amendment	None
North Carolina	3/5	No	Majority vote on amendment	None
North Dakota	Majority	No	Majority vote on amendment	None
Ohio	3/5	No	Majority vote on amendment	None
Oklahoma	Majority	No	Majority vote on amendment	None
Oregon	(n)	No	Majority vote on amendment	None
Pennsylvania	Majority(o)	Yes(o)	Majority vote on amendment	None
Rhode Island	Majority	No	Majority vote on amendment	None
South Carolina	2/3(p)	Yes(p)	Majority vote on amendment	None
South Dakota	Majority	No	Majority vote on amendment	None
Tennessee	(q)	Yes(q)	Majority vote in election(r)	None
Texas	2/3	No	Majority vote on amendment	None
Utah	2/3	No	Majority vote on amendment	None
Vermont	(s)	Yes	Majority vote on amendment	None
Virginia	Majority	Yes	Majority vote on amendment	None
Washington	2/3	No	Majority vote on amendment	None
West Virginia	2/3	No	Majority vote on amendment	None
Wisconsin	Majority	Yes	Majority vote on amendment	None
Wyoming	2/3	No	Majority vote in election	None

(a) In all states not otherwise noted, the figure shown in the column refers to the proportion of elected members in each house required for approval of proposed constitutional amendments.
(b) Legislature may not propose amendments at the same session to more than six articles in Colorado.
(c) Three-fourths vote in each house at one session, or majority vote in each house in two sessions between which an election has intervened.
(d) Two-thirds vote in each house at one session, or majority vote in each house in two sessions.
(e) Majority on amendment must be at least 50 percent of the total votes cast at the election; or, at a special election, a majority of the votes tallied which must be at least 30 percent of the total number of registered voters.
(f) Majority voting in election or three-fifths voting on amendment.
(g) If five or fewer political subdivisions of state affected, majority in state as a whole and also in affected subdivision(s) is required.
(h) Two-thirds of both houses.
(i) Majority of members elected sitting in joint session.
(j) The two-thirds must include not less than a majority elected to each house.
(k) Three-fifths of all members of each house at one session, or majority of all members of each house for two successive sessions.
(l) If a proposed amendment is not approved at the election when submitted, neither the same amendment nor one which would make substantually the same change for the constitution may be again submitted to the people before the third general election thereafter.
(m) Amendments concerning certain elective franchise and education matters require three-fourths vote of members elected and approval by three-fourths of electors voting in state and two-thirds of those voting in each county.
(n) Majority to amend constitution, two-thirds to revise (revise includes all or a part of the constitution).
(o) Emergency amendments may be pased by two-thirds vote of each house, followed by ratification by majority vote of electors in election held at least one month after legislative approval.
(p) Two-thirds of members of each house, first passage; majority of members of each house after popular ratification.
(q) Majority of members elected to both houses, first passage; two-thirds of members elected to both houses, second passage.
(r) Majority of all citizens voting for governor.
(s) Two-thirds vote senate, majority vote house, first passage; majority both houses, second passage. As of 1974, amendments may be submitted only every four years.
(t) Within 30 days after voter approval, governor must submit amendment(s) to Secretary of the Interior for approval.
(u) If approved by two-thirds of members of each house, amendment(s) submitted to voters at special referendum; if approved by not less than three-fourths of total members of each house, referendum may be held at next general election.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 136.

Table 3–6

CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE, 1981

Constitutional Provisions

State	Number of Signatures Required on Initiative Petition	Distribution of Signatures	Referendum Vote
Arizona	15% of total votes cast for all candidates for governor at last election.	None specified	Majority vote on amendment.
Arkansas	10% of voters for governor at last election.	Must include 5% of voters for governor in each of 15 counties.	Majority vote on amendment.
California	8% of total voters for all candidates for governor at last election.	None specified.	Majority vote on amendment.
Colorado	5% of legal voters for secretary of state at last election.	None specified.	Majority vote on amendment.
Florida	8% of total votes cast in the state in the last election for presidential electors.	8% of total votes cast in each of 1/2 of the congressional districts.	Majority vote on amendment.
Illinois(a)	8% of total votes cast for candidates for governor at last election.	None specified.	Majority voting in election or 3/5 voting on amendment.
Massachusetts(b)	3% of total votes cast for governor at preceding biennial state election (not less than 25,000 qualified voters).	No more than 1/4 from any one county.	Majority vote on amendment which must be 30% of total ballots cast at election.
Michigan	10% of total voters for governor at last election.	None specified.	Majority vote on amendment.
Missouri	8% of legal voters for all candidates for governor at last election.	The 8% must be in each of 2/3 of the congressional districts in the state.	Majority vote on amendment.

(a) Only Article IV, The Legislature, may be amended by initiative petition.
(b) Before being submitted to the electorate for ratification, initiative measures must be approved at two sessions of a successively elected legislature by not less than one-fourth of all members elected, sitting in joint session.

Table 3–6 (continued)

CONSTITUTIONAL AMENDMENT PROCEDURE: BY INITIATIVE, 1981

Constitutional Provision

State	Number of Signatures Required on Initiative Petition	Distribution of Signatures	Referendum Vote
Montana	10% of qualified electors, the number of qualified electors to be determined by number of votes cast for governor in preceding general election.	The 10% to include at least 10% of qualified electors in each of 2/5 of the legislative districts.	Majority vote on amendment.
Nebraska	10% of total votes for governor at last election.	The 10% must include 5% in each of 2/5 of the counties.	Majority vote on amendment which must be at least 35% of total vote at the election.
Nevada	10% of voters who voted in entire state in last general election.	10% of total voters who voted in each of 75% of the counties.	Majority vote on amendment in two consecutive general elections.
North Dakota	4% of population of the state.	None specified.	Majority vote on amendment.
Ohio	10% of total number of electors who voted for governor in last election.	At least 5% of qualified electors in each of 1/2 of counties in the state.	Majority vote on amendment.
Oklahoma	15% of legal voters for state office receiving highest number of voters at last general state election.	None specified.	Majority vote on amendment.
Oregon	8% of total votes for all candidates for governor elected for 4-year term at last election.	None specified.	Majority vote on amendment.
South Dakota	10% of total votes for governor in last election.	None specified.	Majority vote on amendment.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 137.

Table 3–7

PROCEDURES FOR CALLING CONSTITUTIONAL CONVENTIONS, 1981
Constitutional Provisions

State or Other Jurisdiction	Provision for Convention	Legislative Vote for Submission of Convention Question(a)	Popular Vote to Authorize Convention	Periodic Submission of Convention Question Required(b)	Popular Vote Required for Ratification of Convention Proposals
Alabama	Yes	Majority	ME	No	Not specified
Alaska	Yes	No provision(c,d)	(c)	10 yrs.(c)	Not specified(c)
Arizona	Yes	Majority	(e)	No	MP
Arkansas	No	...	...	No	...
California	Yes	2/3	MP	No	MP
Colorado	Yes	2/3	MP	No	ME
Connecticut	Yes	2/3	MP	20 yrs.(f)	MP
Delaware	Yes	2/3	MP	No	No provision
Florida	Yes	(g)	MP	No	Not specified
Georgia	Yes	(d)	None	No	MP
Hawaii	Yes	Not specified	MP	9 years	MP(h)
Idaho	Yes	2/3	MP	No	Not specified
Illinois	Yes	3/5	(i)	20 years	MP
Indiana	No	...	...	No	...
Iowa	Yes	Majority	MP	10 yrs.; 1970	MP
Kansas	Yes	2/3	MP	No	MP
Kentucky	Yes	Majority(j)	MP(k)	No	No provision
Louisiana	Yes	(d)	None	No	MP
Maine	Yes	(d)	None	No	No provision
Maryland	Yes	Majority	ME	20 yrs.; 1970	MP
Massachusetts	No	...	...	No	...
Michigan	Yes	Majority	MP	16 yrs.; 1978	MP
Minnesota	Yes	2/3	ME	No	3/5 on P
Mississippi	No	...	...	No	...
Missouri	Yes	Majority	MP	20 yrs.; 1962	Not specified (l)
Montana	Yes(m)	2/3(n)	MP	20 years	MP
Nebraska	Yes	3/5	MP(o)	No	MP
Nevada	Yes	2/3	ME	No	No provision
New Hampshire	Yes	Majority	MP	10 years	2/3 on P
New Jersey	No	...	...	No	...
New Mexico	Yes	2/3	MP	No	Not specified
New York	Yes	Majority	MP	20 yrs.; 1957	MP
North Carolina	Yes	2/3	MP	No	MP
North Dakota	No	...	...	No	...
Ohio	Yes	2/3	MP	20 yrs.; 1932	MP
Oklahoma	Yes	Majority	(e)	20 years	MP
Oregon	Yes	Majority	(e)	No	No provision
Pennsylvania	No	...	...	No	...
Rhode Island	Yes	Majority	MP	10 years	MP
South Carolina	Yes	(d)	ME	No	No provision

Table 3–7 (continued)

PROCEDURES FOR CALLING CONSTITUTIONAL CONVENTIONS, 1981
Constitutional Provisions

State or Other Jurisdiction	Provision for Convention	Legislative Vote for Submission of Convention Question(a)	Popular Vote to Authorize Convention	Periodic Submission of Convention Question Required(b)	Popular Vote Required for Ratification of Convention Proposals
South Dakota	Yes	(d)	(d)	No	MP(p)
Tennessee	Yes(q)	Majority	MP	No	MP
Texas	No	...	...	No	...
Utah	Yes	2/3	ME	No	ME
Vermont	No	...	...	No	...
Virginia	Yes	(d)	None	No	MP
Washington	Yes	2/3	ME	No	Not specified
West Virginia	Yes	Majority	MP	No	Not specified
Wisconsin	Yes	Majority	MP	No	No provision
Wyoming	Yes	2/3	ME	No	Not specified

Key:
MP—Majority voting on the proposal.
ME—Majority voting in the election.

(a) In all states not otherwise noted, the entries in this column refer to the proportion of members elected to each house required to submit to the electorate the question of calling a constitutional convention.
(b) The number listed is the interval between required submissions on the question of calling a constitutional convention; where given, the date is that of the first required submission of the convention question.
(c) Unless provided otherwise by law, convention calls are to conform as nearly as possible to the act calling the 1955 convention, which provided for a legislative vote of a majority of members elected to each house and ratification by a majority vote on the proposals. The legislature may call a constitutional convention at any time.
(d) In these states, the legislature may call a convention without submitting the question to the people. The legislative vote required is two-thirds of the members elected to each house in Georgia, Louisiana, South Carolina and Virginia; two-thirds concurrent vote of both branches in Maine; three-fourths of all members of each house in South Dakota; and not specified in Alaska, but bills require majority vote of membership of each house. In South Dakota, the question of calling a convention may be initiated by the people in the same manner as an amendment to the constitution (see Table 3) and requires a majority vote on the question for approval.
(e) The law calling a convention must be approved by the people.
(f) The legislature shall submit the question 20 years after the last convention, or 20 years after the last vote on the question of calling a convention, whichever date is last.
(g) The power to call a convention is reserved to the people by petition.
(h) The majority must be 35 percent of the total votes cast at a general election or 30 percent of the number of registered voters if at a special election.
(i) Majority voting in the election, or three-fifths voting on the question.
(j) Must be approved during two legislative sessions.
(k) Majority must equal one-fourth of qualified voters at last general election.
(l) Majority of those voting on the proposal is assumed.
(m) The question of calling a constitutional convention may be submitted either by the legislature or by initiative petition to the secretary of state in the same manner as provided for initiated amendments (see Table 3).
(n) Two-thirds of all members of the legislature.
(o) Majority must be 35 percent of total votes cast at the election.
(p) Convention proposals are submitted to the electorate at a special election in a manner to be determined by the convention.
(q) Conventions may not be held more often than once in six years.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 138.

ware, it must authorize as well a popular referendum on the convention's work. In making these determinations, the legislature can substantially influence the composition and work of the convention.

Once the call for the convention is approved, an election is held for convention delegates. While, in some instances, the state legislature acts as a convention, for the most part convention delegates are elected from the public at large. In accordance with the enabling legislation, the convention meets, organizes and drafts a new charter.[49] Its work may be based on preliminary recommendations of a constitutional commission.

An important question the legislature must decide when providing for a convention is whether the convention can propose changes to any part of the constitution or whether it should be limited to certain matters. An unlimited convention often can draft a more balanced constitution because it is able to adjust all portions of it. A limited body, on the otherhand, sometimes is more politically feasible. Restricting the convention to certain subjects can allay fears of those who do not trust a constituent assembly with the bill of rights or other matters. Of the 33 constitutional conventions held in the United States between 1938 and 1979, 13 were limited.[50]

Fifteen states held constitutional conventions in the 25 years between 1955 and 1980, some of them more than one. Most recently, Arkansas (2), Hawaii, Illinois, Louisiana, Montana, New Hampshire, Rhode Island, Tennessee, and Texas convened conventions during the 1970s.[51]

THE CONSTITUTIONAL COMMISSION

The final recommendation of the National Governors' Association was:

> **A constitutional commission composed of persons representing the public as well as the government is the best instrument for studying and recommending provisions under (1) and (2) above.**

(Recommendations (1) and (2) relate to elimination of detail, outmoded provisions and nonfundamental matter from state constitutions.)

Constitutional commissions constitute newer methods of proposing constitutional changes. These bodies may be established by statute, legislative resolution, or by executive order. In the first instance, approval by both the legislature and the governor is required. When legislative resolution is used, the consent of the governor is not necessary. Creation by executive order, on the other hand, requires only gubernatorial action. In no state are constitutional commissions elective, a factor that distinguishes them from the convention.

The commissions are of two types; the study commission and the preparatory commission. The study commission is the more common. It may concern itself with a few sections of the constitutions or draft an entirely new document depending on the directions of the establishing authority. Its recommendations are advisory only and subsequent consideration of them depends on the apponting authority. They may be ignored or submitted to popular vote. Florida's revised constitution of 1969 stemmed from recommendations of a study commission.[52]

The preparatory commission is designated in advance of a constitutional convention and has responsibility for assisting the convention through preliminary work. It often will undertake in-depth studies of major issues, select staff, and arrange for the meeting of the delegates. In some instances, notably Maryland in 1965, it is appointed before the referendum on the call for the convention and may recommend that a convention be assembled. When that occurs, the work of the commission forms the basis for convention acceptance or rejection. In regard to the work of the commission, Cornwell, Goodman and Swanson write:

> Although the work of a commission has provided the impetus for constitutional reform in some states, the overall track record for commissions is not one of uniform success. In some states, legislatures have authorized a commission as a symbolic response to give the appearance of action and to relieve themselves from pressure imposed by "good-government" reform groups. When a report is made by the commission, the legislature frequently takes no action. In addition, as a mechanism, the commission is an ideal device to

> ensure legislative control over constitution-making. Nothing the commission recommends can go into effect without legislative and voter approval.[53]

The commissions have neither the "aura of legitimacy"[54] that surrounds a convention nor the dynamic character of that institution. Nevertheless, they often make excellent contributions to the revision process.

On this point, the states score high. Constitutional commissions have been used extensively during the past quarter of a century. During the period from 1955 to 1969, a total of 52 commissions were in operation.[55] Twenty operated during the 1970s.[56] In addition, Utah established a permanent statutory commission, and the 1968 Florida Constitution mandated the establishment of a commission ten years following its adoption. This first revision commission with constitutional status was authorized to submit amendments directly to the voters.[57]

RATIFICATION

Except in Delaware where no popular approval is required, both individual amendments and revised documents drafted by conventions or commissions are submitted to referendum. Four states restrict the number of proposals the legislature can submit at one election. Alabama places the limit at five, Kentucky at four, Kansas at three, and Illinois allows changes in only three articles. Kentucky, which previously limited amendments submitted for ratification at any one election to two, raised the limit to four in 1979.

Several state constitutions establish no specific vote for ratification of convention proposals, but all state constitutions specify a certain vote on amendments proposed by the legislature and, where used, by popular initiative. Almost everywhere, a majority vote on the amendment or revised document is sufficient to ratify. Minnesota, Tennessee and Wyoming require approval of a majority of those voting in the election and New Hampshire stipulates approval of two-thirds of those voting in the election. New Mexico has the most stringent ratification provisions for certain matters. While a majority of those voting on the amendment is sufficient for ratification on most measures, three-fourths of the electors voting in the state and two-thirds of those voting in each county is necessary for adoption of amendments concerning certain elective franchise and education matters. Individual state ratification requirements are reflected in *Table 3–5*, *3–6*, and *3–7*.

New constitutions or extensively revised documents may be submitted to the voters in toto or controversial parts may be separated for individual approval. Sometimes there is a combination of the two with the elector first voting on the entire document. If it is approved, votes on separate provisions are not tallied. If not, then the separate votes on various provisions are counted. Which method is used depends on how optimistic those making the submission are about the prospects of adoption for the entire document. Separation of the controversial provisions often dissipates concentrated opposition to the entire document that is likely to lead to its defeat. For example, during the decade of the 1970s, Illinois, Louisiana and Montana citizens approved separately the proposals submitted in that state while residents of Arkansas and North Dakota rejected constitutions submitted in single packages.[58]

Other variations are used as well. Hawaii, New Hampshire, Rhode Island and Tennessee submitted amendments in a series. Some were accepted, others rejected. All 34 Hawaii proposals were adopted and 12 of the 13 Tennessee provisions were successful. In New Hampshire, 23 amendments passed and nine failed.[59]

In its submission, Hawaii employed an unusual process that had proved successful in 1968, when voters approved 22 of 23 amendments. Revisions were presented in two parts on the ballot. The voter could choose to adopt or reject all proposals as a unit or, alternatively, he or she could select from a list of 34 proposals listed individually. In the latter instance, the voter was instructed to mark only those he opposed and those not marked were counted as approved.[60] As indicated above, the procedure was successful in the adoption of all the amendments proposed.

AN ASSESSMENT

Despite some changes that would elicit con-

demnation by constitutional reformers, by most standards states overall have made progress in constitutional reform in the quarter of a century since the Kestnbaum Commission report. Most of the completely revised constitutions are significantly better than their predecessors. As a whole they are shorter, more clearly written, modernized, less encumbered with restrictions, more basic in content and have more reasonable amending processes. They also establish improved governmental structures and contain substantive provisions assuring greater openness, accountability and equity.

In their study of constitutional conventions held between 1964 and 1970, Cornwell, Goodman and Swanson devised a scale of constitutional reform, based on the national Municipal League's *Model State Constitution*, against which they analyzed the documents produced by the conventions. All seven proposed constitutions were deemed to be more reformed than the documents they would replace. Some states were unprepared for this much change, however, and proposed constitutions in Rhode Island, New York, Maryland, New Mexico and Arkansas were not approved in referenda. Citizens of Hawaii and Illinois ratified the proposed documents.[61]

Samuel W. Witwer, president of the 1969 Illinois Constitutional Convention, in a ten-year retrospective on that document, commented:

> ... as we "fathers and mothers" of the new constitution hold our reunion, I think we can celebrate more than just the tenth anniversary of the convening of our nine-month adventure in constitutional revision. We can also celebrate the document itself.[62]

Witwer pointed particularly to the salutary effect of the abolition of the personal property tax, the home rule provisions for cities and counties, the new nondiscriminatory provision of the bill of rights, ethics provisions requiring public disclosure of assets by public officials, and the new initiative provision in regard to the legislative article of the constitution. He also cited numerous other constitutional changes that had been beneficial to Illinois citizens.

While those documents not subject to a total revision process have not improved to the same extent as those completely rewritten, on the whole they, too, are more workable documents. Many continue to be too detailed and outmoded and need editing and shearing of legislative-type detail. Moreover, some place undue roadblocks to effective government and at least two, Kentucky and Tennessee, set out overly restrictive amending and revision procedures. Nevertheless, improvements have been substantial.

Many of those who have studied constitutional reform and followed developments carefully in this field tend to agree with this assessment. Writing about developments during the period from 1959 to 1976, Leach said:

> A great deal was indeed accomplished—state and local governments were generally revivified and redirected, if not in every detail, in many. Conspicuous for the advances made in state government as a result of constitutional revision were Connecticut, Hawaii and Illinois. And the ideas generated by and expounded in the debates of the conventions and commissions are still very much alive, producing the likelihood that more change is still in store. ... It is possible to conclude that American states have gone a long way toward modernizing the bases of their governments since 1959, continuing a trend begun long before that.[63]

Another constitutional authority, Sturm, also writing in the mid-1970s, agreed that there had been progress but noted

> Since midcentury, more official attention has been given to revising state constitutions than during any comparable period since the Reconstruction Era. Yet, despite effective constitutional reform in approximately one third of the states during the last two decades, major weaknesses remain in others that seriously handicap the states in effectively discharging their responsibilities in a federal system.[64]

Neal Peirce, one of the respected commentators on state government, after pointing up the unprecedented state efforts to reform basic charters during the 1960s and 1970s, wrote:

> Comparatively speaking, the weight of constitutional restriction on action by state and local governments, while still formidable, is only fractionally as great as it was ten to 20 years ago.[65]

Fairly general agreement exists as to the direction the reform efforts took. They dealt with most of the deficiencies of state constitutions outlined earlier by Sturm. Although certainly not all of these shortcomings were eliminated, the changes:

- reduced constitutional detail;
- improved the amending process;
- strengthened individual liberties by prohibiting discrimination by race and, in a few instances, sex;
- liberalized suffrage and improved election administration;
- strengthened the executive powers of the governor by eliminating some other elective officials, allowing the governor to serve successive terms, lengthening the gubernatorial terms, and providing for team election of governor and lieutenant governor;
- established unified court systems in many states;
- improved legislative capability by providing for regular apportionment, annual legislative sessions in most states, and greater legislative control over the time and length of sessions; and
- extended home rule and tax authority for local governments.

All constitutional changes during the period since Kestnbaum were not advances for state and local governments and much remains to be done. The details of changes as they apply to specific institutions and processes of state government will be discussed in later chapters of this volume. In general, however, it is fairly safe to say that the changes adopted by the states both enhanced state and local government capacity and improved the documents themselves. In Leach's words, "There are not many constitutional horrors left."[66]

FOOTNOTES

[1]On this point, see Duane Lockard, *The Politics of State and Local Government*, New York, The MacMillan Company, 1969, pp. 64–66.

[2]A 1943 analysis listed some 80 diverse rights and privileges in the 48 constitutions then in effect. The basic rights on which all agree are: political power inherent in the people, due process of law, right to assemble and petition, freedom of speech, right of privacy, no privileges or immunities, safeguards for rights of accused persons, protection of private property, bail, no excessive bail, no cruel punishment, subordination of the military, trial by jury—methods of indictment, power to suspend laws—where placed, no expost facto laws, freedom of religion, no slavery, recognition of rights other than positive rights, and a provision that the enumeration of foregoing rights is not intended to deny or disparage others retained by the people. Harry B. Kies, *Manual on the Bill of Rights and Suffrage and Elections*, Jefferson City, MO, Missouri Constitutional Convention of 1943, 1943, p. 13, as set out in W. Brooke Graves, *American State Government*, Boston, MA, D.C. Heath and Company, 1953, p. 50.

[3]The practice of promulgating a constitution without popular ratification continued into the 19th century; however, only seven of the constitutions that have become effective since the Civil War became operative without a popular vote. Only three of those adopted since 1900—two in Louisiana (1913 and 1921) and the 1902 Constitution of Virginia—were not submitted to referenda. Albert L. Sturm, *Thirty Years of State Constitution Making: 1938–1968*, New York, National Municipal League, 1970, pp, 10–11. Both Louisiana and Virginia now operate under later constitutions.

[4]For an account of early constitution writing, see Benjamin F. Wright, "The Early History of Written Constitutions in America," in *Essays in History and Political Theory*, Cambridge, MA, Harvard University Press, 1936; the same author's *Consensus and Continuity, 1776–1887*, Boston, MA, Boston University Press, 1958; and Allan Nevins, *The American States During and After the Revolution, 1775–1789*, New York, the Macmillan Company, 1924. Colonial charters and early state constitutions can be found in F.N. Thorpe, *Federal and State Constitutions, Colonial Charters, and Other Organic Laws*, Washington, DC, Government Printing Office, 1909.

[5]Allan R. Richards, "The Traditions of Government in the States," in The American Assembly, *The Forty-eight States: Their Tasks as Policy Makers and Administrators*, edited by James W. Fesler, New York, Columbia University School of Business, 1955, p. 43.

[6]*Ibid.*

[7]*Ibid.*, p. 45.

[8]*Ibid.*, pp. 47–48.

[9]Ibid., p. 46.

[10]*Ibid.*, p. 54.

[11]Sturm, op. cit., preface.

[12]*Ibid.*, p. 14.

[13]David Fellman, "What Should a Constituton Contain?," *Major Problems in State Constitutional Revision*, ed. by W. Brooke Graves, Chicago, IL, Public Administration Service, 1960, pp. 137–58.

[14]In a footnote, Lockard adds:

> ... the reforms, initiated by Governor Sam Houston Jones, were aimed at increasing the governor's control over a far-flung administrative complex. While not without political implications, the reforms appear to have had at least the honest intention of raising the effectiveness of the government. See Allan P. Sindler's discussion of the fight over reorganization in his *Huey Long's Louisiana* (Baltimore, MD, Johns Hopkins Press, 1956), pp. 158–60.

The case was *Graham v. Jones*, 3 So. (2nd), 761 La. 1941. Lockard, *op. cit.*, pp. 86–87.

[15]Fellman, *op. cit.*, p. 146.

[16]*Ibid*, p. 144 citing Walter F. Dodd, *State Government*, 2nd ed., New York, Century Co., 1928, p. 96.

[17]*Salient Issues of Constitutional Revision*, ed. by John P. Wheeler, Jr., New York, National Municipal League, 1961, p. xiii.

[18]See West Virginia, Art. VI, Sec. 31 and South Carolina, Art. IV, Sec. 21.

[19]Tennessee *Constitutional Manual*, Nashville, TN, Tennessee Department of State, Division of Publications, October 1, 1978, p. 1.

[20]Albert L. Sturm, *Major Constitutional Issues in West Virginia*, Morgantown, WV, West Virginia University Bureau for Government Research, 1961, p. 10. Sturm also cited the following deficiencies of state constitutions:

- A long ballot listing a bewildering array of candidates and issues and rendering the task of even the most intelligent voter exceedingly difficult.
- Provisions for amendment and revision so rigid, in some constitutions, as practically to deprive the people of the opportunity to alter their basic law, and, in others, so lax as to encourage too frequent changes.
- Inclusion of a mass of detail in the constitution, blurring the distinction between constitutional and statutory law, and necessitating frequent amendments.

[21]Advisory Commission on Intergovernmental Relations (ACIR), *ACIR State Legislative Program: 1. State Government Structure and Processes*, M-92, Washington, DC, U.S. Government Printing Office, 1975, p. 10

[22]Committee for Economic Development, *Modernizing State Government, a statement on National Policy by the Research and Policy Committee of the Committee for Economic Development*, July 1967, pp. 19–20.

[23]James W. Fesler, "The Challenge to the States," in The American Assembly, *op. cit.*, p. 8.

[24]"Methods of Constitutional Change," in Graves, *op. cit.*, p. 23.

[25]ACIR, M-92, *op. cit.*, p. 10.

[26]Weeler, *op. cit.*, p. xiv.

[27]*Baker v. Carr*, 369 U.S. 186 (1962).

[28]Wheeler, *op. cit.*, pp. xi-xvii.

[29]Commission on Intergovernmental Relations, *A Report to the President for Transmittal to the Congress*, Washington, DC, U.S. Government Printing Office, 1955, pp. 37 and 56.

[30]"The Eighth American Assembly Participants' Findings," in The American Assembly, *op. cit.*, p. 141.

[31]Terry Sanford, *Storm Over the States*, New York, McGraw-Hill Book Company, 1967, p. 189.

[32]Elmer E. Cornwell, Jr., Jay S. Goodman, and Wayne R. Swanson, *State Constitutional Conventions: The Politics of the Revision Process in Seven States*, New York, Praeger Publishers, 1975, p. 26.

[33]*Ibid.*, p. 23.

[34]Richard H. Leach, "Introduction: State Constitutional Conventions and Commissions: 1959–1975," *State Constitutions and Constitutional Conventions, Revisions, and Amendments, 1959–1976. A Bibliography*, West Point, CT, Greenwood Press, 1977, p. xiv.

[35]As quoted in *ibid.*, pp. xii-xiii.

[36]Albert L. Sturm, "State Constitutions and Constitutional Revision, 1976–77," *Book of the States, 1978–79*, Lexington, KY, Council of State Governments, 1978, p. 203.

[37]For a running account of state constitutional revision, see annual articles by Albert L. Sturm in the January issues of the *National Civic Review*, published by the National Municipal League, New York, NY.

[38]"County Article Leaves Powers Intact—Local Amendments Missing from New Document," *Georgia County Government Magazine*, Atlanta, GA, Association County Commissioners of Georgia, October 1981, p. 11. Albert B. Saye, "Georgians to vote on New Constitution," *National Civic Review*, January 1982, p. 33.

[39]This summary was compiled from Sturm, "State Constitutional Conventions During the 1970s," *State Government*, Vol. 52, No. 1, Lexington, KY, Council of State Governments, Winter 1979, pp. 24–30; National Governors' Conference, *The State of the States in 1974*, Washington, DC, June, 1974, passim; *Book of the States* for the period; Leach, *op. cit.*; and ACIR publications.

[40]National Municipal League, *Model State Constitution*, 6th edition, 1963, revised, New York, NY, 1968, p. vii.

[41]*Report to the National Governors' Conference* by the Study Committee on Constitutional Revision and Governmental Reorganization, October 1967, Washington, DC, National Governors' Conference, 1968, p. 1. Order of recommendations rearranged.

[42]See Fellman, *op. cit.*, p. 148.

[43]*Ibid.*

[44]*Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 210–11; William Pound and Carl Tubbesing, "The State Legislatures," *Book of the States, 1978–79, op. cit.*, p. 5.

[45]Melvin B. Hill, Jr., *State Laws Governing Local Government Structure and Administration*, Athens, GA, University of Georgia Institute of Government, 1978, p. 43. See, also ACIR, *Measuring Local Discretionary Authority*, M-131, Washington, DC, U.S. Government Printing Office, 1981.

[46]*Constitution of the State of Iowa*, 1978 Amendment.

[47]ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition*, M-132, Washington, DC, U.S. Government Printing Office, 1981, p. 30. Full disclosure requirements are not included in this figure.

[48]Calculated from *Table 3–4*.

[49]For a study of several recent conventions, see Cornwell, Goodman and Swanson, *op. cit.*, along with studies of individual conventions published by the National Municipal League. For an example of a well-organized convention which proposed a revised constitution subsequently rejected by the voters, see John P. Wheeler and Melissa Kinsey, *Magnificent Failure: The Maryland Constitutional Convention of 1967–1968*, (1970); for a convention which proposed a major revision approved at the polls, see Samuel K. Cove and Thomas R. Kitsos, *Revision Success: The Sixth Illinois Constitutional Convention*, (1974). Other studies are of conventions in Missouri, New Jersey, Alaska, Hawaii and Pennsylvania that produced documents gaining voter approval, and in Rhode Island,

New York, and Arkansas where revisions were rejected. All were published by National Municipal League, New York, NY.

[50]Cornwell, Goodman and Swanson, *op. cit.*, p. 14. Updated from *Book of the States*.

[51]Albert L. Sturm, "State Constitutional Conventions during the 1970s," *State Government*, Winter 1979, p. 24.

[52]Cornwell, Goodman and Swanson, op. cit., p. 11. In an innovative provision, Florida's 969 constitution provided for the establishment of a 37-member revision commisson ten years after its adoption and each 20th year thereafter, authorized to study the constitution and recommend changes. Albert L. Sturm, "State Constitutions and Constitutional Revision, 1967–1969," *Book of the States, 1970–71*, Lexington, KY, The Council of State Governments, 1970, p. 8.

[53]*Ibid.* pp. 11–12.

[54]*Ibid.*, p. 13.

[55]Sturm, *Thiry Years*, *op. cit.*, p. 34.

[56]Janice C. May, "Procedural Developments in State Constitutional Revision During the 1970s (1970–78)," a paper prepared for delivery at the 1979 Meeting of the Southern Political Science Association, Gatlinburg, TN, November 1–3, 1979, p. 3.

[57]*Ibid.*, p. 5.

[58]Sturm, "State Constitutional Conventions During the 1970s," *op. cit.*, p. 26.

[59]*Ibid.* Updated from Albert L. Sturm, "State Constitutional Development During 1980," *National Civic Review*, January 1981, p. 32.

[60]Ibid., p. 27.

[61]Cornwell, Goodman and Swanson, *op. cit.*, p. 158.

[62]Samuel W. Witwer, "The Illinois Constitution's Effect upon the Average Illinoisan," *Illinois Issues*, Springfield, IL, Sangamon University, December 1979, p. 22.

[63]Leach, *op. cit.*, p. xxviii.

[64]Albert L. Sturm, "State Constitutions and Constitutional Revision, 1975–76," *ibid.*, p. 162.

[65]Neal Peirce, "State-Local Report/Structural Reform of Bureaucracy Grows Rapidly," *National Journal Reports*, April 5, 1975, p. 503.

[66]Richard H. Leach, "A Quiet Revolution: 1933–1976," *Book of the States, 1975–76*, Lexington, KY, Council of State Governments, 1976, p. 25.

Chapter 4

State Legislatures

Perhaps more than any other state institution, state legislatures have been critized for their real and imagined shortcomings. Who has not heard the lament, attributed to Daniel Webster: "Now is the time when men work quietly in the fields and women weep softly in the kitchen. The legislature is in session and no man's property is safe." Termed unresponsive, unrepresentative, corrupt, captives of special interests, poorly organized and equipped to do their jobs, do-nothings, and other phrases that will not bear repeating, legislatures have borne the brunt of the abuse heaped upon the states. Both academic and popular observers of their activities, as well as their own members, joined in urging their reform. Such a respected scholar as Alexander Heard, chancellor of Vanderbilt University, wrote in 1966 that criticisms of state legislatures

> ... range from allegations of personal bribery to the doleful conclusion that much of the time these institutions of representative government so conduct themselves that the popular will is thwarted. Even if all legislators were models of efficiency and rectitude, as indeed some of them are, most state legislatures would remain poorly organized and technically ill-equipped to do what is expected of them. They do not meet often enough nor long enough; they lack space, clerical

> staffing, professional assistance; they are poorly paid and overworked; they are prey to special interests, sometimes their own; their procedures and committee systems are outmoded; they devote inordinate time to local interests that distract them from general public policy; they sometimes cannot even get copies of bills on which they must vote. They work, in short, under a host of conditions that dampen their incentive and limit their ability to function effectively.[1]

Heard added that

> State legislatures may be our most extreme example of institutional lag. In their formal qualities they are largely 19th-century organizations and they must, or should, address themselves to 20th-century problems.[2]

Much of the criticism was deserved. Legislatures were unrepresentative, in the sense that each member did not represent an equal number of individuals, largely because many refused to reapportion themselves to meet population shifts. This condition existed until the 1960s when reapportionment was forced as a result of the U.S. Supreme Court's decision in *Baker v. Carr* (1962)[3] and subsequent cases. Prior to the court-mandated reapportionment, several states had missed a number of decennial redistrictings. Vermont, for example, with its legislative composition written into its constitution, had not reapportioned since 1793. Connecticut's last redistricting of both houses dated back to 1818, Mississippi's to 1890, Delaware's to 1897, and Alabama's to 1901.[4] Other states also lagged, and many had undergone major population growth and shifts.

Voters in urban areas were especially hard hit by malapportionment. In New Jersey, the five largest counties, with 53% of the population, had five of 21 senate seats. In Florida, the five largest counties had half the population but only five of 38 senate seats. Los Angeles, with almost 40% of the population of California, filled six of 40 senate seats. Connecticut's four largest cities, with 23% of the population, chose eight of the 279 members of the house.[5] As a consequence of underrepresentation of urban areas, the needs of these communities often were ignored or casually treated.

Other shortcomings set out by Heard also could be laid at the door of the legislatures. While the amount of corruption was often blown out of proportion by the press, the charges of corruption came from impeccable sources who had credible supporting evidence. Legislators who had the inclination to engage in unethical or corrupt practices were rarely deterred by codes of ethics, conflict of interest statutes, or financial disclosure legislation, since such laws were nonexistent in many states. Legislatures also operated as "sometime governments," meeting only for limited periods once every two years in most instances and suffering from frequent turnover in membership. Moreover, they were poorly organized and ill-equipped to do their jobs, tolerating clumsy and inefficient operations that discouraged those who wanted to get things done. Bizarre behavior in many instances and a frequent unwillingness to deal with pressing problems contributed to their image as groups of rowdies.

Other criticisms were less deserved and sometimes resulted from constitutional requirements or constraints difficult to change. For the most part, however, the problem probably rested with publics that did not allow their legislatures to do very much. Witness the explanation of the Citizens Conference on State Legislatures:

> ... if legislatures have functioned largely as a "drag" upon state government, it is not because the things they have done have been so bad; rather it is because they have not done very much. And this for the most part is the way the public seems to regard them: as institutions whose existence they are only faintly aware of and whose impact upon their lives, to the extent they feel it at all, is extraordinarily feeble.[6]

"We have never really wanted our state legislatures to amount to much," the citizens conference pointed out, "and they have obliged us."

Before discussing efforts at legislative reform, it might be well to review the functions legislatures perform.

FUNCTIONS OF STATE LEGISLATURES

No components of state governments are more important than state legislatures. To a greater degree than any other state institution, their activities touch the operations of other state and local programs and institutions. They are the repositories of much of the faith of the American public in representative government. Consequently, when legislatures do not exhibit those characteristics of accountability, independence, responsiveness, representativeness, and efficiency expected of them, they impede the operations of other governmental institutions and processes and cast doubt on the virtues of democratic government. The abyss of low public regard into which state legislatures fell, after occupying a most exalted position in public reverence in the early days of the Republic, affected the prestige of state government as a whole.

The primary function of legislatures is determining public policy. They have the responsibility for making decisions that authoritatively allocate values in society. In addition, they must design the machinery for executing policies and determine the amount of money to be spent in their pursuit and how such funds are to be raised. Legislatures do not do this alone. These functions are shared with others. Nevertheless, the basic responsibility for determining "who gets what, when, and how," to use Harold Lasswell's words, in any state rests with the legislature.

Legislatures perform other functions as well. As indicated in *Chapter 3*, they plan, propose and perfect state constitutional revision in their respective states. And they have important functions in regard to the amendment of the federal document. In every instance of change to the United States Constitution except for the 21st Amendment, which repealed the Prohibition Amendment, state legislatures have been called upon to ratify proposed amendments. They also have the authority to petition the Congress to call a national constitutional convention for the purpose of proposing an amendment to the national charter. Action of two-thirds of them is required. In matters involving relations with other states, they approve interstate compacts and other agreements and appropriate the funds for their implementation.

Many legislative activities directly affect the executive branch. A few legislatures select state officers in addition to the auditor who is coming under legislative control in an increasing number of states. Moreover, almost all legislatures can remove executive officials and judges through the impeachment process. Ordinarily, houses of representatives are authorized to prefer charges against errant officials, and state senates try the cases and convict or acquit on the charges. Although legislatures traditionally have exercised limited oversight over the operations of the executive branch through authorization, appropriation and investigative and reorganization processes, they have become more active in this respect in recent years.

Legislatures perform an information and representation function in regard to national affairs. It is not uncommon for them to "memorialize" Congress by adopting resolutions expressing opinions on matters of national concern.

All of these activities deserve to be undertaken in a responsible manner. Decisions concerning them should emanate from an institution that is equipped to do the job. What is more, it needs to see itself, and have its constituents see it, as representative, independent, responsive, efficient and accountable. These were the aims of those working to upgrade state legislatures during the past quarter century. Whether or not they have the desired result is unknown. In the words of one noted legislative scholar,

> No one really knows whether major changes in the state legislative process, in structure or procedures, will make the legislature a better place in which to work, a more nearly equal partner to the governor, a more resourceful institution for the generation of imaginative political ideas.[7]

REFORM FOCUS

Moves to reform state legislatures have been underway for a long time. As Malcolm E. Jewell and Samuel C. Patterson, two noted leg-

islative scholars, wrote in 1966, "The enduring motif in both popular and academic discourse about American legislatures has been reform."[8] Efforts to improve state lawmaking bodies became particularly intense during the decades of the 1960s and 1970s and continue until the present, although to a diminished degree.

Many individuals and groups have been involved. The American Assembly, ACIR, the American Political Science Association, the Citizens Conference on State Legislatures,[9] the Council of State Governments, the Eagleton Institute of Politics of Rutgers University, state Leagues of Women Voters, and the National Conference of State Legislatures, among others, have advocated and worked for changes.

EQUAL REPRESENTATION EMPHASIS

For awhile, emphasis was on equal representation in state legislatures as citizens sought to strike down archaic legislative districting and apportionment schemes and electoral arrangements that favored rural voters at the expense of urban residents. Equal representation received a big boost from the U.S. Supreme Court's apportionment decisions following *Baker v. Carr* (1962). As far as state legislatures were concerned, these decisions invalidated the "federal" plan of electing members to the state senate on a geographic rather than a population basis and provided for "one person, one vote" in legislative elections.[10] Equal representation on a population basis is now a fact in all 50 states.

At the same time, the Civil Rights Movement concentrated on opening up the electoral process for minorities. Congressional enactment of the *Voting Rights Act of 1965* guaranteed minority voting rights, thus enabling more blacks to be elected to legislative seats. A corollary movement to increase female political participation, along with individual actions by many women seeking office on their own initiative, resulted in more varied representation. Although there is a long way to go toward equalization, more blacks and women now sit among the lawmakers, and there is a greater balance in occupational distribution. Blacks held 307 of the seats in 1979, up from 168 in 1970. There were 70 senators who were black and 237 representatives.[11] As of 1980, women held 766 seats as compared to 610 in 1975.[12] The number of seats held by women is almost three times what is was in 1951. In that year, there were 23 senators who were women and 218 representatives.[13] Women are twice as likely to be found in houses of representatives as in senates. Women are most highly represented in the northeast. Not surprisingly, given its traditional bent, the proportion of female representatives is lowest in the south.

Table 4–1
LAWYER-LAWMAKERS DECLINING

	1976	1979
Northeast	19%	17%
North Central	18	16
South	32	29
West	14	12
Total U.S.	**22%**	**20%**

SOURCE: Insurance Information Institution as reported in "Women, Educators Gain Ground in Statehouses," *U.S. News and World Report*, Washington, DC, December 17, 1979, p. 74.

Occupational imbalance has moderated somewhat. Although lawyers are still the dominant occupational group, their number is on the decline (see *Table* 4–1). Lawyers made up 26% of all state lawmakers in 1966. By 1979, they constituted only 20%. Their percentage is highest in the south at 29% and fewest in the west where they make up only 12%. The largest number of lawyers serves in Virginia where attorneys constitute 53% of the legislature. Delaware is the only state that has none.[14] *Table* 4–2 presents the distribution of occupations.

OTHER REFORM EMPHASIS

Despite the variations among the proponents of other reforms, the programs they have proposed reflect remarkable similarity. Alan Rosenthal, a leading legislative scholar, summarizes the recommendations as follows:

1) elimination of many constitutional limitations on the authority of state legislatures, including limits on the taxing power, earmarking of revenues, requirements on referenda, and legislator compensation;

Table 4–2

OCCUPATIONS OF LEGISLATORS BY REGION, 1979

	North-east	North Central	South	West	U.S.
Lawyers	17%	16%	29%	12%	20%
Other Professionals	7	6	6	9	7
Owners, Self-Employed	15	12	17	14	15
Executives, Managers	6	7	6	6	6
Agriculture	4	18	8	16	11
Insurance	6	5	7	4	5
Real Estate, Construction	6	5	8	6	6
Communications, Arts	2	3	2	4	3
Other Business Jobs	8	4	2	6	5
Education	9	10	8	12	10
Government Employers	6	4	3	4	4
Labor Unions and Nonprofit Organizations	1	2	1	1	1
Homemakers, Students	5	3	2	3	3
Information Not Available	8	5	1	3	4

Basic data: Insurance Information Institute
SOURCE: Insurance Information Institute as reported in "Women, Educators Gain Ground in Statehouses," *U.S. News and World Report*, Washington, DC, December 17, 1979, p. 74.

2) increase in the frequency and length of legislative sessions, without limitation of time or subject;
3) reduction of the size of legislative bodies, so that they are no larger than fair representation requires;
4) increase in compensation and related benefits, with expenses of legislative service fully reimbursed;
5) the adoption of more rigorous standards of conduct, by means of codes of ethics and conflict of interest, disclosure, and lobbying legislation, as well as ethics committees or commissions with some enforcement powers;
6) adequate space and facilities for committees and individual members, including electronic data processing and roll-call voting equipment;
7) improvement of legislative operations, to ensure efficiency in the consideration of bills and the widespread dissemination of procedural and substantive information;
8) strengthening of standing committees, by reducing their number, defining their jurisdictions, and improving their procedures; and
9) increasing the number and competence of legislative staff, including staff for the leadership, committees, and rank-and-file members.[15]

THE F.A.I.I.R. CRITERIA FOR STATE LEGISLATIVE CAPABILITY

The Citizens Conference on State Legislatures conducted a major study of state legislatures in 1969-70, evaluating each and making both general and specific recommendations for improvement. Its criteria for assessing legislative capability are grouped in categories labeled functionality, accountability, information handling capability, independence, and representativeness, as set out in *Table 4–3*, thus earning the acronym F.A.I.I.R.[16]

FUNCTIONALITY

According to Citizens Conference findings,

Table 4–3

THE F.A.I.I.R. CRITERIA FOR EVALUATING STATE LEGISLATURES GENERAL STRUCTURE OF THE EVALUATIVE APPARATUS

FUNCTIONALITY
Criteria
Subcriteria

A. Time and its Utilization
1. Restrictions on the Frequency, Length and Agendas of Sessions, and Interim Periods
2. Techniques for the Management of Time Resources
3. Uses of Presession Time

B. General Purpose Staff
4. Personal Aides and Assistants to Leaders and Members

C. Facilities
5. Chambers
6. Leader's Offices
7. Committee Facilities
8. Facilities for Service Agencies
9. Member's Offices

D. Structural Characteristics Related to Manageability
10. Sizes of Houses
11. Standing Committee Structure

E. Organization and Procedures to Expedite Flow of Work

ACCOUNTABILITY
Criteria
Subcriteria

A. Comprehensibility in Principle
1. Districting
2. Selection of Leaders
3. General Complexity
4. Explicit Rules and Procedures
5. Anti-Limbo Provisions
6. Planning, Scheduling, Coordination and Budgeting

B. Adequacy of Information and Public Access to it (Comprehensibility in Practice)
7. Public Access to Legislative Activities
8. Records of Voting and Deliberation
9. Character and Quality of Bill Documents
10. Conditions of Access by Press and Media
11. Information on Legislators' Interests
12. Information on Lobbyists

C. Internal Accountability

INFORMATION HANDLING CAPABILITY
Criteria
Subcriteria

A. Enough Time
1. Session Time
2. Presession Activities

B. Standing Committees (as Information Processing and Applying Units)
3. Number of Committees
4. Testimony
5. Facilities

C. Interim Activities
6. Interim Activities
7. Structure and Staffing
8. Reporting and Records

D. Form and Character of Bills
9. Bill Status and History
10. Bill Content and Summaries
11. Quantity and Distribution
12. Timeliness and Quality

E. Professional Staff Resources

INDEPENDENCE
Criteria
Subcriteria

A. Legislative Autonomy Regarding Legislative Procedures
1. Frequeny and Duration of Sessions
2. Expenditure Control and Compensation-Reimbursement Powers
3. Reapportionment

B. Legislative Independence of Executive Branch
4. Access to Information and Analysis
5. Veto Relationships
6. Lieutenant Governor Problem
7. Budget Powers
8. Miscellaneous

C. Capability for Effective Oversight of Executive Operation
9. Oversight Capabilities
10. Audit Capability

D. Interest Groups
11. Lobbyists

E. Conflicts and Dilution of Interest
12. Dilution of Interest

REPRESENTATIVE-NESS
Criteria
Subcriteria

A. Identification of Members and Constituents
1. Identification

B. Diversity
2. Qualifications
3. Compensation
4. Voting Requirements

C. Member Effectiveness
5. Size and Complexity of Legislative Body
6. Diffusion and Constraints on Leadership
7. Access to Resources
8. Treatment of Minority
9. Known Rules
10. Bill Reading

12. Origination and Sponsorship of Bills
13. Joint Committee Usage
14. Treatment of Committee Reports
15. Anti-Limbo Provisions
16. Emergency Procedures
17. Bill Carry-over

F. Provisions for Management and Coordination

18. Continuity and Powers of Leadership
19. Inter-House Coordination

G. Order and Dignity of Office

20. Order and Decorum

13. Diffusion and Constraints on Leadership
14. Treatment of Minority

13. General Research Coverage
14. Legal

F. Fiscal Review Capabilities

15. Fiscal Responsibility
16. Staff Support for Fiscal Analysis and Review
17. Fiscal Notes

The accompany table shows the criteria and sub-criteria used in evaluating state legislatures' potential for meeting their responsibilities under the American system of government. The lettered headings (A, B, C, D, etc.) are the criteria, and the numbered headings are the sub-criteria. The ten sub-criteria under Representativeness, for example, make up the three criteria of "Identification," "Diversity," and "Member Effectiveness."

Source: Citizens Conference on State Legislatures, *Report on an Evalution of the 50 State Legislatures*, Kansas City, MO, 1971, p. 29.

to function properly in carrying out its responsibilities a legislature must have:

- sufficient time for proper consideration of legislation and the means to make good use of it;
- staff support, both for individual members and leaders, beyond the specialized staff of the clerk's or research offices;
- adequate facilities including office space for individual members;
- manageable size, both in terms of total membership and in committee numbers and assignments;
- explicit procedures for expediting the flow of work;
- methods for coordinating the work of the two houses and ensuring continuity between legislative sessions; and
- an atmosphere of decorum.

Perhaps the single most important element in ensuring that the legislature functions well is time. The Citizens Conference concern on this point is supported by others concerned with state legislatures. Jewell and Patterson wrote that "No single factor has a greater effect on the legislative environment than the constitutional restriction on the length of the session."[17] Time must be well managed and efficiently utilized, of course, or an increase in the amount available may be of little value. This involves the provision of adequate staff, elimination of disparities in committee workloads, and accessible information as well as the adoption of adequate procedures to avoid the logjams that often occur at session end. Presession legislative organization and bill filing can expedite the work flow early in the session. Orientation sessions for new members before the legislature convenes lubricate legislative operations as well.

ACCOUNTABILITY

In order for citizens to hold a legislature accountable, they must understand what it is doing—a feat more easily described than accomplished. The legislative process and the politics surrounding it are quite complex and even the most avid follower is unlikely to comprehend all its aspects. A citizen's task is complicated whenever adequate information is unattainable, when circuitous maneuvers to avoid publicity are possible, and when access to its members and its deliberations are restricted. The Citizens Conference noted that in order to be accountable a legislature must be understandable to its citizens, open for them to view its activities, and accessible so they can influence its actions. An accountable legislature, the conference noted is characterized by:

- single member districts;
- leadership selection either by the whole house or the majority party caucus;
- manageable legislative size;
- published, explicit rules that are relatively the same for both houses and all committees;
- open legislative process; and
- rules and procedures that give individual legislators and minorities an opportunity to express opinions and make their votes count.

INFORMATION HANDLING CAPACITY

Legislatures cannot formulate appropriate public policies without adequate information on which to base their determinations. They need information independent of the interests that seek to sway their decisions. And they need it in usable form and easily available. Moreover, they must have the time and expertise needed for analyzing it. A legislature with adequate information handling capacity must have, according to the Citizens Conference:

- adequate time for collection and analysis of information;
- standing committees;
- a program of interim activities;
- efficient information recording reproduction, processing, storage and retrieval systems;
- professional staff for information analysis; and
- fiscal information and analysis independent of the executive.

INDEPENDENCE

In order to fulfill their functions as public representatives, state legislatures must operate

independently of other branches of the state government, particularly the executive branch, as well as of special interest groups. Many factors go into the development of independence. The Citizens Conference lists:

- autonomy in respect to sessions, budget and procedures;
- independent access to information about state government;
- capability to oversee the programs it authorizes;
- freedom from undue influence from special interests; and
- protection for conflict of interest among its own members.

REPRESENTATIVENESS

By almost any measure, state legislatures are not representative of the people they serve. They are overwhelmingly white, male, middle-aged and Protestant. They are better educated and better off economically than their constituents. Lawyers, businessmen and farmers account for most of the memberships. Nevertheless, a legislator can represent his or her constituents if the two identify with each other and if the legislative procedures permit the individual legislator to influence public policies on behalf of his or her constituents. The citizens conference sees representative legislatures as those where there are:

- single member districts to enhance identification between legislators and constituents;
- district offices for members;
- membership diversity unrestricted by overly strict qualifications for office;
- adequate compensation to facilitate diverse representation;
- sufficiently small membership that an individual member may have an impact; and
- technical resources and briefings available to individual members.

A DECADE OF "CATCH-UP" IN INSTITUTIONAL LAG

Because they are specific and lend themselves better to measurement than the more general principles often put forward, the F.A.I.I.R. criteria were used as a basis for assessing the changes that have been made in state legislatures in recent years. Unfortunately, no follow-up evaluation of state legislatures on the basis of these recommendations has been made since the original study in 1970, although numerous changes in legislatures have occurred. Nor was replication of the comprehensive field research undertaken at that time possible for this study. The data employed here come from published sources, especially the various editions of the *Book of the States*, that treasure trove of information on state government published biennially by the Council of State Governments, and publications of the National Conference of State Legislatures. With some exceptions, data were gathered on each general recommendation and assessment made on aggregate state performance in that respect. Because of a dearth of information on some points, gaps occur in the evaluation. Recommendations on which no data are available appear in the footnotes.

Extensive changes occurred in state legislatures in the last decade. Throughout the country, states moved to revitalize their legislatures, to eliminate the "institutional lag" attributed to them by Heard. Some, of course, emerged more modernized than others, but the snapshot of legislatures in 1982 bears little resemblance to their predecessors of 1970, much less to their ancestors a quarter century ago. Although there is little doubt that current legislatures are more effective, efficient, accountable and responsive than they used to be, the outcomes of these changes remain to be determined. Little can be said about the quality of the legislative product or about the solon's "will" to solve the problems confronting their states, and this study makes no effort to do so. In the following pages, the current situation on each F.A.I.I.R. recommendation will be presented insofar as data are available.

SIZE

1. Reduce the overall size of the legislature.

The conference justified this recommendation in the following words:

> Ideally, a legislature should be large enough to represent and reflect the diverse elements of its constituency, and

Table 4–4

SIZE AND TYPES OF DISTRICTS OF STATE LEGISLATURES, 1969 AND 1982

STATE	SENATE								HOUSE							
	Number of Seats		Number of Districts		Number of Multi-member Districts*		Largest Number of Seats In District		Number of Seats		Number of Districts		Number of Multi-member Districts*		Largest Number of Seats In District	
	1969	1982	1969	1982	1969	1982	1969	1982	1969	1982	1969	1982	1969	1982	1969	1982
Alabama	35	35	26	35	3	0	7	1	106	105	43	105	25	0	20	1
Alaska	20	20	11	16	2	3	7	3	40	40	19	22	4	10	14	6
Arizona[a]	30	30	8	30	5	0	15	1	60	60	8	30	8	30	30	2
Arkansas	35	35	25	35	6	0	5	1	100	100	44	84	27	10	13	3
California	40	40	40	40	0	0	1	1	80	80	80	80	0	0	1	1
Colorado	35	35	35	35	0	0	1	1	65	65	65	65	0	0	1	1
Connecticut	36	36	36	36	0	0	1	1	177	151	177	151	0	0	1	1
Delaware	19	21	19	21	0	0	1	1	39	41	39	41	0	0	1	1
Florida	48	40	17	19	12	14	9	3	119	120	24	45	21	21	22	6
Georgia	56	56	38	56	7	0	8	1	195	180	118	154	47	17	7	4
Hawaii	26[b]	25	8	8	7	7	4	4	51	51	25	27	19	22	3	3
Idaho	35	35	35	35	0	0	1	1	70	70	42	35	28	35	2	2
Illinois**	58	59	58	59	0	0	1	1	177	177	59	118	59	0	3	1
Indiana	50	50	31	50	8	0	8	1	100	100	39	73	25	20	15	3
Iowa	50	50	50	50	0	0	1	1	100	100	100	100	0	0	1	1
Kansas	40	40	28	40	4	0	6	1	125	125	125	125	0	0	1	1
Kentucky	38	38	38	38	0	0	1	1	100	100	100	100	0	0	1	1
Louisiana	39	39	27	39	10	0	3	1	105	105	49	105	28	0	7	1
Maine	32	33	32	33	0	0	1	1	151	151	114	119	15	11	11	10
Maryland	43	47	16	47	14	0	7	1	142	141	29	47	20	47	22	3
Massachusetts	40	40	40	40	0	0	1	1	240	160	175	160	56	0	3	1
Michigan	38	38	38	38	0	0	1	1	110	110	110	110	0	0	1	1
Minnesota	67	67	67	67	0	0	1	1	135	134	120	134	15	0	2	1
Mississippi	52	52	36	52	10	0	5	1	122	122	52	122	34	0	10	1

Missouri	34	34	34	34	0	0	1	1	163	163	163	163	0	0	1	1
Montana	55	50	31	50	11	0	6	1	104	100	38	100	27	0	12	1
Nebraska	49	49	49	49	0	0	1	1	—	—	—	—	—	—	—	—
Nevada	20	20	8	10	2	3	8	7	40	40	11	40	5	0	16	1
New Hampshire	24	24	24	24	0	0	1	1	400	400	193	161	116	127	7	11
New Jersey	40	40	15	40	11	0	6	1	80	80	39	40	39	40	3	2
New Mexico	42	42	42	42	0	0	1	1	70	70	70	70	0	0	1	1
New York	57	60	57	60	0	0	1	1	150	150	150	150	0	0	1	1
North Carolina	50	50	33	27	14	18	3	4	120	120	49	45	41	35	7	8
North Dakota	49	50	39	49	5	1	4	2	98	100	39	49	39	49	8	4
Ohio	33	33	33	33	0	0	1	1	99	99	99	99	0	0	1	1
Oklahoma	48	48	48	48	0	0	1	1	99	101	99	101	0	0	1	1
Oregon	30	30	19	30	5	0	8	1	60	60	32	60	15	0	7	1
Pennsylvania	50	50	50	50	0	0	1	1	203	203	203	203	0	0	1	1
Rhode Island	50	50	50	50	0	0	1	1	100	100	100	100	0	0	1	1
South Carolina	46	46	20	16	15	13	5	5	124	124	46	124	29	0	11	1
South Dakota	35	35	29	28	3	3	4	5	75	70	39	28	22	28	9	10
Tennessee	33	33	33	33	0	0	1	1	99	99	93	99	13	0	3	1
Texas	31	31	31	31	0	0	1	1	150	150	80	150	18	0	15	1
Utah	28	29	28	29	0	0	1	1	69	75	69	75	0	0	1	1
Vermont	30	30	12	13	10	11	6	6	150	150	72	72	36	39	15	15
Virginia	40	40	33	38	5	1	4	3	100	100	63	52	20	28	9	7
Washington	49	49	49	49	0	0	1	1	99	98	56	49	42	49	3	2
West Virginia	34	34	17	17	17	17	2	2	100	100	47	36	21	25	14	13
Wisconsin	33	33	33	33	0	0	1	1	100	99	100	99	0	0	1	1
Wyoming	30	30	17	16	7	9	5	5	61	62	23	23	12	12	11	11

*A grouping of a flotorial district and one or more individual districts is counted as a multimember district. Flotorial districts are formed by combining two or more districts, at least one of which elects its own representative, into a larger (flotorial) district for the election of one or more additional representatives. Flotorial districts were used in Nevada, New Jersey, Oregon, Tennessee and Virginia in 1969.

**Illinois figures for 1979 corrected for changes effective in 1982.

[a]The legislature was directed by court order on July 22, 1969, to reapportion and redistrict prior to the 1979 elections.

[b]Effective November 1970: the 8th senatorial district will be allocated an additional senator. The two senators from this district will each be entitled to only 1/2 of a vote in the legislature.

SOURCES: Compiled from the *Book of the States, 1970–71* and *1980–81*, Lexington, KY, Council of State governments, 1970 and 1980, updated by ACIR staff.

> small enough to get things done. A legislative body that is too large usually finds it difficult to function without strict discipline, or an extremely centralized operation, either of which defeats the purpose of a large membership—to be accurately representative of the varying views and interests of all the people. . . . The larger the membership, the less time there is for genuine debate and deliberation, the less chance there is for each member to make his views known and his voice heard.[18]

It recommended that membership in the most numerous chamber, called here the house of representaives for purposes of convenience, should not exceed 100 and that the combined membership of both houses should be between 100 and 150.

Since all state senates are small enough for the expeditious conduct of business, with the largest in Minnesota numbering 67 both in 1969 and 1982, attention will focus on the houses of representatives.

Here, progress has been slight. Houses of representatives are still too large for effective deliberation and operation. Partially as a result of reapportionment, seats were added during the 1960s. To avoid the controversies that occur when some areas lose representatives and some legislators must sacrifice seats, legislatures in several states expanded their membership rather than oust colleagues. Others used the occasion to reduce the size of their houses of representatives somewhat. Among the changes made since 1969 were the following:

UP

Nebraska	43–49	(Senate)
Delaware	17–22	
Florida	95–112	(House)
	38–43	(Senate)
Maryland	123–142	
New Mexico	66–77	

DOWN

Iowa	108–99
Mississippi	140–122
Illinois	177–118

As the states entered the decade of the 1980s, 22 had houses of representatives that exceeded the recommended size of 100 as compared to 23 in 1969. The size for each state for both 1967 and 1982 is shown in *Table 4–4*. New Hampshire takes the obesity prize with 400 members, a situation that led one experienced observer of that body to tell the Citizens Conference that "about 15 members really determined things."[19] A total of 18 states exceeded the recommended combined membership of 150 in 1982, in contrast to 20 in 1969.[20]

Despite the paucity of recent reductions in size, some improvements can be detected if a longer time period is surveyed. *Table 4–5* is a comparison of the size range of houses of representatives in the early 1950s compared with 1982.

Table 4–5

SIZE RANGE OF STATE HOUSES OF REPRESENTATIVES, 1951 AND 1982*

	1951	1982
50 or fewer	2 states	2 states
51 to 100	22 states	23 states
101 to 150	14 states	14 states
151 to 200	3 states	6 states
201 to 300	5 states	1 state
301 to 400	1 state	1 state

*Alaska and Hawaii, with 40 and 51 members respecitvely, are excluded from the 1982 figures for comparative purposes. Nebraska has a unicameral legislature. N=47

SOURCES: The 1951 figures are from W. Brooke Graves, *American State Government*, Boston, MA, D.C. Heath, 1953, p. 210 and the 1982 figures are from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 189.

TIME

2. Remove constitutional restrictions on session and interim time.

> The legislature should have authority to function throughout a two-year term; ideally, this authority should provide a flexible biennial session pattern that permits the legislature to convene, recess and reconvene as it deems desirable. The legislature should be

able to meet in general session or conduct interim work as it deems necessary at any time throughout the period.

Past practice limited legislatures in most states to biennial meetings with sharply limited sessions (60 to 90 days). In 1951, for example, only ten states allowed annual sessions. By 1969, the figure had risen to 26. Currently, in addition to the California legislature that meets year-round, 36 states formally provide for annual sessions and many allow session extensions. Eight others have informal arrangements for annual sessions. A total of 15 states, in addition to California, have annual sessions unrestricted in length. These are Arkansas, Arizona (rules require adjournment), Colorado, Idaho, Illinois, Iowa, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Vermont and Wisconsin.[21]

The number of legislative days increased as well, although the exact number is difficult to compute because states are inconsistent in reporting sessions in calendar or legislative days. The 19 states that reported legislative days for both 1969 and 1979 showed a 16% increase in days met. On the basis of both annual sessions and unrestricted length of sessions, the states appear to be conforming more closely to the recommendation.

3. Legislative power to call special sessions.

Amend the constitution to permit the legislature to convene special sessions either by petition of a majority of the members of both houses or the call of the presiding officer of each house.

Until recently, most state constitutions restricted the ability of the legislature to convene special sessions, bestowing that authority on the governor instead. Governors often were reluctant to call an extraordinary session, preferring the freedom from interference afforded when legislators were back in their districts. This recommendation is aimed at enhancing the legislature's authority to manage its own affairs.

As recently as 1963, a total of 36 states did not permit their legislatures to convene special sessions, and those that did often required an extraordinary vote (exceeding a majority) to do so. By 1969, the number had been reduced to 32. The pace of reform moved faster in the next decade and currently fewer than half the states (22) still have this restriction. Most others require an extraordinary vote to convene the session.

4. Power to expand special session agenda.

Amend the constitution to permit the legislature to broaden the subject matter of a governor's call of a special session by a majority vote in each house, or prohibit the restriction of the agenda by the governor.

In the past, state constitutions often limited legislative authority by allowing the governor to restrict the business considered at a special session to those matters set out in the call for the session. In 1963, slightly more than half of the states permitted their legislatures to determine matters to be considered at a special session. By 1969, a total of 31 states had given the legislature such athority. Currently, the figure is 35, including Arkansas, where the legislature can extend an extraordinary session by a two-thirds vote for consideration of its own program.[22]

In a related matter, fewer states place limitations on the length of special sessions. Only 16 do so at the present time.

5. Bill carry-over.

Amend the constitution to permit the carry-over of bills from one session to the next within the same term.

Since annual sessions were not prevalent until recently, it is understandable that provisions for carrying over bills from one session to another, as the Congress does, were rare, Yet, currently, one-half of the states allow this practice.[23]

6. Presession organizational meeting.

Amend the constitution to provide a presession organizing session following a general election.

In order to organize for smooth running operations, legislatures have acted to organize and acquaint their members with legislative procedures in advance of the beginning of the session (see *Table* 4–6). Responses of 43 states

Table 4–6

STATE LEGISLATURES' PRESESSION ORGANIZATION AND ACTIVITY IN 45 STATES

	Actual Election of Leadership					Appointment of Standing Committee			
	First Day of Session	One Week Before Session	One-Four Weeks Before Session	More than One Month Before Session	Other	Before First Session Day	On First Session Day	After First Session Day	Budget Review Committee Designated Before Convening
Alabama					X	X			X
Alaska	X						X(12)		
Arizona				X		X			X(29)
Arkansas				X		X			X
California	X							X	
Colorado				X			X(13)		X
Connecticut				X			X		
Delaware	X						X		
Florida				X		X			X
Georgia				X(1)			X		
Hawaii			X(2)					X	X
Idaho				X		X			X
Illinois	X(3)							X(14)	
Indiana		X				X			X
Iowa					X(4)		X		X(30)
Kansas				X			X		
Kentucky				X		X			X
Louisiana	X						X		X
Maine									
Maryland	X					X			X
Massachusetts									
Michigan									
Minnesota				X		X			X
Mississippi	X							X(15)	
Missouri				X(5)			X		X

Table 4–6 (continued)

STATE LEGISLATURES' PRESESSION ORGANIZATION AND ACTIVITY IN 45 STATES

	Actual Election of Leadership					Appointment of Standing Committee			
	First Day of Session	One Week Before Session	One-Four Weeks Before Session	More than One Month Before Session	Other	Before First Session Day	On First Session Day	After First Session Day	Budget Review Committee Designated Before Convening
Montana				X(6)			X		X
Nebraska	X							X	
Nevada				X(7)			X		X(31)
New Hampshire			X					X	
New Jersey									
New Mexico				X			X		X(32)
New York			X(8)			X			X
North Carolina				X				X(16)	
North Dakota			X(9)			X			X
Ohio			X					X	
Oklahoma				X			X		
Oregon				X(10)			X		X(33)
Pennsylvania	X							X	
Rhode Island	X						X		
South Carolina				X		X			X
South Dakota				X		X			X
Tennessee					X				X
Texas									
Utah				X		X			X
Vermont	X							X	X(34)
Virginia	X							X	
Washington				X				X	X
West Virginia				X				X	
Wisconsin			X				X(17)		X(35)
Wyoming			X(11)			X(18)			

SOURCE: National Conference of State Legislatures, *A Survey: Expediting the Legislative Process*, preliminary report to the Committee on Legislative Improvement ad Modernization of the National Conference of State Legislatures, March 1977, Updated from National Conference of State Legislatures, "Legislative Powers During Constitutionally Set Organizational Meetings," memorandum, 1982. All data for South Carolina and Tennessee and information on Kentucky Budget Review Committee added.

Table 4–7

NUMBER OF LEGISLATIVE COMMITTEES, 1955, 1969, 1979

State	Number of House Committees			Number of Senate Committees			Change in House Committees	Change in Senate Committees
	1955	1969	1981	1955	1969	1981	1955–81	1955–81
Alabama	15	21	21	30	31	12	+ 6	−18
Alaska	—	9	9	—	9	9	NA	NA
Arizona	19	15	17	28	13	11	− 2	−17
Arkansas	59	26	10	21	25	10	−49	−11
California	25	21	25	22	21	19	—	− 3
Colorado	16	13	13	20	15	10	− 3	−10
Connecticut	—	—	—	—	—	—	uses joint committees	
Delaware	26	14	18	26	17	16	− 8	−10
Florida	56	28	28	38	12	18	−28	−20
Georgia	63	26	28	38	22	21	−35	−17
Hawaii	—	23	21	—	19	16	NA	NA
Idaho	21	13	13	20	12	9	− 8	−11
Illinois	22	23	23	24	22	19	+ 1	− 5
Indiana	41	28	22	38	26	16	−19	−22
Iowa	37	18	16	39	18	15	−21	−24
Kansas	43	25	20	30	17	18	−23	−12
Kentucky	43	14	15	38	14	15	−28	−23
Louisiana	16	23	15	15	20	15	− 1	0
Maine	8	6	—	3	3	—	uses joint committees	
Maryland	13	5	6	14	5	5	− 7	− 9
Massachusetts	6	6	5	4	4	5	− 1	+ 1
Michigan	47	32	33	19	14	15	−14	− 4
Minnesota	41	28	18	32	18	17	−23	−15
Mississippi	47	46	28	46	40	32	−19	−14
Missouri	64	37	30	25	28	24	−34	− 1

NA = Not applicable. Alaska and Hawaii were not states in 1955.
U = Nebraska has a unicameral legislature called the senate.
SOURCE: Compiled from *Book of the States, 1956–57, 1970–71,* and *1980–81*, Lexington, KY, Council of State Governments.

to a NCSL survey for 1976, to which information on two states has been added, indicated that almost half (48.8%) of these states organized early, choosing their leadership more than one month prior to the session. Although committee organization is important also for efficient operations, only about a third of the responding states indicated that they named their committees in advance. Half the states, however, do appoint fiscal committees to consider the budget sometime in advance of convening.

7. Pressession orientation conference.

> The legislature should hold an orientation conference for new legislators, preferably after each general election.

States score high on orientation conferences. All states organize these meetings for their houses of representatives and all but six for their senates. For the most part, legislatures undertake these conferences on their own initiatives since only North Dakota's constitution requires them. At most of the meetings,

Table 4–7 (continued)

NUMBER OF LEGISLATIVE COMMITTEES, 1955, 1969, 1979

State	Number of House Committees			Number of Senate Committees			Change in House Committees	Change in Senate Committees
	1955	1969	1981	1955	1969	1981	1955–81	1955–81
Montana	36	19	15	36	22	16	−21	−20
Nebraska	U	U	U	17	14	14	—	− 3
Nevada	27	14	13	20	12	9	−14	−11
New Hampshire	24	26	23	18	13	16	− 1	− 2
New Jersey	16	16	16	16	16	14	—	− 2
New Mexico	24	16	12	7	7	7	−12	0
New York	36	20	31	28	31	28	− 5	—
North Carolina	46	37	59	28	30	38	+13	+10
North Dakota	20	14	11	20	11	11	− 9	− 9
Ohio	22	14	22	20	8	11	—	− 9
Oklahoma	33	15	28	22	15	9	− 5	−13
Oregon	22	16	17	20	20	18	− 5	− 2
Pennsylvania	34	23	24	22	21	20	−10	− 2
Rhode Island	15	6	4	14	6	6	−11	− 8
South Carolina	8	8	11	33	26	15	+ 3	−18
South Dakota	51	25	10	27	15	10	−41	−17
Tennessee	17	8	11	17	7	9	− 6	− 8
Texas	43	45	31	39	27	9	−12	−30
Utah	15	16	11	15	11	11	− 4	− 4
Vermont	18	15	15	18	13	12	− 3	− 6
Virginia	34	34	20	21	21	11	−14	−10
Washington	28	16	19	26	17	16	− 9	− 9
West Virginia	25	11	13	29	17	16	−12	−13
Wisconsin	23	26	32	9	13	12	+ 9	+ 3
Wyoming	21	18	12	19	15	12	+ 9	− 7
U.S. Total	1356	942	914	1121	834	697	−442	−425
U.S. Average	29.6	19.6	19.4	23.9	17.0	14.5		

discussions concern only legislative procedures, although seven states discuss substantive matters as well.[24]

DISTRICTS

8. Provide single-member districts.

> Legislative districts in both houses should be single-member.

This recommendation is intended to strengthen the accountability of legislators to their constituents. On the theory that citizens must know who their representatives are in order to comprehend what they are doing, single-member districts are recommended so that each voter will have only one representative. The Citizens Conference argues that it is unreasonable to expect a voter to keep track of more than one. Moreover, the one-to-one relationship between the representative and the represented is blurred when multiple representation exists. A point not mentioned by the Citizens Conference is that minorities face greater difficulty in securing adequate representation in a

multimember district system.

Table 4–4 shows the real progress that the states made in eliminating multimember districts between 1969 and 1982. In the earlier year, 32 states had multimember districts for election of house members. By 1982, the number of states with multimember districts had declined to 20. Moreover, the size of the delegations elected from multimember districts dropped as well. In 1969, voters in one district in 16 states voted for ten or more members, with the number ranging up to 30 in Arizona where all seats were filled on an at-large basis. By 1982, only six states had districts where voters chose ten or more representatives from one district, and most of the time fewer than three were elected from one district. As far as senates are concerned, the number of multimember districts declined from 24 in 1969 to 12 in 1982. The range of senators elected from each district changed from 1–15 in 1969 to 1–6 in 1982.

COMMITTEES

9. Reduce the number of committees.

> Ideally, there should be from ten to 15 committees in each house parallel in jurisdiction. This would reduce the general complexity of the legislature and would permit reducing the number of committee assignments per member.

Change here has been substantial. The number of committees has declined markedly over the years, now amounting to fewer than half the number that existed in 1931.[25] More recently, the number of house committees declined from a total of 1,356 in 1955 to 942 in 1969, and to 914 by 1981. Similarly, states decreased senate committees from 1,121 in 1955 to 834 in 1969, and to 697 by 1981.[26] Alaska and Hawaii, not yet states, were not included in the 1955 figures.

As *Table 4–7* shows, almost three-fourths of the states (36) reduced the number of house committees between 1955 and 1981. Of the other states (excepting Alaska and Hawaii), six increased the number, and three made no change. Nebraska, with a unicameral legislature called the senate has no house of representatives, and Connecticut and Maine use only joint committees. A total of 41 states collapsed senate committees, while only two increased them and the others made no changes. The average number of house committees fell from 29.6 in 1955 to 19.6 in 1969, and 19.4 by 1981. For the same period, the average number of senate committees dropped by nine to 14.5. In a few states, at least, the decline was accompanied by an increase in the number of subcommittees, thus mitigating the effectiveness of the changes to some extent.

10. Reduce the number of committee assignments.

> In order to make it possible for members to concentrate their attention and contribute effectively, there should be no more than three committee assignments for each member of the lower house and four committee assignments for each member of the senate. Multiplicity of assignments introduces problems of scheduling, strains the focus of attention on the part of members, and creates an inordinately heavy work load for members if committees are as active as they should be.

Comparative figures are not available as to the number of committee assignments; however, for the most part, members currently are assigned to relatively few committees. In state senates, on the average, members may serve on one to eight, and in houses of representatives members serve on one to nine committees. Senators are assigned to more than four committees in ten states while house members have an excess of three assignments in only eight. Depending on the committee and on subcommittee assignments, this may be an overload nonetheless.[27]

11. Uniform committee rules.

> There should be uniform, published rules of committee procedure in both chambers.

Approximately two-thirds of the states had uniform rules of procedure in 1981 that applied to all committees. A total of 31 states had uniform committee rules in their houses of representatives and 35 state senates have adopted

them. In addition, 11 of the 17 legislatures with joint committees employ uniform rules.

12. Committee jurisdiction.

13. Open committees.

> The rules of each house should prohibit secret meetings except in matters which affect the security of the states, or which could unnecessarily damage the reputation of individuals in personnel matters. Such exceptions should be sparingly and responsibly employed.

The states earned an "A+" on this recommendation. All of the states now require open meetings. In Connecticut and North Carolina, certain matters specified by statute can be discussed in executive session. Connecticut requires approval of two-thirds of the members present and voting and the stating of the reasons for the closed meeting. In North Carolina, the appropriation committees are required to sit jointly in open session.[29] Comparative data for 1955 are unavailable; however, in that year open *hearings*, let alone open *meetings*, were required in only 17 states.[30]

14. Notice of meetings.

> The rules should require a minimum notice of five legislative days for committee meetings and hearings, with widely disseminated announcement of schedule, location, agenda and availability of public participation.

Here, again, state legislatures do well. While comparable data are not available, most states do require advance notice of committee meetings and hearings although the time varies with the importane of the bills. Only 15 state houses of representatives and 13 senates fail to require advance notice.[31] Data on agendas are unavailable. It is known that in some states, schedules are changed without notice and agendas are uncertain.

15. Act on all bills.

> Committees should be required to report on all bills assigned to them, recommending for passage by the parent body those bills which enjoy the support of a majority of the members of the committee and killing all others.

No change has occurred here. In both 1955 and 1979, 16 legislatures had provisions requiring committees to report all bills. Several impose deadlines for reporting. These range from seven to 21 days.[32]

16. Balanced committees.[33]

17. Committee hearings.[34]

18. Committee bill reports.

> Require committees to issue reports describing and explaining their action on bills recommended for passage at the time the bill moves from the committee to the floor.

An overwhelming majority of the state legislatures make an effort to provide published reports, although their quality varies. Responses to a survey by Donovan Peeters for the Maryland General Assembly's Department of Legislative Reference indicate varying practices. According to respondents from 40 states, a total of 29 legislatures require minimal reports, and 11 substantive reports. Ten states did not respond.[35]

19. Record and publish proceedings of committees.

> Record and publish the vote record of committee hearings, proceedings and votes.

This recommendation is aimed at ensuring accurate records, opening up the committee process, and providing a legislative history of bills that can be useful in subsequent legislative action as well as in court proceedings. As far as recording roll calls on votes to report measures to the floor, as of 1979, this was always done in a total of 28 houses of representatives, usually done in the house of one state, sometimes done in 17 others, and never done in four. As for state senates, 30 always recorded committee roll calls, one usually did, 15 sometimes did, and four never did. See *Table* 4–8.

Information on other state recordkeeping is incomplete. Responses to the Peeters survey indicate varying practices. According to respondents from 40 states, five states record and

Table 4–8

RECORDING AND PUBLISHING OF COMMITTEE PROCEEDINGS AND VOTES, 1981

	Record and Transcribe Committee Proceed-ings	Record and Transcribe on Request	Provide Minutes of Committee Proceed-ings	Infrequent or Partial Recordings	Do Not Record or Prepare Minutes	Require Substantive Bill Reports	Require Minimal Bill Reports[h]	Recorded Roll Call Votes to Report Bill	
United States	5	11	12	5	9	29	11	H	S
Alabama								Al	Nv
Alaska		X				X		Sm	Sm
Arizona		X				X		Nv	Nv
Arkansas					X	X		Sm	Sm
California								Al	Al
Colorado		X				X		Al	Al
Connecticut	X[a]					X		Al	Al
Delaware				X		X		Al	Al
Florida		X					X	Al	Al
Georgia								Nv	Nv
Hawaii				X			X	Al	Al
Idaho			X			X		Us	Us
Illinois		X[d]			X[b]	X		Al	Al
Indiana				X		X		Al	Al
Iowa			X			X		Al	Al
Kansas			X					Sm	Sm
Kentucky			X			X		Al	Al
Louisiana		X				X		Sm	Al
Maine					X	X		Sm	Sm
Maryland					X	X		Al	Al
Massachusetts					X	X		Nv	Nv
Michigan								Al	Al
Minnesota		X				X		Sm	Sm
Mississippi								Sm	Sm
Missouri					X	X		Al	Al

Montana			X				X	Al	Al
Nebraska								—	Al
Nevada			X				X	Al	Al
New Hampshire	X[b]		X[d]				X	Al	Al
New Jersey				X			X	Al	Al
New Mexico								Sm	Al
New York				X			X	Al	Al
North Carolina			X			X		Sm	Sm
North Dakota		X				X		Al	Al
Ohio			X			X		Al	Al
Oklahoma								Sm	Sm
Oregon	X					X		Al	Al
Pennsylvania			X				X	Al	Al
Rhode Island								Sm	Sm
South Carolina	X					X		Sm	Sm
South Dakota			X			X		Al	Al
Tennessee								Al	Sm
Texas		X[e]					X	Sm	Al
Utah		X[f]				X		Al	Al
Vermont			X			X		Sm	Sm
Virginia					X	X		Al	Al
Washington		X					X	Sm	Sm
West Virginia	X[c]					X		Sm	Sm
Wisconsin					X	X	X[g]	Al	Al
Wyoming					X	X		Sm	Sm

Key: Al = Always Nv = Never Sm = Sometimes Us = Usually

[a]Hearings only, not meetings.
[b]Senate only.
[c]Hearings only, minutes for meetings.
[d]House only.
[e]Transcription requires legislative approval.
[f]Minutes prepared from recordings.
[g]Required only from the joint fiscal committee.
[h]Substantive bill reports include a description or analysis of the bill's provisions, a summary of the pro and con arguments in regard to the bill, and information on the background and legislative intent of the bill.
[i]Minimal bill reports consist only of the committee position on the bill and any committee amendments to the bill.

SOURCE: General Assembly of Maryland, State Department of Legislative Reference, "State Legislative History Resources: A Survey of the 50 States," Annapolis, MD, September 22, 1981. Prepared by Donovan Peeters. Last column, for 1979, from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 218.

transcribe committee proceedings in both houses, 11 record committee business but transcribe only on request, 11 provide minutes, and five engage in infrequent or partial recording of committee actions. Eight states do not record or prepare minutes of committee business. Other states did not respond. See *Table 4–8.*

20. Publish committee roll calls.

> The committee report of action on bills to the respective houses should include roll calls taken, showing how each member voted. These committee reports should be available to the press and public. Roll calls should be published for those bills recommended for approval as well as bills killed.

Action on these recommendations is uncertain. In 1970, a total of 20 state legislatures never published committee proceedings and only nine always did. No comparable figures on publication are available for 1979. In that year, however, committees in almost all states recorded roll call votes to report bills, at least sometimes. See *Table 4–7.*

21. Prohibit proxy voting in committees.

A National Conference of State Legislatures (NCSL) survey indicates that nine of the 43 responding states allowed proxy voting in 1977.[1]

22. Dual committee consideration of appropriation bills.

> There should be a rule requiring dual committee consideration of legislation affecting significant sums of money. Such legislation, when considered and acted upon favorably by a substantive policy committee, should then automatically be referred to the finance committee for consideration of its fiscal impact.

A total of 26 states refer all bills with a fiscal impact to the appropriations committee. In addition, Wyoming refers all bills that appropriate money. Other methods of coordinating fiscal and substantive committee decisions include joint committee memberhip, formal and informal hearings, meetings between chairmen, explanation of a bill by substantive committee member and staff coordination. Bills with fiscal impact that are not referred to the appropriations committees might include new or special programs, federally funded programs and programs funded from special revenues.[37]

23. Management committees.[38]

24. Interim committees.

> When the legislature is not in session, the standing committees should become the interim committees for the purpose of conducting long-range studies of state policy issues. The legislative council or some similarly constituted bipartisan committee should serve as the supervising agency for interim committees and their studies, budgets and personnel. The major committees should be staffed on a year-round basis.

According to the NCSL, 29 states used regular standing committees during the interim between sessions, as of 1981. The committee names and jurisdictions are the same as during the regular sessions and so are committee assignments. Ordinarily, the interim committees are established separately for the two houses. Only ten states have joint interim committees. The states that do not employ standing committees to do the interim work use a variety of other committees. Some states use both standing committees and select, ad hoc or study committees.[39]

25. Interim committee reporting.

> Interim committees should be required to render formal reports concerning the topics they were charged with responsibility for investigating. Reports should cover the committees' recommendations, including drafts of proposed legislation where appropriate.

A NCSL survey, completed in 1977, indicates that in more than one-half the states, interim committees submit reports on their work before the legislative session begins. Committees in 81% of the responding states also prepare and file bills to accompany their recommendations.[40]

COMPENSATION

Four of the F.A.I.I.R. criteria relate to compensation for legislators.

26. Legislative salaries.

> Legislative salaries should be set by statute and paid in equal monthly installments throughout the biennium, and all unvouchered expense allowances should be incorporated into an annual salary. Actual and necessary expenses incurred in the process of carrying out legislative duties should be reimbursed upon submission and approval of properly vouchered evidence of expenditures.

27. Increase legislative compensation.

> No legislative salaries in the United States should be below the $10,000-a-year level. Compensation of legislators in the larger states should range from $20,000 to $30,000 a year.

28. Expense allowances.

> Members of the legislature should be allowed an expense reimbursement covering their travel and living costs while engaged in carrying out their legislative duties. The same allowance should obtain during the interim for days in attendance at interim committee meetings or other official and authorized legislative business. These allowances should be provided by statute.

29. Retirement benefits for legislators.

> A system of retirement benefits should be adopted for members of the legislature that is at least as favorable as that provided for state employees generally.

In the past, legislators have been poorly paid for the most part. Such a condition limits legislative offices to the relatively affluent and increases turnover, thus removing experienced members, and prevents most legislators from devoting full time to their legislative duties. It could increase the temptations to bribery as well. Moreover, many legislators have had to reach into their own pockets for funds for necessary expenses, a sacrifice public servants should not be called upon to make.

Legislative compensation is a complicated matter with some states paying on an annual basis while others compensate on a per diem rate. In the latter case, calendar days are used in some states and legislative days in others. Furthermore, the states vary in providing additional compensation for officers, unvouchered expense accounts, travel reimbursement, and insurance and retirement benefits. In some states, compensation is set in the constitution while in others it is specified by statute or left to a compensation commission to recommend.

There is no doubt that compensation has increased markedly in current dollars. When the 1981 figures for the 39 states paying annual salaries are compared to estimated compensation for January 1970, a decrease in the number of states paying below the recommended $10,000 minimum is reflected. In 1970, a total of 39 states were below the recommended floor (and this followed a dramatic increase in salaries) while only 13 states were under this figure in 1981. If the figures are adjusted for inflation, however, using 1967 dollars, the $10,000 limit would have to be raised to $23,422 to reflect constant dollars.[41] When this occurs, 35 states still pay below the recommended amount, leaving improvement in four states.

In 1981, annual salaries ranged from $100 in New Hampshire to $31,000 in Michigan. All states pay additional compensation for leaders and, where the practice of naming almost every majority party member to a leadership post prevails, stipends attached to those positions boost the compensatin of many members. States that do not pay salaries compensate on a per diem basis, ranging from $5.00 to $104.00. Most of these states limit the number of days for which payments can be made. Living and travel allowances are usually paid regardless of the method of regular compensation.[42]

Compensation is still set by constitutions in nine states and these states cluster in the lower pay ranges. Seven states employ compensation commissions and the remaining states operate under statutory provisions.[43] See *Table 4–9*.

Most states now provide both health and life insurance for legislators and all but seven states have retirement systems. As *Table 4–9*

Table 4–9

PROVISIONS FOR LEGISLATORS' COMPENSATION AND CERTAIN FRINGE BENEFITS, 1981

	Compensation				Retirement System		Insurance Programs			
	Annual Salary	Per Diem	Constitutionally Set	State Has Compensation Committee	Provision for	State Contribution	Legislators Life	State Contribution (Life)	Health Insurance	State Contribution (Health)
Alabama		X	X		No	NA	No	NA	No	NA
Alaska	X				Yes	Yes	Yes	No	Yes	Yes
Arizona	X			X	Yes	Yes	Yes	Yes	Yes	Yes
Arkansas	X	X	X		Yes	Yes	Yes	Yes	Yes	Yes
California	X				Yes	Yes	No	NA	Yes	No
Colorado	X				Yes	Yes	Yes	Yes	Yes	Yes
Connecticut	X				Yes	No	No	NA	Yes	Yes
Delaware	X				Yes	Yes	Yes	No	Yes	Yes
Florida	X				Yes	Yes	Yes	Yes	Yes	Yes
Georgia	X				Yes	Yes	Yes	Yes	Yes	Yes
Hawaii	X			X	Yes	Yes	Yes	Yes	Yes	Yes
Idaho	X			X	Yes	Yes	Yes	Yes	Yes	Yes
Illinois	X				Yes	Yes	Yes	Yes	Yes	Yes
Indiana	X				Yes	Yes	Yes	Yes	Yes	Yes
Iowa					Yes	Yes	No	NA	No	NA
Kansas		X			Yes	Yes	Yes	Yes	Yes	Yes
Kentucky		X			Yes	Yes	Yes	Yes	Yes	Yes
Louisiana	X	X			Yes	Yes	Yes	Yes	Yes	Yes
Maine	X				Yes	Yes	Yes	No	Yes	Yes
Maryland	X			X	Yes	Yes	No	NA	Yes	Yes
Massachusetts	X				Yes	Yes	Yes	Yes	Yes	Yes
Michigan	X			X	Yes	Yes	Yes	Yes	Yes	Yes
Minnesota	X				Yes	Yes	Yes	Yes	Yes	Yes
Mississippi	X				Yes	Yes	Yes	Yes	Yes	Yes
Missouri	X				Yes	Yes	Yes	Yes	Yes	Yes

Montana		X			Yes	Yes	Yes	Yes	Yes	Yes
Nebraska	X		X		No	NA	Yes	Yes	Yes	No
Nevada		X			Yes	Yes	Yes	Yes	No	NA
New Hampshire	X		X		No	NA	No	NA	No	NA
New Jersey	X				Yes	Yes	Yes	Yes	Yes	Yes
New Mexico		X	X		Yes	Yes	No	NA	No	NA
New York	X				Yes	Yes	Yes	No	Yes	Yes
North Carolina	X				No	NA	No	NA	Yes	No
North Dakota		X	X		Yes	—	Yes	Yes	Yes	Yes
Ohio	X				Yes	Yes	Yes	Yes	Yes	Yes
Oklahoma	X			X	Yes	Yes	Yes	Yes	Yes	Yes
Oregon	X				Yes	Yes	Yes	Yes	Yes	Yes
Pennsylvania	X				Yes	Yes	Yes	Yes	Yes	Yes
Rhode Island		X	X		Yes	Yes	Yes	No	Yes	Yes
South Carolina		X			Yes	Yes	Yes	Yes	Yes	Yes
South Dakota	X				No	NA	No	NA	No	NA
Tennessee	X				Yes	Yes	Yes	Yes	Yes	Yes
Texas	X		X		Yes	Yes	Yes	Yes	Yes	Yes
Utah		X	X		Yes	Yes	Yes	Yes	Yes	Yes
Vermont	X				No	NA	No	NA	No	NA
Virginia	X				Yes	Yes	Yes	Yes	No	NA
Washington	X				Yes	Yes	Yes	Yes	Yes	Yes
West Virginia	X			X	Yes	Yes	Yes	No	Yes	No
Wisconsin	X				Yes	Yes	Yes	Yes	Yes	Yes
Wyoming		X			No	NA	No	NA	No	NA

SOURCE: Compiled from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 192–93, 202, 204.

shows, most of the states contribute to the retirement funds.

Overall, the states appear to have done somewhat better in upgrading legislative compensation as it relates to direct payments and have upgraded markedly the so-called fringe benefits. To what extent this has reduced turnover or enabled a broader cross-section of the population to serve is not known.

DISTRICT OFFICES

30. Support of district offices.

> District offices are vital to the effective representation by a legislator of his constituency. The legislature should make some contribution to the support of district offices for its members, and the amount of this contribution should be increased over time.

No information is available on this recommendation. District staff is provided in some states, however, and office space may be involved to some extent. In 1979, year-round district staff was available in 13 states for the senate and ten states for the house. One state permitted staff only during the interim for both senators and representatives and another during the interim for house members.[44]

RULES OF PROCEDURE

Several of the F.A.I.I.R. criteria relate to rules of procedure and are directed at providing certainty, uniformity and knowledge relative to them. No information is available on these recommendations.

31. Uniform, published rules.[45]

32. Joint rules.[46]

33. Adoption of rules.[47]

34. Adopt backup rules of procedures in both houses.[48]

35. Amending the rules.[49]

BILLS

The number of bills introduced in American state legislatures boggles the mind. In the 1979–80 sessions, 177,715 were placed in the hopper. Of this number about one-quarter were enacted.[50] Several thousand resolutions are not included in these figures. While the quantity varies both among legislatures and between sessions of the same body, in most states even reading them would be a formidable task. New York legislators, faced with more than 21,000 in the 1979–80 sessions, must have been forced to abdicate completely their responsibility to consider most of them.

36. Bill deadlines.

> The orderly flow of work through the legislature depends upon the existence of a series of deadlines at various critical stages throughout the legislative process. These deadlines should be adopted as part of the rules and should be consistently enforced.

States have performed creditably in establishing deadlines for the introduction of bills. While compliance with this recommendation is not universal, 35 states have fixed time periods for the introduction of legislation. In addition, Alaska has a deadline for the second session of the biennium only. Another 22 states have cut-off dates for bill drafting requests made of their legal staffs. See *Table 4–10*. The most detailed deadline systems establish cut-off dates for drafting requests, bill introduction, committee action in the house of origin, final action in the house of origin, and similar steps in the second chamber. Oklahoma's is an example of this type of requirement.[51]

Pre-Session Bill Filing. Another measure for insuring more orderly legislative activity and maximization of legislative service agencies is the provision for filing of bills before the legislature convenes. The Citizens' Conference on State Legislatures did not recommend pre-session bill filing, yet, it is closely related to bill deadlines.

A total of 41 states have provisions for first session pre-filing in both their houses, up from 25 in 1969. In addition, Nebraska provides for pre-session filing in its unicameral senate. Fewer states (31) make provision for pre-filing for the second session of the biennium than for the first, and Minnesota allows pre-filing for the second session and not the first.[52]

37. Consent calendar.

> A consent calendar for expeditious

Table 4–10

MECHANISMS FOR LIMITING THE NUMBER OF BILLS INTRODUCED

	Deadlines			
	Drafting Requests	Bill Introduction	Proposed or Short-Form Bills	Limitation on Number of Introductions
Alabama		X		
Alaska		(1)		(5)
Arizona		X		
Arkansas		X		
California			(4)	
Colorado	X	X		(6)
Connecticut	X	X	X	
Delaware	X			
Florida	X	X	(2)	
Georgia		X		
Hawaii		X	X	
Idaho		X		
Illinois	X			
Indiana	X			(6)
Iowa	X	X		
Kansas	X	X		
Kentucky		X		
Louisiana		X		
Maine	X	X		
Maryland	X	X		
Massachusetts		X		
Michigan				
Minnesota				
Mississippi	X	X		
Missouri	X	X		
Montana	X	X		
Nebraska		X		(7)
Nevada	X		X	
New Hampshire	X			
New Jersey				
New Mexico				
New York	X	X		
North Carolina				
North Dakota		X		
Ohio	X			
Oklahoma	X	X		
Oregon	X			
Pennsylvania				
Rhode Island	X	X	X	
South Carolina		(2)		
South Dakota		X		
Tennessee	(3)	X		(6)
Texas		X		
Utah		X		
Vermont	X	X		
Virginia	X	X		
Washington	X	X		
West Virginia		X		
Wisconsin		X		
Wyoming	X			

(1) Deadline in second regular session only.
(2) Rules apply to house only.
(3) Rules apply to senate only.
(4) Short-form provision is seldom utilized though it is available.
(5) Limit applies to prefiled bills only.
(6) Limit applies to bills filed during the session but not to prefiled bills.
(7) Member and committee bills are both restricted in number.

SOURCE: National Conference of State Legislatures, "Limiting Bill Introduction: The Legislative Paper Chase," *State Legislative Report*, Vol. 4, No. 5, Denver, CO, December 1979, p. 1.

consideration of noncontroversial bills should be used in both houses.

This action was specifically recommended for 22 states in 1970. By 1977, such a procedure had been adopted by both chambers in 11 of these states and for the house in three others. Overall, 27 states now use a consent calendar in both the senate and the house and five for the house only.[53]

38. Establish an automatic calendar of bills.

> When a bill is favorably reported out of committee to the floor, it should go automatically onto the calendar in the order reported out. It should require a vote of an extraordinary majority to move a bill from its position on the calendar or to bypass it. The rules committee should have no part in the scheduling of bills. No session should adjourn until all bills on calendar have been voted up or down or, by the vote of an extraordinary majority, have been remove from the calendar.

Among the 43 states responding to a 1977 NCSL survey, bills go directly to the calendar in 27 and either to the calendar or rules committee in ten others.[54]

39. Bill reading.

> Remove constitutional requirements that bills must be read in full on three separate legislative days. Rules should be uniform in requiring that bills be read by title only (so long as a printed copy is provided each member in advance) on three separate legislative days.

All but eight states require that bills be read three times and all specify separate days except in certain circumstances.[55] Information is not available as to whether these are constitutional requirements or set by the rules, or whether a full reading is specified.

40. Quantity of bills introduced.

> An extraordinarily high number of bill introductions inevitably clogs the entire legislative machinery and should be reduced. One alternative would be to use short bill form . . . ; another would be to require multiple authorship of bills rather than permit the introduction of identical bills by separate authors.

Numerical limits on the number of bills introduced were in effect in four states in 1979—Nebraska, Indiana, Colorado and Tennessee. The provisions differ in their operation with Nebraska's the most stringent. There, each member is limited to 17 bills each biennium while standing committees can introduce ten each. Six states provide for the short-form bills recommended in the above recommendation; however, Connecticut is the only state in which it is used extensively. This practice allows a member to introduce a statement describing the intent of the legislation he or she proposes rather than to submit the measure finally drafted in legal language. The committee then has the obligation of combining short-form bills into omnibus legislation that it sponsors.[56] There appears to be little evidence that most legislatures have taken themselves in hand to stop the clogging of legislative machinery with frivolous bills.[57]

LEADERSHIP

41. Discontinue rotating leadership.

> The practice of limiting presiding officers to a single, two-year term weakens the legislature in its capacity to confront other branches and levels of government as a partner of equal stature, and diffuses and disrupts the continuity of leadership within the legislative bodies. Although it is extremely difficult to change a practice such as this, because of its profoundly adverse effects on many aspects of legislative performance it should be discontinued.

A *Comparative State Politics* survey indicates shifts in the practice of changing legislative leaders. Analysis of the tenure of these officials between 1947 and 1980, indicates a dilution of the practice of rotating leadership positions. Only four state houses of representatives elect a new speaker every term, and only six state senates that have member-elected presiding officers select them anew each time. An additional nine houses and ten senates

limit presiding officers to two terms. Patterns in 22 other houses and 15 senates are unstable with leaders serving from one to six or more terms, an indication that no rotating practices exist in these bodies. The remaining legislatures are now in the process of shifting from stable patterns of rotating the office at the end of one or two terms to allowing longer service, or, in the case of four states, electing leaders more often than every six years.[58]

42. Remove legislative powers from the lieutenant governor.

> The exercise of legislative powers, including such pro forma powers as presiding, casting tie-breaking votes, and signing enacted legislation, by the lieutenant governor, whether the powers derive from the constitution or rulebook, would seem to be a particularly serious breach of the separation of powers and the independence of the legislature. The constitution and/or rulebook should be amended to permit the legislative powers presently exercised by the lieutenant governor to be set as the responsibility of the office of the president pro tem of the senate.

All but 14 states have established the office of lieutenant governor, and in most of these this official exercises functions of a legislative nature. Of the 36 states with lieutenant governors, 29 make her or him the presiding officer of the state senate. All but two of these allow this official to vote to break a tie, although in four, this cannot happen on a final vote. In addition, the lieutenant governor participates in making committee appointments in 11 states and assigns bills in 16. See *Table* 4–11 for practices in the respective states.

RIGHTS OF THE MINORITY

Under the F.A.I.I.R. criteria, several recommendations relate to the rights of the minority.

43. Strengthen minority party role.

> Internal accountability as well as the capacity of all legislators to represent their constituents effectively depends upon the opportunity of minority party members to have an effective part in internal legislative affairs.

One measure of participation by the minority party is the ability of minority committee members to issue and have considered a minority report to committee reports. Although the minority on any given bill might not be party based, such opportunities built into the legislative process assure minority party members of some influence.

The rules in ten states provide for minority committee reports in the houses of representatives. Eight state senates allow filing of minority reports. In three houses and four senates, motions are in order to place the report on the calendar or substitute it for the majority report. In three houses and two senates such reports are automatically calendared and in four houses and three senates they become part of the permanent record.[59]

44. Minority representation on committee on rules.

> Minority representation on the committee on rules should approximate the minority party proportion of the membership of the given house.

An examination of legislative rules indicated that, although specific mention was not made of the rules committee, in at least 22 chambers in 15 states the rules guarantee minority party membership on standing committees. Presumably, this includes rules. Membership in most instances was based on the strength of the minority party in the legislative chamber.[60] Possibly, practice provides representation in other states.

45. Designation of minority party members.

> Minority party members should be assigned to committees by the minority leader in consultation with the minority caucus.

As far as selection of minority committee members is concerned, states employ a melange of methods. Unfortunately, efforts to compile nationwide data by examining legislative rules yielded none for most states. Mechanisms set out for determining minority membership on committees included appointment by the minority leader, recommendation by the minority leader, designation by committees on committees, selection by minority causes and appointment by the speaker or president. In at

Table 4–11

LIEUTENANT GOVERNORS: LEGISLATIVE PARTICIPATION

State or Other Jurisdiction	Presides Over Senate	Appoints Committees	Breaks Roll-Call Ties	Assigns Bills	Authority For Governor to Assign Duties	Head of Executive Depatrment	Serves When Governor Out Of State
Alabama	*	*	*	*	...	...	*(a)
Alaska	...	*	...	...	*	*(b)	*
Arizona			(c)				
Arkansas	•	...	*	...	...	...	*
California	*	...	*	...	*	...	*
Colorado	...	...	...	...	*	...	*
Connecticut	•	...	*	...	*	...	*
Delaware	*	...	*	*	...	...	...
Florida	...	...	...	...	*	...	(d)
Georgia	*	(e)	...	*	...	...	...
Hawaii	...	...	...	...	*	*(b)	*
Idaho	*	...	*	...	*	...	*
Illinois	...	...	...	...	*	...	...
Indiana	*	...	*	...	*	Dept. of Commerce	...
Iowa	*	*(f)	*(g)	*(f)	...	...	...
Kansas	...	...	...	...	*	...	*(h)
Kentucky	*	...	*	*	*	...	*
Louisiana	...	...	...	...	*	...	*
Maine			(c)				
Maryland	...	...	...	...	*	...	...
Massachusetts	...	...	...	...	*	...	*
Michigan	*	...	*	...	*(i)	...	*
Minnesota	...	...	...	...	*(i)	...	*
Mississippi	•	*(j)	*	*	...	...	*
Missouri	•	...	*(g)	...	...	...	*
Montana	...	...	...	...	*(i)	...	*(a)
Nebraska	*	...	*	...	*	...	*
Nevada	•	...	...	...	...	...	*

New Hampshire			(c)				
New Jersey			(c)				
New Mexico	*	...	*	*(k)	*	...	*
New York	*	...	*	...	*	...	*
North Carolina	*	*	*	*	*	...	*
North Dakota	*	*(l)	*	*	*	...	*
Ohio	...	*	...	...	*	...	...
Oklahoma	*	...	*	...	...	Tourism & Recreation	*
Oregon			(c)				
Pennsylvania	*	...	*(g)	*	*	...	...
Rhode Island	*	...	*	*	...	...	*
South Carolina	*	*(m)	*	*	*	...	*(h)
South Dakota	*	...	*	*	*	...	*(n)
Tennessee			(c)				
Texas	*	*	*	*	...	...	*
Utah	...	...	...	...	*	...	...
Vermont	*	(e)	*	*	...	...	*
Virginia	*	...	*	...	*	...	...
Washington	*	*(o)	*(g)	*	*	...	*
West Virginia			(c)				
Wisconsin	...	...	...	...	*	...	*
Wyoming			(c)				

(a) After 20 days absence, except for Montana which is after 45 days.
(b) Performs the function generally granted to a secretary of state.
(c) No lieutenant governor, except in Tennessee the speaker of the senate bears the additional statutory title "lieutenant governor."
(d) Lieutenant governor does not serve as governor in his absence, but the governor leaves lieutenant governor in charge of operations of governor's office.
(e) The lieutenant governor is a member of the committee on committees which appoints the committees. In Georgia he is chairman.
(f) When the lieutenant governor is a member of the senate majority party.
(g) Except for final passage.
(h) Has authority to act in an emergency when the governor is absent from the state.
(i) May perform duties requested by the governor, but no power vested in the governor may be delegated.
(j) Except rules and legislative service committees.
(k) Only with sponsor's request.
(l) By tradition, the lieutenant governor appoints those persons suggested by the party leaders.
(m) Appoints study committees but not standing committees.
(n) Only when governor is continuously absent or suffers a temporary disability. The state supreme court must determine when such a situation exists.
(o) Subject to senate confirmation.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 155.

least seven chambers in five states, the rules specifically require designation by the minority leader. In five additional chambers the minority party is vested with authority. The minority leader recommends in the few others.[61] Since rules in more than 30 states do not specify the process, however, their practices are unknown.

BILL DOCUMENTATION

The Citizens Conference also makes a number of recommendations relating to bill documents, designed to enhance comprehension of intent and content, to ensure accountability and to facilitate the legislative process.

46. Printed bill document format.[62]

47. Reprint amended bills.

> When a bill is amended substantially it should be reprinted and returned to the legislature with no more than an overnight delay. The reprint should show clearly the original text of the bill as well as the change created by the amendment.

The variations in printing practices among the states, and within states, are reflected in *Table 4–12*. At least 29 houses of representatives reprint bills after committee action, any amendment, substantial amendment or before final vote. Senates do even better with 34 such bodies taking similar actions. A number of states did not respond to the NCSL survey.[63]

48. Bills—time lag in printing.[64]

49. Skeleton bills.[65]

50. Statement of intent by author of a bill.[66]

51. Bill summary by bill drafting service.[67]

52. Require roll call on passage of bills.

> A recorded roll call should be required on final passage of any legislative measure, and it should require a constitutional majority to pass any bill on final action by either house.

53. Electric roll-call recorder.

> There should be an electric roll-call recorder in each house. This is recommended not simply because it will speed up the proceedings (worthwhile as this may be), but because it is an efficient method of producing an error-free record of roll-call votes.

For most of these recommendations, insufficient evidence exists to determine whether or not the states are more in compliance with them than they once were. Information has been compiled on numbers 52 and 53, however. As of 1977, an overwhelming majority of all states—37 for the house and 39 for the senate—recorded roll calls on final passage of legislation. This is up seven and six respectively since 1969. In addition, roll calls could be had on request in 12 houses of representatives and 11 senates.[68]

It is understandable that because of their size, more houses of representatives use electronic vote recorders than do senates. Members use electronic voting in 42 houses and 22 senates. This constitutes a dramatic rise since 1969, when 11 states used these devices for both houses with 24 requiring them for the house only and one for the senate only.[69]

LEGISLATIVE STAFFING

Those interested in upgrading state legislatures long have argued that adequate staffing is an important factor in enhancing legislative capability. Along with saving time for legislators and improving constituent services, sufficient staff support can improve decisionmaking by providing unbiased information as a basis for decisions. Without such assistance, legislators are unable to explore most issues in depth. They have to rely on their own experiences and observations, thus taking a parochial outlook on policy matters, or they must decide on the basis of information supplied by interest groups or the executive branch, either of which may be affected by the outcome. In the words of Senator John Garamendi, Democratic floor leader of the California Senate, "Without staff's independent analysis of issues, we'd be in deep trouble."[70] Legislators also require assistance in negotiating the procedural mazes of their respective chambers.

Legislative reliance on in-house information has been documented by Eric M. Uslaner and Ronald E. Weber.[71] Responses to a 1974 nationwide survey of state legislators as to

Table 4–12

TIME AND FREQUENCY OF PRINTING AND REPRINTING OF BILLS

	At Time Of Introduction	After Committee Amendments And Action	After Any Floor Amendments	After Any Substantial Floor Amendments	For Vote On Final Passage	For Governor's Signature
Alabama	B		H		H	B
Alaska	S	S	S			
Arizona	B				H	
Arkansas	H		H	H		
California	B	B	B	H	B	B
Colorado	B	H	H		S	S
Connecticut	H	H		H		H
Delaware	S		S	S		S
Florida	S		S	H	S	B
Georgia	H	H	H			H
Hawaii						
Idaho						
Illinois	S			S		
Indiana		H		H		H
Iowa	B		B			B
Kansas	B	B	B		B	B
Kentucky	S	S				S
Louisiana	S	S	S			S
Maine	S				S	
Maryland	B			B	B	B
Massachusetts	H					
Michigan	B					B
Minnesota	B	B	B		B	S
Mississippi	B	B	S			B
Missouri	B	S		S	B	H
Montana	B	B	B	B	B	
Nebraska	S			S	S	S
Nevada	B	S	B	B	S	B
New Hampshire	H					
New Jersey						
New Mexico	S	S	S	S	S	
New York	H	H	H	H		
North Carolina	B				B	
North Dakota	B			B		B
Ohio	B	B	B	B	H	B
Oklahoma	B	B	S			
Oregon	B	S			S	B
Pennsylvania	B	B	B	S	S	S
Rhode Island	H	H		H		
South Carolina		B	H	S		H
South Dakota	B					B
Tennessee	S		S		S	S
Texas	S	B			S	S
Utah		H	H	H		H
Vermont	B				S	S
Virginia	S					
Washington	B	H	B	H		H
West Virginia	B	B	B	H		B
Wisconsin	H			H		H
Wyoming	H			H		H

S = Senate.
H = House.
B = Both.
SOURCE: NCSL, "American State Legislatures Clerks and Secretaries Survey," 1982.

where they got their information indicated that legislators rely on sources within the legislature for most of it. Responses are reflected in *Table* 4–13. The emphasis given to legislative sources heightens the importance of adequate staff assistance.

Throughout most of American history, efforts to provide staff concentrated principally on furnishing clerical assistance. Professional staffing began some time ago with the organization of legislative reference bureaus in state libraries, followed by legislative councils. For the most part, however, these agencies operated in somewhat isolated circumstances, away from the confusion of the legislative session.[72]

Table 4–13

SOURCES OF CUES ATTRIBUTED BY AMERICAN STATE LEGISLATORS*

Cue Givers	First Choice	Weighted Total
Personal Friends in Legislature	17.4	39.6
Legislative Specialist in Policy Area	14.3	35.7
Interest Groups	8.4	29.7
Committee Chairman/Ranking Minority Member	11.9	29.3
Legislators of Same Party from Same or Adjacent District	8.6	28.3
Legislative Party Leaders	9.3	26.4
Administrator Specialists in Policy Area	4.9	23.0
Legislators of Both Parties from Same or Adjacent District	4.0	17.4
Party Leaders Outside Legislature	2.0	9.5
Governor	1.4	8.8
Constituents	3.6	4.1
Others/No Answer	14.1	NA

*A sample of 3,316 legislators was selected and 1,256 responded. The response rate was 37.9%.

SOURCE: Eric M. Uslaner and Ronald E. Weber, "Changes in Legislator Attitudes Toward Gubernatorial Power," *State and Local Government Review*, Vol. 9, No. 2, Athens, GA, Institute of Government, University of Georgia, May 1977, p. 41.

Beginning in the 1960s, legislative staffing grew by leaps and bounds. Two students of the subject estimate that between 1969 and 1974, professional staffing rose by 130% with almost half of the increased assistance going to committees.[73] In another study, Lucinda S. Simon of the NCSL staff calculated that, as of 1979, there were more than 16,000 full-time, year-round professional, administrative and clerical staff members. During legislative sessions, approximately 9,000 additional assistants were employed.[74] The variation in professional staff by state is reflected in *Table* 4–14. The range of staffs employed during the session appears in *Table* 4–15.

Staff members may work for the legislature as a whole, for party caucuses, for committees, or for individual members. Institutional assistants may be assigned to administrative or housekeeping duties with responsibility for maintenance of legislative chambers or to the many tasks associated with publication of official documents, recordkeeping, maintenance of the calendar, bill status and similar activities. Others may work for the legislative reference agencies where they engage in research, bill analysis and the drafting of legislation, among other duties. Another group is involved in assisting the legislature in its fiscal responsibilities, whether it be auditing, budget analysis or other activities such as the preparation of fiscal notes. About one-third of the states have caucus staffs that assist the party caucuses with bill summaries, analysis of legislation, drafting and issuing press releases, preparation of newsletters and radio and TV programs, and research on party issues and voting records of the opposition. Committee staffs undertake bill analysis and drafting, hearing scheduling, research on matters before the committees, report drafting and other activities that may assist the committee in its work. Staffs for individual members are intimately involved with the activities of a particular member. They may be asked to write news releases, perform constitu-

Table 4–14

FULL-TIME PROFESSIONAL STAFF IN STATE LEGISLATURES

Number of Staff* Range	States			
	1st Quartile	2nd Quartile	3rd Quartile	4th Quartile
1–100	Delaware North Dakota Vermont Wyoming	Idaho Maine Nevada New Hampshire New Mexico North Carolina South Dakota Utah	Iowa Kentucky Mississippi Missouri Montana Oklahoma Rhode Island South Carolina West Virginia	Alaska Hawaii Indiana Kansas Nebraska
101–200	Oregon	Alabama Colorado Connecticut Tennessee	Arizona Georgia Virginia	Arkansas Maryland Washington
201–300	Louisiana	Massachusetts	Minnesota Wisconsin	Illinois New Jersey
301–400				
401–500	Texas			Pennsylvania
501–600			Michigan	
601–700			Florida	
701–800	New York	California		

*Includes staff of legislative audit agencies.

SOURCE: Lucinda S. Simon, *A Legislator's Guide to Staffing Patterns*, Denver, CO, NCSL, August 1979, p. 43.

ent casework, and to participate in the formulation of legislation and the aggregation of support for it. In some states, they draft legislation and monitor its progress through the legislature. They have responsibilities for keeping their members informed on political, substantive and procedural matters.

There is no doubt that the staff has a marked effect on the operations of the legislature. In order to determine what difference staffing a committee made, Gary J. Clarke undertook to compare legislative committees that had professional staffs with control committees that had no professional staff. Professional staff members were placed with health committees (formerly without staffs) in eight states. The evaluators found that:

1) better staffing in a particular policy area resulted in increased attention in that area;
2) better staffing results in new information for legislators;
3) better staffing results in beneficial changes in the public policy process;
4) better staffing didn't necessarily result in "better legislation"; and
5) better staffing results in increased staff influence.[75]

The Citizens Conference on State Legislatures recognized the need for staff and made several recommendations toward that end. The first related to staffing for the permanent legislative support agencies.

54. Strengthen staff support.

Legislative research, fiscal, legal and

planning agencies should be adequately staffed to full utility and at suitable salary levels for professional qualification. Professional staffing should be at a level to enable the legislature to conduct continuous, year-round examination of state resources and expenditures as well as program review and evaluation of state agencies. This staff should also prepare fiscal notes accompanying all apropriation bills, evaluating their fiscal impact over the short and long term. Staff agencies should be upgraded to the level at which competent and timely service can be provided to every member of the legislature.

The advantages of improved legislative staffing have been recognized by several scholars. Alan Rosenthal found that in Wisconsin the legislature's fiscal bureau deterred the governor and executive department and agencies from making excessive budget demands. Similarly, Eugene Farnum observed that legislators in Michigan had used staff to improve their committee hearings, to review new and existing programs more extensively, to scrutinize state government more carefully, to determine compliance with legislative intent, to consider and dispose of new programs, and to approach decisionmaking with more confidence. Alan P. Balutis concludes, after reviewing studies by these and other authors, that:

> ... the influence of the staff can be seen in many ways: changes in the amount of information available to legislators; changes for the better in the technical characteristics of legislation; a decline in the trend toward the sweeping delegation of increasing amounts of authority to the executive branch; an increase in the ability of the legislature to legislate in detailed instead of broad terms; an increase in the ability of the legislature to oversee executive agency activities; the legisla-

Table 4–15

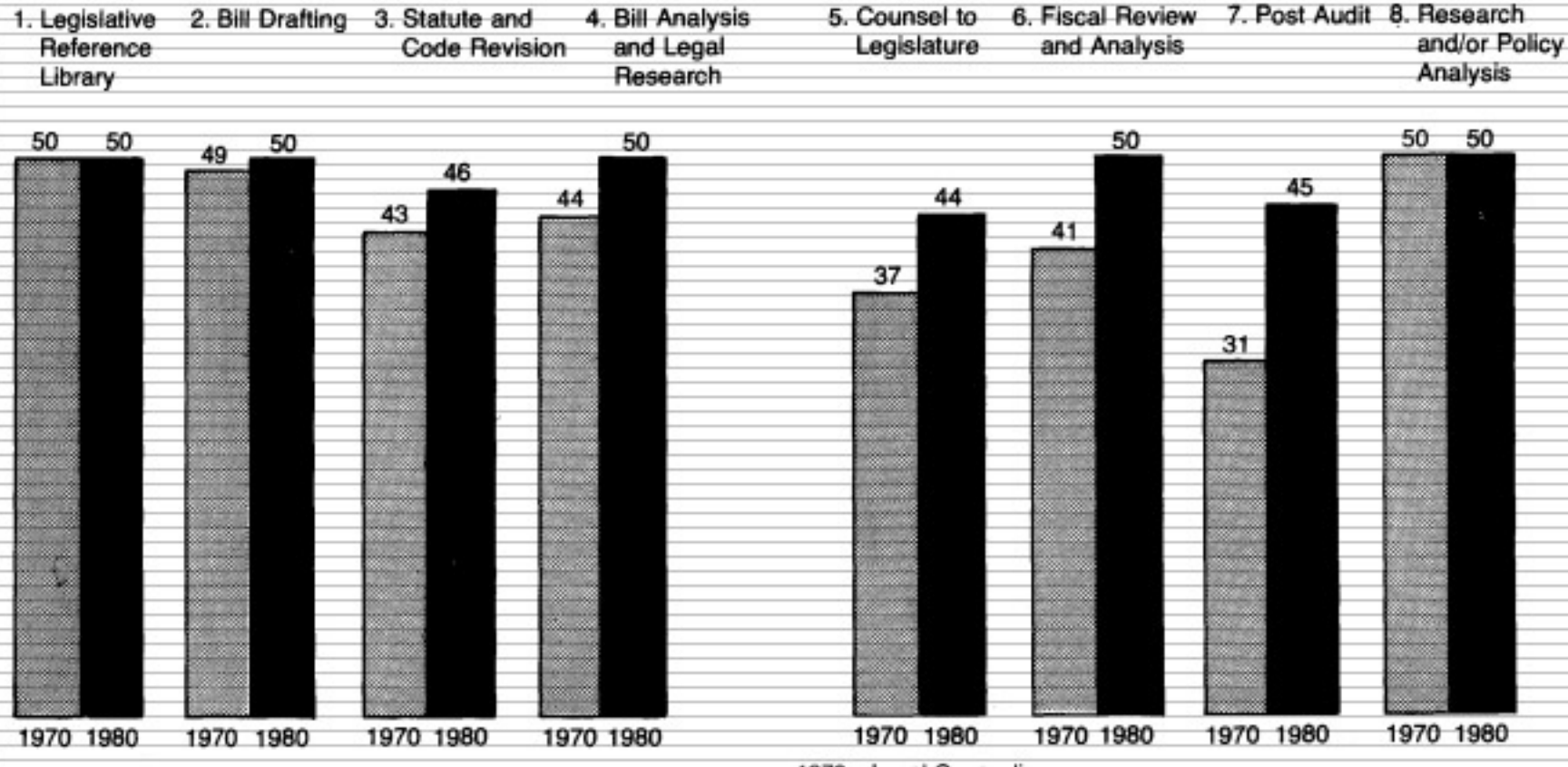
SESSIONAL STAFF EMPLOYMENT IN STATE LEGISLATURES

Employees	States		
0–99	California	Nebraska	South Dakota
	Delaware	New Hampshire	Tennessee
	Massachusetts	New Jersey	Vermont
	Michigan	Ohio	Wyoming
	Mississippi	Pennsylvania	
100–199	Alabana	Illinois	Nevada
	Alaska	Indiana	North Dakota
	Arkansas	Louisiana	Rhode Island
	Colorado	Maine	Utah
	Connecticut	Missouri	Wisconsin
	Idaho	Montana	
200–299	Florida	Kentucky	South Carolina
	Iowa	New Mexico	Virginia
	Kansas	Oklahoma	West Virginia
300–399	Arizona	Hawaii	North Carolina
	Georgia	Maryland	
400–499	Minnesota	Oregon	
500 +	New York (approx. 1500)	Texas (approx. 550)	Washington (approx. 550)

SOURCE: Lucinda S. Simon, *A Legislator's Guide to Staffing Patterns*, Denver, CO, NCSL, August 1979, p. 43.

Figure 4–1

STATE LEGISLATIVE SERVICES, 1970–80



1970—Reference Library Facilities
1980—Legislative Reference Library Facilities

1970—Bill Drafting for Legislature
1980—Bill Drafting

1970—Statutory Revision
1980—Statute and Code Revision

1970—Prepares Bill and Law Summary and Recommends Substantive Legislative Program
1980—Bill Analysis and Legal Research

1970—Legal Counseling for Legislators
1980—Council to Legislature

1970—Continuous Study of State Revenues and Expenditures and Budgetary Review and Analysis
1980—Fiscal Review and Analysis

1970—Legislative Post Audit
1980—Post Audit

1970—Prepares Research Reports and Spot Research
1980—Research and/or Policy Analysis

SOURCE: Prepared by Leonard Shanks from *Book of the States, 1970–71* and *Book of the States, 1980–81*, Lexington, KY, The Council of State Governments, 1970, 1980.

Table 4–16

STANDING COMMITTEE STAFFING PATTERNS IN STATE LEGISLATURES, 1979

States	Full Time (FT)	Sessional (SO)	Both	Committees: Money	Committees: Major	Committees: All	Professionals Per Committees: Most	Professionals Per Committees: Money
Alabama			•	•				3–4
Alaska			•			•	2	3–4
Arizona	•					•	1	4
Arkansas	•				•		1	4
California	•					•	1–4	5–10
Colorado	•					•	1	10
Connecticut	•					•	1	4–6
Delaware	•				•		½	2–3
Florida	•					•	1–5	11
Georgia	•				•		1	5
Hawaii		•				•	1–2	2–3
Idaho								
Illinois	•					•	4–8	10–14
Indiana	•				•		1	4
Iowa	•				•		½	2–3
Kansas	•					•	2	4
Kentucky	•					•	1	2
Louisiana	•					•	1	4
Maine	•					•	½	2
Maryland			•			•	1–2	6–8
Massachusetts	•					•	2	10–22
Michigan	•					•	1–9	25–27
Minnesota	•					•	2–3	7–10
Mississippi	•			•				
Missouri	•			•				4–5
Montana								
Nebraska	•					•	1–3	16

Table 4–16 (continued)

STANDING COMMITTEE STAFFING PATTERNS IN STATE LEGISLATURES, 1979

States	Full Time (FT)	Sessional (SO)	Both	Committees: Money	Committees: Major	Committees: All	Professionals Per Committees: Most	Professionals Per Committees: Money
Nevada				S		H		
New Hampshire			•	•		•	1	1
New Jersey	•					•	2–3	5–9
New Mexico	•			•				3–4
New York			•			•	2–10	30–36
North Carolina	•				•		½	1
North Dakota		•				•	1	2
Ohio	•					•	2–4	5–6
Oklahoma	•				•		1	3
Oregon			•	FT •		SO •	1	12
Pennsylvania	•					•	2–7	12–15
Rhode Island			•	FT •		SO •	1	3
South Carolina	•				•		1	1
South Dakota	•				•		½	2–3
Tennessee	•			H •		S •	1	3–4
Texas			•			•	1–15	16
Utah	•					•	1	6
Vermont	•				•		¼	2
Virginia	•					•	1	6
Washington	•					•		
West Virginia			•	FT •		SO •	1–4	10
Wisconsin	•					•	2	10
Wyoming								

SOURCE: Adapted from: Lucinda S. Simon, *Understanding Legislative Staff Development: A Legislator's Guide to Staffing Patterns*, Denver, CO, NCSL, August 1979, p. 61.

ture's resumption of an initiatory stand in several policy areas; and a reinforcement of the legislature's customary fiscal economizing role. Staff members see themselves as having influence in the legislative process and are seen as being influential by legislators, executive officials, and lobbyists.[76]

While data on the quality of staff services are not available, except indicators of much stronger professional assistance, there is information on what legislative service agencies exist and what they do. *Figure 4–1* indicates the number of states having the various kinds of legislative service agencies and the increase in the number of these agencies since 1969. It will be noted that all states now have legislative reference libraries, bill analysis and legal research, fiscal review and analysis, and policy research and analysis. Given the variation existing in most matters among the states, considerable difference in quality is likely to be the case here, also. As far as fiscal notes are concerned, all states except Hawaii and Oklahoma require some kind of cost estimates on proposed legislation. In some instances, the projected costs must exceed a certain amount (e.g., $100,000 in Massachusetts). Details of the requirements vary as do recipients of the fiscal notes. Only 28 states furnish them to all legislators.[77]

55. Committee staffing.

> Standing committees should be staffed on a permanent, year-round basis.

In making this recommendation, and specifically calling for improvement in 30 states, the Citizens Conference on State Legislatures wrote:

> Most legislatures have extremely small professional staffs which must perform a wide variety of tasks and whose services are, for the most part, available only to the leadership of each house and to leaders and majority members of the two or three most important committees. The main result is that legislators and committees must rely almost exclusively on information supplied by the very executive agencies and lobbyists affected by their decisions.[78]

Since the report was issued, committee staffing has improved significantly. As *Table 4–16* shows, a total of 32 states had professional staffing for all committees, and 41 furnished such assistance for most of their committees. In eight states, professional staffing was supplied for the session only. Only four states—Idaho, Montana, Nevada and Wyoming—provided no professional staffing for committees. Clerical assistance is provided in almost all states.

56. Strengthen staff support (leaders).

> Staff assistance should be provided to all leaders of both the majority and minority parties. Such assistance should include a secretary and an adminitrative assistant at the professional level, with space to work reasonably adjacent to the offices of members and leaders

The Citizens Conference recommended increased staff support for legislative leadership for 31 states in 1969–70. The NCSL survey found substantial staff assistance for leaders by the end of the 1970s. Presiding officers in all states have clerical assistance and in all but eight states have professional aides as well. Other leaders employ support staff in 42 states with leaders in 32 states having professional staff. *Table 4–17* reflects the distribution.

57. Strengthen staff (rank-and-file members).

> Rank-and-file members (majority and minority party on an equal basis) should be provided with individual staff assistance consisting of a minimum of an administrative assistant at the professional level and a secretary. Eventually, this should increase to the stated level of support both in the capitol and in the district office.

Although figures on individual staff support differ,[79] the NCSL survey (1978–79) indicates that staff resources have been strengthened for individual members.[80] In 29 states there are personal staffs for each senator. Most of these are support or clerical aides with nine states

providing professional staff. See *Table 4–18*. Slightly fewer states provide staff for house members with 25 of the 49 states with bicameral legislatures making this assistance available. Again, it is likely to be support staff. Only five states provide professional assistance for house members. Stenographic pools are available in most states, even in some of those with individual member staffing. Twelve states furnish district office staffing.

58. Staff (patronage).[81]

WASHINGTON LIAISON OFFICE

59. Washington, DC, office for the legislature.

> With the large and growing volume of activity generated by state-federal relationships, the legislature, beyond merely reacting to federal legislation, should be in a position to influence the development of new programs in accordance with the interests of the state. To do so, the legislature should have an office in the nation's capital to represent it and to be its most direct liaison with the congress. For small states, consideration might be given to joining with a number of sister states (either on a geographical or population basis) in sharing the services of a Washington office. In large states, the volume of intergovernmental traffic has reached a stage at which it would benefit the legislature greatly to have a full-time Washington office.

Although 25 states have general Washington liaison offices, these are primarily adjuncts of the executive branch. Three states, however, maintain state legislative offices in the nation's capital. These are California, Illinois and New York. The latter has two offices, one for the assembly and one for the senate.[82]

FACILITIES

60. Individual offices.

> Provide private, individual offices for every member of the legislature, with nearby space for their assistants.

An individual office for each member is another aid to improving legislative performance. There, too, the states are doing better, although additional space is needed. *Table 4–19* reflects the extent of such facilities as of 1979. Private offices are available for all senators in 26 states and shared offices are provided in nine more. House members have private offices in 18 states and share space in 11 more. This means that in 15 states, all senators do not even have shared space and in 21, facilities are even more limited with no offices for all house members. Data on the extent of other facilities recommended by the Citizens Conference are unavailable. The recommendations include:

61. Facilities for committees.[83]

62. Service agency facilities.[84]

63. Improved press facilities.

> Improved press facilities aid in the coverage of the work of the legislature. Committee rooms and both chambers or galleries should provide adequate space for the news media as well as lighting and electrical power connections for their equipment. Conference or interview rooms and office space should also be provided for the news media.

Information as to the adequacy of office space and power connections for the press is not available. As of 1981, however, a total of 44 states provided floor space for the media in both houses. Only Florida, Massachusetts, Oklahoma and Vermont do not furnish floor space in either chamber, while the press is allotted no floor space in the North Dakota and Oregon senates and the Missouri, New Hampshire and South Carolina houses.[85]

NCSL reports that in 1977, all states provided facilities for the print media in or near the capitol and half of the states furnished at least one special studio or press conference room for the electronic media. States that permit radio and television coverage of floor and committee action often supply special electronic systems for sound equipment.[86]

64. Parking.[87]

CONFLICT OF INTEREST

The substitution of individual interests for the public good has long concerned those interested in legislative accountability and inde-

Table 4–17

PERSONAL STAFF SERVICES FOR LEGISLATORS

	Presiding Officers		Other Leaders		Members Senate		Members House				
	Profes-sional	Support	Profes-sional	Support	Profes-sional	Support	Profes-sional	Support	Steno Pool	District Offices	Caucus Staff
Alabama	F	FS							S		
Alaska	FS	FS	F	FS		S		S			
Arizona	FS	F	F	F		S		S	F		•
Arkansas	F	F							S		
California	F	F	F	F	F	F	F	F	F	•	•
Colorado		F		F					S		•
Connecticut	F	F	F	F					F		•
Delaware	S	F	S	F					S		•
Florida	F	F	F	F	F	F		F		•	
Georgia	F	F	S	S					F		
Hawaii	F	F	S	S	S	S		F		•	•
Idaho		F							S		
Illinois	F	F	F	F		F		F		•	•
Indiana	F	F	F	F					F		•
Iowa	F	FS	F	FS		S		S			•
Kansas	F	F	F	F		S		S			
Kentucky	F	F	F	F					S		
Louisiana	F	F			S	F			S	•	
Maine	FS	F	FS	F					S		
Maryland	F	F	F	F		F			FS	•	
Massachusetts	F	F	F	F	F	F		F		•	
Michigan	F	F	F	F	F	F		F			•
Minnesota	F	F	F	F		S		S	F		•
Mississippi		F							S		
Missouri	F	F	F	F		F		S	F		

Montana	S	S	S	S					S		
Nebraska	F	F			F	F		Uni-cameral			
Nevada		S		S					S		
New Hampshire	F	F	F	F					FS		
New Jersey	F	F	F	F	F	F	F	F		•	•
New Mexico		F		S		S		S			
New York	FS	FS	FS	FS	FS	FS	FS	FS		•	•
North Carolina	FS	F		F		S		S			
North Dakota		S		S					S		
Ohio	F	F	F	F	F	F		F			•
Oklahoma	F	F		F		S		S			
Oregon	F	FS	F	FS	S	S	S	S			•
Pennsylvania	F	F	F	F	F	F		F		•	•
Rhode Island	F	F	F	F					S		
South Carolina	F	F		F		F			F		
South Dakota		S		S					S		
Tennessee	F	F	F	F		F		F			
Texas	FS	FS			FS	FS	FS	FS		•	
Utah		F		S					F		
Vermont		F							F		
Virginia	F	F	F	FS		F		F			
Washington	F	F	F	F		F		S	F		•
West Virginia	F	F	S	S					F		
Wisconsin	F	F	F	F	F	F		F		•	•
Wyoming		S							S		

Key: F = full-time or year-round staff.
S = session only staff.
FS = full-time and session staff available.

SOURCE: Lucinda S. Simon, *Understanding Legislative Staff Development: A Legislator's Guide to Staffing Patterns*, Denver, CO, NCSL, August 1979, p. 63.

Table 4–18

STAFF ASSISTANCE FOR INDIVIDUAL LEGISLATORS

Type of Staffing	Senate		House	
Full-time Professional/Full-Time Support	California	New Jersey	California	
	Florida	Ohio	New Jersey	
	Massachusetts	Pennsylvania	Texas	
	Michigan	Texas		
	Nebraska	Wisconsin		
Full-Time Professional/Session Support	New York		New York	
Session Professional/Full-Time Support	Louisiana			
Session Professional/Session Support	Hawaii		Oregon	
	Oregon			
No Professional/Full-Time Support	Illinois	Ohio	Florida	Pennsylvania
	Maryland	South Carolina	Hawaii	South Carolina
	Missouri	Tennessee	Illinois	Tennessee
	Washington	Virginia	Massachusetts	Virginia
			Michigan	Wisconsin
No Professional/Session Support	Alaska	Minnesota	Alaska	Minnesota
	Arizona	New Mexico	Arizona	Missouri
	Iowa	North Carolina	Iowa	New Mexico
	Kansas	Oklahoma	Kansas	North Carolina
			Washington	
		Both Chambers		
Secretarial Pool	Alabama	Idaho	Mississippi	Rhode Island
	Colorado	Indiana	Missouri	South Dakota
	Connecticut	Kentucky	Montana	Utah
	Delaware	Louisiana[a]	Nevada	Vermont
	Georgia	Maine	New	West Virginia
		Maryland[a]	Hampshire	Wyoming
			North Dakota	

[a]Senate with personal staff assistance, and secretarial pool for house.

SOURCE: Lucinda S. Simon, *A Legislator's Guide to Staffing Patterns*, Denver, CO, National Conference of State Legislatures, August 1979, p. 63.

Table 4–19

PRIVATE OFFICE SPACE

	Senate	House
All members	26	18
President/Speaker	23	30
President/Speaker Pro Tem	13	11
Majority Leader	18	23
Minority Leader/ Whip	19	23
All Committee Chairmen	4	10
Some Committee Chairmen	4	5
Shared Office Space		
All members	9	11
Some members	2	5

SOURCE: "The Legislatures," *Book of the States, 1980–81*, Lexington, KY, The Council of State Governments, 1980, pp. 126–27.

pendence. Although legal requirements are unlikely to replace individual morality in this respect, they can make it more difficult for legislators to assume that the public interest is synonymous with their personal gain. Among the types of restrictions and requirements that could be placed on legislators in attempts to insure proper behavior, the most important relate to conflict of interest. Consequently, the F.A.I.I.R. recommendations include:

65. Conflict of interest laws, special provisions.

> In addition to standard laws governing criminal behavior, there should be special provisions regulating legislative conflicts of interest.

Most states have taken some action in this respect. All but nine states have special legislation pertaining to financial disclosure and conflict of interest for state legislators. (Arizona, Arkansas, Delaware, Georgia, Idaho, New Hampshire, Utah, Vermont and Wyoming do not. *Table 4–20* shows the pattern.) The provisions of the laws are not uniform, with statutes including codes of ethics, prohibiting certain actions, requiring the disclosure of finances, and mandating disclosure of conflict of interest in varying combinations. The effects of such laws are unknown and perhaps unknowable and there is no information on enforcement efforts. There are inadequate data to determine the success of other F.A.I.I.R. recommendations relating to conflict of interest. These include:

66. Practice before regulatory agencies.[88]

67. Prohibit doing business with states.[89]

68. Prohibit appointment to state offices.[90]

69. Holding other public office.[91]

70. Family employment.[92]

REGULATION OF LOBBYISTS

Closely related to problems of conflict of interest and ethical conduct is the control of special interests that attempt to influence legislative decisions. The Citizens Conference recognized this in putting forward the following recommendation:

71. Regulation of lobbyists.

> The independence of the legislature and public confidence in its processes require the regulation of special interest advocates. Lobbyists should be required to register with an agency of the legislature, and should be required to disclose who employs them, on behalf of what objectives, how much they are paid, and how much they spend and on whom. This information should be available to the press and the public. There should be specific and automatic penalties for failure to comply with these requirements.

All states have laws requiring lobbyists to register and most require activity and expenditure reports. It is almost impossible, however, to determine the effectiveness of this legislation. Disclosure appears to be the most effective method of dealing with the problem of undue influence by special interests.

THE LEGISLATURE AS AUDITOR

Although the Citizens Conference omitted many aspects of legislative oversight, it dealt with one major facet of this activity in recom-

Table 4–20

COVERAGE AND SCOPE OF STATE PROVISIONS IN FINANCIAL DISCLOSURE/CONFLICT OF INTEREST, 1979

State	Coverage: State Legislators	Coverage: Employees of State Legislature	Coverage: Elected State Officials	Coverage: Appointed State Officials	Coverage: State Employees	Coverage: Members of State Commissions	Coverage: Candidates for State Office	Coverage: State Judges	Scope: Includes a Code of Ethics	Scope: Lists Prohibited Acts	Scope: Financial Disclosure Required	Scope: Notice of Conflict of Interest Required
Alabama	*	●	*	*	●	*	*	*	...	*	*	*
Alaska	*	...	*	●	...	●	*	*	...	*	*	...
Arizona	...	*	*	*	*	*	*	*	...	*	*	*
Arkansas	...	...	...	...	...	...	...	...	...	...	...	...
California	*	*	*	*	*	*	*	*	*	*	*	*
Colorado	*	...	*	*	*	*	*	*	*	*	*	*
Connecticut	*	*	*	*	...	●	*	...	*	*	*	...
Delaware	...	...	...	*	...	...	...	...	*	*	*	...
Florida	*	●	*	*	●	*	*	*	*	*	*	*
Georgia	...	...	...	...	...	...	*	...	...	...	...	...
Hawaii	*	*	*	*	*	*	*	...	*	*	*	*
Idaho	...	...	...	...	...	...	...	...	...	...	...	...
Illinois	*	●	*	●	●	●	*	*	*	*	*	...
Indiana	*	*	*	*	*	*	*	*	*	...	*	...
Iowa	*	*	*	*	*	*	*	*	*(a)	*	*	*
Kansas	*	●	*	●	●	*	*	...	...	*	*	*
Kentucky	*	...	●	●	●	●	●	*	*(b)	*	...	*(b)
Louisiana	*	*	*	...	*	...	*	*	*	*		*
Maine	*	...	...	...	●	...	...	...	...	*	*(b)	...
Maryland	*	●	...	●	●	●	●	*	*	*	*	*
Massachusetts	*	●	...	●	●	●	*	*	*	*	*	...
Michigan	*	*	*	*	*	*	...	*	*	*	(c)	*
Minnesota	*	●	*	●	●	●	*	...	...	...	*	*
Mississippi	*	...	●	...	...	*	*	*	...	*	*	*
Missouri	*	...	*	...	...	...	●	...	...	●	*	*(b)

Key:
* = All.
● = Some.
... = None.

Table 4–20 (continued)

COVERAGE AND SCOPE OF STATE PROVISIONS IN FINANCIAL DISCLOSURE/CONFLICT OF INTEREST, 1979

State	Coverage: State Legislators	Coverage: Employees of State Legislature	Coverage: Elected State Officials	Coverage: Appointed State Officials	Coverage: State Employees	Coverage: Members of State Commissions	Coverage: Candidates for State Office	Coverage: State Judges	Scope: Includes a Code of Ethics	Scope: Lists Prohibited Acts	Scope: Financial Disclosure Required	Scope: Notice of Conflict of Interest Required
Montana	•	•	•	•	•	•	...	•	•	•	...	...
Nebraska	•	...	•	•	•	•	...	...	...	•	•	...
Nevada	•	•	•	•	•	•	•	...	•	•	•	•
New Hampshire	...	...	...	...	...	...	...	...	...	...	...	...
New Jersey	•	•	•	•	•	•	...	...	•	...	...	•
New Mexico	•	...	•	•	•	•	•	•	...	•	•	•
New York	•	•	•	•	•	•	•	•	•	•	•	•
North Carolina	•	...	...	•	•	•	•	...	...	•	•	•
North Dakota	•	...	•	•	...	•	•	•	...	•	...	...
Ohio	•	•	•	•	•	•	•	•	•	•	•	•
Oklahoma	•	•	•	•	•	•	...	•	•	•	...	...
Oregon	•	•	•	•	•	•	•	•	•	•	(c)	...
Pennsylvania	•	•	•	•	•	•	•	•	...	•	•	...
Rhode Island	•	...	•	•	...	•	...	•	...	•	•	...
South Carolina	•	•	•	•	•	...	•	•	•	•	•	•
South Dakota	•	•	•	•	•	•	•	•	...	•	•	...
Tennessee	•	...	•	•	•	•	•	•	...	...	•	...
Texas	•	*(d)	•	•	*(d)	•	•	•	•	•	•	•
Utah	...	...	•	•	•	...	•	•	...	•	•	•
Vermont	...	...	...	...	...	...	...	...	...	...	...	...
Virginia	•	•	•	•	•	•	•	•	•	•	•	•
Washington	•	•	•	•	•	•	•	•	•	•	•	...
West Virginia	•	...	•	•	•	•	...	•	...	...	...	•
Wisconsin	•	•	•	•	•	•	•	•	•	•	•	•
Wyoming	...	...	...	...	...	...	...	...	...	...	...	...

(a) Within the legislative ethics committee.
(b) For legislators only.
(c) Required of some.
(d) Employees subject to conflict-of-interest provisions but not financial disclosure.

SOURCE: *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, 1980, p. 32.

mending that legislatures assume the auditing function.

72. Transfer audit function to the legislature.

> A significant part of the legislature's ability to exercise oversight over executive departments and administrative agencies depends upon the power and capacity to conduct audits (financial and functional) of these units of the state government. These functions and responsibilities should be removed from the duties and resources of the office of auditor and should be established under a legislative auditor.

While state legislatures have traditionally exercised oversight of state finances through the legislative budget process and some post audit activity, in recent years they have broadened their oversight activities. Legislatures in 40 states now exercise responsibility for the audit process, and many of these include program evaluation and appropriations of federal funds allotted to the states (discussed below).[93] Auditing is discussed further under the section on the executive branch.

GENERATING PUBLIC SUPPORT

The final F.A.I.I.R. recommendation is aimed at generating public support for the legislature. Citizens commissions worked for legislative improvement during the 1960s and 1970, stimulating legislative reform. The Citizens Conference recommended the following action:

73. Establish citizens commission on the legislature.[94]

Data as to the extent of compliance are not available.

ELECTRONIC DATA RETRIEVAL

The F.A.I.I.R. criteria mention only briefly the desirability of facilities for electronic retrieval. Nevertheless, in this age of the computer they are highly useful for legislative deliberations as well as management. By the end of 1969, computer systems either were in operation or in the design stage in 28 states. Their most common use was for statutory retrieval. Statutes, codes, rules, regulations and administrative decisions were entered on tapes in such a way that by use of key words matter relating to any subject could be retrieved. They frequently were used, also, for budget status, bill history and status, bill drafting, and journal indexing.[95] By the end of the next decade, electronic data processing was in use in all 50 states, although rarely to the fullest extent possible. Table 4–21 shows the variety of uses by 1981.

THE LEGISLATURE AS OVERSEER

Perhaps as a consequence of modernization, state legislatures responded to pressures both from inside and outside their own chambers and moved to reassert their positions as equal branches of state government. Toward this end, they strengthened their oversight of the executive branch by engaging in performance auditing, administrative rule review, "sunset review" and the appropriation of federal grant-in-aid funds.

Until recently, opportunities for reviewing activities of the executive branch and evaluating the effectiveness and efficiency of state programs and agencies usually were overlooked. In Rosenthal's words, until the 1970s oversight of administration was "only dimly perceived and spasmodically practiced."[96] What there was came principally as a side effect of other legislative activities such as budget hearings. Rosenthal attributed increased exercise of oversight to the legislative reform movement. He wrote:

> The belated discovery of legislative oversight is attributable in large part to the legislative reform movement. The movement left few states untouched, and succeeded in enhancing almost every legislature in the nation. With improved facilities, expanded staffs, and new sources and types of information, by the mid-1970s the challenge facing many legislatures was to put their newly fashioned capacity to work. . . . Oversight . . . became an outlet for the capacity developed as a consequence of legislative reform.[97]

Rosenthal's assessment of the reason for more intensive legislative oversight activity is supported by a study of three states by William Lyons and Larry W. Thomas. They compared

Table 4–21

LEGISLATIVE APPLICATIONS OF ELECTRONIC DATA PROCESSING, 1981

State or other jurisdiction	Statutory, Bill Systems, Legal Applications								Fiscal, Budget, Economic Applications										Legislative Management				
	Statutory retrieval	Bill drafting	Bill typing	Bill status report	Statutory revision	Case law retrieval	Redistricting	Other	Revenue forecasting	Revenue analysis	Budget comparison	Budget effects of legislation	Fiscal notes	Local fiscal notes	Economic impact note	Impact of salary and fringe changes	State and formulas	Tracking federal dollars	Other	Computer printing	Legislative accounting	Mailing lists	Other
Alabama	...	...	...	•	...	...	...	...	•	...	...	...	...	...	...	...	...	...	(a,b)	...	•	...	...
Alaska	•	•	•	•	...	...	...	...	•	...	•	•	•	...	...	...	...	•	...	•	•	...	...
Arizona	...	•	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Arkansas	...	...	o	...	...	...	...	(c)	...	...	...	...	...	...	...	...	...	...	(d)	...	...	...	...
California	•	•	•	•	o	o	...	...	...	...	o	•	o	...	...	o	...	...	...	•	•	•	...
Colorado	•	•	•	•	•	•	•	...	(e)	(e)	•	•	•	...	...	...	•	...	...	•	(c)	...	...
Connecticut	•	•	•	•	•	...	•	...	•	•	•	•	...	...	...	...	•	...	...	•	•	•	(f)
Delaware	...	(g)	(g)	•	...	...	...	...	...	...	...	...	•	...	...	...	...	...	...	...	...	...	...
Florida	•	•	•	•	•	...	•	(h)	...	•	•	•	•	...	...	•	•	...	...	•	•	•	...
Georgia	•	•	•	•	•	...	•	...	...	...	...	...	...	...	...	...	...	...	...	•	•	•	...
Hawaii	•	•	•	•	...	...	o	(a)	...	...	o	o	...	...	...	...	...	...	(d)	...	...	...	...
Idaho	•	•	•	•	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	•	...
Illinois	•	•	•	•	•	...	...	...	•	o	o	•	•	•	...	...	...	•	(i)	(j)	•	•	...
Indiana	•	•	•	•	•	...	...	...	•	•	...	...	•	•	...	...	•	...	...	...	...	...	...
Iowa	•	•	•	•	•	...	•	...	•	•	•	•	•	•	•	•	•	•	...	•	•	•	...
Kansas	•	•	•	•	•	...	...	...	...	...	•	•	•	•	...	...	•	...	...	•	...	...	...
Kentucky	•	•	•	•	•	(k)	•	...	...	...	•	•	...	...	...	...	...	...	...	•	•	•	...
Louisiana	...	...	•	•	...	...	•	(a)	•	•	•	...	...	...	...	...	...	...	...	...	•	•	...
Maine	o	...	...	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	•	...
Maryland	•	•	•	•	•	...	•	...	•	...	•	•	•	...	...	•	•	•	...	(j)	•	...	...
Massachusetts	•	•	•	•	•	...	...	(j,l,m)	...	...	•	...	...	...	...	...	...	...	...	•	...	...	(j,l,m)
Michigan	o	o	•	•	o	...	•	...	•	•	•	...	•	...	•	...	•	...	(n)	•	•	...	...
Minnesota	•	•	•	•	•	...	•	...	•	•	•	•	...	...	...	•	•	•	(o)	•	(p)	...	...
Mississippi	•	•	•	•	...	...	...	...	...	...	•	•	...	...	...	•	•	•	...	...	...	...	...
Missouri	...	...	...	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	•	•	...

Table 4–21 (continued)

LEGISLATIVE APPLICATIONS OF ELECTRONIC DATA PROCESSING, 1981

State or other jurisdiction	Statutory, Bill Systems, Legal Applications								Fiscal, Budget, Economic Applications											Legislative Management				
	Statutory retrieval	Bill drafting	Bill typing	Bill status report	Statutory revision	Case law retrieval	Redistricting	Other	Revenue forecasting	Revenue analysis	Budget comparison	Budget effects of legislation	Fiscal notes	Local fiscal notes	Economic impact note	Impact of salary and fringe changes	State and formulas	Tracking federal dollars	Other	Computer printing	Legislative accounting	Mailing lists	Other
Montana	•	•	•	•	•	...	...	(q)	•	•	•	...	•	...	•	•	...	...	...	...	...	•	...
Nebraska	•	•	•	...	•	...	...	(a)	...	•	...	•	•	...	...	...	(r)	...	...	•	...	•	...
Nevada	•	o	o	o	•	...	o	...	o	o	•	•	...	...	...	•	•	•	...	•	•	...	...
New Hampshire	...	...	...	•	...	...	...	...	...	...	•	•	...	...	...	...	...	...	...	...	•	...	...
New Jersey	•	...	...	...	...	...	•	...	•	•	•	•	o	...	o	o	•	o	...	•	•	...	...
New Mexico	...	...	...	...	...	...	...	...	...	...	...	•	•	•	•	•	...	...	...	...	(p)	...	...
New York	•	•	•	(l)	o	...	...	...	•	•	...	...	...	...	...	...	...	...	...	•	•	•	(s)
North Carolina	...	...	•	•	...	...	...	...	•	•	...	...	...	...	...	...	...	...	...	•	...	...	...
North Dakota	•	•	•	•	•	...	•	(m)	...	...	•	•	•	...	...	•	...	...	...	•	...	•	(t)
Ohio	•	•	•	•	•	•	...	...	•	•	•	•	•	...	...	•	•	...	...	•	•	•	...
Oklahoma	•	•	•	•	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	(u)	...
Oregon	•	•	•	•	•	•	•	(a)	...	•	...	...	...	...	...	...	...	...	...	•	•	•	...
Pennsylvania	•	•	•	•	•	...	•	(v)	...	•	•	•	•	...	•	...	•	•	...	(w)	•	...	(f,x,y)
Rhode Island	•	•	•	•	•	...	o	...	•	•	•	•	•	•	•	•	•	•	...	•	...	•	...
South Carolina	•	...	...	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	•	...
South Dakota	•	•	•	•	•	...	...	...	•	•	•	•	•	...	...	•	•	•	...	•	•	...	...
Tennessee	...	...	...	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	•	...	...
Texas	•	•	•	•	•	...	•	(z)	•	•	•	•	•	•	•	•	...	...	...	•	•	...	...
Utah	•	•	•	•	•	...	•	•	•	•	...	•	•	...	...	...	...	...	...	•	•	•	...
Vermont	...	•	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Virginia	•	•	•	•	•	•	...	(a)	o	o	o	...	...	...	...	...	...	...	...	•	...	•	...
Washington	•	•	•	•	•	•	o	(aa)	•	•	•	•	...	...	...	•	•	...	...	(j)	•	•	...
West Virginia	•	•	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	...	(g)
Wisconsin	•	•	•	•	•	...	...	...	•	•	•	•	...	...	...	...	•	...	...	•	•	...	(ab)
Wyoming	•	•	•	•	•	...	...	...	...	•	•	•	•	•	•	...	•	...	...	•	•	•	...

Key:

* = Actual application.
o = Planned application.

(a) Bill index. Nebraska—daily journal; Virginia—attorney general opinions.
(b) Act index.
(c) House engrossing and journal typing. Arkansas: planned only.
(d) Budget preparation.
(e) Tracking system only.
(f) Selected personnel record-keeping.
(g) Delaware: Word processing system only; West Virginia: for interim committee agencies.
(h) Lobbyist registration, law book distribution, appropriations, calendar preparation, audit reports.
(i) Expenditure analysis and tracking, expense forecasting and comparison to appropriations.
(j) Photo composition.
(k) In use for attorney general.
(l) Status of bill in committee.
(m) Bill registry—tracking method for bills being drafted.
(n) Higher education/community college budget requests.
(o) Appropriations (experimental).
(p) Payroll only.
(q) Data files include bill index, photo composition, bill registry, act name file, statute chronology, session history publication, session laws, house and senate journals, legislative rules, publications of the Montana Code Annotated.
(r) For education only.
(s) Inventory control.
(t) Calendar.
(u) House only.
(v) Act name file (word searching), statute chronology and session history publications, senate congratulatory resolutions.
(w) Computer typeset products are: session slip laws and pamphlet law volume, all senate and house calendars, senate congratulatory resolutions, verbatim senate and house journals.
(x) Present election results and survey tabulations.
(y) Administration of the senate and house, including personnel listings, payroll and expense accounting, fringe and retirement benefits, inventory control and registered lobbyists and representated organizations.
(z) Statutes affected by pending and passed bills.
(aa) Data files include federal and state constitutions, attorney general opinions, supreme court reports and administrative rules.
(ab) Public opinion questionnaire analysis.

SOURCE: *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 232–33.

the perceptions of legislators in Florida, Missouri and Tennessee, which have varying degrees of legislative modernization, as to how well their legislatures were performing the oversight function. They found that lawmakers in each of the states perceived their legislatures as doing well in this respect, with 54% giving a "good" or "excellent" rating. Although there were no significant differences among the states on the general rating, members of Florida's reformed legislature seemed to be somewhat more satisfied with their legislature's performance. Important variations did appear when oversight activities at the committee level were examined. Florida and Tennessee legislators perceived significantly more activity at the committee level than did those from Missouri, the state with the fewest structural changes in its legislature. The authors suggest that structural changes seem to result in a greater incidence of oversight.[98]

AUDITING AND EVALUATION

The first moves toward oversight came in the form of post auditing to ensure that expenditures have been made in accordance with the law, a function formerly independent of the legislature. In the decade of the 1960s, legislatures began to assume this function, and by 1980, four out of five states selected a post auditor responsible to its direction. The activities of the auditing agencies soon grew to encompass program or performance auditing and evaluation designed to check the effectiveness and efficiency of government programs. At the same time, the legislature began to establish separate evaluation units, and by the end of the decade more than half the states employed audit or evaluation agencies to conduct oversight.[99]

REVIEW OF ADMINISTRATIVE REGULATIONS

Legislatures also took on responsibility for reviewing the rules and regulations promulgated under the legislation they had enacted. It is not unusual for legislatures to delegate to the executive branch authority to adopt rules and regulations to implement enacted legislation. Because these provisions are of major importance in program administration, having the effect of law, legislatures have become concerned with the performance of the rule makers. Consequently, 38 of them now have statutory authority to review *proposed* rules and regulations for their adherence to the scope and intent of the enabling legislation and for correct form. The review also assesses compliance with proper procedures for rule adoption.[100]

"SUNSET ACTIVITIES"

The antigovernmental mood that came to a climax during the 1970s resulted in efforts to cut government growth and spending. Beginning with Colorado in 1976, state after state adopted "sunset" legislation designed to force legislative evaluation of an agency or program by establishing a specific date for its termination unless affirmatively reestablished by statute.[101] By 1982, a total of 36 states had initiated some form of sunset legislation, although North Carolina repealed its automatic termination provision in 1981. Between 1976 and 1981, the sunset process has been used to examine 1,500 agencies, according to a Common Cause survey.[102]

Actually legislative management devices, sunset laws were not intended to abolish organizations or activities in most instances, but to improve evaluation of them and make them work better. Their purposes were summed up in a report by the Texas Sunset Advisory Commission, as follows:

> The acceptance of this concept (sunset) has been aided by a general agreement that unless legislative bodies are forced to act, no systematic review will be directed toward the efficiency and effectiveness with which governmental programs are carried out. The sunset process, is, then, an attempt to institutionalize change and to provide a process by which this can be accomplished on a regular systematic basis.[103]

Following the lead of Colorado, there was an early tendency to focus coverage on regulatory activities. Common Cause, the principal champion of the process, advocated beginning with regulatory agencies (public utilities commissions and occupational and professional licensing boards) because

> ... they have a heavy cost impact on the economy and are a source of much

> citizen dissatisfaction with government. In addition, regulatory agencies are given little scrutiny in the budget process because they generally involve little in direct state appropriations.[104]

Subsequently, the scope of sunset review was broadened and, as of 1982, in addition to the ten states that limited their evaluations to regulatory agencies, 15 included other selected agencies as well, and ten undertook comprehensive reviews of all state agencies.

In about three-quarters of the instances of sunset review, legislatures accepted the recommendations of the reviewing committees, according to the Common Cause survey. Approximately one in five agencies examined was abolished and one in three modified to some degree. Of those recreated, fewer than half were reestablished substantially unchanged.[105] It is unlikely, however, that the discontinued agencies were in the mainstream of state activities. Better targets for the executioner's axe are small, isolated units in the backwater of state government with little or no budget, and no constituency. Modification of structure and redirection of policy are the more likely results.

According to Common Cause, the effects of sunset review, in general, have been salutary. Survey respondents from 23 states reported increased government efficiency and accountability. In addition, legislative oversight of administrative activities had increased. Moreover, about 40% of those responding indicated that requirements for improved administrative practices and disciplinary procedures also resulted from the sunset process. Altogether, 15 states were satisfied enough to broaden the scope of the evaluations to include more agencies.

The major difficulty with sunset review, according to the Common Cause survey, was the lack of adequate measurement information on agency performance and agency value. Over half of the states indicated a problem in this respect. Other troubles related to the time and money involved and the low public participation in the process, leaving a disproportionate influence for the regulated professions. False expectations that the reviews would reduce government employment and save money, rather than make government work better, also generated dissatisfaction. It appears, nonetheless, that the advent of the sunset process has, at a minimum, raised legislators' consciousness of the importance of regular oversight.

APPROPRIATION AND OVERSIGHT OF FEDERAL GRANT FUNDS

For many years, most state legislatures ignored the handling of federal grants-in-aid funds to their states. A 1975 survey by ACIR found that most state legislatures did not know about, or did not pay attention to, federal monies coming into their states.[106] Nevertheless, a few states (notably Oregon, Colorado and Vermont) informally reviewed and appropriated federal funds, although the practice was not widespread.[107]

NEED FOR LEGISLATIVE ACTION

Without the ability to approve projects or programs financed with national funds, legislatures often found state agencies undertaking unwanted programs or initiating activities that the state might later have to finance entirely. Traditionally, once the legislature had designated state agencies to administer federal programs, their remaining control over expenditures associated with these programs resulted largely from the necessity for the appropriation of matching funds. With the increase in project grants and the decline of the requirement for a state funding match on categoricals, legislative control over the amount and purpose of state agencies' spending diminished. Legislatures began to appropriate federal grant-in-aid monies in an effort to assure legislative rather than executive priorities in the spending of state funds, to guard against excess commitment of future state dollars for matching programs without legislative approval, to avoid pursuit of programs the legislature had disallowed through the use of substitute money, and to guarantee effective delivery of services.

Legislatures also were avoiding some of the consequences of the federal grant system for state government. A 1980 report by the U.S. General Accounting Office (GAO) urging Congress to increase state legislative participation in the grant system indicated that "through the assignment of legislative functions to the state executive branch, federal grant programs may alter the traditional constitutional relationship

Table 4–22

LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS AND FEDERALLY FUNDED POSITIONS, 1982

State	Appropriation of Federal Funds			Appropriation Of Federally Funded FTE[b]
	Makes Specific Appropriations[a]	Makes Automatic Or Open-Ended Appropriations	Does Not Appropriate Federal Funds	
Alabama		x		No
Alaska	x			Yes
Arizona		x		No
Arkansas	x			Yes
California	x			No
Colorado			x*	No•
Connecticut			x*	No
Delaware		x		No
Florida	x•			Yes
Georgia	x			No
Hawaii	x			Yes
Idaho	x			In some cases*
Illinois	x*			No
Indiana		x		No
Iowa	x•			No
Kansas	x			No•
Kentucky	x			No
Louisiana	x			In some cases*
Maine	x			No
Maryland	x*			Yes
Massachusetts	x			(?)
Michigan	x			Yes
Minnesota	varies•			In some cases*
Mississippi	x			No
Missouri	x			In some cases*
Montana	x			No
Nebraska		x		No•
Nevada	x*			Yes
New Hampshire	x			No
New Jersey			x	No
New Mexico			x[1]	No[2]
New York	x			No
North Carolina	x			No
North Dakota	x			No
Ohio	x			No
Oklahoma			x[1]	In some cases[2]
Oregon	x			Yes
Pennsylvania	x			No
Rhode Island		x		No
South Carolina	x•			Yes
South Dakota	x			Yes
Tennessee			x[1]	In some cases[2]
Texas	varies*			No
Utah	x			No
Vermont	x			In some cases*
Virginia	x			Yes
Washington	x			In some cases*
West Virginia	(x*)			No
Wisconsin		x		No
Wyoming	x			No
Total	37	7	6	(?)

Table 4–22 (continued)

LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS AND FEDERALLY FUNDED POSITIONS, 1982

^This means federal funds are appropriated either to subprogram items or are appropriated on a lump sum basis.
*Full-time equivalent positions
*See individual state note below.

CO: However, the legislature went ahead and appropriated the blocks during its 1982 session despite a lack of clear statutory or constitutional language giving it the authority to do so. Whether the legislature can sustain a challenge by the governor questioning the legality of this move is unknown as of this writing.

CT: However, 1981 legislation required that during FY '82, legislative *approval* must be gained prior to the expenditure of any block grants.

FL: All federal funds anticipated to be received by all state agencies must be included in the legislative budget of the agency for appropriation by the legislature.

ID: FTE's are appropriated when it is possible to identify by FTE the level of funding allocated to personnel costs. However, this is not usually the case.

IL: Federal funds are not appropriated separately, but are included in the total appropriation for each program, by line item (e.g., personal services, retirement contributions, travel, etc.).

IA: Legislation was passed in 1981 giving the legislature appropriations authority over block grants; the legislature does not appropriate categorical federal funds.

KS: Agency limits on positions include federally funded positions, but federally funded FTE are not separately specified.

LA: Where federal funds are anticipated and expected to be available for the full budget period, federally funded FTE are appropriated. Otherwise, the funds for federally funded positions are included under "Other Charges."

MD: Constitutionally, the Maryland legislature can only reduce, not increase, the executive budget.

MN: [1]Usually federal funds are not appropriated. However, in some cases, such as welfare administration, appropriation may be for an amount that includes *both* federal and state dollars. [2]Federally funded FTE are appropriated where known or considered necessary.

MO: FTE limits are usually set for organizational or program entities, but they are not set by fund source. One exception to this is the environmental quality programs which do set FTE limits by fund source.

NE: Budget bills include a limitation on salary expenditures but do not specify FTE; the limitation can be exceeded during the interim by the amount of new federal grants.

NV: A 1979 law requires legislative authorization of state agency acceptance of any gift or grant. During the interim, the Interim Finance Committee must accept any gifts or grants not included in the legislature's authorized expenditure act.

NM: [1]Due to a 1974 state supreme court decision in *Sego v. Kirkpatrick*, the legislature cannot appropriate federal funds for institutions established in the state constitution. [2]However, in some cases legislative intent is understood to limit the hiring of personnel under federal programs. It is policy to place employees paid from federal sources in "term" status positions so that if funds are eliminated, so are positions.

OK: [1]However, the Oklahoma legislature is considering appropriating federal funds. Also, under a 1981 law, the president pro tempore of the senate and the speaker of the house of representatives must give written authorization to the director of state finance before he can process any warrants or claims on federal financial assistance. [2]There are instances in which the legislature authorizes employees to be paid with federal funds and stipulates when funds cease, or shortfalls occur, employees will be terminated. In these instances, the number of FTE are listed in the appropriations act.

SC: The appropriations act contains an estimate of federal and other funds by program area and agency. These amounts are "authorized" by the act. During the session and the interim, the Joint Appropriations Legislative Review Committee (JARC) reviews and approves/disapproves each grant application. Only upon approval by the governor and concurrence by the JARC can the agency receive and expend federal funds.

TN: [1]While the Tennessee legislature does not appropriate federal funds, it does maintain strong legislative control over any state match involved. [2]FTE are specified by agency, whether funded entirely by state funds or not.

TX: Appropriations activity varies from open-ended appropriation to appropriation of federal funds as one source of revenue for a total program.

VT: FTE are specified for new programs only.

WA: The social and health services appropriations have, in the past, included the number of federally funded FTE; in the 1981 session, however, the appropriations did not include federally funded FTE.

WV: West Virginia has not appropriated federal funds in the past. Under a new law passed during the1982 session, however, the state will begin appropriating federal funds in FY 83–84.

SOURCE: Barbara Yondorf, "Handouts on Legislative Oversight of Federal Funds," NCSL Annual Meeting, July 28, 1982.

between the state legislature and the executive branch."[108] The GAO found that in 70 out of 75 grant programs it examined state executive agencies or the governor were required to prepare and submit plans or applications for federal assistance, and that 52 of these required that the governor or federal officials designate the agency. The report also revealed that in 36 instances the state agency administering the program was also designated as its evaluator. Further, state legislatures had limited access to federal information and technical assistance. Almost one-third of the federal officials GAO interviewed said they would not give information to legislative committees even if they requested it.

PRIOR ACIR RECOMMENDATIONS

The idea of state appropriation of federal monies was not new. As early as 1967, ACIR recommended state constitutional and statutory action to provide that a gubernatorial budget, covering all estimated revenues and expenditures of the state government, be submitted to each legislative session. It specifically urged that all federal funds to be spent by the state be incorporated in the governor's budget, because "only through such a process can the state's fiscal situation be correctly presented and understood."[109]

In 1976, the Commission again spoke to the subject, recommending that:

> ... state legislatures take much more active roles in state decisionmaking relating to the receipt and expenditure of federal grants to the states. Specifically, the Commission recommends that legislatures take action to provide for: inclusion of anticipated federal grants in appropriation or authorization bills; prohibition of receipt or expenditure of federal grants above the amount appropriated without the approval of the legislature or its delegates; establishment of subprogram allocations, where state discretion is afforded in formula-based categorical and block grants, in order to specify priorities. ...[110]

STATE LEGISLATIVE ACTIONS

Meanwhile, state legislatures had begun action to reassert their authority. South Dakota, Pennsylvania, Oregon and California legislatures moved to appropriate federal grant-in-aid funds during the mid-1970s. Over three-fourths of the states now have some provision for legislative review of federal funds received by state agencies, according to the National Conference of State Legislatures. At least 11 of these "actively" appropriate federal funds. This means they have made detailed itemization of all federal funds in appropriation acts, set legislative priorities for expenditure of block grants in the appropriation acts, and have some interim authority provided to deal with approval when the legislature is not in session. Other states are much less thorough in oversight of federal funds. A 1979 survey showed that state legislative fiscal officers in two-thirds of the states indicate that their oversight of federally funded programs is typically less intensive than their oversight of state-funded programs.[111] Federal appropriations are automatically appropriated to a few agencies in a nonspecific manner. There are few or no arrangements for interim review of federal funds. Most states are in between these extremes. Many have one or two elements of "active" oversight, but do not go as far as itemized appropriations.[112]

Table 4–22 sets out legislative appropriations of federal funds in 1982, along with legislative appropriations of federally funded full-time equivalent positions by state. *Table 4–23* shows a NCSL ranking of state legislatures' ability to control federal funds.

IMPACTS OF LEGISLATIVE APPROPRIATION

In some states, legislative appropriation generated conflict between the executive and the legislature, as in Pennsylvania where the clash between the governor and the legislature focused national attention on the issue. The controversy was precipitated when the legislature attempted to reassert its prerogative to determine the programs pursued by the state by prohibiting the expenditure of grant monies without specific appropriation.[113] It wanted to prevent state agencies from avoiding the appropriation process. The governor, on the other hand, sought to protect executive authority in the implementation of federally aided programs. The U.S. Supreme Court refused to review a Pennylvania court ruling in favor of the

Table 4-23

EVALUATION OF THE ABILITY OF STATE LEGISLATURES TO EXERCISE A HIGH DEGREE OF CONTROL OVER FEDERAL FUNDS

Strong Ability[1]

California	Mississippi	Oregon
Kansas	Nevada	Pennsylvania
Louisiana	New York	South Carolina
Massachusetts	North Dakota	South Dakota
Michigan	Ohio	Vermont

Strong Ability to Control Block Grant Expenditures But Not Other Federal Funds[2]

Iowa	Montana
Maine	North Carolina

Moderate Ability[3]

Alaska	Idaho	Oklahoma
Arkansas	Illinois	Texas
Colorado[5]	Kentucky	Utah
Connecticut[6]	Maryland	Virginia
Delaware	Minnesota	Washington
Florida	Missouri	West Virginia
Georgia	New Hampshire	Wyoming
(?)Hawaii	New Jersey	

Limited Ability[4]

Alabama	Nebraska	Tennessee
Arizona	New Mexico	Wisconsin
Indiana	Rhode Island	

[1]*Strong Ability:* State legislatures in this category make specific sum (as opposed to automatic or open-ended) appropriations of federal funds and exert binding control over either the interim receipt of unanticipated federal funds or the review of federal grant applications.

[2]*Strong Ability to Control Block Grants:* Legislatures in this category make specific sum appropriations of block grants and exert binding control over the interim receipt of unanticipated block grant monies or over block grant application reviews. With respect to nonblock grant federal funds, however, states in this category have either moderate, limited, or no ability to oversee nonblock grant federal fund expenditures.

[3]*Moderate Ability:* Legislatures in this category include those which make specific sum appropriations, but do not exert binding control over the interim receipt of federal funds or over the grant application review process. It also includes those which do not appropriate federal funds but do have binding control over either the interim receipt of federal funds or the grant application review process.

[4]*Limited Ability:* Legislatures in this category include all those which make open-ended appropriations of federal funds. It also includes those which do not appropriate federal funds but have an advisory role in the interim receipt of unanticipated federal funds or the federal funds grant application review process.

[5]The legislature went ahead and appropriated the blocks during its 1982 session, although it is unclear whether the legislature has the authority to appropriate federal funds. As of this writing, the legality of the legislature's action is being challenged.

[6]While the Connecticut legislature does not appropriate federal funds, 1981 legislation required that, during FY '82, legislative "approval" must be gained prior to the expenditure of any block grants.

SOURCE: Barbara Yondorf, "Handouts on Legislative Oversight of Federal Funds," NCSL Annual Meeting, July 28, 1982.

legislature, an action that, at least temporarily, left state legislatures able to appropriate grant-in-aid funds.[114] In addition to the legislative-executive conflict, there has been, in some instances, a substitution of legislative priorities for federal ones, and this concerns those who believe that federal dollars should be spent the way the Congress, not the state legislatures, decides.

Grant appropriation also brought about a reduction in implied commitments by the states to provide for the future of federal programs should the federal government decide to terminate its financial assistance. In Oregon, for example, where legislative scrutiny tends to be intense on programs that will commit the state in the future and in those areas in which the state is already active, the state turned down $20 million in Aid to Families with Dependent Children, deciding to operate the program on its own with the $20 million that would have been used to match the federal funds. Federal money was refused because the attached requirements prevented the state from tailoring the program to its needs.[115]

Other impacts of legislative appropriation have included an increased visibility for federal grants in the states, more paperwork, and a siphoning off of a substantial amount of the legislatures' time. The latter two effects resulted in modification of the oversight arrangements in some states. Nonetheless, a report by the Department of Health, Education, and Welfare found few instances of serious delay or other problems.[116]

AN ASSESSMENT OF CHANGE

In sum, state legislatures are quite different bodies than they were 20, or even ten years ago. Although the changes have been uneven with some states modifying their structures

Table 4–24

PUBLIC ASSESSMENT OF STATE LEGISLATURES AND CONGRESS ON SELECTED CRITERIA, 1979

	RESPONSE (In percent)				
	State Legislature	Federal Congress	No Difference	Not Sure	Total
Does a better job of dealing with the energy crisis.	40	33	15	12	100
Gives taxpayers less value for tax dollars.	22	56	5	16	99
Is closer to the people.	77	13	4	6	100
Does a better job dealing with inflation.	36	28	21	15	100
Can be trusted more.	46	19	22	13	100
Is more out of touch with what people think.	17	68	6	8	99
Is more wasteful.	11	71	9	9	100
Is better at overseeing the day-to-day business of government.	57	23	5	14	99

SOURCE: Louis Harris and Associates poll, June–July, 1979, as reported in *State Legislatures*, Denver, CO, National Conference of State Legislatures, November, 1979, p. 23.

and practices more than others, all have participated in the adoption of recommended reforms.

The pattern of change has been in the direction set out by the Citizens Conference on State Legislatures. Today's state legislatures in general are more functional, accountable, independent, and representative, and are equipped with greater information handling capacity than their predecessors, if the F.A.I.I.R. recommendations are used as a standard. Of the 73 recommendations proposed by the Citizens Conference, 30 cannot be assessed because of lack of information. Among the remaining 43, little or no change was reported on five. State legislatures changed significantly, however, in regard to the remaining 38. In most instances, an overwhelming majority of the states now follow the recommendations.

It should be noted in discussing legislative reform that not everyone agrees with the desirability of all the recommendations or even that state legislatures should be more professional. There is substantial support for "citizens' legislatures" operating in the traditional pattern—that is, part-time, with limited sessions, minimal staffs and frugal compensation.

Readers should be aware, also, of the concern some scholars have expressed about an "imbalance between the *legislator* as an individual and the *legislature* as an institution."[117] After all, the needs of the two are not necessarily the same.[118] Tensions arise as individual legislators are strengthened, sometimes at the expense of the institution, creating disintegrating forces within the legislature.

Interestingly, the public appears to be aware of some legislative progress, rating them more improved than state courts or the executive branch in a 1979 Harris poll.[119] Moreover, legislatures outscored the Congress in eight measures:

1) overseeing of day-to-day business of government;
2) being less wasteful;
3) inspiring trust;
4) doing a better job of dealing with inflation;
5) giving taxpayers greater value for their money;
6) doing a better job of dealing with the energy crisis;
7) keeping in touch with what people think; and
8) staying closer to the people.[120]

Table 4–25
PUBLIC JOB PERFORMANCE RATING: STATE LEGISLATURES AND CONGRESS, 1979

RATING	State Legislature	Federal Congress
	Percent	Percent
Excellent	2	1
Pretty Good	29	18
Only Fair	42	46
Poor	19	30
Not Sure	9	5
TOTAL	101	100

SOURCE: Louis Harris and Associates poll, June–July, 1979, as reported in Glen Newkirk, "State Legislatures through The People's Eyes," *State Legislatures*, Denver, CO, National Conference of State Legislatures, August–September, 1979, p. 9.

The percentages are set out in *Table* 4–24.

Not surprisingly, given the above responses, respondents gave state legislatures a higher job performance rating than the Congress. *Table* 4–25 reflects this assessment. Despite ranking them ahead of the Congress, less than one-third of the public was inclined to rate them as excellent or pretty good. Either the public is unaware of the magnitude of the progress made, or the changes have not resulted in greater public satisfaction with their work.

FOOTNOTES

[1]Alexander Heard, "Introduction—Old Problems, New Context," The American Assembly, *State Legislatures in American Politics*, Alexander Heard, ed., Englewood Cliffs, NJ, Prentice-Hall, Inc., 1966, pp. 1–2.

[2]*Ibid.*, p. 3.

[3]*Baker v. Carr*, 369 U.S. 186 (1962). See, particularly, *Gray v. Sanders*, 372 U.S. 368 (1963), which set out the "one person, one vote" requirement and *Reynolds*

v. Sims, 377 U.S. 533 (1964) that voided the "little federal" system of apportioning state senate representation on a local jurisdictional basis (i.e., one representative from each county).

[4]Herbet L. Wiltsee, "Legislative Organization and Services: Structure and Procedures," *Book of the States*, 1963–64, 1963, p. 62.

[5]Malcolm E. Jewell, "Political Patterns in Reapportionment," *The Politics of Reapportionment*, Malcolm E. Jewell, ed., New York, NY, Atherton Press, 1962, p. 18. There is a wealth of material on reapportionment. For a list of the earlier works that concentrate on problems associated with malapportionment, see the "Bibliographic Note" in *ibid.* Jewell cites as particularly comprehensive, "Legislative Reapportionment," *Law and Contemporary Problems*, Durham, NC, Duke University, Vol. 27, Spring 1952, pp. 253–469. Later bibliographic citations may be found in Timothy G. O'Rourke, *The Impact of Reapportionment*, New Brunswick, NJ, Transaction Books, pp. 197–208. The definitive recent work on representation is Robert G. Dixon, Jr., *Democratic Representation: Reapportionment in Law and Politics*, New York, NY, Oxford University Press, 1968.

[6]Citizens Conference on State Legislatures, *The Sometime Governments: A Critical Study of the 50 American Legislatures*, Kansas City, MO, The Citizens Conference on State Legislatures, 1973, p. 31.

[7]William J. Keefe, "Reform and the American Legislature," *Strengthening the States: Essays in Legislative Reform*, Donald G. Herzberg and Alan Rosenthal, eds., New York, NY, Doubleday & Company, Inc., 1979, p. 187.

[8]Malcolm E. Jewell and Samuel C. Patterson, *The Legislative Process in the United States*, New York, NY, Random House, 1966, p. 517.

[9]The Citizens Conference on State Legislatures melded into Legis 50 and ceased operations.

[10]*Reynolds v. Sims*, 377 U.S. 533 (1964).

[11]Figures for black state legislators obtained by telephone from Denice Stocton of the Joint Center for Political Studies, Washington, DC.

[12]Figures from Center for Women and Politics at Rutgers University as reported in "Women Officeholders Triple Since 1975," *Public Administration Times*, Washington, DC, American Society for Public Administration, September 15, 1981, p. 3.

[13]1951 figures from W. Brooke Graves, *American State Government*, Boston, MA, D.C. Heath and Company, 1953, p. 207.

[14]Insurance Information Survey as reported in "Women, Educators Gain in Statehouses," *U.S. News and World Report*, Washington, DC, December 17, 1979, p. 74.

[15]Alan Rosenthal, "The Scope of Legislative Reform: An Introduction," in Herzberg and Rosenthal, *op. cit.*, pp. 3–4.

[16]The Citizens Conference on State Legislatures, *State Legislatures: An Evaluation of Their Effectiveness: The Complete Report by the Citizens Conference on State Legislatures*, New York, NY, Praeger Publishers, 1971. See, also, the same group's more popular version, *The Sometime Governments: A Critical Study of the 50 American Legislatures*, *op. cit.* Discussion of the F.A.I.I.R. criteria is drawn from these sources, especially *Sometime Governments*.

[17]Jewell and Patterson, *op. cit.*, p. 138.

[18]Citizens Conference on State Legislatures, *The Sometime Government*, *op. cit.* pp. 66–67. Subsequent F.A.I.I.R. recommendations are from this source, pp. 155–68. The numbering follows the original.

[19]*Book of the States*, 1980–81, Lexington, KY, Council of State Governments, 1980, p. 67.

[20]*Ibid.*, p. 85; *Book of the States*, 1970–71, Lexington, KY, Council of State Governments, 1970, p. 65. 1982 figures compiled by ACIR staff.

[21]All figures from appropriate *Books of the States*.

[22]*Book of the States*, 1970–71, *op. cit.*, pp. 66–67 and *Book of the States*, 1980–81, *op. cit.*, pp. 108–09.

[23]*Book of the States*, 1980–81, *ibid.*, p. 114.

[24]National Conference of State Legislatures, *Starting Off: A Guide for Planning Orientation and Member Development Programs*, Denver, CO, 1982.

[25]In that year there were 1,909 in the houses of representatives and 1,607 in the state senates. Graves, op. cit., p. 224.

[26]*Book of the States*, 1956–57, *op. cit*, p. 101; *Book of the States*, 1982–83, Lexington, KY, Council of State Governments, 1982, p. 217.

[27]*Book of the States*, 1982–83, *op. cit.*, p. 217.

[28]Information on this point is unavailable. The recommendation is: "A description of the jurisdiction of committees should be contained in the rules of both houses, and assignment of bills should be made in accord with the jurisdiction of committees as described in the rules."

[29]*Book of the States*, 1982–83, *op. cit.*, p. 218.

[30]*Book of the States*, 1956–57, *op. cit.*, p. 103.

[31]*Book of the States*, 1982–83, *op. cit.*, p. 218.

[32]Figures for 1955 from *Book of the States*, 1956–57, *op. cit.*, for 1979 from National Conference of State Legislatures, "Committee Consideration of Bills," *State Legislative Report*, Denver, CO, January 1979, p. 1.

[33]Data on this recommendation are not available. The recommendation is: "Committees, in their composition, should reflect as accurately as possible the makeup of the entire house of which they are a part. There should be no 'killer,' 'graveyard,' or 'cinch' committees."

[34]Data on this recommendation are not available. The recommendation is: "There is no justification for permitting any major piece of legislation to become law without having been subjected to extensive, thorough, well planned and prepared public hearings, in which representatives of the public, civic organizations, and interest groups are not only invited but encouraged to participate."

[35]Donovan Peeters, "State Legislative History Resources: A Survey of the 50 States," Annapolis, MD, Maryland General Assembly, Department of Legislative Reference, September 22, 1981.

[36]National Conference of State Legislatures (NCSL), *A Survey: Expediting the Legislative Process*, preliminary report to the Committee on Legislative Improvement and Modernization of the National Conference of State Legislatures, March 1977.

[37]NCSL, *State Legislative Appropriations Process*, Denver, CO, 1975, updated to 1980 by NCSL staff.

[38]Information is unavailable on this recommendation. The recommendation is: "There should be an executive or management committee created in each house. Its membership should include the leaders of each party in each house and the minority party should have representation on the committee in proportion to its numbers in the body as a whole. The senate house management committees should combine as a joint management committee. The purpose of these committees should be to assume responsibility for the administrative management (housekeeping) functions relating to personnel, facilities, the research bureaus, budgets and expenditures of their respective houses.

The joint management committees should deal with matters of interhouse coordination.

[39]NCSL, "Committee Scheduling During the Session and During the Interim," *State Legislative Report*, Vol. 6, No. 3, Denver, CO, March 1981, p. 4.

[40]NCSL, *A Survey: Expediting the Legislative Process*, *op. cit.*, p.3.

[41]The Consumer Price Index for 1970 was 116.3; for 1981 it was 272.4. Compensation figures from *Book of the States, 1982–83*, *op. cit.*, pp. 192–93.

[42]*Ibid.*

[43]*Book of the States, 1982–83*, *op. cit.*, p. 201.

[44]*Book of the States, 1980–81*, *op. cit.*, p. 128.

[45]The recommendation is: "There should be uniform, orderly, reasonable, published rules of procedure in each house."

[46]The recommendation is: "There should be joint rules governing the relationship and the flow of legislation between the two houses of the legislature."

[47]The recommendation is: "Rules should be adopted on the first day of the session or, at the very latest, within the first week of the session."

[48]The recommendation is: "There should be officially adopted backup rules (such as Mason's or Jefferson's Manual), which come into operation when the standing rules fail to cover the parliamentary problem at hand."

[49]The recommendation is: "A due regard for the rights of the minority, one of the means of ensuring internal accountability, requires stable rules of procedure. Although it is consistent with majority rule to permit the adoption of rules of procedure at the beginning of a term by a majority vote, once adopted the requirement to change the rules should be by a two-thirds vote, as is the case in most legislatures."

[50]*Book of the States, 1980–81*, *op. cit.*, pp. 206–07.

[51]*Ibid.*, p. 1.

[52]*Book of the States, 1982–83*, *op. cit.*, p. 216.

[53]*Book of the States, 1978–79*, *op. cit.*, pp. 42–43.

[54]NCSL, *A Survey: Expediting the Legislative Process*, *op. cit.*, Table 5.

[55]*Book of the States, 1978–79*, *op. cit.*, pp. 42–43.

[56]Citizens Conference on State Legislatures, *The Sometime Governments*, *op. cit.*, p. 162.

[57]NCSL, "Limiting Bill Introduction: The Legislative Paper Chase," *State Legislative Report*, Vol. 4, No. 5, Denver, CO, December 1979.

[58]"Survey on Selection of State Legislative Leaders," *Comparative State Politics*, May 1980, pp. 7–9.

[59]NCSL, "Minority Committee Reports," manuscript, 1982.

[60]NCSL, "Committee Appointments for Minority Party," processed, no date. Received September 1982.

[61]*Ibid.*

[62]The recommendation is: "The bill document printing procedure should permit clear identification of the text of the existing statute which is being amended as well as the material which the bill proposes to delete or add."

[63]NCSL, "American State Legislatures Clerks and Secretaries Survey," 1982.

[64]The recommendation is: "Eliminate the time lag between introducing or amending bills and having them available in printed form. The delay should be no more than overnight."

[65]The recommendation is: "There should be an explicit rule barring introduction of skeleton or 'spot' bills. This rule should be enforced by the assigning authority (the presiding officer or rules committee) by refusal to assign bills so identified to committee."

[66]The recommendation is: "The form in which a bill is introduced should include a statement by the author describing, in layman's language, what the bill is intended to accomplish."

[67]The recommendation is: "The form in which bills are introduced should include a more extensive summary of the provisions of the bill prepared by the bill drafting service."

[68]*Book of the States, 1978–79*, *op. cit.*, pp. 42–43; *Book of the States, 1970–71*, *op. cit.*, p. 76.

[69]*Ibid.*

[70]As quoted in A.G. Block and Robert S. Fairbanks, "The Legislature's Staff—The No. 1 Growth Industry in the Capitol," *California Journal*, Vol. XIV, No. 6, Sacramento, CA, The California Center, June 1983, p. 214.

[71]Eric M. Uslaner and Ronald E. Weber, "Changes in Legislator Attitudes toward Gubernatorial Power," *State and Local Government Review*, Vol. 9, No. 2, Athens, GA, Institute of Government, University of Georgia, May 1977, p. 41.

[72]Alan Rosenthal, *Legislative Life: People, Process, and Performance in the States*, New York, NY, Harper and Row, 1981, p. 206.

[73]Gary J. Clarke and Charles R. Grezlak, "Some Obstacles of Legislative Staffing—Real or Illusionary?," Paper dated June 28, 1975, as cited in *ibid.*, p. 206.

[74]Lucinda S. Simon, *Understanding Legislative Staff Development: A Legislator's Guide*, Denver, CO, NCSL, August 1979, p. 3.

[75]Gary J. Clarke, *Staffing State Legislatures: Lessons from the Model Committee Staff Project*, Washington, DC, The Graduate School, Georgetown University, September 1978.

[76]Alan P. Palutis, "Legislative Staffing: Does It Make A Difference," in Susan Welch and John G. Peters, *Legislative Reform and Public Policy*, New York, NY, Praeger Publishers, 1977, p. 136. For a discussion of staff growth in California and the advantages and problems resulting from it, see Black and Fairbanks, *op. cit.*, pp. 214–19.

[77]*Book of the States, 1982–83*, *op. cit.*, p. 223.

[78]Citizens Conference on State Legislatures, *The Sometime Governments*, *op. cit.*, p. 113.

[79]Those reported in the *Book of the States, 1980–81* differ somewhat from those resulting from a survey by the NCSL. The differences do not impair the validity of improvement in staffing patterns, however. Figures here are from NCSL. They are found in Simon, *op. cit.*

[80]*Ibid.*, p. 62.

[81]Data on this recommendation are not available. The recommendation is: "Eliminate party patronage from all legislative staffing."

[82]Information from the NCSL, Washington Office, March 31, 1982.

[83]The recommendation is: "Legislative effectiveness requires that committees have adequate physical facilities in which to do their work. This includes an adequate number of committee and hearing rooms that will permit the seating of larger audiences."

[84]The recommendation is: "Space for service agencies should provide adequate working space for professional and clerical staff as well as library, files and other storage requirements."

[85]NCSL, "Press Access to the Chamber Floor in the State Legislatures," processed, 3/13/81.

[86]NCSL, *So People May Know: Public Information in State Legislatures*, Denver, CO, 1977, p. 11.

[87]The recommendation is: "Nearby, covered and re-

served parking space should be provided for members of the legislature and the legislative staff."

[88]The recommendation is: "Legislators or their firms should be prohibited from practicing before state regulatory agencies or in matters concerning state agencies for a fee."

[89]The recommendation is: "There should be a prohibition against legislators or the firms in which they own a major interest doing business with state agencies."

[90]The recommendation is "There should be a prohibition against a legislator accepting appointment to other state office during the term for which he is elected or within two years of the termination of his service as a member of the legislature."

[91]The recommendation is: "Legislators should be prohibited from concurrently holding other continuing paid public office."

[92]The recommendation is: "Members of a legislator's immediate family should be barred from employment by the legislature."

[93]William Pound, "The State Legislatures," *Book of the States, 1980–81, op. cit.*, pp. 80–81.

[94]The recommendation is: "As a means of cultivating generalized support for the legislature as an institution, a citizens commission should be created, by joint resolution of the legislature, to study its operations, facilities, and needs to recommend improvements."

[95]*Book of the States, 1970–71, op. cit.*, p. 58.

[96]Rosenthal, *op. cit.*, p. 314. There is a growing body of literature on legislative oversight. See, among others: John F. Bibby, "Committee Characteristics and Legislative Oversight of Administration," *Midwest Journal of Political Science*, Vol. 10, February 1966, pp. 78–98; Common Cause, *Making Government Work: A Common Cause Report on State Sunset Activity*, Washngton, DC, 1978, and *The Status of Sunset in the States: A Common Cause Report*, Washington, DC, 1982; Richard E. Brown, ed., *The Effectiveness of Legislative Program Review*, New Brunswick, NJ, Transaction Books, 1979; Edgar G. Crane, Jr., *Review of Government Programs: Tools for Accountability*, New York, NY, Praeger Publishers, 1977; Edwin L. Jackson and Alan J. Howard, *Legislative Oversight*, Athens, GA, Institute of Government, University of Georgia, 1976; John D. Lees, "Legislatures and Oversight: A Review Article on a Neglected Area of Research," *Legislative Studies Quarterly*, Vol. 2, May 1977, pp. 208–93; William Lyons and Larry W. Thomas, "Legislative Attitudes toward the Feasibility of Sunset Legislation," *Midwest Review of Public Administration*, Vol. 14, No. 1, May 1980, and their "Legislative Oversight: Legislator Attitudes and Behavior in Three States," *Southern Review of Public Administration*, Vol 5, No. 2, Montgomery, AL, Auburn University, Summer 1981, pp. 167–81; and Dan R. Price, *Sunset Legislation in the United States*, Austin, TX, State Bar of Texas, September 1977.

[97]Rosenthal, *op. cit.*, p. 315.

[98]Lyons and Thomas, "Legislative Oversight," *op. cit.*, pp. 167–81.

[99]Rosenthal, *op. cit.*, p. 316.

[100]For a summary of state provisions for legislative review of regulations, see *Book of the States, 1982–83, op. cit.*, pp. 225–27.

[101]For an analysis of this development, see J. W. Drury, "Sunset Laws: A Passing Fad or A Major Development," *Midwest Review of Public Administration*, Vol. 11, March 1977, pp. 61–71.

[102]Common Cause, *The Status of Sunset in the States, op. cit.* Respondents were legislative staff officials, for the most part, with a few legislators participating.

[103]As quoted in *State Legislative Report*, Denver, CO, NCSL, no date.

[104]Common Cause, *Making Government Work, op. cit.*, p. 8.

[105]Common Cause, *The Status of Sunset in the States, op. cit.*

[106]ACIR, *The Intergovernmental Grant System As Seen By Local, State, and Federal Officials*, A-54, Washington, DC, U.S. Government Printing Office, 1977, pp. 102–03.

[107]Carol S. Weissert, "State Legislatures and Federal Funds: An Issue of the 1980s," *Publius: The Journal of Federalism*, Vol. II, No. 3–4, Summer 1981, p. 70.

[108]U.S. General Accounting Office, *Federal Assistance system Should Be Changed to Permit Greater Involvement by State Legislatures*, Washington, DC, U.S. Government Printing Office, 1980, p. 33.

[109]ACIR, *Fiscal Balance in the American Federal System*, Volume I, A-31, Washington, DC, U.S. Government Printing Office, 1967.

[110]ACIR, *The States and Intergovernmental Aids*, A-59, Washington, DC, U.S. Government Printing Office, 1977, p. 79. See, also, Comptroller General of the United States, *Federal Assistance Should Be Changed to Permit Greater Involvement by State Legislatures*, Report GGD-81-3, Washington, DC, U.S. General Accounting Office, December 15, 1980.

[111]Unpublished data from the NCSL based on responses from 48 states, Denver, CO.

[112]See, "State Legislative Control of Federal Funds," *State Legislative Report*, Denver, CO,NCSL, February 1978; Winnifred M. Austermann, *A Legislators Guide to Oversight of Federal Funds*, NCSL, 1980; and Barbara Yondorf, "Handouts on Legislative Oversight of Federal Funds," NCSL Annual Meeting, July 28, 1982.

[113]Act No. 117, July 1976; 72 P.S. 4611.

[114]The Pennsylvania case was *Shapp v. Sloan*, 480 PA 449, 391A 2nd 595 (1978). The U.S. Supreme Court denied a review. *Thornburgh v. Casey*, 47 L.W. 3585 (1979).

[115]ACIR, "State Legislative Oversight of Federal Funds: An Update," *Information Bulletin 79–5*, August 1979, p. 8. See, also, Carol Weissert, "State Legislatures and Federal Funding: A 1981 Update," ACIR *Information Bulletin* 82–1, February 1982.

[116]ACIR, *Information Bulletin 79–5, op. cit.*

[117]Rosenthal, *Legislative Life, op. cit.*, p. 344. See, also, his "Separate Roads: The Legislator as an Individual and the Legislature as an Institution," *State Legislatures*, Denver, CO, NCSL, March 1979, pp. 21–25; William J. Keefe, "The Functions and Powers of the State Legislature" in Heard, *op. cit.*, p. 69; and Charles O. Jones, "From the Suffrage of the People: An Essay of Support and Worry for Legislatures," A Paper Prepared for Delivery at the Seminar for State Legislative Leaders, NCSL Washington, DC, December 6, 1973, pp. 5–6.

[118]Keefe, *op. cit.*; Jones, *op. cit.*

[119]Glen Newkirk, "State Legislatures through the People's Eyes," *State Legislatures*, Denver, CO, NCSL, August-September 1978, p. 9.

[120]*State Legislatures*, Denver, CO, NCSL, November 1979, p. 23.

Chapter 5

The Governors And Their Offices

Governors are the central figures in state government. They are also the most visible and receive much of the credit or blame directed toward the state during their administrations. Citizens place on their shoulders responsibility for a wide range of accomplishments and activities. They look to them for major legislative programs, for coordinating and directing the state administrative machinery, for promoting state interests externally and for performing a host of other functions. They often anticipate more than the governor is equipped to deliver.

DEVELOPMENT OF THE GOVERNORSHIP

The office of governor in the United States has long roots, running back to the Colonial Period in American history. Some of the distrust directed at the colonial officials carried over into the design of constitutions for the new states. Rather than establishing strong executives, equipped to provide forceful leadership, our forefathers opted for weak leaders, barely more than figureheads. One of the major trends in state government over the years has been the transformation of the state chief executive from "figurehead to leader,"[1] to borrow Leslie Lipson's term.

Governors under the original state constitutions had little authority. Typically, the executives were selected by the legislature, were lim-

ited to one term—often of one year—and had no veto power. Other executive officials were elected by the legislature, which also appointed judges. Any appointing powers vested in chief executives were limited by requirements for concurrence by an executive council.

Early 19th century changes made them more independent. Authority to elect them was transferred from the legislatures to the people and their terms were extended from one to two or four years. They also acquired the veto power. The legislatures, nonetheless, retained the authority to appoint other executive branch officials, so that gubernatorial control over administration was diffused. Later in the century, as state activities grew, numerous independent authorities were created coordinate with the governor, further fragmenting executive authority. Allan R. Richards reported that:

> Every time a new law was passed, a new undirected board was created. In 1919, New York had 116 independent authorities, Minnesota 75, Illinois 100, Massachusetts 61, and Idaho 42—all exclusive of constitutionally created elective offices. Thus a state's organization chart looked more like the hodge-podge of a Chinese puzzle than like the business concept of a hierarchical organization. The governor was impotent.[2]

In order to overcome the difficulties accompanying their lack of control over state activities, some chief executives developed political machines to strengthen their powers.

The Progressive Era brought with it demands for reform and the period since that time has seen many changes in the governors' offices and authority. In 1953, W. Brooke Graves wrote "their leadership [is] still in the ascendancy."[3] And so it continues until this day.

SUGGESTIONS FOR CAPACITY BUILDING

Those interested in improving further the capacity of the governor usually emphasize the tenure, appointive, budgetary, and veto aspects of the office. In general, they agree that in order to operate effectively:

- Governors should be elected for four-year terms and be eligible for reelection.
- Governors should have the authority to appoint the other principal administrative officials in the state government.
- Governors should prepare and submit proposed budgets to the legislature.
- Governors should have the power to veto laws enacted by the legislature and should have item veto authority in appropriation bills.
- Governors should have adequate professional staffs for their offices.
- Governors should be compensated commensurately with the responsibilities with which they are charged.

This emphasis does not treat directly the responsibilities of the governors as managers of public policy, as administrators, and as intergovernmental actors. It aims at equipping the chief executive with the tools to perform a general leadership role. In this connection, Coleman B. Ransone, Jr., found a shift in the emphasis of gubernatorial activities between the 1950s and the 1970s. Although policy formation remains their primary concern, and public relations consumes the most time, over the years governors have placed a growing emphasis on management. Additional research is needed on the resources necessary for the effective performance of contemporary gubernatorial responsibilities.[4] One such resource might be the authority to reorganize the executive branch subject to legislative disapproval.

TENURE

Tenure reputedly constitutes an important factor in gubernatorial power. The argument goes that a governor serving only a two-year term or who cannot be reelected immediately is weaker than one who does not suffer these limitations. Because of a short term, programs requiring much time cannot be brought to fruition. Remodeling of state policies is also hampered because new governors must operate for a time under their predecessors' budgets. Restrictions on succession can destroy influence with the legislature and control over the bureaucracy because the incumbent is not in office long enough to build the necessary political coalitions or establish routines that serve

as sources of political influence.[5] Moreover, any reelection campaign must begin immediately although the public has had no real basis for approving or condemning an administration.

In the period following Independence, governors usually were selected by the legislatures for one-year terms. But as the need for a stronger executive grew, they became popularly elective for two years and gradually four-year terms became popular. The change can be attributed to a belief that the governor needed a longer term to learn the job and to demonstrate leadership ability. In states having two-year terms, governors usually were eligible for immediate reelection. States with four-year terms, however, tended to restrict the incumbent to one term, reflecting the popular fear that a longer tenure would facilitiate the building of a strong political machine.

Since the Kestnbaum report in 1955, governors' tenure and reelection opportunities have increased notably, as *Table* 5–1 indicates. Only four governors now serve two-year terms compared to 19 a quarter-century ago. These serve in Arkansas, New Hampshire, Rhode Island

Table 5–1

MAJOR FORMAL FACTORS AFFECTING GOVERNORS, 1956, 1982 (by number of states)

	1955[a]	1981
Tenure		
Two-year terms	19	4
One four-year term limit or ban on immediate succession	17	4
Limited to two four-year terms	6	24
Compensation[b]		
Average annual salary	$16,180	$54,490
Median annual salary	15,000	52,400
Salary range	9,000	35,000
	50,000	85,000
Veto		
Veto all legislation	47	49
Item veto	39	43
Reduce appropriation items	No data	11
Pocket veto	14[c]	15[e]
Budget Authority		
Governor proposes	42[d]	47
Shared: Administrative-board	2	1
Shared: Administration and Legislative	3	3
Legislative committee	1	0
Appointive powers		
No agencies headed by popularly elected administrative officials (except lieutenant governor, if any)	2	3
Two or fewer agencies with popularly elected heads	8	5
3–6 agencies with popularly elected heads	20	30
7 or more agencies with popularly elected heads	19	12
Administrative Reorganization Authority	2	16

[a]Alaska and Hawaii had not been admitted.
[b]Other benefits such as expense accounts, housing, transportation, etc., not included. Figures are for 1979.
[c]Includes Massachusetts where, in practice, the legislature never prorogues until all bills are signed.
[d]Includes Nevada whose responsibility was shared with budget officer whom governor appointed.
[e]Including Hawaii, Utah and Virginia where the legislature may reconvene to override. If it does not, bill dies.

SOURCE: *Book of the States, 1956–57*, Chicago, IL, Council of State Governments, 1956, and *Book of the States, 1980–81*, and *1982–83*, Lexington, KY, Council of State Governments, 1980 and 1982.

Table 5–2

TENURE PROVISIONS FOR GOVERNORS, 1982

Four-Year Term, No Restrictions on Reelection

Arizona	Iowa	North Dakota
California	Massachusetts	Texas
Colorado	Michigan	Utah
Connecticut	Minnesota	Washington
Idaho	Montana	Wisconsin
Illinois	New York	Wyoming

Four-Year Term, Restricted to Two Terms

Alabama	Louisiana	Ohio
Alaska	Maine	Oklahoma
Delaware	Maryland	Oregon
Florida	Missouri	Pennsylvania
Georgia	Nebraska	South Carolina
Hawaii	Nevada	South Dakota
Indiana	New Jersey	Tennessee
Kansas	North Carolina	West Virginia

Four-Year Term, Consecutive Reelection Prohibited

Kentucky	New Mexico
Mississippi	Virginia

Two-year Term, No Restrictions on Reelection

Arkansas	Rhode Island
New Hampshire	Vermont

SOURCE: Compiled from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 151.

and Vermont. No state limits its governors to one term, in contrast to 17 in 1955, although four prohibit immediate reelection. Two-term limitations rose dramatically from six to 23, probably accompanying the increase in term length from two to four years. For state provisions, see *Table* 5–2. The shift in the governor's tenure potential apparently has increased the time governors actually spend in office. According to Sarah McCally Morehouse's study, the time governors served increased from the 1950s to the 1960s, and continued to rise in the 1970s, when 37% of the chief executives served five years or more.[6]

POWER OF APPOINTMENT

One of the principal differences in the authority of governors as compared to the President is in the power to appoint the heads of administrative agencies. While only the President and Vice President and the Congress are elected on the national level, Americans seem to regard it as undemocratic to shorten the ballot and permit governors to exercise appointing authority comparable to that of the President. Yet, they often hold governors responsible for facets of state administration that they cannot control.

Gubernatorial appointment power has improved somewhat since 1955. In that year, 385 state agencies were headed by 709 elective officials. By 1980, 338 agencies had elective heads, and the number of officials had dropped to 592.[7] In addition, as *Table* 5–1 indicates, the number of states with seven or more agencies headed by elective officials (in addition to the lieutenant governor) declined somewhat although more than three-fourths of the states

still chose administraive heads for three or more agencies by popular vote. Twelve select seven or more in this fashion. *Table* 5–3 shows the number of states electing each type of executive official.

Counting the number of elected administrative officials does not reveal the entire picture.

Table 5–3
NUMBER OF STATES WITH ELECTED EXECUTIVE OFFICIALS, 1982

Elected Official	Number of States
Governor	50
Lieutenant Governor	42[a]
Secretary of State	36[a]
Attorney General	43
Treasurer	38[b]
Auditor	25
Controller	10
Education Commissioner	18
Agriculture Commissioner	12[c]
Labor Commissioner	4
Insurance Commissioner	8[d]
Mining Commissioner	1
Land Commissioner	5[e]
University Regents/Trustees	5
Board of Education	12
Public Utilities Commission	11
Executive Council	2
Miscellaneous	8
Total Agencies	330
Total Officials	558

[a]In Utah, the same individual serves as lieutenant governor and secretary of state and is included here as lieutenant governor.
[b]The treasurer serves as insurance commissioner in Florida.
[c]Combined with Industries in Alabama and Commerce in Mississippi.
[d]The controller general is ex officio insurance commissioner in Georgia. In Montana, the auditor holds this office; in Florida, the treasurer. Not included in total for insurance commissioner.
SOURCE: Compiled from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 168–69.

A significant number of other agency heads are selected by state legislatures or by boards, or the agencies are headed by independent commissions. The continued existence of independent agencies fragments gubernatorial control of administration and hampers coordination. The majority of the states retain at least ten such bodies and a few maintain many more. In both Indiana and Massachusetts, for example, 56 agencies have appointive heads named by someone other than the governor.[8] On the average, more than one-third of state administrative officials are named by someone else. *Table* 5–4 shows the proportion of state administrative officials named by the governor in each state and whether or not legislative confirmation is required.

Beyle and Dalton analyzed gubernatorial appointing power changes between 1965–67 and 1980. They found that governors had increased their control over the human service and development agencies and, to a somewhat lesser degree, control those concerned with administrative services. They also discovered a trend to reduce exclusive control by the governor of public safety and regulatory agencies. Both houses of the legislature now approve their appointments on the average. Virtually no change occurred in gubernatorial control over management-related agencies.[9] The relative strength of gubernatorial appointing authority is set out in *Table* 5–5.

BUDGETARY AUTHORITY

Because governors occupy the central positions in state administrations and have the general responsibility for their management, they can take a comprehensive view of fiscal resources and expenditure needs. Consequently, public administration theory holds that responsibility for preparing state budgets and submitting them to the legislatures should rest with them. Budgets, also, are prime tools for administrative control. Governors without such implements are handicapped in any test of wills with their bureaucracies.

Much of the movement away from preparation of the budget by a legislative committee, or a board of administrative officials, or some combination of the two, and toward gubernatorial responsibility occurred earlier in the cen-

Table 5–4

HOW STATE ADMINISTRATIVE OFFICIALS ARE SELECTED

State	Total Officials*	Separately Elected*	Appointed, But Not by Governor	Appointed by Governor		Appointed by Governor—No Confirmation Needed	
				Number	Percent of Total Officials†	Number	Percent of Total Appointed by Governor
Alabama	37	8	15	14	38.9%	14	100%
Alaska	45	2	29	14	31.8	3	21
Arizona	39	6	17	16	42.1	5	31
Arkansas	38	6	17	15	40.5	5	33
California	40	7	4	29	74.4	11	38
Colorado	37	5	15	17	47.2	2	12
Connecticut	43	5	17	21	50.0	2	10
Delaware	42	6	16	20	48.8	2	10
Florida	41	9	18	14	35.0	1	7
Georgia	35	8	18	9	26.5	5	56
Hawaii	19	2	3	14	77.8	0	0
Idaho	40	7	15	18	46.2	7	39
Illinois	31	6	3	22	73.3	2	9
Indiana	37	7	8	22	61.1	21	95
Iowa	40	7	6	27	69.2	2	7
Kansas	43	6	20	17	40.5	0	0
Kentucky	42	8	18	16	39.0	16	100
Louisiana	41	10	6	25	62.5	2	8
Maine	41	1	25	15	37.5	6	40
Maryland	42	5	18	19	46.3	4	21
Massachusetts	46	6	16	24	53.3	23	96
Michigan	41	4	23	14	35.0	1	7
Minnesota	41	5	10	26	65.0	4	15
Mississippi	35	11	10	14	41.2	13	93
Missouri	40	5	24	11	28.2	0	0

Montana	43	6	19	18	42.9	7	39
Nebraska	43	8	13	22	52.4	6	27
Nevada	44	6	22	16	37.2	16	100
New Hampshire	39	1	14	24	63.2	3	13
New Jersey	40	1	17	22	56.4	0	0
New Mexico	37	6	12	19	52.8	6	32
New York	39	3	3	33	86.8	9	27
North Carolina	44	10	13	21	48.8	20	95
North Dakota	40	12	15	13	33.3	10	77
Ohio	43	5	16	22	52.4	1	5
Oklahoma	39	8	17	14	36.8	5	36
Oregon	42	6	24	12	29.3	2	17
Pennsylvania	44	5	11	28	65.1	10	36
Rhode Island	42	5	17	20	48.8	12	60
South Carolina	40	9	23	8	20.5	3	38
South Dakota	44	7	16	21	48.8	4	19
Tennessee	43	2	21	20	47.6	20	100
Texas	39	6	24	9	23.7	4	44
Utah	39	6	15	18	47.4	3	17
Vermont	41	6	13	22	55.0	5	23
Virginia	37	3	4	30	83.3	0	0
Washington	44	9	18	17	39.5	4	24
West Virginia	40	6	15	19	48.7	3	16
Wisconsin	32	6	12	14	45.2	2	14
Wyoming	38	5	16	17	45.9	16	94
Totals	1,992	299	761	932	—	322	—
Average Number Per State	39.8	6.0	15.2	18.6	—	6.4	—
50-State Percentage	—	15	38.2	—	46.8	—	34.5

*Includes the governor. †Less governor.

SOURCE: Compiled by Thad L. Beyle and Robert Dalton for their "Appointment Power: Does It Belong to the Governor?," *State Government*, Vol. 54, No. 1, 1981, p. 7, from *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, 1980, pp. 195–97. A total of 48 separate functions/departments/agencies are contained in the data for each state. However, all states have one or more officials with multiple responsibilities, and some states indicate no such function or agency exists.

Table 5–5

APPOINTIVE POWERS OF GOVERNORS, 1980

Very strong	Strong	Moderate	Weak	Very weak
Arkansas	California	Arizona	Alaska	Florida
Connecticut	Colorado	Georgia	Alabama	South Carolina
Delaware	Hawaii	Indiana	Idaho	Texas
Kentucky	Illinois	Louisiana	Mississippi	
Massachusetts	Iowa	Maine	Missouri	
Minnesota	Maryland	New Hampshire	New Mexico	
New Jersey	Ohio	Montana	Nevada	
New York	Pennsylvania	Nebraska	North Dakota	
North Carolina	South Dakota	Rhode Island	Oregon	
Vermont	Tennessee	Utah	Oklahoma	
Virginia			Washington	
West Virginia			Wisconsin	
			Wyoming	

SOURCE: Compiled from *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, 1980.

tury. By 1955, only six states vested authority for this function elsewhere than in the governor. Arkansas used a legislative committee, Florida and West Virginia relied on a board of administrative officials, and Indiana, North Dakota and South Carolina vested the responsibility in a joint legislative-administrative group. The other 42 states gave their governors the responsibility for this task. By 1980, even more states had moved toward gubernatorial responsibility. A total of 47 governors exercised budgetary submission authority with only Mississippi relying on an administrative board and South Carolina and Texas employing a joint legislative-administrative committee.[10] Such a committee exists in North Carolina although the governor has legal authority to submit his individual recommendations. In practice, he submits those of the advisory committee.

GUBERNATORIAL REORGANIZATION AUTHORITY

Another aspect of gubernatorial authority that can be important to the governor's capacity to manage the executive branch is the ability to initiate reorganization plans. In most states, responsibility for the structure of state administration has traditionally rested with the legislatures, and those bodies still have final control unless constitutional amendments are involved. Beginning with Wisconsin in 1937,[11] however—long before the President of the United States was given such power—some states vested in their governors authority to propose executive branch reorganization plans that take effect unless disapproved by the legislature. Sixteen states now grant some type of reorganization authority. See *Table* 5–6. Although the United States Supreme Court has ruled the legislative veto violates the separation of powers provisions of the federal constitution,[12] the ruling does not apply to states.[13]

VETO POWER

Governors in every state except North Carolina long have held the authority to veto bills passed by the legislature, and no change occurred in these figures between 1955 and 1980. In addition, chief executives in 43 states exercise the item veto, having the power to disallow one section of a bill and permitting the remaining provisions to become law. In Maryland, the item veto is authorized on capital construction and supplemental appropriations only. Hawaii permits its governor to veto items in appropriations for the executive branch only and does not allow item disapproval of funds for the legislature or the judiciary. States without an item veto are: Indiana, Maine, Nevada, New Hamphire, North Carolina, Rhode Island and Vermont. In 11 states, the governors have the additional power

Table 5–6

GOVERNORS' REORGANIZATION AUTHORITY, 1981[1]

States where governors' reorganization plan takes effect unless vetoed by both houses of legislature

Alabama (C)[2]
New Jersey (S)[3]

States where governors' reorganization plan takes effect unless vetoed by one house.

California (S)
Illinois (C)
Kansas (C)
Maryland (C)
Massachusetts (C)
Michigan (C)
Missouri (S)
North Carolina (C)
Pennsylvania (S)
South Dakota (C)
Vermont (S)

States where governors' reorganization plan requires approval of both houses.

Kentucky (S)
Minnesota (S)

Informal arrangement.

Utah

[1]In states not listed, authority is not vested in the governor.
[2]Constitutional authority.
[3]Statutory authority.
SOURCE: Compiled from *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 145.

to reduce, as well as disallow, appropriation items. States permitting this practice are: Alaska, California, Hawaii, Illinois, Massachusetts, Missouri, New Jersey, North Dakota, Pennsylvania, Tennessee and West virginia.[14] Four states formally provide that their chief executives can use the item veto to amend legislation—Illinois, Massachusetts, Montana and New Jersey. In additional states the constitution is interpreted in such a way as to give the governor this authority.[15]

In 15 states, the governor can "pocket veto" a bill when the legislature is not in session by withholding his signature for a specified time period. They are: Alabama, Delaware, Hawaii, Iowa, Maine, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Vermont, Virginia and Wisconsin. In Hawaii, Utah and Virginia, the legislature may reconvene to override the veto. If it does not, the bill dies. The Massachusetts legislature, in practice, never prorogues until all bills are signed. In New York, the pocket veto has not been used since 1974, as the legislature has been in continuous session since that time. In addition, subsequent governors have followed the pratice begun by Nelson Rockefeller of signing or vetoing with a memorandum each bill submitted.[16]

Table 5–1 reflects the developments in most veto powers since 1955. The largest change ap-

Table 5–7

STATES RANKED AS TO GOVERNORS' VETO POWERS, 1980

Very Strong		Strong	Medium	Weak
Alaska	Minnesota	Alabama	Florida	Indiana
Arizona	Mississippi	Arkansas	Idaho	Maine
California	Missouri	Kentucky	Massachusetts	Nevada
Colorado	Nebraska	Tennessee	Montana	New Hampshire
Connecticut	New Jersey	West Virginia	New Mexico	North Carolina
Delaware	New York		Oregon	Rhode Island
Georgia	North Dakota		South Carolina	Vermont
Hawaii	Ohio		Texas	
Illinois	Oklahoma		Virginia	
Iowa	Pennsylvania		Washington	
Kansas	South Dakota		Wisconsin	
Louisiana	Utah			
Maryland	Wyoming			
Michigan				

SOURCE: Compiled from the *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, 1980, pp. 110–11.

pears to be in regard to the item veto, and here the increase in states giving their governors this authority amounts to an increase of only two if Alaska and Hawaii are excluded from the 1980 total. Little alteration might have been expected, however, since most states granted governors substantial veto powers a quarter century ago. A ranking of states in regard to veto power appears in *Table 5–7*.

GOVERNORS' SALARIES

Adequate gubernatorial compensation constitutes an important factor in the quality of state administration. It broadens the field of prospective governors, discourages dishonesty, and enables the state to attract other administrators with high-priced skills. Too low a limit on the chief executive's pay places a lid on the amounts other officials may receive since it is a rare administrator who can make more than his superior.

Governors' salaries have increased dramatically in current dollar amounts in the past quarter century, rising from a median salary of $16,180 in 1955 to $52,400 in 1981, an increase of 224%. When calculated in terms of constant (1967) dollars, however, modern salaries have declined. In constant dollars, the 1955 salary amounted to $20,175 while the 1981 salary equaled $19,236.

Salary ranges changed also. In 1955, North Dakota paid the smallest amount, $9,000, and New York the greatest with $50,000. The extremes in 1981 were $35,000 paid to the governors of Arkansas, Delaware and Maine, while the chief executives of New Jersey and New York drew $85,000. Some of the increases resulted from the establishment of state salary commissions whose recommendations were adopted unless vetoed by the legislatures.

These figures do not take into account other prerequisites of office such as expense accounts, housing, automobiles, airplanes, insurance and household help that add to the overall financial rewards. These vary considerably from state to state.

STAFFING THE GOVERNOR'S OFFICE

Determining what constitutes an adequate staff for the governor's office presents a myriad of problems. What might be sufficient in Wyoming undoubtedly would not suffice in California or New York. Not only do populations vary, but so do the roles performed by chief executives in different states, as well as by individual governors in the same state. The same is true of the traditions associated with the office. Moreover, in some states, the governor is able to draw on the staffs of other state agencies to fill his needs. A state policeman or an assistant attorney general may be assigned full-time to the governor, yet remain on the payroll of the operating agency. Nevertheless, it is possible to make some assessment as to whether staffing in the governors' offices has improved over the years.

Research by Thad Beyle, a leading student of the governorship, points up the importance of adequate staff for the governor. After analyzing data from two 1976 surveys that provided the views and opinions of 74 current and former governors, Beyle conclude that there is a "conflicting relationship of the governor as a person and as a public figure," and that "a continuum underlying governors' offices and styles running from the personal to the institutional" exists.[17] He found that in the larger states where executives had greater staff resources, the governor has considerably more support to fulfill his or her roles than do governors of smaller states with fewer resources. In the former, the governorship is more institutionalized. Beyle suggests that it is in the mid-sized states, which appear to be in transition between the personalized and institutionalized governorship, where the greatest burdens on the governor occur. These states encounter problems similar to those of the larger states. Nevertheless, they have yet to establish the institutionalized processes and to provide sufficient staff resources for the governor so that the executive can perform his or her role wth greater ease.[18]

Table 5–8 presents data on governors' staffs for the periods 1949–51 and 1981 for selected states. During the former period, staff size ranged from three to 43. For 1981, the range was from six to 82.6 for 24 of the 25 states compared. Unfortunately, New York data were not available for that year. An NGA survey for 1979, however, shows New York with 262 employees in the governor's immediate office.

An examination of staffing for all 50 states in both reports reveals that about half the states employed 25 or more staff members. A total of

Table 5–8

THE GOVERNORS' STAFFS IN 25 SELECTED STATES, 1949–51 AND 1981

State	1949–51 Staff* Total	Clerical	Professional	1981 Staff** Total
New York	43	31	11	262[f]
California	42	30	12	87.6
Michigan	21	14	7	53.5
Georgia	19	14	5	28
Alabama	12	6	6	42
Oklahoma	12	7	5	43
South Carolina	12	9	3	15
Wisconsin	11	5	6[a]	30
Minnesota	10	4	6	38
Florida	9	6	3[b]	10
Colorado	9	7	2	30.5
North Carolina	8	5	3[c]	36.5
Louisiana	8	6	2	28
Virginia	7	4	3	25
Kentucky	7	5	2	32
Arkansas	6	4	2	48
Mississippi	6	5	1	23
New Hampshire	5	2	3[d]	19
Tennessee	5	3	2	44
Vermont	3	1	2[e]	12
Utah	3	1	2	11
Nevada	3	1	2	16
Wyoming	3	2	1	6
South Dakota	3	2	1	10
New Mexico	3	2	1	29

[a]Executive counsel is a part-time position.
[b]Legislative secretary is a part-time position.
[c]Legislative assistant is a part-time position.
[d]Legislative counsel is a part-time position filled during legislative session.
[e]Executive clerk is a part-time position filled during legislative session.
[f]New York figures are for 1979.

*The figures for 1949–51 are based on information collected in interviews in these states, the source usually being the governor's executive secretary or a comparable member of the staff. Most of the data was collected in the summer of 1951, but the southern states were originally visited in 1949. The figures, therefore, are for two different years and must be interpreted with some caution on a comparative basis.

The terms "professional" and "clerical" are used in an attempt to give more content to the figure on the "total" staff. The professional staff is considered to be those person who fill positions at the executive secretary or administrative level, while the clerical employees include stenographers, typists, messengers, switchboard operators, and the like, who make up the office force. While the figure representing the total number of persons on the staff is one of some significance, a more important comparison is between the number of employees at the professional level in the governor's office, for it is from this group that his major advice and assistance must be drawn.

Figures for New York do not total correctly in the original source.

**No breakdown between professional and clerical staff is available for 1981.

SOURCE: Coleman S. Ransone, Jr., *The Office of Governor in the United States*, University, AL, University of Alabama Press, 1956, p. 314. New York figures for 1979 are from the National Governors' Association, Office of State Services Survey for 1979, contained in "Partial Summation of Governors' Office Survey by Topic." 1981 figures are from the *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1981, p. 152. (Ransone's newer book, *The American Governorship*, Westport, CT, Greenwood Press, 1982, gives no state breakdown on governors' staffs.)

24 states each budgeted more than $1,000,000 for the governor's office.[19]

The availability of professional staff is the most important aspect of executive staffing. The professionals are the ones on whom the governor relies for information and advice. Few chief executives are likely to want for adequate clerical assistance; however, quite a few might not have assistants with the specialized skills necessary for effective performance of their duties.

GOVERNORS' WASHINGTON OFFICES

A relatively recent development in assistance for the governor is the Washington liaison office. As of 1982, 25 states had offices in Washington to assist the governor in handling relations with the national government. Even states in the immediate vicinity of the nation's capital—such as Maryland—maintain these offices, with the more populous states the most likely to establish them.

The staffs in the liaison offices serve as major channels of communications between Washington and the governor's homestate staff. In addition, they perform a variety of other functions that aid the governor in the handling of intergovernmental relations for the state: (1) collecting and distributing information on proposed national legislation, regulations and government actions; (2) facilitating the exchange of views between state and federal officials; (3) arranging appointments for state officials and organizations with national personnel; (4) acting as state spokesmen in dealings with congressional staffs and federal agencies; and (5) arranging reservations for officials traveling to Washington.[20] The effectiveness of the office depends upon the support and leadership the governor provides. Some governors regard their operations as unnecessary and have abolished existing units. Consequently, the number of liaison offices fluctuates from time to time.

THE IMPACT OF FORMAL POWER

An evaluation of governors' offices purely on the basis of formal authority in regard to tenure, budgeting, appointment, veto and executive reorganization, along with the adequacy of his compensation and staffing, is clearly inadequate. Much depends on the personalities and leadership traits of the individuals involved.[21] Moreover, their legislative influence, their positions in their own parties as well as the relative strength of that party in the state, the importance of interest groups, as well as state political cultures, economic conditions and public opinion all determine how well governors can perform their tasks. External factors, particularly the operations of the federal government, may change the opportunity structures within which they operate. Nevertheless, their formal powers contribute to their influence and ease of operation. All other things being equal, which they rarely are among states, a governor who has strong formal powers has an advantage over one who does not. While empirical research regarding the impact of such authority is still tentative, it indicates an effect on the influence of the chief executive. After examining other research in the field and expanding on it, Gerald Benjamin wrote that in regard to state fiscal policy,

> Governors' formal powers do make a difference. In states in which governors enjoy longer tenure and exercise their formal powers more freely, chief executives seek to maximize political advantage in the getting and spending of funds.[22]

A REVITALIZED NATIONAL GOVERNORS' ASSOCIATION

The strengthening of governors' offices throughout the country and emergence of a "need breed" of governors was reflected in an invigorated National Governors' Association during the 1960s and 1970s.[23] The state chief executives gave increased attention and resources to the organization they had estalished at the national level, changing it from a part-time, largely ineffective annual conference to an association with substantial influence in the national political arena.

President Theodore Roosevelt stimulated the organization of governors when he convened the chief executives at the White House on May 13, 1908, to gain their support of his natural resource conservation program. Subsequently, the group organized as the Governors' Conference and met annually for 60 years.

Although the conference provided an opportunity for governors to meet and discuss their problems, destroying some of the provincialism many reflected, it was ineffective until World War II. The meetings were occasions for elaborate entertainment by the host states and reflected a marked emphasis on social affairs. The policies adopted were the products of an unsystematic process with policy decisions often made on an ad hoc basis and with insufficient study.

Governors increasingly cooperated during the war years, but it was not until the 1960s, when the new vigor of the occupants of governors' chairs was reflected in the revitalization of the Governors' Conference. In order to make themselves more effective at the national level, the governors authorized a reorganization study in 1965.

The reorganization study helped activate a series of changes during the next 15 years that reconstituted the organization. In 1966, the conference created the Office for Federal-State Relations in Washington, funded by appropriations from individual states, to lobby for state interests. For the first time, the states had their own full-time lobbying apparatus. The conference also established permanent standing committees in functional areas such as energy, transportation, and education for the consideration of policy positions. Subsequently, it routinized the policymaking process. Committees were consolidated and proposed issues were sent to them before consideration by the membership at meetings. The conference also began to meet more often, convening several times a year.

The conference expanded its organization into other areas and increased its budget and staff. It created the well financed Center for Policy Research to study current issues. For the first time, the governors had research on which they could base their own policy options rather than responding to those put forward by the federal government. The center contributed to informed debate on energy, tax policy, tax and expenditure limitations, and public pension reform, among other issues. In addition, the new State Services Branch, operating as an extension of the governors' offices, was set up by the Conference. It offered aid in such matters as transition for new governors and provided resources that could be tapped by the chief executives throughout their terms. And a Hall of the States was constructed on Capitol Hill to bring together the numerous organizations representing state interests in Washington. Coupled with this activity growth was an increase in professional staff from four in the late 1960s to 50 in 1981, operating with a budget of $5.7 million.

As a consequence of all this revitalization, the NGA today presents a more serious mien and is regarded as one of the more influential Washington asociations of public officials. One long-time observer, contrasting current meetings with those of an earlier day, noted that "governors' conferences these days are pretty grim affairs."[24] Both alone and in cooperation with other groups of public officials, the NGA is a vigorous participant in the struggle between the states and the federal government.

AN ASSESSMENT

In the aggregate, governors' powers and support have grown over the years. Tenure has notably improved. Terms are longer and fewer governors are prohibited from serving consecutive terms. Gubernatorial appointment powers have expanded somewhat, although there is still a long way to go before the governor has complete command of the administration. Control over the budget preparation and submission is greater, veto power has inched upward and staff sizes have increased dramatically. More governors also have authority to submit reorganization plans. In current dollars, compensation for governors is dramatically higher, although when expressed in terms of constant dollars improvement has been slight.

Little of this seems to reflect the vigor that some perceive as transforming American governors. The executives are undertaking new initiatives to solve the problems plaguing their states. Both individually and collectively, they are speaking out about the problems facing American intergovernmental relations. Once again, governors have become viable candidates for the Presidency.

Scholars have noted the changes in the governors in recent writings. Larry Sabato writes:

> The American governor has clearly been transformed in recent years. No longer the emasculated "cypher" of

> Madison's day, the state chief executive has come far indeed since one politician told de Tocqueville, "The governor counts for absolutely nothing and is only paid 1,200 dollars."[25]

Parris Glendening agrees, explaining,

> Today's governors reflect a new mode. They are both the generators and beneficiaries of improved public attitudes toward the states.[26]

The governors are becoming more assertive, in fact. The revitalization of the National Governors' Association has provided a national platform for the states' chief executives to reassert the state position in the federal system. In this, as in other forums, they are flexing the muscles of state strength. Columnist David S. Broder, in predicting the approaching battle between the national government and the states, wrote in the summer of 1980:

> The governors of the once-sovereign states are working up a fine head of steam about their treatment in Washington, and with help from the state legislatures may maneuver themselves into a position where they can do more than complain about it.
>
> The National Governors' Association annual meeting in Denver, held just before the Democratic National Convention, echoed wth the sharpest bipartisan rhetoric about the excesses of Wasington that I have heard in the last 18 years I've been covering them.[27]

After concluding that "the role of the states has been eroded to the point that the authors of the Constitution would not recognize the intergovernmental relations they crafted so carefully in 1789," the governors proposed a reform agenda to reduce federal spending and make government more responsive. They proposed a massive swap of government functions between the federal government and the state and local governments. Democratic Governor Bruce Babbitt of Arizona declared, "It's long past time to dust off *The Federalist Papers* and to renew the debat. ...[28] The governors called on the President and the Congress to convene a National Commission on Federalism to deal with the problems of federal-state relations.[29]

Shortly after the 1980 presidential election, they renewed their fight for the return of some functions and powers to the states. In a joint statement with the Steering Committee of the State-Federal Assembly of the National Conference of State Legislatures, the National Governors' Association agreed to make the "sorting out" of roles and responsibilities between the state and national governments a priority. They recognized "the primary federal policy and financial responsibility for national defense, income security, and a sound economy, and the primacy of state and local governments in such areas as education, law enforcement and transportation."[30] Republican governors, led by Governor Richard A. Snelling of Vermont, called on the new Reagan Administration to sort out the functions Washington should handle and turn over others to state and local governments. Governor Lamar Alexander of Tennessee said "It is time to act and do some specific things."[31]

Gov. Babbitt proposed those "specific things." He advocated that the states assume full fiscal responsibility for highways and mass transit, elementary and secondary education, and law enforcement. In return, he suggested that the federal government take on the welfare function.[32] (The nationalization of welfare had been proposed previously by the President's Commission on a National Agenda for the 80s and ACIR, among others.)

All in all, governors are becoming increasingly vocal in criticizing the federal government and championing the position of the states. They have developed a bargaining capacity as well, a skill reflected in the negotiations between the National Governors' Association and the Reagan Administration over the trade-off of functions and funds under the New Federalism proposals.

FOOTNOTES

[1]Leslie Lipson, *The American Governor: From Figurehead to Leader*, Chicago, IL, University of Chicago Press, 1939.

[2]Alan R. Richards, "The Traditions of Government in the States," *The Forty-Eight States: Their Tasks as Policy Makers and Administrators*, James W. Fesler, ed., New York, NY, The American Assembly, 1955, p. 57.

[3]W. Brooke Graves, *American State Government*, 4th

ed., Boston, MA, D.C. Heath and Company, 1953, p. 319.

[4]Coleman B. Ransone, Jr., *The American Governorship*, Westport, CN, Greenwood Press, 1982, p. 177.

[5]Nelson C. Dometrius, "An Assessment of Tenure," a paper prepared for the 1980 Annual Meeting of the Southern Political Science Association, Atlanta, GA, November 1980. See, also, Thomas R. Dye's study that suggests that state economic development factors are more important than formal gubernatorial powers in affecting state policy outputs. See his "Executive Power and Public Policy in the States," *Western Political Quarterly*, Vol. 22, December 1969, pp. 926–39. Later research challenges the theory that political factors have little effect on policy outcomes. For example, Charles Press hypothesizes that constitutional changes affecting gubernatorial (and other) powers, at least in states without the initiative, are likely to occur near the end of the political battles for strengthening governors rather than at the outset. See his account of Michigan development in "Assessing Policy and Operational Implications of State Constitutional Change," *Publius*, Vol. 12, No. 1, Winter 1982, pp. 106–09.

[6]Sarah McCally Morehouse, *State Politics, Parties and Policy*, New York, NY, Holt Rinehart, and Winston, 1980, p. 206.

[7]*Book of the States, 1954–55*, Lexington, KY, Council of State Governments, 1954, pp. 154–55; *Book of the States, 1980–81*, *op. cit.*, pp. 182–83.

[8]Council of State Governments, *State Government Organization (A Preliminary Compilation)*, Lexington, KY, 1979.

[9]Thad L. Beyle and Robert Dalton, "Appointment Power: Does It Belong to the Governor?," *State Government*, Vol. 54, No. 1, 1981 (no month given), p. 4.

[10]*Book of the States, 1954–55*, *op. cit.*, pp. 160–63; *Book of the States, 1980–81*, *op. cit.*, pp. 204–05.

[11]James T. Patterson, *The New Deal and the States: Federalism in Transition*, Princeton, NJ, Princeton University Press, 1969, p. 133.

[12]*Immigration and Naturalization Service v. Chandra*, Docket No. 8–1932 (1983).

[13]For a discussion of state applicability of this ruling, see Stephen F. Johnson, "The Legislative Veto in the States," *State Government*, Vol. 56, No. 3, p. 99–102.

[14]All information in this section from *Book of the States, 1956–57*, Chicago, IL, Council of State Governments, 1956, and *Book of the States, 1980–81*, op. cit.

[15]Gerald Benjamin, "The Diffusion of the Governor's Veto Power," *State Government*, Vol. 55, No. 3, 1982, p. 104.

[16]Information on New York supplied by Prof. Joseph F. Zimmerman, State University of New York at Albany, by letter, February 13, 1981.

[17]Thad H. Beyle, "Governors' Views on Being Governor," *State Government*, Vol 52, No. 3, Summer 1979, p. 108. Beyle's observations were based on responses to two surveys conducted in 1976: 16 incumbent governors as of 1976 and 58 former governors who had served and left office by that date.

[18]*Ibid.*, pp. 109–10.

[19]*Book of the States, 1982–83*, *op. cit.*, p. 152.

[20]For an analysis of Washington Liaison Offices, see Nicholas B. Wilson, "Enhancing Federal-State Relations: State Liaison Offices in Washington," Ph.D. dissertation, University of Maryland, College Park, MD, 1975.

[21]For an examination of gubernatorial style of one Massachusetts governor, see Martha Weinberg, *Managing the State*, Cambridge, MA, MIT Press, 1977. In regard to New York, see Robert H. Connery and Gerald Benjamin, *Rockefeller of New York: Executive Power in the State House*, Ithaca, NY, Cornell University Press, 1979, and for California, John C. Bollens and G. Robert Williams, *Jerry Brown: In a Plain Brown Wrapper*, Pacific Palisades, CA, Palisades Publishers, 1978, among others.

[22]Gerald Benjamin, "Executive Powers and State Fiscal Policy," a paper prepared for delivery at the 1978 annual meeting of the American Political Science Association, New York, NY, August/September 1978, p. 21.

[23]For a discussion of the changes in the National Governors' Association, see Glenn E. Brooks, *When Governors Convene: The Governors' Conference and National Politics*, Baltimore, MD, The Johns Hopkins Press, 1961; Donald Haider, *When Governments Come to Washington: Governors, Mayors, and Intergovernmental Lobbying*, New York, NY, The Free Press, 1974; and Larry Sabato, *Goodbye to Goodtime Charlie: The American Governorship Transformed*, 2nd ed., Washington, DC, Congressional quarterly Press, 1983.

[24]George Weeks, "A Statehouse Hall of Fame: Ten Outstanding Governors of the 20th Century," *State Government*, Vol. 55, No. 3, Washington, DC, National Governors' Association, 1982, p. 67.

[25]Larry Sabato, "Governors' New Office Careers: A New Breed Emerges," *State Government*, Vol. 52, No. 3, Lexington, KY, Summer 1979, p. 95. See, also, his *Goodbye to Goodtime Charlie: The American Governor Transformed*, *op. cit.*, for further discussion of the change in American governors.

[26]Glendening, *op. cit.*, p. 119.

[27]David S. Broder, "Nations Governors Will Be Heard," *New Haven Register*, New Haven, CT, August 26, 1980.

[28]As quoted by Michael J. McManus, "Governors Propose Realignment of Federal, State Functions," *Omaha World-Herald*, Omaha, NE, August 8, 1980.

[29]National Governors' Association, *Agenda for Restoring Balance in the Federal System*, Washington, DC, August 4, 1980.

[30]Letter from Governor Bruce Babbitt of Arizona to all governors, National Governors' Association, February 17, 1981.

[31]John Herbers, "Governors Press for New State Powers," *New York Times*, New York, NY, November 16, 1980, p. 36.

[32]Babbitt letter, *op. cit.*

Chapter 6

State Executive Branch Organization[1]

Effectiveness, efficiency and accountability in state government all hinge to a substantial degree on the nature of the organizational apparatus through which public officials and employees work. Although even the best governmental organization will not produce good results without honest and capable people, properly designed governmental machinery enhances the effectiveness and efficiency of competent personnel. Ineffective organization can impinge upon their productivity. Accountability, in particular, depends heavily on structure. The coupling of authority and responsibility in an organization enables the public, as well as the chief administrator, to apportion credit and blame. Likewise, the creditability of those responsible for the postauditing function is directly related to their independence from the executive's control.

Students of state government seemed uniformly gloomy about state executive branch organization as recently as the mid 1960s. For example, the Committee for Economic Development partially blamed "innumerable deficiencies in the organization and management of state government" for the "failure of states in coming to grips with the fundamental economic and social issues within their province."[2] James Reichley, author of *States In Crisis* (1964), wrote:

> Another handicap to effective state government, at least as serious as leg-

islative malapportionment, is posed by the often paralyzing division of administrative powers within the governmental structures of many states.[3]

John C. Buechner offered this solution in 1967:

> If the states are to meet the goals of the future and if governors are to exercise leadership in attaining these goals, reorganization and continuous scrutiny of the executive branch will have to be one of the key tasks of state government.[4]

The states apparently heeded this advice. Figure 6–1 shows 22 states that undertook comprehensive reoganizations of their executive branches during the period from 1965 to 1979. Virtually all of the other states reorganized one or more departments during these years.[5]

BACKGROUND OF REORGANIZATION

The reorganization thrusts of the mid 60s were by no means unique. Indeed, waves of reorganization fervor, often stimulated by federal reorganization studies, have swept over the states. The President's Commission on Economy and Efficiency (Taft Commission), 1910–13, the President's Committee on Administrative Management (Brownlow Committee), 1937, and the Commission on Organization of the Executive Branch of the Government (First Hoover Commission), 1947–49, all provided impetus for state executive reorganization efforts. In all, the states have attempted 151 broad-scale executive branch reorganizations in the 20th century.[6]

The most recent wave, provoked by the Hoover Commission, began with Michigan in 1965. From then until the present, virtually every state undertook some reorganization activity. Unlike the earlier periods, which were strong on studies and weak on accomplishment, the most recent efforts led to actual reorganizations. In addition, the proposals of this period differed from those of previous eras in yet another way. As a Council of State Governments publication expressed it:

> The current trend is toward even more consolidation of agencies than in the past. For example, at one time a major reorganization accomplishment would have been to eliminate the separate administration of each mental hospital and place all of them in a mental health department. Now (1969) we find that in some states, such a department is being combined with others to form a large, health and welfare, or social services department.[7]

Figure 6–1

STATES UNDERGOING COMPREHENSIVE REORGANIZATION, 1965–79

Arkansas	1971
California	1968
Colorado	1968
Connecticut	1979
Delaware	1970
Florida	1969
Georgia	1972
Idaho	1974
Kentucky	1973
Louisiana	1975
Maine	1971
Maryland	1970
Massachusetts	1969
Michigan	1965
Missouri	1974
Montana	1971
New Mexico	1977
North Carolina	1975
South Dakota	1973
Virginia	1972
West Virginia	1977
Wisconsin	1967

SOURCE: Compiled from: George A. Bell, "State Administrative Organization Activities, 1974–75," *Book of the States, 1976–77*, Lexington, KY, 1976, pp. 105–13; Council of State Governments, *Reorganization in the States*, Lexington, KY, 1972, pp. 4–9; Robert de Voursney, "State Executive Branch Activities," *Book of the States, 1980–81*, Lexington, KY, 1980, p. 168; and James L. Garnett, *Reorganizing State Government: The Executive Branch*, Boulder, CO, Westview Press, 1980, p. 4.

STANDARDS OF REORGANIZATION

While ideas for reorganizing state govern-

ments came from many sources, the principles relied on seem to be those encompassed in traditional public administration. A.E. Buck set out the list in his *The Reorganization of State Governments in the United States* in 1938. It included the following:

1) *Concentration of authority and responsibility.* Reorganization plans should "make the governor in fact, as well as in theory, the responsible chief executive of the state;" accomplishment of this standard should be achieved by various means, such as the short ballot, the four-year term for the governor, and the consolidation of the administrative functions in a few departments, each headed by a single officer appointed by, and removable by the governor.

2) *Departmentalization, or functional integration.* Boards, commissions and agencies should be "consolidated and their activities integrated in a few orderly departments, each of which approximates a major function of the state government." The merits of this system are that it "locates responsibility for administrative action or inaction, standardizes methods of procedure, aids in getting information for management and facilitates the financing of administrative work."

3) *Abolition or limitation of boards for purely administrative work.* "Because of division of authority and general lack of initiative and responsibility, boards are usually considered undesirable for purely administrative work." Therefore, these multiheaded agencies should be "displaced by single executives."

4) *Coordination of the staff services of administration.* "These staff services have to do mainly with budgeting, accounting, and reporting, purchasing and personnel." These instruments of efficiency and economy should be grouped under a single staff department.

5) *Provision for an independent audit.* "A complete separation of the functions of financial control and accounting from those of independent auditing (post-auditing) and review is necessary in order to obtain the most satisfactory results." Specifically, a legislatively appointed auditor should "serve as (the legislature's) checking and investigating agent to look into the financial operations of the executive and the administration."

6) *Recognition of a governor's cabinet.* Regular cabinet meetings should be held in which department heads would discuss "administrative work and budgetary requirements, as well as devising practical methods ... to eliminate duplication and overlapping of functions between various departments."[8]

In general, 20th century state reorganizations have been guided by these standards despite potentially modifying developments: the growing impact of federal grants, the expansion of the states' own intergovernmental transfer role, the increase of state government services in old and wholly new program areas, and the challenges of urbanization.

This is not to say that there is total agreement that these are the standards on which state executive reorganization should be based. "New public administration" proponents would take a different approach. Other scholars and public administrators feel that, given the changes in state functions, modification should be considered. James Garnett, a leading student of state government reorganization, wonders whether the state's "check delivery," standard-setting and monitoring functions should be handled differently from its service delivery functions.[9] Since state government activities are not all direct service oriented and many are intergovernmentalized, traditional public administration principles do not necessarily apply to these activities for which the state merely distributes funds. Lines of hierarchy and authority may be confused by the intergovernmentalization of these programs. Nevertheless, state reorganizational activities do not seem to reflect any basic awareness of the difference.

Pervasive as Buck's principles have been, most states have not adhered to them rigidly in their reorganizations. The reasons for this are many. Among them are: (1) political support for the retention of constitutionally elective of-

ficers is strong and voters may feel that their removal from the ballot infringes on their rights; (2) agency heads exhibit a natural distaste for having their agencies subsumed under a larger department, thereby interposing an additional layer of decisionmaking between themselves and the governor; (3) constituencies outside the government believe they have special working relations with certain agencies and do not want to see changes in the structure or position of these agencies; and (4) miscellaneous voter and interest group concerns impede thorough reorganizations, often under the guise of "keeping politics out of administration."

EXTENT OF REORGANIZATION

Simply knowing that most of the states have reorganized their governments in recent years does not present a specific picture of what changes have been made. Buck's principles serve as a good framework for understanding the structural metamorphosis of the states.

CONCENTRATION OF AUTHORITY AND RESPONSIBILITY

Efforts to improve the position of the governor in directing state affairs have concentrated on reducing the number of elected executive branch officials and making agency heads responsible to the governor. As noted above under the discussion of the governor, the number of state elected executive officials has declined. Between 1964 and 1981, all but eight states pared down the number of executive branch elected officials, eight states maintained their 1964 number, and one state had more officials on the ballot in 1981 than in 1964. This breakdown hides the magnitude of some of the changes. For instance, North Carolina reduced its elected executives from 110 in 11 agencies to ten. Nevada had 42 elected officials in 11 agencies in 1964 and only six in 1981.[10]

If the total number of agencies headed by elected officials is examined, the trend away from the ballot is slightly more pronounced. Between 1964 and 1978, 26 states reduced the number of agencies with elected heads and three states added to their numbers.

Many other agencies remain outside the governor's control, nonetheless. States continue to establish independent commissions, both regulatory and nonregulatory, and to vest the appointment of agency or unit heads in these bodies. There is a growing trend to involve the legislature in some appointments.

In their examinaton of the relationship between executive branch reorganization and gubernatorial appointive powers, Beyle and Dalton found that governors in reorganized states increased their authority over development agencies to a greater extent than in any other functional grouping, that their appointive powers in regard to regulatory agencies had been reduced more than that of governors of nonreorganized states, and that their control over management agencies had increased. They point to a centralizing trend with both the governors and the legislatures achieving more control over the executive branch. The influence of separately chosen boards and commissions and some elected officials is declining.[11] See *Table 6–1* for a comparison of average gubernatorial appointing power by function and by organization status.

DEPARTMENTALIZATION OR FUNCTIONAL INTEGRATION

Diversity across state lines complicates drawing conclusions about the degree of consolidation. Examination of Council of State Governments' data on state government organization for 1950 and 1979[12] indicates that a high degree of departmentalization has occurred, thereby reducing the number of separate agencies. This trend is diluted, however, by confusion in the chain of command created because heads of one or more units in an agency are subject to an outside appointment process. *Table 6–2* provides a comparison for 1950 and 1979 of departmentalization in selected states.

Consolidations in the function areas of environmental protection, transportation and human services have been especially prevalent in recent years. Almost all of the states have combined air, water and solid waste management into one department—42 by 1974 according to a Council of State Governments study. A total of 35 states now hav departments of transportation that combine the traditional state highway agencies with the newer modes of transportation.[14] Consolidation has not advanced so far in human services; although, by 1974 there

Table 6–1

AVERAGE GUBERNATORIAL APPOINTMENT POWER BY FUNCTIONS* AND BY REORGANIZATION STATES,** 1965/67 and 1980

Function	1965–67	1980	Percent change
MANAGEMENT			
Reorganized	3.15	3.37	+ 4.4%
Unreorganized	3.35	3.24	– 2.2
ADMINISTRATIVE			
Reorganized	2.44	2.60	+ 3.2
Unreorganized	2.06	2.65	+11.8
POLICE/SAFETY			
Reorganized	3.67	3.56	– 2.2
Unreorganized	4.06	3.62	– 8.8
REGULATION			
Reorganized	3.39	2.82	–11.4
Unreorganized	3.27	3.14	– 2.6
HUMAN SERVICES			
Reorganized	2.68	2.84	+ 3.2
Unreorganized	2.53	2.95	+ 8.4
DEVELOPMENT			
Reorganized	2.26	2.77	+10.2
Unreorganized	2.65	2.95	+ 6.0

SOURCE: Thad H. Beyle and Robert Dalton, "The Appointment Power: Does It Belong to the Governor?," *State Government*, Vol. 54, No. 1, p. 6.

*Function	*Agencies or Officer*
MANAGEMENT	Lieutenant Governor (team); Administration; Budget; Personnel; Planning
ADMINISTRATIVE SERVICES	Purchasing; Taxation; General Services; Pre-audit
POLICE-SAFETY	Adjutant General Disaster Assistance/Civil Preparedness, Police/Highway Patrol
REGULATION	Banking; Commerce; Labor/Industrial Relations; Insurance; Public Utilities
HUMAN SERVICES	Employment; Health; Mental Health; Welfare; Corrections
DEVELOPMENT	Agriculture; Highways; Natural Resources

**The scores for gubernatorial appointment power are derived in much the same manner as first created by Joseph A. Schlesinger in "The Politics of the Executive," pp. 222–23. He created a six-point index based on the following methods of appointment of state officials using the governor's involvement as a reference point:

0—elected by popular vote.
1—appointed by department director, by board, by legislature, by civil service.
2—appointed by director with governor's approval, or by governor and council.
3—governor appoints and both bodies of legislature approve.
4—governor appoints and one body of legislature approves.
5—governor appoints alone.

The scores can range from 0 (no gubernatorial appointment) to 5 (solely gubernatorial appointment power). For each of the functions, the 50-state average score was derived.

were comprehensive human resource agencies in 26 states, up from 15 in 1970.[15] Problems exist in this functional area in regard to which activities should be included. The question as to whether or not to include corrections as part of a comprehensive agency has plagued administrators.[16]

At first glance, it would appear that impetus for consolidation of environmental, transportation and human resource functions came from the influence of similarly constructed federal agencies; however, other factors could well have played a part. The spread of innovations from other states, executive response to management problems, changes in the programs undertaken, and political considerations all might have accelerated the decisions to change.[17]

ABOLITION OR ELIMINATION OF BOARDS FOR PURELY ADMINISTRATIVE WORK

While many states have eliminated a number of administrative boards, such organizations

Table 6–2

FUNCTIONAL INTEGRATION AND DEPARTMENTALIZATION SELECTED STATES, 1950 AND 1979

State	Total State Agencies		Ex Officio Boards		Independent Examining Boards	
	1950	1979*	1950	1979	1950	1979
Colorado	140	22	16	0	20	0
Connecticut	172	26	20	1	32	0
Florida	87	24	26	0	21	0
Illinois	75	29	NA	0	20	0
Louisiana	102	20	1	0	22	29
Minnesota	101	27	32	0	16	18
Nevada	104	31	15	7	21	30

*Within some agencies in each of these states, one or more units are subject to a separate appointment process. Therefore, the degree of "departmentalization" is in question.

SOURCE: Compiled from Council of State Governments, *Reorganizing State Government*, Chicago, IL, 1950, and *State Government Organization (A Preliminary Compilation)*, Lexington, KY, 1979.

are still widely used. In 1979, all states still vested administrative responsibility in boards or commissions. On the positive side, however, states have consolidated a variety of boards, and the use of ex officio boards has declined. See *Table 6–2* on the latter point.

A 1978 survey by Thad Beyle for the National Governors' Association (NGA) indicated a substantial number of boards still in existence, although the question provided no breakdown as to how many performed administrative functions. Responses to a question about the number of boards in a state ranged from a low of 18 to a high of 300. Respondents from 18 states indicated that more than 120 boards currently existed in their states. Only nine said that efforts were underway to consolidate or eliminate boards.[19]

COORDINATION OF STAFF SERVICES

Buck recommended grouping of staff services under departments of finance or administration. Twenty-nine states had established such agencies by 1964. By 1978, the number had grown to 42. Nevertheless, few states aggregate all of their centralized accounting, budgeting, purchasing and personnel functions under one department. Moreover, there are questions as to whether such an arrangement is desirable. A clear trend, however, is the establishment of general service agencies under which are consolidated such functions as communications, construction, insurance protection and purchasing. A total of 17 states had provided for such agencies by 1974 and a number of other states unified such activities under one segment of the department of administration.[20]

INDEPENDENT AUDIT

The idea of an independently selected auditor is to remove from gubernatorial appointment the official who audits the administration's books. Such post-audits are investigatory in nature, designed to determine whether or not funds have been spent legally. Auditing functions have been expanded in recent years to include checks on the efficiency, economy and effectiveness of government operations.

While a popularly elected auditor could be an independent one, selection in this manner is not recommended because it is difficult for the public to assess auditing capability in a political campaign. Qualities marking one as a successful campaigner are not necessarily those

required for competence in auditing. Consequently, the generally advocated practice is to have the auditor selected by and responsible to the legislature.

In 1964, in only 15 states were the officials performing the auditing function selected by the legislature. Moreover, the governor appointed the auditing official in eight states.[21] By 1979, legislatures designated the auditing official in at least two-thirds of the states, although in some the function was shared with elected auditors. The legislative auditor divided the function with a gubernatorially appointed comptroller in Hawaii. Indiana appeared to be the only state where the governor designated the auditor.[22]

RECOGNITION OF THE GOVERNOR'S CABINET

Part and parcel of the reorganization movement have been efforts to institute a governor's cabinet. Using the model employed at the federal level, states have moved toward institutionalizing a similar mechanism for coordinating and directing the activities of the executive branch. The task has not been an easy one, however, for, unlike the federal establishment, state governments often elect other executive officials in addition to the governor and lieutenant-governor. Their independence of the chief executive somewhat inhibits use of the cabinet for coordinated management.

Nevertheless, governors long have held occasional cabinet meetings even when they have had little or no formal power over the officials involved. Often they were bound together by partisan ties.

The latest reorganization movement placed great emphasis on the governor's cabinet. All but one of the states that undertook a comprehensive reorganization provided for a cabinet system. By 1979, the number of states with cabinet systems totalled 36.[23] Very few, however, gave their cabinets policy authority. Although too much can be made of the value of a cabinet system, as Judith Nicholson writes,

> ... these cabinets are viewed as an effective problem-solving group involved both in identifying priority issues and areas and in developing new ideas and approaches to executive branch operations.[24]

It probably is less important whether legal provision is made for a cabinet than whether constitutionally elective officials are provided. The latter dissipate gubernatorial control.

TYPES OF RESULTING EXECUTIVE STRUCTURES

What kinds of organizations resulted from the most recent rash of state reorganizations? The question could be answered in many ways, depending on the classification system and approach used. In his study of state executive reorganizations,[25] James L. Garnett modified the often-used typology developed by George A. Bell[26] and applied it to reorganizations taking place between 1900 and 1975. The models he used were traditional, cabinet, and secretary-coordinator.

The traditional model retains a large number of agencies (more than 17) after reorganization and has a low degree of functional consolidation of agencies by function. That is, over 50% of all consolidations resulted in single-function agencies narrowly defined (e.g., water pollution control). In addition, the proportion of post-reorganization agencies headed by boards and commissions exceeds 25%, and the transferred agencies still retained their structural authority and identity, and control over their budgeting, purchasing, and other support services.

The cabinet model retains from nine to 16 agencies, exhibits moderate functional consolidation with more than 50% of all consolidation into single-function agencies broadly defined (e.g., environmental protection), and has between 50% and 66% of its post-reorganization department heads appointed by the governor. In addition, most of the transfers of agencies are into other units, with the transplanted agencies losing their statutory and structural identity and control over their management support services.

The secretary-coordinator model retains one to eight agencies and provides high consolidation with more than 50% of all consolidations into large multiple-function or broad single-function agencies such as Human Resources or

Natural Resources. At least two-thirds of the department heads are appointed by the governor and the proportion of agencies with plural executives does not exceed 9%. Most of the transferred agencies that move into super-agencies would retain their structural identity and most of their statutory authority, although they would relinquish some control over their management support services, such as submitting to budget review by the super-agency.[27]

Garnett found that in the reorganizations taking place between 1947 and 1975, slightly more than half (51.3%) followed the traditional model. One-third (33.3%) chose a cabinet form, and 15.4% adopted a secretary-coordinator arrangement.[28] Moreover, as one might expect, more reorganizations were incremental (55.6%) than comprehensive (44.4%).[29]

OTHER REORGANIZATION EFFECTS

Impacts of executive reorganization are many and varied and cannot be explored exhaustively here. Nonetheless, in addition to the changes already cited, certain other developments can be noted.

- ☐ A shift in the organizational purposes of state agencies is evident with the creation of new agencies. Older organizational units bore names that indicated emphasis on agriculture, industry, public works, highways, corrections, fish and game, civil defense and education. The 1979 executive branch organizations include these, but increasingly emphasize social programs, community affairs, environmental protection, energy, economic development and all modes of transportation.

- ☐ A marked increase in "citizen responsiveness" agencies is notable. During the reorganization years, states set up agencies to deal with minority rights, women's rights, consumer protection, and citizen complaint handling. Whereas in 1960, the organization charts of three states (Alabama, Arkansas and Tennessee) still reflected segregation, 45 states by 1979 had units whose apparent aim was to benefit minorities. This contrasts with 12 states in 1960. Some states have more than one such unit. As far as consumer protection is concerned, every state now has an office to deal with such matters. In addition, at least ten states have established an ombudsman to handle citizen complaints. Lieutenant-governors perform this service in three states.

- ☐ Many degrading and embarrassing titles have been eliminated, indicating a greater responsiveness to various groups. Names such as "mental deficients," "feeble-minded" and "incurables," often found on 1960 organization charts, have been eliminated. Alas, others that provided some levity for the student of state government perished as well. No longer can one read about the Illinois Beekeepers' Commission, for example, or be protected from pornography by the Maryland Motion Picture Censor Board. Nevertheless, citizens can still savor the delights of the West Virginia Nonintoxicating Beer Commission.

- ☐ A greater number of coordinating and planning agencies emerged. Virtually every state now has a unit charged with comprehensive planning, many of them inspired by the U.S. Department of Housing and Urban Development "701" planning grants. Another coordinating unit, the community affairs agency, now exists in some form in all states. It will be discussed below. Other offices directed at lobbying for and coordinating federal aid have mushroomed as well and state advisory commissions on intergovernmental relations have shown a marked increase.

- ☐ Reorganization had little impact on employment and expenditures in the states. Kenneth Meier's study in the 16 states that reorganized between 1965 and 1975 found that, as a consequence of reorganization, only three showed a statistically long-term decline in employment and none experienced a short-term decrease. Neither long nor short-

term reductions in expenditures were significant. For almost all, the pattern was similar to unreorganized states.[30]

THE QUESTION OF RESULTS

Has all this activity produced more effective, efficient, and accountable executive organizations? Certainly the states have demonstrated a willingness to change and, for the most part, a penchant to move in the recommended direction. Perhaps a look at the opinions of the administrators involved in operating in these structures will provide some insight. Two surveys of state administrators conducted at the University of North Carolina in 1974 and 1978 are pertinent: Deil S. Wright and Ted F. Hebert's 1978 survey of nearly 1,400 state administrators asked several questions that reflect on the success of the reorganizations.[31] In response to the query: "Do you think your state is presently in need of major reorganization?," 26% of all 1978 respondents answered "yes," while 62% said "no." These responses varied little from those to Wright's 1974 administrator's survey in which 27.7% of the respondents replied "yes" and 60.8% said "no."[32] The preponderance of administrators in only five states replied that reorganization was needed in 1978 as compared to eight states four years later.

The answer to this question may indicate the effectiveness of the state's last reorganization, especially if it occurred recently. For example, in 1978, the percentages of Georgia, Louisiana and New Mexico officials responding affirmatively to the "reorganization needed" question were 5%, 0% and 0%, respectively. All three of these states underwent major reorganizations during the 1970s, and these answers tended to point to effective reform. Moreover, state officials whose states had not been recently reorganized frequently replied that they believed their states needed it. For example, 63% of Alabama's officials replied affirmatively to the "reorganization needed" question, as did 63% of Mississippi respondents, and 64% of Pennsylvania's. The dates of those states' last reorganizations are respectively 1939, 1932 and 1923. Overall, respondents in eight states in 1974 and five states in 1978 perceived their states in need of reorganization.

When asked whether the last major reorganization affected their agencies, 55% of all 1978 respondents said "yes" while 24% replied "no." Depending on one's definition of "affect," these percentages may indicate that recent state reorganizations have not been mere box shufflings.

As far as increased efficiency was concerned, out of the 757 state officials responding affirmatively to the above question, 57% replied "yes" and 37% said "no" to the following question in 1978: "Did the reorganization increase agency efficiency or productivity?" Staff agency officials answered a bit more favorably, 63% of them responding affirmatively. On a state-by-state basis, the percentages of affirmative replies to the "increased efficiency" question ranged from lows of 11% (Connecticut), 13% (Mississippi), and 29% (Louisiana) to highs of 100% (Oklahoma and Maine), 88% (Nevada), and 86% (Kansas). In 33 states, a majority of respondents answered that the last major reorganization had increased agency efficiency. This figure, too, reflects favorably upon the effectiveness of recent reorganizations.

As for the effect of reorganization on executive control, 42% of the 1978 respondents replied "yes" to the question, "Did the last major reorganization increase the governor's control over your agency?" while 54% replied "no." Nevertheless, only 13% of the respondents felt that the reorganization had decreased the governor's power over their agency. If elective officials are deleted from the computation, more than 40% of the respondents in each of the remaining categories—staff, functional agencies and other—gave affirmative replies. More than a third (37.5%) of the "nonascertained" category replied "yes." Apparently, recent reorganization greatly improved the control of the governor in South Dakota, Montana and Delaware with 80%, 70% and 65% respectively of those states' respondents indicating a stronger gubernatorial control over their agencies.

Reorganization appears to have had little impact on state-federal relations if the perceptions of state administrators in 1978 are correct. A moderate number of respondents (34%) believed that reorganization positively affected their contacts with federal agencies, and an overwhelming majority (77%) perceived no negative effects. Respondents in only ten states

believed that reorganization improved contacts with federal agencies.

Asked to rate the overall effects of the last major reorganization, administrators gave them favorable ratings for the most part. Answers for 1978 fell into the following categories:

Excellent	13%
Good	42%
Fair	24%
Poor	16%

Texas, Oklahoma and South Dakota received the highest percentage of "excellent" ratings, while Connecticut, Massachusetts and Mississippi garnered the greatest portion of the responses in the "poor" category. In general, respondents rated reorganization results "excellent" or "good" in 43 states in 1974. Thirty-three state reorganizations received similar ratings in 1978.[33]

A 1978 NGA survey reported by Thad L. Beyle endeavored to get governors' perceptions of their respective state's reorganization activity. Forty responses were received.[34] Defining reorganization as an action "involving the creation or abolition of two or more agencies employing 50 employees in each affected agency," Beyle elicited information on several points of interest. Among them were:

1) 20 states had a single agency or quasi-governmental group currently assigned responsibility for overall state organization;
2) 26 experienced major reorganization between 1974 and 1977;
3) ten vested authority in the governor to make reorganization proposals subject to legislative veto;
4) eight had constitutional limitations on the number of cabinet departments;
5) 18 had governors who submitted reorganization proposals to the legislature in 1978; and
6) 34 had governors who either perceive that at least some reorganization of state government was necessary or who felt that some reorganization would take place on a case-by-case basis as the need for it appeared.

The information provided by the Beyle survey seems to indicate that despite the 1965–79 reorganization wave, governors continue to be interested in reorganization and believe that reform still is needed.

FEDERAL INFLUENCE

By any measure, national initiatives have influenced state executive organization. Through the study and subsequent change in its own governmental machinery, the federal government stimulated state action. The Taft, Brownlow and both the first and second Hoover Commissions all sparked interest in reorganization. Moreover, the federal government encouraged reorganization efforts by making HUD 701 grant money available for this purpose.

In separate functional areas, federal influence exerted an impact as well. In the consolidation of agencies dealing with various modes of transportation into one department, for example, states appear to have followed the federal model. Environmental protection organizations took the same course to the point where 12 state environmental units have been called "little EPAs." State health planning agencies are perhaps the most obvious examples of states' reorganizing or creating an agency to meet federal grant standards. Moreover, federal funding of procedures for grievance handling under welfare programs may have stimulated states to set up agencies for this purpose.

On the other hand, some actions often attributed to federal influences originated in the states. As early as 1971, for example, Alabama, Illinois, Mississippi and Oregon acted to forestall the energy crisis that hit in 1973. In fact, "most state governments created energy study panels, commissions, or task forces to study the problems before or during 1973," according to Alfred R. Light.[35]

Similarly, state action in establishing organizations for minority and women's concerns is often attributed to federal influence. To the contrary, these organizations frequently preceded federal involvement and resulted from a desire on the part of states to be responsive to their citizens. Moreover, the Swedes pioneered with the ombudsman and the federal government has yet to follow the ombudsman models established in some states.

Little doubt exists as to federal influence in

the creation of state community affairs agencies and state planning offices. HUD 701 comprehensive planning grants encouraged proliferation of state units for comprehensive planning. The responsibility for administering the 701 program as well as the Model Cities and Office of Economic Opportunity programs motivated the establishment of state community affairs agencies, according to the Council of State Community Action Agencies.[36]

Perhaps more important than any of these was the role of the federal government in creating a situation that made the states ripe for reorganization. A few, of many, actions are illustrated:

- the Supreme Court reapportionment decisions broke the hold of rural elements on state legislatures and, in so doing, may have made state legislatures more amenable to change;
- the explosion of federal grant programs placed states in a position where they had to reorganize to deal with the deluge;
- the specificity and sometimes the organizational requirements of federal grants encouraged counterpart organization to facilitate implementation; and
- the expanded intergovernmental role of the states required new apparatus and resouces.

Conversely, federal actions impeded state executive reorganization to some extent. States often complained that the single state agency requirement (a stipulation that one state agency be designated to administer a federal program) accompanying certain grants constituted an obstacle to reorganization. The Congress subsequently provided for a waiver of this requirement in Section 204 of the *Intergovernmental Cooperation Act*. Few states took advantage of it, however, and according to a 1976 report of the Northwest Federal Regional Council (NFRC):

> Single state agency requirements continue to constitute a significant barrier to states wishing to divide responsibilities for a single Federal program among more than one preexisting state agency.[37]

ACIR proposed legislation providing for further liberalization of the requirements.

More damaging to state reorganization efforts are federal "single organizational unit requirements." Not waivable, this provision stipulates "the creation of agencies which are devoted exclusively to administering one program."[38] The NFRC's study showed that, as of 1976, single organizational unit requirements existed in programs of the Law Enforcement Assistance Administration and the Environmental Protection Agency, as well as in those of the Departments of Labor and Interior. Florida had trouble with this requirement following its 1975 integration of health, rehabilitative, and social services and the delegation of management and program authority for them to district administrators. The Secretary of Health, Education and Welfare disapproved Florida's vocational rehabilitation plan because the new Department of Health and Rehabilitative Services did not meet the single unit requirement.[39]

AN ASSESSMENT

To the extent that adherence to Buck's principles of government organization can be regarded as measures of an effective executive branch structure, the states moved forward in recent years, although progress was uneven. Control by the chief executive has been improved by a reduction in the number of elected heads of administrative agencies; however, the tendency to establish independent boards outside the governor's control and to give them administrative responsibility continues. States enthusiastically consolidated related functions into departments, especially in areas of transportation, environmental protection, and human services. Moreover, almost all states created departments of administration that aggregated at least some of the staff services, although more recently there has been a trend toward dividing these into administrative services and policy management agencies similar to the federal Office of Management and Budget. Wide diversity characterizes state arrangements.

In the realm of the independent audit, states have made substantial progress in putting their houses in order. In only one state is the selection of a single post-auditing official the prerogative of the governor.

States embraced the idea of a governor's cabinet with enthusiasm, as well. Thirty-six states have established this mechanism, including all but one of the reorganized states.

Perhaps more important than any of the actual reforms adopted was the states' willingness to shake themselves loose from past organizational patterns and try something new. While change is not always for the better, an attitude that permits the possibility when necessary is a step forward from the locked-in notion that "we have always done it this way." Reorganizations of the executive branch are difficult to achieve because of the vested interests both within and outside the government, the political risks, and the built-in resistance to change. The fact that virtually all the states reorganized at least one department in the past 15 years and almost half the states completed comprehensive reorganizations indicates a willingness to modernize on the part of state officials that has been uncommon in state government.

The tendency to reorganize may be slackening in the 1980s. In the first place, most states have been reorganized recently. Secondly, results have not been clearcut, i.e., policy control has not always improved and the expected reductions in employees and expenditures frequently have not materialized. Equally important may be the contemporary mangement information systems and other tools that give governors alternative methods for controlling administration.

FOOTNOTES

[1]Initial research for this section was conducted by Patricia Jaggers.

[2]Committee for Economic Development, *Modernizing State Government*, New York, 1967, p. 14.

[3]James Reichley, *States in Crisis*, Chapel Hill, NC, University of North Caroline Press, 1964, p. 198.

[4]John C. Buechner, *State Government in the Twentieth Century*, Boston, MA, 1967, p. 131.

[5]Council of State Governments, *Reorganization in the States*, Lexington, KY, 1972, pp. 12–13.

[6]James L. Garnett, *Reorganizing State Government: The Executive Branch*, Boulder, CO, Westview Press, 1980, p. 120.

[7]Council of State Governments, *Reorganization in the States, 1967–69*, Lexington, KY, October 1969, p. 11.

[8]A.E. Buck, *The Reorganization of State Governments in the United States*, New York, Columbia University Press, 1938, p. 14.

[9]See his *Reorganizing State Government*, *op. cit.*

[10]*Book of the States, 1964–65*, Lexington, KY, Council of State Governments, 1964, p. 151, and *Book of the States, 1982–83*, *op. cit.*, pp. 182–83.

[11]Thad L. Beyle and Robert Dalton, "The Appointment Power: Does It Belong to the Governors?," *State Government*, Vol. 54, No. 1, 1981, p. 6.

[12]Council of State Governments, *Reorganizing State Government*, Chicago, IL, 1950, and *State Government Organization (A Preliminary Compilation)*, Lexington, KY, 1979.

[13]Council of State Governments, *Integrating and Coordinating State Environmental Programs*, Lexington, KY, 1975.

[14]Council of State Governments, *State Government News*, January 1980.

[15]*Ibid.* See also Council of State Governments, *Human Services Integration: State Functions in Integration*, Lexington, KY, 1974.

[16]George A. Bell, "State Administrative Organization Activities, 1974–75," *Book of the States, 1976–77*, *op. cit.*, p. 107.

[17]See Council of State Governments, *Integrating and Coordinating State Environmental Programs*, *op. cit.*

[18]Thad H. Beyle, "State Reorganization Activities Survey," National Governors' Association, 1978.

[19]Responses were received from 40 states. *Ibid.*

[20]Bell, *op. cit.*, p. 112.

[21]*Book of the States, 1964–65*, *op. cit.*, pp. 162–63.

[22]*Book of the States, 1980–81*, pp. 208–12.

[23]*Book of the States, 1980–81*, *op. cit.*, p. 181. These are in addition to the constitutionally required cabinet system in Florida that discourages coordination at the state level.

[24]Judith Nicholson, "State Administrative Organization Activities, 1976–77," *Book of the States, 1978–79*, *op. cit.*, p. 107.

[25]Garnett, *op. cit.*

[26]George A. Bell, "State Administrative Activities, 1972–73," *Book of the States, 1974–75*, Lexington, KY, Council of State Governments, 1974, p. 138, and "Executive Reorganization and Its Effect on Budgeting," *Summary of the Twenty-Ninth Annual Meeting of the National Association of State Budget Officers*, Lexington, KY, Council of State Governments, 1973, p. 91.

[27]Garnett, *op. cit.*, pp. 47, 48.

[28]*Ibid.*, p. 123.

[29]*Ibid.*

[30]Kenneth J. Meier, "Executive Reorganization of Government: Impact on Employment and Expenditures," *American Journal of Political Science*, Vol. 24, No. 3, August 1980, pp. 396–411.

[31]American State Administrators Project, Institute for Research in the Social Sciences, University of North Carolina, Chapel Hill, NC, 1978.

[32]The 1974 American State Administrators Project survey was conducted by Deil S. Wright.

[33]States with a preponderance of "poor" and "fair" ratings in 1974 were: Arizona, Georgia, Illinois, Massachusetts, Missouri and West Virginia. Only one response, "fair," was received from Oklahoma. No results for Hawaii were reported on this question. In 1978, state administrators perceived reorganization results to be only "poor" or "fair" in Arkansas, Connecticut, Indiana, Maryland, Massachusetts, Missouri, New Mexico, Virginia, West Virginia and Wisconsin.

[34]"State Reorganization Activities" survey, National

Governors' Association, 1978.

[35]Alfred R. Light, "Federalism and the Energy Crisis," *Publius: The Journal of Federalism*, Vol. 6, No. 11, Philadelphia, PA, Temple University Center for the Study of Federalism, p. 83.

[36]Council of State Community Affairs Agencies, *State Departments of Community and Economic Development*, Washington, DC, 1978.

[37]Northwest Federal Regional Council, *Red Tape in the Federal Supermarket*, June 1976, p. 27.

[38]*Ibid.*

[39]National Academy of Public Administration, *Reorganization in Florida: How Is Services Integration Working?*, Washington, DC, September 1977, pp. 65–66.

Chapter 7

Central Management: Personnel, Planning and Budgeting

Although governors have their own staffs to help them with the performance of their functions, they need the assistance of specialized personnel to assist in the administration of state governments. Closely tied to the governor's operations are the personnel, planning and budgeting activities of the state. In each of these areas, states have improved their performance.

PERSONNEL ADMINISTRATION[1]

Somewhat over one-fifth (23.3%)—3.7 million—of the civilian public employees in the United States worked for state governments in 1981. States employ more civilian personnel than does the national government, and they have approximately two-fifths as many as local jurisdictions. *Table 7–1* reflects these figures.

States were growth industries until 1980. As *Table 7–1* shows, the number of individuals on state payrolls increased faster than the number employed by either the federal government or local jurisdictions. As a matter of fact, federal employment declined between 1969 and 1981. Not surprisingly, given these developments, state personnel expenditures grew dramatically as well. Between 1959 and 1980, their growth rate outpaced federal expenditures in every year except 1978, and exceeded the local increase in all but two years. *Table 7–2* exhibits this pattern. The decline in state expenditures

Table 7–1

GROWTH IN, AND PERCENTAGE DISTRIBUTION OF PUBLIC EMPLOYMENT, SELECTED YEARS, 1929–81

ALL EMPLOYEES

As of October	Total Public Sector	Federal (civilian)	State	Local	Total Public Sector	Federal (civilian)	State	Local	Total Public Sector	Federal (civilian)	State	Local
	Number (In Thousands)				Annual Percentage Increase or Decrease (–)[1]				Percentage Distribution			
1929	3,100	600	600	1,900	—	—	—	—	100.0%	19.3%	19.3%	61.3%
1939	4,200	1,100	700	2,400	3.1%	6.2%	1.6%	2.4%	100.0	26.2	16.7	57.1
1944	6,537	3,365	700	2,472	9.3	25.1	0	0.6	100.0	51.5	10.7	37.8
1949	6,203	2,047	1,037	3,119	–1.0	–9.5	8.2	4.8	100.0	33.0	16.7	50.3
1954	7,232	2,373	1,149	3,710	3.1	3.0	2.1	3.5	100.0	32.8	15.9	51.3
1959	8,487	2,399	1,454	4,634	3.3	0.2	4.8	4.5	100.0	28.3	17.1	54.6
1964	10,064	2,528	1,873	5,663	3.5	1.1	5.2	4.1	100.0	25.1	18.6	56.3
1969	12,685	2,969	2,614	7,102	4.7	3.3	6.9	4.6	100.0	23.4	20.6	56.0
1970	13,028	2,881	2,755	7,392	2.7	–3.0	5.4	4.1	100.0	22.1	21.1	56.7
1971	13,316	2,872	2,832	7,612	2.2	–0.3	2.8	3.0	100.0	21.6	21.3	57.2
1972	13,603	2,795	2,938	7,870	2.2	–2.7	3.7	3.4	100.0	20.5	21.6	57.9
1973	14,139	2,786	3,013	8,339	3.9	–0.3	2.6	6.0	100.0	19.7	21.3	59.0
1974	14,668	2,874	3,155	8,639	3.7	3.2	4.7	3.6	100.0	19.6	21.5	58.9
1975	14,986	2,890	3,268	8,828	2.2	0.6	3.6	2.2	100.0	19.3	21.8	58.9
1976	15,012	2,843	3,343	8,826	0.2	–1.6	2.3	–*	100.0	18.9	22.2	58.8
1977	15,459	2,848	3,481	9,130	3.0	0.2	4.1	3.4	100.0	18.4	22.5	59.1
1978	15,628	2,885	3,539	9,204	1.1	1.3	1.7	0.8	100.0	18.5	22.6	58.9
1979	15,971	2,869	3,699	9,403	2.2	–0.6	4.5	2.2	100.0	18.9	23.2	58.9
1980	16,213r	2,898r	3,753	9,562	1.5r	1.0r	1.5	1.7	100.0	17.9	23.1	59.0
1981	15,968	2,865	3,726	9,377	–1.5	–1.2	–0.7	–2.0	100.0	17.9	23.3	58.7

*Less than 0.05%.
rrevised figures.
[1]The percent changes indicated for years prior to 1970 are annual average changes since the previous year shown.

SOURCE: ACIR staff compilation and computations based upon U.S. Bureau of the Census, *Public Employment in [year]* (Table 1 in 1981 edition), contained in ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 72.

Table 7–2

GROWTH IN PUBLIC PAYROLLS, SELECTED YEARS, 1929–80

As of October	Total Public Sector	Federal	State	Local	Total Public Sector	Federal	State	Local
	Amount (in millions)				Annual Percentage Increase or Decrease (−)[1]			
1929[2]	$ 4,800	$ 1,125	$ 865	$ 2,810	—	—	—	—
1939[2]	6,175	1,932	938	3,305	2.6%	5.6%	0.8%	1.6%
1944	13,236	8,218	1,050	3,968	16.5	33.6	2.3	3.7
1949	16,872	6,470	2,518	7,883	5.0	−4.7	19.1	14.7
1954	25,237	9,418	3,608	12,210	8.4	7.8	7.5	9.1
1959	37,373	12,872	5,825	18,676	8.2	6.4	10.1	8.9
1964	54,869	17,702	9,133	28,033	8.0	6.6	9.4	8.5
1969	91,051	28,024	17,167	45,860	10.7	9.6	13.5	10.3
1970	100,010	29,135	19,346	51,530	9.8	4.09	12.7	12.4
1971	106,931	30,344	20,900	55,686	6.9	4.19	8.0	8.1
1972	119,395	32,515	23,239	63,641	6.6	7.29	11.2	14.3
1973	132,323	36,144	25,898	70,282	10.8	11.2	11.4	10.4
1974	145,030	39,532	28,914	76,584	9.6	9.49	11.6	9.0
1975	158,686	43,006	31,832	83,849	9.4	8.89	10.1	9.5
1976	167,084	42,775	34,724	89,585	5.3	−0.5	9.1	6.8
1977	184,061	47,021	38,335	98,705	10.2	9.9	10.4	10.2
1978	197,796	52,127	41,796	103,873	7.5	10.99	9.0	5.2
1979	216,924	56,732	46,432	113,760	9.7	8.8	11.1	9.5
1980	239,329	62,588	51,416	125,324	10.3	10.3	10.7	10.2

*Less than 0.05%.
[1]The percent changes indicated for years prior to 1970 are annual average changes since the previous year shown.
[2]Partially estimated.
[3]October payroll multiplied by 12.
SOURCE: U.S. Bureau of the Census, *Public Employment*, annually; and ACIR staff estimates for ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition* (M–132), Washington, DC, U.S. Government Printing Office, 1981, p. 66.

now underway is reflected in slightly reduced aggregate personnel figures for 1981.

The number of state employees varies among states, a variation that can be attributed to a number of factors including population, distribution of functions between the states and their local jurisdictions, programs undertaken, and other matters. Because the functional assignment patterns have such a marked impact on employment figures, state and local personnel are treated together in *Table 7–3*, which ranks states according to the number of state and local full-time equivalent employees per 10,000 population. Although this table does not reflect it, state-local personnel in relation to population declined in all but eight states between 1980 and 1981. Alaska's ratio remained static. Connecticut, Delaware, New York, Kansas, South Dakota, Oklahoma and Wyoming increased their ratio of employees.

The proportion of state personal income spent for state and local personnel in 1980 is set out in *Table 7–4*. It ranged from 6.5% in Connecticut to 16.8% in Alaska. The median percentage was 8.6%.

The size and cost of contemporary state government payrolls make personnel concerns more important than ever before. Moreover, few things affect the efficiency, effectiveness, and responsiveness of state government more than the quality of the personnel administering state affairs. Consequently, for a long time

states have been engaged in efforts to employ capable public servants and to manage them in an enlightened manner.

THE FEDERAL INFLUENCE

For at least a century, the influence of federal actions on state personnel practices has been marked. To a greater extent than appears to be true in other areas, developments at the national level frequently are reflected shortly afterward in state capitals.

While earlier presidents insisted on the most excellent public employees available, the quality of the federal civil service later declined, particularly with the advent of the Administration of Andrew Jackson. Efforts at improvement met with little success until the assassination of President James A. Garfield in 1881 by a disappointed office seeker. Subsequent adoption in 1883 of the *Civil Service Act*, better known as the *Pendleton Act*, established the United States Civil Service Commission and provided for merit selection, retention, and promotion of federal employees. Thereafter, the influence of this legislation and a succession of other federal actions, coupled in many instances with innovative approaches on the part of the states, moved the states toward comprehensive, modern personnel systems.

Pendleton Act Influence

In addition to reforming the federal civil service, the Pendleton Act also had the effect of stimulating the growth of state civil service

Table 7–3

STATES RANKED BY FULL-TIME STATE-LOCAL EMPLOYMENT PER 10,000 POPULATION, 1980

Alaska	803	West Virginia	489
Wyoming	653	Minnesota	488
Nebraska	579	Alabama	484
New Mexico	578	Idaho	480
Montana	546	Texas	478
New York	543	Tennessee	476
Kansas	540	Vermont	475
Delaware	530	Massachusetts	471
Oklahoma	527	Washington	466
Georgia	525	Wisconsin	466
Maryland	513	Rhode Island	463
Louisiana	509	California	458
Colorado	507	Florida	453
Oregon	504	Arkansas	452
Mississippi	502	Maine	451
North Dakota	502	Connecticut	450
South Dakota	502	Missouri	450
South Carolina	499	Indiana	446
Virginia	498	Michigan	442
Nevada	497	Utah	439
Hawaii	496	Illinois	439
Iowa	494	Ohio	434
Arizona	491	New Hampshire	433
New Jersey	490	Kentucky	413
North Carolina	490	Pennsylvania	397

SOURCE: Compiled from U.S. Bureau of the Census, *Public Employment in 1980;* ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 74.

Table 7–4

STATES RANKED ACCORDING TO STATE-LOCAL PAYROLL AS A PERCENTAGE OF STATE PERSONAL INCOME, 1981

Alaska	16.8%	Georgia	8.1%
New Mexico	10.5	Minnesota	8.1
Wyoming	10.2	Vermont	8.1
Arizona	9.6	Iowa	8.0
New York	9.5	Nevada	8.0
Montana	9.4	South Dakota	8.0
Oregon	9.3	Delaware	7.9
North Dakota	8.9	Louisiana	7.9
South Carolina	8.9	Maine	7.6
Michigan	8.8	Virginia	7.6
Utah	8.6	Kansas	7.5
California	8.6	Kentucky	7.4
Nebraska	8.6	Oklahoma	7.4
Rhode Island	8.5	Arkansas	7.3
Washington	8.5	Massachusetts	7.3
Wisconsin	8.5	New Jersey	7.3
West Virginia	8.5	Illinois	7.2
Colorado	8.4	Indiana	7.2
Mississippi	8.4	Texas	7.1
Alabama	8.3	Ohio	7.0
Hawaii	8.3	Florida	6.9
Maryland	8.3	Missouri	6.7
North Carolina	8.3	New Hampshire	6.6
Idaho	8.2	Pennsylvania	6.6
Tennessee	8.2	Connecticut	5.9

SOURCE: Compiled from U.S. Bureau of the Census, *Public Employment, 1980; ACIR, Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 75.

systems. Within a few months of the passage of the act, New York established a civil service commission which had the authority to prepare and administer tests for the selection of individuals seeking positions in the state's service. In 1884, Massachusetts followed suit. For about 20 years thereafter, these two states were the only ones to adopt civil service reforms. Early in this century, however, the reform movement began anew. *Figure 7–1* traces the growth of state civil service systems in the United States to 1949.

1939 Social Security Act Amendments

The enactment of the *1939 Amendments to the Social Security Act* pushed the states further along the road to merit systems. This legislation required states to place under merit systems all employees in departments that received federal grants-in-aid under the act. This primarily affected state employees working in the areas of employment security and public assistance. The net effect of the initiative was to establish partial merit systems in states that did not have comprehensive merit coverage for most of their employees. The special merit system councils thus set up were in essence civil service commissions of limited jurisdiction. For the first time in history, therefore, all states had at least partial merit system coverage. Since 1939, the number of federal programs calling for merit system coverage has greatly increased. *Figure 7–2* outlines the programs to which the merit system must apply.

Merit system standards issued under the 1939 *Amendments to the Social Security Act* have undergone changes over the years. Requirements for the covered agencies were consolidated in one document in 1948 and revised in 1963 to bar discrimination on the basis of race, national origin and other personal factors unrelated to merit. In 1971, the standards were revised again to permit state diversity in the design and operation of personnel programs. The most important changes at this time were:

- provision for affirmative action to achieve equal employment opportunity;
- addition of specific prohibitions of discrimination based on age, sex or physical disability;
- stronger opportunities for appeals of alleged discrimination;
- arrangements for practices to facilitate the career employment of the disadvantaged;
- recognition of the right of employees to organize;
- clarification and liberalization of state and local government options to establish a wide variety of merit organizations; and
- provision of a new section on career advancement and a new section of cooperation between merit systems to facilitate maximum utilization of manpower and employee mobility.[3]

The standards underwent revision again in 1979 after a two-year review. Major changes included:

- requirement for adoption of the uniform selection guidelines in order to participate in grant programs;

Figure 7–1

GROWTH OF CIVIL SERVICE SYSTEMS IN THE STATES, 1880–1949

Decade	Number of States	Year of Adoption	States
1880–89	2	1883	New York (1894)[1]
		1884	Massachusetts
1890–99	0	....	None
1900–09	4	1905	Illinois and Wisconsin
		1907	Colorado (1919)
		1908	New Jersey (1947)
1910–19	2	1913	California (1934) and Ohio (1912)
1920–29	1	1920	Maryland
1930–39	7	1937	Connecticut, Maine, Michigan (1940), and Tennessee
		1939	Alabama, Minnesota, and Rhode Island
1940–49	9	1940	Louisiana (1940), and Oregon
		1941	Indiana and Kansas (1940)
		1942	Virginia
		1943	Georgia (1945)
		1945	Nebraska and Missouri (1945)
		1949	North Carolina

[1]Figures in parenthesis indicate constitutional basis in ten states; this provides protection to the system but establishes a rigidity which is highly undesirable. The provision in the Michigan constitution, for instance, which allows the commission to increase the salaries and wages of state employees without consulting the legislature or the governor, certainly cannot be considered wise.

SOURCE: W. Brooke Graves, *American State Government*, Boston, MA, D.C. Heath and Company, 1953, p. 464.

Figure 7–2

FEDERAL PROGRAMS REQUIRING STATE MERIT SYSTEM COVERAGE, 1979

Programs with a statutory requirment for the establishment and maintenance of personnel standards on a merit basis

Food Stamp	Aid to the Blind
Drug Abuse Prevention	Aid to the Permanently and Totally Disabled
Nationl Health Planning and Resources Development	Aid to the Aged, Blind or Disabled Medicaid
Medical Facilities Assistance	Grants to States for Social Services
Employment Security	Comprehensive Mental Health Services
Aid to Families with Dependent Children	State and Community Programs on Aging
Maternal and Child Health Services/Crippled Children Services	Civil Defense
Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation	

Programs with a regulatory requirement for the establishment and maintenance of personnel standards on a merit basis

Occupational Safety and Health Standards	Developmental Disabilities Services and Facilities Construction
Occupational Safety and Health Statistics	
Child Welfare Services	Comprehensive Employment and Training Act

Programs with a personnel requirement which may be met by a merit system which conforms to the standards for a Merit System of Personnel Administration

Vocational Rehabilitation Services	Health Insurance for the Aged (Medicare)
Disability Determination Services	

SOURCE: *An Evaluation of the Intergovernmental Personnel Act of 1970: Report to the Congress of the United States by the Comptroller General* (FPCD–80–11), Washington, DC, U.S. General Accounting Office, December 19, 1979, pp. 69–72.

- broadened standards for competition and choice, such as limited competition for the handicapped and participants in Congressionally or state-authorized employment or rehabilitation programs;
- selection procedures encompassing any reasonable, broadly discretionary certification process;
- a training requirment;
- specific requirements covering equal employment opportunity, such as affirmative action programs, mandatory work force analysis, goals and timetables, and race, sex, and ethnic data collection for applicants;
- guidance on employee-management relations;
- exemption of policy making and policy-advocating positions;
- systematic assignment and retreat rights for career employees, permitting mobility to noncareer jobs without endangering civil service status;
- temporary waivers for experimentation and research with Office of Personnel Management approval;
- chief executive certification and informal advisory review; and
- waiver for local jurisdictions with fewer than 25 employees subject to the standards.

These standards cover from 15% to 20% of all state personnel, applying to approximately 587,000 employees in 4,245 state and local agencies. More than $30 billion in annual federal grants-in-aid funds are represented.[5]

In some instances, states responded to the federal requirements by combining the feder-

ally mandated merit systems with plans for other departments. In other cases, the new merit system councils operated alongside ongoing merit systems or patronage practices.

Merit System Expansion

Between 1940 and 1970, the number of states adopting statewide civil service systems continued to grow. By 1973, 33 states had statewide systems.[6] According to the U.S. Office of Personnel Mangement, the number of states with comprehensive statewide merit systems stood at 35 in 1979. *Figure 7–3* shows the states having comprehensive (jurisdictionwide) merit system coverage, as well as those having more limited coverage involving single or multiple agency programs.

Comprehensive coverage, of course, does not necessarily guarantee the application of true

Figure 7–3

CLASSIFICATION OF STATE MERIT SYSTEM AGENCIES, 1979

JURISDICTIONWIDE

Alabama	Kansas	Ohio
Alaska	Kentucky	Oklahoma
Arizona	Louisiana	Oregon
California	Maine	Rhode Island
Colorado	Maryland	South Dakota
Connecticut	Massachusetts	Tennessee
Delaware	Michigan	Utah
Georgia	Minnesota	Vermont
Hawaii	Nevada	Washington
Idaho	New Hampshire	Wisconsin
Illinois	New Jersey	
Iowa	New Mexico	
	New York	

COOPERATIVE[1]

Arkansas	Montana
California (serves local welfare, health and civil defense)	Nebraska
Florida[2]	North Carolina[2]
Indiana	North Dakota
Minnesota (serves county welfare, local health and civil defense)	Pennsylvania
Mississippi[2]	South Carolina[2]
Missouri	Texas
	Virginia
	West Virginia
	Wyoming

SINGLE AGENCY[3]

Colorado (serves county welfare)	Kentucky (serves local health)
Iowa (serves crippled children)	Oregon (serves local health)
	Wisconsin (serves county welfare)

[1]A cooperative merit system is one that serves two or more state grant-aided program agencies.
[2]In previous years these states were listed under "Jurisdictionwide" in this report but with a footnote stating the competitive service in the states was limited primarily to the agencies with a merit requirement. It seems more accurate to describe these systems as "Cooperative."
[3]A single agency merit system is one that serves one grant-aided program agency or one grant-aided program area.

SOURCE: *1979 Annual Statistical Report on State and Local Personnel Systems*, Washington, DC, U.S. Office of Personnel Management, June 1980, p. 43.

merit principles. Even the best structured system is subject to distortion and abuse and this appears to be the case in some states. At the same time, however, the attempt to develop a personnel program at all is an improvement in some instances.

The Hatch Acts

Another federal initiative that greatly affected state and local personnel practices was the *Hatch Act of 1939*. The act was aimed at regulating the involvement of federal employees in partisan political elections. Specifically, it prohibited federal employees from: (1) exercising official authority to influence or interfere with or affect a partisan election; (2) soliciting funds for partisan political purposes; (3) actively participatng in a partisan political organization; (4) becoming a candidate for office in a partisan election; (5) campaigning for or managing the campaign of a candidate in a partisan election; (6) circulating a partisan nominating petition; and (7) soliciting votes for partisan political purposes. A so-called "Second Hatch Act" enacted in 1940 extended these same prohibitions to employees of state and local governments whose employment is connected with any activity financed wholly or in part by federal funds.[7] The *Federal Elections Campaign Amendments of 1974* modified the provisions, removing restrictions on voluntary activities by state and local employees in federal campaigns if not otherwise prohibited by state law.[8]

Following the federal lead, legislatures in all the states adopted their own laws to limit the political activity of state employees. These laws were know as the "Little Hatch Acts." A 1967 study found that eight states had laws more restrictive than the *Hatch Act*, nine states had similar laws, and 33 had laws that were more lenient.[9]

The Intergovernmental Personnel Act of 1970

Another significant federal statute that influenced state and local personnel systems is the *Intergovernmental Personnel Act of 1970* (IPA). The purpose of IPA was to strengthen and increase the ability of state and local governments to participate in federal programs. Through IPA's system of formula grants, state and local government, within their own priorities, were encouraged to upgrade the capacity and effectiveness of their personnel systems. The more important programs offered through IPA included:

- federal technical assistance;
- personnel exchange assignments between the federal government and state and local governments and universities;
- admission of state and local government employees to federal training programs;
- cooperative recruiting and examining efforts;
- administration of merit employment standards to about 30 federal grant-in-aid programs; and
- grants to state and local governments to improve their own personnel management and training programs.

The overall impact of IPA is as yet unknown because evaluation of the effectiveness of its various components has been limited. Studies conducted by the U.S. Office of Personnel Management (OPM) in ten sample states, however, tend to show that IPA has been moderately successful, playing a catalytic and supportive role in state and local personnel management improvement.[10] A General Accounting Office report indicated that grants under the act had a major impact on improving state and local government personnel management.[11] Nevertheless, funds for its implementation were no longer included in Reagan Administration budgets after 1981.

The Civil Service Reform Act of 1978

A potential federal influence on state and local personnel sytems is the *Civil Service Reform Act of 1978* (CSRA), PL 95–454, itself a reflection of personnel reforms already underway by state and local governments. CSRA represents the most comprehensive reform of federal government service since the *Pendleton Act* of 1883. Its main features are based on the recommendations of an exhaustive five month study conducted by the Carter Administration's Personnel Management Project, which utilized thousands of experts and public officials. The CSRA's more important provisions are:

- codification of merit system principles;

- protection for whistle blowers who disclose illegal or improper government activities;
- streamlined and simplified dismissal procedures for employees who must be terminated for cause;
- establishment of a Senior Executive System (SES);
- merit pay for employees in grades GS–13 through GS–15 and the SES based on a merit appraisal system;
- decentralized hiring practices that allow individual agencies to exercise a maximum degree of discretion in filling positions and processing other personnel actions;
- establishment of a Federal Labor Relations Authority to adjudicate federal labor-management cases between the government and employee unions; and
- replacement of the Civil Service Commission with an Office of Personnel Management to carry out personnel mangement and agency advisory functions and a Merit Protection Board to insure compliance with merit system principles and laws.

Some Adverse Federal Impacts

Not all federal actions have improved state personnel management; some have had deleterious effects. Many federal laws contain provisions that complicate state management. Statutes relating to fair labor standards, occupational health and safety, labor-management relations, equal employment opportunities and other personnel-related legislation, while attempting to accomplish worthwhile goals, impose requirements that make personnel administration difficult.[12] Moreover, almost every federal grant-in-aid program is accompanied by rules and regulations imposing federal requirements affecting state and local personnel practices. A reveiw of 221 federal grant programs by the Federal Assistance Review Task Force revealed 172 specific provisions relating to personnel administration.[13]

More important, federal personnel provisions often have intruded into purely state matters. The 1974 *Amendments to the Fair Labor Standards Act*, for example, extended minimum wage and overtime provisions of the law to state and local employees, a provision resisted strongly on the state and local levels and eventually voided by the U.S. Supreme Court in *National League of Cities v. Usery*.[14] The Court disallowed a federal claim to regulate under the commerce clause of the *Constitution*. Recently, however, the Court has tended to dilute the *Usery* decision.[15]

Other difficulties occur when uniform personnel standards, as conceived on the federal level, sometimes are not flexible enough to accommodate state differences. Federal officials often desire a consistency in state practices that runs against the grain of state individuality and confuses procedure with performance.

The growing management role of the states, in part imposed by federal legislation, has increased pressures on personnel mangement also. The myriad activities associated with grant application and administration, monitoring of local compliance, decisionmaking and resource distribution requires more effective and efficient personnel. When coupled with growing popular demands for services and the fiscal belt-tightening imposed by tax and spending limits, inflation, and cuts in federal aid, these requirements strain personnel resources of state managers.

CURRENT REFORM EFFORTS

The publicity attendant to the adoption of the federal *Civil Service Reform Act*, along with state awareness of the need for improving or updating personnel practices, pressures from public employee unions, and public demands for greater productivity, made personnel administration changes important priorities in many states during the late 1970s. A total of 27 states established study commissions to make comprehensive reviews of personnel practices and recommend changes. Twenty-two enacted laws revising or supplementing civil service regulations, 13 completely or substantially changed their personnel systems, and three altered their approaches to personnel management.[16]

Specific changes are too numerous to detail; however, some of the types of activities are set out in *Figure 7–4*. In addition to the areas shown there, emphasis was on the structure of the central personnel agency and its authority,

Figure 7–4

STATE AND LOCAL GOVERNMENT CIVIL SERVICE REFORM UNDERWAY, 1980

	Executive Service	Merit Pay	Labor Relations	Performance Appraisal System	Decentralization of Personnel Functions	Protection for "Whistle Blowers"	Veterans Preference and Benefits
Alaska			•				
Arizona			•				
Arkansas		•		•			
California			•			•	•
Colorado	•			•	•	•	
Connecticut	•	•				•	
Florida	•		•		•		
Georgia	•			•			
Hawaii		•		•		•	•
Idaho		•				•	
Illinois		•	•	•			•
Iowa	•						•
Kansas				•	•		•
Louisiana		•		•			•
Maine		•		•			•
Massachusetts	•	•		•	•		
Minnesota	•		•				
Missouri	•		•	•			•
Montana		•		•			
Nebraska		•		•			•
Nevada			•				
New Jersey	•				•		•
New York	•	•			•		
North Carolina		•		•			
Oregon	•	•	•	•	•	•	
Tennessee				•			
Texas						•	
Utah						•	
Vermont		•		•			
Virginia					•		
Virgin Islands							
Washington	•	•		•			
Wisconsin	•				•		•

SOURCE: Adapted from U.S. Office of Personnel Management, *Civil Service Reform: A Report on the First Year*, Washington, DC, U.S. Government Printing Office, 1980, p. 24.

employment procedures, classification and compensation systems, equal employment opportunity and maintenance of personnel standards.[17]

AN ASSESSMENT

More than most other aspects of state government, personnel administration has been influenced by federal actions. Often the effect has been positive, such as when the adoption of effective personnel systems has been encouraged. More recently, the federal presence has been intrusive or has complicated management.

While a challenge remains for the states to provide the positive personnel management that produces highly motivated and competent civil services throughout the country, progress has been substantial. At least 35 states now have jurisdictionwide merit system coverage and the remainder have established limited programs. Governments in 32 states are pursuing reform programs in one or more of the following areas: senior executive services, merit pay, labor relations, performance appraisal, decentralization of personnel functions, protection for "whistle blowers," and veterans preference and benefits.[18] Training and retirement systems have been strengthened, legislation to protect employees from political pressure enacted, financial disclosure laws passed, intern programs developed and other measures to upgrade the civil service adopted. State bureaucracies are more open to minorities, the handicapped, and women than they used to be. Employees are better educated. Not all states have made equal progress but all have made some.

On the other hand, merit systems are systematically abused in some states so that they exist in name only. Personnel rules remain rigid in many areas and some states still do not have comprehensive merit systems that cover most of their employees. State salaries frequently lag behind those of the federal bureaucracy and often are too low to attract the desired competence in specialized fields. Retirement systems may do little more than guarantee a minimal subsistence in some states. In general, in-service training programs are still not all they should be and, often employees get no help in improving their performances. On the whole, however, state personnel systems have improved markedly over their predecessors of a generation ago.

Federal Administrators' Perceptions

Perceptions of federal grant-in-aid administrators testify to the improvements. Comparison of administrators' responses concerning personnel deficiencies in state and local governments for 1964 and 1975 indicate that federal administrators over-whelmingly rated states higher in 1975 than in 1964 on several indicators. As *Table 7–5* shows, several times as many federal officials in 1964 as in 1975 cited the states for low salaries, inadequate training programs, overly stringent merit requirements, and the lack of a merit system. Morever, in the 1975 ACIR survey, 52% of the federal grant administrators rated state grant recipients one or two on overall capacity on a numerical scale from one to five (in which one was highest). Only 19% rated the state recipients as four or five. *Table 7–6* sets out the results.

State Personnel Directors' Perceptions

Heads of state personnel agencies gave their

Table 7–5

PERCENTAGE OF FEDERAL GRANT ADMINISTRATORS CITING PERSONNEL DEFICIENCIES IN STATE AND LOCAL GOVERNMENT, 1964 AND 1975

Personnel Deficiency	1964	1975
Low Salaries	79%	25%
Inadequate Training Programs	69	16
Overly Stringent Merit Requirements	19	17
Lack of a Merit System	38	5

SOURCE: 1964 data—U.S. Senate, Subcommittee on Intergovernmental Relations, *The Federal System as Seen by Federal Aid Officials*, 89th Congress, 1st Session, Washington, DC, U.S. Government Printing Office, December 15, 1965, p. 58; 1975 data—ACIR questionnaire survey as cited in ACIR, *The Intergovernmental Grant System as Seen by Local, State, and Federal Officials* (A–54), Washington, DC, U.S. Government Printing Office, March 1977, p. 191.

Table 7–6

FEDERAL GRANT ADMINISTRATORS' RATINGS OF OVERALL CAPACITY OF STATE AND LOCAL GOVERNMENT GRANT RECIPIENTS BY TYPE OF RECIPIENT, SUMMER 1975

Key: N—number of responding grant administrators.
1–5—descending scale of rated overall capacity (i.e., (1) is highest).

Type of Recipient	N	1	2	3	4	5	Total
States	159	24%	28%	30%	12%	7%	101%
Local Governments							
Cities	69	15	20	37	17	11	100
Counties	62	14	19	38	18	12	101
School Districts	44	14	26	39	11	10	100
Other	63	38	21	22	13	5	99

Note: Because the programs vary with respect to their eligible recipients, with some grants, for example, going only to states, or local governments, or school districts, the number of total possible responses varies among the different recipients. This accounts in part for the variation in N value.
SOURCE: ACIR, *The Intergovernmental Grant System as Seen by Local, State, and Federal Officials* (A–54), Washington, DC, U.S. Government Printing Office, March 1977, p. 191.

programs mixed reviews (see *Table 7–7*). In response to a survey of state and local government personnel system organizations conducted by the National League of Cities, the National Association of Counties, and the Council of State Governments, in cooperation with the U.S. Office of Personnel Management, heads of personnel agencies in 48 of the 50 states rated their oganizations high in two of the areas covered. State personnel systems got "most of the time" ratings on providing consistent treatment of comparable employees and providing enough flexibility for the differing personnel needs of various employee groups. They felt improvement was needed in regard to providing top management help in implementing policies and programs, convincing citizens that the personnel system is providing effective and efficient delivery of services and fulfilling the state's responsibility in terms of minorities, women and other disadvantaged groups. It should be noted that very few responded "rarely or never" in the areas covered.

Representativeness of State Administrators

In concert with advances in personnel systems, state employees now appear to be more representative and more professional, at least as far as top administrators are concerned. Comparative surveys by the American State Administrator Project (ASAP) show progress on both fronts between 1964 and 1978.[19] Both women and ethnic minorities made up a larger proportion of the corps of administrative heads (see *Table 7–8*). In regard to gender, responses indicated that 8% of the heads of the 27 agencies common to the surveys were women as compared to 2% in 1964. Women still seem to be concentrated in areas of "women's jobs," however; that is, they cluster in libraries and welfare departments. Changes in ethnic backgrounds are similar. The proportion of white agency heads in the compared agencies decreased from 98% in 1964, to 92% in 1978 (93% if Spanish are included with white), and was 94% for all agencies. The proportion of blacks went up from 1% to 2%, administrative heads who were American Indians increased from 0.1% to 1%, and Orientals made up 4% of the agency heads as compared to 1% in the earlier year. Although progress has been slow, both for women and minorities, both groups now occupy an expanded portion of the state leadership positions.

Professionalism of State Administrators

If education, career patterns and professional affiliations are evidence of greater professionalism among state personnel, the ASAP surveys show gains in this respect. Even though heads of state agencies were well educated in 1964, academic attainment was even higher in

Table 7–7

STATE PERSONNEL DIRECTORS' PERCEPTIONS OF STATE PERSONNEL SYSTEM'S EFFECTIVENESS, 1979*

	Most of the Time	Sometimes	Rarely or Never	N/A or No Basis for Judgment
Top management believes that the personnel system helps it in implementing its policy and programs.	17 states 37.8%	22 states 48.9%	2 states 4.4%	4 states 8.9%
Management is satisfied with the quantity and quality of services provided by employees.	25 states 54.4%	16 states 35.6%	1 state 2.2%	3 states 6.7%
Citizens perceived that their government is providing effective and efficient delivery of needed services.	11 states 24.4%	24 states 53.3%	3 states 6.7%	7 states 15.6%
The personnel system provides for consistent treatment of comparable employees in terms of pay, hours, and other working conditions.	41 states 91.1%	4 states 8.9%	None	None
The personnel system is flexible enough to provide for the differing personnel needs of the various employee groups.	36 states	7 states	1 state	None
The personnel system enables the jurisdiction to fulfill its responsibility in terms of minorities, women and other disadvantaged groups.	25 states 55.6%	20 states 43.5%	None	1 state 2.2%

*Percentages on this chart are calculated on the number of states responding to each question.
SOURCE: U.S. Office of Personnel Management and The Council of State Governments, *Analysis of Baseline Data Survey on Personnel Practices for States, Counties, Cities,* Summer 1979, p. 25 (no publication information included).

1978. Notice in *Table 7–9* that 73% reported having taken work at the graduate level and 58% indicated that they held graduate degrees. Moreover, there has been a decline in the number with no or only some college work. Although the number of heads indicating bachelor's degrees as their highest attainment dropped precipitously in 1978, the drop probably reflected the sharp increase in graduate study. As F. Ted Hebert and Deil S. Wright point out in their assessment of the survey results, the sharp rise in the number of administrative heads holding master's degrees represents greater specialization and suggests a growing professionalism.[20]

Hebert and Wright assess professionalism in career patterns on the basis of: (1) age of entry into state service, which they suggest offers "a conscious career choice of public employment;" (2) rise from lower levels of state employment; (3) increased movement of personnel from state to state; and (4) participation in professional associations where they have opportunities to meet other administrators. The results of their surveys on the first three points are set out in *Table 7–3*. Evidence indicates

Table 7–8

PERSONAL AND BACKGROUND CHARACTERISTICS OF STATE AGENCY HEADS

(in percentages, unless otherwise indicated)

Characteristics	Compared Agencies 1964 (27 common agencies)	1968	1974	1978	All Agencies 1978 (75 agency types)
Age					
Under 40	13%	14%	17%	22%	26%
40–49	28	29	31	33	31
50–59	35	38	33	31	31
60 and over	24	19	19	14	12
Mean age (years)	52	50	50	48	47
Median age (years)	53	51	50	49	48
Sex					
Male	98	95	96	93	92
Female	2	5	4	7	8
Ethnic Background					
White	98	97	96	92	93
Black	1	1	2	2	3
American Indian			0.1	1	1
Oriental	1	2	2	4	2
Spanish	NA	NA	NA	1	1
Educational Attainment					
High School or Less	15	7	4	3	3
Some College	19	18	13	11	8
Bachelor's Degree	25	15	18	15	15
Some Graduate Study	25	16	17	14	15
Graduate Degree	40	45	47	56	58
Highest College Degree					
None	34	24	17	14	11
Bachelor's	25	31	36	29	31
MA or MS	8	10	13	18	24
Professional Master's	3	4	5	11	11
Doctorate (except JD)	9	13	12	13	12
Law (includes JD)	21	18	17	15	11
Major Areas of Specialization*					
Accounting	15	21	23	21	18
Business	19	20	34	32	30
Legal	30	23	20	22	18
Management	NA	NA	46	53	52
Public Administration	14	19	46	45	44

*For 1964 and 1968, areas of specialization included any training beyond high school. The data for 1974 and 1978 include training in addition to degree specialties.

SOURCE: F. Ted Herbert and Deil S. Wright, "State Administrators: How Representative? How Professional?," *State Government*, Vol. 55, No. 1, 1982.

Table 7–9

CAREER CHARACTERISTICS OF STATE AGENCY HEADS

(in percentages, unless otherwise indicated)

Characteristics	Compared Agencies 1964 (27 common agencies)	1968	1974	1978	All Agencies 1978 (75 agency types)
Age when first held state governmental position					
Under 20	3%	2%	1%	2%	2%
20–29	32	32	40	46	47
30–39	35	36	32	28	29
40–49	19	18	19	16	15
50 and over	11	12	9	8	7
Median age (years)	33	33	31	30	30
Previous Appointed Positions					
City and Town	11	10	7	11	14
County	10	7	4	9	9
School District	5	5	3	10	9
Federal	17	11	10	11	11
Previous Elected Positions					
City and Town	8	9	5	4	4
County	8	7	4	4	2
School District	5	4	4	3	3
Federal	1	1	1	1	0.4
Immediately Prior Position					
Subordinate—Same Agency	28	27	36	43	41
Another Agency—Same State	22	19	18	17	19
Local Government	11	10	9	7	6
Federal Government	6	4	3	3	4
Another State	2	4	4	6	7
Other	31	36	30	23	23
Median Years in Position	NA	4	3	3	3

SOURCE: F. Ted Hebert and Deil S. Wright, "State Administrators: How Representative? How Professional?, *State Government*, Vol. 55, No. 1, 1982.

that almost half of the administrators entered state government service before they were 30 years old, an increase from 35% in 1964. In addition, the median age for first state employment declined from 33 to 30 during the period surveyed. There is little difference in the number of state agency heads who previously held appointive public positions, although the proportion previosuly elected to office declined consistently. The latter may be a result of the elimination of a substantial number of elective administrative positions.

Greater frequency of transfers of administrators among states was less marked than the internal upward mobility pattern. The proportion having held state governmental positions elsewhere rose form 8% in 1965, to 15% in 1978. Nevertheless, the number promoted from lower level positions in the same agency was greater. The percentage selected from within the compared agencies rose form 28% in 1964, to 43% in 1978.

Administrators do not appear to stay long in these jobs, however. Questions about tenure were not asked in 1964. Responses for the other years reveal that the median tenure in these positions was four years in 1968 and three years in 1974 and 1978. In all agencies in 1978, maximum tenure for 40% of the administrators was two years or less. Interestingly, elective heads stayed longer in the jobs than appointive officials.[21]

Another mark of professionalism is participation in professional organizations. The 1978 survey showed 95% belonging to such groups, with 52% joining at least three. In addition, 93% reported attending out-of-state professional meetings in the previous year, with almost one-fourth indicating they had attended five or more such meetings. A substantial portion of state agency heads hold professional licenses—43% if lawyers are included, 32% if not.

A clear pattern of increasing professionalism of state agency heads is apparent from examination of the data from the ASAP surveys. Whatever the gauge—education, career patterns or professional ties—senior state administrators are more professional than their predecessors. What is more, those who select them tend to choose individuals with more experience, either from another state or from within the agency.

Advances in the representativeness and professionalism of state administrators coupled with changes in personnel systems point to clear progress in state personnel management. Although opportunities for improvement remain, especially in the realm of compensation and positive personnel management, states continue to work toward that end.

STATE PLANNING

Planning has many definitions and numerous philosophies. For the purpose of this study, it will be used in terms of Lynn Much more's definition: "Planning is an application of the rational model to *sets* of decisions." He defends the inclusion of sets of decisions because "planning becomes vital only when the rationality of a given choice is so interdependent with other choices that they must be considered simultaneously."[22]

It is in this context that planning and budgeting are intertwined. For rational spending decisions to be made, planning must be a part of the budgetary process.

The rational model involves a systematic gathering of facts necessary for defining all dimensions of an issue, the establishment of goals, the exploration of alternatives for achieving those goals along with the costs of each, the selection of the most effective, efficient and politically acceptable alternative, and an evaluation of the results.[23] The state planning discussed here has two distinctive features, also noted by much more. Its scope is statewide and its subject is not confined to any particular topic. In addition it is an official action undertaken by state government.

Whether or not a state establishes a planning agency or initiates a governmentwide process for establishing and implementing state goals, planning occurs. State plans and policies come from many sources—the legislature, administrative agencies, independent boards and commission and the federal establishment, among others—as each group of factors determines wht to do and how to do it. Although necessary, such planning is fragmented and often filled with conflict, however, and fails to provide a sense of direction for the state.

Responsible management requires an overall policy framework that permits the establish-

ment of priorities by and limitations on state government. It also fosters a long-range as well as a shorter perspective on state issues and some ability to comprehend what the likely consequences of current actions will be. Such requirements presuppose accurate information, careful analysis, expert projections as to future developments and fashioning effective and efficient alternatives for achieving state goals.

Because the complex issues facing a state cannot be dealt with by planning within disparate functional areas, an overall state planning process is needed to enable decisionmakers to define state goals and coordinate policy development. It is this process that is of concern here. A Council of State Governments' study pointed out in 1966 that:

> A serious deficiency of most states is the absence of overall state policy guidelines against which to evaluate state and federal activities. Because the effectiveness of coordination rests on the development and continuous evaluation and revision of a state policy framework, this mission becomes the central function of a state planning process. State policy should be articulated. Formal plans, published guidelines, policy statements, executive orders, and legislation establishing policy direction provide the required basis for functional planning, budget preparation and planning coordination.[24]

There is no clear agreement as to the importance of overall planning at the state level, or, indeed, just what it should include. Despite a fairly long history, it still appears to be in the developmental stage.

Although city planning was well established in the United States by 1925,[25] state planning lagged far behind. True, President Theodore Roosevelt, at a White House Conference in 1908, had encouraged governors to plan for the conservation of natural resources. Although several states established agencies with this focus, the movement was aborted by the outbreak of World War I.[26]

Later, during the 1930s, the federal government, through the National Planning Board (NPB), stimulated the establishment of state planning boards with grants-in-aid. Within three months following a December 1933, letter from the NPB offering funds to states that established a state agency and program, 30 states had done so. By 1938, Delaware was the only holdout. When federal interest waned with the pre-World War II defense build-up, many of the boards were discontinued or converted into agencies with other emphases as state concern with planning declined. By the time the Congress repealed the enabling legislation for the National Resources Planning Board (a successor to NPB) in 1943, there were few viable state planning agencies left.[27]

Planning during the 1930s was influenced by its heritage from the city planning movement. Particularly important were the emphasis on land use and development planning, high regard for a comprehensive or master plan as the end product, and vesting organizational responsibility in citizen boards.[28] These agencies were located on the periphery of government and divorced from central management. The value of planning as an integral part of government decisionmaking went unrecognized.

Harold F. Wise cited four principal reasons for the demise of state planning at this time. He concluded that it was out of the political mainstream, belonging neither to the governor or the legislature, and regarded as a threat by the bureaucracy. It had no constituency of its own. Secondly, state planning agencies encompassed "a catch-all or miscellany of jobs." There was no clear integrative purpose or any experience to draw on. Thirdly, the subject matter of state planning created political unease. Popularly associated with macroeconomic planning, it was regarded as too left wing. Finally, the prosperous economy created by rearmament produced a reaction. There was a sense of "who needs this trouble or these questions raised" when jobs are plentiful and the war effort demanded full attention.[29]

State planning came into its own during the 1950s and 1960s, stimulated by influences from two directions. Congress adopted Section 701 of the *National Housing Act of 1954* giving the states a role in administering federal funds for local planning. In 1959, it extended the grants to the states. In addition, Congress attached planning requirements to program after program as conditions of grants-in-aid. Since

each grant program was individually tailored, each plan requirement was unique, producing confusion and paperwork burdens at the state level. A 1965–66 survey of federal programs in Georgia, for example, found plans required for 80 of the 120 programs in which the state participated. A total of 50 plans were required, 26 of them on an annual basis.[30] Nevertheless, the federal requirements stimulated state planning, although in many instances it was the minimum necessary to qualify for the grants and involved only narrow program plans.

In the meantime, Hawaii, still a territory, had established a state-level planning office in 1958 as part of the governor's office, thus moving planning to a central position in state administration. Moreover, Hawaii's use of population and economic data to project land use advanced the state of the art.[31] New York and California also undertook large-scale planning efforts in the early 1960s. Some other states—particularly Connecticut, Maryland, Pennsylvania and Tennessee—had continued the planning agencies they established during the 1930s. The two-pronged onset of interest in planning, with federal funds available to support state efforts, moved the states into the contemporary phase of state planning.

According to Wise, conflicts with state budget officers, who were moving into the planning area as part of Planning, Programming, Budgeting systems (PPBS), eventually resulted in a reassessment of state planning and a broadening of its scope.[32] In 1962, the National Governors' Conference Committee on State Planning had highlighted comprehensive development planning.[33] Its 1967 counterpart envisioned a wide role and recommended that state planning:

> .... should be reconsidered as a source of information and a research arm for the decisionmakers—the governor and the legislature. It should give to those decisionmakers the assistance required in setting goals; it should help determine the cost of alternatives; it should provide a communication network for state government; it should work to coordinate effort; it should staff the governor's situation-briefing room; and it should develop an early warning system for social and economic crises. This description of planning converts it to a mangement method.[34]

Wishing did not make it so, nonetheless. The Institute for State Programming for the '70s, which promoted comprehensive, long-range planning, reported after a nationwide survey, published in 1968, that:

> This survey suggests that there is an urgent need to broaden the concept of state planning and to strengthen the ability of the states to assume an aggressive, imaginative and creative role in the federal system. It indicates that the states neither view nor utilize the planning process as providing a rational basis for decision making. They are not thinking or working within the broad concept of state planning as advocated by the National Governors' Conference Committee on State Planning.[35]

The Institute also pointed out that while governors supported the state planning process, legislators and operating agencies generally did not understand or utilize it. Such neglect undermined the effectiveness of state planning agencies as did vague legislative objectives and inadequate financial and operational support.[36]

By the end of the 1960s, additional states had established planning agencies and the importance of the governor in their effective functioning had been recognized. On the other hand, planning performance did not measure up to the expectations of practitioners and theorists.[37] Nevertheless, the federal government continued to encourage planning by imposing planning requirements as conditions of federal grants and making awards specifically for planning.

State planning kept on expanding during the 1970s, although its emphasis had shifted. In addition to its traditional focus on land use and economic development, it now encompassed a significant amount of executive policy planning calculated to help the governor design policies based on accurate information. More attention was given to planning as an ongoing process rather than as the production of a comprehensive plan, although such plans were still

key features. Coordinating development activities with an eye to environmental concerns appeared to be replacing attempts to limit development as an objective in land use planning. States undertook to manage growth, and to plan for such activities as powerplant siting, environmental regulation, capital improvements and floodplain regulations.[38]

By the end of the decade, almost all states had planning processes at the state level and more than two-thirds had issued plans or guidelines. Nevertheless, few of these were sophisticated planning process.[39] In general, developing a comprehensive plan that encompassed all dimension of state government proved to be an impractical undertaking for most states.[40]

ORGANIZATIONAL STRUCTURE

Planning organization is unique to each state, although there are common patterns. The planning function generally can be found in one of four general locations:

- ☐ staff in the governor's office or executive department (31 states);
- ☐ part of a department of administration and associated with budget and other administrative functions (eight states);
- ☐ A separate department of state government (seven states); or
- ☐ A division of an agency associated with community and/or economic development (four states).[41]

There are a few miscellaneous locations as well. Designated planning units have been placed in the New York Department of State, the North Dakota Department of Accounts and Purchases, and the South Carolina Budget and Control Board. In addition, in three states, Colorado, Montana and Rhode Island, planning staffs are located both in the governor's office and in another executive department.[42]

Planning staff location has consequences for the importance given to planning in the governmental process. A COSG study states:

> In states where state planning is in the governor's office or is an independent office, and in those where it is joined with community affairs, the relationship between the state planning officer and governor is usually closer than when planning is organizationally linked to budgeting. Planners in subordinate positions in departments of administration often find themselves at a disadvantage in their relationship with agency heads who consider them lower echelon. Proximity to the governor is clearly significant. As a general rule, the "independent" planning directors play more significant policy planning and coordination roles by virtue of their real and perceived association with their governors.[43]

Planning directors are designated by the governor in almost all the states. Ordinarily they are aligned with the executive branch rather than with the legislature although they do perform some functions for the legislature. Almost half the states have established advisory boards to work with the director. Such boards ordinarily are composed of both officials and private citizens.

PLANNING AGENCY FUNCTIONS

The functions these agencies perform often revolve around the preparation of a plan or plans that can be used as the basis for decisionmaking. The resulting products may be comprehensive plans, overall state urban and rural development strategies, multiyear budget plans, economic development strategies, capital improvement programs, investment strategies, and plans to meet the requirements of federal grants. About half the states give the planning staff responsibility for special functions such as helping local governments with their planning or administering a state energy program. Other important responsibilities that are fairly commonly assigned to planning staffs include policy statements and recommendations, research, financial analysis, coordination of planning and development activities, economic resource planning, review of departmental plans for conformance to state (or governor's) policies and coordinating environmental impact statements.[44] Nevertheless, only a few states have planning agencies with broad responsibilities for defining statewide policies, engaging in functional planning, coordinating

planning efforts and handling intergovernmental relations duties. Many perform narrower functions, in some states limited to policy definition and coordination assignments.[45]

PROBLEMS IN STATE PLANNING

State planning has faced many problems over the years, many of which still constrict its effectiveness. In the first place, outside factors frequently complicate projection of future trends and, as in the case of the OPEC oil embargo, sometimes distort even the best laid plans. Secondly, even when the planners are correct in their anticipation of future difficulties, few people listen. Unless the Governor enunciates their projections, it is difficult to get them before the public.

Planning is further complicated by a lack of agreement on goals for the state. Goals can be highly volatile political issues, and disagreements over them leaves planners without sufficient direction. Use of plans to augment gubernatorial control can raise hackles on the backs of legislators who fear a loss of agency responsiveness to requests from the legislature. Employment of planning to advance the political career of chief executives sometimes casts suspicion on the entire exercise. On the other hand, if the plans do not fit into the governor's strategies, they may rest on the shelf and have no effectiveness. State government, after all, is a political operation and planning has to work out its role in that context.

The difficulties of this undertaking are enhanced by planning's own lack of a constituency on which it can rely for support and by resistance from many sources—other state agencies, for example, who want to protect their prerogatives and local interests and those who stand to be deprived or damaged by the plans. In addition, those who regard any government interference with private activities with suspicion can be expected to resist, although state planning is less subject to distrust than local planning because it involves fewer property rights.

Lack of political support leads to lack of adequate financing, an ongoing problem. Underfinanced agencies cannot hire competent professional staff with the skills necessary to ensure imaginative use of state resources.

The planning profession itself contributes to its political problems. There appears to be little agreement among the professionals as to the role of planning in state governments. Part of the confusion may result from the emergence of state planning from the city planning movement with a strong emphasis on land use and economic development planning, functions absent from the list of traditional state activities. Newer emphases on policy planning, evalution and other more contemporary concepts have clouded the role of planning and ensured a less than enthusiastic response from some administrative quarters. Moreover, it has made it more difficult for the public to understand. Efforts of budget officers to move into planning further undermine the position of planners and often give planning an overly strong emphasis on finance.

A problem facing many state planning operations is the frequently fragmented structure of state administration. Separately elected administrative officers and a proliferation of administrative boards complicate comprehensive, integrated planning. Morever, even if overall plans or policies are developed, there is no guarantee that all administrative heads will implement them. They are unlikely to react with enthusiasm to any that do not further the views they have of their own departmental interests. The governor may be hampered in enforcing compliance for lack of leverage over officials he does not select.

ASSESSMENT OF STATE PLANNING

The paucity of agreed upon principles as to what state planning should encompass and how it should fit into the pattern of state government makes precise assessment of any improvements during the past quarter century difficult. It is easy to state unequivocally however, the state planning is substantially better than it was during the 1950s. States engage in more of it and on a more comprehensive and sophisticated level. W. Brook Graves described state planning at the beginning of the 1950s, after most of the planning agencies established during the 1930s had been abolished. He wrote:

> Only 12 states now have a real state planning board, and 11 appear to have

no planning agency of any descripton. Sixteen have a resources and development department, board, or commission, in which the emphasis is not on comprehensive planning but on the short-range advantages of industrial and commercial development. Nine are even worse, attaching to their so-called planning agencies names which indicate that the major purpose is to exploit the commercial advantages of the resources of the state, in terms of advertising to attract tourists and new industries.[46]

Graves pointed out that "the function is now dispersed among numerous agencies when, indeed, it is performed at all. Few of these agencies are under the control of the governor or even available for his use."[47]

Today, all states have comprehensive state planning agencies, most of them located in the governor's office. All states now undertake land use and economic planning and most have moved into policy planning, although efforts to date have been limited largely to needs identification and definition of areas where the state may exercise influence. More sophisticated systems involve analysis of alternative futures (testing goals and objectives against a range of alternatives), identifying strategic issues, and public investment planning.[48]

THE BUDGETARY PROCESS

Budgeting is an integral, if somewhat specialized, part of the planning process since its product, the budget, is the ultimate statement of any government's policy choices. In it are set out the allocation of public resouces and the locus of costs. "Who gets what" can be found here. Moreover, the budget serves as a major management tool. In the process of compiling it, government programs can be planned, reveiwed and evaluated; their costs assessed; the desirability of expanding, reducing or eliminating them considered; and efforts to improve productivity and responsiveness outlined. For the governor, it constitutes an implement for influencing the course of public policy and a major mechanism for assuring control of the state administration.

The governor's role in the budgetary process ordinarily involves responsibility for budget preparation and submission to the legislature and for general oversight to assure budget compliance once appropriation bills have been enacted. Both of these functions are performed by subordinates for the most part, although the chief executive can make the ultimate determinations. As discussed earlier, the governor has authority for the budget in all but three states.

Considerable attention has been given to the budget process in recent years as efforts to upgrade governmental efficiency and effectiveness have intensified. Productivity improvement often resulted in changes. State budget officers have employed new managerial concepts such as performance budgeting, Planning-Programming-Budgeting Systems (PPBS), Management-By-Objective (MBO), program budgeting, and Zero-Based Budgeting (ZBB) toward this end.

TYPES OF BUDGET INNOVATIONS

Early attempts at improving budgetary processes (1920–35) were directed at the development of an executive budget. It was believed that only the governor could think in terms of the government as a whole, and therefore, should be the one responsible for submitting and enforcing the budget. Associated with the reforms proposed by Buck and others for strengthening central management, the executive-budget idea also aimed at ensuring honesty and efficiency by limiting the discretion of administrators in budget execution. It went hand in hand with proposals for centralized purchasing, competitive bidding, uniform accounting procedures, expenditure audits and civil service reform.[49]

Although efforts to improve planning, management, and control converged in the executive-budget movement, when budgeting was operationalized, the control functions predominated. Reformers recognized that a balanced budget, ensuring integrity, was basic to public support for government. The basic functions of planning and management were overlooked.[50] General practices revolved around line-item budgeting, incrementalism, and budget execution. Listing proposed expenditures on a line-item basis provides a detailed

breakdown of the goods and services being purchased with state dollars (personnel, supplies, travel, etc.) and increases central control of expenditures. Incrementalism focuses on the margin of increase over existing appropriations, using last year's budget as a base. Budget execution emphasizes keeping track of the funds and consumes most of the resources of the budget staff.[51]

Performance Budgeting

The roots of performance budgeting reach back to the New Deal era. According to Allen Schick,

> The management orientation, paramount during this period, made its mark in the reform of the appropriation structure, development of management improvement and work measurement programs, and the focusing of budget preparation on the work and activities of the agencies.[52]

A move to a "performance budget" began in the 1950s, following the recommendation of the Hoover Commission (Commission on Organization of the Executive Branch of the Government) that the federal budgetary process be redesigned. The Commission recommended that the focus be on

> .... the general character and relative importance of the work to be done, or upon the service to be rendered, rather than upon the things acquired, such as peronal services, supplies, equipment and so on. These latter objects are, after all, only the means to an end. The all-important thing in budgeting is the work or service to be accomplished, and what that work or service will cost.[53]

The Commission's report, along with that of the "Little Hoover Commissions' " established shortly thereafter in many states, gave impetus to the adoption of performance budgeting. According to Schick, 33 states had adopted performance budgeting, at least to some degree, by 1971.[54] Many of these systems were not true performance budgeting systems although they incorporated some of the concepts. They often retained elements of the old line-item practices. While the changes brought improvement to state budgeting, they failed to achieve their major aims.[55]

PPBS

The next reform efforts were aimed at instituting Planning-Programming-Budgeting Systems—planning-oriented processes with the prebudget preparation phase of the budget cycle receiving the most attention. As Ramsey and Hackbart point out,

> Unlike the more traditional approaches to budgeting in which planning is a bottom-up process, the logic of PPBS suggests top-down planning, with policy analysis being an integral aspect of the budgetary process.[56]

They identify the major changes introduced by PPBS as:

1) the identification of the fundamental objectives of government and then relating activities to these objectives;
2) anticipation of future-year implications of the objectives;
3) consideration of all pertinent costs incurred in achieving the objectives; and
4) systematic analysis of alternative methods for achieving the objectives.[57]

Secretary of Defense Robert McNamara pioneered the use of PPBS on the federal level when he joined the Kennedy Cabinet in 1961. Its successful application in the Department of Defense later led President Johnson to order its use in all federal agencies. Thereafter, state after state opted to employ it.

Other influences also were at work. According to Ramsey and Hackbart, the State-Local Finances Project at George Washington University, under the leadership of Dr. Selma Mushkin, contributed to the spread of this innovation. Under its aegis, pilot projects were undertaken in five states (California, Michigan, New York, Wisconsin and Vermont), as well as in local governments. Department of Housing and Urban Development 701 monies for state planning encouraged state adoption as well.[58]

States encountered difficulties in using PPBS. Because ordinarily it was superimposed upon existng processes and workloads, it did not receive the attention it needed. In addition, it met with resistance from many quarters.[59] Pointing out that it was "so radically different from existing budgetary practices that it was difficult to institutionalize," Ramsey and Hackbart summarize other problems as follows: (1) the process was fixed and formal; (2) its long-range planning aspects were difficult for states who were likely to view the budget on a year-to-year basis; (3) it often took no cognizance of the role of the legislature; and (4) it neglected to make clear the budget's implication for the execution stage of the budget cycle. As a result, "PPBS was generally divorced from and hence had little impact on the total budgetary process."[60] Consequently, most users had abandoned its theoretical concept by the early 1970s; in fact, one authority flatly stated: "the federal model of planning-programming-budgeting with all its formal trappings *is* dead among American state governments."[61] Nevertheless, many of its features were regarded as useful for the budget process and retained. As S. Kenneth Howard pointed out, "the underlying ideas ... adoption of a longer-range view, emphasis upon alternatives, evaluating choices in terms of effectiveness, developing a capacity for more thorough going systematic analysis, and stressing programs and problems rather than agency lines, are alive and well in many state capitals."[62] A study published in 1976 reported that about 35 states had implemented modified PPBS systems.[63]

Zero-Base Budgeting

A new wave of innovation brought Zero-Base Budgeting to the states. In contrast to PPBS, first used at the federal level, ZBB had its first public usage in the states. It was introduced in Georgia under the then-Governor, Jimmy Carter. Like PPBS, it is a planning-oriented process. Beginning with the objectives to be accomplished, it attempts to develop an efficient operating plan and budget. The two major steps involved are: (1) designing and ranking packages of decisons that reflect several possible levels of activity of the organization concerned, the financial requirements needed to support each possible level of activity, and other relevant management data; and (2) establishing priorities for these decision packages. In the use of this system, line-item data can be retained.

The assumption was that ZBB would involve conducting thorough reviews of the need for programs, and requiring justification for their continuation as well as for funding increases. Like other budgeting systems, however, it, too, is incremental. The focus of analysis is on the margin of proposed over current expenditure levels.[64]

ZBB, like other budgeting systems, has had problems. One writer classed it as fraud.[65] Some practitioners feel that the paperwork requirements consume too much time under an annual budget cycle. More important, policy issues are often submerged because the process is not sufficiently effectiveness oriented.[66] Nevertheless, it has had enough success that states continue to adopt it,[67] although rarely in a pure form. Schick reported, after his survey of some 20 to 25 states in the late 1970s, that if the original definition of ZBB, under which analysis was focused on all proposed expenditures rather than just on increases, had been used, probably not a single state could be said to be employing Zero-Based Budgeting.[68]

STATE USAGE

The hybrid budgeting systems under which most states operate make categorization almost impossible. As states adopted, then abandoned, performance budgeting, PPB, ZBB, or parts of these systems, they were left with increasingly variegated systems, custom tailored for each state.

As one authority pointed out:

> This smorgasbord approach makes it virtually impossible to classify states' budgeting processes in unambiguous categories. The simple question: Is your state doing object-of-expenditure budgeting, program budgeting, PPB, or zero-base budgeting?, cannot be answered simply. State budget systems are hybrids rather than purebreds, distinguished by the adopted and adapted parts of recent reforms as well as by state-specific practices. The reform flurry has left state budget processes

more variegated than ever; states are more and more "growing their own" budget processes to suit their own needs and mores.[69]

A survey of state budget officers conducted in 1977 found that of the 40 officers responding, 33 indicated a significant change in their budgetary process over the previous ten years. Eleven replied that they had adopted PPBS/program budgeting processes, nine indicated the use of ZBB or modified ZBB systems, 12 specified that they had adopted modified systems combining elements of the others, and New York was the single state to adopt a mangement by objective system. Impacts on the budget process were set out as follows:

> An analysis of the questionnaires showed that the budget directors in these states and jurisdictions perceived *policy* impacts or changes in budgetary emphasis as a result of the budget process change. However, operationally, the budgetary process seldom changed. For example, in the 11 PPBS/program budget states and jurisdictions, a statistically significant number of budget directors indicated a greater emphasis was being given to strategic planning and output effectiveness after the introduction of the budget change. It was further indicated that these changes in emphasis resulted in a greater centralization of budgetary decisonmaking, an improved flow of information for decisionmaking and greater innovative ness by agencies. Yet, additional analysis of the questionnaires revealed that no statistically significant changes occurred in the recruiting patterns of the budget office nor in the functional distribution of time and effort by the budget office. Similar patterns were found for respondents classified as ZBB and modification states and jurisdictions. Consequently, as far as the budget office is concerned, it might be concluded that budget process changes were more form than substance.[70]

Because of the difficulty of reaching definitive conclusions about the changes that had occurred, the investigators conducted case studies in nine states. These studies underscored the conclusion that budget offices in each state "continue to emphasize financial control." While the changes were aimed at focusing greater attention upon policy analysis, planning, information organization, and evaluation, this goal had been reached in only a limited number of states. Financial control remained the primary priority.[71]

Another budgetary development relates to the increasing merger of budgeting with planning, evaluation and management analysis. Such a combination provides the governor with "a more coordinated, comprehensive, and focused policy development mechanism." Merged planning and budgeting organizations are more common now than they were a decade ago.[72]

A CAUTIOUS EVALUATION

Any evaluation of the three major facets of central management should be undertaken with caution because of the lack of generally agreed upon standards, inadequate information, and the differences between apparent reforms and actual operations. Nevertheless, it is fair to say that in all three areas, the changes states have made during the last quarter century advance effectiveness and efficiency. State personnel systems more often emphasize merit in the selection, retention, and promotion of employees. At least at the top level, those selected are more representative and professional. The prestige of state personnel appears to have risen in the eyes of federal grant-in-aid administrators.

State planning is more widespread and undertaken on a broader basis. No longer limited to concern with land use and economic development, it includes generally goal setting, information gathering, and alternative proposals in many areas. In many states, it has taken on a new focus—assisting the Governor in making policy decision. It is more sophisticated and systematic, employing a variety of methodologies and new information sources.

In the budgetary process, emphasis is still on use of the budget for control purposes. Nevertheless, there is growing attention of policy analysis, planning, information organization, and evaluation in the budgetary process.

FOOTNOTES

[1]Patrick J. Chase did much of the basic research for this section.

[2]Comparison of figures from ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition*, M–132, Washington, DC, U.S. Government Printing Office, 1981, p. 68, with those from *Significant Features of Fiscal Federalism, 1981–82 Edition*, M–135, Washington, DC, U.S. Government Printing Office, 1983, p. 74.

[3]Raymond A. Shapek, "Federal Influence in State and Local Personnel Management: The System in Transition," in Joseph A. Uveges, Jr., *The Dimensions of Public Administration*, Boston, MA, Allyn and Bacon, Inc., 1979, pp. 337–38.

[4]Linda Barbarotta, *The Federal Civil Service Reform Act: Implications for the States*, State Service Note 1, Washington, DC, National Governors' Association Center for Policy Research, n.d., pp. 20–21.

[5]*Ibid.*, p. 20.

[6]*Ibid.*, p. 142.

[7]5 U.S.C. 1501–08.

[8]PL 93–443, Sec. 401.

[9]The Commission on Political Activity of Government Personnel, *A Commission Report: Research, Volume II*, Washington, DC, U.S. Government Printing Office, 1967, p. 93.

[10]*An Evaluation of the Intergovernmental Personnel Act of 1970: A Report to the Congress of the United States by the Comptroller General* (FPCD–80–11), Washington, DC, U.S. General Accounting Office, December 19, 1979, p. 21.

[11]*Ibid.*, p. iii.

[12]On this point, see Shapek, *op. cit.* State governments have been engaged in substantial litigation, both with their employees and with the federal government, over some of these matters. See *National League of Cities v. Usery*, 426 U.S. 833 (1976), and *Elrod v. Burns*, 427 U.S. 347 (1976), among other cases, for example.

[13]U.S. Senate, Committee on Government Operations, Subcommittee on Intergovernmental Relations, *More Effective Public Service: The First Report to the President and Congress by the Advisory Council on Intergovernmental Personnel Policy—January, 1973*, Washington, DC, U.S. Government Printing Office, March 1974, p. 70.

[14]426 U.S. 833 (1976).

[15]See for example, *FERC v. Mississippi*, 50 L.W. 4566 (1982), in which the Court upheld the *Public Utilities Regulatory Policies Act* to be a valid exercise of the commerce power and *Equal Employment Opportunity Commission v. Wyoming*, 51 U.S. L.W. 4219 (1983), in which the Court ruled that the 1974 *Amendments to the Equal Employment Opportunities Act* restricted states' power to retire an employee prior to age 70.

[16]David R. Cooke and Evan B. Hammond, "Civil Service Reform," *Book of the States, 1980–81, op. cit.*, p. 242.

[17]*Ibid.*, p. 243.

[18]U.S. Office of Personnel Management, *Civil Service Reform: A Report of the First Year*, Washington, DC, U.S. Government Printing Office, 1980, p. 24.

[19]F. Ted Hebert and Deil S. Wright, "State Administrators: How Representative? How Professional?," *State Government*, Vol. 55, No. 1, 1982.

[20]Ibid., p. 24.

[21]*Ibid.*, pp. 26–27.

[22]**Lynn Muchmore**, *Concepts of State Planning*, State Planning Series, No. 2, Washington, DC, Council of State Planning Agencies, 1977, p. 4.

[23]*Ibid.*, pp. 3, 4.

[24]Council of State Governments, *State Planning: New Roles in Hard Times*, Lexington, KY, 1966, p. 6.

[25]Harold F. Wise, *History of State Planning—An Interpretive Commentary*, Washington, DC, Council of State Planning Agencies, 1977, p. 10.

[26]Ibid., p. 5.

[27]*Ibid.*

[28]Council of State Governments, *State Planning and Federal Grants*, Chicago, IL, Public Administration Service, 1969, pp. 13–14.

[29]Wise, *op. cit.*, pp. 12–13.

[30]Georgia State Planning Bureau, *Federal Program Participation in the State of Georgia, Fiscal Year 1965–66*, Atlanta, GA, 1967, as cited in *ibid.* Many of these "plans," particularly in the human service area, were simply lists of program requirements.

[31]Wise, *op. cit.*, pp. 14–15.

[32]*Ibid.*, p. 19.

[33]National Governors' Conference, Subcommittee on State Planning, *State Planning, A Policy Statement*, Chicago, IL, Council of State Governments, 1962, p. 1.

[34]*Ibid.*

[35]Institute for State Planning in the '70s, *State Planning: A Quest for Relevance*, Chapel Hill, NC, University of North Carolina Press, 1968, Vol. 1.

[36]Ibid., Vol. 2.

[37]Wise, *op. cit.*, p. 20.

[38]Council of State Governments, *State Planning: New Roles in Hard Times, op. cit.*, p. 7.

[39]Harold F. Wise, "State Planning," *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, 1980, pp. 234–35.

[40]Council of State Governments, *State Planning: New Roles in Hard Times, op. cit.*, p. 1.

[41]The Research Group, Inc., Atlanta, GA, *The Legal Basis for State Policy Planning*, Washington, DC, Council of State Planning Agencies, 1977, p. 5.

[42]*Ibid.*

[43]Council of State Governments, *State Planning: New Roles in Hard Times, op. cit.*, p. 8.

[44]*Ibid.*, p. 24.

[45]*Ibid.*, p. 8.

[46]W. Brook Graves, *American State Government*, Fourth Ed., Boston, MA, D.C. Heath and Company, 1952, p. 438.

[47]*Ibid.*, p. 366.

[48]Wise, "State Planning," *op. cit.*, p. 486.

[49]Allen Schick, "The Road to PPB: The Stages of Budget Reform," *Public Administration Review*, Vol. XXVI, No. 4, December 1966, p. 246.

[50]*Ibid.*, p. 248.

[51]James Ramsey and Merlin H. Hackbart, *Innovations in State Budgeting: Process, Impact*, Lexington, KY, Center for Public Affairs, College of Business and Economics, University of Kentucky, 1980.

[52]Schick, *op. cit.*, pp. 245, 249.

[53]Commission on Organization of the Executive Branch of the Government, *Budgeting and Accounting*, Washington, DC, U.S. Government Printing Office, 1949, p. 8.

[54]Allen Schick, *Budget Innovation in the States*, Washington, DC. The Brookings Institution, 1971, p. 56.

[55]*Ibid.*, pp. 56–69, *6.

[56]Ramsey and Hackbart, *op. cit.*, p. 6.

[57]*Ibid.*

[58]Ramsey and Hackbart, op. cit., p. 8.
[59]S. Kenneth Howard, *Changing State Budgeting*, Lexington, KY, Council of State Governments, 1973, p. 167.
[60]Ramsey and Hackbart, op. cit., p. 7.
[61]Howard, op. cit., p. 359.
[62]*Ibid.*
[63]Janet W. Patton and Merlin M. Hackbart, *Innovation in State Government Processes: An analysis of Selected Programs*, Lexington, KY, Center for Public Affairs, Office for Research, University of Kentucky, 1976, p. 28.
[64]See Frank D. Draper and Bernard T. Pitsvada, "ZBB—Looking Back After Ten Years," *Public Administration Review*, January/February 1981, p. 77, and Allen Schick, *Zero Base 80: The Status of Zero-Base Budgeting in the States*, A Report for the National Association of Budget Officers and the Urban Institute, December 1979, processed.
[65]Robert Anthony, "Zero-Base Budgeting is a Fraud," *Wall Street Journal*, April 27, 1977, p. 26.
[66]Attributed to the state budget officer of New Mexico in Ramsey and Hackbart, *op. cit.*, p. 31.
[67]South Dakota authorized zero-base budgeting in 1978. Robert de Voursney and Elaine S. Knapp, "State Executive Branch Activities," *Book of the States, 1980–81*, *op. cit.*, p. 169.
[68]Schick, *Zero Base 80*, *op. cit.*
[69]S. Kenneth Howard, "State Budgeting," *Book of the States, 1980–81*, Lexington, KY, Council of State Governments, p. 199.
[70]Ramsey and Hackbart, *op. cit.*, p. ix.
[71]*Ibid.* For a brief analysis of survey results, see Ramsey and Hackbart, "Impacts of Budget Reform: The Budget Office Perspective," *State and Local Government Review*, January 1982, pp. 10–15. For an analysis of the Oregon modification of zero-based budgeting, called Alternative Program Levels System, and its effects, see Jeffrey McCaffery, "The Transformation of Zero Based Budgeting: Program Level Budgeting in Oregon," *Public Budgeting and Finance*, Vol. 1, No. 4, Winter 1981, pp. 48–55.
[72]S. Kenneth Howard, "State Budgeting," *op. cit.*, p.201.

Chapter 8

State Court Systems

State judicial systems perform vital functions in the administration of justice in the United States. Moreover, they are major decisionmakers and allocators of values in the political system.[1] Because of the aggregate of the cases that comes before the courts of the 50 states, they probably have a greater impact than the federal courts on the American quest for equal justice for all, according to Justice William J. Brennan, who served on the New Jersey Supreme Court before becoming a justice of the United States Court.[2]

Despite the existence of a parallel federal court system with concurrent jurisdiction in many instances, the bulk of all litigation takes place in state courts. In fact, 96% of all cases are handled in these forums.[3] Hence, the only contact with the judiciary that an average citizen is likely to have is in the proceeding before state courts. Consequently, state judicial systems must be capable of administering justice equitably and expeditiously.

CRITICISMS OF STATE COURT SYTEMS

As is true of other state institutions, court systems have received adverse evaluations over the years. Critics pointed to fragmented and confusing systems with no central administra-

tive organization; unqualified judges, often chosen more for party service than judicial merit; continuance in office of senile, arbitrary or corrupt judges; conflict of interest of judges who devoted only part of their time to the courts; the unequal financing of courts in various parts of a state; and long delays in litigation, among other deficiencies. Some of these criticisms could be directed at federal courts as well.

The problems were the result, in part, of piecemeal development of court structures over the years. The fragmented systems that emerged were characterized by overlapping jurisdictions and confusing, complex judicial organizations that functioned with difficulty. The resulting proliferation and duplication of courts meant both wasted resources and uneven justice. Litigants were able to shop around for the court with the most favorable environment since judges, rules, and practices varied widely from court to court. Choice of a court frequently determined the outcome of the case. Lower courts, particularly, dispensed uneven and unequal justice.

Furthermore, no one was actually responsible for the operation or supervision of a state's judiciary as a whole. The fragmented character of the courts and the lack of data, communication and skilled administrators resulted in an inefficient use of judicial manpower that no overall court authority had the power to remedy. Case backlogs lengthened and delays of two or three years before trial became commonplace. Such delay resulted in damage to all parties and reduced public confidence in the courts.

State courts became mired in problems because most had changed very little from the time they were first created and they were unable to handle the explosion in litigation that occurred at mid 20th century. Judicial systems that were organized in the 18th and 19th centuries clearly could not satisfy the demands of the 20th century without adaptation and alteration. As the population grew and Americans increasingly exercised their penchant to "take it to court," the caseload increased even more dramatically. Between 1955 and 1979, the population rose by 36%. During the same period, the number of cases disposed of increased by about 1,000%.[4]

RECOMMENDATIONS FOR REFORM

Substantial agreement existed among proponents of judicial reform as to the changes that should be made.[5] Major recommendations related to:

- reorganization into a unified, simplified court system;
- establishment of a state administrative office for the courts;
- selection of judges on a merit basis;
- creation of machinery for the discipline and removal of unfit judges;
- mandatory retirement at 70;
- requirements that judges be licensed to practice law;
- requirements that judges serve full time; and
- full state assumption of court costs.

QUALIFICATION AND SELECTION OF JUDGES

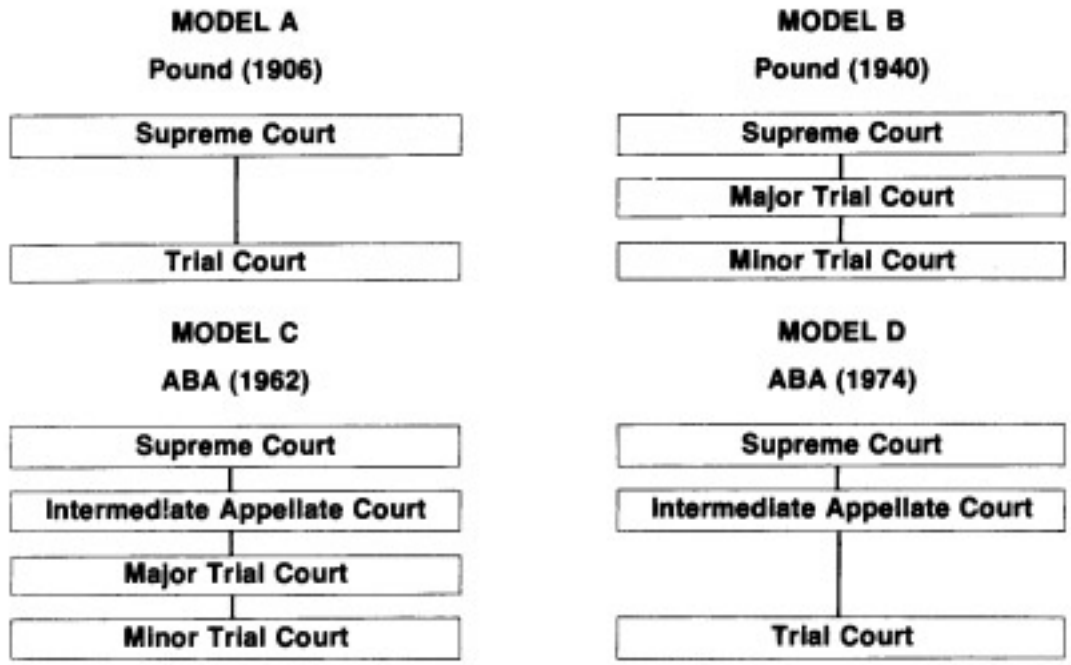
Reorganization of state courts into a unified system involves consolidation of the various courts on each level of the structure with a centralized administrative direction of its operations. Those interested in court improvement, however, disagree on the details in defining this concept. Larry Berkson and Susan Carbon, in examining the literature of court reform in this century, found 22 components listed as facets of a unified system. The major studies, from Roscoe Pound's 1906 recommendation for a unified system through the American Bar Association's (ABA) *Standards Relating to Court Organization* in 1974, agreed on only five of these. Included were:

- consolidation and simplification of court structure;
- centralized management;
- centralized rulemaking;
- centralized budgeting; and
- state financing.

They will be examined here in an attempt to outline the degree of court unification achieved.

Figure 8–1

MODELS OF UNIFIED STATE COURT STRUCTURES



SOURCE: Larry Berkson and Susan Carbon, *Court Unification: History, Politics and Implementation*, Washington, DC, U.S. Department of Justice, National Institute for Law Enforcement and Criminal Justice, 1978, p. 46.

Structural Consolidation

Considerable disagreement occurs over the exact court structure that best represents a simplified and consolidated state court system, a situation that exacerbates the difficulties of assessing state compliance. Berkson and Carbon set out four basic models, depicted in *Figure 8–1*, that appear in the literature of court reform. Model A is based on Pound's 1906 recommendation, derived from the English system. Involving two tiers, a supreme court to handle appeals and a unified trial court for the initiation of cases, it is found only in Idaho, Iowa and South Dakota. Model B, proposed by Pound in 1940, divides the trial courts into major and minor tiers. It, too, is used in only a few states: Hawaii, Rhode Island and Virginia. Florida and North Carolina employ Model C, based on the 1962 ABA recommendations, and the California and Maryland systems resemble it. This structure adds an intermediate appellate court to the 1940 Pound model. Illinois, alone, uses the 1974 ABA Model D. Here there is a supreme court, an intermediate appellate court, and only one trial court for both major and minor cases.

Other states, nonetheless, maintain substantially consolidated and unified court systems. As Allan Ashman and Jeffrey Parness observe: "The key lies not in the number of courts handling cases, but in the state's method for handling cases brought before its courts."[8] The degree of unification is reflected in a typology of states worked out by Berkson and Carbon. They also compiled a classification of states based on the extent of activity relating to unification since 1970. Activity was defined as "the enactment of a statutory or constitutional revision or supreme court rule that *substantially altered* court structure, administration, rulemaking, financing, or budgeting in the direction of the unification model."[9] The typologies are set out in *Figure 8–2*. As it reflects, at least 34 states had achieved a moderate degree of unification by 1978. Previous ACIR studies supplemented by more recent figures from later editions of the *Book of the States* substantiate this assessment.[10]

Centralized Management

The fragmentation of the court systems prior to unification resulted in management by individual judges with a consequent disproportionate amount of time spent on nonadjudicative matters. Case backlogs and long periods of delay became features of the court system even before the volume of litigation exploded, and,

as a result, the quality of justice suffered. Moreover, courts were poorly managed on an overall basis with no central authority able to reassign judges to divisions or areas where they were needed most, transfer cases, or generally expedite the handling of court work. In addition, lack of uniform personnel standards and job classification for court employees produced wide variations in the day to day operations of the system. Equally important, the absence of statewide data on caseloads and other facets of court operations impeded long-range planning. Each court operated as a small duchy for the most part.

Figure 8–2

Extent of Unification Activity Since 1970

Degree of Unification	Relatively Active States	Relatively Inactive States
High		
	Connecticut	Alaska
	Florida	Colorado
	Hawaii	Delaware
	Idaho	Illinois
	Maine	New Mexico
	Maryland	North Carolina
	Oklahoma	Rhode Island
	South Dakota	
	Vermont	
Moderate		
	Alabama	Arizona
	Iowa	New Hampshire
	Kansas	
	Kentucky	New Jersey
	Montana	Pennsylvania
	Nebraska	Utah
	North Dakota	Washington
	Ohio	Wisconsin
	Virginia	Wyoming
	West Virginia	
Low		
	Georgia	Arkansas
	Louisiana	California
	Minnesota	Indiana
	Missouri	Massachusetts
	Nevada	Michigan
	New York	Mississippi
	South Carolina	Oregon
		Tennessee
		Texas

SOURCE: Larry Berkson and Susan Carbon, *Court Unification: History, Politics and Implementation*, Washington, DC, U.S. Department of Justice, National Institute for Law Enforcement and Criminal Justice, 1978, p. 46.

The problems resulting from this situation led to state efforts to provide for centralized court administration under the direction of the state's highest court, either collectively or in the person of the chief justice, or to empower a judicial council to undertake this task. The latter is a continuing organization composed of a few judges from the various levels of courts and, frequently, of non-judges. Such councils operate in most states,[11] where they are largely advisory and investigatory. The outcome has been individualized state structures for centralized administration.

Berkson and Carbon have set out the assignment of responsibilities in centralized court administration as follows:

- ☐ Administrative responsibility for the entire judiciary should be placed in the chief justice.
- ☐ A state court administrator should be appointed to aid the chief justice in executing the latter's administrative responsibilities.
- ☐ Local trial administrators should be responsive to request by the top of the judicial hierarchy.
- ☐ The assignment of judges and cases to equalize workload and alleviate problems caused by vacations, illnesses and the like should be controlled by the supreme court.
- ☐ The supreme court should be responsible for the qualifications and hiring and firing of nonjudicial personnel (including evaluation, promotion, in-service training and discipline).
- ☐ The supreme court should be responsible for space and equipment including standardizations.
- ☐ The supreme court should be responsible for centralized recordkeeping and statistics gathering.
- ☐ The supreme court should be responsible for financial administration, including budget preparation.

- ☐ The supreme court should be responsible for the management of a continuing education program for all court-related personnel.
- ☐ The supreme court should be responsible for research for the state court system.
- ☐ The supreme court should be responsible for planning for the state court system.
- ☐ The supreme court should be responsible for the staff of the central administrative office.
- ☐ The supreme court should be responsible for the dissemination of information about the operations of the state court system.[12]

Statements of responsibilities in general terms do not solve some of the sticky problems encountered in actual performance. Authorities may agree that authority for centralized administration should be located at the top of the state court system; nevertheless, there is no consensus as to what that authority should entail. While there is unanimity that the court administrator should not handle judicial functions, the problems arise in determining whether certain functions are judicial or purely administrative. Is, for example, the assignment and reassignment of judges a judicial function?

Perhaps even more troublesome is the issue as to whether the state court administrative bureaucracy should supervise that of the trial courts. The National Advisory Commission on Criminal Justice Standards and Goals and ACIR, who advocate that local trial court administrators be placed under the general supervision of the state court administrators, disagree with the position of the American Bar Association holding that trial court administrators should be appointed by trial court judges and subject to their supervision.[13]

Centralized Rulemaking

Another of the elements of a unified court system involves vesting in a central state agency the authority for making the rules governing court procedures for all courts. Such a practice is directed at ensuring uniformity throughout the state.

Organizations making recommendations on this matter agree, for the most part, on placing this responsibility in the state's highest court or in a judicial council, but they have vacillated as to whether the state legislature should have authority to override the supreme court rules by an extraordinary vote.

Most states have given exclusive authority over rulemaking to their highest courts. In 21 of these 32 states, there is no legislative veto over court action. Eight states place responsibility elsewhere, either in judicial councils or state legislatures. Eight states divide responsibility and give the supreme court partial authority. The other ten vest it either in the legislature or in judicial councils.[14]

Centralized Budgeting

A newcomer to proposals for improving state courts is the recommendation for centralized budgeting. First put forward in the ABA's Model Judicial Article of 1972, the recommendation quickly gained the support of the National Municipal League and the National Advisory Commission on Criminal Justice Standards and Goals.[15] The idea is that a consolidated budget for all state courts should be prepared by the state court administrative officer. No revisions could be made by the executive branch, and the only function of the legislature would be to appropriate the necessary funds.

A 1973 New York state study, criticizing the combined state-local financing that existed in that state, dealt with the difficulties inherent in multiple budgets. It reported that in addition to the other problems resulting from noncentralized budgetary and financial arrangements, no procedure existed for providing actual cost data to court administrators for use in management control and planning. The gathering of these data ordinarily is associated with the budgeting process. The report argued that centralized budgeting would facilitate the development of information systems that could be used for "analyzing the probable effect of different procedures and policies on cost and performance."[16]

Relatively few states have moved to centralized budgeting. As of 1975, 12 states followed this model. These are Alaska, Colorado, Connecticut, Hawaii, Minnesota, New Jersey,

New Mexico, North Carolina, Rhode Island, Tennessee, Vermont and Virginia.[17]

PROFESSIONAL COURT ADMINISTRATIVE OFFICES

The attention focused on court administration led all the states to provide for court administrative offices to carry out those functions of a nonjudicial nature associated with court operations. Under this arrangement, a full-time professional administrative director of the courts is appointed by the supreme court or chief justice to perform such tasks as preparation of personnel and facilities, recordkeeping, and calendaring procedures. The director also collects information and analyzes statistics on court operations. Such assistance enables the work of the court to be spread more evenly, problems to be anticipated and avoided, and plans made for effective and efficient operations.

The effectiveness and extent of involvement of state administrative offices in judicial operations vary among the states. Nevertheless, they constitute an important innovation and a phenomenon of relatively recent origin. By 1970, the number had risen to 37. During the 1970s, 22 more states established new offices, and by 1980, all states operated such agencies.[18]

STATE ASSUMPTION OF COURT COSTS

Closely associated with the idea of centralized budgeting is that of state responsibility for financing the operation of the courts. Traditionally, the expenses of dispensing justices have been shared by state and local governments. The New York study pointed out that, in addition to the management difficulties engendered, such practices result in spending disparities within the system. Moreover, they fail to produce a comprehensive picture of the costs of operating the system or any data for comparing costs in different geographic areas. In addition, the report states:

> From the standpoint of the court administrator or the appropriating body there is no systematic array of information to use in assigning priorities should there be a shortage of funds. The present system not only hinders the efficient allocation of funds internally but also renders it extremely difficult to complement internal allocations with appropriate apportionment to court-related agencies such as police, corrections, district attorneys, counsel for the indigent and probation. The result is that either the courts or one of the other agencies become bottlenecks, e.g., the courts are prepared to try cases but prosecutors may be unavailable.[19]

As a consequence of the problems created by shared financing, many groups advocate that the states assume full responsibility for financing state and local courts. The National Municipal League took this position as early as 1929. Almost every commission studying state courts since has joined in supporting this proposal, and the ABA added it to its Model Judicial Article in 1974.[20] ACIR recommends full state financing and includes a provision for it in its Omnibus Judicial Act.[21]

An increasing number of states bear all, or at least more, of the expenses of state court operation. This is a fairly recent, but steady, phenomenon, practically unheard of 20 years ago. In 1969, the states paid only about one-quarter of the total costs of all state and local courts.[22] Only seven states (Alaska, Colorado, Connecticut, Hawaii, North Carolina, Rhode Island and Vermont) provided all or practically all (over 90%) of the costs of court operation in 1970.[23] Yet, six years later this figure already had doubled. Thirteen states—Alaska, Colorado, Connecticut, Hawaii, Kentucky, Maine, Maryland, New Mexico, North Carolina, Oklahoma, Rhode Island, South Dakota and Vermont—were responsible for all expenditures of the state judiciary in 1976.[24] Today, 22 states provide full or substantial state funding.[25] States without full financing have at least assumed a greater role in funding the judiciary as they have increased their share of the court costs.

QUALIFICATION AND SELECTION OF JUDGES

At the same time that structural and administrative improvements were being made, efforts were underway for improving the quality of judges, who, after all, are the most important determinants of quality in the judicial system.

Efforts have focused on initial qualifications, the selection process, and methods for discipline and removal.

Since judges are empowered to interpret constitutions and statutes and adjudicate legal controversies, they could be expected to possess certain minimal qualifications. At the very least, they ought to be learned in the law. In 1955, nonetheless, 16 states had no legal training requirements for judges of supreme and intermediate appellate courts. All but seven states—Colorado, Massachusetts, New Hampshire, North Carolina, Rhode Island, Texas and West Virginia—now require a certain minimum number of years of legal experience. The states that do not probably select attorneys for their major courts as a matter of practice.

Because the selection process determines who will actually judge, upgrading judicial selection is probably more important than imposing legal qualifications for office holding. A procedure ensuring that only candidates of high caliber will be recruited obviates qualification requirements.

States select judges through: (1) election by the legislature; (2) partisan popular election; (3) nonpartisan popular election; (4) gubernatorial appointment; and (5) merit plans.[26] The method a particular state employs frequently dates back to the prevalent practice or popular ideas at the time the state constitution was adopted (or revised) and a court system established.

Reform proposals stipulate selection by merit, which basically is a hybrid, nonpartisan appointive-elective method. Proposed by the American Bar Association in 1937, it was established in Missouri in 1940 and is frequently called the Missouri Plan for the state of its first adoption. Under this model, justices are appointed by the governor; however, executive discretion is limited. Appointments are restricted to a list of (usually) three to six candidates submitted by a special nominating commission he has named. Called judicial nominating or selection commissions, these bodies usually consist of representatives from the bench, bar and public. If laymen and lawyers are omitted, the nominees are selected by organizations of judges called Judicial Conferences.

Under the Missouri Plan, judges serve for a specified period of time and then must stand for election. No other candidate's name appears on the ballot and the electors vote as to whether the incumbent should be retained in office. If a majority votes in favor, the judge continues in office for the remainder of the term. At its expiration, another confirming vote occurs. If, at any of these elections, a majority of the voters does not approve the judge's performance, the office is vacated and a new appointment must be made.

States have moved toward adoption of the merit or Missouri Plan. In 1955, three-quarters of the states directly elected most of their supreme, intermediate appellate and trial court judges. Of the 36 states in which the majority of judges were elected, 19 used partisan elections and 17 were nonpartisan. Judges in six states were appointed by the governor and those in four others were elected by the legislature. Only two states, California and Missouri, used the merit plan.[27]

Today, election is still the most popular method of state judicial selection, but it is being supplanted rapidly by the adoption of merit plans. Twenty-one states continue to elect most of their judges; ten by partisan ballots and 11 in nonpartisan elections. Eight states retain gubernatorial appointment while only three use legislative election. Merit plans are used for all supreme, intermediate appellate, and trial justices in 12 states: Alaska, California, Colorado, Hawaii, Idaho, Indiana, Iowa Missouri, Nebraska, South Dakota, Vermont and Wyoming. A number of other states select part of their judges by the merit plan while another group uses some, but not all, of its features. Florida, Kansas and Oklahoma mix nonpartisan election of trial judges with merit plan selection for appellate judges. Arizona, Florida, Kansas, Tennessee and New York use merit selection for judges in courts of appeals, bringing the number of states using this method for appellate courts to 17. Oklahoma has a mixed system. Maryland, Utah and Massachusetts use some of the major features of merit selection.[28]

JUDICIAL DISCIPLINE AND REMOVAL

Even with the best possible selection process, effective discipline and dismissal proce-

dures are needed to deter and deal with judicial misconduct and senility in office. Toward this end, states have exercised their best powers of innovation and design, developing a plethora of procedures. Included are removal by: (1) impeachment; (2) gubernatorial address; (3) legislative address; (4) recall; (5) courts by conviction of a felony; (6) supreme court action; (7) court of the judiciary action; and (8) court conviction after the petition of voters. In addition, states have established discipline and removal commissions to deal with cases of judicial misconduct, subject to appeal to the supreme court, and boards of mental and physical disability to handle problems in that area. States usually employ at least two of these and often more. Frequently, procedures are tailored for only one level of courts so that processes are not necessarily uniform within states.

Impeachment is the traditional removal method. It involves the preferring of specific charges (impeachment) by the most populous house of the state legislature and trial by the Senate (except in Nebraska's unicameral legislature) Removal is on conviction. Only five state legislatures (Hawaii, Indiana, Missouri, North Carolina and Oregon) lack the power of impeachment.[29]

Other methods of judicial removal have emerged because of the cumbersome nature of the impeachment process. Legislative address, whereby the vote of two-thirds of the legislature can request the governor to dismiss a judge, exists in 19 states. In a few states, no gubernatorial action is required.

In five states (Arizona, California, Nevada, North Dakota and Wisconsin), the popular recall is used. Citizens can remove judges by filing petitions to force them to stand for reelection before expiration of the terms of office. If defeated at the polls, the judges are ousted. The use of the recall has been subject to severe criticism because of the fear that it will destroy the independence of the judiciary. President Taft, in vetoing the resolution admitting Arizona to the Union in 1911 because its proposed constitution contained a judicial recall provision, expressed this sentiment strongly:

> This provision of the Arizona Constitution, in its application to county and state judges, seems to me so pernicious in its effect, so destructive of independence in the judiciary, so likely to subject the rights of the individual to the possible tyranny of a popular majority, and, therefore, to be so injurious to the cause of free government that I must disapprove a constitution containing it.[30]

Arizona removed the offending provision and, after admission, restored it to its constitution.

These older, alternative methods of dismissal are used rarely because they are unwieldy, expensive and difficult procedures that make judicial removal virtually impossible except in cases of gross violations. Moreover, no less drastic remedy is offered for cases where less stringent disciplinary action is more appropriate. Consequently, reformers have sought more effective safeguards against incompetence, corruption and senility.

To deal with the problem of senility, states have sought to circumvent them by enacting laws requiring mandatory retirement of state and local justices on reaching a certain age, usually 70, or have provided for forfeiture of retirement benefits for judges who serve past that age. In 1971, a total of 23 states had such laws.[31] Today, 37 states impose one or the other of these limitations.[32] More recently, states have begun to establish special discipline and removal commissions to monitor judicial conduct. Those known as courts of the judiciary are composed solely of judges. Others may include lawyers and citizen representatives as well. In the latter instances, they are known as judicial discipline and removal commissions. These boards receive and investigate complaints filed by citizens concerning a judge's qualifications, conduct, or fitness. Before formal charges are made, the commission evaluates the complaint, rejects unfounded accusations, or privately cautions a judge if his misconduct or failure to perform his duties is not serious. Formal hearings are ordered for serious charges. The commission may then either dismiss the charge or recommend that the supreme court impose involuntary retirement or some less severe disciplinary action. In Hawaii and New Jersey, the commissions recommend to the governors whom to remove. Commissions have the authority to remove judges or to suspend them temporarily in a few states.

California created the first of these discipline and removal commissions in 1960, and in the 20 years since that date they have passed from unique to commonplace. Today, all but nine states (Arkansas, Maine, Massachusetts, Mississippi, New Hampshire, Rhode Island, Vermont, Washington and West Virginia) have established discipline and removal commissions or courts on the judiciary.[33]

AN ASSESSMENT

The reform movement that began with Missouri in 1945 and New Jersey in 1947 and picked up speed with the new constitutions of Alaska and Hawaii was followed by changes in eight other states in the early and mid 1960s. California (1966), Colorado (1966), Illinois (1962, 1970), Michigan (1964), Nebraska (1962, 1966), New Mexico (1966, 1967), New York (1961) and Oklahoma (1967) all remodeled their court systems during this period.[34] Reform efforts accelerated during the 1970s, with most states taking steps to modernize their systems. The reforms were directed principally at court structure and administration and at improvements in the quality of the judges.

Today, most states have court systems that have been modified to correspond to the recommendations listed above. Certainly not all are reformed to the same extent or degree, and addtional improvements remain to be made; but, overall, the quantity of the changes that have been made in state courts over this recent period is staggering. Current systems would have been hardly recognizable 25 years ago. In the words of Jag C. Uppal of the National Center for State Courts,

> The past 25 years have seen many changes in the state courts—changes designed to reform courts and improve their service abilities. Innovative policies and programs have involved practically every court-related activity....
>
> Developments in state court systems included unifying and simplifying court structures, merit selection of judges and discipline procedures, speedy trial provisions especially for criminal cases, implementation of new administrative and technological measures for expediting processing of cases, public participation to make courts more accountable, education and training of judges and other court personnel, and experimentation with videotaping and televising of trials. These developments have had a tremendous impact.... it would be safe to conclude that state courts, which handle over 96% of the cases filed in this country, have made remarkable progress.
>
> The quality of justice, as well as the expeditious handling of an increased case load, has improved in state courts,....[35]

The extent to which these reforms have resulted in more effective, efficient delivery of justice remains to be determined, both because measurement methods are poor and because matters to be measured (i.e., caseloads) continue to outpace improvements.

Past emphasis in court reform was on organization and administrative concerns and on the quality of judges. Recently, attention has been directed more at improving the processing of cases where much remains to be done. Delays before trial, disparate sentencing, and interminable appeals still plague the courts and lessen the effectiveness of the criminal justice system. Often, improvements cannot keep pace with the rising burdens.

In the future, other problems may become the primary focus of reform attempts. As Uppal points out, access to justice is likely to move to the center of the stage as an issue inviting attention. Reformers will be concerned with breaking down the economic, knowledge, language, geographic, psychological and procedural barriers that adversely affect access to the courts.[36]

FOOTNOTES

[1]For a discussion of these points, see: Henry Robert Glick and Kenneth N. Vines, *State Court Systems*, Englewood Cliffs, NJ, Prentice-Hall, Inc., 1973, pp. 2–3.

[2]*Ibid.*, p. 2.

[3]Joint Committee of the Conference of Chief Justices and Conference of State Court Administrators, *Report of the Task Force on a State Court Improvement Act*,

Williamsburg, VA, National Center for State Courts, 1979, p. 5.

[4]Jag C. Uppal, "The State of the Judiciary," *Book of the States, 1980–81, op. cit.*, p. 143.

[5]See reports of the American Bar Association, Commission on Standards of Judicial Administration, *Standards Relating to Court Organization*, American Bar Association, 1974 (no place); Committee for Economic Development, *Reducing Crime and Assuring Justice*, New York, 1972; President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report, The Courts*, Washington, DC, U.S. Government Printing Office, 1967; President's Crime Commission, Courts Task Force, *The Courts*, Washington, DC, U.S. Government Printing Office, 1967; and ACIR, *State-Local Relations in the Criminal Justice System*, A–38, Washington, DC, U.S. Government Printing Office, August 1971. Among ther groups involved in working for improvement in the courts are: American Judicature Society, American Law Institute, Institute for Court Mangement, Institute of Judicial Administration, U.S. Law Enforcement Assistance Agency, National College of the State Judiciary, Federal Judicial Center, National Center for State Courts, National Council on Crime and Delinquency, Vera Institute of Justice, National District Attorney's Associaton, National College of District Attorneys, National College of Juvenile Coufrt Judges, National Legal Aid Association, National Municipal League, Ford Foundation.

[6]ACIR, A–38, *op. cit.*, Chapter 2.

[7]Larry Berkson and Susan Carbon, *Court Unification: History, Politics and Implementation*, Washington, DC, U.S. Department of Justice, National Institute of Law Enforcement and Criminal Justice, 1978, pp. 2–3. See, also, James A. Gazell, *The Future of State Court Management*, Port Washington, NY, National University Publications, Kennikat Press, 1978, Chatper 1. For a discussion of the controversy about court unification, see Susan Carson, Larry Berkson, and Judy Rosenbaum, "Court Reform in the Twentieth Century: A Critique of the Court Unification Controversy," *Emory Law Journal*, Vol. 27, Summer 1978, pp. 559–607.

;Allan Ashman and Jeffrey Parness, "The Concept of a Unified Court System," *DePaul Law Review*, Vol. 24, No. 30, Fall 1974, as quoted in *ibid.*, p. 6.

[9]*Ibid.*, p. 14.

[10]ACIR, A–38, *op. cit.*; ACIR, *State Actions in 1976*, M–109, Washington, DC, U.S. Government Printing Office, 1976; *Book of the States, 1976–77* and *Book of the States, 1978–79*, Lexington, KY, Council of State Governments, 1976, p. 88, and 1978, pp. 79–80.

[11]Russell W. Maddox and Robert F. Fuquay, *State and Local Government*, Third Edition, New York, D. Van Nostrand Company, 1975, p. 201.

[12]Berkson and Carbon, *op. cit.*, p. 9.

[13]National Advisory Commission on Criminal Justice Standards and Goals, *Courts*, Washington, DC, 1973, p. 183; ACIR, A–38, *op. cit.*, p. 39; American Bar Association, *Standards Relating to Court Organization*, Chicago, IL, American Bar Association, 1973, p. 76.

[14]Berkson and Carbon, *op. cit.*, p. 11. See, also, Jeffrey Parness and Chris Korbakes, *A Study of the Procedural Rule-Making Power in the United States*, Chicago, IL, American Judicature Society, 1973.

[15]Berkson and Carbon, *op. cit.*, p. 12 citing Glen Winers, "A.B.A. House of Delegates Approves Model Judicial Article for State Constitutions," *Journal of the American Judicature Society*, 45, April 1962, pp. 279–80; National Municipal League, *Model State Constitution*, 1973; and National Advisory Commission on Criminal Justice Standards and Goals, *op. cit.*, p. 176.

[16]New York State, ... *Justice for All: Report of the Temporary Commission on the New York Court System*, 1973, Part I, p. 55.

[17]Berkson and Carbon, *op. cit.*, p. 13 citing Carl Bear, *Separate But Subservient: Court Budgeting in the American States*, Lexington, MA, D.C. Heath, 1975, p. 13.

[18]*Book of the States, 1980–81, op. cit.*, p. 164; Jag C. Uppal, Director, Secretariat Services, National Center for State Courts, by letter, March 5, 1981.

[19]New York State, *op. cit.*, p. 55.

[20]Berkson ad Carbon, *op. cit.*, p. 12.

[21]ACIR A–38, *op. cit.*, p. 45; ACIR, M–101, *op. cit.*, p. 65.

[22]ACIR, A–38, *op. cit.*, p. 108, from U.S. Bureau of the Census, *Criminal Justice Expenditure and Employment Data for Selected Large Governmental Units, 1960–69*, Washington, DC, 1970.

[23]*Ibid.*, p. 108 (using U.S. Law Enforcement Assistance Administration and U.S. Bureau of the Census, *Expenditure and Employment Data for the Criminal Justice System, 1968–69*, Washington, DC, 1971, Table 5).

[24]*Book of the States, 1976–77, op. cit.*, p. 88 (New York State took over the costs of the court system in late 1976 and so was not originally included).

[25]*Substantial* indicates state funding for at least one trial court or trial court major expense (e.g., personnel other than judges). The states are: Arkansas, Alaska, Colorado, Connecticut, Delaware, Hawaii, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, South Dakota, Vermont, Virginia and West Virginia. Harry O. Larson, et. al., *State Funding of Court Systems: An Initial Examination*, Washington, DC, American University Bar Institute Criminal Courts and Technical Assistance Project, 1979.

[26]*Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, pp. 260–61.

[27]*Book of the States, 1954–55*, Lexington, KY, Council of State Governments, 1954, p. 436.

[28]*Book of the States, 1982–83, op. cit.*, pp. 260–61.

[29]*Ibid.*

[30]President Taft, August 15, 1911, in a special document published as House Document No. 106, 62nd Cong., 1st sess.

[31]ACIR, A–38, *op. cit.*, p. 44.

[32]The states with neither of these limitations are: Connecticut, Delaware, Florida, Georgia, Kentucky, Michgesn, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Tennessee and West Virginia. Timothy Pyne, *Judicial Retirement Plans*, Chicago, IL, American Judicature Society, 1980, pp. 4–5.

[33]*Book of the States, 1980–81, op. cit.*, pp. 158–63. In Ohio, the supreme court names the commission when a complaint is filed. *Ibid.* The State of Washington recently proposed a constitutional amendment that would provide for a judicial qualifications commission. *Comparative State Politics Newsletter*, Vol. 1, No. 4, Lexington, KY, University of Kentucky, May 1980.

[34]ACIR, *ACIR State Legislative Program. 10. Criminal Justice*, M–101, Washington, DC U.S. Government Printing Office, 1975, p. 48.

[35]Uppal, *op. cit.*, p. 143.

[36]*Ibid.*, pp. 144–46.

Chapter 9

State Financial Systems

State financial systems exhibit much of the variety found in other aspects of state government. No two are exactly the same, although certain patterns of revenues, expenditures, and debt are evident. Any discussion of state finances must recognize this diversity as well as the states' interdependence with the local systems within their boundaries, the influence of federal fiscal actions, and the wide differences among states as to functional assignment patterns, wealth and policy preferences.

Confronted with the barrage of criticism directed at state financial systems, along with other aspects of state government, and faced with demands for increased services from their citizens, states transformed their financial systems in the past quarter century. They made major changes in expenditure patterns and altered their revenue raising structures. While this was underway, state taxing capacity and effort shifted among states, causing significant adjustments. In addition, debt burdens rose.

CHANGES IN STATE EXPENDITURES: GROWTH, THEN FLUCTUATION

After growing faster than the economy for a quarter of a century, state spending in the aggregate has fallen behind the nominal growth in the Gross National Product (GNP) since 1979, although actual outlays are higher in current dollars. State spending in constant dollars

Table 9–1

TRENDS IN STATE AND LOCAL EXPENDITURES, SELECTED YEARS, 1954–82

Calendar Year	Total State/Local Expenditures (including federal aid) (in billions of *current* dollars)		Per Capita Expenditures (in *constant* dollars) (1972)		Total Expenditures (including federal aid) as percent of GNP		Federal aid as percent of GNP	State/Local Expenditures From Own Funds as Percent of GNP	
	STATE	LOCAL	STATE	LOCAL	STATE	LOCAL	STATE & LOCAL	STATE	LOCAL
1954	$ 10.7	$ 19.4	$111	$200	2.9%	5.3%			
1964	25.3	43.2	181	309	4.0	6.8			
1969	44.9	73.8	256	420	4.8	7.8	2.2%	5.3%	5.1%
1974	79.4	124.2	322	504	5.5	8.7	3.1	6.0	5.2
1975	92.9	138.0	342	507	6.0	8.9	3.5	6.2	5.2
1976	100.5	149.3	348	518	5.8	8.7	3.6	6.1	5.0
1978	106.6	180.2	349	538	5.4	8.4	3.6	5.6	4.7
1980	139.5	213.7	343	525	5.3	8.1	3.6	5.6	4.5
1981	157.0	226.0	350	503	5.3	7.7	3.2	5.6	4.5
1982 (est)	166.2	239.1	346	498	5.4	7.8	2.9	5.7	4.8

SOURCE: ACIR staff calculations. Computations based on U.S. Department of Commerce, Bureau of Economic Analysis, *National Income and Product Accounts of the United States*. These accounts did not report state and local government separately. The state-local expenditure totals (National Income Accounts) were allocated between levels of government on the basis of ratios computed from data reported by the U.S. Bureau of the Census in the annual governmental finance series. ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, pp. 14, 66.

(adjusted for inflation) amounted to 2.9% of the GNP in 1954. By 1975, it had risen to 6.0%. It then declined to an estimated 5.4% in 1981. *Table 9–1* reflects these developments along with those for local governments.

The pattern of per capita expenditures, in constant dollars, for both state and local governments combined can be seen in *Graph 9–1*. Notice that these expenditures peaked in 1978 and began to decline. Total per capita expenditures (including federal assistance) for state governments only followed a slightly different pattern. In constant dollars, they rose from $111 in 1954 to $350 in 1980. They then fell back to an estimated $346 by 1982.[1]

When federal aid is eliminated and expenditures from their own funds considered, states spent a growing portion of their citizens' incomes between 1954 and the 1974–79 period. At that time, the rise in personal income began to outstrip that of state expenditures, a trend continuing until 1981–82. Estimated outlays for the later period again exceeded personal income. For the entire 1949–82 time span, expenditure growth outpaced the expansion of personal income. See *Table 9–2*. Although federal assistance, calculated in constant dollars, began to decline in 1978, the reduction did not affect these per capita state expenditures; these were monies the states raised themselves. The slackening of growth in state spending preceded the fall off of national aid.

Probably the most significant factors contributing to the slowdown were changes in public opinion, economic conditions, demographics, and federal aid policy. The public attitude appears to have shifted from support, or at least tolerance, of increased taxes and spending to demands for a half. See *Table 9–3*. The 1978 adoption of the popularly initiated Proposition 13 in California set off a series of efforts to limit taxing and spending.[2] The shift in the economy from a situation of real growth to little or no growth, coupled with high rates of inflation, dampened enthusiasm for government expansion. Moreover, the steady rising school enrollments of the post World War II era had now declined, reducing somewhat the pressures for more funds for education. Furthermore, the cutbacks in federal assistance and the replacement of many categorical grants with closed-end block grants dampened the demand for more public goods and expenditures. *Table 9–4* shows the federal aid patterns. As a consequence of all these changes, the states entered an era of fiscal restraint and decelerated taxing and spending. In the process of applying their "fiscal brakes," state governments were transformed from a "fast-growth to a non-growth industry."[3] By 1983, however, the impact of a depressed national economy, coupled with declining tax yields as a result of lowered inflation, cuts in federal income tax rates affecting states that tie their taxes to the federal rate, and reduced federal aid, necessitated a new round of tax increases. Half of the states imposed new taxes in 1982. The effects of these actions on spending have not been determined as yet.

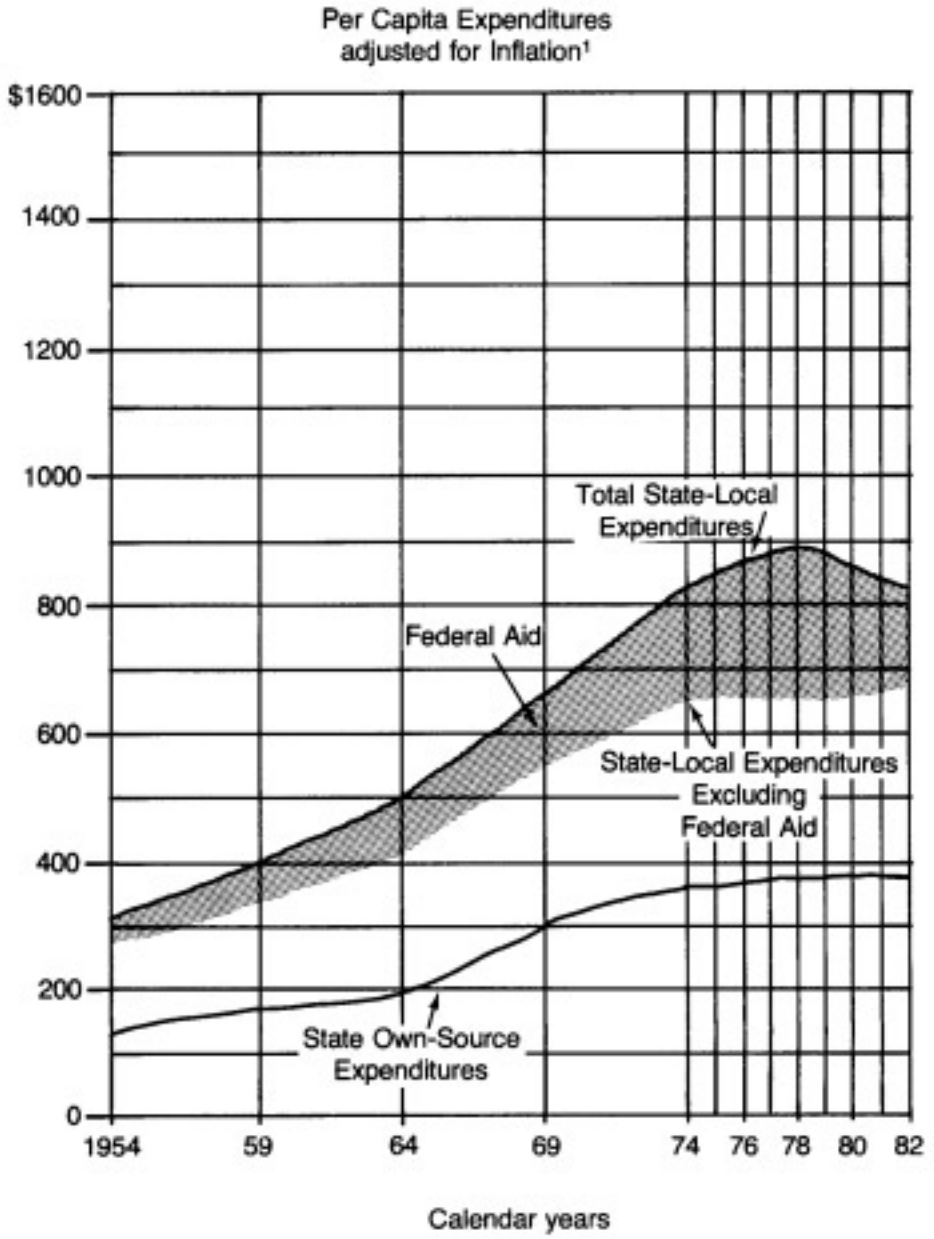
RECOMMENDATIONS IN REGARD TO STATE EXPENDITURES

Most of the recommendations on state spending relate to the budgetary and appropriation processes, to expenditure purposes, to equalization among areas and population groups, to state aid to local governments, to state assumption of spending responsibilities in order to relieve local jurisdictions of heavy financial burdens, and to techniques for evalution and cost-benefit analysis. Appropriation and budget processes are discussed in *Chapters 4 and 7*, respectively. There is no agreement on expenditure purposes with each group promoting support of the activity in which it has a special interest. Standards for alleviation of geographical and group disparities are in dispute. Data are unavailable as to state performance in regard to cost benefit analysis and expenditure evaluation. Attention, therefore, will be directed to the state share of state-local expenditures, state assumption of functions previously financed locally and state financial assistance to local government in support of activities in which they continue to be engaged.

Advocates of increased state financing of state-local activities have not indicated a specific percentage that it would be desirable for the state to spend; however, interests associated with schools, courts, welfare programs, highways, housing and other activities look to the states for more money, either in the form of grants or by state financing of specified activi-

Graph 9–1

TRENDS IN STATE AND LOCAL SPENDING AND FEDERAL AID, 1954–82



[1]Inflation adjustment by GNP Implicit Price Deflator, 1972 = 100.

SOURCE: ACIR computations based on U.S. Department of Commerce National Income and Product Accounts. ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, pp. xii and 12.

Table 9–2

A COMPARISON OF THE GROWTH IN PERSONAL INCOME AND STATE EXPENDITURE,[1] FROM OWN FUNDS

(annual average increase in nominal per capita income and expenditure, selected periods, 1949–82)

Period	Personal Income	State Expenditure[2]	Ration of Expenditure Increase to Income Increase[3]
1949–54	5.2	5.7	1.06
1954–59	4.0	6.1	1.52
1959–64	3.8	6.2	1.63
1964–69	7.4	11.8	1.59
1969–74	8.2	10.4	1.28
1974–79	9.6	8.1	(0.84)
1979–80	9.9	9.4	(0.95)
1980–81	10.8	9.8	(0.91)
1981–82 estimated	5.4	5.7	1.06
1949–82 preliminary	6.5	8.0	1.23

[1]National Income and Product Accounts.

[2]The National Income and Product Accounts do not report state and local government data separately. The state-local expenditure totals (National Income Accounts) were allocated between levels of government on the basis of ratios computed from data reported by the U.S. Bureau of the Census in the annual governmental finance series.

[3]A figure greater than 1.00 indicates that state spending increased more than per capita income. Figures less than 1.00 indicate that per capita income increased more than government spending.

SOURCE: ACIR staff computations based on U.S. Department of Commerce, Bureau of Economic Analysis, *The National Income and Products Accounts of the United States, 1929–76: Statistical Tables and Survey of Current Business*, various years; U.S. Bureau of the Census, *Governmental Finances*, annually; *Budget of the United States Government*, various years; *Economic Report of the President*, January 1981; and ACIR staff estimates. ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 17.

Table 9–3

PUBLIC VIEWS ON TAX BURDEN

QUESTION: *As far as you (and your family) are concerned, do you feel you have reached the breaking point on the amount of taxes you pay, or not?*

	July 1969	February 1970	March 1971	June 1974	January 1975	March 1977	June 1978
Reached Breaking Point	61%	67%	72%	57%	67%	72%	69%
Have Not Reached Breaking Point	39	33	28	43	33	28	31

QUESTION: *As far as you personally are concerned, do you feel that taxes in this country are reasonable or unreasonable?*

	July 1969	February 1973	January 1975	March 1977	June 1978
Reasonable	28%	31%	36%	26%	20%
Unreasonable	72	69	64	74	80

SOURCE: Louis Harris and Associates, adapted from Everett Carll Ladd, Jr., *et. al.*, "The Polls: Taxing and Spending," *Public Opinion Quarterly*, Vol. 43, No. 1, Spring 1979, pp. 127–28.

Table 9–4

FEDERAL GRANTS-IN-AID IN RELATION TO STATE-LOCAL RECEIPTS FROM OWN SOURCES, TOTAL FEDERAL OUTLAYS AND GROSS NATIONAL PRODUCT, 1955–83

(dollar amounts in billions)

	Federal Grants-in-Aid (current dollars)					Federal Grants in Constant Dollars (1972 dollars) GNP deflator)		Exhibits:		
			As a Percentage of—						Grants for Payments to Individuals	
Fiscal Year[1]	Amount	Percent Increase or Decrease (–)	State-Local Receipts From Own Source[2]	Total Federal Outlays	Gross National Product	Amount	Percent Increase or Decrease (–)	Estimated Number of Federal Grant Programs	Amount	Percent of Total Grants
1955	$ 3.2	4.9	11.8	4.7	0.8	$ 5.3	n.a.	n.a.	$ 1.6	50.0
1956	3.7	15.6	12.3	5.3	0.9	5.9	11.3	n.a.	1.7	45.9
1957	4.0	8.1	12.1	5.3	0.9	6.2	5.1	n.a.	1.8	45.0
1958	4.9	22.5	14.0	6.0	1.1	7.4	19.4	n.a.	2.1	42.9
1959	6.5	32.7	17.2	7.0	1.4	9.6	29.7	n.a.	2.4	36.9
1960	7.0	7.7	16.8	7.6	1.4	10.2	6.3	132	2.5	35.7
1961	7.1	1.4	15.8	7.3	1.4	10.2	–0–	n.a.	2.9	40.8
1962	7.9	11.3	16.2	7.4	1.4	11.2	9.8	n.a.	3.2	40.5
1963	8.6	8.9	16.5	7.8	1.5	12.0	7.1	n.a.	3.5	40.7
1964	10.1	17.4	17.9	8.6	1.6	13.9	15.8	n.a.	3.8	37.6
1965	10.9	7.9	17.7	9.2	1.7	14.7	5.8	n.a.	3.9	35.8
1966	13.0	19.3	19.3	9.6	1.8	16.9	15.0	n.a.	4.5	34.6
1967	15.2	16.9	20.6	9.6	2.0	19.2	13.6	379	5.0	32.9
1968	18.6	22.4	22.4	10.4	2.2	22.5	17.2	n.a.	6.3	33.9
1969	20.3	9.1	21.6	11.0	2.2	23.4	4.0	n.a.	7.5	36.9

1970	24.0	18.2	22.9	12.2	2.5	26.2	12.0	n.a.	9.0	37.5
1971	28.1	17.1	24.1	13.3	2.7	29.3	11.8	n.a.	11.0	39.1
1972	34.4	24.4	26.1	14.8	3.1	34.4	17.4	n.a.	14.4	41.9
1973	41.8	21.5	28.5	16.9	3.3	39.5	14.8	n.a.	14.3	34.2
1974	43.4	3.8	27.3	16.1	3.1	37.7	−4.6	n.a.	15.3	35.3
1975	49.8	14.7	29.1	15.3	3.4	39.6	5.0	448	17.4	34.9
1976	59.1	18.7	31.1	16.1	3.6	44.7	12.9	n.a.	21.0	35.5
1977	68.4	15.7	31.0	17.0	3.7	48.8	9.2	n.a	23.9	34.9
1978	77.9	13.9	31.7	17.3	3.7	51.8	6.1	498	26.0	33.4
1979	82.9	6.4	31.3	16.8	3.5	50.7	−2.1	n.a.	28.8	34.7
1980	91.5	10.4	31.7	15.8	3.6	51.2	1.0	n.a.	34.2	37.4
1981	94.8	3.6	29.4	14.4	3.2	48.5	−5.3	539	40.1	42.3
1982	88.8	−7.0	25.4	12.1	2.9	42.6	−12.2	441[3]	37.8	45.5
1983 est.	93.5	6.0	n.a.	11.6	2.9	42.9	0.7	409[4]	n.a.	n.a.
1984 est.	95.9	2.6	n.a.	11.3	2.7	41.8	−2.6	n.a.	n.a.	n.a.

*1983 and 1984 estimates based upon OMB assumptions published in the FY 1984 *Budget*. Grant-in-aid figures from *Special Analysis H*, Table H–7; federal outlays from *Budget*, Summary Table 23; GNP and GNP deflator figures from *Budget*, Section 2, page 9. See *Special Analysis H* for explanation of differences between grant-in-aid figures published by the National Income and Product Accounts, Census and OMB.

n.a.—Not available. est.—Estimated.

[1]For 1955–76, years ending June 30; 1977–82 years ending September 30.
[2]As defined in the national income and product accounts.
[3]Seventy-nine programs have been folded into nine block grants, and at least another 26 programs have not been funded as of November 1, 1981.
[4]Includes 398 categorical grants and 11 block grants.

SOURCES: ACIR computations based on U.S. Office of Management and Budget, *Budget of the United States Government* (annual); unpublished data from OMB Office of Financial Management; U.S. Department of Commerce, Bureau of Economic Analysis, *The National Income and Product Accounts of the United States, 1929–76, Statistical Tables; Survey of Current Business*, various issues; David B. Walker, *Toward a Functioning Federalism*, Boston, MA, Little, Brown & Co., 1981, p. 79. As contained in ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 66.

Table 9–5

STATE PERCENTAGE OF STATE-LOCAL GENERAL EXPENDITURE, FROM OWN REVENUE SOURCES, TOTAL AND FOR SELECTED FUNCTIONS, BY STATE AND REGION, 1981

State and Region	Total General Expenditure	Highways	Public Welfare	Health & Hospitals	Local Education[2]
U.S. Average[1]	58.0%	61.5%	83.7%	52.0%	53.2%
New England	59.5%	57.0%	94.1%	77.5%	38.4%
Connecticut	56.4%	56.4%	92.1%	89.8%	36.2%
Maine	62.5%	55.7%	91.2%	83.0%	54.5%
Massachusetts	60.9%	56.9%	96.6%	67.9%	41.6%
New Hampshire	47.9%	62.8%	74.1%	90.5%	7.2%
Rhode Island	66.2%	53.3%	98.9%	99.3%	38.1%
Vermont	62.4%	54.4%	100.0%	94.4%	29.5%
Mideast	53.2%	52.3%	73.6%	65.7%	43.5%
Delaware	76.3%	73.6%	99.5%	98.7%	76.1%
Maryland	59.5%	81.0%	100.0%	71.0%	43.6%
New Jersey	56.5%	42.8%	77.5%	69.0%	40.9%
New York	46.4%	40.3%	50.0%	54.6%	41.8%
Pennsylvania	55.0%	66.1%	90.4%	80.4%	48.6%
Great Lakes	54.6%	57.0%	78.5%	60.2%	44.9%
Illinois	55.0%	63.3%	95.6%	56.6%	42.4%
Indiana	61.5%	82.0%	67.3%	38.7%	64.5%
Michigan	55.6%	69.4%	92.6%	47.2%	40.6%
Ohio	54.3%	63.7%	81.5%	62.1%	45.4%
Wisconsin	62.6%	41.2%	69.5%	50.6%	40.1%
Southeast	56.5%	61.8%	79.6%	53.5%	62.2%
Alabama	62.0%	67.5%	94.2%	42.6%	77.1%
Arkansas	66.8%	79.9%	96.8%	46.9%	64.1%
Florida	51.4%	64.6%	84.6%	32.6%	56.0%
Georgia	53.9%	55.0%	95.9%	28.1%	61.8%
Kentucky	77.0%	91.6%	96.6%	71.6%	79.0%
Louisiana	65.8%	76.1%	93.3%	56.0%	63.3%
Mississippi	66.2%	63.6%	88.5%	34.0%	70.1%
North Carolina	68.3%	82.5%	46.1%	54.0%	74.0%
South Carolina	65.7%	76.9%	94.8%	46.9%	66.1%
Tennessee	51.4%	69.6%	83.4%	35.3%	56.2%
Virginia	60.3%	80.7%	75.3%	78.1%	44.0%
West Virginia	69.4%	89.6%	97.1%	54.0%	69.5%

Table 9–5 (continued)

STATE PERCENTAGE OF STATE-LOCAL GENERAL EXPENDITURE, FROM OWN REVENUE SOURCES, TOTAL AND FOR SELECTED FUNCTIONS, BY STATE AND REGION, 1981

State and Region	Total General Expenditure	Highways	Public Welfare	Health & Hospitals	Local Education[2]
Plains	54.8%	56.4%	78.5%	58.2%	47.0%
Iowa	57.8%	57.2%	79.6%	42.6%	44.6%
Kansas	50.9%	51.2%	96.3%	48.9%	46.7%
Minnesota	59.6%	46.2%	60.5%	47.9%	61.5%
Missouri	53.5%	59.3%	100.0%	47.5%	42.0%
Nebraska	51.1%	58.8%	65.0%	39.5%	18.1%
North Dakota	69.5%	59.3%	74.5%	93.8%	49.1%
South Dakota	61.8%	61.2%	88.3%	44.0%	30.8%
Southwest	56.5%	62.1%	80.2%	52.7%	59.0%
Arizona	58.0%	72.3%	61.8%	46.3%	50.8%
New Mexico	78.0%	77.5%	93.2%	69.9%	86.5%
Oklahoma	66.1%	78.0%	97.6%	52.8%	67.5%
Texas	51.5%	58.3%	94.9%	42.0%	56.3%
Rocky Mountain	56.5%	62.3%	80.3%	52.6%	48.5%
Colorado	51.7%	60.8%	80.0%	49.5%	43.2%
Idaho	66.3%	79.8%	90.7%	37.8%	60.0%
Montana	52.4%	57.5%	55.1%	61.8%	53.4%
Utah	61.5%	68.2%	95.3%	73.3%	58.0%
Wyoming	58.7%	75.5%	100.0%	31.9%	31.2%
Far West[3]	57.8%	61.7%	84.1%	52.0%	74.9%
California	67.1%	51.2%	99.5%	47.2%	79.7%
Nevada	48.9%	53.1%	76.3%	20.8%	60.2%
Oregon	52.6%	76.2%	80.6%	66.6%	37.1%
Washington	62.6%	64.5%	98.3%	56.4%	82.3%
Alaska	83.5%	59.3%	99.1%	84.1%	83.5%
Hawaii	80.6%	50.7%	99.4%	98.5%	97.2%

Note: Percentages for total general expenditure, highways, public welfare and health and hospitals from U.S. Bureau of the Census data tape for FY 1981. Data adjusted to exclude intergovernmental transfers. State transfers to local governments are included with state expenditures and deducted from local expenditures. State percentages of local education expenditures were derived from estimated receipts available for expenditure for current expenses, capital outlay and debt service for public elementary and secondary schools as reported by the National Education Association.

[1]Excluding the District of Columbia.

[2]Local education figures are for 1981–82.

[3]Excluding Alaska and Hawaii.

SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 24.

Table 9–6

SUMMARY OF SIGNIFICANT FEATURES OF THE 50 STATE-LOCAL REVENUE SYSTEMS

State and Region	Tax Capacity and Tax Effort: 1980 RTS Tax Capacity Index	1980 RTS Tax Effort Index	1981, *All* Taxes as a Percent of State Personal Income	1980 State-Local Taxes as a Percent of Family Income[2]	Diversification[1] 1981 (source of state-local general revenue): Taxes: Property	Taxes: General Sales	Taxes: Income	Taxes: All Other	Charges and Miscellaneous General Revenue	Federal Aid	State Government Percentage of State-Local Tax Revenue, 1981	Equity Features, 1982[3]: Food Exempt from Sales Tax (E) or Income Tax Credit Provided (C)[4]	State Financed Circuit-Breaker Property Tax Relief Programs[5]
U.S. Average	100.0	100.0	11.3%	7.4%	17.7%	13.2%	14.3%	12.6%	21.0%	21.2%	61.5%	—	
New England			11.8%		27.7%	9.5%	15.4%	10.4%	14.7%	22.4%	55.8%		
Connecticut	111.6	99.8	10.2%	7.7%	29.2%	16.4%	6.6%	14.5%	15.5%	17.9%	55.7%	E	E.H&R
Maine	80.0	111.1	11.9%	8.4%	21.7%	12.8%	11.7%	11.4%	14.4%	28.0%	63.5%	E	E.H&R
Massachusetts	96.2	134.5	13.3%	16.1%	28.2%	7.2%	21.7%	7.6%	13.0%	22.3%	56.1%	E	—
New Hampshire	96.5	75.0	8.7%	6.0%	35.5%	0.0%	5.4%	15.2%	19.5%	24.5%	36.7%	NST	—
Rhode Island	83.8	123.1	11.5%	10.8%	23.1%	9.6%	13.1%	10.0%	19.2%	25.0%	58.8%	E	E.H&R
Vermont	84.5	104.2	12.6%	7.9%	21.7%	4.6%	12.6%	13.4%	17.5%	30.3%	58.3%	E	A.H&R
Mideast			13.1%		20.4%	10.9%	20.5%	11.8%	16.8%	19.6%	54.1%		
Delaware	111.4	88.9	10.8%	7.9%	7.8%	0.0%	23.5%	20.0%	24.7%	24.0%	82.3%	NST	—
Maryland	99.2	108.6	11.2%	10.7%	15.2%	8.7%	22.6%	11.2%	20.4%	21.9%	59.5%	E	A.N.
New Jersey	105.1	112.0	11.2%	17.3%	29.0%	9.2%	12.5%	15.0%	17.5%	16.8%	55.6%	E	—
New York	90.1	167.4	15.8%	13.9%	21.1%	12.3%	23.1%	8.6%	15.5%	19.3%	48.6%	E	A.H&R
Pennsylvania	92.6	103.8	10.9%	10.3%	16.0%	10.6%	19.2%	16.5%	16.9%	21.0%	62.0%	E	E.H&R
Great Lakes			10.6%		21.1%	12.1%	15.3%	10.1%	19.9%	21.5%	58.1%		
Illinois	107.6	102.5	11.0%	9.9%	21.4%	14.5%	13.4%	12.8%	16.0%	21.8%	55.0%	[6]	E.H&R
Indiana	92.2	84.2	9.2%	7.6%	21.3%	17.1%	10.7%	8.0%	22.5%	20.5%	61.9%	E	E.H&R
Michigan	97.0	115.6	11.4%	10.6%	23.0%	9.5%	16.8%	7.3%	21.7%	21.7%	57.8%	E	A.H&R
Ohio	96.8	86.7	9.2%	7.3%	19.3%	10.9%	15.1%	12.0%	21.6%	21.2%	55.6%	E	E.H
Wisconsin	94.7	116.3	12.2%	11.0%	19.8%	9.7%	20.6%	8.1%	20.3%	21.4%	67.2%	E	A.H&R
Southeast			10.1%		12.4%	15.1%	10.6%	15.0%	23.0%	23.8%	68.3%		
Alabama	75.7	85.2	9.8%	5.2%	5.4%	13.1%	10.2%	16.9%	30.7%	23.7%	74.7%	—	—
Arkansas	79.0	85.5	9.3%	6.5%	10.4%	12.7%	12.5%	13.7%	21.8%	29.0%	76.6%	—	E.N.
Florida	100.0	73.8	9.3%	2.7%	17.1%	17.1%	2.7%	18.9%	24.3%	19.9%	64.1%	E	—
Georgia	82.0	96.2	10.6%	7.9%	13.4%	13.9%	14.3%	10.2%	24.3%	24.0%	64.7%	—	—
Kentucky	83.0	88.6	10.3%	9.2%	9.7%	11.8%	17.2%	15.3%	18.6%	27.3%	78.9%	E	—
Louisiana	109.2	77.7	11.5%	2.2%	6.4%	19.2%	5.7%	20.2%	26.4%	22.1%	68.2%	E	—
Mississippi	69.3	96.5	10.8%	4.6%	10.2%	19.5%	6.9%	11.8%	23.5%	28.3%	77.9%	—	—
North Carolina	79.5	96.9	10.3%	7.6%	13.3%	11.3%	18.9%	13.0%	19.0%	24.4%	72.4%	—	—
South Carolina	75.2	95.5	10.7%	8.8%	12.3%	13.6%	16.0%	11.7%	22.1%	24.3%	75.3%	—	—
Tennessee	79.0	84.2	9.6%	4.9%	14.8%	20.6%	3.5%	12.9%	22.4%	25.8%	57.7%	—	—
Virginia	94.8	88.3	10.0%	7.8%	16.3%	9.9%	16.9%	14.9%	19.6%	22.4%	59.9%	—	—
West Virginia	93.7	82.1	10.7%	5.2%	9.1%	19.7%	9.5%	13.2%	20.2%	28.3%	77.8%	E	E.H&R

Plains			10.5%		18.5%	11.1%	14.5%	11.3%	23.4%	21.2%	61.3%		
Iowa	105.2	95.7	11.1%	8.3%	22.7%	10.0%	15.7%	10.4%	22.0%	19.3%	60.6%	E	E.H&R
Kansas	108.8	87.9	10.0%	5.0%	22.1%	11.7%	13.7%	9.9%	23.7%	19.0%	58.7%	—	E.H&R
Minnesota	102.2	111.1	12.0%	9.4%	15.3%	8.0%	19.8%	11.6%	24.3%	21.0%	70.8%	E	A.H&R
Missouri	93.6	83.6	8.8%	9.1%	15.8%	15.3%	13.3%	11.8%	19.4%	24.3%	55.2%	—	E.H&R
Nebraska	96.8	102.2	10.4%	6.7%	23.5%	11.7%	9.2%	10.7%	26.4%	18.5%	52.6%	C	—
North Dakota	108.3	78.8	11.2%	5.5%	13.0%	8.9%	7.1%	15.2%	36.0%	19.9%	70.1%	E	E.R.[7]
South Dakota	90.2	88.2	10.9%	5.8%	21.5%	15.2%	0.3%	12.7%	22.4%	27.8%	50.7%	[8]	E.N
Southwest			10.6%		16.8%	15.7%	3.4%	21.2%	24.9%	18.1%	63.9%		
Arizona	88.7	117.4	11.5%	5.9%	18.4%	20.9%	10.5%	9.2%	22.6%	18.4%	64.9%	E	E.H&R
New Mexico	107.1	83.1	14.0%	6.4%	6.3%	18.0%	4.1%	18.4%	33.7%	19.6%	82.3%	[9]	E.H&R
Oklahoma	116.8	71.6	11.0%	4.8%	9.2%	12.4%	11.7%	23.9%	23.3%	19.5%	73.1%	—	E.N
Texas	123.6	64.9	10.0%	5.6%	19.5%	15.1%	0.0%	23.3%	24.5%	17.6%	59.8%	E	—
Rocky Mountain			11.3%		18.6%	13.4%	10.3%	10.6%	24.9%	22.1%	56.0%		
Colorado	112.6	90.4	10.2%	5.7%	19.5%	16.8%	10.1%	8.9%	25.2%	19.6%	48.8%	E	E.H&R
Idaho	87.5	88.3	10.0%	6.5%	15.0%	9.9%	16.2%	11.2%	22.5%	25.2%	70.3%	C	E.N
Montana	112.4	92.2	12.9%	6.5%	24.8%	0.0%	11.9%	15.2%	21.6%	26.5%	53.7%	NST	E.H&R
Utah	86.0	101.2	11.9%	8.0%	15.0%	17.2%	13.5%	7.9%	21.9%	24.6%	63.8%	—	E.N
Wyoming	196.2	74.3	15.5%	2.6%	18.3%	13.7%	0.0%	14.7%	33.7%	19.6%	58.6%	10	—
Far West			11.3%		14.8%	16.3%	15.7%	9.8%	21.6%	21.8%	67.9%		
California	117.0	101.8	11.5%	5.3%	14.0%	17.1%	18.1%	8.7%	20.6%	21.5%	68.7%	E	E.H&R
Nevada	154.4	59.5	10.3%	2.8%	15.9%	14.5%	0.0%	24.1%	27.0%	18.5%	58.4%	E	E.H&R
Oregon	103.1	93.3	11.8%	6.9%	20.9%	0.0%	20.5%	10.1%	26.3%	22.1%	55.2%	NST	A.H&R
Washington	102.9	93.7	10.0%	4.3%	15.3%	23.2%	0.0%	14.3%	23.7%	23.5%	72.9%	E	—
Alaska	259.7	166.2[12]	50.0%[12]	3.9%	6.2%	0.8%	16.3%	23.2%	45.0%	8.4%	90.2%	NST	—
Hawaii	106.5	124.5	13.8%	8.6%	8.7%	24.4%	17.2%	9.3%	19.1%	21.2%	81.0%	[11]	A.R.

[1]Data tape supplied by U.S. Bureau of the Census (ACIR staff computations), see also *Governmental Finances in 1980–81*. For RTS figures and discussion see ACIR, *Tax Capacity of the 50 States, Supplement: 1980 Estimates*, June 1982.

[2]Estimated state-local tax burden for a family of four in 1980 with an income of $25,000 located in the largest city of each state. This figure includes (where applicable) income, property, sales and automobile taxes. For futher information, see Government of the District of Columbia, *Tax Burdens in Washington, D.C. Compared with Those in the Largest City in Each State*, 1980, February 1983. Please note that these figures differ form those in the preceding column not only because of the assumption of a family of four at the $25,000 level, but because the preceding column includes corporation and other taxes as well.

[3]Source: Commerce Clearing House, *State Tax Reporter*.

[4]NST—No state general sales tax.

[5]A.H&R—All homeowners and renters; A.H.—All homeowners; A.R.—All renters; E.H&R—Elderly homeowners and renters; E.H.—Elderly homeowners; and E.R.—Elderly renters.

[6]Food is taxed at a reduced rate, 2% rather than 4%.

[7]North Dakota has a separate program which lowers the assessed value of low income elderly homeowners by as much as $3,000.

[8]A sales tax credit based on federal adjusted gross income is provided for elderly and disabled persons.

[9]An income tax credit is provided for all state-local taxes paid plus a food tax credit equal to $40 for each exemption allowed for federal income tax purposes.

[10]A sales and use tax refund is provided for low income, elderly and disabled persons.

[11]Effective January 1, 1974, a general excise tax credit replaced the consumer, educational, drug and medical, and rental tax credits.

[12]Because most of Alaska's revenue is derived from the taxation of oil production and the income of oil companies, these figures greatly overstate the actual tax burden borne by the residents of Alaska. Compare these figures to that found in the following column (column 4).

SOURCE: ACIR staff computations and compilation for *Significant Features of Fiscal Federalism, 1981–82 Edition* (M-135), Washington, DC, U.S. Government Printing Office, 1983, pp. 46–47.

ties normally supported by localities. States have responded to these pressures and to recognized need for financial assistance. Their share of state-local outlays has increased steadily since 1957. In that year, the percentage of state-local expenditures from the state's own sources was 46.8%. By 1981, it had grown to 58.1%.[4]

States have assumed a dominant fiscal role in education, health, and hospitals, and state-local public welfare costs.[5] As *Table 9–5* reflects, some states finance all or almost all of one or more of these functions from their own revenues. In many states, in addition, court costs have shifted to the state level entirely.

As far as grants to their local governments are concerned, states provide the major portion of intergovernmental financial assistance to local governments. They contribute heavily from their own revenues and pass through to their local governments approximately one-fourth—$17 billion for 1980—of funds they receive from the national government. The amount of state assistance has grown steadily, both in current dollars and as a percentage of the general revenues local governments raise from their own sources. State aid, including federal assistance passed through, amounted to $6 billion in 1955 or 40.6% of local government-raised revenues.[6] By 1981, the amount had grown to $91.3 billion, or 62.7% of locally generated funds.[7]

STATE REVENUE SYSTEMS

Although federal financial assistance makes up about one-third of state expenditures, states raise most of the money in their general funds from their own taxes. As *Table 9–6* reflects, each state has its own individually designed tax system; however, sales and gross receipts taxes and individual income taxes are the workhorses of the state tax system.

Emphasis as to which specific tax produces the most revenue for the states has shifted over the years. Traditionally, property taxes were the major source. At the beginning of the present century, they made up more than half of state tax receipts, and as late as 1933 they constituted more than one-third. By the time of the Depression of the 1930s, however, property taxes had yielded first place to sales and gross receipts taxes, and in 1933 property tax levies brought in only 16.5% of state tax revenue. Since that time, their proportion has continued to shrink and they now produce only about 2%. Sales and gross receipts taxes remain the major source of state finances, although in recent years the spread of state income taxes made these newer levies major producers for the states. *Table 9–7* shows the relative importance of the different taxes.

REQUISITES OF A QUALITY TAX SYSTEM

The general principles that mark a quality tax system have been prominent in public finance literature since Adam Smith discoursed on financial systems in his *Wealth of Nations*. Although different authorities emphasize different principles and may disagree as to their operationalization, there is consensus that a sound tax system should be fiscally adequate, elastic, diverse, economic in administration, simple and comprehensible, and equitable. The ACIR has been concerned, also, with political accountability as well as with a balanced state-local system and the equilibrium between the growth of the public and private sectors.[8]

Fiscal adequacy relates to whether or not the tax system brings in enough money to support the government. Meeting this requirement depends both on how much money the taxes yield and how much the government spends. State governments, with one exception—Vermont—are prohibited by their constitutions from operating with deficits, so obviously all meet this standard.

Elasticity is related to adequacy. Tax systems should be constructed in such away that rates may be raised or lowered as economic conditions change. Motor fuels taxes, for example, sufficient to support the construction and maintenance of a highway system in an era of unlimited fuel supplies and large automobiles, may decline dramatically in an era of oil shortage when motorists drive less and in more fuel-efficient cars. This happened, as a matter of fact, in the recent fuel shortage, necessitating increases in gasoline tax rates in many states.

Diversity, too, is related to adequacy of income. A system with multiple taxes often can weather the exigencies of economic fluctuation

better than one relying on one or a few taxes. Just as transportation facilities suffered when motor vehicle tax yields fell off, so do other governmental activities lose support if financed principally by sales taxes in a period of economic distress.

Economy of administration is conerned with ensuring that the tax collection process is not so expensive as to consume most of the funds produced, leaving little for support of policies the government wishes to pursue. Gasoline taxes, paid by retailers, for example, are costly to collect. Providing for the wholesalers to remit them involves fewer accounts and less administrative effort.

Although the principles, **simple and comprehensible**, would seem to speak for themselves, often they are not heard by designers of tax systems. Income taxes, in particular, are likely to violate these standards. Even where states have opted to make income tax form preparation easier by tying state taxes to the federal levy, the complications of the latter interfere with comprehensibility.

Equity involves fairness in the distribution of the tax burden across the population. It has two faces, both part of the principle that taxes should impose equal sacrifice. "Horizontal equity" is concerned with equal taxes for people in equal positions while "Vertical equity" seeks a "proper pattern of unequal taxes among people with unequal incomes."[9] Whether vertical equity exists in a tax system hinges on whether the system is progressive or not. Under a progressive system, the tax burden rises with income. If, on the other hand, taxpayers with lower incomes experience greater burdens, the system is regressive. When taxpayers of all incomes have a similar tax burden, the tax is said to be proportional.

Political accountability, as perceived by the ACIR,[10] means that tax-imposing bodies should answer to the people by making them aware of changes in the tax burden. When inflation drives incomes and expenditures into high brackets, it enables officials to benefit from increased revenues without the necessity for specific tax increases. The ACIR believes that tax rises should not occur automatically from changes in economic conditions, such as inflation, but only from "overt discretionary actions by state-local officials."[11]

State-local balance in revenue systems is achieved, in the ACIR view, when state revenues constitute 65% to 85% of total state-local taxes. This range was chosen because it should allow states to provide all of the non-federal welfare funding and the majority of local education costs.

Public-private balance in revenue systems once was perceived by ACIR as one where the public sector grew at a higher rate than the economy. Since 1976, the perception has shifted to encompass public sector growth at about the same rate as the economy.[12]

Tax diversity and equity have been the focus of most discussion of tax systems in recent years. Attention here will be directed principally at them along with the questions of political accountability and balance. It is impossible in a study of this breadth to assess other recommendations dealing with comprehensibility and simplicity of tax laws, elasticity and the economy of administration.

STATE PROGRESS IN ACHIEVING HIGHER QUALITY REVENUE SYSTEMS

DIVERSIFICATION IN STATE TAX SYSTEMS

Revenue diversification can be provided by a balanced use of property, income and sales taxes. Since each of these has its own strengths and weaknesses, each can be used to provide balance in the tax structure. John Shannon points out that while this balanced use makes sense for most states, there are a fortunate few, namely the energy-rich and tourist-rich states, that are in a position to "export" a substantial portion of their taxes.[13] In Texas, for example, it might be more advisable politically for the state to impose a severance tax on petroleum production than to levy an income tax on its own citizens. Much of the burden of the severance tax would then fall on those living and working outside its borders.[14]

In general, states have diversified their tax systems with more states now relying on income as well as sales taxes as significant sources of funds. A total of 40 states now have broad-based individual income taxes, and three

Table 9–7

STATE TAXES BY MAJOR SOURCE, 1948–82

(millions of dollars)

Fiscal Year	Total	Individual Income	Corporation Income	General Sales and Gross Receipts	Selected Sales and Gross Receipts	Motor Vehicles and Operators Licenses	Death and Gift	All Others
1948	$ 6,743	$ 499	$ 585	$ 1,478	$ 2,564	$ 593	$ 180	$ 844
1949	7,376	593	641	1,609	2,756	665	176	936
1950	7,930	724	586	1,670	3,000	755	168	1,027
1951	8,933	805	687	2,000	3,268	840	196	1,137
1952	9,857	913	838	2,229	3,501	924	211	1,241
1953	10,552	969	810	2,433	3,776	949	222	1,393
1954	11,089	1,004	772	2,540	4,033	1,098	247	1,395
1955	11,597	1,094	737	2,637	4,227	1,184	249	1,469
1956	13,375	1,374	890	3,036	4,765	1,295	310	1,705
1957	14,531	1,563	984	3,373	5,063	1,368	338	1,842
1958	14,919	1,544	1,018	3,507	5,243	1,415	351	1,841
1959	15,848	1,764	1,001	3,697	5,590	1,492	347	1,957
1960	18,036	2,209	1,180	4,302	6,208	1,573	420	2,144
1961	19.057	2,355	1,266	4,510	6,521	1,641	501	2,263
1962	20,561	2,728	1,308	5,111	6,927	1,667	516	2,304
1963	22,117	2,956	1,505	5,539	7,314	1,780	595	2,428
1964	24,243	3,415	1,695	6,084	7,873	1,917	658	2,601
1965	26,126	3,657	1,929	6,711	8,348	2,021	731	2,729
1966	29,380	4,288	2,038	7,873	9,171	2,236	808	2,966
1967	31,926	4,909	2,227	8,923	9,652	2,311	795	3,109
1968	36,400	6,231	2,518	10,441	10,538	2,485	872	3,315
1969	41,931	7,527	3,181	12,443	11,607	2,685	996	3,492
1970	47,962	9,183	3,738	14,177	13,077	2,729	996	4,063
1971	51,541	10,153	3,424	15,478	14,092	2,953	1,104	4,337
1972	59,870	12,996	4,416	17,619	15,631	3,340	1,294	4,575
1973	68,069	15,587	5,425	19,793	17,330	3,636	1,431	4,867
1974	74,207	17,078	6,015	22,612	17,944	3,755	1,425	5,378
1975	80,155	18,819	6,642	24,780	18,566	3,941	1,418	5,989
1976	89,256	21,448	7,273	27,333	20,058	4,356	1,513	7,275
1977	101,085	25,493	9,174	30,896	21,466	4,587	1,805	7,664
1978	113,261	29,105	10,738	35,280	22,990	4,836	1,842	8,470
1979	124,908	32,622	12,128	39,505	24,163	5,155	1,973	9,362
1980	137,075	37,098	13,321	43,168	24,687	5,325	2,035	11,450
1981	149,738	40,895	14,143	46,412	26,339	5,695	2,229	14,025
1982*	162,192	45,373	13,972	50,315	27,600	6,076	2,300	16,556

*Estimated. ACIR staff estimates based on Bureau of the Census, *Quarterly Estimates of State and Local Tax Revenue (April–June 1982)*, October 1982.

SPECIAL NOTE: Figures above exclude social insurance taxes and contributions. In 1981, state and local trust funds received $53.4 billion.

SOURCE: ACIR staff compilation based on U.S. Department of Commerce, Bureau of the Census, *Governmental Finance in (year); Quarterly Summary of State and Local Tax Revenue, June 1982; State Finances in (year); State Tax Collections in (year);* U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, May 1982; ACIR staff estimates, August 1982 for ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, pp. 30–31.

others—Connecticut, New Hampshire and Tennessee—have limited levies. Connecticut's tax applies only to capital gains and dividends, and New Hampshire and Tennessee tax only interest and dividends. Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming are the complete holdouts. In addition to the use of individual income tax, all but five states impose corporate income taxes. Nevada, South Dakota, Texas, Washington and Wyoming are the only states that do not.[15] As far as the general sales tax is concerned, all states except Alaska, Delaware, Montana, New Hampshire and Oregon now impose such taxes. *Graph 9–2* illustrates the growth of income and sales tax use by decade.

The scarcity of available tax revenues stimulated increased reliance on user fees. Although their contribution to state income is relatively small, except for transportation funds, in recent years they have been imposed on more activities or increased in amount.

As a consequence of the diversification, states rely less heavily on the property tax. It brought in only 2% of the states' own-source tax funds in 1981. The property tax is still a major contributor to local government financing, however, and has undergone significant upgrading in its administration in recent years.[16] State sales taxes, on the other hand, produced slightly more than half, 50.9%, of estimated tax revenues for 1981, and income (both personal and corporate) taxes provided 37.5%.[17] *Table 9–7* shows state tax receipts from major sources between 1948 and 1982.

Equity in State Tax Systems

Vertical equity—or a proper pattern of unequal taxes among unequal incomes—is the principal focus for securing fairness in state tax systems. Equity considerations require that the heaviest tax burden fall on those most able to pay and that subsistence income be exempt from taxation. Thus, state governments with regressive taxes, such as property and sales taxes, that bear most heavily on low income residents increasingly provide some shields for these individuals. These can, and do, take the form of exemption of food and medicine from the sales tax, the granting of a tax credit or an income tax exemption in the state income tax, and some kind of "circuit breaker" to moderate th impact of the property tax. The latter, for example, might exempt property of individuals in low income brackets from the property tax.

The equity features states have adopted are reflected in *Table 9–6*. Of the 45 states with general sales taxes in 1981, 26 exempted food from coverage and two provided income tax credits. This compares with 16 out of 45 states with general sales taxes in 1970, an increase from 35.5% to 62.2%. In addition, 43 states do not impose the sales tax on prescription drugs. This is up from 25 states out of the 45 imposing the tax in 1970,[18] an increase of 40%. To ease property tax burdens, 31 states have adopted state-financed circuit breakers. All homeowners and renters get the benefit of these arrangements in six states, while relief is limited to elderly homeowners and renters in 16. Practices in the remaining states vary among relief for elderly homeowners (6), all homeowners only (1), all renters only (1), and elderly renters (1). Circuit breakers are relatively recent innovations with Wisconsin adopting the first in 1964.[19]

Increased state and local taxes together had a mixed effect on the fairness of the state-local systems. Personal income taxes were moderately progressive, amounting to 2.2% of the income of a family of four with an average income, 3.2% for a similar family with twice the average income, and 4.1% for a family with four times the average. Their effective rate by state is shown in *Table 9–8*. General saless and local property taxes, on the other and, were regressive. The sales taxes consumed almost twice as large a percentage of the average family income as they did of incomes of the highest earners. Although the property tax gap between income levels was not as wide, that tax did bear heavier on the average family. It should be kept in mind that circuit breakers did not apply in most instances because they are directed at lower income families and the elderly. The latter are unlikely to be in households with two dependent children—an attribute of "average families."

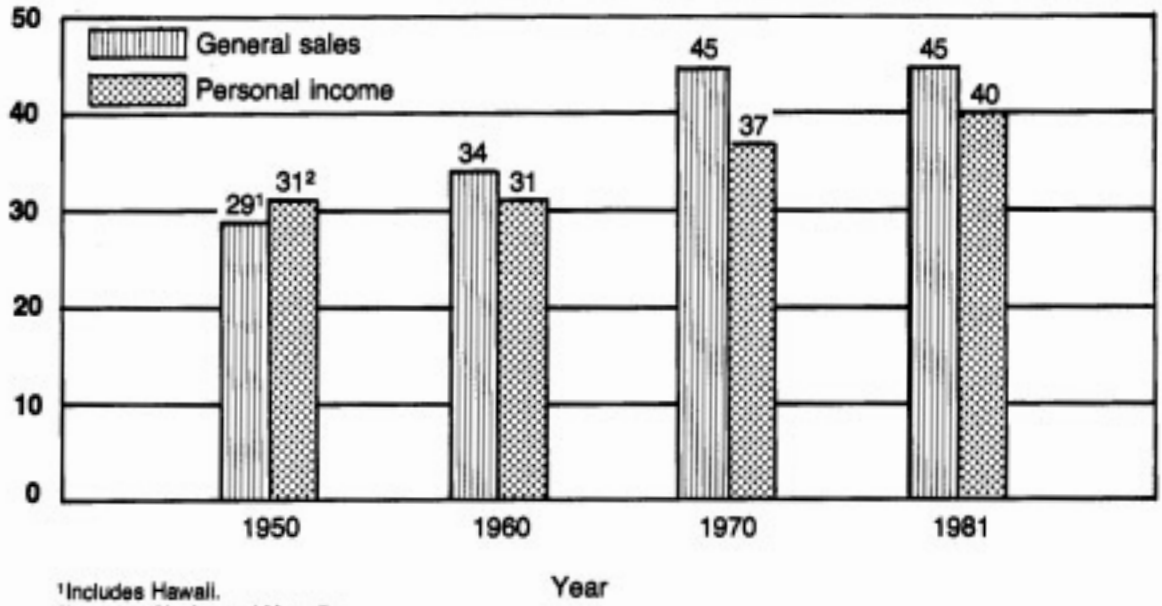
ACCOUNTABILITY

States are under pressure to exercise moderation in levying taxes both because profligate taxing burdens the citizenry and because it enables the public sector to expand to an

Graph 9–2

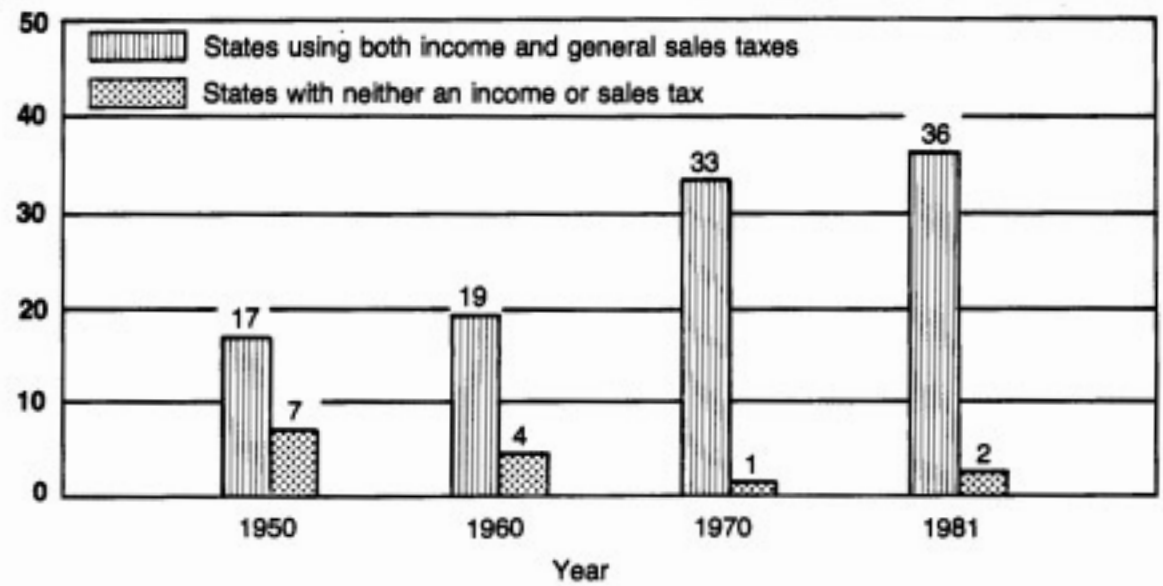
STATE USE OF GENERAL SALES AND BROAD-BASED PERSONAL INCOME TAXES, AS OF JANUARY 1, SELECTED YEARS

A. Number of States with General Sales and/or Personal Income Taxes



[1]Includes Hawaii.
[2]Includes Alaska and Hawaii.

B. Number of States with Both General Sales and Personal Income Taxes, and Number with Neither Tax



SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition* (M–132), Washington, DC, U.S. Government Printing Office, 1981, p. 36.

unacceptable point. Public dissatisfaction has grown in recent years because inflation has pushed both incomes and property values into higher ranges, thus increasing the tax bite without overt actions on the part of taxing authorities. (*See Table 9–3.*) Although, as a matter of political accountability, tax increases should be imposed specifically and not rise quietly as the result of inflationary factors, such is not always the case.

States have taken three principal types of action to deal with this specific problem and improve accountability. These are: (1) adoption of full disclosure laws, (2) reduction of property tax rates to offset large rises in assessments, and (3) indexation of the personal income tax.

"Full disclosure laws" mandate reduction of local tax rates on property to offset large assessment rises unless local taxing authorities advertise the need for a tax increase. Full disclosure requirements are in effect in ten states—Colorado, Florida, Hawaii, Kentucky, Maryland, Michigan, Montana, Tennessee, Texas and Virginia.

Provision for rolling back property tax rates to offset large rises in assessment have been adopted in ten states since 1971. They are: Arizona, Florida, Hawaii, Kentucky, Maryland, Montana, Rhode Island, Tennessee, Texas and Virginia.[20]

Indexation adjusts provisions of the income tax law to account for inflation. It increases the fixed-dollar provisions of the tax code—such as standard deductions, personal exemptions, and income brackets—every year by the rate of inflation.[21] Consequently, incomes that increase at the rate of inflation no longer are automatically subject to higher taxes and the original value of the exemptions and deductions is preserved. When indexation is not used in an inflationary period, taxes on lower incomes tend to rise more than those on higher incomes.[22] A 1980 ACIR report pointed to the following advantages of indexation:

- It removes the automatic, hidden tax increases that would otherwise result from the interaction of inflation and a progressive income tax.
- It prevents arbitrary distortions of the legislated distribution of the tax burden and provides significant tax relief, particularly to those at the lower and upper ends of the income range.
- It improves the ability of the voters to hold elected officials accountable for their taxing and spending decision.
- It helps slow the rate of growth in government and preserves the current balance of resources between the public and private sector.
- It sustains the current intergovernmental fiscal balance and impedes the flow of resources and decisionmaking to higher levels of government.[23]

No state indexed its personal income taxes prior to 1978 when Arizona, California and Colorado enacted indexing measures. They were joined later by Iowa, Minnesota and Wisconsin and subsequently by Montana, South Carolina, Oregon and Maine. The laws vary as to items indexed, timing of changes, limits imposed on the extent of rate modification and the price deflator employed. Indexing is now in place in eight states—Arizona, Colorado, Califaornia, Wisconsin, Minnesota, Iowa, Oregon and South Carolina,[24] although Colorado, California, Wisconsin, Minnesota, Iowa, rarily suspended or postponed indexing provisions as a result of the recession.[25]

States have adopted a variety of other measures to ensure moderation in taxation and spending. Although the idea of limiting taxes is not new, the adoption of the Jarvis-Gann-initiated Proposition 13 in California in 1978 stimulated a new round of enactments. More often than not, these apply to local government property taxation; nevertheless, state government fiscal powers are limited in 20 states. See *Figure 9–1*. The limits slowed taxing and spending even in states that did not adopt them by demonstrating possible results if taxing and spending got out of hand.

Many students and practitioners of state government oppose the adoption of the levy limits, expenditure lids and assessment constraints, believing that it is better for the lgislative authority to exercise the restraint rather than having restrictions imposed that impede flexibility. Nevertheless, a large segment of the public appears to favor the limits as a method of countering the influence of special interest groups that encourage government spending.

Table 9–8

EFFECTIVE RATES OF STATE PERSONAL INCOME TAXES FOR SELECTED ADJUSTED GROSS INCOME LEVELS, MARRIED COUPLE WITH TWO DEPENDENTS, BY STATE, 1953, 1965, 1977, AND 1980

	Adjusted Gross Income Level											
	$10,000				$17,500				$25,000			
State and Region	1953	1965	1977	1980	1953	1965	1977	1980	1953	1965	1977	1980
New England	2.2	2.7	1.3	1.1		3.0	2.2	2.0	2.8	3.3	2.8	2.7
Maine	[1]	[1]	.4	.4		[1]	1.0	.8	[1]	[1]	2.1	1.9
Massachusetts[2]	1.6	1.7	2.7	2.5		1.7	3.6	3.4	1.7	1.7	4.0	3.9
Rhode Island	[1]	[1]	.8	.7	N	[1]	1.7	1.8	[1]	[1]	2.1	2.2
Vermont	2.8	3.7	1.1	.9		4.3	2.6	2.1	3.9	4.9	3.1	2.7
Mideast	1.3	2.0	2.1	1.6	O	2.8	2.7	2.4	2.6	3.6	3.4	3.4
Delaware[2]	1.1	2.2	2.5	2.4		3.8	3.5	2.9	3.1	4.8	4.7	4.4
District of Columbia	.6	1.6	2.7	1.3	T	1.9	3.4	3.1	1.4	2.4	4.6	4.6
Maryland	1.3	1.9	2.5	2.1		2.0	2.6	2.4	1.5	2.2	3.1	3.1
New Jersey	[1]	[1]	.6	.4		[1]	1.5	1.5	[1]	[1]	1.7	1.7
New York	2.2	2.2	2.1	1.3		3.5	3.0	2.3	4.4	5.0	4.4	4.2
Pennsylvania	[1]	[1]	2.0	2.2		[1]	2.0	2.2	[1]	[1]	2.0	2.2
Great Lakes	2.9	2.5	1.7	.7		3.1	2.0	2.0	4.8	3.7	2.5	2.5
Illinois	[1]	[1]	1.5	1.5		[1]	1.9	1.9	[1]	[1]	2.1	2.1
Indiana	[1]	1.3	1.5	1.1		1.6	1.7	1.6	[1]	1.7	1.8	1.7
Michigan[3]	[1]	[1]	1.5	1.1	C	[1]	1.0	1.3	[1]	[1]	1.4	1.6
Ohio	[1]	[1]	.5	.5		[1]	1.0	1.0	[1]	[1]	1.5	1.5
Wisconsin[4]	2.9	3.7	3.3	−.6	O	4.5	4.4	4.1	4.8	5.6	5.6	5.5
Plains	1.6	2.0	1.2	−.1		2.6	2.4	1.6	2.7	3.2	3.2	2.6
Iowa	2.0	2.1	2.8	2.4		2.2	2.8	2.5	2.1	2.4	3.4	3.5
Kansas	.8	1.8	1.0	.7	M	1.9	1.5	1.1	1.4	2.4	2.0	1.8
Minnesota[4]	3.0	4.1	1.4	−4.3		4.8	5.6	3.5	4.6	5.6	6.7	5.5
Missouri	1.0	1.0	.7	.6		1.4	1.4	1.2	1.7	1.7	2.1	2.1
Nebraska[4]	[1]	[1]	.2	−.6	P	[1]	1.6	.8	[1]	[1]	2.1	1.3
North Dakota[2]	1.1	1.2	.8	.5		2.7	1.7	.8	3.8	3.8	3.1	1.5
Southeast	1.5	1.4	1.5	1.4	U	2.1	1.9	1.6	2.8	2.6	2.6	2.5
Alabama	1.5	1.4	1.7	1.7		2.1	1.9	1.7	2.4	2.4	2.3	2.3
Arkansas	.6	1.3	1.6	1.6		2.0	2.1	1.9	2.0	2.5	2.9	2.9
Georgia	1.3	1.0	.8	.8	T	2.2	1.7	1.5	3.5	3.1	2.7	2.7
Kentucky	2.3	2.3	2.5	2.6		2.7	2.4	2.3	3.1	3.1	2.9	3.0
Louisiana	.4	.4	.6	—		.8	1.0	—	.9	.9	1.0	.3
Mississippi	.7	.5	.4	—	E	1.1	1.1	.3	2.1	1.6	1.8	1.2
North Carolina	2.9	2.9	2.6	2.3		3.6	3.1	2.7	4.7	4.4	3.9	3.9
South Carolina	1.7	1.5	1.6	1.6		2.7	2.2	2.0	3.4	3.8	3.3	3.3
Virginia	2.3	2.3	1.8	1.8		2.8	2.2	2.3	3.5	3.3	3.1	3.2
West Virginia	[1]	.8	1.4	1.4	D	1.0	1.5	1.4	[1]	1.2	1.9	1.9

Table 9–8 (continued)

EFFECTIVE RATES OF STATE PERSONAL INCOME TAXES FOR SELECTED ADJUSTED GROSS INCOME LEVELS, MARRIED COUPLE WITH TWO DEPENDENTS, BY STATE, 1953, 1965, 1977, AND 1980

	Adjusted Gross Income Level											
	$10,000				$17,500				$25,000			
State and Region	1953	1965	1977	1980	1953	1965	1977	1980	1953	1965	1977	1980
Southwest	.6	.8	.4	−.5	1.1	1.0	.5	1.2	1.5	1.9	1.4	
Arizona[2,4]	.6	.9	1.6	−.1	1.4	1.7	1.2	1.3	1.9	2.5	2.1	
New Mexico[2,4]	.5	.8	−.9	−1.9	.9	.5	−.4	.6	.9	1.4	.5	
Oklahoma	.6	.7	.5	.4	1.1	.9	.7	1.6	1.6	1.8	1.6	
Rocky Mountain	1.2	2.0	1.8	.9	2.9	2.4	1.6	2.5	3.6	3.3	2.8	
Colorado	.9	1.5	1.4	1.0	2.4	1.7	1.2	2.8	3.2	2.6	2.0	
Idaho	1.3	2.2	1.0	.1	3.2	2.5	1.9	2.8	4.0	3.6	3.4	
Montana[2]	.9	1.9	2.8	1.2	2.9	2.7	1.5	1.9	3.6	3.6	2.9	
Utah	1.6	2.4	2.0	1.4	3.1	2.6	1.8	2.5	3.4	3.4	3.1	
Far West	1.4	2.7	1.3	.5	3.2	2.7	2.0	2.3	3.9	3.7	3.3	
California[4]	.5	.5	−.4	−1.4	1.0	1.6	.9	1.1	1.6	2.5	1.9	
Oregon	2.2	3.3	3.0	2.3	3.7	3.3	2.6	3.4	4.4	4.3	4.0	
Hawaii	N.A.	4.2	1.3	.6	4.9	3.2	2.5	N.A.	5.8	4.3	4.0	
Median rate	1.3	1.7	1.4	1.0	2.2	1.9	1.8	2.5	3.1	2.6	2.3	
Federal tax	13.3	11.1	4.5	3.7	13.3	10.2	9.3	20.4	16.1	12.5	11.5	

Note: "Effective rates" are computed as the percentage that tax liability is of adjusted gross income (i.e., income after business deductions but before personal exemptions and other allowable deductions). In computing income taxes, it was assumed that all income was from wages and salaries and earned by one spouse. In computing tax liabilities at the $10,000 income level, the optional standard deductions, low income allowances, and optional tax tables were used for states and the following estimated deductions for federal: 1980 and 1977, the zero bracket amount; 1965—14% of A.G.I.; and 1953—12% of A.G.I. For the other income levels (based on deductions claimed on federal income tax returns) the following estimated itemized deductions were assumed for state computations: $17,500 income level—$4,600 in 1980; $3,915 in 1977, and $2,640 in 1965; $25,000 income level—$5,050 in 1980, $5,115 in 1977, $3,475 in 1965, and $2,525 in 1953. For federal computations at the $17,500 level, estimated deductions were assumed to be $3,900 in 1980 and $3,800 in 1977 (average of the zero bracket amount and estimated itemized deductions) and $2,925 estimated itemized in 1965. At the $25,000 level federal estimated itemized deductions of $5,700 in 1980, $5,850 in 1977, $3,843 in 1965, and $3,150 in 1953 were assumed. New Hampshire and Tennessee are excluded since their personal income taxes apply only to interest and dividend income; also excluded is the Connecticut "capital gains and dividends tax."

Regional percentages are unweighted averages.

N.A.—Data not available.
—Indicates no tax liability.
[1]No personal income tax for year indicated.
[2]As there was no standard deduction in 1953, the standard deduction authorized under present laws was used in computing the 1953 tax liability.
[3]Includes credits for estimated city (Detroit) income and property tax payments.
[4]Negative rates result from credits allowed for consumer-type taxes paid and/or property tax or renter credits. If the credit exceeds the tax liability, the taxpayer can apply for a refund.
SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, pp. 59–60.

Table 9–9

STATE GOVERNMENT PERCENTAGE OF STATE AND LOCAL TAX REVENUE, BY STATE, SELECTED YEARS, 1959–80

State	1980	1975	1971	1967	1963	1959	Percentage Point Increase or Decrease (−)[1] 1975 to 1980	Percentage Point Increase or Decrease (−)[1] 1959 to 1975
United States	61.3	66.7	54.2	52.1	49.9	48.9	4.6	7.8
Alabama	73.4	74.1	74.0	71.0	69.2	69.4	−0.7	4.7
Alaska	85.8	68.4	69.9	68.5	69.8	71.0	17.4	−2.6
Arizona	61.5	64.1	61.1	57.3	55.7	56.3	−2.6	7.8
Arkansas	77.6	76.1	72.6	72.5	68.8	70.2	1.5	5.9
California	69.8	52.0	46.5	43.8	45.7	46.8	17.8	5.2
Colorado	52.1	54.2	50.2	49.0	46.6	49.0	−2.1	5.2
Connecticut	55.3	49.1	48.4	48.1	47.0	44.9	6.2	4.2
Delaware	81.9	79.9	79.7	78.8	79.8	80.1	2.0	−0.2
Dist. of Col.	...	...	...	...	...	...	...	...
Florida	65.1	64.1	60.1	53.2	52.8	56.3	1.0	7.8
Georgia	64.9	61.9	63.9	65.8	64.8	65.9	3.0	.−4.0
Hawaii	81.0	78.1	76.4	73.2	74.8	81.7[2]	2.9	−3.6
Idaho	68.9	68.8	64.0	62.5	53.1	50.3	0.1	18.5
Illinois	57.2	54.2	54.6	44.6	42.2	41.3	3.0	12.9
Indiana	66.0	60.2	49.7	50.0	44.0	48.6	5.8	11.6
Iowa	62.0	58.0	49.8	50.1	43.1	47.4	4.0	10.6
Kansas	58.0	56.7	49.2	49.6	43.2	44.0	1.3	12.7
Kentucky	79.2	76.1	73.2	68.5	68.4	61.8	3.1	14.3
Louisiana	67.8	71.2	70.7	72.3	73.8	74.4	−3.4	−3.2
Maine	64.1	61.0	55.5	51.4	48.5	50.0	3.1	11.0
Maryland	59.3	58.0	56.8	53.6	56.0	55.7	1.3	2.3
Massachusetts	55.1	46.8	47.4	47.7	40.6	41.6	8.3	5.2
Michigan	59.7	55.8	57.5	55.2	54.4	51.5	3.9	4.3
Minnesota	69.8	68.3	56.8	51.6	47.2	45.7	1.5	22.6
Mississippi	77.2	76.2	73.7	66.6	65.6	68.5	1.0	7.7

[1]The state percentage increased in 38 states by an average of 3.8 percentage points between 1975 and 1980 and in 42 states by an average of 8.4 percentage points between 1959 and 1975.
[2]Fiscal year 1960. Not included in United States total since Hawaii did not become a state until August 1959.

Table 9–9 (continued)

STATE GOVERNMENT PERCENTAGE OF STATE AND LOCAL TAX REVENUE, BY STATE, SELECTED YEARS, 1959–80

State	1980	1975	1971	1967	1963	1959	Percentage Point Increase or Decrease (–)[1] 1975 to 1980	1959 to 1975
Missouri	56.1	52.3	49.9	51.3	48.7	47.4	3.8	4.9
Montana	55.4	50.8	45.3	44.1	43.7	42.1	4.6	8.7
Nebraska	54.0	47.6	45.1	34.9	34.0	37.2	6.4	10.4
Nevada	61.4	58.5	58.7	51.5	59.1	56.5	2.9	2.0
New Hampshire	39.3	40.1	41.4	37.5	36.5	38.1	–0.8	2.0
New Jersey	50.9	39.6	41.2	37.7	29.5	28.4	11.3	11.2
New Mexico	81.0	82.7	78.9	74.5	72.9	74.2	–1.7	8.5
New York	48.5	48.1	49.3	48.3	43.3	38.0	–0.4	10.1
North Carolina	73.2	71.8	74.9	74.6	74.1	72.0	1.4	–0.2
North Dakota	67.3	67.7	54.2	50.8	49.2	50.3	–0.4	17.4
Ohio	54.5	52.9	45.1	44.4	44.7	46.2	1.6	6.7
Oklahoma	71.0	67.6	64.1	62.2	67.1	66.8	3.4	0.8
Oregon	56.5	54.6	49.4	51.4	50.2	48.9	1.9	5.7
Pennsylvania	62.4	62.9	58.6	54.3	53.2	50.3	–0.5	12.6
Rhode Island	58.6	58.5	60.8	53.7	51.4	50.7	0.1	7.8
South Carolina	76.0	76.2	76.6	77.2	75.0	73.8	–0.2	2.4
South Dakota	49.7	46.2	41.7	43.1	40.9	40.2	3.5	6.0
Tennessee	62.6	61.0	61.0	62.4	62.3	64.2	1.6	–3.2
Texas	58.9	57.7	55.9	53.6	53.9	50.2	1.2	7.5
Utah	64.1	65.4	63.1	59.5	56.7	54.6	–1.3	10.8
Vermont	57.9	56.8	62.2	61.3	55.0	49.6	1.1	7.2
Virginia	60.0	59.5	59.2	58.5	58.8	54.9	0.5	4.6
Washington	71.4	64.9	67.0	70.6	68.4	69.1	6.5	–4.2
West Virginia	78.6	77.3	74.5	70.0	69.9	67.6	1.3	9.7
Wisconsin	67.4	64.6	59.4	62.0	51.3	48.5	2.8	16.1
Wyoming	58.9	59.2	56.7	47.9	52.3	52.7	–0.3	6.5

SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 35.

Figure 9–1

RESTRICTIONS ON STATE GOVERNMENT TAX AND EXPENDITURE POWERS, JANUARY 1, 1983

States	Limits on State Governments	States	Limits on State Governments
Total	20		
Alabama	—	**Montana**	Statutory***
Alaska	Constitutional***	**Nebraska**	Statutory***
Arizona	Constitutional***	**Nevada**	—
Arkansas	—	**New Hampshire**	—
California	Constitutional***	**New Jersey**	Statutory**
Colorado	Statutory**	**New Mexico**	—
Connecticut	—	**New York**	—
Delaware	Constitutional***	**North Carolina**	—
Florida	—	**North Dakota**	—
Georgia	—	**Ohio**	—
Hawaii	Constitutional***	**Oklahoma**	—
Idaho	Statutory***	**Oregon**	Statutory***
Illinois	—	**Pennsylvania**	—
Indiana	—	**Rhode Island**	Statutory**
Iowa	—	**South Carolina**	Statutory***
Kansas	—	**South Dakota**	—
Kentucky	—	**Tennessee**	Constitutional***
Louisiana	Statutory***	**Texas**	Constitutional***
Maine	—	**Utah**	Statutory***
Maryland	—	**Vermont**	—
Massachusetts	—	**Virginia**	—
Michigan	Constitutional**	**Washington**	Statutory**
Minnesota	—	**West Virginia**	—
Mississippi	—	**Wisconsin**	—
Missouri	Constitutional***	**Wyoming**	—

**Enacted 1970 to 1977.
***Enacted 1978 and after.

SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983.

BALANCED STATE-LOCAL TAX SYSTEMS

The ACIR suggested that in a balanced state-local tax system, state taxes should account for 65–85% of total state-local tax revenues. According to this standard, the balance has been improving but has yet to reach the recommended proportions. In 1959, state governments imposed 48.9% of the state-local taxes. by 1980, the percentage had increased to 61.3, an increase of 12.4 percentage points.[26] As *Table 9–9* shows, 21 states now raise at least 65% of state-local taxes. Interestingly, ten of the 21 are southern and border states.

STATE CAPACITY AND EFFORT

Interest in measuring state tax wealth and ability to raise revenues has persisted since the beginning of the Republic. Today, there is still concern for state fiscal capacity, both because of the exigencies imposed by the general economy and because relative financial capability is sometimes used as a measure of need in the design of formulas for awarding federal fiscal assistance. Several major grant programs—General Revenue Sharing, Medicaid, Aid to Families with Dependent Children—consider the recipient government's ability to raise revenue as a factor in allocating funds.

Personal income has been the most often used measure of state tax capacity. This indicator has both measurement and conceptual problems, however.[27] Because of these problems, ACIR made the following recommendation at its March 25, 1982 meeting:

> **The Commission finds that the use of a single index, resident per capita income, to measure fiscal capacity seriously misrepresents the actual ability of many governments to raise revenue. Because states tax a wide range of economic activities, other than the income of their residents, the per capita income measure fails to account for sources of revenue to which income is only related in part. This misrepresentation results in the systematic over and understatement of the ability of many states to raise revenue. In addition, the recent evidence suggests that per capita income has deteriorated as a measure of capacity. Therefore, the Commission recommends that the federal government utilize a fiscal capacity index, such as the representative tax system measure, which more fully reflects the wide diversity of revenue sources which states currently use. The Commission also recommends that the system be further developed so as to improve the accuracy of the underlying data and the consistency of the methodology, and that Congress authorize sufficient funds and designate an appropriate agency to periodically prepare the tax capacity estimates.[28]**

TAX CAPACITY USING ACIR'S REPRESENTATIVE TAX SYSTEM

The ACIR staff developed a Representative Tax System (RTS) that defines tax capacity as "the amount of revenue that each state would raise if it applied a national uniform set of tax rates." The rates that are used are the national average tax rates for each base; consequently, state tax yields vary only because the tax bases are different among the states. The national average tax rates are applied to the 26 tax bases commonly subject to state and local taxes. All rates are applied in each state even though the state actually may not impose that type of tax. For example, the average sales tax rate would be applied to the sales tax base in Delaware although that state does not levy a sales tax. Similarly, average income tax rates would be applied to income in Connecticut despite the absence of an income tax there.

The tax bases used in the RTS produce 96% of all state and local taxes. Included in the remaining 4% are taxes that are atypical or on which there are not adequate data. Excluded are such taxes as personal licenses, document and stock transfer taxes, or special hotel-motel taxes.[29]

Table 9–10 shows the tax capacity and effort measure for all 26 taxes for each state and compares individual state capacity to tax with the actual effort that it made in 1980. The tax capacity index shows how the states rated in relation to the national average. With the national average at 100, a state with a capacity index of 110 has a capacity 10% higher than the national average. States range in capacity from Mississippi's 69.9 to Alaska's 258.7.

Table 9–11 reflects the trends in tax capacity for selected years from the development of the first RTS in 1967 to 1980. The figures reveal a significant shift in tax capacity from the northeastern to the western states. The largest gains were made by the energy producing states of Alaska, Wyoming, Texas and Oklahoma. Between 1979 and 1980 alone, Alaska gained 43 points on the index and Wyoming rose by 23, Oklahoma by nine, and Texas by seven. In con-

Table 9–10

CAPACITY AND EFFORT MEASURES FOR ALL TAXES OF STATE AND LOCAL GOVERNMENTS, 1980*

State	Tax Capacity Per Capita	Tax Capacity Index	Total Tax Capacity	Tax Collections	Tax Effort Index	Tax Collections Per Capita
Alabama	$718.08	75.7	$2,799,780	$2,384,918	85.2	$611.67
Alaska	2,463.42	259.7	990,293	1,646,202	166.2	4,095.03
Arizona	841.29	88.7	2,291,663	2,690,584	117.4	987.73
Arkansas	749.52	79.0	1,717,155	1,468,459	85.5	640.97
California	1,109.69	117.0	26,331,802	26,800,496	101.8	1,129.44
Colorado	1,068.51	112.6	3,094,400	2,797,433	90.4	965.96
Connecticut	1,058.49	111.6	3,297,188	3,291,924	99.8	1,056.80
Delaware	1,057.35	111.4	631,239	561,445	88.9	940.45
Washington, DC	1,051.24	110.8	672,793	882,700	131.2	1,379.22
Florida	949.01	100.0	9,355,327	6,908,203	73.8	700.77
Georgia	778.09	82.0	4,262,375	4,100,241	96.2	748.49
Hawaii	1,010.60	106.5	978,257	1,217,877	124.5	1,258.14
Idaho	830.11	87.5	786,111	694,191	88.3	733.04
Illinois	1,021.05	107.6	11,687,956	11,977,864	102.5	1,046.38
Indiana	874.94	92.2	4,814,798	4,056,063	84.2	737.06
Iowa	997.94	105.2	2,913,978	2,789,467	95.7	955.30
Kansas	1,032.42	108.8	2,445,803	2,150,164	87.9	907.63
Kentucky	787.16	83.0	2,888,891	2,560,950	88.6	697.81
Louisiana	1,036.40	109.2	4,368,436	3,395,536	77.7	805.58
Maine	759.27	80.0	856,451	951,629	111.1	843.64
Maryland	941.01	99.2	3,977,646	4,320,412	108.6	1,022.10
Massachusetts	912.58	96.2	5,248,268	7,060,839	134.5	1,227.76
Michigan	919.94	97.0	8,537,076	9,867,747	115.6	1,063.33
Minnesota	969.33	102.2	3,961,646	4,402,580	111.1	1,077.22
Mississippi	657.81	69.3	1,662,290	1,603,620	96.5	634.59
Missouri	887.89	93.6	4,376,434	3,657,131	83.6	741.96
Montana	1,066.59	112.4	841,538	775,546	92.2	982.95
Nebraska	918.34	96.8	1,445,462	1,477,223	102.2	938.52
Nevada	1465.23	154.4	1,173,647	698,404	59.5	871.92
New Hampshire	915.54	96.5	845,046	633,959	75.0	686.95
New Jersey	996.88	105.1	7,365,925	8,247,468	112.0	1,116.18
New Mexico	1,016.20	107.1	1,324,114	1,100,681	83.1	844.73
New York	855.25	90.1	15,057,553	25,201,545	167.4	1,431.42
North Carolina	754.34	79.5	4,441,553	4,303,975	96.9	730.97
North Dakota	1,027.74	108.3	672,138	529,354	78.8	809.41
Ohio	918.44	96.8	9,940,257	8,616,655	86.7	796.14
Oklahoma	1,107.97	116.8	3,360,458	2,404,433	71.6	792.76
Oregon	978.50	103.1	2,582,257	2,409,913	93.3	913.19
Pennsylvania	878.63	92.6	10,451,293	10,845,991	103.8	911.81
Rhode Island	794.81	83.8	755,072	929,754	123.1	978.69
South Carolina	713.86	75.2	2,232,948	2,131,822	95.5	681.53
South Dakota	855.62	90.2	592,945	523,256	88.2	755.06
Tennessee	749.36	79.0	3,448,535	2,902,564	84.2	630.72
Texas	1,172.51	123.6	16,723,511	10,858,746	64.9	761.32
Utah	815.73	86.0	1,195,045	1,208,944	101.2	825.22
Vermont	801.49	84.5	411,164	428,281	104.2	834.86
Virginia	899.06	94.8	4,818,051	4,256,031	88.3	794.18
Washington	976.17	102.9	4,041,326	3,788,027	93.7	914.98
West Virginia	888.77	93.7	1,736,662	1,426,263	82.1	729.92
Wisconsin	898.66	94.7	4,238,961	4,931,821	116.3	1,045.54
Wyoming	1,861.55	196.2	880,512	654,657	74.3	1,384.05
U.S. TOTALS	$948.73	100.0	$215,524,055	$215,524,055	100.0	$948.73

NOTE: All per capita amounts are in dollars; total amounts are in thousands of dollars.
*Preliminary estimates. All per capita amounts are in dollars; total amounts are in thousands of dollars.

SOURCE: ACIR, *Tax Capacity of the Fifty States: Supplement: 1980 Estimates*, Washington, DC, June 1982, p. 19.

Table 9–11

TRENDS IN STATE TAX CAPACITY, SELECTED YEARS, 1967–80

State	Tax Capacity Index 1980[1]	1979[2]	1975[2]	1967
New England	97	95	99	101
Connecticut	112	108	110	117
Maine	80	80	84	81
Massachusetts	96	93	98	98
New Hampshire	97	96	102	110
Rhode Island	84	84	88	91
Vermont	84	95	94	88
Mideast	95	94	101	103
Delaware	111	109	124	123
Washington, DC	111	110	117	121
Maryland	99	99	101	101
New Jersey	105	102	109	107
New York	90	89	98	108
Pennsylvania	93	93	98	91
Great Lakes	99	104	104	104
Illinois	108	112	112	114
Indiana	92	98	98	99
Michigan	97	104	100	104
Ohio	97	101	103	100
Wisconsin	95	99	98	94
Southeast	87	87	88	87
Alabama	76	76	77	70
Arkansas	79	77	78	77
Florida	100	100	102	104
Georgia	82	81	86	80
Kentucky	83	85	85	80
Louisiana	109	103	97	94
Mississippi	69	70	70	64
North Carolina	80	82	84	78
South Carolina	75	76	77	64
Tennessee	79	81	84	78
Virginia	95	93	93	86
West Virginia	94	92	89	75

State	Tax Capacity Index 1980[1]	1979[2]	1975[2]	1967
Plains	100	103	101	100
Iowa	105	108	106	104
Kansas	109	109	109	105
Minnesota	102	105	97	95
Missouri	94	97	96	97
Nebraska	97	100	106	110
North Dakota	108	109	101	92
South Dakota	90	95	94	91
Southwest	117	112	105	98
Arizona	89	91	92	95
New Mexico	107	103	92	94
Oklahoma	117	108	98	102
Texas	124	117	110	98
Rocky Mountain	109	107	102	101
Colorado	113	110	106	104
Idaho	87	91	89	91
Montana	112	113	103	105
Utah	86	87	86	87
Wyoming	196	173	153	141
Far West	116	115	109	121
California	117	116	110	124
Nevada	154	154	145	171
Oregon	103	106	100	106
Washington	103	103	98	112
Alaska	260	217	154	99
Hawaii	107	103	110	99
U.S. AVERAGE	100	100	100	100
Standard Deviaton:	15.7	13.7	10.4	14.6

[1]preliminary.
[2]revised.

SOURCE: ACIR, *Tax Capacity of the Fifty States: Supplement: 1980 Estimates*, Washington, DC, June 1982, p. 9.

trast, Mideast and New England states had lower capacities in 1980 than they did in 1967, although the economic slide appeared to have stopped in 1979, with most of these states holding firm or showing slight gains. Michigan, Indiana and Ohio, on the other hand, dropped in tax capacity, particularly between 1979 and 1980, reflecting the industrial slump in that area. Southeastern states remained below the national average, although several—particularly Louisiana and West Virginia—made significant gains.

TAX EFFORT

The Representative Tax System also allows a comparison of the tax effort states make. A state's tax effort is the ratio of its actual collections to its tax capacity. A state with a tax effort of 115, for example, has a tax burden 15% higher than the national average. With a rating

Table 9–12

STATE TAX EFFORT, 1967, 1979, and 1980

State	Tax Effort Index 1980	1979	1967	Change in Tax Effort 1980/1967
New England				
Connecticut	100	102	93	100/108
Maine	111	110	105	111/101
Massachusetts	135	144	121	135/112
New Hampshire	75	78	81	75/93
Rhode Island	123	121	105	123/117
Vermont	104	109	119	104/87
Mideast				
Delaware	89	95	90	89/99
Washington, DC	131	132	90	131/146
Maryland	109	109	103	109/106
New Jersey	112	118	97	112/115
New York	167	171	138	167/121
Pennsylvania	104	105	99	104/105
Great Lakes				
Illinois	102	99	84	102/121
Indiana	84	84	95	84/88
Michigan	116	113	100	116/116
Ohio	87	86	82	87/106
Wisconsin	116	118	124	116/94
Plains				
Iowa	96	93	104	96/92
Kansas	88	87	96	88/92
Minnesota	111	115	119	111/93
Missouri	84	82	86	84/98
Nebraska	102	98	78	102/131
North Dakota	79	78	97	79/81
South Dakota	88	84	107	88/82
Southeast				
Alabama	85	86	89	85/96
Arkansas	86	81	83	86/104
Florida	74	78	84	74/88
Georgia	96	96	92	96/104
Kentucky	89	87	85	89/105
Louisiana	78	82	90	78/87
Mississippi	96	97	98	96/98
North Carolina	97	91	94	97/103
South Carolina	95	91	97	95/98
Tennessee	84	87	87	84/97
Virginia	88	88	90	88/98
West Virginia	82	82	96	82/85
Southwest				
Arizona	117	115	109	117/107
New Mexico	83	85	92	83/90
Oklahoma	72	74	80	72/90
Texas	65	64	75	65/87
Rocky Mountain				
Colorado	90	96	106	90/85
Idaho	88	91	105	88/84
Montana	92	88	93	92/99
Utah	101	99	111	101/91
Wyoming	74	83	79	74/94
Far West				
California	102	95	108	102/94
Nevada	60	65	71	60/85
Oregon	93	93	101	93/92
Washington	94	96	106	94/89
Alaska	166	129	104	166/160
Hawaii	124	128	135	124/92
U.S. AVERAGE	100	100	100	100/100

SOURCE: ACIR, *Tax Capacity of the Fifty States: Supplement: 1980 Estimates*, Washington, DC, June 1982, p. 12.

of 64.9, Texas makes the least effort. New York, with a rating of 167.4, makes the greatest (See *Table 9–10.*) Over the years since 1967, Alaska and Nebraska have been the states with the highest rising tax efforts. North Dakota and South Dakota have had the biggest reductions. *Table 9–12* shows this trend.

On a regional basis, the states with the lowest ratings on effort have been those in the West and South. In general, their rating have been below 100 while states in the New England and the Mideast are above the national average.

Representative Tax System figures suggest that the disparities among the states have widened since 1975. The population-weighted standard deviation was 10.4 in 1975 and 15.7 in 1980, an increase of approximately 50%. This counters a trend toward equalization prior to 1975.[30]

Table 9–13

STATE DEBT, SELECTED YEARS, 1954–81

Fiscal Year	Amount (In billions)	As a Percent of GNP	Annual Percent Change[1]
1954	9.6	2.6	19.1
1959	16.9	3.6	11.9
1964	25.0	4.1	8.1
1969	39.6	4.4	9.6
1970	42.0	4.4	6.1
1971	47.8	4.7	13.8
1972	54.5	4.9	14.0
1973	59.4	4.8	9.0
1974	65.3	4.8	9.9
1975	72.1	5.0	10.4
1976	84.4	5.2	17.1
1977	90.2	5.1	6.9
1978	102.6	5.1	13.7
1979	111.7	4.9	8.9
1980	122.0	4.8	9.2
1981	134.8	4.8	9.4

[1]The percent changes indicated for years prior to 1970 are annual average changes since the previous year shown.

SOURCE: Adapted from ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 77.

STATE INDEBTEDNESS

Although states customarily prohibit deficit financing, they have incurred substantial indebtedness. In 1981, it was approximately $135 billion, an increase of more than 14 times in current dollars since 1954. When compared to the rise in the gross national product, however, the increase is not so marked. And, on a long-term basis, it is not growing as rapidly as it once did, although the rate of increase fluctuates. The figures are set out in *Table 9–13*.

Interest payments on state debt have accelerated steadily since 1954, growing from $193 million in that year to $7.8 billion by 1981. They also are up as a percent of the gross national product, although they have remained level since 1976. Debt service in 1980 consumed a greater percentage of the states' general revenues from their own sources than it did a quarter-century ago. See *Table 9–14*.

Other factors besides the heavier debt burden have contributed to the rise in debt service costs. The largest culprit has been high interest rates that have prevailed in the economy generally. As Harvey Galper pointed out:

> ... although we thought long-term municipal bond rates were fairly high historically in 1979—peaking in October at 7.38%—those days are now looked upon fondly as "good old" low interest rates. In contrast, the high for long-term yields in 1981 was 13.3%, reached in December. Yields have since fallen to about 12%, still an almost inconceivable return on tax-exempt securities.[31]

Table 9–14

INTEREST PAYMENTS ON STATE DEBT, SELECTED YEARS, 1954–81

Fiscal Year	Amount (In millions)[1]	As a Percent of GNP	As a Percent of General Revenue[2]
1954	193	0.1	1.6
1959	453	0.1	2.5
1964	765	0.1	2.7
1969	1,275	0.1	2.6
1970	1,499	0.2	2.6
1971	1,761	0.2	2.9
1972	2,135	0.2	3.0
1973	2,434	0.2	3.0
1974	2,863	0.2	3.2
1975	3,272	0.2	3.4
1976	4,140	0.3	3.9
1977	5,136	0.3	4.2
1978	5,268	0.3	3.9
1979	5,790	0.3	3.8
1980	6,763	0.3	4.0
1981	7,844	0.3	4.2

[1]Interest on general debt.
[2]General revenue from own sources (before intergovernmental transfers).

SOURCE: Adapted from ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 78.

Despite the heavier debt burdens, all states continue to be able to go to the bond market for more funds. Several states received lower credit ratings from Standard and Poor's Corporation or Moody's Investors Service.[32] Nevertheless, none is faced with a cutoff of credit.

AN ASSESSMENT

At the onset of 1983, states faced the financial pressures produced by a sluggish economy, a lessing inflation, declining federal financial aid, and uncertain tax yields armed with higher quality revenue systems and better control over their expenditures. Cutting growth in outlays and diversifying their taxes better equipped them to weather the vagaries of the economy. In addition, fairness and accountability marked state revenue raising to a greater degree. As a group, states had designed more equitable tax systems, providing sales tax exemptions and income tax credits benefiting the less affluent. Some had enhanced accountability by imposing full disclosure requirements on their local governments, reducing property tax rates to account for rises in assessment and indexing their own personal income taxes.

Perhaps reflecting the impact of reapportionment, which strengthened urban representation in their legislatures, state governments appeared to be more responsive to the financial burdens of local governments. Although they have yet to achieve the recommended 65% portion of state-local revenues, states have assumed, in some instances, all or almost all of the costs of certain locally financed services. They also have improved property tax administration, and broadened local revenue options. At the same time, the imposition of taxing and spending limitations on localities counteracted the other actions somewhat.

States faced the 1980s with a significant disparities in their tax capacities and efforts. A shift in tax capacity from northeastern to western states occurred in recent years. The energy-rich states made the largest gains while Michigan, Indiana, and Ohio had lowered capacities and, therefore, had less ability to finance their programs. The gap among states as to the tax efforts they make has widened since 1975.

Despite larger debts and the growing costs of debt service, all states had sufficient credit for additional borrowing, although bond ratings for a few were lower. None faced bankruptcy. Overall, the states appeared to be holding their own financially.

FOOTNOTES

[1] ACIR staff calculations.
[2] Proposition 13 amended the California Constitution to limit local property taxes. It was followed by the adoption of taxing and spending limits in a number of other states.
[3] John Shannon, "The Politics of Fiscal Containment—Its Effects on State and Local Governments on the Federal Aid System," a paper presented to the faculty, Bureau of Governmental Research and Service, University of South Carolina, Columbia, SC, March 17, 1980, Bureau of Governmental Research and Service, University of South Carolina, forthcoming, p. 1.
[4] ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition*, M–135, Washington, DC, U.S. Government Printing Office, 1983, p. 23.
[5] *Ibid.*, p. 24.
[6] *Ibid.*, p. 67.
[7] *Ibid.*, p. 69.
[8] See Robert J. Cline and John Shannon, "The Property Tax in a Model State-Local Revenue System," *The Property Tax and State-Local Finance*, C. Lowell Harriss, ed., New York, Proceedings of the Academy of Political Science, 1983, pp.42–56.
[9] Richard A. Musgrave and Peggy B. Musgrave, *Public Finance in Theory and Practice*, New York, McGraw-Hill Book Company, Inc., 1973, p.199.
[10] See ACIR, *Inflation and Federal and State Income Taxes*, A–63, Washington, DC, U.S. Government Printing Office, 1976, and ACIR, *The Inflation Tax: The Case for Indexing Federal and State Income Taxes*, M–117, Washington, DC, U.S. Government Printing Office, 1980.
[11] Cline and Shannon, *op. cit.*, p. 51.
[12] *Ibid.*, p. 43.
[13] John Shannon, "State-Local Revenue Issues: What are the Characteristics of a High-Quality State-Local Revenue System? Who Pays the Property Tax?," outline of remarks before the National Conference of State Legislatures, New York, NY, July 9, 1980.
[14] *Ibid.*
[15] ACIR, *Significant Features of Fiscal Federalism, 1979–80 Edition*, M–123, Washington, DC, U.S. Government Printing Office, 1980, p. 95; *Significant Features of Fiscal Federalism, 1980–81 Edition*, M–132, Washington, DC, U.S. Government Printing Office, 1981, pp. 52–53.
[16] For an account of changes in property tax administration, see ACIR, *The Property Tax in a Changing Environment: Selected State Studies*, M–83, Washington, DC, U.S. Government Printing Office, March 1974, p. 4.
[17] Calculated from ACIR, M–132, *op. cit.*, pp. 40–41.
[18] 1970 figures from ACIR, *State-Local Finance: Signif-*

icant Features, 1967–70, M–50, Washington, DC, U.S. Government Printing Office, 1969, p. 85. 1981 figures from ACIR, M–135, *op. cit.*, p. 85, adjusted to delete the District of Columbia.

[19] ACIR, *Property Tax Circuit-Breakers: Current Status and Policy Issues*, M–87, Washington, DC, U.S. Government Printing Office, 1975.

[20] ACIR staff compilations.

[21] ACIR, M–117, *op. cit.*, p. 2.

[22] *Ibid.*, p. 5.

[23] *Ibid.*, p. 19.

[24] ACIR staff calculations.

[25] Federation of Tax Administrators, *Indexing Provisions in State Income Tax Laws*, Research Memorandum 552, Washington, DC, March 1983, passim.

[26] ACIR, M–132, *op. cit.*, p. 35.

[27] For a discussion of these, see ACIR, *Tax Capacity of the Fifty States: Methodology and Estimates*, M–134, Washington, DC, U.S. Government Printing Office, 1982, Chapter 2.

[28] ACIR, *Tax Capacity of the Fifty States: Supplement, 1980 Estimates*, Washington, DC, 1982, p. 4.

[29] *Ibid.*, p. 5. For a complete explanation, See ACIR, M–134, *op. cit.*

[30] ACIR, *Tax Capacity of the Fifty States: Supplement, 1980*, *op. cit.*, p. 10.

[31] Harvey Galper, "The State and Local Bond Market," *Intergovernmental Perspective*, Vol. 8, No. 3, Washington, DC, ACIR, Summer 1982, p. 12.

[32] As reported in Warren Wheat, "Fiscal Gloom Greets New Governors," *USA Today*, January 3, 1983, p. 3A.

Financial Administration: Purchasing, Accounting, and Financial Reporting

Competent administration of state financial affairs requires instituting sound fiscal management practices in a wide range of activities. Involved are budgeting, purchasing, accounting, auditing, financial reporting, treasury and cash management, debt management, performance evaluation and pension fund management. Not all of these highly technical matters can be dealt with in this study. Attention here will be directed at purchasing, accounting and financial reporting practices because, along with budgeting, they are the most basic to general government operations. Budgeting is discussed in *Chapter 7*. Cash management practices were the subject of a 1977 ACIR study, *Understanding State and Local Cash Management* (M-112).

STATE PURCHASING

The purchase of public goods and services is an important facet of state administration. In 1980, public contracting expenditures for all governments reached approximately $500 billion, constituting almost 20% of the gross national product. State and local government purchasing accounted for about three-fourths of this figure.[1] The way such procurement is handled can reduce or inflate the cost of government, influence the quality and timeliness of services by public agencies, promote honesty and integrity throughout governmental operations and strengthen or weaken public confidence in government.

DEFINITION AND DEVELOPMENT OF THE PURCHASING FUNCTION

Governmental purchasing has become increasingly difficult to define. Originally perceived as the procurement of equipment, supplies, materials and services for public use—exclusive of contracting for public works—the concept has broadened to include overall management of materials. In addition to the actual acquisition of goods, purchasing often incorporates inventory management, value analysis, vendor evaluation, cost/price analysis, property use and, occasionally, other matters such as rentals and leasing.

Purchasing also has become more refined and now is viewed as an investment rather than as the simple expenditure of funds. Like many governmental activities, it has been affected by the increasing size and complexity of government. Consequently, it to has become larger and more complex. Technological developments have contributed to the growing intricacies of the equipment used, requiring greater expertise among purchasing officers. At the same time, such advances have allowed modernization of purchasing processes with computer applications introduced into procurement as in other areas of government.

Over the years, purchasing has become more intergovernmentalized with officials increasingly cooperating in procurement activities. They recognize that quantity acquisition of goods and services can reduce the costs of product design, administrative overhead and the materials and services secured.[2]

DISTINGUISHED FROM PRIVATE PURCHASING

Governmental purchasing differs from private purchasing in several ways, a number of which deserve special attention. In the first place, specific positive authority is required for public purchasing. In the private sector, businesses can buy anything not prohibited. Public purchasing officials, on the other hand, need both appropriated funds and specific enabling authority. Secondly, the two differ in the openness of their operations. Private purchasing can be conducted in secret with only the buyer deciding on the vendor—a choice that can be made on the basis of friendship or family ties, convenience, price or whatever is of principal concern. Governmental procurement, in contrast, needs to be conducted in complete openness because public funds are being spent. Records and purchase orders should be open to public inspection. Furthermore, in public purchasing, social and political influences are brought to bear to a greater extent than in the private sector. Purchasing officials often are pressured to buy locally made products and to avoid imports, to give preference to materials produced by minorities or the handicapped, and to subvert their professional judgments in favor of some preferred cause or group. In addition, as a Council of State Governments (CSG) report pointed out:

> Spending public money calls for nonrestrictive specifications, prohibitions against negotiations following the public opening of sealed bids, legal penalties for acts of favoritism and conflicts of interest, and above all, public interest—not the private interest—held paramount.[3]

BACKGROUND

State officials long have recognized the importance of the purchasing function. Efforts to establish standards for its operations extend back at least two decades, although the roots are much earlier. For example, between 1961 and 1963, the National Association of State Purchasing Officials (NASPO) undertook two projects. It designated a group to recommend a set of principles and practices in state purchasing and joined with the National Association of Attorneys General in identifying and suggesting ways to combat impediments to competitive bidding on state procurement contracts. The CSG also was involved, publishing a comprehensive report on state purchasing in 1975.[4] It worked in conjunction with Peat, Marwick, Mitchell, & Co., and the United States Department of Justice's Law enforcement Assistance Administration (LEAA), which financed the project.

The federal government also exhibited its concern for state and local purchasing, issuing a guideline, *Attachment O*,[5] to Office of Management and Budget (OMB) *Circular A-102—Standards Governing State and Local*

Procurement under federal assistance programs. *Attachment 0* establishes standards for state and local procurement. In addition to its support for the NASPO-CSG project, LEAA helped fund the development of a *Model Procurement Code for State and Local Governments* by the American Bar Association (ABA).[6] Despite approval of the code by the ABA and the participation of many state and local purchasing personnel in its preparation, the project did not meet entirely the needs of state and local purchasing agencies, according to CSG. Although it heralded much of the code, CSG criticized the ABA efforts in the following words:

> ... the background and knowledge of the majority of the initial and key drafters was limited almost exclusively to federal procedures, such that the philosophical base of the resultant code and recommended regulations is heavily attuned to federal procurement. ... Moreover, the experience of many of the early drafters lay in construction law, which also substantially influenced the code.[7]

In testifying before a U.S. Senate Committee in 1981, Governor Richard A. Snelling (D-VT) agreed, commenting that "there are substantial differences between the federal procurement system and that of state governments."[8]

As a consequence of what it felt to be the inadequacies of certain portions of the ABA's *Model Procurement Code* and of other factors, the Council of State Governments produced the second edition of its *State and Local Government Purchasing* containing a long list of recommendations pertaining to state and local purchasing. The National Institute of Governmental Purchasing (NIGP) and the National Association of State Purchasing Officials (NASPO) both assisted in, and endorsed the project. The report was based in part on a survey of state purchasing officials conducted by CSG and NASPO in 1979 for the Congressional Research Service and updated in 1981.

RECOMMENDATIONS ON STATE PURCHASING

Many of the recommendations of the Council of State Governments report coincide with the provisions of the ABA's *Model Procurement Code*, which sets out recommendations in statutory form, and with the Office of Management and Budget's *Attachment 0*. Sections of all three documents are too detailed, and often too technical, for inclusion here. The present study relies on the more general policy statements of the CSG *State and Local Government Purchasing* as representative recommendations and as criteria of state performance.

CENTRALIZED PURCHASING ADVOCATED

Because an effective governmental purchasing program is perceived to be a centralized one with one agency given responsibility for operating it or, at least, supervising the allocation of procurement authority to others, discussions of state purchasing tend to focus on the operation of a central agency. The justification for centralization traditionally is based on the lower prices resulting from volume buying. Proponents also argue that it results in

> ... consistency of purpose and decisionmaking, more accurate adherence to rules and principles governing public contracting, specialized planning and scheduling, and the timing of purchases to advantageous markets, greater utilization of equipment and materials through transfers between agencies; and perhaps most important, emphasis on the overall public interest, with accountability for that interest located in a single place.[9]

Accordingly, the Council of State Governments' *State and Local Purchasing* recommends that states take the following actions:

> Establish a central purchasing authority responsible for policy making and oversight of public contracting and establish a central purchasing office responsible for management and direction of the full spectrum of procurement activities ... (and) exclude blanket exemptions for any agencies.

Although details differ, this recommendation is similar to the provisions of the ABA's *Model Procurement Code*.

All states except Mississippi have some degree of centralized purchasing, according to the 1983 CSG study, and Mississippi has "centralized supervision."[10] Four-fifths (40) of the states exempt certain organizations. Most often excluded are the legislature and the judiciary, with institutions of higher learning and departments of transportation or highways following. Moreover, central purchasing often has no responsibility for procuring professional services. Until recently, contracts for most types of services were handled by individual departments and program agencies.

The authority of the central purchasing agency is fortified in most states by its capacity to send back agency purchase requisitions on the basis of need or quality. A total of 35 states grant their purchasing agencies this authority. What is more, 41 states require operating agencies to furnish inventory and usage data to central purchasing when it is requested.[12] Respondents to the 1981 survey in 35 states perceived a trend toward more centralization in policy matters governing purchasing and contracting.[13] Nine perceived less and six saw no trend in either direction.[14]

The position of the central purchasing agency in the state's administrative hierarchy may determine its capacity to implement its responsibilities. The following recommendation relates to this point:

> Place the central purchasing function at a level that ensures sufficient authority, independence and safeguards to foster the goals and objectives of the purchasing program.

This recommendation is aimed at ensuring that the central authority can exercise independent professional judgment. No one "best" organizational arrangement is advocated. The need is to locate the authority high enough in the governmental hierarchy that it can deal with the various agencies. Comments accompanying the ABA *Model Procurement Code* express a preference for independent agency status for central purchasing. Nevertheless, in most states it is part of an integrated management department (e.g., administration, general services or finance). A total of 30 states reported this location in 1964; by 1981 such arrangements existed in every state but one.[15]

Another recommendation relates to the nature of the central agency purchasing activities and to the breadth of its authority:

> Make purchasing management-oriented and address the full range of procurement activities, including planning, acquisition, standards and quality assurance, contract administration and disposition programs.

The ABA code also provides for wide application, generally exempting only state-local grants or contracts and specialized purchases such as art for museums and heavy highway equipment.

In 1981, a management role had been affirmed for centralized purchasing in 38 states, either by statute, rules or regulations, or administrative procedures.[16] Data as to whether state centralized purchasing agencies have planning responsibilities is unavailable. All do appear to be involved in acquisition—writing or approving specifications, handling bidding and awarding contracts. Most have responsibilities regarding quality control (31), maintaining vendor performance lists (40), inspecting deliveries and operating quality testing programs. Central agencies in 31 states control disposition of surplus material, determining whether products are to be traded in, sold or transferred to other agencies.

As far as contracting is concerned, until recently contracts for most types of services were handled by individual departments and program agencies. Although this practice is still followed in many instances, more contracts are now the responsibility of the central purchasing agency. In the mid 1970s, for example, few centralized purchasing offices were involved in professional contracting; by 1981, the number had reached 28.[17]

PROCUREMENT MANAGEMENT INFORMATION SYSTEM

To improve management and purchase economically and effectively, it is necessary for purchasing agencies to have information about agency needs, inventories, times when products are needed and other matters. The CSG report recognized this fact in the following recommendation:

> Establish and maintain a procure-

ment management information system and a management analytical process based on the information.

In 1981, 30 states maintained or were actively developing computerized purchasing management information systems to fulfill these needs. Moreover, 41 states required agencies to provide inventory and usage data to central purchasing. Data regarding management analytical process are unavailable.

COMPETITIVE, SEALED BIDDING

Considerations of obtaining the lowest possible prices and ensuring fairness in the bidding process prompted the following CSG recommendation:

> Provide for competitive sealed bidding, except for small purchases below a specified amount, require justification of the use of any other process, and keep a public record of all vendors solicited and bids received.

The recommendation is consistent with the ABA *Model Procurement Code*.

In all, 46 states require sealed bids, publicly opened. Only Michigan, New Hampshire, Rhode Island and Vermont do not.[18] All states except Vermont, however, set forth in writing conditions under which competitive bidding may be waived. The Arizona central purchasing agency has no authority to waive competitive bidding except for professional contracts.

AWARD OF CONTRACTS TO LOWEST RESPONSIBLE BIDDER

One of the major reasons for establishing a central purchasing program is the economies that can be effected. Consequently, there is concern in purchasing circles for saving money where possible in the procurement process. There is equal concern, however, that price not be the only criterion for bid awards. Awarding contracts on the sole basis of the lowest actual bid meeting specifications gives the bidder no incentive to improve quality and every incentive to cut it whenever he can get away with it. The CSG study recommends that the purchasing office

> ... award contracts to the responsible and responsive bidder whose bid is most economical for the purpose intended.

The ABA code also provides for award to the "lowest responsible and responsive bidder" and sets out certain criteria such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose as guidelines. These provisions are directed at ensuring that the firm awarded the contract has the capability to fulfill it, that the products conform to the specifications, and that, considering these other factors, the price will be as low as possible.

Four-fifths (40) of the states statutorily mandate awards to the lowest responsible bidder or acceptance of the bid most advantageous to the state. Nevertheless, all states allow rejection of all bids if the price is too high. In 18, the central purchasing agency has authority to renegotiate rejected bids in the open market at lower prices.

Although 40 states set out statutory criteria for evaluating bids, some follow practices deemed unacceptable by CSG standards: 11 give pricing preferences for products manufactured in the state or to in-state bidders; 14 rotate vendors; and 11 permit purchasing equipment or materials by negotiation apart from sole-service suppliers, emergencies or very small purchases.

OVERSIGHT

To ensure compliance with purchasing statutes and regulations, both the ABA and CSG recommend establishing a board or other unit responsible for overseeing compliance.

A total of 16 states responding to the CSG survey indicated that they had such a unit. Had the question not specified that the *primary* responsibility of the board was oversight, it is possible that more states would have replied in the affirmative. Officials in 32 states said their states had a legal or regulatory requirement that purchasing be reviewed for compliance so, presumably, someone was authorized to do it. In addition, 34 states reported conducting regular reviews of purchasing programs.

PUBLIC ACCESS AND VENDOR INFORMATION

To ensure accountability and the integrity of

the purchase process, CSG recommended that states:

> Provide public access to the procurement process through publication of all purchasing laws, rules, regulations and procedures; public notice of solicitations of bids and proposals; documentation of specific actions in the procurement process; public bid openings; and public access to other records except unopened bids, documents upon which an award is pending, and trade secrets, test data or similar proprietary information.

Specific information on each point in this recommendation is unavailable. The CSG report stated, however, that public access is the general rule of most centralized purchasing systems. State requiring sealed bids (46) ordinarily give public notice of the bidding and provide for public bid openings. In addition, all but three states have prepared, or were preparing in 1981, manuals on purchasing policy, rules and regulations, or administrative procedures. All but eight had, or were assembling internal operations or procedural manuals, and 43 had or were compiling manuals giving directions to vendors.

PENALTIES FOR IMPROPER ACTIONS

Both the ABA code and the CSG report specify punishments for unethical purchasing practices. The ABA code sets out a variety of penalties and the CSG report includes the following recommendations:

> Provide criminal penalties for attempting to influence awards through offers of something of value and for accepting such offers; provide that all guilty parties be personally liable to the government for any losses the government incurred as a result of any award so influenced.
>
> Establish personal liability for personnel who authorize or make purchases in violation of applicable statutes, rules, or regulations or who participate in contracting that involves a conflict of interest.

No data are available on the prescription of criminal penalties. Nevertheless, in addition to general conflict of interest statutes, 29 states have adopted specific purchasing statutes providing for personal liability of state employees who violate statutes or rules concerning purchasing. Acceptance of anything of value to influence contract awards is specifically prohibited. Moreover, in all but four states, a contract is void if entered into in conflict with the rules or else the purchasing office has authority to void it.

AUTHORIZATION FOR INTERGOVERNMENTAL COOPERATIVE PURCHASING

Both the ABA and the CSG advocate that public purchasing agencies be permitted to cooperate in procurement. They recommend that states:

> ... authorize intergovernmental cooperative purchasing between and among state governments, state and local governments, and local governments.

Cooperative purchasing was authorized by 42 states in 1979; however, in many instances it was limited to state-local cooperation and did not permit interlocal or other horizontal cooperation. Moreover, the scope of the cooperation often was restricted and did not extend to activities other than acquisition.[19] Nevertheless, there appears to be increased emphasis on cooperative purchasing between state governments and their political subdivisions. Moreover, some moves toward interstate cooperation have been made. Georgia, for example, offered to establish a contract for the joint purchase of widgets by all southeastern states.[20]

PROFESSIONAL PERSONNEL DEVELOPMENT

Effective and efficient purchasing depends on competent personnel as well as on an adequate legal base. In this connection, the ABA code provides for establishing a purchasing institute to train purchasing personnel. The CSG report recommends training programs and affiliation of personnel with professional associations.

Although many states appear to have given this facet of purchasing scant attention, there are some positive developments. The four states that report placing special weight on purchasing certification in job descriptions or in recruiting announcements contrasts with none, ten years ago. Moreover, Stephen B. Gordon, director of professional training and procurement research for the National Institute of Governmental Purchasing (NIGP), reports that

> One or more senior purchasing officials in at least 14 states (Arkansas, Colorado, Florida, Illinois, Kansas, Louisiana, Michigan, Missouri, New York, South Carolina, Texas, Virginia, West Virginia, Wisconsin) are Certified Public Purchasing Officers (CPPOs); and many of the personnel who work for them also are CPPOs (if they are managers or supervisors), or Professional Public Buyers (PPBs) if they are not. This increased interest in demonstrating professional knowledge certainly is a reform, albeit a voluntary and individual one.[21]

The cooperation of the National Institute of Governmental Purchasing and the National Association of State Purchasing Officers in establishing the "Universal Public Purchasing Certification Program" also reflects increased interest in professionalization.

In regard to training, twelve states have special training for new employees; however, only five have regular in-house training programs for all technical staff. The tendency is to avoid in-house training. Although five states have informal programs, 24 rely on others for continuing education. Many employ NIGPs training seminars, endorsed by NASPO.

Acting under 1981 legislation, South Carolina's Department of General Services established a procurement institute that has been officially designated as a NIGP regional training center. It is developing a seminar on "High Technology Acquisition" that NIGP expects to market nationally.[22]

States fare well in regard to professional associations. All but three states report that their centralized purchasing organization staffs are active in professional organizations and 27 report them participating in three or more organizations.

AN ASSESSMENT

The recent emphasis on improving procurement by state governments is reflected in the increase in state central purchasing agencies over the past quarter century. Since 1956, the number has doubled. In that year, 24 states had central purchasing agencies.[23] In 1983, however, all states except Mississippi had central purchasing agencies. Moreover, the central agency had considerable authority in most states, being able to send purchase requisitions back to the agencies and to demand inventory and usage data from them. Central agencies also had undertaken management roles and participated in a full range of procurement activities rather than being concerned with acquisition alone. Computerized purchasing information systems strengthened the managerial capacities in most states and permitted better inventory control.

Public accountability in regard to purchasing was improved, also, as 46 states required publicly opened sealed bids, for sale of products to the state. Although some states continued to make the lowest price the only criteria for awards, others moved to include quality, vendor performance and other considerations in awarding contracts. Nevertheless, some states continued to favor in-state bidders or manufacturers, to rotate vendors and to permit purchasing of equipment or materials by negotiation. Most states revised laws concerning compliance with purchasing laws and provided improved public access to the procurement process. Vendor information was upgraded by publishing statutes, regulations and procedures and by issuing manuals explaining policies, rules or administrative procedures and giving directions to vendors.

State efforts to reduce fraud and other improprieties in the purchasing process were reflected in the adoption by 29 states of specific purchasing statutes providing for personal liability for state employees who violated statutes or rules concerning purchasing. What is more, all but four states can void contracts executed in conflict with the rules.

States placed some emphasis on intergovernmental cooperation in purchasing and 42 au-

thorized such an approach. This permissive authority, however, ordinarily was limited to state and local cooperative purchasing, ignoring the benefits of interlocal arrangements.

At the same time that they made progress in many areas, states appeared to ignore the advantages produced by effective training of personnel. When recruiting personnel, few placed much weight on certification. Fewer than a quarter of the states established special training programs for new employees and even fewer had regular in-house training programs for all technical staff. States apparently did encourage membership in professional associations.

A firm assessment of state purchasing practices is difficult to make because of the shortage of information as to how well the principles adopted are followed in practice. Nevertheless, it is possible to say that state purchasing has received a great deal more attention than was formerly the case with a concomitant strengthening of purchasing statutes and practices. An examination of the literature relating to purchasing a quarter century ago reveals a much narrower focus, a pleading for standards, and only moderate progress toward established goals. Today, after a number of groups pushed for professionalization of purchasing staffs, stricter conflict of interest legislation, conformance to recognized standards, greater public view of the procedures, and modernized techniques and processes, the state purchasing literature reflects substantial advances. Finally, nine states adopted the ABA *Model Procurement Code* between 1979 and 1983,[24] and efforts to upgrade state purchasing are continuing.

ACCOUNTING AND FINANCIAL REPORTING

Traditionally, accounting has been considered

> ... the art of recording, classifying, measuring and communicating in a significant manner and in terms of money, transactions and events which are, in part at least, of a financial character, and interpreting results thereof.[25]

USES AND USERS OF ACCOUNTING RECORDS AND FINANCIAL REPORTS

Accounting records supply the information that enables decisionmakers to know what financial resources are available. They help in evaluating governmental performance and in future planning. With the information they provide, administrators can keep track of revenues and expenditures and monitor the jurisdiction's financial status. Accounting records also enhance public accountability by establishing the basis for audits and by furnishing the information about the government's fiscal operations for public financial reports. A recent study identified six classes of potential users of accounting information:

1) *providers of financial resources*—taxpayers, feepayers, grantors, investors, and lenders and service customers;
2) *providers of labor and material resources*—employees and vendors;
3) *persons responsible for internal resource allocation decisions*—legislative and governing bodies, executive officers, other government personnel, voters and other participants;
4) *participants in the process of legitimizing government*—the electorate, legislative bodies, oversight bodies and higher level governments;
5) *parties for whom governments act in a fiduciary capacity, that is, those for whom they collect, hold or invest funds* in trust; and
6) *parties contemplating external transactions for which data concerning the governmental unit are relevant*—potential residents and businesses, property investors, investors acquiring existing securities from third parties, other governments, and researchers and others who require information.[26]

These users look to the financial reports state governments publish for information on a state's financial condition and practices. Consequently, according to the Council of State Governments' State Accounting Project Committee, financial statements should meet the following objectives:

1. They should communicate relevant eco-

nomic information to users of fiscal data.

2. They should contain information about the entire state government entity so as to avoid misleading users.
3. They should include information needed to make or influence resource allocation decisions and related decisions, including data necessary to assess the nature of services provided, financial viability, fiscal compliance and stewardship.
4. They should provide information about state government that is necessary to assess the nature of services provided, the financial and economic resources used to provide these services, and the state's financial viability, that is, its ability to continue to provide those services.
5. They should contain information required for assessing fiscal compliance with any restrictions on the sources and uses of resources.
6. They should provide sufficient information for assessment of management accountability.
7. They should include management explanations and interpretations to help users understand the information provided.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP)

To provide the necessary information and be of value, accounting should be practiced in such a way that the desired information is readily available, relevant, objective and pertinent. It is helpful if the data are in a format facilitating financial comparisons among jurisdictions. Toward this end, accountants and government officials have worked to formulate a body of "Generally Accepted Accounting Principles" (GAAP) endorsed by most of those who set them or are affected by them. In governmental accounting, the affected parties include those preparing financial reports (government officials), those attesting to the fairness of the presentation in accordance with applicable standards (auditors), and those who use them.[27] General acceptance of accounting principles is regarded as desirable because of the substantial costs involved in enforcement and conflict resolution when such acceptance is lacking.[28] Agreement as to the principles has been difficult to obtain, however, because of the diverse political and economic interests of those affected and because not all those concerned are similarly involved in the standard-setting process. Moreover, governmental accounting standards have emanated from a number of sources, including legislative and oversight requirements, grant conditions and recommendations of associations of auditors, accountants and other professional groups. Nevertheless, adherence to GAAP is frequently required by law or regulations.

When statutes specify accounting or financial reporting practices, compliance is mandatory. When these practices are inconsistent with GAAP, financial officers must make difficult choices. According to one authority,

> this state of affairs reflects the reluctance of many legislative and oversight bodies to delegate their legal authority to prescribe accounting standards, and the relative slow progress made by the accounting profession in securing legislative endorsement for nationwide uniform standards. Legislative, administrative and judicial endorsements would help accounting standards set by professional bodies gain enforceability.[29]

The accounting, financial reporting and audit standards imposed by the federal government as conditions of grants-in-aid also produce conflicts. Grant requirements mandate that grantees prepare financial statements in conformance with general accounting and reporting principles.

In addition to a lack of consensus as to what these principles are, state officials resent the imposition of standards by the national government. Although there have been frequent calls for the creation of a federal institute for setting state and local government accounting standards, state officials have been in almost total agreement that the federal government should not be the standards-setting authority.

DEVELOPMENT OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP)

Pronouncements of Generally Accepted Accounting Principles have roots in the early 20th century and the municipal reform movement. Efforts to control the scandals caused by ineffective fiscal administration in American cities led to the organization of the National Municipal League, an organization dedicated to improving state and local governments. At the same time, the U.S. Bureau of the Census was pushing for uniformity in local accounts and financial reports.[30] Later other groups joined in the standardization attempts with professional groups assuming the leadership.

In the mid 1930s, the movement took on new vigor with the establishment by the Municipal Finance Officers Association of the National Committee on Municipal Accounting. Members of this group were the chairmen of nine national organizations' committees on municipal accounting. Their aim was to develop principles and standards of municipal accounting, to set out standard classifications and terminology for municipal financial reports, and to promote recognition and use of the standards. The committee began a series of publications on municipal accounting.[31] A subsequent committee produced a publication, *Governmental Accounting, Auditing, and Financial Reporting* (GAAFR) in 1968 that many recognized as the authoritative source for generally accepted accounting principles for state and local governments.

In 1973, as a result of a task force report on accounting, auditing and financial reporting, the Municipal Finance Officers Association created the National Council on Governmental Accounting (NCGA). The intent was for this body to develop and issue standards for these financial operations in state and local governments. The efforts of the task forces it established were overtaken by the municipal financial crises of the mid 1970s, however, so NCGA limited its activities to issuing a series of statements regarding financial practices. *Statement 1, Governmental Accounting and Financial Reporting Principles*, issued in 1979, was an updated and amplified restatement of the 1968 GAAFR chapter on accounting principles that incorporated certain sections of the American Institute of Certified Public Accountants' (AICPA) audit guide. The audit guide—the recognized standards for state and local auditing—generally endorsed GAAFR principles and added some alternatives.[32] Later, NCGA persuaded the AICPA to confine its activities to the auditing function.[33]

Not all those concerned agreed with this arrangement or with *Statement 1*, however, and other organizations contested NCGA's role as prescriber of generally accepted accounting principles. The dispute was not so much over the principles involved—although agreement on them has never been unanimous—but over recognition as the authoritative source. Moreover, state officials responsible for financial activities advocated greater state participation in the standard setting process to ensure concern for state problems and needs. Often GAAFR standards conflicted with state laws or regulations. Consequently, in cooperation with the National Council on Governmental Accounting, the Council of State Governments undertook a State Government Accounting Project in 1977 designed to secure information on state accounting and financial reporting and to initiate a process leading to a statement of generally accepted principles for state government.

The first stage of the project was a field survey of all the states and Puerto Rico.[34] The second stage included an analysis of the survey findings and the development of "a relevant and accepted State Government Accounting Principles and Preferred Practices document." The principles and practices are set out in the Council of State Government's *Preferred Accounting Practices for State Governments* (1983). At current writing, they are still under consideration for adoption by the National Council of Government Accounting. Subsequently, the Government Accounting and Standards Board was created by the Financial Accounting Foundation, an arm of the American Institute of Certified Public Accountants, corresponding to the Financial Accounting Standards Boards that sets standards for nongovernmental accounting. This body is expected to assume the standard-setting role for state accounting practices when it get underway; however, no principles have been issued to date.[35]

Although they have yet to achieve the status

of generally accepted accounting principles, the recommendations developed by the State Accounting Project form the basis for evaluating state accounting and financial practices in this report. Only the more general recommendations are used. Where data on state compliance are unavailable, as in the matter of budgetary-accounting relationships, the recommendations are omitted.

PREFERRED ACCOUNTING AND FINANCIAL REPORTING PRACTICES[36]

The Preferred Accounting Practices relate to eight aspects of the state accounting function:

1) *designation of the reporting entity*—that is, what governmental organizations are to have their financial data included in the state's financial report;
2) *fund accounting and fund structure*—should states record financial transactions in discrete funds and if so, which fund types are appropriate, and should separate funds be established in the absence of external requirements;
3) *basis of accounting and measurement*—this aspect relates to consistency in timing of recognition of revenues and expenditures (that is, the point at which they should be counted) to provide consistency in financial reports;
4) *accounting for assets;*
5) *accounting for liabilities;*
6) *accounting for equities;*
7) *budgetary-accounting relationships;* and
8) *state financial reporting.*

DESIGNATION OF THE REPORTING ENTITY

To establish credibility and to be consistent, state financial reports should contain information about the entire government and the definition of the reporting entity should be common to all the states, according to the project committee's Preferred Accounting Practices. Without a standard definition of the departments and agencies covered, information cannot be compared. If one state included data for its boards and commissions, universities, and turnpike authorities and a second did not, comparison would be difficult. The following definition of the reporting entity was recommended:

> The reporting entity for general purpose financial reports of state government requires the inclusion of any governmental department, agency, institution, commission or other governmental organization for which the elected state officials have oversight responsibility. Oversight responsibility *is derived from* the state's power and includes, but is not limited to: selection of governing authority, designation of management, ability to significantly influence operations, accountability for fiscal matters or scope of public service. Oversight responsibility, in general, implies that a governmental unit is dependent on another and the dependent unit should be disclosed in the financial reports as part of the other entity.

The State Government Accounting Project survey uncovered substantial variation among the states as to the organizations included in general purpose financial reports. Notice in *Table 10-1* that although it is common to include central government agencies such as health departments in the financial report, practice varies in regard to state colleges and universities, retirement systems, and other organizations.

FUND ACCOUNTING AND FUND STRUCTURE

The National Council on Government Accounting's *Statement 1* defines a fund as

> A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

Although there are arguments against fund accounting,[37] both GAAFR and the Preferred Accounting Practices support using funds to record financial transactions. Funds enable state governments to limit the use of specific resources to the functions authorized by law or specified by the organizations or individual

Table 10–1

GOVERNMENTAL ORGANIZATIONS INCLUDED IN GENERAL PURPOSE FINANCIAL REPORTS, 1979

Code	Classification	Units Which Are Included*
(1)	Central Government Agencies (e.g., highway department, social service and health departments, etc.)	49
(2)	Political Subdivisions (e.g., counties, fire districts, water districts, school districts, etc.)	3
(3)	Boards and Commissions	48
(4)	State Colleges and Universities	40
(5)	Authorities (e.g., housing, state financing, health, etc.)	16
(6)	Court System	45
(7)	Retirement Systems	33
(8)	State Fair Board	19
(9)	Other	3

*Data missing for Oregon and Washington. Several states put "Legislature" in category (9)—"Other." This table includes "Legislature" as part of (1)—"Central Government Agencies."

SOURCE: State Government Accounting Project. Adapted from Council of State Governments, *Preferred Accounting Practices for State Government*, Lexington, KY, 1983, Appendix A.

providing the resources. Fund accounting also assists state officials in demonstrating compliance with any restrictions placed on resource use.

All states use fund accounting for recording transactions, the State Government Accounting Project indicated. Fund accounting is employed widely, also, for recording transactions by major state entities, such as universities (49) and retirement systems (49), and for segregating federal grant monies (37).

The Preferred Accounting Practices report identified a number of funds acceptable for state accounting. In general the definitions of fund types followed those contained in NCGA *Statement 1*. They included: (1) governmental funds through which most governmental functions typically are financed (the general fund, special revenue funds, capital projects funds, debt service funds and special assessment funds); (2) proprietary funds used to account for activities similar to those in the private sector (enterprise funds and internal service funds, the latter accounting for financing of goods or services provided by one agency primarily for another); and (3) fiduciary funds (assets held in a trustee capacity or as an agent for others). Account groups were recognized also. These entities are used for establishing accounting control and for ensuring accountability for fixed assets and long-term debt accounts.

The survey found 11 states following the GAAFR principles' recommendations on fund classification. Even in states where the titles of fund types and account groups differed from those set out in NCGA *Statement 1*, definitions of fund types and account groups generally coincide with the GAAFR definitions.

The State Accounting Project Committee recommended maintaining the minimum number of funds necessary for compliance with legal requirements and sound financial administration. Accounting for expenditures of externally restricted funds should be through the general fund, when appropriate, and special revenue funds should be used only when required by law. Many states fail to conform to this standard and the number of funds maintained ranges from two in Delaware to 4,000 in Hawaii. Some states maintain more than one general fund, a practice also against the preferred principles.

Other recommendations relate to the types of funds that should be used for specific types of financing. CSG's *Inventory of Current State Government Accounting and Reporting Practices* shows the funds used in each state; however, it does not distinguish the revenues and expenditures accounted for in each.

BASIS OF ACCOUNTING AND PROCUREMENT

A major concern in the development of comparability among state financial reports is that "consistency in the timing of the recognition of revenues and expenditures" be maintained. Here, the concern is with the point at which state tax receipt and expenditures should be counted. Should taxes, for example, be considered revenues when the cash is received, when it is to be received within 30 to 90 days, or when the period for its use has arrived? States use all three criteria. Such a variation of accounting practices among states makes it difficult for the reader of state financial reports to compare their respective financial conditions.

On this point, the Preferred Practices differ from GAAP. They do not prescribe any basis of accounting. Instead, they set out criteria for the recognition of revenues and expenditures. The criteria for revenue recognition differ among fund types. For Governmental Fund Types (e.g., taxes, licenses, fines, etc.), revenues should be recognized when they are "measurable and available." Revenues are considered measurable if "the precise amount is known because the transaction is completed or the amount can be determined and/or reasonably estimated from other available information." The criterion of "available" means "collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period." For Proprietary Fund types—that is those involving a exchange transaction such as the sale of services or goods—revenues should be recognized when "they are earned and measurable." At this point, the benefits have already accrued to the user and the governmental unit has been paid or has an enforceable claim for future payment.

Although there was some variation in state practices concerning recognition of revenues, the overwhelming majority of states recognized them when received. This recognition applied to all sources of revenue—taxes, grants-in-aid, lotteries and gambling fees, services, fines, interfund interagency transfers and other major sources.

Criteria for recognizing expenditures are simpler than those for revenues. According to the Preferred Principles, expenditures/expenses should be recognized when the amount can be measured objectively, when the goods have been delivered or title has passed to the state and when services have been rendered. An unpaid item is considered an expenditure when a liability for payment exists that the state cannot avoid unilaterally and for the payment of which current resources or—in a major departure from GAAP—future resources will be required. The overwhelming majority of the states recognized expenditures when the payments are made. This statement applies to all objects of expenditures—payroll and benefits, debt, contracts (including grants to local governments), capital outlay, construction projects, prepaid expenses, inventory and other operating expenses.

ACCOUNTING FOR ASSETS

The State Accounting Project Committee found a "lack of consistency in reporting of assets in the financial statements by the states." This inconsistency affected the various categories discussed: receivables, investments, inventory, land, fixed assets, depreciation, leased assets, deferred charges/prepaid expenses, restricted assets, resources to be provided in future years and accounting for equity in related organizations.

Receivables. Amounts owed to the state, including those pertaining to legally enforceable claims for taxes, licenses and other revenue-raising devices as well as amounts owed the state for services provided or goods furnished, are called receivables. The State Accounting Project Committee recommendation deals with the reporting of receivables in the financial statement. It invokes the criteria for revenue recognition that all revenues be recorded when they are measurable and available to pay current liabilities of the state and that the related receivables be recorded. The report of the survey project indicated that most states did not report taxes receivable on their financial statements. As far as grants receivable were concerned, the situation was similar, although a few more states tended to report them. Even fewer reported amounts receivable from licenses, state lotteries, services and fines, perhaps because of their lack of significance or because proceeds were difficult to estimate. Interfund and interagency receivables were the most likely to be included and two-fifths of the states reported these.[38] See *Table 10–2*.

Table 10–2

STATE PRACTICES REGARDING RECEIVABLES, 1979

Sources of Funds	Is it Reflected on Financial Statements?		How is it Reflected?		
	Yes	No	Financial Statements	Note	Schedule
TAXES					
Sales	9	36	9		
Personal Income	8	37	8		
Business Income	8	38	8		
Property	7	22	7		
Motor Vehicle Fuel	9	41	9		
Alcoholic Beverage	8	42	8		
Insurance Premium	7	43	7		
Other Business Taxes	7	42	7		
Other (describe)	6	18	6		
GRANTS:					
Federal Revenue Sharing	10	40	9	1	
Other Block Grants	15	35	15		
Formula Allocation Grants	16	33	16		
Discretionary Categorical Grants	14	35	14		
"Pass-Thru" Grants	11	39	11		
Procurements & Cooperative Agreements	8	36	8		
Contributed Capital Grants	11	32	11		
Other Intergovernmental (describe)	1	17	1		
LICENSES, PERMITS, AND FEES	4	46	4		
STATE LOTTERIES AND GAMBLING FEES	4	18	4		
SERVICES (describe)	9	36	10		
FINES	5	45	5		
INTERFUND AND INTERAGENCY RECEIVABLES	21	29	18	1	1
OTHER MAJOR SOURCES (describe)	5	13	4		

SOURCE: Adapted from Council of State Governments, *Preferred Accounting Practices for State Governments*, Lexington, KY, 1983, Appendix K.

Investments. The *Preferred Practices* report defines investments as "the securities, real estate, and other assets held for production of income in the form of interest, dividends, etc." They may be either temporary or permanent and may be acquired by purchase, accepted for payment of taxes or services, or received as gifts. Idle cash is generally invested in an interest-bearing account or some marketable security. These investments may need to be liquidated at any time to finance activities. Permanent securities, on the other hand, are generally held for long periods of time. They frequently are not salable and the market value is not readily discernable. They generally take the form of securities, real estate, other property or property rights.

The preferred practice in regard to temporary investments is that they be reported at cost and the market value disclosed. Permanent investments should be recorded at fair market value at the date acquired (considered to be cost). The State Accounting Survey indicated that 41 states used cost as the current evaluation basis. The practice appeared to be uniform among funds within a state, with 49 states reporting no variation.

Another recommendation related to discounts or premiums on investments. The premium or discount constitutes the cost and the par value of the investment resulting from a difference between the interest rate stated on the security and the market rate of interest for that type of security. If the stated rate exceeds the market rate, the bond will sell at a premium. If it is less than the market rate, it will sell at a discount. The recommendation was that "investments should be carried at cost adjusted by the amortization of the premium or discount." The scientific method, sometimes called "effective interest," should be used as the method of amortization. The recommendation allows for use of straight-line amortization if the difference between the two methods is minimal.

The survey indicated that many states did not amortize the premium or discount over the life of the investment. Of the 33 that did, ten used the straight-line method, four used permanent value and 19 employed other methods.

Inventories. The inventory constitutes another form of asset, one held for internal consumption or for resale to other state agencies or outside parties. States maintain inventory records to ensure internal control, to compute the charges for inventory usage, and for purposes of financial reporting. The Preferred Practice relates to the method of valuing inventories, distinguishing between accounting for proprietary funds and government funds. Proprietary funds should record inventoriable items as an asset and record the expense as the items are consumed or utilized. Governmental funds, on the other hand, should record inventoriable items as expenditures when purchased. Significant amounts of inventories should be shown in the financial statement as assets with a contra account "Reserve for Inventories" as part of Fund Balance established for the total amount of the inventory. Moreover, inventory records should be maintained in proprietary and governmental funds, even though the inventoriable items are recorded as expenditures when purchased in the governmental funds.

According to the State Accounting Project survey, only five states—Georgia, Hawaii, Mississippi, Pennsylvania and Washington—have centralized inventory systems. The survey also found 30 of the 41 responding states recognizing the purchase of inventoriable items as expenditures when the items are purchased. They were evenly divided as to the preferred point of recognition with 15 using "when goods received" and 16 "when payments made."

Land. For accounting purposes, land is regarded as part of a state's fixed assets. The Preferred Practices report recommended that land acquired through a purchase transaction, including tax foreclosure, be recorded at cost. Expenses incidental to the acquisition and preparation of the land for use are included in the cost. Land that is acquired by contribution should be valued at estimated fair value at the time of receipt. The Accounting Survey revealed that 23 states maintained accounting records of state-owned land, with individual agencies maintaining records in 24 additional states. Land ownership records were kept in a number of states: 39 states recorded the value of land purchased with state funds, 37 the value of land acquired with federal funds, and 23 the value of locally funded land acquisitions.

Other Fixed Assets. Land is only one type of fixed assets. Any tangible asset of significant value, having a useful life extending beyond one year and used or to be used in the operation of government activities for which records should be maintained, are placed in this category. Included in addition to land are such items as buildings, improvements other than buildings, equipment, or construction in progress. Recommendations regarding them were as follows:

1. The total cost of a fixed asset should be recorded. Donated fixed assets should be recorded at fair market value.

2. Proprietary funds and those trust funds that have an income determination or capital maintenance focus should capitalize (or account for as assets) the net amount of interest cost for qualifying assets (i.e., those assets that require a period of time to get them ready for their intended use and, when put to use, provide a benefit in future periods beyond the one in which they were first put to use). The interest to be capitalized is the interest on funds borrowed for the purchase of the asset. If interest cost exceeds the related investment revenue, the net interest cost would increase the amount of the asset. If related investment revenue exceeds interest costs, the net revenues would decrease the capitalized amount of the asset. In the general Fixed Assets Account Group, the net amount of interest cost may be capitalized for qualifying assets when considered appropriate. The General Fixed Assets Account Group is a management control and accountability listing of a government's general fixed assets—those not employed in commercial activities or held in trust—balanced by accounts showing the course by which such assets were financed.[39]

3. Fixed assets and long-term investments related to proprietary fund activities or trust funds should be accounted for and reported in the respective fund. Other fixed assets should be accounted for and reported in the General Fixed Assets Account Group.

4. Infrastructure assets are assets that are immovable and of value only to the governmental unit (e.g., roads, bridges, curbs and gutters, streets and sidewalks, and drainage systems). Maintaining records for these asset is recommended and reporting them in the General Fixed Assets Account Group is optional.

Although the State Accounting Survey indicated that most respondents believed that fixed assets data should be included in general financial statements, only 14 states reported equipment and buildings in General Government statements. Slightly more, 19 for equipment and 17 for buildings, showed these assets in commercial type fund statements. *Table 10–3* shows the responses concerning reporting and recording practices on fixed assets. It also indicates practices in regard to periodic assessment of fixed assets.

Depreciation. The allocation of "the cost of assets, having a life of more than one accounting period, over the benefited accounting periods" is known as depreciation. The Preferred Practice is to record and report fixed assets of proprietary funds and to recognize depreciation in those trust funds where expenses, net income and/or capital maintenance are measured. For the General Fixed Assets Account Group, reporting accumulated depreciation is optional. If reported, depreciation expense information should be disclosed in the footnotes.

The survey found that 24 states used equipment depreciation expense information for calculating the cost of operations in proprietary funds. Only two used depreciation expense information for determining the cost of operations for accounting in governmental funds.

Leased Assets. In addition to owning substantial amounts of property, state governments lease real estate and other property on either a short-term or long-term basis. Short-term leases are for periods of less than one year, long-term leases for periods of more than one year. The *Preferred Practices* report classifies leases as either operating—used in the normal operations of government and not transferring substantially all of the benefits and risks of the ownership of property—and capital leases, which do transfer these risks and benefits. Forty-nine states permit the leasing of assets. Land can be leased in 39 states, equipment in 47, and real estate, excluding land, in 49.

The recommended accounting practices for leased assets follow:

Table 10–3

FIXED ASSETS: REPORTING AND RECORDING

Types of fixed assets	Fixed Asset Information Shown in General Purpose Financial Reports		Fund in Which Assets are Accounted for						Appraisals Periodic	
			Governmental			Proprietary				
	Governmental	Proprietary	General Fixed Asset Fund	Fund from Which Purchased	Other	General Fixed Assets Fund	Fund from Which Purchased	Other	Governmental	Proprietary
Equipment										
Machinery and Construction	14	19	12	10	2	5	18	5	1	1
Automobiles	13	19	10	10	2	4	10	5	—	1
Office Equipment	14	19	12	10	2	5	19	5	1	1
Buildings	14	17	12	8	4	5	16	6	6	3
Land	14	17	11	10	3	4	16	6	4	2
Roads, Bridges, Tunnels (infrastructure)	7	7	4	5	2	1	4	3	—	—
Leasehold improvements	9	11	8	6	2	4	10	5	—	—
Capitalized leases	2	4	2	3	1	—	5	2	—	—
Other	1	1	1	—	—	—	—	1	—	—

SOURCE: Adapted from CSG, *Inventory of Current State Government Accounting and Reporting Practices*, Lexington, KY, 1980, p. 44.

a. Leases that convey property rights that extend beyond the current budget period should be recorded as assets. Leases that do not extend beyond one year should be recorded as expenditures as the payments are made.
b. Leases extending beyond the period of appropriation should be accounted for as though the lease is non-cancelable, unless there is persuasive evidence of intent to the contrary.
c. Lease information in proprietary type funds should be reported as an asset and liability. For governmental type funds, lease information should be reported in the General Fixed Assets Account Group and General Long-Term Obligation Account Group.

Response to the State Accounting Project Committee survey indicated that only seven states—Alaska, Arizona, Delaware, Iowa, Massachusetts, North Carolina and Washington—maintained fixed assets records for leases. Only four—Alaska, Illinois, Maine and Virginia—reported lease assets in their general purpose financial statements. Although respondents from a majority of the states believed that this information should be reported, only 12 states—Alaska, Arizona, California, Kansas, Maine, Minnesota, New Hampshire, Ohio, Pennsylvania, Rhode Island, Vermont and Wyoming—recorded the obligations.

Deferred Charges/Prepaid Expenses. States make some expenditures that are not chargeable to the fiscal period in which they are made but are carried on the balance sheet as assets pending amortization or other disposition. States also prepay for benefits that they have not received. They might, for example, prepay rent, interest or premiums on unexpired insurance. The accounting issue is whether deferred charges and prepaid expenses should be recorded as assets and allocated to the accounting periods benefited or whether they should be considered a use of financial resources and charged as expenditures in the period in which they were acquired.

The recommended accounting practice is for these costs in governmental type funds to be accounted for as expenditures when the amount can be objectively measured and a liability is incurred. In addition, such items, if material, should be reported on the financial statement at year end with a corresponding reservation of fund balance. In proprietary funds, the recommendation is that deferred charges and prepaid expenses be established as assets and allocated among accounting periods.

According to the State Accounting Project survey, only six states—California, Colorado, Maine, Michigan, Minnesota and Tennessee—recognized deferred charges in their accounting systems. They reported them as assets in their general purpose financial statements. Survey responses also indicated that there would be statutory difficulties in recording deferred charges.

ACCOUNTING FOR LIABILITIES

Those items that are obligations of the state that have been incurred but unpaid are liabilities. Included are accounts payable for purchases, contracts, and services, liabilities for salaries, recurring services, and employee travel expenses, employer payroll taxes, liabilities for employee benefits, interfund liabilities, short and long-term debt, liabilities arising from deposits and assets held in trust, pension accounts, judgments, claims, and contingent liabilities, and deferred credits. They should be recognized in external reports of the states.

Accounts Payable. The obligations incurred by receipt of goods are services before the end of an accounting period are regarded as accounts payable. They include such items as liabilities for goods and services received under purchase orders or contracts for construction or services for which payment vouchers have not been issued. The State Accounting Project recommended that accounts payable be recorded in the financial record. According to the survey, only 19 states recorded accounts payable, with nine states recording them during the accounting period. Several states treat differentially accounts payable for operating funds and those for capital project funds.

Non Pension Related Liabilities Concerning Employees and Recurring Services. This group of liabilities includes obligations for salaries, recurring services, employee travel expenses, employer payroll taxes, deferred compensation, and employee sick and vacation leave. These liabilities are not processed in the same

manner as other liabilities. Formal purchase commitments, for example, are not generally used. The State Accounting Project Committee recommends recording and reporting them. No information on state practices is available except for those associated with state payroll taxes. The survey indicated that states generally did not recognize payroll tax liabilities in their accounting records until the vouchers have been prepared, approved, and submitted to the disbursing authority for payment.

Short and Long-Term Debt. Short-term borrowing, usually for less than a year, ordinarily occurs when a cash deficiency is expected. A total of 25 states permitted short-term borrowing, either by a central agency, by an operating agency, or by both. For current liabilities, the recommended accounting practice was to report as current any obligations that will require the use of current resources for liquidation. The question arising as to whether currently maturing portions of long-term debt should be classified as short-term obligations was resolved in the recommendation favoring reporting portions of long-term debt payable from current resources for governmental funds as current liabilities of debt service funds. For a proprietary fund, portions of long-term debt payable from current resources should be reported as current liabilities of the proprietary fund. The survey found six states—Delaware, Hawaii, Illinois, Rhode Island, Oregon and Washington—that considered current maturing portions of long-term debt as short-term obligations. Similarly, 21 respondents indicated that bond anticipation notes—borrowings of money for temporary financing before issuance of bonds—were classified as short-term obligations. The project committee recommended that these notes be reflected as current or long-term liabilities of enterprise funds. For governmental funds, bond anticipation notes should be shown as current liabilities in the fund in which the liability was created. When the bond anticipation note is refinanced with long-term debt, it should be reflected in the General Long-Term Obligation Account Group.

Another recommendation relates to disclosure of short-term borrowing. The project committee recommended that, for reasons of consistency and comparability, full disclosure of the terms of short-term borrowings for both operating agency accounts and central fiscal accounts is desirable. Of the 20 respondents answering questions related to disclosure of short-term borrowing, seven reported that interest rates were disclosed in their central fiscal accounts borrowing while four indicated that interest rates were disclosed in operating agency accounts. In regard to disclosure of other items, 11 states disclosed borrowing purposes; nine, loan due dates and restrictive covenants; and six, assets pledged as collateral in central fiscal accounts. Substantially fewer disclosed these items in operating accounts.

Long-term debt, usually incurred for capital projects such as roads and bridges, housing programs, and capital construction, has a maturity beyond one year. It can take the form of general obligation bonds or revenue bonds. The distinction between these two types of bonds is that general obligation bonds are backed by the full faith and credit of the state, payable from tax funds, and usually require popular approval for issuance. The state's full faith and credit is not pledged to the retirement of revenue bonds, which usually are financed by the earnings of the enterprise for which they are issued. No referendum is required for their issuance as a general rule.

The project committee's recommendations on long-term debt generally conform to *Statement 1*. The ones on which there are data as to state compliance are set out below:

a. Interest and other items related to the issuance or redemption of bonds should be recorded and reported in the period in which incurred. The principle should be recorded as an expenditure in the year in which the payment is due. If the principal payment is made earlier than when due, the expenditure should be recognized in the period paid and the long-term debt should be removed from the account. State practices appear to conform to this recommendation. All states but one recognized interest cost as an expenditure when due and paid. Principal payments were treated similarly. According to the survey, a majority of the states also recorded debt interest costs as an expenditure when incurred.

b. Unmatured long-term general obligation and special obligation debt of governmental funds should appear in the General Long-Term Account Group except to the extent of amounts currently provided for in debt service funds and which are included in such funds. A majority of states disclosed obligations issued and outstanding, interest rates and due dates; however, many states did not disclose sinking fund requirements, assets pledged as collateral or restrictive convenants.

c. Contingent, moral obligation, and no-commitment long-term debt that may be related to the state should be reported or otherwise disclosed in the financial statement or footnotes. The survey found that states that had contingent and moral obligation debt ordinarily did not disclose such debt in their financial statements or in the footnotes to these statements but reported it in a separate financial presentation or reference.

Payroll Deductions. States have a number of liabilities for the receipt of cash not intended to be revenue of the state. The state holds the cash as an agent, trustee or temporary custodian pending payment to others. Among these liabilities are payroll deductions from employees' compensation. The project committee recommended that payroll deduction liabilities be recorded as liabilities concurrent with the issuance of the payroll. The survey indicated that some states did not record liability for payroll deductions because warrants (authorizations to pay) were prepared at the same time as the net pay warrants. Other states transferred withheld taxes to an intermediary trust or agency fund before turning them over to the federal government.

Pensions. Every state has a pension fund for its employees and all states except Colorado, Delaware, Louisiana, and Ohio administer pension trust funds for other jurisdictions. The project committee had to deal with the question of whether pension plan information was to be included in a state's general purpose financial statement. The question arose because the state does not have a right to the plan's net assets, which are irrevocably dedicated to the future benefit of plan participants. The committee recommended that the actuarial liability and any past funding deficiencies be reflected in a footnote disclosure to the financial statement. The survey found financial statements of pension systems included as part of the supplemental financial information in 18 states and as part of general purpose financial statements in 24. In 16 states, pension information was included in the footnotes to financial statements.

The committee further recommended that the assets of the pension plan should be reported at cost or amortized cost with market value shown parenthetically. The survey found 48 states reporting the normal cost of pension plans, 20 disclosing the interest on unfunded liability, 42 revealing amortization of unfunded liability, 47 reporting unfunded liability, 25 disclosing unfunded vested benefits, and 48 including information on assumptions.

Contingent Liabilities. Contingent liabilities are potential obligations. They are not liabilities until some future event occurs. They can arise in workmen's compensation claims, grant disallowances, retroactive pay suits, civil liability determinations, and other ways. The amount and date the liabilities will occur often are unknown. When and how to record and report such liabilities is a difficult question. The project committee made the following recommendation:

> An estimated loss from a loss contingency should be recorded and disclosed in a footnote if both of the following conditions are met:
>
> 1. Information available prior to issuance of the financial statements indicates that it is probable that an asset had been impaired or a liability incurred at the date of the financial statement. It is implicit in this condition that it must be probable that one or more future events will occur confirming the fact of the loss.
> 2. The amount of the loss can be reasonably estimated.

At the time of the survey, two of the 15 states

then identifying contingent liabilities did it in footnotes to financial statements.

ACCOUNTING FOR EQUITIES

Fund balances are the difference between the total assets and total liabilities and are known as equities. They are ordinarily designated as reserved or unreserved depending on whether their use is restricted or whether they are available for future use. The State Accounting Project Committee recommended establishing a reserve when the fund equity is not appropriable for expenditure or is legally segregated for a specific future use. The reserve should be reported in the equity section of the balance sheet. Portions of the unreserved fund can be "designated," or identified for tentative use in the future and reported in the "designated for" part of the unreserved fund balance. As of 1979, reserves were used in 36 states with "reserve for encumbrances" receiving the most mentions (22), along with "reserve for continuing programs" (12 states), and "working capital and reservations of assets" (8). The equity section of the balance sheet is used to report reserves in 18 states. The survey showed 11 states reporting them between the equity and liability sections, two including them in the liability section, and four reporting them in various ways depending on the type of reserve. One state used reserves but did not officially report them. There was no indication of the extent, if any, of the use of the "designated for" technique.

Contributions to Equity. A permanent transfer of money or other assets from the contributor to the state represents a contribution to the equity of the fund that receives it. The recommended accounting practice for handling such contributions to capital was to record contributions to proprietary or endowment funds of a state government as contributed capital, reporting them in the equity section of the balance sheet. The survey found that the majority of states recording and reporting contributions to capital accounts as equity. Most often the contributions were recorded in Enterprise (21) and Endowment (6) funds.

Escheat Property. Almost all (48) states have property escheat laws under which unclaimed property must be turned over to the state. In some instances, the state holds the property in perpetuity for the owner; in others, the property reverts to the state after a prescribed time period. The project committee dealt with accounting for this property by recommending that escheat property be reported in a nonexpendable trust fund with the obligation to owners of escheat property reflected as part of the reserve fund balance. According to the survey, 19 states initially recorded the escheated property in a trust or escheat fund with other states using the general fund, school fund, agency fund, special deposit funds, and direct transfers to counties. Seven states treated the property awaiting transfer to the owner as some form of liability.

FINANCIAL REPORTS

A major purpose of state accounting systems is to provide information for inclusion in the state financial statements that are made available to the various users of this information. The project committee adopted detailed recommendations as to the contents of the financial statements. In general, they followed the pattern established by the National Council of Governmental Accounting. A major facet of the recommended practices as that general purpose financial statements be combined statements by fund type. Additional information should include financial position, operations, form and results of financing activities, budget comparisons, and notes to the financial statements. The State Accounting Project Survey indicated that 37 states prepared separate general purpose financial statements for each fund and 24 issued additional general purpose financial statements (that is, combined, condensed, etc.) for certain funds and fund categories. Separate funds or fund groups could be combined for general purpose financial reporting in 38 states. *Table 10–4* shows the contents of fund statements. General Fund statements, for example, included a balance sheet in 36 states, a change in fund balance in 43 states, a change in financial position in 11 states and a revenue and expenditures statement in 50 states. In addition, 29 states presented comparisons of actual expenditures to budget while 32 states compared current and prior year information.

A related recommendation concerns the footnotes to financial statements. Footnotes often

Table 10–4

CONTENTS OF FUND STATEMENTS
(by number of states)

	Balance Sheet	Change in Fund Balance	Change in Financial Position	Revenue and Expenditure	Comparison with Budget	Comparison with Prior Years
General Fund	36	43	11	50	29	32
Special Revenue Fund	33	35	8	44	19	22
Capital Project Funds	27	26	3	36	13	14
Enterprise Funds	28	25	13	34	7	14
Intragovernmental Service Funds	26	27	10	36	8	15
Trust and Agency Funds	32	34	9	39	8	17
Special Assessment Funds	6	8	2	11	3	5
Debt Service Funds	22	20	4	28	8	17
General Fixed Assets	10	7	1	5	3	6
Long-Term Debt	18	11	6	11	5	12
Other	4	6	0	9	3	4

SOURCE: Adapted from Council of State Governments, *Preferred Accounting Practices for State Governments*, Lexington, KY, 1983, pp. 85–87.

are necessary to communicate information—not readily apparent from the financial statement—necessary for a fair presentation of financial position. According to the project committee, notes should include the following information:

1) summary of significant accounting policies;
2) description of entity—those included and excluded (should include relevant information about bi-state and multi state commissions);
3) long-term debt;
4) fixed assets;
5) pensions;
6) deficits in funds;
7) segment information;
8) financial legal violations;
9) commitments;
10) litigation;
11) contingent liabilities;
12) subsequent events;
13) leases;
14) liquidity problems; and
15) other disclosures necessary in the circumstance.

Table 10–5 reflects the results of the 1979 survey on state practices in writing notes to financial statements. The categories of the table do not correspond entirely with the recommended list, probably because the survey preceded the composition of the list. Notice that the only two categories that a majority of the states indicated they disclosed in footnotes were the basis of accounting and a description of funds and debt service.

For a complete picture of the contents of financial statements, information on the subsystems maintained within the overall system is necessary. *Table 10–6* reflects the nature of overall state financial accounting and reporting systems in the states. Notice that in connection with most subsystems, centralized accounting and reporting systems were maintained—that is, either maintained in the central accounting system or in a central location. Notice, also, that although computer use is substantial, it is by no means universal. Respondents to the project survey expressed a prefer-

Table 10–5
FINANCIAL STATEMENTS: FOOTNOTES, 1979

	Number of States
FOOTNOTES DISCLOSE:	
Legal latitude in revenue use	13
Impact of existing or proposed legislation	8
Relationship of various units reported on as to assumption of debt*	10
Funds transferability	11
FOOTNOTES PROVIDE INFORMATION ON:	
Basis of accounting and description of funds	32
Inventory methods	9
Deferred compensation	5
Leases	7
Commitments	15
Contingent liabilities	18
Pensions	16
Sovereign immunity	2
Debt service	28
Accrued vacation, sick, other leave	10

SOURCE: Adapted from Council of State Governments, *Inventory of Current State Government Accounting and Reporting Practices*, Lexington, KY, 1980, p. 89.

ence for both centralization and computerization of subsystem information.

As might be expected, there was substantial variation among the standards and policies that states had adopted for their financial accounting and reporting systems. *Table 10–7* reflects these practices. Two-thirds of the states used the GAAFR principles; however, they apparently were not necessarily applied throughout the accounting and reporting systems in those states. Other standards were employed also. More states vested responsibility for establishing standards and policies in the comptroller (19) than in any other official and practices vary among the other states. Review of the standards appeared to be rather common. More than half (17) the states had reviewed their standards or policies within the year prior to the survey, and another 17 had reviewed them during the five years before the survey was taken.

AN ASSESSMENT

One need only look at the number of professional organizations and government agencies involved in improvement efforts to appreciate the importance placed on state accounting and financial reporting. Such attention, particularly since the mid 1970s, has encouraged some observers to propose higher standards for these activities even if there is not general agreement as to which ones should be considered the "Generally Accepted Accounting and Financial Reporting Principles." By 1982, two states, Maryland and Tennessee, had adopted—and 15 others were in the process of adopting—the Generally Accepted Accounting Principles put forward by the National Council on Governmental Accounting and had experienced a consequent improvement in credit ratings.[40] Nevertheless, one student of accounting practices voiced the opinion that most state accounting systems still were on a cash basis or some other basis inconsistent with GAAP.[41]

The extent to which other states have complied with many of the individual practices has been documented. Nevertheless, it is impossible to assess accurately the extent to which such compliance has resulted in better accounting and reporting systems. To do that, one must have criteria for determining the degree to which some practices are more important than others. Nevertheless, some states do appear to have better systems than other states. One authority cited Maryland, Tennessee, Illinois, North Carolina, New Hampshire, Hawaii, Washington, California, Minnesota, Wisconsin and New Jersey as the states with the stronger accounting and reporting systems. He also predicted that all states will adopt the generally accepted principles within the next ten years because they will be unable to market their bonds without doing so.[42] Certainly, states are engaged in considerable activity regarding improvements in accounting and reporting practices if the accounting literature is to be believed.

Table 10–6

NATURE OF OVERALL STATE FINANCIAL ACCOUNTING AND REPORTING SYSTEMS

Financial Accounting and Reporting System Subsystems	Current Practice					
	Centralized			Decentralized		
	Manual	Computer	Other	Manual	Computer	Other
General ledger	7	32	3	2	2	2
Budget—Expense	3	44	2	—	2	—
Budget—Revenue	7	40	1	—	2	1
Encumbrance	—	39	2	—	4	5
Cash Receipts	2	44	1	2	1	1
Accounts Receivable	1	12	—	12	8	8
Journal Entry	12	30	2	3	2	1
Cash Disbursements	—	46	1	—	2	2
Accounts Payable	1	13	—	9	6	4
Fixed Asset	4	13	—	10	8	6
Payroll	—	43	1	—	6	1
Cash Management	12	27	2	1	4	—
Other	1	2	—	—	—	—

SOURCE: Council of State Governments, *Inventory of Current State Government Accounting and Reporting Practices*, Lexington, KY, 1980, p. 90.

Table 10–7

STANDARDS/POLICIES OF OVERALL STATE FINANCIAL ACCOUNTING AND REPORTING SYSTEMS

	Number of States
SOURCES OF OVERALL STANDARDS/POLICIES:	
GAAFR (governmental accounting, auditing, and financial reporting)	33*
AICPA Industry Audit Guide—*Audits of State and Local Governmental Units*	23
Financial Accounting Standards Board pronouncements	11
Budget/Appropriations	37
Other	27
RESPONSIBILITY FOR ESTABLISHING STANDARDS/POLICIES:	
Statute	7
Governor	1
Elected Auditor	4
Legislative Auditor	2
Budget Director	3
Comptroller	19
Treasurer	1
Director of Accounts	8
Other	6
STANDARDS/POLICIES LAST REVIEWED:	
Within the Last Year	27
Within the Last Five Years	17
Within the Last Ten Years	2
Unknown	5

*Subsequent to the 1979 survey on which this table is based, at least two more states—Arizona and Maryland—adopted the GAAFR standards.

SOURCE: Council of State Governments, *Inventory of Current State Government Accounting and Reporting Practices*, Lexington, KY, 1980, p. 91.

A CAUTIOUS CONCLUSION

Because of the multitude of factors involved in state purchasing, accounting, and financial reporting practices, inadequate information on some facets of these activities, and differences between apparent reforms and actual operations, conclusions as to the extent of any progress states may have made in improving these practices are suspect. Nevertheless, it can be said that in purchasing, in particular, changes moved state procurement toward improved efficiency and accountability. Centralized purchasing, aimed at upgrading efficiency and reducing costs, has become common in state governments, and authority for enforcing compliance with central agency rules has been strengthened. Computerization has been a significant advance. Greater accountability has resulted from improvements in oversight of purchasing agencies, increased openness in the procurement process, and stronger laws relating to conflict of interest and fraud. Most states now provide for sealed bids, publicly opened, and furnish more information to vendors, officials and the public. Nine states have completely over-hauled their purchasing statutes, adopting the *ABA Model Procurement Code for State and Local Governments*. Although this figure represents fewer than a fifth of the

states, it is a substantial advance from the situation only a few years ago.

As far as accounting and financial reporting are concerned, the picture is less bright. Despite the almost frenetic activity to establish generally accepted principles in these areas, advances appear to be still in the beginning stage. The move to improve has started, however, and should be hastened by the financial exigencies facing many states and by the demands of the bond market. Certainly, pressures for change in all three areas—purchasing, accounting and financial reporting—seem to be coming from all sides.

FOOTNOTES

[1]Council of State Governments (CSG), *State and Local Government Purchasing*, 2nd ed., Lexington, KY, 1983, p. 12.
[2]See *ibid.*, pp. 7–9.
[3]For a brief discussion of these points, see CSG, *State and Local Governmental Purchasing: A Digest*, Lexington, KY, 1974, p. 2.
[4]CSG, *State and Local Government Purchasing*, Lexington, KY, 1975.
[5]44 *Fed. Reg.* 47874 (August 15, 1979).
[6]American Bar Association (ABA), *The Model Procurement Code for State and Local Governments*, Washington, DC, February 1979.
[7]CSG, *State and Local Government Purchasing*, 1983, *op. cit.*, p. 12.
[8]*Ibid.*
[9]*Ibid.*, p. 14.
[10]*Ibid.*, pp. 21, 120.
[11]*Ibid.*, p. 91.
[12]*Ibid.*, p. 195.
[13]*Ibid.*, p. 190.
[14]*Ibid.*
[15]*Ibid.*, p. 21.
[16]*Ibid.*, p. 239.
[17]*Ibid.*, pp. 13–14. Stephen B. Gordon, director, Professional Development and Procurement Research, National Institute of Governmental Purchasing, reports increasing state operating reliance on purchasing offices for procurement of services of all types (including "hard" and "soft" and "professional" and "nonprofessional" services). He quotes the Missouri Director of Purchasing as saying these include services that "years ago no one would have dreamed of sending through central purchasing." Letter to Mavis Mann Reeves, March 16, 1984.
[18]Virginia's new Public Procurement Act, effective 1/1/83, included this provision. See Clay L. Wirt and Paul N. Proto, "New Rules for Public Procurement in the Commonwealth," New Letter, Charlottesville, VA, University of Virginia Institute of Government, Vol. 50, No. 8, 1983, p. 1.
[19]ABA Committee on Model Procurement Code, "State and Local Government Procurement: An Emerging Issue," unpublished, 1983.
[20]Gordon, letter, *op. cit.*
[21]*Ibid.*
[22]*Ibid.*
[23]J. Stanley Bien, "Recent Developments in State Purchasing," *Book of the States, 1956–57*, Chicago, IL, Council of State Governments, 1956, p. 168.
[24]Arkansas, Colorado, Indiana, Kentucky, Louisiana, Maryland, South Carolina, Utah and Virginia. In addition, several other states had adopted portions of it. ABA Coordinating Committee on A Model Procurement Code, "State and Local Government Procurement: An Emerging Issue," unpublished manuscript, October 1983, pp. 9–10.
[25]James L. Chan, "Standards and Issues in Government Accounting and Financial Reporting," *Public Budgeting and Finance*, Vol. 1, No. 1, Spring 1981, p. 56.
[26]Alan R. Drebin, James L. Chan, and Lorna C. Ferguson, *Objectives of Accounting and Financial Reporting for Governmental Units: A Research Study*, Vol. 1, Chicago, IL, National Council on Governmental Accounting, 1981, pp. 51–76.
[27]*Ibid.*, p. 57.
[28]But see Harvey Kapnick, "The Concept of 'Generally Accepted' Should Be Abandoned," in *Institutional Issues in Public Accounting*, Robert R. Sterling, ed., Lawrence, KS, Scholars Book Co., 1974, pp. 375–393.
[29]Chan, *op. cit.*, p. 63.
[30]See James S. Remis, "Governmental Accounting Standards—A Historical Perspective," in *Objectives of Accounting and Financial Reporting for Governmental Units: A Research Study*, Vol. II, by Allan R. Drebin, James L. Chan, and Lorna C. Ferguson, Chicago, IL, National Council on Governmental Accounting, 1981, pp. 1–22; and Remis, "An Historical Perspective on Settling Governmental Accounting Standards," *Governmental Finance*, Vol. 11, No. 2, Chicago, IL, Municipal Finance Officers Association, June 1982, pp. 3–9.
[31]Remis, "An Historical Perspective on Setting Governmental Accounting Standards," *ibid.*
[32]James M. Williams, "Auditing, Accounting, and Financial Reporting," in *State and Local Government Finance and Financial Management: A Compendium of Current Research*, eds., John E. Petersen, Catherine Lavigne Spain, and Martharose F. Laffey, Chicago, IL, Municipal Finance Officers Association, 1978, p. 88.
[33]Ibid.
[34]The responses to this survey are reflected in CSG, *Inventory of Current State Government Accounting and Reporting Practices*, Lexington, KY, 1980.
[35]Information from Louise Summersett, U.S. General Accounting Office, April 20, 1984.
[36]All information in this section is drawn from CSG, *Preferred Accounting Practices for State Governments*, Lexington, KY, 1983, and CSG, *Inventory*, *op. cit.*, unless otherwise indicated.
[37]See CSG, *Preferred Accounting Practices for State Governments*, *ibid.*, Appendix C.
[38]CSG, *Inventory*, *op. cit.*, p. 32.
[39]National Council on Governmental Accounting, *Statement 1*.
[40]Kay T. Pohlman, "State Financial Administration," *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 424.
[41]Robert N. Anthony, *Financial Accounting in Nonbusiness Organizations*, Stamford, CT, Financial Accounting Standards Board, 1978, p. 33.
[42]Relmond Van Daniker, Project Director, CSG State Government Accounting Project, telephone interview with Mavis Mann Reeves, April 11, 1983.

Chapter 11

Openness in State Government

Despite the often heard contention that state governments are closer to the people than the federal government, many groups and individuals still contend that their decisionmaking processes are closed and secretive.[1] These accusations carry with them the implication that special interests wield undue influence when the public is excluded from the policymaking process. Such groups as the League of Women Voters of the United States, Common Cause, the National Conference of State Legislatures, the Council of State Governments and the media—to name only a few—have recommended reforms that would allow the public a greater voice in state affairs.[2]

Over the quarter-century with which this report deals, many of these recommendations have been adopted. State governments have been opened up to a substantial degree and citizens have easier access to governmental machinery than ever before. To a considerable extent, this has come as the result of national actions—Constitutional amendments broadening the suffrage, legislation and implementation guaranteeing the right to vote, and grant-in-aid conditions requiring citizen participation and equal opportunity, for example. Resistance to openness still exists, however, and sometimes court action is necessary to enforce adherence to legally sanctioned practices.

The more important recommendations relating to openness will be examined in this chap-

ter. These include actions that would open up governmental procedures and processes, improve information availability, and provide opportunities for direct citizen involvement.

OPENING UP PROCEDURES AND PROCESSES

OPEN MEETING LAWS

Citizen discontent festers in an atmosphere of secrecy. Public decisionmaking in meetings from which the public is excluded creates suspicion and hostility even when the actions taken are innocuous. The spectre of smoke-filled rooms, dominated by special interests, destroys public confidence in the fairness of the decisionmaking process.

Equally important, citizens cannot present their positions on issues or hold public officials accountable if they cannot get into the meeting and find out what the officials are doing. All too often, decisionmakers have hidden behind the dignified phrase "executive session," to exclude the press and public from their activities. A 1976 survey by Common Cause found, for example, that public utility commissions in 21 states made decisions on requests for multimillion dollar rate increases in such sessions, out of the eyes of the public that was expected to pay the bill.[3]

Open Meeting Proposals

Along with the press, Common Cause has been a principal promoter of sunshine or open meeting legislation, advocating adoption in every state. Such legislation is aimed at protecting the right of the citizen to find out what goes on in the decisionmaking process. That potential for knowledge acts to deter illegal acts of favoritism. Common Cause has set out the following basic principles as to what the laws should contain. These are:

- ☐ All meetings of legislative, executive, administrative and advisory bodies of state and local governments should be covered.
- ☐ Public notice should be given at least 72 hours in advance of all meetings.
- ☐ All meetings should be open to the public except in certain limited and specific instances spelled out in the law.
- ☐ Detailed minutes of public meetings should be made available to the public.
- ☐ Violations should result in meaningful sanctions.[4]

All States Adopt Open Meeting Laws

Although openness in public proceedings had been advocated for a long time, it was not until 1967 that the first state open meeting statute was enacted in Florida. After that, action was swift and by 1974 all states had open meeting laws.[5] Ordinarily these statutes include executive, legislative, administrative and advisory committee meetings, although state legislatures usually have their own rules on the subject. The laws vary substantially among the states; in general, however, they are becoming stronger. *Figure 11–1* sets out the major provisions by state for 1981.

Advance Notice Provisions

While all states require their public bodies to conduct their meetings in public, provisions mandating advance notice are fewer. Only 45 states had this requirement in 1981. Nevertheless, seven years earlier, the Minnesota Supreme Court had ruled that, despite the absence of a specific requirement, advance notice must be given.[6] The plight of the citizen when there is no advance notice requirement or when it has been ignored is illustrated by a recent account of one citizen's attempt to testify before a committee of the Virginia Senate.

> RICHMOND—Suzanne Paciulli, vice president of the Fairfax County Chamber of Commerce, drove down here last week to testify for a bill concerning industrial revenue bonds, a matter of keen interest to the county's business community. The committee hearing was first scheduled for Wednesday morning before the Senate Local Government Committee.
>
> On Tuesday afternoon, Paciulli was standing in the hallway of the General Assembly building when she heard that her bill was being debated just then by the General Laws Committee.

> "Thank God we just happened to be standing there," said Paciulli, whose bill was killed anyway. "We didn't have all our troups down because they were all set to come the next day ... I don't know how any citizens group could ever find out what's going on."[7]

On the same day, one member of the Virginia House of Delegates commented: "It's a challenge to your ingenuity to find out where a subcommittee is meeting and to your high school track record to get there in time."[8]

Public officials also suffer in this connection. During the 1983 session of the Maryland General Assembly, one department head found that while hearing *days* were announced in advance, hearing *times* were not. It took some juggling on his part to appear before the five hearings scheduled for that day.

Recording of Minutes

The requirement for recording minutes of meetings seeks to assure accuracy as to what occurred and to provide a source of information for those later seeking information about transactions. Open meeting laws in 41 states stipulate that minutes should be taken. No data on compliance exist. Although legislative chambers universally record their proceedings, legislative committee practice is not so widespread, as can be seen in *Table 4–8* in *Chapter 4*. In only five states out of 40 responding to a survey were committee minutes recorded. Approximately two-fifths of the state legislatures recorded committee roll-call votes, however.

Compliance and Sanctions

Compliance with open meeting legislation is encouraged by sanctions for disobedience. These involve personal penalties for the officials involved as well as invalidation of actions taken in a closed meeting. The personal penalties usually are those set out as punishments for misdemeanors. Thirty-six states stipulate personal penalties. Voidance of the actions taken at a closed meeting also serves as a deterrent to secrecy. In 37 states, such actions can be voided. This technique was used in New Jersey some years ago. There, an Atlantic City charter, already approved by the voters, was declared void by the court because it was illegally drafted in closed sessions.[9]

To get the matter before the courts, citizens must have standing to sue to overturn actions taken in secret. A total of 37 state open meetings laws provide for citizen standing to sue, two pay court costs, and one provides attorney fees.[10]

The press often has led the way in bringing legal actions to gain admission to public meetings. The Baltimore *News American* filed suit against the Maryland General Assembly in 1981 to prevent it from closing the budget conference committee's meetings to the press. The Maryland Court of Appeals ruled that conference committee meetings must be open to the public.[11]

Citizen's groups also are active in filing suits to ensure open meetings. After bringing a successful action against the Louisiana Senate that led to revision of its open meetings law to include the legislature, Common Cause-Louisiana now awaits a decision in a case against the Louisiana Civil Service Commission. It asked the court to invalidate the commission's rule allowing it to close a meeting for any reason that it deems necessary.[12]

Although the extent of compliance with open meeting requirements is unknown, the laws at least give citizens weapons with which to resist closed door transactions. The burden of proof on the need for secrecy has shifted somewhat from those wanting to attend a meeting to those who would bar them.

TELEVISION COVERAGE OF STATE LEGISLATURES

Along with access to public meetings for the printed press came demands for admission of the electronic media. They were particularly strong in regard to sessions of the state legislature. The Legislative Improvement and Modernization Committee of the National Conference of State Legislatures recommended in-depth regular coverage by the electronic media as the most effective means of giving citizens factual information about the legislature.[13]

By 1980, half the lawmaking bodies had opened their doors to television. A survey in that year by the National Conference of State Legislatures found at least 25 states with in-

Figure 11–1

STATES WITH OPEN MEETING LAWS, 1981

States	Open Meetings Required	Law Applies to: State Legislatures: Floor	State Legislatures: Committees	State Executive Branch, Etc.	Local Government	Limitations on Executive Session	Provision for: Notice	Provision for: Minutes	Enforcement: Personal Sanctions	Enforcement: Voidability or Invalid	Enforcement: Citizens Standing to Sue
United States, Total	50	44	50	50	50	50	46	41	36	37	37
Alabama	X	X	X[1]	X	X	X			X		X
Alaska	X		X[2]	X	X	X	X			X	
Arizona	X	X	X	X	X	X	X	X	X	X	X[3]
Arkansas	X	X	X	X	X	X	X		X	X	X
California	X	X	X	X	X	X	X	X[4]	X		X[3]
Colorado	X	X	X	X	X	X	X	X		X	X
Connecticut	X	X	X	X	X	X	X	X	X	X	X
Delaware	X	X	X	X	X	X	X	X		X	X
Florida	X	X	X	X	X	X	X	X	X	X	X
Georgia	X		X[2]	X	X	X	X	X	X	X	X
Hawaii	X		X	X	X	X	X	X	X	X	
Idaho	X	X	X	X	X	X	X	X		X	
Illinois	X	X	X	X	X	X	X	X	X	X	
Indiana	X	X	X	X	X	X	X[5]	X	X	X	X
Iowa	X	X	X	X	X	X	X	X	X	X	X
Kansas	X	X	X	X	X	X	X		X	X	
Kentucky	X	X	X	X	X	X	X	X	X	X	X
Louisiana	X	X	X	X	X	X	X	X		X	X
Maine	X	X	X	X	X	X	X	X	X	X	X
Maryland	X	X	X	X	X	X	X	X		X	X
Massachusetts	X	X[1]	X[2]	X	X	X	X	X		X	X
Michigan	X	X	X	X	X	X	X	X	X	X	X
Minnesota	X	X	X	X	X	X	X	X	X		
Mississippi	X	X	X	X	X	X	X	X			X
Missouri	X	X	X	X	X	X	X		X	X	

Montana	X	X	X	X	X	X		X	X	X	
Nebraska	X	X	X	X	X	X	X	X	X	X	X
Nevada	X	X	X	X	X	X	X	X	X		X
New Hampshire	X	X	X	X	X	X	X	X			X
New Jersey	X	X	X	X	X	X	X	X	X	X	X
New Mexico	X	X	X	X	X	X	X	X	X	X	X
New York	X	X	X	X	X	X	X	X		X	X
North Carolina	X	X	X	X	X	X	X				X
North Dakota	X	X	X	X	X	X	X	X	X		
Ohio	X	X	X	X	X	X	X	X	X	X	X
Oklahoma	X	X[1]	X	X	X	X	X	X	X	X	
Oregon	X	X	X	X	X	X	X	X	X		X
Pennsylvania	X	X	X	X	X	X	X	X	X	X	X
Rhode Island	X	X	X	X	X	X	X	X		X	
South Carolina	X	X	X	X	X	X	X	X	X		X
South Dakota	X	X	X	X	X	X		X	X		
Tennessee	X	X	X	X	X	X	X	X	X	X	X
Texas	X	X	X	X	X	X	X		X		X
Utah	X	X	X[1]	X	X	X	X	X		X	X
Vermont	X	X	X	X	X	X	X	X	X	X	
Virginia	X		X	X	X	X	X	X	X	X	X
Washington	X	X	X[2]	X	X	X	X		X		X
West Virginia	X	X	X	X	X	X		X	X	X	X
Wisconsin	X	X	X	X	X	X	X	X	X	X	X
Wyoming	X	X	X[2]	X	X	X	X			X	X

[1]Open by practice.
[2]Open by rule. In Alabama, appropriations work and rules are exceptions. In Massachusetts, a majority vote can close.
[3]Court costs recoverable.
[4]Minutes taken in closed sessions.
[5]Except for legislature.

SOURCE: Compiled from Common Cause, "State Open Meeting Laws," Washington, DC, mimeo, January 1981, and Council of State Governments, *Book of the States, 1982–83*, Lexington, KY, 1982, p. 218.

Figure 11–2

RULEMAKING PROVISIONS OF STATE ADMINISTRATIVE PROCEDURES ACTS, 1978

States	Notice of Proposed Action	Opportunity to Comment	Right to Petition for Rulemaking	Number of Features 0	1	2	3
Alabama				X			
Alaska	X	X	X				X
Arizona	X	X				X	
Arkansas	X	X	X				X
California	X	X	X				X
Colorado	X	X	X				X
Connecticut	X	X	X				X
Delaware[1]				X			
Washington, DC	X	X				X	
Florida	X	X	X				X
Georgia	X	X	X				X
Hawaii	X	X	X				X
Idaho	X	X	X				X
Illinois	X	X	X				X
Indiana	X	X				X	
Iowa	X	X	X				X
Kansas	X	X				X	
Kentucky	X				X		
Louisiana	X	X	X				X
Maine	X		X			X	
Maryland	X	X	X				X
Massachusetts	X	X	X				X
Michigan	X	X	X				X
Minnesota	X	X	X				X
Mississippi	X	X	X				X

[1]Delaware and North Dakota have administrative procedure acts that do not contain these features.
SOURCE: ACIR staff compilation of excerpts from "State Administrative Procedures Acts" prepared by law students at Vanderbilt University in 1977 under the direction of Professor L. Harold Levinson. See ACIR, *Citizen Participation in the American Federal System* (A–73), Washington, DC, U.S. Government Printing Office, 1980, p. 273.

depth television coverage of legislative sessions. The amount and type varied from state to state. The public could see daily coverage of legislative session in 11 states. Television stations carried weekly broadcasts in another 11. Three states had occasional coverage. Broadcasts were usually carried on public television stations.[14] In at least two states, Idaho and Florida, the broadcasts were heralded as successful by those interviewed about the programs.[15]

This is a far cry from the situation a quarter century ago when television was in its infancy. According to the *Book of the States, 1956–57,*

> Use of radio and television broadcasting in conjunction with state legislative sessions and committee hearings still appears to be in the experimental stage. A sizeable number of states have used those techniques, particularly on special occasions, such as opening ses-

Figure 11–2 (continued)

RULEMAKING PROVISIONS OF STATE ADMINISTRATIVE PROCEDURES ACTS, 1978

States	Notice of Proposed Action	Opportunity to Comment	Right to Petition for Rulemaking	Number of Features			
				0	1	2	3
Missouri	X	X	X				X
Montana	X	X	X				X
Nebraska	X		X			X	
Nevada	X	X	X				X
New Hampshire	X	X					X
New Jersey	X	X				X	
New Mexico	X	X	X				X
New York	X	X				X	
North Carolina	X	X	X				X
North Dakota[1]				X			
Ohio	X	X	X				X
Oklahoma	X	X	X				X
Oregon	X	X	X				X
Pennsylvania	X	X				X	
Rhode Island	X	X	X				X
South Carolina				X			
South Dakota	X	X	X				X
Tennessee	X	X	X				X
Texas	X	X	X				X
Utah	X	X	X				X
Vermont	X	X	X				X
Virginia	X	X				X	
Washington	X	X	X				X
West Virginia	X	X	X				X
Wisconsin			X		X		
Wyoming	X	X	X				X
Number of States	46	43	38	4	2	10	35

sions and addresses by the Governors to joint sessions. Systematic coverage, however, has been confined to a few states.[16]

ACCESS TO RULEMAKING

Often the rules and regulations implementing legislation are as important as the statutes themselves. Consequently, in order to provide some uniformity in regard to the adoption or change in administrative rules, the National Commissioners on Uniform State Laws—an interstate body—drafted a "Model State Administrative Procedures Act" in 1946. Revised in 1961, and again in 1981,[17] the model established procedures for rulemaking and for the adjudication of any controversies arising as a result.

The model has three major features: notice of proposed action, opportunity for interested parties to comment and the right to petition an administrative agency for adoption, amend-

ment or repeal of administrative rules. The model also provides for an administrative bulletin, similar to the *Federal Register*, as a means of notice in regard to rules, and for an administrative code for final rule adoptions. In addition, the model contains requirements for review of rules and procedures for adjudication. States adopting it would establish a central office of administrative hearings with administrative judges and enact comprehensive provisions for judicial review.

In contrast to 1955, when only three states had adopted the model law,[18] as of 1982 eight had enacted it as written, one had passed legislation substantially similar, and 12 had adopted it after amendment, according to the legislative director of the National Commissioners on Uniform State Laws.[19] All but two states have an administrative procedure statute, however. A 1977 Vanderbilt University study found that only Alabama and South Carolina did not have Administrative Procedure Acts.[20] With the exception of Delaware and North Dakota, statutes in the other states provided for notice of proposed action, opportunity to comment, and right to petition for rulemaking. As *Figure 11–2* shows, 45 states provide for notification, 42 have provisions allowing citizens to present their comments in either written or oral form, and 38 permit citizens to petition for rulemaking action. In all, 35 states have all three provisions. Substantial variations occur among those states with a particular type of provisions.

As far as furnishing a regular bulletin where proposed rules can be published or notice of their availability can be advertised, practices again vary. A 1975 survey by the Maryland Division of State Documents found that 25 states had a register for notice or publication of proposed rules and 26 codified their rules and regulations. In addition, 24 states train agency personnel involved in rulemaking. For the most part, these developments are recent, according to the survey.[21]

ACCESS TO THE BUDGET PROCESS

Nothing the state government does affect citizens more than the budget. It is important, therefore, that they have access to the process of its development so that their opinions can be known before adoption of the appropriation bills. In 29 states, the budget is prepared annually; otherwise, the process is a biennial one.

All but three states have an executive budget system whereby the governor has the legal responsibility for submission of the budget to the legislature. The budget document is prepared by the governor and the budget agency. The process is lengthy, covering most of a year. After executive branch officials have assessed the available revenues and decided on the amounts to be recommended for various programs or agencies, the governor submits the budget document to the legislature. There, it is referred to the committee or committees responsible for considering appropriation bills. After committee approval, these bills are debated on the floors of the respective houses. On passage, appropriation bills go to the governor for his signature. In most states, the governor has an item veto over appropriation bill contents.

The usual point where citizen access can occur is in the public hearings held by the legislative committee or committees responsible for handling the appropriation of funds. This has not always been true. Although most states held legislative committee hearings on the budget, as late as 1976, civil rights groups were arguing that the public effectively was excluded from the state budgetary process.[22]

Just how often citizens take advantage of the opportunity to testify is unknown; however, some usually do. A Council of State Governments (CSG) study showed 37 states reporting the appearance of members of the general public before appropriation and revenue committees. Citizens also gain access through organizations, and 44 states reported testimony from these groups.[23]

Sometimes, however, appearance before a legislative committee is too late, even for legislators who want an appropriation increased. In three states, the legislature may lower but not raise the total amount of funds requested by the governor (except for legislative and judicial appropriations). Even in other states, it may be difficult for legislators to add funds.

As a consequence, there has been a movement to hold hearings during the executive part of the budget process. As of 1975, a total of 17 states followed this practice, either because of legal requirements or because the governor elected to schedule them. The hearings are aimed at giving agency heads an opportunity

Figure 11–3

FORMAL STATE LEGISLATIVE INVOLVEMENT IN EXECUTIVE BRANCH HEARINGS ON THE BUDGET

State	Degree of Involvement: Actors: Legislators	Degree of Involvement: Actors: Fiscal Staff	Degree of Involvement: Attendance Only	Degree of Involvement: Participation
Alabama				
Alaska				
Arizona				
Arkansas				
California				
Colorado				
Connecticut	[1]			
Delaware	X	X		X
Florida				
Georgia				
Hawaii				
Idaho				
Illinois				
Indiana	X			X
Iowa		X	X	
Kansas	X			
Kentucky				X
Louisiana	X	X		
Maine				X
Maryland				
Massachusetts				
Michigan		X	X	
Minnesota		X		X
Mississippi	[2]			X
Missouri				
Montana				
Nebraska				
Nevada		X		X
New Hampshire	X	X	X	
New Jersey	X	X	X	
New Mexico				
New York	X	X		X[3]
North Carolina	[2]			X
North Dakota		X		X
Ohio				
Oklahoma		X		X
Oregon				
Pennsylvania				
Rhode Island	X			
South Carolina	[2]			X
South Dakota		X		X
Tennessee	X	X		X
Texas	X	X		X
Utah				
Vermont		X		
Virginia	X	X		X
Washington				
West Virginia				
Wisconsin	X	X[4]		X
Wyoming				
Total	15	17	4	17

[1] **Connecticut:** No executive budget hearings held in recent years.
[2] Budget is developed by a board composed of both legislative and executive members.
[3] **New York:** The governor does not hold public hearings. However, the constitution requires that he hold formal hearings with agency heads. The legislature's attendance at these hearings is authorized by the constitution. While participation by the legislature is not prohibited, the level is subdued with the more prominent questioning being conducted by the executive budget director.
[4] **Wisconsin:** Fiscal staff attends but does not participate.

SOURCE: Adapted from Council of State Governments, *State Legislative Appropriations Process*, Lexington, KY, Council of State Governments, 1975, p. 73.

to present their views prior to the submission of the budget to the legislature rather than being designed as an opportunity for legislative or public input. Nevertheless, as *Figure 11–3* reflects, legislators and fiscal staffs appear and participate in these hearings. There is no indication that the public gets involved.

Before either legislators or the public can react intelligently to the governor's budget proposals, information about them must be available. The press, organized groups, and citizens must be able to examine the budget document. As *Figure 11–4* indicates, states vary as to the accessibility of these publications. Alabama, Colorado, Minnesota, North Dakota and West Virginia apparently make little effort to publicize the budget document. Not even all legislators get copies. Other states make them available to all public libraries and provide them to others on request. Since budgets tend to be complicated, some states publish additional information simplifying the important facets of the document. This is useful to those lacking the time or expertise to analyze the entire document for themselves.

OPEN RECORDS LAWS

Along with open meeting legislation, open records laws have been major factors in opening state government to public view. These laws provide citizen access to the public records of state and local governments.

The idea of making public records available for inspection is not new. The press has worked over the years to ensure "the public's right to know," although, for the most part, the channel was through individual court cases. Wisconsin adopted the first public records law in 1849, and 34 states had followed suit by 1961.[24]

The big push for freedom of information came during the 1970s, however, following the Watergate scandals. The federal government, which had adopted the *Freedom of Information Act of 1966*, strengthened its legislation and 22 states amended their laws to streamline the access procedures. By 1975, all but three states—Delaware, Mississippi and Rhode Island—had such statutes. Rhode Island adopted an open records law in 1976, leaving Delaware and Mississippi the only states without such statutes at the beginning of 1983.[25]

In general, the current statutes exempt certain records from public scrutiny at the same time they open access to all others unless the government can demonstrate that disclosure would be contrary to the public interest. The legislation often specifies procedures for inspecting documents, obtaining copies, and handling appeals if access is denied. The laws are not uniform, however, and a perusal of each state's statute is necessary to determine its provisions. Major provisions, by state, are indicated in *Figure 11–5*.

It is difficult to tell how effective the laws are. The Freedom of Information Center at the University of Missouri examined the laws in effect in 1975 and criticized them as follows:

> ... state record acts still need a great deal of improvement. For example, there are 17 states which fail to provide administrative or judicial review. In most of these states, a writ of mandamus cannot even be issued because custodial duties are not clearly specified. In other states, administrative and judicial review are furnished but at the expense of the individual. Hawaii, Illinois, Vermont and Washington are the only states which award citizens attorney fees and litigation costs if they gain access to the desired record. Connecticut, the District of Columbia and New York have established freedom of information commissions to review all denials and to aid requestors in disputing them.
>
> Another weakness in several of the state record laws is that they are too general in discussing documents open and exempt from disclosure.... If citizens are to have a right to know, they must be adequately informed.
>
> The acts tend to be inconsiderate of those seeking information. Because they fail to give custodians a deadline in which to respond to a request, they allow information to be withheld indefinitely.[26]

Since 1975, several of the laws have been strengthened and additional ones adopted. To provide guidance and inject uniformity among the states, the National Conference of Commissioners on Uniform State Laws formally pro-

posed a Uniform Information Practices Code in 1980. Previous drafts had been put forward by Sigma Delta Chi, the national journalism honorary, by a committee of the National Conference on State Legislatures, and by the Southern Governmental Monitoring project of the Southern Regional Council.[27]

STATE LEGISLATIVE INFORMATION

Concern about their images and the lack of confidence in and public visibility of state legislatures led these bodies, through their national organization—the National Conference of State Legislatures (NCSL)—to survey their practices and make recommendations about openness and information. They recommended that:

- ❑ state legislatures actively provide information on legislative activities to the public;
- ❑ each state legislature adopt as many public information services as feasible; and
- ❑ each state legislature adopt formal constraints to insure judicious provision of such information.[28]

The NCSL report did not outline specific practices that should be adopted, leaving the selection of appropriate means to each state. It did stress certain general principles as applicable and indicated the general practices within the states. These were:

- ❑ **Advance Notice.** Public knowledge as to when and where action will be taken on pending legislation is fundamental to public information about legislative activities. Bill calendars for both house and committee consideration are maintained in all states. Most states publish daily floor action agendas and usually disseminate committee schedules on a weekly basis.
- ❑ **Computerized Bill Status.** Most states use computers to track legislation. According to a 1975–76 National Association of State Information Systems report, 29 states had computerized their bill status data. Since that time, additional states have adopted this practice, and, in 1982, at least 42 states computerized the status of legislation, in addition to using computers for other purposes.[29]
- ❑ **Hotline Service.** Some states provide factual legislative information directly through a telephone call-in "hotline" service. In at least 11 states, the state government has a state government WATS line that residents may dial and receive bill status, committee scheduling, and floor action information. Data on bill sponsorship and district representatives also are supplied. These states include Arizona, Florida, Georgia, Hawaii, Kansas, Louisiana, Maine, Nebraska, North Carolina, North Dakota, Ohio, Oregon and West Virginia.
- ❑ **Summaries of Legislation.** In many states, legislative staffs prepare narrative summaries and newsletters of legislative activities. Some states mail these to interested citizens and media at no cost. Other states make copies available in the capitol, primarily for use by the capitol press corps and legislators.
- ❑ **Media Facilities.** Many legislatures maintain press conference and media coverage facilities. All provide facilities for the print media in or near the state capitols. Half furnish at least one special studio or press conference room for the electronic media. States that permit radio and television coverage of floor and committee actions often provide special electronic systems for sound equipment.
- ❑ **Calendars, Journals, Indexes, Directories, Copies of Bills.** All states provide one or more of these publications. Copies of bills are available in all states, although sometimes at a charge. In addition, all states furnish one or more of the following: a list of bills under consideration; a schedule of floor and committee actions; a record of that activity; and directories containing information on individual legislators.[30]
- ❑ **Post-Season Activities.** Many legislators publish a session "wrap-up" or summary. This kind of publication usually

Figure 11–4

DISTRIBUTION OF THE STATE BUDGET DOCUMENT

State	To Whom Are Copies of the Budget Document Distributed?					
	Budget Agency Staff	Members of Legislature	State Agencies		Members of the News Media	Other
			All	Some		
Alabama						
Alaska	X	all	X		X	State librarians, political subdivisions.
Arizona	X	all		X	X	Other state budget offices.
Arkansas	X	all	X		X	
California	X	all	X		X	All interested persons may purchase at cost.
Colorado						
Connecticut	X	all	X		X	
Delaware	X	all	X		X	Other states, libraries, financial institutions, colleges.
Florida	X	all	X		X	To each state, state library, state university, others on request.
Georgia	X	all	X		X	Education institutions.
Hawaii	X	all	X		X	
Idaho	X	all	X		X	Upon request.
Illinois	X	all	X		X	Anyone who requests, major interest groups.
Indiana		all	X		X	Any interested person.
Iowa	X	all	X		X	All other states.
Kansas	X	all	X		X	Libraries, budget agencies of other states.
Kentucky	X	all	X		X	Interested citizens and groups on request.
Louisiana	X	all		X	X	Other states.
Maine	X	all		X	X	As requested within available supply.
Maryland	X	all	X		X	Libraries.
Massachusetts	X	all	X		X	Other states.
Michigan	X	all	X		X	State library—75 copies.
Minnesota						
Mississippi	X	all	X		X	
Missouri	X	all	X		X	Public—as requested.
Montana	X	all	X			State and national libraries.
Nebraska	X	all	X		X	State publications clearinghouse, anyone upon request.
Nevada	X	all		X	X	Libraries, other states.
New Hampshire	X	all	X		X	Anyone requesting as long as supply lasts.

Figure 11–4 (continued)

DISTRIBUTION OF THE STATE BUDGET DOCUMENT

State	To Whom Are Copies of the Budget Document Distributed?					
	Budget Agency Staff	Members of Legislature	State Agencies		Members of the News Media	Other
			All	Some		
New Jersey	X	all	X		X	Public and college (university) libraries.
New Mexico	X	all		X	X	Libraries, other states, budget agencies, etc.
New York	X	all	X		X	Libraries, some other states.
North Carolina	X	all	X		X	Libraries, certain associations, Representatives, county commissioners, etc.
North Dakota						
Ohio	X	all	X		X	The public upon request.
Oklahoma	X	all		X	X	Anyone who desires a copy.
Oregon	X	all	X		X	State budget officers of other states.
Pennsylvania	X	all	X		X	Other states, private agencies and others who request a copy.
Rhode Island	X	all	X		X	Libraries, chambers of commerce, other state budget officers, etc.
South Carolina	X	all	X		X	Libraries, other states, on an exchange basis.
South Dakota	X	all	X		X	College libraries and all 50 states.
Tennessee	X	all	X		X	Other state governments and selected libraries.
Texas	X	all	X		X	
Utah	X	all	X		X	Libraries, research agencies, other states upon request.
Vermont	X	all	X		X	Major universities, state libraries, other state governments.
Virginia	X	all	X		X	Some libraries.
Virgin Islands	X	all	X		X	
Washington	X	all	X			State library and other libraries.
West Virginia						
Wisconsin	X	all	X		X	Others at budget sections.
Wyoming	X	all		X	X	Other states and libraries in Wyoming.
Total	45	46	39	7	44	40

SOURCE: ACIR, *Citizen Participation in the American Federal System* (A–73), Washington, DC, U.S. Government Printing Office, 1980, pp. 244–45.

Figure 11–5

STATE OPEN RECORDS LAWS, 1975

	Determination of Open Records				Penalties for Violators of the Act		Exclusions Provided for in the Act										Copy Fees	
	All Records Open	Administrative Review	Judicial Review	Attorneys Fees Paid	Fine	Jail	Juvenile, Adoption Parole, Medical, Mental	Litigation Involving Public Body	Land Acquisition Disposition	Personnel, School Files	Arrest Records (If no conviction)	Trade Secrets	Investigatory Information	Inter-Department Memos	Invasion of Privacy	Geological Information	Fees Charged	Fee Schedule Set Up
Alabama	X				X		X										X	
Alaska	X		X				X[2]										X	
Arizona	X		X	X	X[1]		X[3]			X[4]		X					X	
Arkansas	X		X		X	X												
California	X		X			X[5]	X[6]	X	X	X[7]			X	X	X	X	X	
Colorado	X	X	X	X	X	X			X	X[8]		X	X			X	X	
Connecticut	X	X	X		X		X[9]	X	X	X[10]		X	X		X		X	X
Delaware**																		
Washington, DC	X	X[11]												X	X		X	X[12]
Florida	X				X	X	X[13]											
Georgia	X						X[14]								X		X	
Hawaii	X		X															
Idaho	X																X	
Illinois	X	X	X	X			X[15]					X	X		X		X	
Indiana	X		X		X	X												
Iowa	X		X		X		X[16]	X	X	X[17]		X	X				X	
Kansas	X				X[18]		X[19]											
Kentucky	X	X[20]	X	X	X[21]				X				X		X	X	X	
Louisiana	X		X		X	X	X[22]						X					
Maine	X				X													
Maryland	X	X	X		X		X[23]		X	X		X	X	X		X	X	
Massachusetts	X		X				X[24]		X	X[25]		X	X	X	X			
Michigan	X				X													
Minnesota	X																	
Mississippi**																		

Missouri	X				X[26]			X	X		X[27]	X							X	
Montana	X																		X	
Nebraska	X		X		X	X													X	X
Nevada	X				X[28]														X	
New Hampshire	X		X	X				X[29]	X		X					X				
New Jersey	X		X											X					X	X
New Mexico	X		X		X	X		X[30]			X									
New York	X	X[31]						X[32]					X			X			X	
North Carolina	X		X		X	X			X											
North Dakota	X																			
Ohio	X[33]		X					X[34]												
Oklahoma	X																			
Oregon	X	X[36]	X	X				X[36]	X	X			X	X	X	X			X	
Pennsylvania	X		X											X	X					
Rhode Island***																				
South Carolina	X	X	X		X			X[37]			X[38]								X	
South Dakota	X																			
Tennessee	X				X[39]	X[40]		X[41]			X			X	X				X	
Texas	X	X[42]	X		X	X			X	X	X		X	X	X	X	X		X	
Utah	X																			
Vermont	X	X	X	X		X[43]			X	X	X		X	X	X	X			X	
Virginia	X		X	X	X			X[44]			X			X	X				X	
Washington	X	X	X	X				X[45]		X	X		X	X	X	X			X	
West Virginia	X																			
Wisconsin	X																			
Wyoming	X		X		X			X[46]		X	X		X	X	X		X		X	

**Have no open record laws.
***Law adopted after 1975.
[1]Civil action.
[2]Adoption, medical.
[3]Adoption, medical.
[4]School.
[5]Contempt of court.
[6]Medical.
[7]Personnel.
[8]Transcripts can be made available.
[9]Medical, juvenile.
[10]Personnel.
[11]By public information review board.
[12]By individual agencies.
[13]Adoption.
[14]Medical.
[15]Medical.
[16]Medical.
[17]School.
[18]Misdemeanor.
[19]Juvenile, adoption.
[20]By the attorney general.
[21]Misdemeanor.
[22]Medical.
[23]Medical, adoption.
[24]Medical.
[25]Personnel.
[26]Misdemeanor.
[27]School.
[28]Misdemeanor.
[29]Parole, medical.
[30]Medical, mental.
[31]Also by a committee on access to public records.
[32]Medical.
[33]Minutes of open meetings.
[34]Parole.
[35]By the attorney general.
[36]Parole.
[37]Medical.
[38]School.
[39]Misdemeanor.
[40]For divulging tax records—jail and fine.
[41]Medical.
[42]Attorney General.
[43]Contempt of Court.
[44]Medical.
[45]Medical, mental, parole.
[46]Medical.

SOURCE: Lucille Amico, et al., *State Open Records Laws: An Update*, Columbia, MO, Freedom of Information Center School of Journalism, University of Missouri, mimeo, July 1976, pp. 205–7.
SOURCE: ACIR, *Citizen Participation in the American Federal System*, A–73, Washington, DC, U.S. Government Printing Office, 1980, pp. 268–69.

is made available to the public through the state library system.

Other legislative information activities are directed more at facilitating public understanding of the legislative process and upgrading the legislature's image than at promoting openness in legislative actions. Nonetheless, they do contribute somewhat to the latter goal. These include:

- **Interim Reports and Meetings.** In order to generate citizen interest and involvement throughout the year, states may "take the legislature to the people" by holding committee meetings throughout the state. In addition, some states issue newsletters or other publications on interim activities.
- **Education and Informational Programs and Seminars.** Some states offer educational programs, seminars and capitol tours, as well as film presentations explaining the legislative process. Almost all provide citizens with general educational pamphlets and operate speakers' bureaus. In a few states, information programs in a foreign language are provided. Legislative intern programs have become increasingly common.
- **General Information Brochures, Charts and Leaflets.** Almost all legislatures furnish citizens with general information pamphlets.
- **Feature Articles to Newspapers and Special Interest Publications.** Some legislative information offices prepare feature stories on selected legislation or activities of interest to a particular segment of the public.

Perceiving that information could be used for personal aggrandizement, the NCSL committee recommended that each legislature adopt formal constraints to insure that public information activities will not be used to advance the careers of individual members. No indication of the extent of compliance with this recommendation is included in the report.

FEDERALLY MANDATED OPENNESS[31]

Public access to decisionmaking in connection with federal grant-in-aid programs increased markedly in the last quarter century. As early as 1914, in providing state matching funds for federal grants under the *Smith-Lever Extension Act*, several state legislatures made participation of county farm bureaus a condition of county participation. Other instances of required citizen participation occurred over the years; however, it was the 1960s before a trend of requirements for citizen participation began to develop. Title II of the *Economic Opportunity Act of 1964* provided for establishment of Community Action Agencies, to ensure "maximum feasible participation" in the Community Action Program. Shortly thereafter, in 1966, the Model Cities program required "widespread citizen participation." Citizens took part in both programs through advisory committees and sometimes exercised some formal control by approving or vetoing grant proposals. Then, in 1969, the *National Environment Policy Act* required federal agencies to include an environmental impact statement to every proposal for a major federal action significantly affecting the quality of the environment. This requirement gave citizens an important point of access to decisionmaking either in the preparation of the statement or at the point where an agency decides an impact statement is not needed. Since that time, there has been a steady stream of mandates for citizen participation attached to new categorical grant programs. Among the laws with such requirements are:

- *The Coastal Zone Management Act of 1972* (PL 92–383) specifying public hearings and public participation in rulemaking;
- The *Resource Conservation and Recovery Act of 1976* (PL 94–580) necessitating public hearings before a state's hazardous waste plan could be approved; and
- The *Surface Mining Act* (PL 95–87) calling for citizen participation in the regulatory process.

Citizen participation requirements also were imposed on already existing legislation. The *Federal Water Pollution Control Act Amendments of 1972* (PL 92–500), for example, stipulated that "the Environmental Protection Agency and the state should actively seek, en-

courage and assist the involvement and participation of the public in the process of setting water quality requirements and in their subsequent implementation and enforcement." Similarly, the *Regional Development Act of 1975* (PL 94–188) emphasized participation of political subdivisions and the general public in state development plans.

None of these laws had the impact of the legislation extending General Revenue Sharing in 1976, in terms of numbers of governmental jurisdictions affected. Although a 1972 law establishing General Revenue Sharing required state and local governments to publish reports on actual and planned use of revenue sharing funds and to hold public hearings if such hearings were required for their regular budgets, the amendment went further. It required both a proposed use hearing and a budget hearing whether these were the normal procedure or not. It also stipulated that senior citizens should have an opportunity to be heard on fund usage.

The imposition of citizen participation requirements continued and picked up momentum during the 1970s. The eventual result was 155 federal grant programs with public participation requirements. Of these, 124 were enacted during the 1970s or later. Since the programs ranged over the spectrum of federal fiscal assistance, many state agencies found themselves subject to the provisions.

OPENING UP OPPORTUNITIES FOR DIRECT CITIZEN DECISIONMAKING

Decisionmaking is often a direct public activity as citizens use their ballots to determine which individuals will run the government and to decide controversial issues. States have a major role in the breadth of opportunities to participate in such activities since they traditionally have controlled the suffrage and arranged for election administration.

The United States Constitution provides for state determination of voting qualifications. Referring to eligibility to vote for members of the United States House of Representatives, Article 1, Section 2 stipulates that "the electors (Voters) in each state shall have the qualifications requisite for electors for the most numerous branch of the state legislature." This means, of course, that if a citizen may vote in state legislative elections, he or she qualifies to vote for federal officials.

The Constitution also provides in Article 1, Section 4, that "the times, places, and manner of holding elections shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators." These two provisions together give the states strong control over who votes and how the voting will take place. As is obvious from the discrimination against blacks attempting to vote in southern states prior to the federal *Voting Rights Act of 1965*, conduct of the election can be as important as voting qualifications in the determination of who actually can cast a ballot.

Over the years since the writing of the Constitution, there have been continual efforts to expand the suffrage, recurring drives to open up the nominating process and sporadic attempts to expand direct citizen participation in governmental decisionmaking. These movements were different but interrelated. More recently, attention has focused on campaign spending and ease of access to registration and voting.

EXPANSION OF THE SUFFRAGE

Suffrage was limited at the onset of American independence, a carryover from colonial practices. In most states, only males in good standing who owned property and supported the predominant religious creed could vote. Ten of the original 13 states still made the ownership of a certain amount of property a prerequisite for voting in 1787 when the present Constitution was written.[32]

The first barriers to universal participation to go were property qualifications, followed by religious and taxpaying requirements. By mid-19th century, except for a few states that clung to taxpaying as a voting qualification, universal white male suffrage was nationwide. Poll tax payment as a prerequisite to registration was first adopted in Florida in 1889—an outgrowth of the Granger and Populist Party activity[33]—and subsequently served as a convenient mechanism for discrimination against blacks in the south. The number of states imposing these requirements declined over the years and by 1962, when such provisions were

voided by the 24th Amendment for national elections (extended by court interpretation to state elections),[34] they were in effect in only five states.

Neither black nor female suffrage was so easily won. Although federal pressure produced the legalization of the black vote with the ratification of the 15th Amendment in 1870, discriminatory administration of elections, intimidation and a series of maneuvers to bar blacks from participation in primary elections effectively prevented their exercise of the franchise in the south until after the adoption of the *Voting Rights Act of* 1965. With its passage, black voting turnout rose precipitously.

Women had a more difficult time with legal enfranchisement and it took another 50 years for the 19th Amendment to be ratified. Once enfranchised in 1920, however, they experienced little difficulty in casting their votes. The major bar was a socialization process that awarded political decisionmaking to their husbands, fathers and brothers and exerted subtle pressures against female participation. As a consequence, turnout for women was below that for men for another 50 years. It was not until 1980 that women cast their ballots in equal numbers to men.

The movement for the 18-year-old vote was not nearly so bitter or protracted as the struggle for votes for either blacks or women. Its impetus came largely from the military draft and the belief that those who were asked to place their lives in jeopardy for their country should have the right to participate in decisions affecting them.

Traditionally, the age for adulthood and, consequently, for voting was 21. Georgia pioneered—during World War II—with the vote for 18-year-olds, followed by Kentucky. The new states of Alaska and Hawaii entered the Union with constitutions enfranchising 19 and 20-year-olds, respectively. Subsequently, the Vietnam War and the massive peace movements associated with it lent new impetus to the lowering of the voting age. Congress enacted legislation in 1970 prohibiting the denial of the suffrage to those 18 and over on account of age. Because of doubts about the Constitutionality of this legislation, it was followed almost immediately by the 26th Amendment to the Constitution, ratified in 1971. This amendment prohibited denial of the vote because of age to those over 18 in both state and federal elections. Despite the opportunities afforded, however, young people continue to stay away from the polls in large numbers.

Over the years, the basic legal blocks to universal suffrage were eliminated. Although states still imposed citizenship, residency, and registration as prerequisites for voting, and sometimes disqualified individuals on grounds of mental incompetency or criminal conviction, the electorate became a largely "self-defining" one. The most bothersome of the remaining constraints was the registration process.

The quarter century after 1955 saw the poll tax and literacy test eliminated as prerequisites for registration, the length of residence lowered from a year or more to less than 30 days in all states, permanent registration statewide adopted in 27 states and applied to all elections in 32, provision made for registration by mail in 20, and closing dates for registration moved closer to election day. See *Figures 11–6 and 11–7* for the contrast between 1952 and 1980 voting requirements.

Particularly, during the 1970s, attention was directed toward easing voter registration procedures and expanding opportunities for prospective voters to register, along with opening up other access to the electoral process. Several states enacted legislation making access to the polls easier for handicapped voters and at least two states—California and Oregon—allowed local governments to experiment with mail ballots. A 1981 election in San Diego, in which the city mailed ballots and an explanation of the issue to qualified voters, saved money and almost doubled the voting participation.[35] Richard G. Smolka commented on recent developments as follows:

> State election laws passed during the 1980–81 biennium represented fine tuning of an election system that in most states has moved consistently during the last decade in the direction of expanding the franchise, easing ballot access and providing convenience for the voter ... Voter registration opportunities continue to expand, administratively as well as legislatively, and access to the polls or to absentee

ballots became easier for all, including handicapped persons ...[36]

Table 11–1 reflects the increases in registration in 11 southern states between 1960 and 1980. The percentage of blacks registering almost doubled, and white registration rose by about one-third.

PRIMARY ELECTION CHANGES

The conduct of primary elections also has been modifed by the move toward ease of participation. Traditionally, only registered party members could vote in the party's primary elections to nominate party candidates. Beginning in the early 1900s, some states adopted "open primaries" and began to permit voters to vote for candidates of either party. As of 1982, nine states allowed this practice. In addition, two states—Alaska and Washington—had "blanket primaries." In these, voters could choose among candidates from both parties. For example, they could vote in the Democratic primary for Senator and the Republican primary for governor. Louisiana recently adopted a nonpartisan primary in which all candidates for statewide and Congressional offices are listed on one ballot and all voters may choose among them.[37]

There is widespread disagreement as to the desirability of open or blanket primaries. Proponents argue that they open up the electoral process and enable voters to influence the initial selection of candidates. More important, voters can participate in the primary without having to reveal party preferences. Critics claim they undercut party responsibility and make parties vulnerable to raiding. That is, voters normally affiliated with one party might vote in the primary of the other party in order to help nominate the weakest candidate. The extent to which this occurs, if it does, is not documented.

VOTING TURNOUT

Despite the San Diego experience, easier access to the polls generally has not meant an increased voter turnout. Those voting for president as a percentage of the adult population declined from 61.2% in 1952 to 53.2% in 1980.[38]

Nevertheless, the increasing uniformity of suffrage requirements and easier registration processes did reduce the interstate disparities in voting turnout. Approximately 68.5% of citizens eligible to vote in Idaho voted for President in 1980; only 40.7% participated in South Carolina. This range of 27.8 compares with a 58.8 deviation in 1956. In that year, 79.8% of Delaware's residents went to the polls, while only 21% turned out in Mississippi. The range of interstate participation was even wider in 1920, at the onset of women's suffrage. In that year, 75.1% of Delaware residents voted, but only 8.5% of South Carolinians.[39]

ACCESS TO PUBLIC OFFICE

Early state constitutions restricted office holding even more than they did the suffrage, imposing both religious and property ownership requirements as well as a number of other limitations. The latter included stipulations of citizenship, residency and age, which still persist. No state now has a religious or property ownership requirement. Almost all do have minimum age requirements and most specify United States citizenship and impose a state residency requirement. In general, the legal qualifications established for election to office are not stringent.

In the past, the major barriers to office holding were those associated with requirements for registration and voting and the willingness of the electorate to accept certain categories of citizens—particularly religious minorities, blacks and women—as candidates. Voting and registration requirements are discussed above. Although the other impediments have not disappeared completely, they have been significantly moderated, especially as far as religious minorities are concerned. Today, the principal deterrent to office holding by blacks and women appears to be a dearth of financial support and political experience.

Public campaign funding may have helped in some states. By 1982, its originator, New Jersey, had been joined by California, Hawaii, Idaho, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, North Carolina, Oklahoma, Rhode Island, Utah and Wisconsin in the adoption of campaign funding laws. Twelve of these states use checkoff systems on state income tax returns to allocate small sums to public financing. In four,

Figure 11–6

STATE VOTING LAWS, 1952

Qualifications for Voting in the United States
United States Citizenship and, Except in Georgia, Age of 21 years.[1]

	Residence In—			Persons Excluded From The Suffrage—			
	State	County	Voting Precinct	Conviction of a Felony[2]	Insane, Lunatics, Etc.	Idiots	Miscellaneous[3]
Alabama	2 years	1 year	3 months	x	x	x	3
Arizona	1 year	6 months	30 days	x	x	x	2
Arkansas	1 year	6 months	30 days	x	x	x	1
California	1 year	90 days	40 days	x	x	x	1
Colorado	1 year	90 days	10 days	x			0
Connecticut	1 year	[4]		x	x	x	1
Delaware	1 year	3 months	90 days	x	x	x	1
Florida	1 year	6 months		x	x		0
Georgia	1 year	6 months		x	x	x	0
Idaho	6 months	30 days		x	x	x	1
Illinois	1 year	90 days		x			0
Indiana	6 months	[5]					0
Iowa	6 months	60 days	10 days	x	x	x	0
Kansas	6 months	30 days	30 days	x	x		0
Kentucky	1 year	6 months	60 days	x			1
Louisiana	2 years	1 year	3 months				0
Maine	6 months	3 months	3 months	x			3
Maryland	1 year	6 months	6 months	x			0
Massachusetts	6 months		6 months	x			0
Michigan	6 months	[6]	20 days	x			0
Minnesota	6 months		30 days	x	x		2
Mississippi	2 years	1 year	1 year	x			1
Missouri	1 year	60 days	60 days	x	x		1
Montana	1 year	30 days	30 days	x	x	x	1
Nebraska	6 months	40 days	10 days				
Nevada	6 months	30 days	10 days	x	x	x	1
New Hampshire	6 months		6 months				1
New Jersey	1 year	5 months	30 days	x	x	x	1
New Mexico	1 year	90 days	30 days		x		1
New York	1 year	4 months	30 days	x			2

Figure 11–6 (continued)

STATE VOTING LAWS, 1952

Qualifications for Voting in the United States
United States Citizenship and, Except in Georgia, Age of 21 years.[1]

	Residence in—			Persons Excluded From The Suffrage—			
	State	County	Voting Precinct	Conviction of a Felony[2]	Insane, Lunatics, Etc.	Idiots	Miscellaneous[3]
North Carolina	1 year	4 months	4 months	x	x	x	0
North Dakota	1 year	90 days	30 days	x			1
Ohio	1 year	30 days	20 days	x			2
Oklahoma	1 year	6 months	30 days	x	x	x	2
Oregon	6 months			x	x	x	0
Pennsylvania	1 year		60 days				0
Rhode Island	2 years	[7]	6 months	x			3
South Carolina	2 years	6 months	60 days	x	x	x	1
South Dakota	1 year	90 days	30 days	x	x		2
Tennessee	1 year	6 months		x			1
Texas	1 year	6 months		x	x	x	1
Utah	1 year	4 months	60 days		x	x	2
Vermont	1 year		3 months				0
Virginia	1 year	6 months	30 days	x	x	x	2
Washington	1 year	90 days	30 days	x	x	x	1
West Virginia	1 year	60 days	60 days	x	x		3
Wisconsin	1 year		10 days	x	x		2
Wyoming	1 year	60 days	10 days		x		3
				39	29	20	

[1]Registration is also generally required, but in Kansas, it is limited to certain cities; in Kentucky, to cities of the first and second class; in Louisiana, to cities of the first, second, third and fourth classes; in Missouri, to cities of 10,000 and over; in Nebraska, and Wisconsin, to cities of 5,000 and over; in North Dakota, to cities of over 1,500; in Ohio, to cities of 16,000 and over.
[2]Unless pardoned, thereby restoring civil rights (includes prisoners).
[3]Included are paupers and vagrants, 14; illiterates, 8; persons under guardianship, 7; unpaid poll tax and other miscellaneous causes, 5.
[4]Six months residence in the town.
[5]Sixty days residence in township.
[6]Twenty days residence in city or township.
[7]Six months residence in municipality.

SOURCE: W. Brooke Graves, *American State Government*, 4th ed., Boston, MA, D.C. Heath and Company, 1953, pp. 108–09.

Figure 11–7

STATE VOTING AND REGISTRATION PROVISIONS, 1982

	I. Residence Requirement in State: Days	II. Permanent Registration	III. Registration Covers All Elections	IV. Purge for Nonvoting	V. General Civilian Absentee Registration	VI. Precinct Registration	VII. Days Registration Closes Before Election	VIII. Civilian Absentee Vote	IX. Mere Absence Grounds For Absentee Vote	Absentee Ballot Application By Mail	XI. Polls Open 12 Hours or More
Alabama	10	yes	yes	—	no	opt.	10	yes	no	yes	[1]
Alaska	30	yes	yes	4 yrs.	yes[2]	yes	30	yes	yes	yes	8–8*
Arizona	50	yes	yes	2 yrs.	yes	yes	50	yes	yes	yes	6–7*
Arkansas	20	yes	yes	4 yrs.	yes	no	20	yes	yes	yes	8–7:30
California	29	yes	yes	2 yrs.	yes[2]	yes	29	yes[3]	yes	yes	7–8*
Colorado	32	yes	yes	2 yrs.	yes	yes	32	yes	yes	yes	7–7*
Connecticut	Res.	yes	yes	—	no	yes	31	yes	yes	yes	6–8*
Delaware	Res.	yes	yes	2 yrs.	yes[2]	yes	[4]	yes	no	yes	7–8*
Florida	30	yes	yes	2 yrs.	yes	opt.	30	yes	yes	yes	7–7*
Georgia	30	yes	no	3 yrs.	yes	no	30	yes	no	yes	7–7*
Hawaii	30	yes	yes	2 yrs.	yes[2]	no	30	yes	yes	yes	7–6
Idaho	17/10[7]	yes	no	4 yrs.	yes	yes	17/10[7]	yes	yes	yes	8–8*
Illinois	30	yes	yes	4 yrs.	no	yes	28	yes	yes	yes	6–6*
Indiana	30	yes	yes	4 yrs.	yes	yes	29	yes	yes	yes	6–6*
Iowa	0	yes	yes	4 yrs.	yes[2]	yes	10	yes	yes	yes	7–9*
Kansas	0	yes	yes	2 yrs.	yes[2]	opt.	20	yes	yes	yes	7–7*
Kentucky	30	yes	yes	—	yes[2]	no	30	yes	yes	yes	6–6*
Louisiana	30	yes	yes	4 yrs.	no	opt.	30	yes	yes	yes	6–8*
Maine	Res.	yes	yes	—	yes[2]	yes	0	yes	yes	yes	[6]
Maryland	30	yes	no	5 yrs.	yes[2]	opt.	29	yes	yes	yes	7–8*
Massachusetts	28	yes	yes	—	no	yes	28	yes	yes	yes	[8]
Michigan	30	yes	yes	2 yrs.	yes	opt.	30	yes	yes	yes	7–8*
Minnesota	20	yes	no	4 yrs.	yes[2]	yes	20[9]	yes	yes	yes	7–8*
Mississippi	30	yes	yes	—	no	yes	30	yes	no	yes	7–6
Missouri	28	yes	yes	4 yrs.	yes[2]	yes	28	yes	yes	yes	6–7*
Montana	30	yes	yes	4 yrs.	yes[2]	yes	30	yes	yes	yes	8–8*
Nebraska	0	yes	yes	—	yes	yes	11	yes	yes	yes	7–7*[10]
Nevada	30	yes	yes	2 yrs.	no	opt.	30	yes	yes	yes	[11]
New Hampshire	10	yes	yes	—	yes	yes	10	yes	yes	yes	[12]
New Jersey	30	yes	yes	4 yrs.	yes[2]	yes	29	yes	yes	yes	7–8*
New Mexico	Res.	yes	yes	2 yrs.	yes	yes	42	yes	yes	yes	8–7

New York	30	yes	yes	2 yrs.	yes[2]	yes	[13]	yes	yes	yes	6–9*
North Carolina	30	yes	yes	4 yrs.	no	yes	21[14]	yes	yes	yes	6:30–7:30*
North Dakota	30	NR	NR	—	NR	NR	NR	yes	yes	yes	[15]
Ohio	30	yes	yes	4 yrs.	yes[2]	yes	30	yes	yes	yes	6:30–7:30*
Oklahoma	Res.	yes	yes	2 yrs.	no	yes	10	yes	yes	yes	7–7*
Oregon	20	yes	yes	2 yrs.	yes[2]	yes	0	yes	yes	yes	8–8*
Pennsylvania	30	yes	yes	2 yrs.	yes[2]	yes	30	yes	yes	yes	7–8*
Rhode Island	30	yes	yes	5 yrs.	yes	yes	30	yes	yes	yes	[16]
South Carolina	30	yes	yes	4 yrs.	yes	yes	30	yes	yes	no	8–7
South Dakota	15	yes	yes	4 yrs.	yes	yes	15	yes	yes	yes	8–7
Tennessee	29	yes	yes	4 yrs.	yes[2]	yes	29	yes	yes	yes	[17]
Texas	30	yes	yes	—	yes[2]	yes	30	yes	yes	yes	7–7
Utah	30	yes	yes	4 yrs.	yes[2]	yes	10	yes	yes	yes	7–8*
Vermont	17	yes	yes	—	no	yes	17	yes	yes	yes	[18]
Virginia	30	yes	yes	4 yrs.	yes	no	31	yes	no	no	6–7*
Washington	30	yes	yes	2 yrs.	no	yes	30	yes	yes	yes	7–8*
West Virginia	29	yes	yes	4 yrs.	yes	yes	30	yes	yes	yes	6:30–7:30*
Wisconsin	10	yes	yes	2 yrs.	yes	yes	19	yes	yes	yes	[20]
Wyoming	Res.	yes	yes	2 yrs.	yes	no	30	yes	yes	yes	8–7

NR—Not Required.
Opt.—Optional
*—Polls open 12 hours or more.
[1]Alabama. Polls open at 8:00 a.m. Closing times vary from 5:00–7:00 p.m. based on size of county and use of voting machinery.
[2]Anyone may register by mail.
[3]California. Anyone may vote by absentee ballot.
[4]Delaware. Third Saturday in October.
[5]Georgia. Polls remain open to 8:00 p.m. in cities of 300,000 population or more.
[6]Maine. Opening times vary; closing times vary but are set at 9:00 p.m. in precincts with voting machines.
[7]Idaho. With precinct registrar, 17 days before; with county clerk 10 days.
[8]Massachusetts. Opening times vary. Closing time is set at 8:00 p.m.
[9]Minnesota. Registration permitted at the polls on election day.
[10]Nebraska. The polls are open simultaneously throughout the state from 7:00 a.m.–7:00 p.m. in the Mountain Time Zone and 8:00 a.m.–8:00 p.m. in the Central Time Zone.
[11]Nevada. Closing time is set at 7:00 p.m. Opening times vary from 7:00 a.m. (in areas using paper ballots) and 8:00 a.m. (where punch card ballots are used).
[12]New Hampshire. Varies.
[13]New York. Varies according to date set for local registration day.
[14]North Carolina. Twenty-one days before the election excluding Saturdays and Sundays.
[15]North Dakota. Opening times vary from 7:00–9:00 a.m. while closing times vary from 7:00–8:00 p.m.
[16]Rhode Island. Closing time set at 9:00 p.m. but opening times vary.
[17]Tennessee. Opening times vary; closing times are set at 8:00 p.m. in Eastern Time Zone and 7:00 p.m. in Central Time Zone.
[18]Vermont. Varies.
[19]Wisconsin. Second Wednesday preceding election; registration permitted at the polling place on election day.
[20]Wisconsin. Open times vary; closing times are set at 8:00 p.m.
[21]Wyoming. May register at the polling place on primary election day.
SOURCE: Compiled from Virginia Graham, "Implementation of the Recommendations of the Report of the President's Commission on Registration and Voting Participation Sixteen Years Later, 1963–1979," Washington, D.C., Government Division Congressional Research Service, Library of Congress, July 24, 1979 (Mimeographed) and *Book of the States, 1982–83*, Lexington, KY, COSG, 1982, p. 105.

Table 11–1

VOTER REGISTRATION IN 11 SOUTHERN STATES, BY RACE, 1960–80

(in thousands, except percent: for 1960 to 1970, population 21 years and over, except Georgia, 18 years and over; beginning 1975, population 18 years and over for all southern states)

Year and Race	Total	Alabama	Arkansas	Florida	Georgia	Louisiana	Mississippi	North Carolina	South Carolina	Tennessee	Texas	Virginia
1960: White	12,276	860	518	1,819	1,020	993	478	1,861	481	1,300	2,079	867
Black	1,463	66	73	183	180	159	22	210	58	185	227	100
Percent White[a]	61.1	63.6	60.9	69.3	56.8	76.9	63.9	92.1	57.1	73.0	42.5	46.1
Percent Black[a,b]	29.1	13.7	38.0	39.4	29.3	31.1	5.2	39.1	13.7	59.1	35.5	23.1
1966: White	14,310	1,192	598	2,093	1,378	1,072	471	1,654	718	1,375	2,600	1,159
Black	2,689	250	115	303	300	243	175	282	191	225	400	205
1968: White	15,702	1,117	640	2,195	1,524	1,133	691	1,579	587	1,448	3,532	1,256
Black	3,112	273	130	292	344	305	251	305	189	228	540	255
1970: White	16,985	1,311	728	2,495	1,615	1,143	690	1,640	668	1,600	3,599	1,496
Black	3,357	315	153	302	395	319	286	305	221	242	550	269
1975: White	19,429	1,486	797	3,119	1,534	1,338	866	1,919	660	1,697	4,252	1,762
Black	3,835[c]	307[c]	200[c]	356	556[c]	393	286[c]	355	222	262[c]	610[c]	289[c]
1976: White	21,690	1,544	817	3,480	1,703	1,445	866[d]	2,137	828	1,886	5,191	1,794
Black	4,149[c]	321[c]	204[c]	410	598[c]	421	286[e]	396	285	271[c]	640[c]	317[c]
1980: White	24,981	1,700	1,056	4,331	1,800	1,550	1,152	2,314	916	2,200	6,020	1,942
Black	4,254	350	130	489	450	465	330	440	320	300	620	360
Percent White[a]	79.4	81.8	81.0	72.0	65.6	77.2	102.2	72.0	61.8	80.2	71.2	62.5
Percent Black[b]	57.7	57.5	59.9	61.4	51.9	61.3	64.1	55.3	55.8	66.7	54.8	54.1

[a]Of voting age population.
[b]Includes other minority races.
[c]Estimated.
[d]1975 data.
[e]Estimated. 1975 data.

SOURCE: U.S. Bureau of the Census, *Statistical Abstract of the United States, 1981*, Washington, DC, 1982, p. 495.

this adds on to the taxable amount.[40] Public funding laws in 26 states permitted tax credits or deductions on state income taxes as of 1977.[41]

The number of elected officials who are black and/or women has grown substantially, especially since the *Voting Rights Act of 1965*. Women held 12% of all the elected state and local offices in 1980. Of the 16,083 elected women, Michigan had 2,328; Nevada had 18. The breakdown is shown in *Table 11–2*. This number is still relatively small in comparison to the female portion of the population, but it is a significant improvement over recent years. In 1980, 766 women were elected to state legislatures, compared to 241 in 1951.[42] By 1983, the total figure had grown even higher with 16,628 women elected to state and local offices. Of these, 37 were in statewide elective offices, 991 in state legislatures, 1,128 on county governing boards, 12,775 on municipal governing boards, and 1,707 were mayors.[43] These figures were compiled before Kentucky elected Martha Layne Collins, the lieutenant governor, as governor and filled three more of its elected executive posts with women.

Nationwide, blacks held 4,890 elective offices (including 19 in the U.S. Congress) in 1980. Only in Idaho, Montana, North Dakota, South Dakota, Utah, Vermont and Wyoming—states with few black residents—could no black elective officeholders be identified.[44] The total number increased almost fourfold between 1971 and 1980. See *Table 11–3*.

ACCESS TO BALLOT BY PRESIDENTAL CANDIDATES

In the past, early filing requirements for independent presidential candidates restricted their access to the ballot in some states. John B. Anderson challenged the Ohio law in 1980. His late decision to become an independent candidate for President prevented him from meeting the Ohio deadline. Although he had collected the required number of signatures on nominating petitions, the Ohio Secretary of State refused to put his name on the November ballot. After a favorable ruling by the United States District Court in Ohio, his name was listed pending the state's appeal. After the election, in which he received 5.9% of the vote, the United States Court of Appeals for the Sixth Circuit reversed the district court's decision and upheld the early filing deadline as Constitutional.[45]

On appeal, the United States Supreme Court, in April 1983, upheld Mr. Anderson, ruling in *Anderson v. Celebrezze*[46] that states may not require independent candidates for President to meet substantially more rigourous criteria than major party candidates to have their names placed on the November ballot. In the majority opinion, Associate Justice John Paul Stevens said that the early filing requirements violated the First Amendment right of freedom of association of both Mr. Anderson and the voters who favored him. He wrote:

> By limiting the opportunities of independent-minded voters to associate in the electoral area to enhance their political effectiveness as a group, such restrictions threaten to reduce diversity and competition in the marketplace of ideas.

He explained:

> The primary values protected by the First Amendment—a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide open—are served when election campaigns are not monopolized by the existing political parties.

In commenting on requirements that independent candidates obtain a reasonable number of signatures, Justice Stevens indicated such provisions would likely be upheld to prevent the cluttering up of the ballot with frivolous candidates. Nevertheless, substantial discrimination against independent candidates will not be permitted.

Early filing deadlines in Kentucky, Maine, Maryland and New Mexico were invalidated by earlier decisions of lower federal courts.[47]

RECALL OF PUBLIC OFFICIALS

Concurrent with the broadening of the suffrage, permitting greater citizen involvement in selection of public officials, has been a more truncated effort, stimulated by the Progressive Movement, to allow citizens to force the removal of public office holders through the use

Table 11–2

WOMEN HOLDING STATE AND LOCAL PUBLIC OFFICE, BY OFFICE, 1975–80; AND BY STATES, 1980

Year and State	Total	State legislature	County Commission	Mayoralty	Townships and local councils
1975	7,089	702[a]	456	566	5,365
1977	11,392	806[a]	656	735	9,195
1979	14,353	947[a]	947	998	11,461
1980	16,083	763	1,144	1,333	12,843
Percent[b]	12	10	6	1	3
Alabama	308	4	8	22	274
Alaska	198	7	7	11	173
Arizona	101	17	8	6	70
Arkansas	332	4	52	34	242
California	367	11	48	52	256
Colorado	302	21	7	22	252
Connecticut	289	37	(x)	15	237
Delaware	55	7	3	8	37
Washington, DC	6	(x)	(x)	—	6
Florida	395	18	24	34	319
Georgia	262	15	25	24	198
Hawaii	13	10	2	—	1
Idaho	129	10	4	14	101
Illinois	633	26	134	41	432
Indiana	285	11	3	9	262
Iowa	622	15	23	35	549
Kansas	386	14	17	29	326
Kentucky	456	9	23	45	379
Louisiana	193	2	19	21	151
Maine	291	34	2	86	169
Maryland	157	28	24	12	93
Massachusetts	207	15	8	43	141
Michigan	2,328	12	84	85	2,147
Minnesota	520	18	19	46	437
Mississippi	153	2	5	14	132
Missouri	432	17	18	33	364
Montana	115	14	5	11	85
Nebraska	198	3	10	26	159
Nevada	18	5	5	1	7

of the popular recall. This mechanism permits qualified voters, through the filing of a petition, to require an official to stand for reelection before the expiration of his or her term.[48] The number of signatures required ranges from 10% to 55% of the number of votes cast for the office at the most recent election. The most common requirement is 25%.

After certification of the validity of the signatures, the question of the recall is placed on the ballot and voters have an opportunity to vote for or against the removal of an official. In some instances, a replacement may be selected at the same time. Otherwise, if the recall is successful, another election is scheduled within a specified period. Ordinarily, recall petitions

Table 11–2 (continued)

WOMEN HOLDING STATE AND LOCAL PUBLIC OFFICE, BY OFFICE, 1975–80; AND BY STATES, 1980

Year and State	Total	State legislature	County Commission	Mayoralty	Townships and local councils
1975	7,089	702[a]	456	566	5,365
1977	11,392	806[a]	656	735	9,195
1979	14,353	947[a]	947	998	11,461
1980	16,083	763	1,144	1,333	12,843
Percent[b]	12	10	6	1	3
New Hampshire	190	114	4	22	50
New Jersey	414	5	17	42	350
New Mexico	96	5	7	12	72
New York	433	13	85	51	284
North Carolina	332	22	40	39	231
North Dakota	184	20	7	14	143
Ohio	1,001	9	11	63	918
Oklahoma	279	6	4	38	231
Oregon	300	13	13	22	252
Pennsylvania	674	11	23	35	605
Rhode Island	55	13	(x)	—	42
South Carolina	127	9	16	7	95
South Dakota	156	9	8	33	106
Tennessee	196	4	73	7	112
Texas	677	12	32	69	564
Utah	102	4	2	7	89
Vermont	112	34	(x)	9	69
Virginia	226	9	37	9	171
Washington	303	27	8	35	233
West Virginia	204	9	9	16	170
Wisconsin	185	13	154	18	(na)
Wyoming	86	16	7	6	57

—Represents zero.
(na)—Not Available.
(x)—Not Applicable.
[a]Includes all major state appellate courts and trial courts: 92 in 1975, 110 in 1977, and 177 in 1979.
[b]Percent of all officeholders.

SOURCE: Center for the American Woman and Politics, The Eagleton Institute of Politics, Rutgers University, New Brunswick, NJ, informal information releases.

cannot be filed until a certain portion of the officeholder's term has expired. This prohibits attempts to reschedule an election immediately.

The City of Los Angeles was the first jurisdiction in this country to institute a recall mechanism. A provision for it was placed in the Los Angeles Charter in 1903. On the state level, it was first adopted by Oregon in 1908 and spread quickly to ten other states. These were Arizona, California, Colorado, Idaho, Kansas, Louisiana, Michigan, Nevada, North Dakota and Washington. After 1914, however, enthusiasm for it waned and only Alaska and Wisconsin have authorized it since that date.

The only successful use of the recall for the

Table 11–3

BLACK ELECTED OFFICIALS, BY OFFICE, 1970–80, AND BY REGIONS AND STATES, 1980

(as of July 1980, no black officials had been identified in Idaho, Montana, North Dakota, South Dakota, Utah, Vermont or Wyoming)

Year, Region and State	Total	U.S. and State Legislatures[1]	City and County Offices[2]	Law Enforcement[3]	Education[4]
1970 (February)	1,472	182	715	213	362
1972 (March)	2,264	224	1,108	263	669
1973 (April)	2,621	256	1,264	334	767
1974 (April)	2,991	256	1,602	340	793
1975 (April)	3,503	299	1,878	387	939
1976 (April)	3,979	299	2,274	412	994
1977 (July)	4,311	316	2,497	447	1,051
1978 (July)	4,503	316	2,595	454	1,138
1979 (July)	4,584	315	2,647	486	1,136
1980 (July)	4,890	326	2,832	526	1,206
Northeast	570	55	206	93	216
North Central	1,041	88	581	104	268
South	2,981	160	1,959	258	604
West	298	23	86	71	118
Alabama	238	15	157	40	26
Alaska	3	—	2	—	1
Arizona	14	2	5	2	5
Arkansas	227	4	136	1	86
California	237	12	64	58	103
Colorado	15	2	5	5	3
Connecticut	53	7	27	6	13
Delaware	14	3	9	—	2
Washington, DC	261	1	252	—	8
Florida	109	4	87	6	12
Georgia	249	23	173	8	45
Hawaii	1	1	—	—	—
Illinois	298	24	177	24	73

Indiana	66	7	48	5	6
Iowa	6	—	—	1	5
Kansas	28	5	14	1	8
Kentucky	71	4	43	10	14
Louisiana	363	12	217	42	92
Maine	2	—	2	—	—
Maryland	85	21	53	9	2
Massachusetts	27	6	11	—	10
Michigan	284	18	123	36	107
Minnesota	10	1	3	3	3
Mississippi	387	17	218	78	74
Missouri	136	15	95	12	14
Nebraska	7	1	1	—	5
Nevada	6	3	1	1	1
New Hampshire	1	1	—	—	—
New Jersey	151	5	79	—	67
New Mexico	2	—	1	—	1
New York	200	18	37	39	106
North Carolina	247	5	172	8	62
Ohio	186	13	111	20	42
Oklahoma	77	4	50	2	21
Oregon	6	1	2	2	1
Pennsylvania	129	17	45	48	19
Rhode Island	7	1	5	—	1
South Carolina	238	14	138	20	66
Tennessee	112	13	78	7	14
Texas	196	14	82	21	79
Virginia	91	5	82	4	—
Washington	14	2	6	3	3
West Virginia	16	1	12	2	1
Wisconsin	20	4	9	2	5

—Represents zero.
[1]Includes elected state administrators and directors of state agencies.
[2]County commissioners and councilmen, mayors, vice mayors, aldermen, regional officials and other.
[3]Judges, magistrates, constables, marshals, sheriffs, justices of the peace and other.
[4]College boards, school boards and other.

SOURCE: U.S. Bureau of the Census, *Statistical Abstract of the United States, 1981*, Washington, DC, 1982, p. 495.

removal of officials chosen statewide was in North Dakota in 1921. There, the governor, attorney general, and secretary of agriculture were recalled.[49] Much more extensive use of it has been made on the local level. When it is employed against state officials, it ordinarily is applied to the judiciary or executive branch.[50]

THE POPULAR INITIATIVE

Like the recall, the popular initiative—a device allowing private citizens to draft legislation and constitutional amendments and have them submitted to popular vote—had its origin in the late 19th and early 20th centuries, a reflection of public distrust of legislatures at that time. It began with South Dakota in 1898. Also like the recall, it spread rapidly after its initial adoption and nearly all of the states that now authorize it enacted the provision in the next 20 years. Only four states have adopted constitutional provisions allowing for the device since 1918.[51]

Basic Forms

The initiative has been adopted in two forms, the *direct* and the *indirect* initiative. Both forms involve the drafting of legislation (or a constitutional amendment) by citizens and the filing of a petition with a state official—usually the secretary of state. When the direct initiative is used, once the signatures are verified, the proposal is placed on the ballot at a subsequent election and the electorate decides whether or not to adopt it. This arrangement, which bypasses the legislature completely, is allowed in 15 states.[52]

The procedure for the indirect initiative is similar, except that after the signatures are verified, the proposal goes to the legislature. If that body fails to act on it, rejects it, or proposes a substitute, the initiated proposal (and the legislative substitute, if any) is submitted to popular vote at a later election. The number of votes necessary for acceptance varies. Approval by a majority of those voting on the issue is the usual requirement. If both proposals are on the ballot, the one receiving the highest number of votes is adopted.[53]

About half the states using the initiative have imposed subject-matter restrictions on the proposals. These prohibit initiatives on such matters as appropriations, creation of courts, local or special legislation and matters interfering with the bill of rights, among others. Illinois limits initiated constitutional amendments to modifying the legislature as an institution.

Pros and Cons

The popular initiative does not enjoy universal support. In fact, it is quite controversial.

Proponents make the following arguments in support of it:

- It permits more popular participation in lawmaking by permitting access to the process by those who ordinarily would be unable to present their ideas.
- It forces legislators to deal with issues that they otherwise might ignore.
- Accurate public preferences on policies will be reflected rather than the preferences of representatives and special interests.
- Through balloting, the will of the majority can be ascertained as distinguished from a vocal minority.
- The people can overrule their representatives on a single issue without voting them out of office.
- Public discussion and decisions will be made in truly public forums, insuring honesty in government.
- Voters would be educated during the process, consequently they would become less apathetic and alienated as they realized their increased ability to affect government outcomes.
- The initiative is a potential check on legislative action insuring the sensitivity of the representatives to the people.

Opponents refuse to accept the idea that the initiative ensures a better reflection of the popular will than enactment by the legislature. They argue that successfully initiated laws result from the activities of well organized interest groups rather than the mass public. They point to lower voting on ballot issues than on candidates and cite the following additional problems with the initiative:

- Legislation is often poorly drafted.
- It may duplicate laws already on the books.

- There is little opportunity to determine the effect of the legislation on existing laws.
- There is no opportunity for amendment or compromise, leaving measures to be accepted or rejected as proposed.
- Initiated legislation can result in authorization of greater expenditures without raising more revenues.
- The initiated legislation lengthens the ballot, complicating the task for the voter.
- Use of the initiative wastes money and energy required to combat unsound proposals or controversial policies repeatedly resubmitted.
- The initiative undermines the responsibility of the legislature.
- Well-financed out-of-state interests have an opportunity to influence the state's policies.

Extent of Usage

Altogether, 23 states authorize the use of the initiative. In two of these it is applicable only to constitutional amendments; in six it can be used only for proposing statutes; and in the remaining 13 it allows proposal of both amendments and legislation. Florida and Illinois restrict its use to constitutional amendments. Alaska, Idaho, Maine, Utah, Washington and Wyoming allow it for legislation only. In Arizona, Arkansas, California, Colorado, Michigan, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma and Oregon, both amendments and legislation can be popularly initiated.[54] A total of 20 states authorize the direct initiative. In several states, different forms may be used for constitutional amendments and legislation.

Five states—California, Colorado, North Dakota, Oregon and Washington—account for almost 60% of the initiated ballot proposals.[55] Nevertheless, in four of these states, California excepted, initiative petitions fail to secure sufficient signatures at the rate they did in the past. Suggested reasons are: (1) the attainment of many reforms already; (2) greater receptivity to change in the state legislature; (3) the complexity of current problems; (4) prohibitive signature requirements; and (5) greater divisions caused by the complexities of society.[56]

Voting on Initiative Measures

Considerable fluctuation occurs in the vote on initiated proposals depending on the locality, the type of election, the voting technique used and the issue. It is likely to be higher if propositions appear on a general election ballot, although even then the vote is usually substantially lower than the vote for candidates. When popularly initiated measures are submitted at special elections, the vote rarely exceeds one-third of those eligible to vote and often is much lower. Interestingly, measures placed on the ballot by action of the citizens using the initiative process are less likely to be adopted than those submitted by the legislature. Furthermore, popularly initiated constitutional amendments have a lower rate of success at the polls than those proposed by the state legislature.[57] At least part of the low approval rate may result from the way questions are worded when they are summarized for placement on the ballot.

In his study of the use of the initiative in California, Eugene C. Lee found that the outcome is determined by about 25% to 35% of the adult population despite the fact that approximately 90% of the Californians going to the polls ordinarily vote on initiated legislation. Typically, minorities, the poor, and the uneducated are under-represented in votes on initiated proposals. Users of the device are the same groups who are active in lobbying the state legislature. Lee says that, "while a few groups outside the main political stream try to employ the initiative process, the main actors are those who regularly do battle in legislative corridors or in campaigns for elective office." He points out that, "for these groups, the initiative is mainly another weapon, or hurdle, in the contest for political power and influence."[58]

Some issues understandingly stimulate more interest than others. According to Hugh A. Bone and Robert C. Benedict's study of direct legislative issues in Washington State between 1914 and 1973, moral issues brought out more voters than any other type and questions of governmental structure and reform the fewest.[59] Also providing high voter participa-

tion have been elections on tax limitation, homosexual rights, flouride in drinking water, and school busing and public accommodation issues.

The California Experience

Lee found the initiative in California to be firmly embedded in the political culture of the state and regularly used to influence public policy, both in political campaigns and the legislative process. Candidates may endorse or oppose initiated measures as they perceive them affecting their own appeals to the electorate. In the legislature, the availability of the initiative as an alternative to the usual law making process influences legislative action even when it is not used. For example, the legislature may move to defeat a ballot proposal or to discourage one being advocated. Or, a proposition receiving substantial public support, although unsuccessful at the polls, may result in legislation. Conversely, a defeat of a measure may be the excuse for legislative inaction. In addition, the threat of an initiative can be used by the governor, the legislature, or interest groups as a strategy to gain enactment of a bill. In addition, sometimes governors or legislators who cannot steer a favorite measure through the legislature may take the leadership in sponsoring its enactment by the initiative process. Lee also found that the initiative process in California is characterized by a high rate of legally flawed constitutional amendments that cannot survive court challenges, high cost of campaigns often running into millions of dollars, and a politically active, elite electorate who makes its decisions on ballot measures on election eve.[60]

THE POPULAR REFERENDUM

A referendum is the submission of an issue to popular vote. It is an old device, dating back in this country to the seventeenth century.[61] After independence, Massachusetts submitted its proposed constitution to popular vote.

Referenda Classified

Referenda are of several types. They may be *compulsory*, that is, the legislature may be required by the state constitution to submit certain matters to the electorate for its approval. For example, constitutional amendments in every state except Delaware must be ratified by popular vote.

Another category, the *optional* referendum, allows the legislature to determine whether or not to submit a measure to the voters for their opinion. It is a "straw vote" on a issue and not binding on the legislature.

The *popular referendum* gives the electorate the opportunity to petition a legislatively enacted measure to a popular vote within a prescribed period of time, usually 90 days after the legislature adjourns. The procedure here is similar to that for the popular initiative, although the number of signatures required to get the measure on the ballot is likely to be lower.

Referenda Procedures

As with the initiative, the percentage of qualified voters necessary to petition a measure to referendum varies among the states. The range is from 2% of the vote cast in the last general election for governors in Massachusetts to 15% in Wyoming.

In order to allow the public sufficient time to petition a statute to popular vote, bills that have passed the legislature do not take effect until 90 days after the close of a legislative session unless they are designated "emergency" legislation. Some state legislatures label tax legislation and laws required for the protection of public health and safety as emergency legislation, thus removing them from possible petition. Too frequent designation of emergency legislation operates to reduce the availability of the referendum as a device for popular control.

An examination of referenda issues across the country in a given year will often reveal clustering around a particular issue. In one year, nuclear energy may be the main concern. At another time, it may be an attempt to limit taxes.

Pros and Cons

There is less controversy over the popular referendum than over the initiative. Since the measure has already passed through the legislature, there has been occasion for debate, compromise, amendment, and drafting improvements. The referendum may encourage legislative enactment of highly divisive measures, however, because some legislators may feel that if the public does not want the pro-

posal it will petition it to referendum. A major problem on occasion can be the number of issues on the ballot at one time, a situation causing difficulty for the voter. Georgia voters, for example, decided 90 questions in the 1976 election and in several other states, ballots included about 20 issues each.[62] Some of these were required by state constitutions, it should be noted, and were not submitted at the option of the voters.

Extent of Use

In general, the same states that allow the popular initiative have mandatory referendum provisions. In addition, Kentucky, Maryland and New Mexico permit its use. In Kentucky, however, the referendum process may be used only on legislation classifying property and levying differential taxes on it.[63] Other states sometimes also limit its use. Examples are Maryland's constitutional prohibitions against petitioning to referendum laws making "any appropriation for maintaining a public institution, not exceeding the next previous appropriation for the same purpose"[64] and laws "licensing, regulating, prohibiting or submitting to local option the manufacture or sale of malt or spiritous liquors."[65]

Who Votes in Referenda

Jerome M. Clubb and Michael W. Traugott analyzed the socioeconomic characteristics of

Table 11–4

SOCIOECONOMIC CHARACTERISTICS OF REFERENDA AND NONREFERENDA VOTERS
(in percentages)

	Nonvoters	Voters on Offices Only	Voters on Referenda
Race			
White	85%	87%	92%
Negro	13	12	7
Other	2	1	1
N	(286)	(409)	(469)
Education			
Eighth Grade or Less	37	23	13
High School	44	51	52
Some College or More	19	27	35
N	(285)	(409)	(469)
Income			
Less than $6,000	57	41	22
$6,000–$9,999	26	29	36
$10,000 or More	16	30	42
N	(278)	(399)	(462)
Subjective Social Class			
Working Class	67	55	48
Middle Class	28	36	36
Upper-Middle Class	5	9	16
N	(278)	(400)	(449)
Residence			
Large Cities	23	26	25
Suburbs and Small Cities	30	29	40
Rural and Outlying Areas	47	45	35
N	(286)	(409)	(469)

SOURCE: Jerome M. Clubb and Michael W. Traugott, "National Patterns of Referenda Voting: The 1968 Election," in Harlan Hahn, ed., *People and Politics in Urban Society*, Beverly Hills, CA, Sage Publications, 1972, p. 145.

referenda and nonreferenda voters in the 1968 election and found significant differences among the two sets of voters. Residents of suburbs and small cities made up an appreciably higher percentage of referenda voters than they did of voters who expressed a choice on candidates only. They are likely to be the political elite. They are better informed, more Republican, and have a stronger propensity to believe they can influence the policies of government. Their characteristics are reflected in *Table* 11–4.

STATE OPENNESS: AN ASSESSMENT

Sometimes with a push from the national government and other times in response to a shove from their own citizens, states have opened up their operations over the past quarter century. It is now possible for more people to register and vote. When they do not, except for aliens, it is largely a factor of their own choice. Because of open meeting laws, open records, and improved information devices, citizens have easier access to information than they once had. Although official resistance to public knowledge still exists, the public has new mechanisms for finding out what is going on.

In all states except Delaware, the public can participate directly in the amendment of the state constitution. Opportunities for direct determination of statutory issue outcomes vary considerably among the states and from time to time. In addition to provisions for submission of certain measures to popular vote at the instigation of the legislature, which many states permit, 23 states now authorize the popular initiative and 26 the popular referenda where the choice of placing measures on the ballot is up to the citizens.

A few states do not measure up to their colleagues in providing citizens with information and access. Sometimes this is a factor of limited staff. For the most part, however, the major barrier to openness appears to be an unwillingness of the part of some officials to recognize that citizens have a right to know what their government is doing. This attitude prevails even among a few officials in states where the laws clearly provide for citizen access.

FOOTNOTES

[1]For a discussion on this point, see Jerome T. Murphy, "The Paradox of Reform," *The Public Interest*, No. 64, Summer 1981, p. 126; and U.S. Congress, Senate, Committee on Finance, Subcommittee on Revenue Sharing, *General Revenue Sharing Hearings*, 94th Congress, 1st Session, p. 146.

[2]U.S. Congress, Senate, *ibid.*, and Council of State Governments, *Recommendations, 1973–74*, Lexington, KY, 1974.

[3]Holly Wagner, "Open Government in the States" (mimeographed draft), Washington, DC, Common Cause, 1983, p.2.

[4]*Ibid.*, pp.2–4.

[5]*Ibid.*, p. 4.

[6]217 NW 2nd 504 (1974).

[7]Sandra G. Boodman and Michael Isikoff, "Pandemonium Is a Way of Life in Virginia's Lawmaking Process," *Washington Post*, February 7, 1983, p. B1.

[8]Delegate Nora Squyres (D-Fairfax), as quoted in *ibid.*, p. B7.

[9]Common Cause, "Open Government in the States, 1978," Washington, DC, mimeo, 1978, p. 9.

[10]Common Cause, "State Open Meeting Laws, 1981," Washington, DC.

[11]*Charles Avara v. The Baltimore News American Division—Hearst Corporation*, No. 81–85, Maryland Court of Appeals, January 26, 1982.

[12]Wagner, *op. cit.*

[13]NCSL, *So the People May Know: Public Information in State Legislatures*, Denver, CO, 1977, p. 17.

[14]Dan Pilcher, "Building Trust: The Role of Public Information in State Legislatures," *State Legislatures*, April 1981, p. 14. See, also, NCSL Legislative Development Project, "Public Television Coverage of State Legislatures," November 1980.

[15]In regard to the Florida survey, see "Sunshine Laws in the Public Sector," *Midwest Monitor*, Part 1, Bloomington, IN, Indiana University School of Public and Environmental Affairs, September/October 1977. The Idaho experience was reported in Common Cause, "Open Government in the States, 1983," *op. cit.*, p. 11.

[16]"Legislative Organization and Services: Structure and Procedures," *Book of the States, 1956–57*, Chicago, IL, 1956, p. 95.

[17]*Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 85.

[18]*Book of the States, 1956–57, op. cit.*, p. 140.

[19]John C. McCable, "Uniform State Laws," *Book of the States, 1982–83, op. cit.*, p. 85.

[20]"Excerpts from State Administrative Procedures Acts," prepared by law students at Vanderbilt University in 1977 under the direction of Professor L. Harold Levinson. See, also, Assembly Staff, Administrative Regulations Review Commission, New York State Assembly, *Public Access to Rulemaking: A Comparative Study of the Federal and State Administrative Procedure Acts*, Albany, NY, State of New York, November 1978.

[21]Robert J. Colborn, Jr., "Administrative Rules and Regulations: Questionnaire Form: Compilation of Answers

Received," Maryland Department of State Documents, undated.

[22]U.S. Department of the Treasury, Office of Revenue Sharing, *Impact of Public Participation, Civil Rights, and Audit Provisions of the General Revenue Sharing Law: A Review of the Literature*, Washington, DC, September 1978, p. 1.

[23]CSG, *State Legislative Appropriations Process*, 1975, p. 87.

[24]ACIR, *Citizen Participation in the American Federal System*, A–73, Washington, DC, U.S. Government Printing Office, 1980, p. 270.

[25]Delaware information from Legislative Council staff; Mississippi information from Legislative Reference Bureau, by telephone, March 1983.

[26]Lucille Amico, et. al., "State Open Records Laws: An Update," Columbia, MO, Freedom of Information Center, School of Journalism, University of Missouri (mimeographed), 1976.

[27]ACIR, A–73, *op. cit.*, p. 270.

[28]NCSL, *So the People May Know: Public Information in State Legislatures*, 2nd edition, Denver, CO, 1978, p. 1.

[29]*Book of the States, 1982–83, op. cit.*, p. 232.

[30]NCSL, *op. cit.*, passim. Unless otherwise indicated, this is the source of all information in this section.

[31]This section draws heavily from ACIR, A–73, *op. cit.*, pp. 109–30.

[32]For a discussion of suffrage development, see: Kirk H. Porter, *A History of Suffrage in the United States*, Chicago, IL, University of Chicago Press, 1918.

[33]W. Brooke Graves, *American State Government*, 4th ed., Boston, MA, DC. Heath and Co., 1953, p. 106.

[34]*Harper v. Virginia Board of Electors*, 383 U.S. 663 (1966).

[35]Richard G. Smolka, "Election Legislation," *Book of the States, 1982–83, op. cit.*, p. 91.

[36]*Ibid.*

[37]For a discussion of these practices and the variations among the states, see Malcolm E. Jewell and David M. Olson, *American Political Parties and Elections*, rev. ed. Homewood, IL, The Dorsey Press, 1982, pp. 107–11.

[38]U.S. Bureau of the Census, *Statistical Abstract of the United States, 1981*, Washington, DC, 1982, p. 496.

[39]U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1970*, Part 2, Washington, DC, 1975, pp. 1071–72.

[40]*Book of the States, 1982–83, op. cit.*, p. 103; George Merry, "State Legislatures Experimenting with Public Financing of Elections," reprinted from the *Christian Science Monitor* in *Today: The Journal of Political News and Analysis*, Brunswick, OH, April 22, 1983, p. 5. For information on and analysis of state public financing of campaigns, see: Herbert E. Alexander and Jennifer W. Frutig, *Public Financing of State Elections*, Los Angeles, CA, Citizens Research Foundation, University of Southern California, 1982; Ruth Jones, "State Public Campaign Finance: Implication for Partisan Politics," *American Journal of Political Science*, Vol. 25, pp. 342–61; and Jack A. Noragon, "Political Finance and Partisan Political Reform: The Experience with State Income Tax Checkoff," *American Political Science Review*, Vol. 75, pp. 667–87.

[41]*Book of the States, 1978–79*, Lexington, KY, Council of State Governments, 1978, p.232.

[42]Graves, *op. cit.*, p. 207.

[43]"Women Politicans Take Off the White Gloves," *U.S. News and World Report*, Washington, DC, August 15, 1983, p. 41.

[44]*Statistical Abstract, 1981, op. cit.*, p. 495.

[45]Linda Greenhouse, "Justices Rule Out Heavy Burden on Independent Candidates," *New York Times*, April 20, 1983, p. A18.

[46]Docket No. 81–1635, April 19, 1983.

[47]Greenhouse, *op. cit.*

[48]In Kansas, appointive officials also are subject to recall.

[49]Russell W. Maddox and Robert F. Fuquay, *State and Local Government*, 4th ed., New York, NY, D. Van Nostrand Company, 1981, p. 188.

[50]Two Michigan legislators were recalled in 1983 for voting in favor of a tax increase. They are reported to be the first legislators ever recalled.

[51]See Graves, *op. cit.*, pp. 142–43, and Maddox and Fuquay, *op. cit.*, pp. 175–78 for short accounts of its development.

[52]NCSL, "Initiative and Referendum," *State Legislative Report*, Vol. 4, No. 4, October 1979, Table 1.

[53]*Ibid.*, p. 2.

[54]NCSL, "Initiative and Referendum," *op. cit.*

[55]New York State Research Service, "The Popular Versus the Public Interest... A Report on the Popular Initiative." May 1979, p. 1, as cited in NCSL, "Initiative and Referendum," *op. cit.*, p. 3.

[56]Charles M. Price, as cited in *ibid.*

[57]Albert L. Sturm, "State Constitutions and Constitutional Revision," *Book of the States, 1976–77*, Lexington, KY, Council of State Governments, 1976, p. 164.

[58]Eugene C. Lee, "The Initiative and Referendum: How California Has Fared," *National Civic Review*, Vol. 68, No. 20, February 1979, pp. 69–76, 84.

[59]Hugh A. Bone and Robert C. Benedict, "Perspectives on Direct Legislation: Washington State's Experience, 1914–1973," *Western Political Quarterly*, Vol.

[60]Lee, *op. cit.*

[61]Maddox and Fuquay, *op. cit*, p. 178.

[62]Jim Wagner, "Forty-One States Voted on Public Issues," *Congressional Quarterly Weekly Report*, Washington, DC, Congressional Quarterly Inc., November 13, 1976, p. 3164.

[63]*Book of the States, 1982–83, op. cit.*, pp. 67–68.

[64]*Constitution of Maryland*, Art. 16, Sec. 2.

[65]*Ibid.*, Art. 16, Sec. 6.

Chapter 12

The States And Their Local Governments

Much of the evidence examined in previous chapters indicates that the states have worked at reforming their structures and processes in recent years. Most of them are stronger in terms of administrative effectiveness, economic efficiency, fiscal equity and accountability than they were in 1955 when the Kestnbaum Commission reported. But, as Jeanne and David Walker point out:

> The acid test of the states' real strength lies in their relationship with their own localities. Here the legal, political, fiscal, functional and institutional capabilities of the states are the most severely tested. The states, after all, are the chief architects, by conscious or unconscious action or inaction, of the welter of servicing, financial and institutional arrangements that form the substate governance system of this nation.[1]

Gulick, who had despaired of the states in the 1930s, later commented on their importance to local government. Writing in 1962, he pointed out that:

> State governments are still the key to improved governmental arrangements in metropolitan areas. They must not only look to their constitution and extend their services to meet metropolitan needs, but must also establish

> some effective focus of state concern for local governments and must hasten to stimulate localized regional planning and cooperation.[2]

How have all of the state reform activities affected local government, traditionally strongly interdependent with the states? Have improvements at the state level translated to advances for substate jurisdictions? Do the states treat their local units much as they always did, sometimes placing them in an intergovernmental straitjacket? Or, have more urban-oriented legislatures loosened a few strings and allowed them more freedom to deal with their problems and aided them in areas where local efforts are insufficient? In short, what effect has state government reform had on state relations with their local governments? In order to deal with these question, it is necessary, first, to examine what the role of state government is in regard to local units.

STATE RESPONSIBILITIES FOR LOCAL JURISDICTIONS

For almost all local jurisdictions—the notable exceptions being Indian reservations and the District of Columbia—state governments hold the key to many matters determining their well-being and success. The states are, in fact, major decisionmakers in local government affairs. In addition, they coordinate and supervise local administration of state programs; assist substate governments in improving their capability to carry on their own activities as well as those mandated for the administration of state law on the local level; bear a significant portion of the costs of local operations; intervene in local emergencies; and, to some degree, insure "good government" at the local level.

Moreover, in recent years states increasingly have become intergovernmental managers of federal programs administered at the local level. While this role is not new, it has expanded dramatically with the growth of federal assistance programs and the vesting of administrative responsibility for the new block grants in the states. Often the decision as to which local units will receive federal funds are made by the states. In addition, it may be necessary for them to plan, supervise, monitor, provide technical assistance and perform other oversight activities in connection with the federal-aid programs.

STATES AS DECISIONMAKERS FOR LOCAL GOVERNMENTS

As decisionmakers for local governments, states determine, either through the state constitution, or by statute or charter, what local governments there will be; the proper allocation of powers to and among them; their functional assignments; their internal structure, organizations and procedures for local operations; their fiscal options in regard to revenue, expenditures and debt; the extent of the interlocal cooperation; how their boundaries can be expanded or contracted and to some degree their land use patterns. When one government exercises this kind of influence over others, its decision affect those subordinate governments critically.

Because there is no federal Constitutional provision for local governments, they owe their existence to the states. In the absence of a state constitutional restriction, the state legislature may create or abolish local governments at will. While public opinion and countervailing local political forces may prevent any precipitant moves to disestablish a local unit, the legal authority to do so is there. In the words of Judge John F. Dillon, local governments are "mere tenants at the will of the legislature."[3]

Likewise, the state constitution or, more usually, the legislature determines which units of local government can exercise which powers and functions. Often these allocations are made on the basis of traditions, and, usually, once a unit has authority to perform a function it rarely loses it. Nevertheless, the state decides whether cities, counties, towns, townships, or special districts, or all or none can or must engage in land use planning and zoning, operate the public school system, construct an airport or engage in other functions. In most states, without a specific grant of authority from the state, local units are unable to act. They have only the powers granted to them; and the courts, following Dillon's Rule, are inclined to interpret authorizations strictly. The rule states:

> It is a general and undisputed proposition of a law that a municipal corporation (*read: local government*) pos-

> sesses and can exercise the following powers and no others: First those granted in *express words*, second, those *necessarily or fairly implied* in or *incident* to the powers expressly granted; third, those *essential* to the declared objects and purposes of the corporation—not simply convenient but indispensable. Any fair reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied.[4]

Other states are more liberal with the powers of their local units.

While it might seem that the determination of local government structure, organization, and procedures should be the preserve of the citizens of the locality concerned, such is not entirely the case. Both state constitutions and state legislatures prescribe forms of governments, duties of officials, and operating procedures for local jurisdictions. For example, in 1975 New York had 11 statutes running to 19 volumes containing 6,000 pages dealing directly with powers and structures of its local governments.[5]

In another example, a recent amendment to the Tennessee Constitution providing for an elective executive form of government included the following statement concerning the county legislative body:

> The legislative body shall be composed of representatives from districts in the county as drawn by the county legislative body pursuant to statutes enacted by the general assembly. Districts shall be reapportioned at least every ten years based upon the most recent federal census. The legislative body shall not exceed 25 members, and no more than three representatives shall be elected from a district.[6]

The Tennessee legislature then provided in detail for the establishment of the county executive form of government.

States determine the fiscal options of their local governments in a number of ways. In the first place, they decide what revenue sources local governments can use, a decision predicated on protecting the state's own income. Property taxes and license and service fees have been the traditional sources, but in recent years revenues from income or payroll taxes, ales taxes and other sources have been authorized in some states. Limits on the rates of taxes imposed are frequently attached. States also stipulate the purposes for which local funds may be spent, impose spending limits, set salaries and fees, require certain budgetary procedures and sometime approve local budgets. In addition, their requirements that local governments engage in specific activities often necessitate local outlays for these purposes. Such state mandated activities limit local expenditure options by absorbing local revenues.

Nowhere is local discretion more hindered than in the incurrence of debt. State constitutions and statutes impose limits on the amount of debt, the purposes for which it may be incurred, procedures for repayment and the investment of funds set aside for repayment. Although instituted to preserve the credit of both the state and other local governments by preventing default on debt obligations, such arrangements frequently stimulate local ingenuity in circumventing the state constriants. One example is the issuance of revenue bonds, repaid from the earnings of the enterprise for which money was borrowed, that are not considered "debt" since the general credit of the local government is not pledged to their repayment.

State decisionmaking also extends to determining the extent of and procedures for interlocal cooperation and external structural changes. State law will prescribe what agreements are allowable and sometimes the procedures for entering into them. Frequently, the creation of substate districts for handling local matters is specified by state statute. State legislatures also set out the terms of, and procedures for annexation, extraterritorial jurisdiction and consolidation. In one instance, Indianapolis and Marion County, IN, the state legislature merged the two governments without a referendum.[7] In another, the Kentucky State Board of Education consolidated the Louisville and Jefferson County school districts.

Land use control is an area in which state involvement has grown in recent years. From 1922 until recently, local governments largely exercised authority over the use of land except

where states determined the location of state facilities and took land by eminent domain for such purposes as highways, parks, prisons, educational institutions, hospitals and other public uses. Following the publication of a model zoning enabling act by the Department of Commerce in 1922, most states adopted legislation authorizing municipal governments to classify land within their boundaries and to regulate its uses. When the department published model legislation for local planning control in 1928, the states adopted this code as well.[8]

Because local control of land use did not work well in many instances, frequently permitting urban sprawl, traffic congestion, air and water pollution, and loss of prime agricultural land, states undertook to regulate land use at the state level, revoking powers previously allowed local governments. A variety of techniques were used. States resorted to the requirement of permits for certain types of development, established mechanisms to coordinate state land use-related problems, and required local governments to establish mechanisms for land use planning and zoning. More recently, they moved to participate in the coastal zone management program of the federal government, took on the management of wetlands, determined the siting of power plants and related facilities, acted to regulate surface mining and established rules for identifying and designating areas of critical state concern (e.g., environmentally fragile or historic areas).[9] Moreover, they began to settle land-use dispute among local jurisdictions, to forbid exclusionary zoning and to handle large developments. All of these activities enabled states to engage in decisionmaking concerning land use to a greater degree than once was the case. As a consequence, local governments find that although state decisions often relieve them of some of the pressures relating to development, they also limit their options in this as well as in other areas.

STATES AS ADMINISTRATIVE SUPERVISORS OF LOCAL IMPLEMENTATION

All states coordinate and supervise to some degree local administration of state functions. These activities encompass a wide range of state actions extending from informal conferences through advice and technical assistance, requirement of reports, inspection, imposition of grant-in-aid requirements, review of local actions, prior approval of local action, orders, rulemaking, investigations, removal of local officials, and appointment of local officials, to state takeover of local administration. The employment of these devices to influence local administration varies widely, not only from state to state but from function to function within a state. In general, the less coercive appear to be the most effective and most frequently employed. The most stringent—substitute administration—rarely occurs and, when it does, it is in crisis situations such as financial, health or disaster emergencies.

The creation or redesign of a number of block granis, with states designated as administrators, in the *Omnibus Budget Reconciliation Act of 1981* expanded state responsibilities for supervising local administration. Seven new blocks emerged: Community Development (small cities and rural areas); Elementary and Secondary Education; Alcohol, Drug Abuse, and Mental Health; Maternal and Child Health Services; Primary Care (Health); Community Services; and Low Income Energy Assistance. In addition, two existing blocks were revised: the Social Services block was expanded and the existing Health Incentives Grant for Comprehensive Public Health was incorporated into the Preventive Health and Health and Health Services block. All in all, 77 previous categoricals, some of which formerly went directly to local jurisdictions, were consolidated to create the nine grants.

Federal controls were lessened in the new and revised blocks and states were allowed more discretion in their administration. The expansion of the state role came at the expense of local governments. The direct federal-local relationship previously established under the Small Cities Discretionary Grant of the Community Development Block Grant was replaced by a federal-state relationship under the State Community Development Block Grant. States will be responsible for managing future monies. Similarly, the state assumed a stronger administrative role under the Education block when 28 categoricals that previously went to local government agencies and/or local nonprofit organizations were merged with nine other categoricals. Eighteen additional categor-

icals formerly channeled directly to localities were redirected to state governments.[10]

STATES AS ENHANCERS OF LOCAL CAPABILITY

States frequently engage in efforts to improve the capability of local governments to carry on their own activities. They also try to upgrade local abilities to administer state law on the local level. Toward this end, they offer a wide range of technical assistance in such matters as purchasing, accounting procedures, drafting of charters, and design of personnel systems, not to mention a host of other subjects.

Local governments do not rely on such technical assistance extensively. A General Accounting Office survey, reported in 1978, indicates that approximately 50% of local officials responding never asked the state for technical assistance. Nonetheless, state officials are contacted more often than any other type of outside organization—including the federal government—to meet local technical assistance needs. Apparently local officials perceived fewer programs and less paperwork in dealing with state officials than with federal agencies.[11]

All states now have state agencies specifically designated to assist local governments.[12] Although Pennsylvania set up the Bureau of Municipal Affairs in 1919,[13] widespread adoption of special agencies for local affairs did not occur until the1960s. Following a recommendation of the Council of State Governments, endorsed by public interest groups representing local governments, and a 1964 recommendation from ACIR, states began to create or designate such agencies. Currently, 35 of the agencies are separate cabinet departments, nine are within other departments, and six are located in the governor's offices.[14]

The agencies offer a wide range of programs and services to local governments and try to promote intergovernmental cooperation, upgrade local management and planning capabilities, and facilitate the administration of programs in such areas as economic development and housing.[15] Some provide assistance for small jurisdictions in such matters as applications for federal grants. Few exercise control functions, emphasizing their assistance capabilities.

Other state aid may take the form of efforts to improve local government structure in order to enhance decisionmaking capacity and administration. This could involve the requirement for county executive (or manager) government as occurred recently in Arkansas, Kentucky and Tennessee. It could include the extension of home rule or discretionary powers to local units broadening their authority to cope with local problems. Local boundaries might be altered by the state, as in Indianapolis, to make political jurisdiction correspond more closely to the geographic area of the problems. State statutes might impose merit systems, stipulate auditing practices, or require training for local officials. All of these are done by one or more states, although they are only examples of the many types of state assistance.

STATES AS BANKERS OF LOCAL GOVERNMENTS

A major facet of state involvement in local affairs is the part they play in financing local government. They are the principal external providers of funds to local governments. They transfer large sums of state money to the local units and, in addition, they serve as conduits of much of the federal money that local governments spend. Most of this is in the form of grants-in-aid, although states also share taxes as well as receipts from state businesses, such as liquor stores, and some other funds. They also provide payments to local governments in lieu of taxes on state property, share facilities, and sometimes give state real or personal property to local jurisdictions. State aid currently comprises approximately one-third of the funds local governments spend.[16] In addition, states pass through to local units about 27% of the federal funds they receive.[17]

STATES AS ENSURERS OF EQUITY, EFFECTIVENESS, EFFICIENCY AND ACCOUNTABILITY

To a substantial degree, states are the ensurers of "good" government at both the state and local levels. Through their constitutions, statutes, and court decision, they can mandate equity in representation, distribution of resources, and governmental operations. While they operate within the limits of human con-

straints, their legal controls over local units allow them to improve responsiveness of local institutions and to ensure accountability and openness of and access to governmental processes. They exercise significant control over such matters as apportionment for representation. They can establish formulas for the distribution of resources and require fair governmental practices. State "sunshine" statutes, aimed at ensuring open decisonmaking in public matters, can apply to state and local levels alike.

The steps states can take to ensure effective government cover a wide range of possibilities. On one hand, they can grant charters that allow local officials the leeway to deal with their problems. On the other end of the scale, they can oversee locally administered state programs to ensure that they accomplish the intended results, authorize sufficient revenues to carry out government programs and remove barriers to effective management. Often they can play a positive role through standard setting, technical assistance and advice. The same thing applies to encouraging efficiency. Although those who actually deliver government service are the largest factor in the efficiency of the operations, states can exert influence by promoting cooperation among localities, sharing expertise and promoting local competency. They can refrain from imposing procedures and requirements that impair economical government operations. State restrictions on local debt, accounting, purchasing and auditing requirements, while often necessary to prevent financial crises, must be imposed with care. Otherwise, requirements intended to encourage efficiency in some instances may produce the opposite effect.

Each state performs differently in these matters, a fact that makes nationwide assessment of their actions difficult. They have, as well, unique political cultures, economic and social systems, and other characteristics that make for different patterns of response to problems.

CRITICISMS OF STATE ACTIONS AFFECTING LOCAL GOVERNMENTS

The heavy reliance of local governments on the state affords the latter substantial options in regard to improvement of local governmental operations. The choices made, nonetheless, have not always provided the maximum opportunity for local excellence. They have, in the past, often retarded local efforts at effective and efficient decisionmaking and administration. In the words of a 1969 ACIR report:

> The deadly combination of restricted annexation and unrestricted incorporation; the chaotic and uncontrolled mushrooming of special districts; and limitations upon municipal taxing and borrowing powers; the deliverance of all important police powers of zoning, land use and building regulations into the hands of thousands of separate and competing local governments—these are but a few of the byproducts of decades of state governments; nonfeasance and malfeasance concerning urban affairs.[18]

Many critics would agree that states often have been unmindful of local problems, particularly those of big cities. In discussing the "reluctant states" in this connection, Roscoe C. Martin blamed part of the problem on the "state mind." He wrote, in 1965:

> Rural orientation, provincial outlook, commitment to a strict moral code, a philosophy of individualism—these are the components of the state mind. If they evoke memories of the oil lamp and the covered bridge, why this very spirit of nostalgia is also characteristic of the state mind. One of the most unhappy features of the state (and its leaders and institutions) is its intermittent and imperfect contact with the realities of the modern world.[19]

In Martin's view, this state of mind gave birth to certain myths that have had important influences on state policies toward local problems. Chief among the myths is the conviction that little government, both in the sense of local governments and a minimum of state government, is "both virtuous and democratic." Conversely, big government, be it state or federal, tends to be corrupt and undemocratic. Moreover, urban problems "spring from unhealthy soil" and lack the legitimacy of estab-

lished claimants to state attention. States claim a lack of resources to deal with all these matters. Finally, the federal government, large and distant, is an object of distrust.

The "state mind" has had the consequence of engendering a dedicated intransigence and "negativism" on the part of the states, according to Martin. Their addiction to the status quo produces an unfavorable reaction to almost anything new. In summing up the effects of the state of mind and mythologies that he attributes to the states, Martin wrote:

> In summary, three overriding deficiencies flow from the state of mind and the mythology which grip the states. The first is in orientation—most states are governed in accordance with the rural traditions of an earlier day. The second is timeliness—the governments of most states are anachronistic; they lack relevance to the urgencies of the modern world. The third is in leadership—state leaders are by confession cautious and tradition-bound, which ill-equips them for the tasks of modern government.[20]

If Martin's analysis is correct, such a negative outlook on the part of the state does not augur well for local governments. Are the criticisms set out above valid at the present time? Have the states been willing to change in this important aspect of their responsibilities? What recent actions have they taken to improve their relations with their local governments? How do these balance others that increasingly circumscribe local options and initiatives?

CHANGING STATE STRATEGIES TOWARD LOCAL GOVERNMENTS

If, as the Walkers pointed out, "the acid test of the States' real strength lies in their relationship with their own localities," that relationship needs to be examined to determine if it permits localities enough freedom to manage their own affairs effectively and efficiently at the same time that it preserves state authority to deal with statewide problems. The dichotomy presented by building both strong state and strong local governments need not force a choice between the two. Strong, viable governments at both levels do not preclude effective sharing of responsibility and, in fact, may enhance it. The growing interdependence of states and their local governments, as reflected in the growth of shared functions and fiscal aids, underscores the necessity of increased cooperation and coordination between them.

What, then, are the indicators that the states are adopting strategies that will strengthen local governments and increase their abilities to manage their own affairs and to participate actively in ameliorating the problems and seizing the opportunities facing the entire state? No standard set exists. An examination of the literature on state and local government reveals a number of areas that have long troubled both practitioners and scholars as far as state-local relations are concerned. These include:

- general legal powers;
- state mandates;
- fiscal controls;
- capacity building;
- technical assistance;
- urban policies; and
- cooperative mechanisms.

Chapters 12, 13, and 14 will examine these areas to see if the states have acted to: (a) allow more discretion to their local governments, thus enabling the latter to make decision and finance programs reflecting their own priorities and individual circumstances; (b) strengthen local ability to manage both local and locally administered state programs; (c) finance their programs adequately; and (d) provide the necessary financial and technical assistance and organizational structure to ensure local viability. Since it was not possible to conduct original research in all of these areas, the information in this section was drawn, for the most part, from the work of others, although the survey data compiled by the ACIR staff is employed where available.

The reader is cautioned about the pitfalls of attempting to rank states on these measures and, thus, concluding that one state is "better" or "more advanced" than the rest. Weighting the various factors is difficult, but more important, to present valid proof of one state's superiority would require an assessment of the effectiveness of each arrangement in each state, a near impossible task since provision and prac-

Table 12–1 (continued)

STATE LAWS GOVERNING LOCAL GOVERNMENT FORM, ANNEXATION AND CONSOLIDATION, 1978

Comparative	South (16 states)	West (13 states)	North-Central (12 states)	Northeast (9 states)	Total United States
A. FORM OF GOVERNMENT					
1. Optional Forms of Government for Cities are Set Forth in General Law	12	10	9	8	39
2. Optional Forms of Government for Counties are Set Forth in General Law	8	4	5	2	19
3. Home Rule Authority is Granted to Cities	10	12	11	8	41
a. Granted by State Constitution	6	10	9	5	30
b. Granted by General Law	8	7	4	4	23
c. Structural Home Rule Authority is Granted	9	11	10	5	35
d. Broad Functional Home Rule Authority is Granted	8	4	6	2	20
e. Limited Functional Home Rule Authority is Granted	2	7	4	6	19
4. Home Rule Authority is Granted to Counties	7	11	7	2	27
a. Granted by State Constitution	5	8	5	2	20
b. Granted by General Law	3	6	4	1	14
c. Structural Home Rule Authority is Granted	6	9	7	2	24
d. Broad Functional Home Rule Authority is Granted	5	4	2	1	12
e. Limited Functional Home Rule Authority is Granted	2	5	5	1	13
5. Classes of Cities are Provided for	10	8	9	4	31
a. Classes are Determined by Population	8	8	9	3	28
b. Classes are Determined in Some Other Way	2	0	0	1	3
6. Limits are Imposed on the Incorporation of New Local Government Units	15	11	12	1	39
a. Minimum Population is Required	14	8	6	1	29
b. Minimum Area is Required	4	2	2	1	9
c. Minimum Distance from Existing Units is Required	9	5	4	0	18
d. Minimum Ad Valorem Tax Base is Required	2	0	3	0	5

Table 12–1 (continued)

STATE LAWS GOVERNING LOCAL GOVERNMENT FORM, ANNEXATION AND CONSOLIDATION, 1978

Comparative	South (16 states)	West (13 states)	North-Central (12 states)	Northeast (9 states)	Total United States
B. ANNEXATION AND CONSOLIDATION					
1. Municipal Annexation is Authorized by General Law	15	12	12	2	41
a. Initiated by a Petition of Property Owners in Area to be Annexed—Percentage of Property Owners Required	11	10	10	2	33
b. Initiated by City Ordinance or Resolution	12	5	7	0	24
c. Public Hearing is Required	7	7	5	1	20
d. Referendum and Majority Approval in City is Required	5	1	3	1	10
e. Referendum and Majority Approval (or Majority Written Consent) in Area to be Annexed is Required	10	6	5	2	23
f. Approval of County Governing Authority is Required	1	2	2	0	5
2. Consolidation of Cities is Authorized	13	10	9	5	37
a. Referendum and Majority Approval of Only One City is Required	2	2	1	0	5
b. Referendum and Majority Approval of Each City is Required	7	8	7	5	27
c. No Referendum is Required	2	0	2	0	4
3. Consolidation of Cities and Counties is Authorized	5	7	4	0	16
a. Referendum and Majority Approval of Each City Affected is Required	4	5	1	0	10
b. Referendum and Majority Approval of County is Required	3	4	1	0	8
c. Referendum and Majority Approval of Unincorporated Area of County is Required	2	1	0	0	3
4. Interlocal Service Agreements are Authorized by General Law or by the State Constitution	13	10	9	7	39

SOURCE: Melvin B. Hill, Jr. *State Laws Governing Local Government Structure and Administration*, Athens, GA. University of Georgia Institute of Government, 1978, pp. 43–44.

tices undergo constant change.[21] Moreover, the situations and needs of the respective states may not be comparable.

BROADER GENERAL LEGAL POWERS FOR LOCAL GOVERNMENTS

States have lessened the constraints of Dillon's Rule and improved the legal position of their localities. The grip in which states held their local governments resulted in large part from the narrow interpretations state courts gave to legislative grants of power to local units. Holding that local governments had only such powers as were granted by the states and that these were to be interpreted strictly in accordance with Dillon's Rule, state courts, until recently, often denied authority for local actions unless state permission was spelled out clearly. In recent years, however, some state legislatures have abrogated this strict construction by making broader grants of power to local governments. This includes at least half the states.[22] *Table 12–1* sets out figures for various forms of state control by region, except for devolution of powers. Home rule, interlocal agreement authority, annexation and consolidation are discussed below.

HOME RULE

Home rule is an old mechanism, originating in Missouri in 1875, that permits local units to draft their own charters and design their own governmental structures.[23] Broad powers over the performance of governmental functions also may be granted. Most states had, by 1960, permitted municipalities either structural home rule authority or the power to adopt alternative forms of government by referenda; however, they were much stingier with counties. By 1960, only eight states with county governments permitted them to change their form of government. A surge of activity occurred after that date and, by 1977, only seven states failed to permit counties to adopt charters or select optional forms of government.[24]

Grants of functional home rule are less common, even for municipalities. While comparative data for 1960 are not available, 20 states had granted broad functional authority to municipalities by 1977 and 19 gave them limited functional home rule powers. Again, counties fared less well. At least 12 states permitted their counties to exercise broad functional home rule authority and 13 granted limited functional powers.

The effectiveness of these home rule grants is another question. It is one thing to set out grants of authority and another to write implementing legislation that does not impinge upon its exercise. Equally important are legislative restraint in interfering in local matters and the existence of local conditions—such as fiscal ability—that allow the actual exercise of the granted powers. Tax and expenditure constraints can be particularly inhibitive. Moreover, the advantages of broad grants of authority were brought into question when the United States Supreme Court ruled in *Community Communications v. City of Boulder* (1982) that cities were subject to antitrust suits unless they were implementing "clearly articulated and affirmatively expressed state policy."[25]

DEVOLUTION OF AUTHORITY

Grants of authority to exercise all powers not denied them, much like the powers of the states under the federal constitution, are newer practices than either home rule or optional charter legislation. These grants are sometimes called a *devolution of powers or authority* and at other times *residual powers*. As of 1980, at least half the states made such grants to some of their local units, although all local jurisdictions within a state usually were not included. Only Alaska, Montana and Pennsylvania included all local jurisdictions in the grants.[26] In addition, Texas cities have operated under this arrangement since 1948 as a result of a decision of its supreme court.[27] *Figure 12–1* ranks the states on the basis of a composite index of discretionary authority.[28]

In addition, through legislation, judicial opinion, or rulings of the attorney general, about half the states now allow local governments authority to employ anyone needed to help the governing body discharge its duties. This has permitted local governments, especially counties, to hire administrative officers.

County governments have been significantly strengthened in recent years by the broader grants of authority discussed above. Still lagging behind municipalities in many instances,

Figure 12–1

STATES RANKED BY DEGREE OF LOCAL DISCRETIONARY AUTHORITY, 1980

	A. Composite (all types of local units)	B. Cities Only	C. Counties Only	Degree of State Dominence of Fiscal Partnership*
1	Oregon	Texas	Oregon	2
2	Maine	Maine	Alaska	2
3	North Carolina	Michigan	North Carolina	1
4	Connecticut	Connecticut	Pennsylvania	2
5	Alaska	North Carolina	Delaware	1
6	Maryland	Oregon	Arkansas	2
7	Pennsylvania	Maryland	South Carolina	2
8	Virginia	Missouri	Louisiana	2
9	Delaware	Virginia	Maryland	1
10	Louisiana	Illinois	Utah	1
11	Texas	Ohio	Kansas	2
12	Illinois	Oklahoma	Minnesota	2
13	Oklahoma	Alaska	Virginia	1
14	Kansas	Arizona	Florida	2
15	South Carolina	Kansas	Wisconsin	1
16	Michigan	Louisiana	Kentucky	2
17	Minnesota	California	California	2
18	California	Georgia	Montana	3
19	Missouri	Minnesota	Illinois	2
20	Utah	Pennsylvania	Maine	2
21	Arkansas	South Carolina	North Dakota	1
22	New Hampshire	Wisconsin	Hawaii	3
23	Wisconsin	Alabama	New Mexico	2
24	North Dakota	Nebraska	Indiana	2
25	Arizona	North Dakota	New York	2
26	Florida	Delaware	Wyoming	2
27	Ohio	New Hampshire	Oklahoma	3
28	Alabama	Utah	Michigan	1
29	Kentucky	Wyoming	Washington	1
30	Georgia	Florida	Iowa	2
31	Montana	Mississippi	New Jersey	3
32	Washington	Tennessee	Georgia	2
33	Wyoming	Washington	Nevada	2
34	Tennessee	Arkansas	Tennessee	2
35	New York	New Jersey	Mississippi	3
36	New Jersey	Kentucky	New Hampshire	3
37	Indiana	Colorado	Alabama	2
38	Rhode Island	Montana	Arizona	2
39	Vermont	Iowa	South Dakota	2
40	Hawaii	Indiana	West Virginia	1
41	Nebraska	Massachusetts	Nebraska	3
42	Colorado	Rhode Island	Ohio	2
43	Massachusetts	South Dakota	Texas	3
44	Iowa	New York	Idaho	2
45	Mississippi	Nevada	Colorado	1
46	Nevada	West Virginia	Vermont	2
47	South Dakota	Idaho	Missouri	3
48	New Mexico	Vermont	Massachusetts	1
49	West Virginia	New Mexico	—	1
50	Idaho	—	—	2

*Key:
1 — State dominant fiscal partner: state share of state-local tax revenues equals 65% or more.
2 — State strong fiscal partner: state share of state-local tax revenues from 55–64%.
3 — State junior fiscal partner: state share of state-local tax revenues below 55%.
Applies to states in Column A.

SOURCE: ACIR, *Measuring Local Discretionary Authority* (M–131), Washington, DC, U.S. Government Printing Office, 1981, p. 59.

counties nonetheless have made substantial gains. Moreover, three states, Arkansas, Kentucky and Tennessee, modernized the governmental structure of counties by state action, thus placing them in a position to exercise their powers more effectively and efficiently. In all three states, county executive governments were instituted.

Local governments receiving broader powers by statute are not necessarily home free on the issue of authority. Any statutory provision can be amended or repealed by a subsequent piece of legislation and, even if local powers stem from a constitutional provision, they can be made ineffectual by a lack of adequate financial resources. Nevertheless, until such action occurs, the local units may proceed without further state permission. Furthermore, their position for resisting state intervention is strengthened. The burden of proof as to whether or not they may exercise a power rests with the state.

INTERLOCAL AGREEMENT AUTHORITY

The legal positions of local governments have been broadened by other state actions as well. States have moved to permit interlocal agreements and sometimes have authorized the establishment of single or multipurpose regional authorities with regionwide financing to deal with special servicing problems. Most of these regional districts relate to narrow functional activities such as transportation or water and sewer services. Nevertheless, authorization to establish them alleviates the financial strain on some communities since the authorities provide costly capital improvements.[29]

ANNEXATION AND INCORPORATING POWERS

States have been less generous with provisions facilitating annexation and consolidation and curtailing additional incorporations, provision that often can foster the development of areawide governments at the local level. Only 24 states allow annexation to be initiated by city ordinance or resolution, and 23 require approval by a majority of the citizens in the area to be annexed. Although 37 states permit consolidation of cities, only 16 authorize consolidation of cities and counties.[30] A total of 39 states places limits on the incorporation of new municipalities. Most of these stipulate a minimum population, although in some instances it is so low as to be meaningless in preventing fragmentation. Others specify that new incorporations be located a minimum distance from existing jurisdictions, or require a minimum area or property tax base.

STATE MANDATES

At the same time they have been granting greater autonomy in some areas of activity, states also have been imposing more stringent requirements in others. Among the major friction points in state-local relations are these state mandates—that is, state constitutional, legislative, executive or administrative requirements or limitations on local government actions. Technological change, population mobility and the rise of local fiscal emegencies, among other factors, have convinced state authorities of the need for tighter state control in some areas. Consequently, they have imposed mandates to ensure that certain important functions are performed throughout the state, that uniform standards of service prevail statewide, or that desirable social or economic goals are achieved.[31] Often, however, the mandates reflect state legislative inability to resist the pressures of local interest groups, particularly teachers, police, firefighters and other employee unions.[32] The fundamental issues are whether (and, if so, how much) state mandates shackle local governments and whether they are necessary to achieve state interests.

Regardless of the nobility of their purposes, mandates often impose unanticipated costs or constitute interference in areas that are regarded as prerogatives of local governments. Witness the words of a supervisor of Alameda County, CA, testifying before the House of Representatives in 1978:

> A large portion of the increased property tax for Alameda County has been due to mandates by the legislature of the State of California. We have been required to fund increasing amounts each year for Medi-Cal, AFDC and adult welfare. State law and state regulations frequently require improvements and expansion in county programs, without supplying any funds. At the same time, when the

state provides partial funding for local programs, the state frequently provides no cost of living increase in their share of the program. For example, the state has been paying the same $95 per month for the care of juveniles in juvenile camps since 1953, leaving the county to pick up all increases in costs of the past 25 years.[33]

In any event, mandates make governance difficult at the local level, complicating decisionmaking, as well as budget control, and generating state-local conflict. Their impacts have precipitated calls for state reimbursement of mandate costs, a proposal not always received enthusiastically at the state level.

MANDATE CLASSIFICATIONS

Mandates may be classed in various ways. Two of these will be examined here, because they help to explain the breadth and focus of the actions. An ACIR typology of *expenditure* mandates help one to see why local governments consider them so onerous. Five major types of expenditure mandates are distinguished:

- **rules of the game mandates**—relating to the organization and procedures of local government, e.g., the form of government, holding of local elections, and provision of the criminal code that define crimes and call for certain punishment;
- **spillover mandates**—dealing with new programs or enrichment of existing local government programs in highly intergovernmental areas such as education, health, welfare, hospitals, environment and nonlocal transportation;
- **interlocal equity mandates**—which require localities to act or refrain from acting to avoid injury to, or conflict with neighboring jurisdictions, in areas including local land use regulations, tax assessment procedures and review, and environmental standards;
- **loss of local tax base mandates**—where the state removes property or selected items from the local tax base, such as exemption of churches and schools from the property tax, and food and medicine from the sales tax; and
- **personnel benefit mandates**—where the states set salary wage levels, working conditions, or retirement benefits.[34]

A study of federal and state mandates by Catherine H. Lovell and her associates, using a broader definition, contains a more comprehensive classification.[35] Mandates are classified as requirements or constraints. Requirements can be related either to programs or to procedures of the affected jurisdictions. The former concern *what is to be done, the latter pertain to the process of doing it, that is, how* a given goal is to be reached. The study emphasizes that to be considered programmatic, the requirement "must be judged as an *end-product* or *objective* in the delivery of some service or the performance of some function." The state may require the establishment and operation of the program and also mandate certain qualitative and quantitative aspects of it. For example, the state may stipulate that all school boards establish programs for the education of handicapped children without specifying the quality of the program of the number of children, the type of their handicap, or the extent of education to be provided. A program quality mandate might specify the level of education to be reached by the children involved, a program quantity mandate might specify the number of days per year that education would be provided.

Procedural mandates regulate the behavior of a local government or one of its agencies, according to this typology. They require "inputs" into the production of the public service in the form of reporting, planning, record keeping, and the like. In regard to the education of handicapped children, they might require "mainstreaming"—or education with nonhandicapped children—or specify a process for advertising the program.

Constraints, on the other hand, most often limit the kind and amount of locally derived revenue that can be raised or spent on one or all local services. They might impose a tax ceiling on property tax levies, limit the amount of debt to a certain percentage of the assessed valuation of property in the jurisdiction, or prohibit expenditure of funds above a particular level.

Table 12–2

STATE MANDATES, BY INDIVIDUAL STATES: BY TYPE, VERTICAL-HORIZONTAL DISTINCTIONS, ORIGIN, DIRECT ORDER AND CONDITIONS OF AID DISTINCTIONS, AND FUNCTIONAL CATEGORY (in percentage)

Mandate Type	California (N=1479)	New Jersey (N=534)	N. Carolina (N=259)	Washington (N =487)	Wisconsin (N=654)
Programmatic	10.9%	3.3%	23.2%	9.3%	10.8%
Program	3.9	2.2	19.7	6.2	4.9
Program Quality	5.3	1.1	2.7	2.9	4.7
Program Quantity	1.7	0.0	0.8	0.2	1.2
Procedural	86.0	83.6	59.8	73.4	81.6
Reporting	22.4	2.2	14.7	10.7	16.3
Performance	42.9	46.6	22.4	27.7	37.6
Fiscal	9.4	13.9	10.0	13.6	14.1
Personnel	4.9	18.7	8.9	12.7	5.8
Planning/Evaluation	2.2	1.1	1.5	6.4	2.4
Recordkeeping	4.2	1.1	2.3	2.3	5.4
Revenue Constraint					
Base	3.1	12.7	17.0	17.3	7.7
Rate	1.2	4.5	0.8	7.0	3.6
Expenditure Caps	0.5	2.2	1.5	2.9	2.1
Total	100.0	100.0	100.0	100.0	100.0
Vertical/Horizontal					
Vertical	94.0	91.8	98.8	91.4	81.3
Horizontal	6.0	8.2	1.2	8.6	18.7
Total	100.0	100.0	100.0	100.0	100.0

Origin					
Law	72.6	98.4	99.2	79.3	79.2
Executive Order	—	—	—	—	0.6
Administrative Regulations	27.4	1.6	0.8	20.7	20.2
Total	100.0	100.0	100.0	100.0	100.0
Direct Orders and Conditions of Aid	1.7	1.3	3.9	16.0	3.4
Direct Orders	98.3	98.7	96.1	84.0	96.6
Total	100.0	100.0	100.0	100.0	100.0
Function					
Agriculture	5.0	0.6	1.9	1.0	0.8
Community Development	6.2	21.0	11.6	19.9	6.6
Community Service	0.5	1.1	4.2	—	2.6
Education	8.7	0.6	0.4	—	4.9
Environment	6.2	2.4	2.3	9.0	6.6
Gen. Government	31.0	42.5	39.8	37.2	31.5
Health	18.7	4.1	15.8	11.3	3.7
Public Assistance	4.6	1.1	8.9	—	1.5
Public Protection	11.3	10.1	9.3	11.7	12.4
Recreation/Culture	0.9	2.6	0.4	2.3	2.9
Transportation	5.1	0.7	3.9	1.2	9.5
General Regulations	1.8	13.1	1.5	6.4	17.1
Other	0.0	0.0	0.0	0.0	0.0
Total	100.0	100.0	100.0	100.0	100.0

SOURCE: Catherine H. Lovell, Robert Kneisel, Max Neiman, Adam Z. Rose and Charles A. Tobin, *Federal and State Mandating on Local Governments: An Exploration of Issues and Impacts.* A Final Report to the National Science Foundation, Riverside, CA, The Graduate School of Administration, University of California, Riverside, June 20, 1979, p. 69.

Table 12–3

THE STATE MANDATING OF EXPENDITURES PRACTICE IN 77 SPECIFIC PROGRAM AREAS, 1976–77

States	Total Reported Mandates	Local Employees Retirement and Working Conditions[1] (15 mandates)	Police (14 mandates)	Fire (14 mandates)	Environmental Protection (8 mandates)	Social Services (6 mandates)	Miscellaneous (7 mandates)	Education (13 mandates)	No Mandate Reported	Number of Mandates With No Response
United States Average	35	7	7	6	4	1	3	7	36	6
New England Average	35	8	7	7	3	1	3	8	27	14
Maine	39	11*	6*	7*	3	1	3*	8	22	16
New Hampshire	40	10	7	9	5	1	4	4*	32	5
Vermont	31	6	7	6	4	0	2	6	46	0
Massachusetts	46	8	10	10	3	0	5	10	30	1
Rhode Island	11	NR	NR	NR	NR	NR	NR	11	0	66
Connecticut	45	11	9	9	4	2	2	8	32	0
Mideast Average	37	6	7	6	4	1	2	10	38	1
New York	60	10	11	11	7	6	5	10	16	2
New Jersey	45	11	9	7	6	0	2	10	32	0
Pennsylvania	41	5	9	9	7	0	2	9	35	1
Delaware	21	2	4*	3	0	0	2	10	52	4
Maryland	20	2	1	1	2	1	2	11	57	0
District of Columbia	—	—	—	—	—	—	—	—	—	—
Great Lakes Average	37	5	5	7	3	2	4	7	27	12
Michigan	25	1*	3*	2*	5	1	4*	9	15	37
Ohio	49	13	10	10	1	2	4	9	28	0
Indiana	26	3	5*	8	6	1*	3	NR	27	24
Illinois	37	8	7	7	1	2	3	9	40	0
Wisconsin	50	11	10	10	3	2	4	10	27	0
Plains Average	38	8	8	6	3	2	3	7	37	3
Minnesota	51	12	7	5	8	6	4	9	26	0
Iowa	33	9	10	8	2	2	2	NR	31	13
Missouri	32	8	6	6	3	0	2	7	45	0
North Dakota	38	8	7	4	1	6	4	8	38	1
South Dakota	39	9	8	7*	3	0	3	9	35	3

Nebraska	36	5	8	6	5	1	4	7	40	1
Kansas	35	8	9	6	2	0	3	7	41	1
Southeast Average	27	5	5	4	3	1	2	6	43	7
Virginia	46	10	7	6	8	4	3	8	31	0
West Virginia	8	1	2	1	1	0	3	NR	56	13
Kentucky	28	5	9	9	1	0	2	2	49	0
Tennessee	23	8	9	0	4	0	2	NR	40	14
North Carolina	32	6	5	4	1	4	3	9	44	1
South Carolina	27	7	6	5	0	NR	3	6	43	7
Georgia	25	3	1	4*	7	0	2	8	49	3
Florida	43	5	9	7	8	1	3	10	33	1
Alabama	11	0*	1*	0*	4	0	0*	6	27	39
Mississippi	29	6	3	5	2	0	4	9	48	0
Louisiana	20	3	8	4	1*	0	0	4*	46	11
Arkansas	33	7	5	6	4	0	4	7	44	0
Southwest Average	33	7	7	6	2	0	3	9	44	0
Oklahoma	25	3	8	6	1	0	0	7	51	1
Texas	33	9	6	6	1	0	4	7	44	0
New Mexico	36	7	7	5	4	0	4	9	41	0
Arizona	39	10	8	5	2	0	3	11	38	0
Rocky Mountain Average	36.8	9	7	6	5	3	2	5	36	4
Montana	48	13	10	9	5	2*	1	8*	22	7
Idaho	41	9	7	6	6	4	3	6	36	0
Wyoming	37	8	7	7	4	4	2	5	40	0
Colorado	23	6	4	4	4	4	1	NR	41	13
Utah	35	8	7	5	5	0	2	8	42	0
Far West Average	46	6	5	9	5	1	3	8	30	1
Washington	46	12	8	8	6	0	3	9	31	0
Oregon	45	12	9	10	3	0	4	7	32	0
Nevada	44	11	9	8*	3	2*	3	8	28	5
California	52	10	10	7	7	6	4	8	25	0
Alaska	39	8	9	8	3	0	2	9	38	0
Hawaii	49	13	10	10	6	0	1	9	28	0

N.R. = No response to any specific mandate within the category.
* = No response to two or more specific mandates within the category.
[1]Other than police, fire and education.

SOURCE: Advisory Commission on Intergovernmental Relations, *State Mandating of Local Expenditures* (A–67), Washington, DC, U.S. Government Printing Office, 1978, pp. 44–45. Based on 1966–67 survey.

Some mandates, such as the requirement that pre-natal care programs must be extended to all expectant mothers willing to participate, or the establishment of standards for local police forces, are vertically imposed; that is, they are program specific, directed to one program or agency. Others, such as a provision relating to nondiscrimination or open meetings, are applied horizontally, cutting across all areas. As Lovell and Tobin point out:

> The horizontal/vertical distinction is important for two reasons: (1) the most important change in mandating in recent years has been in horizontal mandates; and (2) the addition of horizontally applied requirements has changed the nature of service production by incorporating subsidiary requirements into the production function. Significant costs which must be added to service production are thereby imposed.[36]

Many of the horizontal or cross-cutting requirements result from federal government actions,[37] but states have not hesitated to add to the list. They have, for example, imposed nondiscrimination, open meeting and open record requirements. *Table 12–2* reflects the experience in five states.

EXTENT OF STATE MANDATING

State mandating of local governments varies among states as well as among functional activities and types of requirement, and in impact. No nationwide data concerning all classes of state mandates have been collected. The most extensive were gathered in the 1976 ACIR nationwide survey of expenditure mandates in which several responsible sources in each state were surveyed. Responses indicated that in the 77 specific program areas listed, 22 states had 39 or more mandates requiring local expenditures. See *Table 12–3*. The most commonly mandated functions were solid waste disposal standards (45 states), special education programs (45 states), workman's compensation for local personnel other than police, fire and education (42 states), and various provision relating to retirement systems (35 or more states).[38]

States with the most expenditure mandates were New York (60 out of 77 possibilities), California (52), Minnesota (51) and Wisconsin (50). The fewest expenditure mandates were imposed in border and southern states with West Virginia (8) and Alabama (11) having the least.[39]

The survey by Lovell, et. al., gathered data from only five states—California, New Jersey, North Carolina, Washington and Wisconsin; however, it covered all mandates within its broad definition in a examination of state statutes and regulations. The total number of mandates in the five states ranged from 259 in North Carolina to 1,479 in California, with the average for the five states being 683. It should be noted that for all five, most of these were procedural, vertically directed toward an agency or program, direct orders rather than conditions of grants-in-aid, and legislatively orginated rather than imposed by executive orders or administrative regulations, and less related to general government than to specific functional areas.

A number of other studies have examined the mandate problem in individual states.[40] Each tailored the definition to fit its own requirements, thus preventing aggregation.

FISCAL NOTES AND COST REIMBURSEMENT

Reflecting rising concern for local financial conditions and seeking to highlight the costs of proposed laws or rules, states began to attach fiscal notes to mandating legislation and to agency rules. These estimated the dollar cost to local governments of the state requirements. By 1977, a total of 22 states had attached fiscal notes to mandating legislation. In addition, constitutions in three states—Alaska, Louisiana and Pennsylvania—established limits on mandates. Moreover, California and Montana provided reimbursement for the local outlays required.[41]

By the end of 1981, the number of states requiring fiscal notes had increased to 40. Of these, most had a statutory basis while others handled them through legislative rules. See *Figure 12–2*. In addition, Maryland, which had a fiscal note law requiring the impact statements to indicate the cost of legislation to the state government only, attached local financial impact statements to legislation as a matter of practice. Mandates imposed in the administra-

Figure 12–2

STATE FISCAL NOTES ON, AND REIMBURSEMENT OF MANDATES ON LOCAL GOVERNMENTS, 1981

	States Attaching Fiscal Notes	States Reimbursing Mandate Costs		States Attaching Fiscal Notes	States Reimbursing Mandate Costs
UNITED STATES	36	12			
Alabama	X		**Montana**	X	X
Alaska			**Nebraska**	X	
Arizona	X		**Nevada**	X	
Arkansas	X		**New Hampshire**	X	
California	X	X	**New Jersey**	X	
Colorado	X	X	**New Mexico**		
Connecticut	X		**New York**	X	
Delaware			**North Carolina**	X	
Florida	X	X	**North Dakota**		
Georgia	X		**Ohio**	X	
Hawaii		X	**Oklahoma**		
Idaho	X		**Oregon**	X	
Illinois	X	X	**Pennsylvania**	X	
Indiana	X		**Rhode Island**	X	X
Iowa	X		**South Carolina**		
Kansas	X		**South Dakota**	X	
Kentucky			**Tennessee**	X	X
Louisiana	X		**Texas**	X	
Maine			**Utah**	X	
Maryland	X		**Vermont**		
Massachusetts		X	**Virginia**		
Michigan	X	X	**Washington**	X	
Minnesota			**West Virginia**	X	
Mississippi	X		**Wisconsin**	X	
Missouri	X	X	**Wyoming**		

SOURCE: Compiled from Council of State Governments, *Book of the States, 1982–83*, Lexington, KY, Council of State Governments, 1982, p. 223; 1977 ACIR survey; and ACIR staff updating.

tive process by agency rules and regulations were covered in only a few states, but the number was on the rise. In addition, the State of Washington established a reimbursement procedure for programs the state transfers to localities.[42]

States are far less likely to reimburse local governments for the costs of state mandates than they are to require fiscal notes; nevertheless, a number of states do provide for compensation. As of 1982, 12 states had provisions for reimbursing their local units for the costs of the requirements they imposed, although compliance was mixed. It is apparent from these figures that states have become more responsive to local difficulties in financing the actions states have imposed upon them, but, to date, there is little evidence that they have curbed their penchant to mandate.

AN ASSESSMENT

The importance of states in the operations of the local governments within their boundaries

cannot be overestimated. The authority states allow local officials to exercise and the requirements they place on them fix the perimeters of what local governments can and cannot do.

In the past quarter century, states have broadened local powers through increased grants of home rule and optional charters, through devolution of powers, and through permission to make interlocal agreements. Counties have been the principal benficiaries of the greater autonomy, although other types of local jurisdictions also have profited. States have coupled this strengthening of local legal authority, however, with a dramatic increase in mandates on local governments to undertake new functions and activities. These requirements have proved costly to the localities. Despite the attachment of cost estimates in the form of fiscal notes to state legislation mandating local action, the expense has fallen largely on the smaller jurisdictions, thus limiting their options because of fiscal constraints. The trade-offs between more discretionary authority on the one hand and increased state mandating on the other have varied from state to state. Consequently, it is difficult to assess the overall impact of these two opposite developments.

FOOTNOTES

[1]Jeanne and David Walker, "Rationalizing Local Governments Powers Functions and Structure," in *States' Responsibilities to Local Governments: An Action Agenda*, prepared by the Center for Policy Research of the National Governors' Association, Washington, DC, 1975, p. 39.

[2]Luther H. Gulick, *The Metropolitan Problem and American Ideas*, 1962, p. 164.

[3]*City of Clinton v. Cedar Rapids and Missouri Railroad Company*, 24 Iowa 455, 462, 463 (1868).

[4]John F. Dillon, *Commentaries on the Law of Municipal Corporations*, 5th ed., Boston, MA, Little, Brown and Co., 1911, Vol. 1, Sec. 237. Italics in the original except "read: local government."

[5]Joan Aron ad Charles Brecher, "Recent Developments in State-Local Relations: A Case Study of New York," a paper prepared for the Conference on the Partnership Within the States: Local Self Government in the Federal System, November 18–20, 1975, pp. 1–2.

[6]Article VII, Sections 1 and 2, adopted March 7, 1978.

[7]Daniel R. Grant, "Urban Needs and State Response: Local Government Reorganization," in The American Assembly, *The States and the Urban Crisis*, edited by Alan K. Campbell, Englewood Cliffs, NJ, Prentice-Hall, Inc., 1970. For recent activity on city-county consolidation, see: Parris N. Glendening and Patricia S. Atkins, "City-County Consolidation: New Views for the Eighties," *1980 Municipal Year Book*, Washington, DC, International City Management Association, 1980, pp. 68–72.

[8]Land Use Planning Reports, *A Summary of State Land Use Controls*, Report 2, Washington, DC, Plus Publications, Inc., January 1975, p. 1. For a discussion of the spread of innovations in land use legislation among the states, see Nelson Rosenbaum, *Land use and the Legislatures*, Washington, DC, The Urban Institute, 1976.

[9]Council of State Governments, *State Growth Management*, Lexington, KY, May 1976, pp. 24–25. The Council has published a series of studies on state land use programs and policies developed by the Task Force on Natural Resource and Land Use Information and Technology. The Council sponsored the Task Force in cooperation with the U.S. Department of the Interior. The studies are: *State Alternatives for Planning and Management* (Final Report of the Task Force); *Land Use Management: Proceedings of The National Symposium on Resource and Land Information; A Legislator's Guide to Land Management; Land Use Policy and Program Analysis Number 1: Intergovernmental Relations in State Land Use Planning; Land Use Policy and Program Analysis Number 2: Data Needs and Resources for State Land Use Planning; Land Use Policy and Program Analysis Number 3: Organization, Management and Financing of State Land Use Programs; Land Use Policy and Program Analysis Number 4: State of the Art for Designation of Areas of Critical Environmental Concern: Land Use Policy and Program Analysis Number 5: Issues and Recommendation—State Critical Areas Programs;* and *Land use Policy and Program Analysis Number 6: Manpower Needs for State Land Use Planning and Public Involvement in State Land Use Planning.*

[10]For a discussion of the block grants and their influence on state-local relations, see: David B. Walker, Albert J. Richter, and Cynthia Cates Colella, "The First Ten Months: Grant-in-Aid, Regulatory, and Other Changes," *Intergovernmental Perspective*, Vol. 8, No. 1, Washington, DC, U.S. Government Printing Office, Winter 1982, pp. 5–22.

[11]U.S. General Accounting Office, *State and Local Government's Views on Technical Assistance* (GGK–78–58), Washington, DC, July 12, 1978, pp. ii, 38, 45.

[12]ACIR, *State-Local Relations Bodies: State ACIRs and Other Approaches*, M–124, Washington, DC, U.S. Government Printing Office, March 1981, p. 37.

[13]Joseph F. Zimmerman, "State Agencies for Local Affairs: The Institutionalization of State Assistance to Local Governments," mimeographed, Albany, NY, State University of New York at Albany, Graduate School of Public Affairs, Local Government Center, 1968.

[14]ACIR, M–124, *op. cit.*, pp. 38–39.

[15]*Ibid.*

[16]ACIR, *The States and Intergovernmental Aids* (A–59), Washington, DC U.S. Government Printing Office, February 1977, p. 9.

[17]See Table 5, ACIR, *Recent Trends in Federal and State Aid to Local Governments*, M–118, Washington, DC,

U.S. Government Printing Office, 1980, p. 8.

[18]Advisory Commission on Intergovernmental Relations, *Urban America and the Federal System*, M–47, Washington, DC, U.S. Government Printing Office, 1969, p. 2.

[19]Roscoe C. Martin, *The Cities and the Federal System*, New York, Atherton Press, 1965, p. 77. See, also: The American Assembly, *The States and the Urban Crisis*, edited by Alan K. Campbell, Englewood Cliffs, NJ, Prentice-Hall, Inc., 1970; Lee S. Green, Malcolm E. Jewell, and Daniel R. Grant, *The States and the Metropolis*, University, AL, University of Alabama Press, 1968; A. James Reichley, "The States Hold the Keys to the Cities," *Fortune Magazine*, June 1969; and Paul N. Ylvisaker, "The Growing Role of State Government in Local Affairs," *State Government*, Summer 1968.

[20]*Ibid.*, p. 79.

[21]In this respect, the experience in West Virginia is enlightening. More than 40 years after the voters approved a constitutional amendment providing municipal home rule, the state supreme court ruled that cities did not have home rule at all because the legislature's authority to implement the amendment had been used in such a way that it circumscribed local autonomy. Those counting home rule states included West Virginia all these years, although those familiar with its operations were cognizant of its limited nature.

[22]See ACIR, *Measuring Local Discretionary Authority*, M–131, Washington, DC, U.S. Government Printing Office, 1981.

[23]For an account of home rule development, see: William N. Cassella, Jr., "A Century of Home Rule," *National Civic Review*, New York, National Municipal League, October 1975, pp. 441–50.

[24]David B. Walker, "The Localities and the New Intergovernmental System (Will More Aid Assist, Atrophy, or Asphyxiate American Counties, Cities, and Towns)", a paper prepared for the seminar on "A Federal Response to the Fiscal Crises in American Cities," Washington, DC, June 15, 1978.

[25]102 Supreme Court 835 (1982).

[26]ACIR, M–131, *op. cit.*

[27]*Forwood v. The City of Taylor*, 147 TEX. 161 at 165, 214 SW 2nd 282 at 285 (1948).

[28]The four types of discretionary authority were weighted as follows: financial—4; functional—3; personnel—2; and structural—1. The index for each type of local unit (cities, counties, towns, villages, townships, and boroughs) became the weighted average of the four separate indexes. The composite index for each state was calculated by weighting the index for each of the six types of local units according to the portion of the state's nonschool local direct expenditures represented by that type of unit. ACIR staff ratings, *ibid.*

[29]Melvin B. Hill, Jr., *State Laws Governing Local Government Structure and Administration*, Athens, GA, University of Georgia Institute of Government, 1978, p. 44.

[30]*Ibid.*

[31]In addition, traditions and the desire to create a state budget surplus by requiring local governments to perform certain functions may also operate. Advisory Commission on Intergovernmental Relations, *State Mandating of Local Expenditures* (A–67), Washington, DC, U.S. Government Printing Office, 1978, p. 16.

[32]From the Statement of Alameda County Supervisor Fred F. Cooper before the House of Representatives Subcommittee on the City, July 25, 1978.

[33]Advisory Commission on Intergovernmental Relations, *In Brief: State Mandating of Local Expenditures*, B–2, Washington, DC, U.S. Government Printing Office, 1978, p. 6. This is a brief summary of *State Mandating of Local Expenditures*, *op. cit.*

[34]Catherine H. Lovell, Robert Kneisel, Max Neiman, Adam Z. Rose, and Charles A. Tobin, *Federal and State Mandating on Local Governments: An Exploration of Issue and Impacts*, Final Report to the National Science Foundation, June 20, 1979, Riverside, CA, Graduate School of Administration, University of California, Riverside, p. 71.

[35]Catherine H. Lovell and Charles Tobin, "Mandating—A Key Issue for Cities," in *The Municipal Year Book, 1980*, Washington, DC, The International City Management Association, 1980, p. 73. This is a summary version of some of the points in the major study.

[36]Lovell, et. al., *Federal nd State Mandating on Local Governments: An Exploration of Issues and Impacts*, *op. cit.*, p. 72.

[37]ACIR, A–67, *op. cit.*, pp. 2–3.

[38]*Ibid.*

[39]Among the state studies are: James M. Banovetz and Carol A. Kachadoorian, *One Half of Property Tax for Payment of State Mandated Costs* (Illinois), DeKalb, IL, Northern Illinois University, Center for Governmental Studies, 1979; Lynn P. Pehrns under the direction of J.D. Arehart, "Mandated Costs for Colorado Local Governments," Colorado Division of Local Government, Denver, CO, February 1975; Kenneth J. Emmanuels, "California Cost Reimbursement Law," paper presented at the Annual Convention of the Michigan Municipal League, September 8, 1976; David Minge with the collaboration of Audie L. Belvins, Jr., *Effect of Law on County and Municipal Expenditures, as Illustrated by the Wyoming Experience*, Laramie, WY, Wyoming Law Institute, University of Wyoming, 1975; and *Restricting the Application of State Laws Adding to Local Government Costs*, Boston, MA, Massachusetts Legislative Research Bureau, 1975.

[40]ACIR, A–67, *op. cit.*, p. 3.

[41]Jane F. Roberts, "States respond to Tough Fiscal Challenges," *Intergovernmental Perspective*, Spring 1980, p. 24.

Chapter 13

State-Local Financial Developments

State actions in regard to finance are vital to local governments. This statement applies to what states do about their own finances as well as to their actions on local fiscal matters. State-local finance systems are so closely related that it is often difficult to discuss one without dwelling on the other.

Local governments, especially, are dependent on the states financially. They must have state authority to levy taxes and generate other revenues, to spend money, and to incur debt. In addition to complying with the mandates discussed in *Chapter 12*, they must bow to state dictates in regard to taxing and spending limits, expenditures purposes, debt capacity and other aspects of their financial life. They lean heavily on the states for fiscal assistance of various types and often join with them in financing certain programs.

The last quarter century saw significant shifts in state-local financial relations. In addition to a growth in mandated expenditures, major developments included:

- emergence of the states as senior partners in state-local expenditures;
- increased sharing of expenses by the two levels;
- a rise in amounts and purposes of state grants-in-aid to local governments;
- full state assumption of certain functions in which local governments previously participated;

- institution of state payments to local government in lieu of taxes on state-owned land;
- diversification of local revenue sources; and
- the imposition of more limitations on revenue raising and spending.

These changes were in addition to state requirements concerning local financial mangement imposed as states attempted to improve local administration. Most of these developments portend a greater state recognition of local financial problems; however, some have imposed additional fiscal constraints and burdens.

STATES EMERGE AS SENIOR FINANCIAL PARTNERS

As the country moved into the decade of the 1970s, states emerged as the senior partners in state-local finance. Their share of total state-local general expenditures from their own funds grew from 46.8% in 1957 to 58.0% in 1981. See *Table 13–1*. States financed more than 50% of state-local expenditures from non-federal sources in 47 states, up from 28 in 1966, and 23 in 1957. See *Table 13–2*.

The states' position in overall financing also shifted. By the end of the 1960s, they ranked second to the federal government as the biggest financers of domestic activities. This was a significant change from 1929, when local governments outranked both states and the federal government in domestic expenditures. When the federal government surged to the fore during the 1930s, local governments still outspent the states. Localities fell to third place during the late 1960s, however, and states moved into second. They alleviated the local financial burden by paying a greater share of the costs, and they may have initiated greater equality in the provision of public services in the bargain.

INCREASED SHARING OF EXPENDITURES

In providing a larger share of the total state-local funds spent, states provided general revenue sharing funds and increased their financial responsibility for given functions. Moreover, some states spent for activities that previously were almost entirely locally financed.

States Pay More School Costs

One of the most marked changes occurred in the realm of school finance. More than half of the states fundamentally altered their school funding formulas during the decade of the 1970s, mostly in attempts to achieve equality in public education. As a consequence, states

Table 13–1
STATE FINANCING OF STATE-LOCAL EXPENDITURE FROM OWN FUNDS

Function	Fiscal Years					
	1981	1978	1979	1977	1966	1957
Total General Expenditure*	58.0%	57.0%	55.7%	55.5%	47.8%	46.8%
Selected Functions:						
Local schools	53.2	51.9	48.5	47.5	42.5	41.2
Highways	61.5	65.6	65.6	65.2	70.9	71.2
Public Welfare	83.7	84.0	80.8	78.9	75.7	71.8
Health and Hospitals	52.0	51.4	51.7	52.3	51.0	51.3

*Includes functions not shown separately. Excludes the District of Columbia.

SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, 1983, p. 24. Education percentage based on figures from National Education Association, *Estimates of School Statistics, 1981–82*, Washington, DC, 1982, p. 36.

Table 13–2

STATES RANKED ACCORDING TO STATE PERCENTAGE FINANCING OF TOTAL STATE-LOCAL GENERAL EXPENDITURES, FROM OWN REVENUE SOURCE, 1980–81

Alaska	83.5%	Virginia	60.3%
Hawaii	80.6	Minnesota	59.6
New Mexico	78.0	Maryland	59.5
Kentucky	77.0	Wyoming	58.7
Delaware	76.3	Arizona	58.0
North Dakota	69.5	Iowa	57.8
West Virginia	69.4	New Jersey	56.5
North Carolina	68.3	Connecticut	56.4
California	67.1	Michigan	55.6
Arkansas	66.8	Illinois	55.0
Idaho	66.3	Pennsylvania	55.0
Mississippi	66.2	Ohio	54.3
Rhode Island	66.2	Georgia	53.9
Oklahoma	66.1	Missouri	53.5
Louisiana	65.8	Oregon	52.6
South Carolina	65.7	Montana	52.4
Washington	62.6	Colorado	51.7
Wisconsin	62.6	Texas	51.5
Maine	62.5	Florida	51.4
Vermont	62.4	Tennessee	51.4
Alabama	62.0	Nebraska	51.1
South Dakota	61.8	Kansas	50.9
Indiana	61.5	Nevada	48.9
Utah	61.5	New Hampshire	47.9
Massachusetts	60.9	New York	46.4
		U.S. (without D.C.)	58.0

Note: Percentages were derived from U.S. Bureau of the Census data in the following manner: Numerator = (state direct general expenditures) + (state intergovernmental expenditures to the federal and local levels) − (state revenues from the federal and local levels). Denominator = (state and local direct general expenditures) + (state and local intergovernmental expenditures to the federal level) − (state and local revenues from the federal level).

SOURCE: Computed by ACIR staff from U.S. Bureau of the Census, *Governmental Finances, 1980–81*, Washington, DC, U.S. Government Printing Office, 1982.

provided more than half of local school costs in 1981 in all but nine states.[1] Although progress has been incremental and years may be required for phasing in the changes fully, within-state disparities in per pupil expenditures decreased in 17 of the states that changed their formulas over the period while increasing in six. In one state, New Mexico, the formula change had no effect on disparities.

Attempts to achieve equalization in public school finance subsequently were caught in the cross-fire of other pressures. Public confusion over rising costs despite declining enrollments, a decrease in support for education as fewer adults have school-age children, and rising demands for other services, particularly services for the elderly, all operated to stem the movement for equalization. When these pressures were coupled with greater demands for efficiency and accountability, as reflected in com-

petence testing, financial equity sometimes got caught in the middle.[2]

Efforts to reduce educational outlays by legislating budget restrictions, general educational controls and tax limits on local school districts sometimes have accompanied the increased state assistance. The most recent wave followed on the heels of California's popularly initiated Proposition 13 that substantially curtailed local ability to finance schools through the property tax. In that instance, responsibility for providing the major share of school support shifted to the state. Other state governments with restrictive tax or revenue lids were unable to assume comparable burdens. Consequently, public financial resources available for education diminished. Despite these setbacks, in the years since 1971 when the California Supreme Court held in *Serrano v. Priest*[3] that equal funding had to be provided for public school districts, states across the country have responded to public demands and to the threat of court action by providing for a substantially greater degree of equality in public school financing.

State Portion of Highway Costs Declines

In regard to state-local highway expenditures, the states' share from their own revenues, although still major, is slowly but steadily declining. The diminution of the states' portion is reflected in the following figures:

1942	72.7%
1957	71.2
1966	70.9
1975	69.4
1978	65.6
1979	65.6
1981	61.5[4]

Five state governments provided less than half of the state-local highway funds in 1981; however, it should be noted that state shares fluctuate from year to year. Because of the project nature of much highway work, interstate comparisons of highway expenditures for a single year do not necessarily reveal the usual patterns of state support for this function.

State Welfare Financing Rises

States are assuming an increasingly larger share of state-local public welfare costs and are the dominant providers (paying 55% or more of state-local costs). The following percentages reflect the growing state portion of non-federal welfare expenditures:

1942	61.4%
1957	71.8
1966	75.7
1977	78.9
1978	80.8
1979	83.6
1981	83.7[5]

Only in North Carolina did direct state expenditures account for less than one-half of the total state-local public welfare expenditures in 1981. New York paid exactly half.

Health and Hospital Cost Sharing

States are less likely to pay more than 50% of state-local health and hospital costs from their own funds than they are to dominate in education, public welfare, and highway expenditures. A breakdown of state and local funding for these purposes in 1981 shows that states financed from their own revenues somewhat more than half (52.0%) of state-local health and hospital expenditures. The state share has remained relatively constant over the years, fluctuating only a few percentage points. Twenty-eight states spent more than their local jurisdictions in 1981.[6]

In general, state-local expenditures have become more intergovernmentalized. While there was no appreciable change in state-local expenditure ratios for most functions during the period between 1967 and 1981, various shifts occurred in the others. State governments increased their dominance of state-local spending for public welfare, provided a smaller share of highway and health and hospital costs, although they still spend more than local governments in these areas, and moved most rapidly forward in public education spending. They also contributed significant sums for general local government support.

INCREASED FINANCIAL ASSISTANCE

State financial assistance to local governments constituted a substantial portion of the funds available for local government spending throughout the last quarter of a century. As can be seen in *Table* 13–3, it equaled 41.7% of local

general revenue from local sources in 1954. It rose to 60.8% by 1976 and fell back to 59.4% by 1978 and rose again to 63.6% for 1980. These figures include federal grants-in-aid funds passed through the states to local jurisdictions as well as state monies. No figures as to the national-state breakdown were available until recently; however, federal aid made up a significantly smaller portion of state assistance during the 1960s[7] than it does now despite the fact that most federal funds received by local governments at the earlier time were passed through the state and little was received directly.

An estimate of the federal pass-through component of state aid is available for the fiscal years 1971–72, 1976–77, and 1980–81. The figures indicate that net state aid to local government, excluding passed-through federal aid, grew from $27.8 billion in 1971–72 to $71.3 billion in 1980–81, an increase of 156%. This compares to a 112.0% increase in the price deflator for government purchases of goods and services, one measure of inflation. See *Tables 13–4* and *13–5*. In 1981, the amount of federal aid retained at the state level and not passed through exceeded the amounts locally received from the federal government, either directly or by pass-through, by slightly more than $10 billion.

States still provide the lion's share of intergovernmental assistance to local units. Net state aid to local governments (excluding federal pass-through funds) by function, by state, for 1977 (the latest breakout of state aid figures for these functions) is reflected in *Table 13–6*. When comparing the amount of assistance states give their local jurisdictions, the variations in performance of functions among states should be kept in mind. Each state has an autonomous and unique system both for the allocation of functions and the distribution of state aid. States supporting a function completely at the state level need not provide aid to local government for it. Hawaii, for example, provides no assistance to local government for several of the major functions because these activities are administered at the state level. New York makes substantial contributions to local governments in almost every functional area, because local administration is the rule in that state. State rankings on the proportion of major functions financed by the state (as opposed to local governments) can be seen in *Table 13–7*.

Traditional functions—education, highways, welfare, and health and hospitals—still receive the bulk of the state-aid funds, although the money is somewhat more widely distributed among functions now than it was in 1972. In that year, 92.3% went for these functions compared to 83% in 1977 and 80% in 1981. Despite the wider dispersal, education received an even greater percentage. In 1972, schools got 62.8% of the funds; the 1977 figure was 65%;[8] and for 1981, schools received 69%.

States supplement the funds going to local government for the traditional categorical functions with money for general support. In 1980–81, state general local support, defined by the Census Bureau as "broad payments of general financial support as well as amounts paid in replacement of specific tax losses," totaled over $9.5 billion.[9] This amounted to more than 10.2% of total state aid to local governments, and presumably a much larger percentage of the net state aid remaining after federal funds passed through are subtracted. State methods of distributing such assistance among local units may involve returning revenues to jurisdictions in proportion to the amount raised in each or they may be allocated according to complex equalizing formulas similar to that used in federal revenue sharing.

STATE ASSUMPTION OF FUNCTIONS

In many instances, states have elected to assume responsibility for financing certain services rather than sharing costs or providing grants for local governments. A 1976 survey of municipalities over 2,500 found that between 1965 and 1975 there were 1,708 transfers of functions or components of a function by municipalities to other governments. Of these, 14% were transferred to the state, largely as a result of state law.[10] The functions most often shifted to the state level were public health, public welfare, municipal courts, pollution abatement, property tax assessment standards, building codes, land use regulations, including coastal zones and wetlands, and regulation of surface mining. *Figure 13–1* reflects the state-mandated functional transfers.

The largest single transfer occurred in 1960 when Connecticut abolished its counties and

Table 13–3

STATE AID OUTLAY IN RELATION TO LOCAL OWN SOURCE REVENUE, 1954, 1964, and 1969–80

Fiscal Year	Total State Aid: Amount	Total State Aid: As a Percent of Local General Revenue From Own Sources	General Local Government Support	Education	Highways	Public Welfare	All Other
			Amount (in millions)				
1954	$ 5,679	41.7	$ 600	$ 2,930	$ 871	$1,004	$ 274
1964	12,968	42.9	1,053	7,664	1,524	2,108	619
1969	24,779	54.0	2,135	14,858	2,109	4,402	1,275
1970	28,892	56.2	2,958	17,085	2,439	5,003	1,408
1971	32,640	57.3	3,258	19,292	2,507	5,760	1,823
1972	36,759	57.0	3,752	21,195	2,633	6,944	2,235
1973	40,822	57.9	4,280	23,316	2,953	7,532	2,742
1974	45,600	59.4	4,805	27,107	3,211	7,369	3,108
1975	51,004	60.5	5,129	31,110	3,225	7,136	4,404
1976	56,678	60.8	5,674	34,084	3,241	8,307	5,372
1977	61,084	59.9	6,373	36,975	3,631	8,756	5,349
1978	65,815	59.4	6,819	40,125	3,821	8,586	6,464
1979	74,461	63.5	8,224	46,196	4,149	8,667	7,225
1980	82,758	63.6	8,644	52,688	4,383	9,241	7,802
			Annual Percentage Increase or Decrease (–)				
1954	—	—	—	—	—	—	—
1964	8.6[1]	—	5.8[1]	10.1[1]	5.8[1]	7.7[1]	8.5[1]
1969	13.8[2]	—	15.2[2]	14.2[2]	6.7[2]	15.9[2]	15.6[2]
1970	16.6	—	38.5	15.0	15.6	13.7	10.4
1971	13.0	—	10.1	12.9	2.8	15.1	29.5
1972	12.6	—	15.2	9.9	5.0	20.6	22.6
1973	11.1	—	14.1	10.0	12.2	8.5	22.7
1974	11.7	—	12.3	16.3	8.7	–2.2	13.3
1975	11.9	—	6.7	14.8	0.4	3.2	41.7
1976	11.1	—	10.6	9.6	0.5	16.4	22.0
1977	7.8	—	12.3	8.5	12.0	5.4	–0.4
1978	7.7	—	7.0	8.5	5.2	–1.9	20.8
1979	13.1	—	20.6	15.1	8.6	0.9	11.8
1980	11.1	—	5.1	14.1	5.6	6.6	8.0
			Percentage Distribution				
1954	100.0	—	10.6	51.6	15.3	17.7	4.8
1964	100.0	—	8.1	59.1	11.8	16.3	4.8
1974	100.0	—	10.5	59.4	7.0	16.2	6.8
1978	100.0	—	10.4	61.0	5.8	13.0	9.8
1979	100.0	—	11.0	62.0	5.6	11.6	9.7
1980	100.0	—	10.4	63.7	5.3	11.2	9.4

[1]Annual average increase 1954 to 1964.
[2]Annual average increase 1964 to 1969.
SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1980–81 Edition* (M–132), Washington, DC, U.S. Government Printing Office, 1981, p.61.

Table 13–4

INTERGOVERNMENTAL AIDS TO LOCAL GOVERNMENTS, 1971–72, 1976–77, and 1980–81 (billions of dollars)

	1971–72	1976–77	1980–81
Federal to Local (nominal)	$ 4.6	$16.5	$ 22.4
State to Local (nominal)	35.1	60.3	89.0
Total	39.7	76.8	111.4
Federal Percent	11.6%	21.4%	20.1%
State Percent	88.4	78.6	79.9
Federal Aid Pass-Through	$ 7.3	$12.3	$ 17.7
Net Federal Aid to Local Government	11.9	28.8	40.1
Net State Aid to Local Government	27.8	48.0	71.3
Net Federal Percent	30.0%	37.5%	36.0%
Net State Percent	70.0	62.5	64.0

SOURCE: 1971–72 and 1976–77 figures from U.S. Bureau of the Census, Census of Governments, 1972 and 1977, Vol. 4, No. 4, *Compendium of Government Finances, 1972 and 1977*, Washington, DC, U.S. Government Printing Office, as compiled for ACIR, *Recent Trends in Federal and State Aid to Local Government* (M–114), Washington, DC, U.S. Government Printing Office, 1980, p. 9. 1980–81 figures calculated by ACIR staff from census data, based on 1977 proportions, for distributions among levels, the latest available.

Table 13–5

INTERGOVERNMENTAL AID AND THE FEDERAL COMPONENT OF STATE AID TO LOCAL GOVERNMENT: NATIONAL TOTALS, 1980–81 (billions of dollars)

		Major Expenditure Function			
	Total Expenditure	Education	Highways	Public Welfare	Health and Hospitals
Nominal Federal Aid to States	$67.9	$14.1	$9.4	$28.9	$2.6
Nominal Federal-Local Aid	22.4	1.7	0.1	0.3	0.2
Nominal State-Local Aid	89.0	57.3	4.5	9.9	2.4
Pass-Through	17.7	7.9	0.3	7.7	0.7
Net Federal Aid to States	50.2	6.2	9.1	21.2	1.9
Net Federal-Local Aid	40.1	9.6	0.4	8.0	0.9
Net State-Local Aid	71.3	49.4	4.2	2.0	1.7

SOURCE: ACIR staff calculations from U.S. Bureau of the Census, *Governmental Finance, 1980–81*, Washington, DC, U.S. Government Printing Office, 1982, pp. 16–17.

Table 13–6

NET STATE AID TO LOCAL GOVERNMENTS (EXCLUDING PASS-THROUGH), BY STATE, BY FUNCTION 1976–77
(millions of dollars)

State	Education	Public Welfare	Highways	Health and Hospitals	Housing and Urban Renewal	Sewerage	Mass Transit	Criminal Justice	General Support
Alabama	$ 435	$ 1	$ 70	$ 1	$ —	$ —	$ —	$ 2	$ 18
Alaska	151	—	2	4	—	—	—	1	17
Arizona	403	2	57	3	—	—	—	—	158
Arkansas	224	—	57	1	1	—	—	—	23
California	3,659	1,105	372	223	4	47	119	38	978
Colorado	407	64	42	9	—	5	1	1	16
Connecticut	234	23	11	6	6	—	—	—	61
Delaware	138	—	2	—	2	2	—	—	—
Florida	1,497	2	65	20	13	—	—	1	279
Georgia	605	2	46	28	2	—	1	3	13
Hawaii	—	—	—	—	—	13	—	—	24
Idaho	116	—	21	—	—	1	—	—	14
Illinois	1,658	106	260	9	1	80	54	6	144
Indiana	759	46	152	2	—	11	—	—	146
Iowa	540	5	123	3	—	5	—	1	102
Kansas	301	—	38	1	—	—	—	—	22
Kentucky	394	2	17	2	—	—	—	8	3
Louisiana	564	3	64	9	—	—	—	15	114
Maine	190	1	3	—	—	6	—	—	11
Maryland	604	122	93	25	1	17	—	58	80
Massachusetts	667	10	52	6	64	—	142	2	55
Michigan	1,324	179	327	110	—	—	16	5	395
Minnesota	896	75	99	6	—	11	2	10	273
Mississippi	319	—	57	3	1	—	—	—	73
Missouri	492	3	38	18	1	—	—	2	5

Montana	103	1	1	3	—	—	—	—	2
Nebraska	104	7	60	6	—	4	—	—	28
Nevada	118	—	7	—	—	—	—	—	21
New Hampshire	18	9	6	—	—	7	—	—	28
New Jersey	835	157	3	46	4	31	2	—	162
New Mexico	268	—	10	—	—	—	—	—	59
New York	3,390	1,800	119	159	171	110	25	83	1,065
North Carolina	971	23	31	19	2	19	—	—	83
North Dakota	93	2	20	—	—	—	—	—	13
Ohio	1,305	181	263	65	1	12	5	9	221
Oklahoma	375	—	89	—	1	—	—	—	7
Oregon	292	4	47	7	—	—	2	1	31
Pennsylvania	1,514	79	123	107	11	31	106	31	18
Rhode Island	85	14	—	2	3	2	—	1	11
South Carolina	316	—	18	3	—	—	—	—	50
South Dakota	38	—	5	—	—	—	—	—	3
Tennessee	355	—	114	4	1	—	—	5	62
Texas	1,752	15	14	15	1	—	—	2	13
Utah	236	—	11	3	—	—	—	1	2
Vermont	42	—	6	—	—	—	—	—	—
Virginia	552	90	37	3	—	9	—	44	24
Washington	712	11	75	17	—	13	—	6	61
West Virginia	343	—	—	3	—	—	—	—	10
Wisconsin	838	125	123	65	—	18	—	6	499
Wyoming	60	1	9	1	—	—	—	—	30

SOURCE: ACIR, *Recent Trends in Federal and State Aid To Local Governments* (M-118), Washington, DC, U.S. Government Printing Office, July 1980, p. 85.

Table 13–7

STATES RANKED ACCORDING TO STATE PERCENTAGE OF STATE-LOCAL GENERAL EXPENDITURES, FROM OWN REVENUE SOURCE, FOR SELECTED FUNCTIONS, 1978–79

Local Education		Public Welfare (including Medicaid)		Health and Hospitals		Highways	
Hawaii	95.6	Illinois	100.0	Rhode Island	100.0	South Carolina	97.0
		Missouri	100.0			Maryland	94.0
Kentucky	79.7	Washington	100.0	North Dakota	99.7	West Virginia	93.3
Alaska	78.6			Delaware	98.6	Arkansas	90.1
New Mexico	77.4	Alaska	99.0	Hawaii	97.9		
Alabama	76.6	Vermont	98.7	Vermont	96.4	Kentucky	87.7
North Carolina	74.5	Hawaii	98.6	New Hampshire	91.5	North Carolina	84.8
Delaware	73.9	Delaware	98.2			Indiana	83.9
California	73.1	Maryland	98.1	Connecticut	89.5	Virginia	83.6
		West Virginia	98.0	Alaska	82.9	Idaho	82.1
Mississippi	69.5	Utah	97.3				
West Virginia	67.9	Rhode Island	97.1	Virginia	77.9	Oregon	79.3
Washington	67.7	Oklahoma	96.8	Pennsylvania	77.6	Tennessee	78.0
Louisiana	66.7	Arkansas	96.6	Maryland	76.6	New Mexico	76.5
South Carolina	64.1	Kentucky	96.6	Maine	75.6	Ohio	76.4
Oklahoma	62.6	Louisiana	96.6	Utah	75.6	Delaware	75.7
Florida	61.9	Massachusetts	96.7			Michigan	75.4
Arkansas	60.8	California	95.6	Oregon	69.7	Oklahoma	75.4
Georgia	60.0	Michigan	94.7	Kentucky	68.3	Wyoming	75.4
		Kansas	94.8	South Dakota	68.3	Utah	73.6
Minnesota	59.8	Alabama	93.7	Massachusetts	62.9	Florida	71.6
Indiana	57.6	South Carolina	93.7	New Jersey	62.1	Washington	71.5
Utah	57.5	Georgia	93.1[1]			Georgia	72.3
Montana	56.2	Connecticut	92.3	North Carolina	59.7[1]	Pennsylvania	70.2
Texas	53.9	Idaho	92.2	New Mexico	58.1[1]		
Idaho	53.7	Texas	91.7	Kansas	57.4	Mississippi	69.5
Tennessee	53.6	South Dakota	90.0	Louisiana	56.9	Louisiana	68.0
Maine	53.3			West Virginia	56.5	Arizona	67.9
North Dakota	50.3	New Mexico	89.8[1]	Illinois	56.4	Alabama	66.9
		Oregon	89.4	Alabama	55.0	Iowa	66.4
Pennsylvania	49.8	Maine	89.2	Ohio	54.6	Missouri	65.9
Arizona	48.2	Tennessee	88.5	New York	53.3	Illinois	64.1
Virginia	46.8	Mississippi	87.5	Oklahoma	51.2	Texas	62.7
Illinois	46.4	Pennsylvania	87.3	Michigan	50.7	Nebraska	62.4
Kansas	46.2	Wisconsin	83.5	Montana	50.1	Alaska	62.2

Table 13–7 (continued)

STATES RANKED ACCORDING TO STATE PERCENTAGE OF STATE-LOCAL GENERAL EXPENDITURES, FROM OWN REVENUE SOURCE, FOR SELECTED FUNCTIONS, 1978–79

Local Education		Public Welfare (Including Medicaid)		Health & Hospitals		Highways	
Ohio	46.0	Florida	82.2				
Maryland	43.6	Iowa	81.5	Wisconsin	48.5	Vermont	58.5
Michigan	43.3	Wyoming	81.0	Minnesota	48.9	Connecticut	58.0
Rhode Island	42.7			South Carolina	48.7	Colorado	58.0
Iowa	42.6	North Dakota	78.4	Missouri	48.5	North Dakota	57.9
New Jersey	42.2	Nebraska	78.3	Colorado	47.0	Nevada	56.4
New York	41.6	New Jersey	77.3	Washington	45.7	New Hampshire	56.3
Colorado	41.5	Colorado	75.7	Nebraska	44.6	Hawaii	55.5
		Virginia	75.3	Texas	44.1	Massachusetts	55.1
Missouri	39.4	Ohio	75.2	Indiana	43.4	Maine	55.0
Wisconsin	38.2	Arizona	71.1	Iowa	42.2	California	51.7
Massachusetts	37.6			Arkansas	41.4	Kansas	50.6
Nevada	35.7	Indiana	61.6	Arizona	40.1	Minnesota	50.7
Wyoming	32.5						
Connecticut	31.7	Minnesota	58.3	California	39.3	New Jersey	48.9
Oregon	30.8	North Carolina	55.8[1]	Georgia	33.9[1]	South Dakota	48.1
		New Hampshire	53.4	Mississippi	36.1	Montana	46.3
Vermont	29.0	Nevada	50.3	Tennessee	35.3	Rhode Island	40.2
				Idaho	34.2		
South Dakota	18.7	New York	43.4	Florida	32.1	Wisconsin	39.8
Nebraska	17.6	Montana	40.7			New York	37.9
				Wyoming	29.0		
New Hampshire	9.9			Nevada	22.9		
United States excluding District of Columbia	52.1		83.9[1]		51.4[1]		65.6

Note: Percentages for total general expenditure, highways, public welfare, and health and hospitals were derived from U.S. Bureau of the Census data on expenditures adjusted to exclude federal intergovernmental transfers. State transfers to local governments are included with state expenditures and deducted from local expenditures. The local school percentages were derived from estimated receipts available for expenditure for curent expenses, capital outlay, and debt service for public elementary and secondary schools as reported by the National Education Association.

[1]Public welfare and health and hospital expenditures for Georgia, New Mexico, and North Carolina are subject to revision due to difficulties in separating expenditures in these states.

SOURCE: Compiled by ACIR staff from various reports of the Governments Division, U.S. Bureau of the Census; and National Education Association, *Estimates of School Statistics, 1979–80* (copyright 1980 by the National Education Association, all rights reserved).

Figure 13–1

STATE-MANDATED FUNCTIONAL TRANSFERS, 1975

Function	States
Administrative and Legal	Florida, Georgia, Illinois, Michigan, New Hampshire, Oregon, and Virginia
Taxation and Assessment	California, Florida, Georgia, Missouri, New Jersey, New Mexico, Oklahoma, Pennsylvania, Tennessee, and Wisconsin
Elections	Florida, Iowa, Kansas, Minnesota, North Carolina, North Dakota, and Washington
Social Services	California, Delaware, Hawaii, Massachusetts, Michigan, Minnesota, New York, Ohio, Rhode Island, and Vermont
Planning	Iowa, Minnesota, and Oregon
Law Enforcement	California, Florida, Hawaii, Illinois, Minnesota, Nebraska, Nevada, South Dakota, and Virginia
Fire Protection and Civil Defense	Florida and Iowa
Environmental Protection	Michigan, Minnesota, New Hampshire, Ohio, Pennsylvania, and Virginia
Sewage Collection and Treatment	Connecticut, Kansas, Minnesota, Ohio, and Texas
Solid Waste Collection and Disposal	California, Delaware, Florida, Idaho, Iowa, Kansas, Minnesota, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, and Texas
Water Supply	Michigan
Transportation	New York, Ohio, and Wisconsin
Education	Connecticut, Hawaii, and Wisconsin
Public Health	California, Connecticut, Florida, Hawaii, Illinois, Kansas, Pennsylvania, and Rhode Island
Housing and Community Renewal	Connecticut
Building and Safe Inspection	Iowa, Kansas, Michigan, Ohio, Oregon, Texas, Virginia, and Washington

SOURCE: ACIR, *State Mandating of Local Expenditures* (A–67), Washington, DC, U.S. Government Printing Office, 1978, p. 20.

the state assumed their functions.[11] Nevertheless, other states have taken important initiatives in this respect. For example, Florida, by constitutional amendment, abolished all municipal courts and transferred their functions to the state. New York established statewide regional authorities to deal with environmental facilities, job development, transportation and other matters.[12]

Municipal officials responding to the survey listed several reasons for transferring functions. These varied with the recipient jurisdiction, as well as with the type of function. The principal explanation given for shifts to the state level was that state law required it (46%). In addition, achieving economies of scale (34%), eliminating duplications (22%), fiscal restraints (22%), lack of personnel (18%), jurisdictional limitations (16%), lack of facilities and equipment (12%), and inadequate services

(12%) appeared as the most frequent reasons. Federal aid requirements or incentives were cited in 8% of the responses.[13]

Federal policy stimulated some of the transfers. Environmental protection legislation, particularly the *Water Quality Act of 1965*, the *Air Quality Act of 1967*, the *Clean Air Amendments of 1970*, and the *Water Pollution Control Act Amendments of 1972* encouraged states to preempt, totally or in part, responsibility for air and water pollution abatement.[14] As a result of these laws, Rhode Island prohibited local enactment of air pollution control ordinances and bylaws, while Delaware permitted its local units to establish standards higher than those promulgated by the state air pollution control agency, to cite only two examples.[15]

OTHER FISCAL ASSISTANCE

In addition to direct grants, shared costs, and direct assumption of functions, other types of state fiscal relief grew in recent years. Along with actions to improve property tax administration significantly,[16] a total of 36 states, as of 1982, authorized broader revenue bases, permitting some or all of their cities and/or counties to use either a local sales or income tax.[17] In addition, Minnesota enacted a modest "share the growth" regional tax arrangement for its seven-county Twin Cities Area.[18] Moreover, the practice of state compensation to localities for tax exempt state property located within their boundaries grew although not uniformly. Only 13 states failed to compensate local governments for at least some of their tax losses on state property as of 1979.[19]

States also provide indirect aids to local government in the form of income adjusted credits on state income taxes for those who pay local property taxes. Typically, these "circuit breaker" programs base the size of the credit on the size of a household's property tax bill relative to its income. As of 1982, three states had circuit breaker programs for elderly homeowners only; ten states provided such tax credits for both homeowners and renters who were elderly; and six states have circuit breakers for all ages of renters and homeowners. One state, Maryland, instituted a circuit breaker for all homeowners, but only for elderly renters. Another, North Dakota, had a state-financed circuit breaker for elderly renters only. The latter state operated a separate program for elderly homeowners that lowered the assessed value of their homes by as much as $3,000. The number of states with such provisions increased dramatically during the 1970s; in 1970 there were five, in 1982 there were 21.[20]

In addition to the measures discussed above, states enhance local government revenues by assisting them in managing their money. Several states, for example, manage, or authorize private concerns to manage, the pooled idle cash balances of smaller jurisdictions through the establishment of cash management trust funds. Aid in borrowing, treated later in this chapter, and programs to deal with urban problems also contribute to local financial health. Assistance for urban problems will be discussed in *Chapter 14*.

TAX AND SPENDING LIMITS

What states give with one hand, frequently they take away with the other. In the past few years, state actions assisting or broadening local fiscal capacity ran head on into popular demands for lower taxes and reduced spending. Consequently, state restrictions on revenue raising and expenditures multiplied.

The forces promoting greater state fiscal control are the same as those identified in an earlier ACIR report, *State Limitations on Local Taxes and Expenditures*:[21]

- *the public demand for property tax relief;*
- *court-mandated upgrading of assessment practices;*
- *state assumption of an increasing share of state-local expenditure responsibilities;*
- *state efforts to control the growth in school spending; and*
- *a perception by state legislators that local officials need state-imposed restrictions on local tax and spending powers in order to withstand the pressure for additional spending in general and for employee wages and fringe benefits in particular.*

JUSTIFICATIONS FOR TAX AND SPENDING RESTRICTIONS

The fiscal health of their citizens and of the local governments within their boundaries is a legitimate concern of state government. State efforts to ensure this viability often run up against the equally important principle that local officials, who are accountable to the electorate, should determine local tax and expenditure policies. Some individuals argue that if states impose constraints on local discretion in these respects, they also should provide access to other sources of revenue to enable local units to meet their needs. States that either provide their local jurisdictions effective access to other revenue sources or share revenues with them on an unconditional basis alter the basic state-local fiscal relations and can defend the imposition of local tax or spending restrictions.

Another instance that may justify state policymakers in imposing lids on local taxes occurs wherever state taxes are raised in order to finance a new program of property tax relief. State limitations then may prevent local jurisdictions from counteracting the state's moves and may stabilize property taxes. In addition, a temporary levy limitation or rollback may be defensible when the state tax department or the courts have ordered a massive increase in local property tax assessment levels. Such action prevents the state officials from bearing the brunt of citizen dissatisfaction with higher taxes in the event that local policymakers do not cut back their tax rate to compensate for the assessment increase.

GROWTH OF TAXING AND SPENDING CONSTRAINTS

State limits on local revenue-raising authority are not new. Property tax rate limits began in the last century, originating in Rhode Island in 1870, followed somewhat later by Nevada (1895), Oklahoma (1907) and Ohio (1911). They were imposed for a variety of reasons, but principally to protect taxpayers from a rapid rise in the tax rate during the panics of 1873 and 1893 and to limit the growth of local expenditures for the construction of roads and canals. They were often coupled with limits on local borrowing, an activity more likely to be regulated.[22]

The Great Depression of the 1930s brought another movement for property tax limits. As property owners struggled to pay their taxes and avoid delinquencies that occurred despite declining property values and assessments, pressure mounted for overall lids to force the lowering of taxes. As a result, Indiana, Michigan, Washington and West Virginia all adopted overall property tax rate limits in 1932, followed by New Mexico in 1933. Ohio and Oklahoma revised their existing restraints in the latter year. In addition, many other states adopted limits for specific functions.[23]

Even with the Depression-inspired restrictions, state and local taxes and expenditures rose after World War II. *Graph 13–1* reflects the trend in state and local expenditures as a percentage of the gross national product. *Table 13–8* shows the growth of state-local sector expenditures. State and local direct general expenditures (including federal aid) as a percentage of state personal income rose from 8.34% in 1948 to 20.32% in 1976, then declined to an estimated 19.03% by 1980.

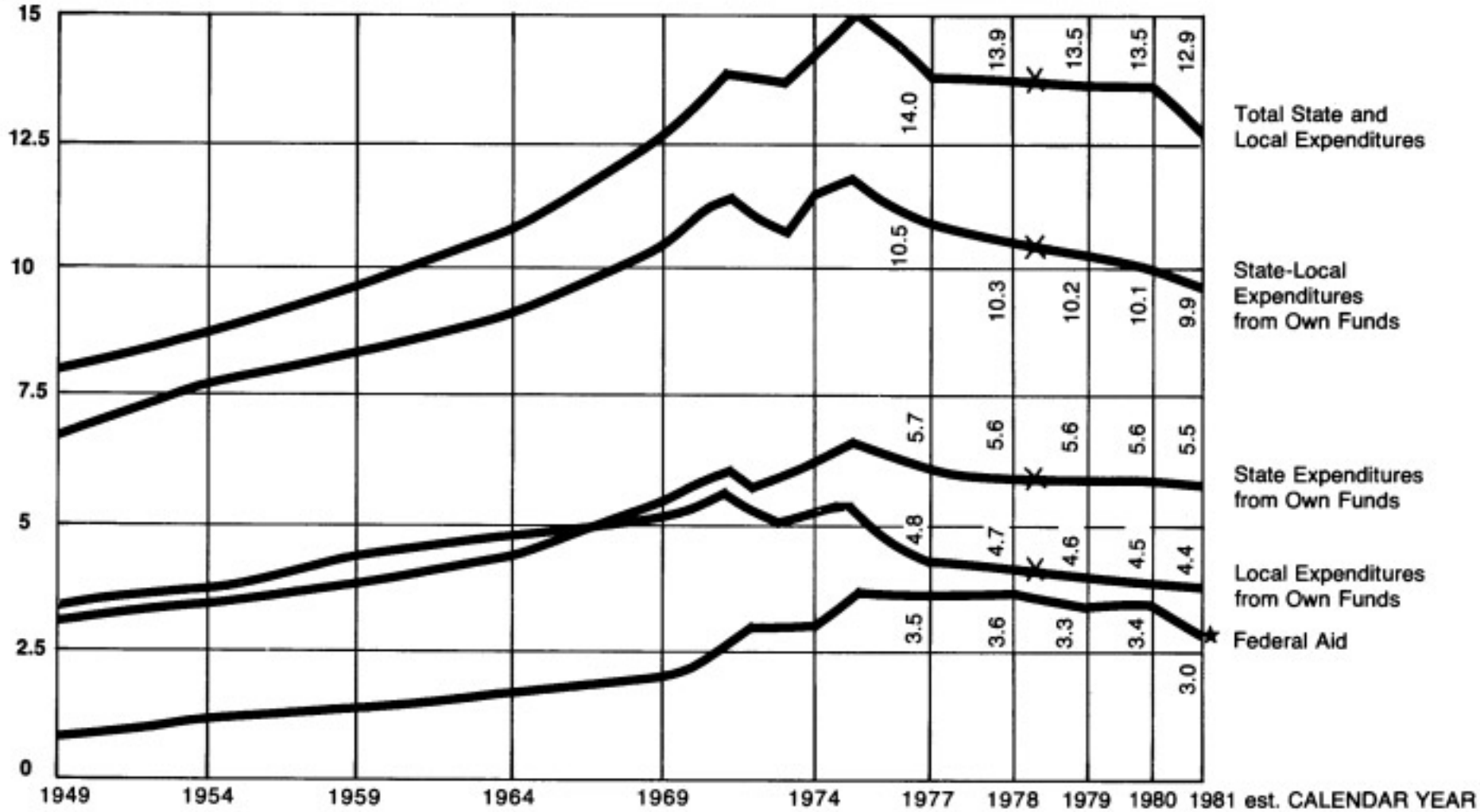
As a result of these and other developments, resistance to rising taxes and expenditures intensified, precipitating a "taxpayers revolt" in California that spread to several other states. In 1978, California voters adopted a popularly initiated constitutional amendment sharply limiting taxes. It reflected nationwide sentiment that the property tax was the worst—or least fair—tax. See *Table 13–9*.

Proposition 13, also known as the Jarvis-Gann Amendment for its sponsors, provides that:

- ☐ No property can be taxed at more than 1% of its estimated 1975–76 market value.
- ☐ No property tax assessment can be increased in any one year by more than 2% unless that property is sold, at which time it can be reassessed on the basis of its market value.
- ☐ No local tax can be increased or a new tax imposed without the approval of two-thirds of the qualified voters.
- ☐ No additional state taxes can be imposed unless approved by at least two-thirds of the total membership of both houses of the legislature.[24]

Graph 13–1

STATE AND LOCAL GOVERNMENT EXPENDITURES AS A PERCENTAGE OF GROSS NATIONAL PRODUCTION, 1949–81



X = Proposition 13 ☆ = Reagan budget
SOURCE: ACIR staff calculations.

Table 13–8

STATE AND LOCAL GOVERNMENT EXPENDITURES FROM OWN FUNDS, SELECTED YEARS, 1929–81

	State[1]			Local[1]		
	Amount (billions of current dollars)	As a Percent of GNP	Per Capita in constant dollars (1967 dollars)[2]	Amount (billions of current dollars)	As a Percent of GNP	Per Capita in constant dollars (1967 dollars)[2]
1929	$ 2.1	2.0%	$ 34	$ 5.5	5.3%	$ 88
1939	3.7	4.1	68	4.8	5.3	88
1949	8.9	3.4	83	9.1	3.5	85
1954	12.7	3.5	97	14.5	4.0	110
1959	18.7	3.8	120	21.3	4.4	137
1964	27.3	4.3	153	30.8	4.8	173
1969	50.3	5.3	226	48.1	5.1	216
1974	86.1	6.0	275	74.5	5.2	238
1975	96.6	6.2	280	81.0	5.2	235
1976	104.1	6.1	283	86.0	5.0	234
1977	110.0	5.7	278	92.5	4.8	234
1978	120.6	5.6	280	100.6	4.7	234
1979	134.0	5.6	276	110.0	4.6	227
1980 p	148.2	5.6	266	118.8	4.5	213
1981 est.	162.0	5.5	259	128.5	4.4	206

p = preliminary
est. = estimated
[1]The National Income and Product Accounts do not report state and local government data separately. The state-local expenditure totals (National Income Accounts) were allocated between levels of government on the basis of ratios computed from data reported by the U.S. Bureau of the Census in the annual governmental finance series.
[2]Based on the Consumer Price Index.

SOURCE: ACIR staff computations based on U.S. Department of Commerce, Bureau of Economic Analysis, *The National Income and Product Accounts of the United States, 1929–76: Statistical Tables* and *Survey of Current Business*, various years; U.S. Bureau of the Census, *Government Finances*, annually; *Budget of the United States Government*, various years; *Fiscal Year 1982 Budget Revisions*; unpublished budget data; *Economic Report of the President*, January 1981; and ACIR staff estimates.

Nothing since the Great Depression of the 1930s has jolted the state-local financial sector as much as the passage of Proposition 13. The shock waves it generated have been likened to "almost ten" on a Richter scale of severity ranging from one to ten.[25]

In its wake, movements to limit taxes surfaced in other states, and many proposals, restricting either state or local taxes or expenditure or both, were adopted. According to a National Governors' Association study, published in 1980,

> Since 1978, voters or state legislatures in 19 states have imposed a total of 27 limitation measures, including controls on local government spending in five states, and limits on property taxes, which are primarily a local government revenue source, in nine states ... (Some states, such as California, Michigan and Oregon, imposed more than one limitation measure.)[26]

The pace as well as the number of fiscal restrictions increased. The seven-year period between 1970 and 1977 saw various restraints imposed by 14 states. In comparison, 16 took similar ac-

tion in the first eight months of 1979 alone.[27]

Many proposed limits did not pass, of course, and a 1980 effort in California to cut the state income tax went down to defeat at the polls. Nevertheless, even in states where no additional fiscal restraints were imposed, a tendency toward financial conservatism appeared to affect policymakers.

TYPES OF LIMITATIONS

Today, state taxing and expenditure restrictions still are directed mainly at setting ceilings on the local property tax. The rates, the total levy, the tax base, and the ratio of assessed value to actual value of property may all be points for the imposition of constraints. In addition, states sometimes adopt provisons limiting expenditures as well as placing caps on revenues from all sources.

Limitations on local tax rates are the most common type of restriction on local taxing activity. These provisions set the maximum rate that can be imposed. This is usually expressed in mills per dollar or dollars and cents per $100.00 of assessed (officially appraised) valuation of property. The restrictions may be overall limits, establishing a rate ceiling under which all overlapping jurisidictions must operate, or they may be expressed in the form of a series of specific limits for each local jurisdiction or for each specific local purpose. When the rate limit is reached, tax yields can be increased only by an increase in assessments or by a popular vote. Nevertheless, many nominal rate limits are not effective because of the absence of limits on assessment levels or increases.

In contrast to a rate limit, a levy limit sets the maximum total revenue that can be raised by a jurisdiction through the property tax. If the assessed valuation of property rises substantially, the tax rate will have to be lowered to keep the levy within the limit. A levy limit should be distinguished from a revenue limit that imposes a lid on local income from all sources, not just from the property tax. The new levy limits ordinarily restrict the increase in property tax levies to some specified annual increase. A popular vote can raise the ceiling. Often, a state agency will have authority to raise the limits also.

A less direct restriction is contained in full disclosure laws designed to focus public attention on a proposed tax increase. In this procedure, the governing body of the local jurisdiction sets a tax rate that will yield revenues equal to those of the previous year when applied to the same percentage of the current year's tax base (total assessed valuation of property). Any proposed increase above the amount provided in this rate must be advertised and subjected to public hearing. The intent is to place the responsibility for increasing the rate on the governing body rather than on the assessor whose duty it is to determine taxable value.

Table 13–9
PUBLIC OPINION AND TAXES

Which Do You Think Is the Worst Tax—This Is, the Least Fair?

	Percent of U.S. Public		
	March 1972	May 1978	May 1982
Federal Income Tax	19	30	36
State Income Tax	13	11	11
State Sales Tax	13	18	14
Local Property Tax	45	32	30
Don't Know	11	10	9

SOURCE: ACIR, *Changing Public Attitudes on Governments and Taxes, 1982* (S–11), Washington, DC, U.S. Government Printing Office, 1982, p. 4.

Figure 13–2

RESTRICTIONS ON STATE AND LOCAL GOVERNMENT TAX AND EXPENDITURE POWERS (JANUARY 1, 1983)

States	State Imposed Limits on Local Governments							
	Overall[1] Property Tax Rate Limit	Specific[1] Property Tax Rate Limit	Property Tax Levy Limit	General Revenue Limit	General Expenditure Limit	Limits on Assessment Increases	Full Disclosure	Limits on State Governments
Total	14	29	20	5	8	6	10	20
Alabama	CMS***	CMS*						Const.***
Alaska	CMS**		CM**					Const.***
Arizona	CMS***		CM***		CMS***	CMS***		
Arkansas		CMS*	CMS***[2]					Const.***
California	CMS***				CMS***	CMS***		
Colorado		CS*	CM*		S**		CMS***	Stat.**
Connecticut								Const.***
Delaware		CS**	C***[2]					
Dist. of Col.								
Florida		CMS*	CMS***				CMS**	
Georgia		S*						
Hawaii							C**	Const.***
Idaho	CMS***	CMS*	CMS***					Stat.***
Illinois		CMS*						
Indiana			CMS***					
Iowa		CMS*			S**	CMS**		
Kansas		CM*	CM**		S**			
Kentucky	CMS*						CMS***	
Louisiana		CMS**	CMS***[2]					Stat.***
Maine								
Maryland						CM**	CM**	
Massachusetts	CMS***		CMS***					
Michigan	CS*	M*	CMS***				CMS***	Const.**
Minnesota		CMS**		CM**	S**			
Mississippi		CMS*	CMS***					

Missouri		CMS*		CMS***				Const.***
Montana		CMS*					CMS**	Stat.***
Nebraska		CMS*		CMS***				Stat.***
Nevada	CMS*			CM**				
New Hampshire								
New Jersey			C**		MS**			Stat.**
New Mexico	CMS*	CMS**	CMS***			CMS**		
New York		CMS*						
North Carolina		CM**						
North Dakota			CMS***					
Ohio	CMS*		CMS**					
Oklahoma	CMS*	CMS*						
Oregon			CMS*			CMS***		Stat.***
Pennsylvania		CMS*						
Rhode Island								Stat.**
South Carolina			[3]					Stat.***
South Dakota		CMS*						
Tennessee							CMS***	Const.***
Texas		CMS**					CMS***	Const.***
Utah		CMS*						Stat.***
Vermont								
Virginia							CM**	
Washington	CMS**	CMS**	CMS**	S**				Stat.**
West Virgina	CMS*	CMS*						
Wisconsin		CMS*	CM**		S**			
Wyoming		CMS*						

C—County M—Municipal S—School District *—Enacted before 1970 **—1970 to 1977 ***—1978 and after Const.—Constitutional Stat.—Statutory

[1]Overall limits refer to limits on the aggregate tax rate of all local government. Specific rate limits refer to limits on individual types of local governments or limits on narrowly defined services (excluding debt).

[2]Limits follow reassessment.

[3]Limit followed transition to a classified property tax.

SOURCE: ACIR, *Significant Features of Fiscal Federalism, 1981–82 Edition* (M–135), Washington, DC, U.S. Government Printing Office, p. 37.

Another type of constraint—that directed at the tax base—limits the growth of (or actually reduces) the total assessed value of property in the jurisdiction. This is not new. States long have exempted certain types of property from taxation. Property used for educational, religious or charitable purposes immediately comes to mind, although many other types of uses are included.

A recent development, currently used in only a few states, is the imposition of ceilings on the amount of increase in the assessed value of property that can be made in a year. This means that despite the fact that the actual market value of property grew by 20%, for example, the increase in the assessed value for taxation may be limited to 5%. The result in an inflationary period may be that the ratio of assessed value to actual value may be unbalanced and that inequities among taxpayers may be magnified as some property values rise more rapidly than others. On the other hand, some taxpayers may be protected from skyrocketing taxes that outstrip their ability to pay.

PRESENT TAXING AND SPENDING LIMITATIONS

Both the present limitations on local taxing and spending powers and those in effect prior to 1970 are set out in *Figure 13–2*. A dramatic growth occurred during the decade in all types of limits except property tax rate limits. Because property values rose so rapidly during this inflationary period, tax rate limitations decreased in effectiveness as a tax control mechanism. Consequently, states have turned to other forms of tax and expenditure restrictions, although 43 states had either overall or specific property tax rate limits by the end of 1982. More than one-third of the states imposed property tax levy ceilings, ten had full disclosure laws, eight had adopted expenditure lids and six had set assessment constraints.

According to a 1977 ACIR report, the new levy limits are frequently accompanied by state actions providing other sources of revenue. The report stated,

> All of the states that have enacted new levy controls and which allow the limit to be exceeded only by referendum have done so in conjunction with other state actions providing local revenue diversification and/or increased state financial aid. In some states, penalty in the form of lower state aid payments exists if local jurisdictions exceed the levy limit without proper authority to do so.[28]

IMPACT OF STATE FINANCIAL RESTRICTIONS

As a result of state-imposed fiscal constraints on local taxing and spending, a 1977 ACIR study found:

- Greater local dependence on intergovernmental revenues in states with tax limits. States with limits can be expected to have a 6% to 8% lower per capita expenditures from their own revenues than states without restrictions.
- Total state-local expenditures not affected much by local tax limits. States with property tax *rate* limits, nevertheless, do have a small tendency toward lower per capita state-local expenditures than do other states. In contrast, states with *levy* limits appear to have no tendency for lower per capita state-local expenditures.
- Lower property tax levies in states with tax limits than in those without them.
- Transfer of the power to break through the state-imposed limitations from locally elected representatives to the general electorate.

In addition, some evidence, albeit very weak, suggests that states with limits rely on special districts to provide public goods to a greater extent than states without them.[29]

Although less generalized, other impacts of tax and spending limits are discernable. Sometimes there is a breakdown in local government. Ohio, which adopted the first stringent overall limitations in 1911, saw municipal services diminished drastically and deficit financing become "the order of the day."[30] In West Virginia, consequences were even more drastic. The rate limits, effective in 1933, included funds for debt service as well as operating and capital costs and were complemented

by pressures on local elected assessors to hold down assessment increases. The immediate effect was chaos. State and local government property tax revenues in that state dropped from $43.8 million in 1932 to $26.0 million in 1933, almost entirely as a result of tax rate decreases.[31] As a result, many schools were closed or the school year curtailed. One municipality did not have enough money to run the waterworks. Another emptied its jail. Throughout the state, essential services were either reduced or discontinued.

Another outgrowth of the West Virginia limitations was the centralization of government functions. The state levied a consumers' sales tax that enabled it to assume all but a fraction of the operating costs of the public schools and to consoldiate more than 400 school districts into 55. It also took on a major portion of welfare costs and assumed responsibility for local roads.[32] Although the consequences of Proposition 13 in California were not so severe, the state's government dissipated a substantial state budget surplus assisting local governments financially and assumed a greater share of financing some functions—particularly education.

A 1977 study by the New Jersey Commission on Government Cost and Tax Policy found that local spending limits had held county spending growth to 5.7% and municipal spending to 6% in the first year of limitaton as compared to an average yearly increase of almost twice that in the two years preceding the limit. In comparison, local costs for public employee pensions rose 9% and insurance increased 21% during the same period. The commission's report also indicated that the local spending limit increased the use of federal funds for operating costs.[33]

Tax lids also encourage local officials to resort to other means of financing government services. In addition to the increased reliance on intergovernmental revenues, localities often employ user fees as alternative sources of government income. Sometimes these are for services—such as police and fire protection—ordinarily supported from tax revenues.

Both tax and spending limits bring out the resourcefulness in local officials. Attempts to circumvent the restrictions include the securing of automatic waivers of the limit from the Tax Commission in Arizona[34] and use of federal funds for salaries and other operating costs in New Jersey. Reduced spending for maintenance of public facilities is likely to be one of the first "economies" adopted and the "instant backbone"[35] the limits provide for lawmakers strengthens their resistance to employee pay raises or costly new programs. Results of decreased maintenance are likely to be costly deterioration in the physical plant in the long run. The shift of the costs of government to public employees produces low morale, if not a waning competence, in the work force.

Tax and spending limitations often have pronounced effects on public school systems. Because school financing is such a major portion of expenditures in many local jurisdictions and because recent school finance reforms have taken the form of increased state assistance, such strictures make it difficult for states to increase their share of school funding. The end result may be state takeover of all or part of school funding, as happened in California, or a decline in financial resources for the schools.

Depending on their provisions, which vary considerably, the limitations may discriminate among communities and individuals. A lid that exempts new construction, for example, falls more heavily on older communities than newer ones since there is likely to be less construction in the former. Tax limits, such as Proposition 13 in California, that permit taxes to rise on the property that is sold, discriminate against the new homeowners or those who have to move.

DEBT RESTRICTIONS

Because of the importance of one local jurisdiction's credit rating to that of others in the same state in assuring the sale of bonds at reasonable rates, the state has a legitimate interest in regulating local government indebtedness. States long have recognized this fact and at least since the 1870s, when many local governments had difficulties repaying bonds issued in support of railroads, have restricted the borrowing activities of their local units. These restrictions are aimed at general obligation bonds that the local governments pledge their "full faith and credit" to repay. Ordinarily they do not apply to revenue bonds, which are not fi-

nanced by general tax revenues but are retired from the earnings of a particular enterprise—such as a parking garage or a market—for which they were issued.

Restrictions can be imposed either by state constitutions or by statutes or even included in municipal charters. States often make distinctions among various kinds of local jurisdictions and a few single out only one or a few localities, enacting special local legislation relating to their fiscal practices.

Restrictions are of two principal types: (1) limits on the amount of indebtedness, frequently expressed as a percentage of the assessed valuation of property within the local jurisdiction; and (2) requirements of a local referendum when the locality issues bonds.[36] Ceilings on interest rates for debt repayment exist in a number of states,[37] as do limits on the periods for which bonds may be outstanding. More often than not, states permit narrowly defined exceptions to debt limits.[38]

CHANGES IN DEBT RESTRICTIONS

Data on debt limits are almost impossible to compare longitudinally because of differences in collection methods (statute searches as opposed to questionnaires), variations in dates, response differential, and reliability. Given all this, there appears to have been little or no change in the *extent* of debt limits since 1961 when ACIR reported on them. Of the 46 states responding to the Council of State Governments survey for that report, 45 had debt limitations of some kind. Most frequently they were imposed on municipalities, but counties and school districts were restricted as well.[39] Responses from all states to a later ACIR survey in 1976 indicated that 45 states limited the general obligation bonds of some local governments. Only Alaska, Colorado, Florida, Nebraska and Tennessee (except for industrial bonds) had none.[40] Another study, published in 1978 and using data from the most recent statutes in the respective states, found debt limits imposed in 46 states.[41]

Details as to the extent to which the restrictions have been modified since the 1961 report are unavailable. Nevertheless, recent state actions in regard to local indebtedness have emphasized improved debt management rather than restrictions on local borrowing discretion.

IMPACT OF DEBT RESTRICTIONS

Aggregate impacts of debt restrictions are difficult to assess because of the variety of factors that may affect the application of a limit. As a 1961 ACIR report noted:

> Numerous other factors also tend to determine how widely and strongly particular state-imposed "restrictions" will affect local governments: not only the level of property tax assessments ... but such factors as the extent of urbanization and the rate of population growth (with their strong impact on public facility needs): the extent of voter interest and participation in local elections; the structure of local government and the range of functions assigned to various types of local units; and the extent and nature of state financial assistance to local governments.[42]

The study found that:

- Historical evidence suggests that traditional types of state debt restrictions afford no firm assurance of preventing debt difficulties for local governments.
- The restrictions probably have tended to restrain the total volume of local government borrowing, but to an undetermined extent. To the degree that means of circumvention have been found, the restraint has in many instances been only temporary or has principally affected the form rather than the amount of debt. Moreover, requirements for referenda probably have been more effective than state-imposed percentage limitations as a direct constraint on local debt.
- Debt restrictions have been the main factor in local use of revenue bonds in lieu of faith and credit debt. As a consequence, some local borrowing purposes and types of governmental jurisdictions have an advantage over others. School districts, which engage in functions and require facilities that ordinarily cannot be financed by user charges, cannot rely to any extent on revenue bonds. Municipalities, on the other hand, can impose

user charges—and issue revenue bonds—to finance sewers, parking facilities, airports, water supply systems and other major facility needs of their activities. What is more, borrowing costs tend to be higher when revenue bonds are used in place of full faith and credit debt.

- As far as the impact of state-imposed debt restrictions on the responsiveness and accountability of local governments, results were mixed. Some of the requirements for popular referenda were efforts to assure that local governments heeded the wishes of the electorate when they borrowed. Sometimes, however, the percentages of voters required to approve a bond issue were so high that favorable action could be blocked by a small minority of interested citizens. Such requirements are counterproductive as far as accountability and responsibility are concerned. In addition, special districts, with their own separate ceiling of tax limits, have proliferated in many instances to circumvent legal restrictions on debt. Even when these jurisdictions cannot issue general obligation bonds, they can incur "self-financing" debt in the form of revenue bonds. Such dispersion of governmental responsibilities may be detrimental to effective and efficient administration and to citizen understanding and control of local government.
- As far as their effect on the property tax is concerned, debt limits do not appear to have contributed to more uniform assessment and taxation. Although there was no marked difference between the states with debt restrictions and those without, the states without restrictions did seem to have a somewhat higher level of assessment (i.e., come closer to current market value in their assessment of real property), and to have at least as good a record on assessment uniformity, both among property owners and among jurisdictions.
- As far as intergovernmental relations are concerned, debt restrictions complicated various federal programs of public works loans; played a major part in the federal promotion of public housing authorities (which in most states operate as separate units, independent of other local governments); probably contributed to unhappy relationships between urban and rural areas because they have largely affected communities in the process of rapid urbanization; and stimulated pressure for new or enlarged federal and state aid programs.[43]

The study highlighted the fact that there were technical deficiencies in many of the restrictions that make local financial management difficult. Nevertheless, it particularly emphasized the growth in the use of revenue bonds and "the growing and confusing never-never land of 'non-debt' debt, which largely falls outside the scope of general state constitutional and statutory provisions.[44]

Among the management aids are initiatives to improve local governments' credit ratings and access to credit markets. These ordinarily take four forms: bond validation, debt subsidization, debt guarantees and the use of state intermediaries for local borrowing. *Bond validation* involves state agency or court review of local bond issues, an action that lends credibility to the bond issue and improves marketability. *Debt subsidization* involves direct state efforts to reduce the cost of local borrowing. *Debt guarantees* include state or public finance corporation backing of bond issues or mechanisms directing other state aid to local governments in the event of default (e.g., education aid). In the provision of *state intermediaries in local borrowing* state bond banks or finance corporations issue bonds at lower rates and lend bond proceeds to local governments. According to a 1983 ACIR survey, 42 states had one or more arrangements for improving local government access to credit markets, more than double the number reported in 1980. Optional or mandatory bond validation programs operate in 28 states, state financial intermediaries in 26, debt subsidization programs in nine, and debt guarantee programs in 11.[45]

AN ASSESSMENT

An examinaton of state-local financial developments of the last quarter-century reveals

greater concern on the part of state officials for local financial problems. States have increased the fiscal assistance going to local governments, assumed functions that localities once performed, reimbursed localities for taxes they could not levy on state-owned land, diversified local revenue sources, shared more expenses with their local counterparts, and, apparently, taken little action in regard to debt restrictions. All of these actions have not solved the problems the communities faced; rather, they have enabled local governments to continue functioning despite rising costs.

The price of these developments often has been an increase in financial restrictions and constraints. More and more often, the states—themselves in a fiscal bind—have adopted provisions limiting local taxing and spending powers. Frequently, as in California and Massachusetts, these have come as the result of citizen action rather than as the result of state government decisions.

Attempts to determine whether local governments are better off as a result of greater fiscal discretion on the one hand and a counterbalancing growth in restrictions on the other, would require an assessment of the financial situation in each state and probably in many localities. One could argue that, in general, the growth of financial assistance tilts the balance toward greater benefit to local governments.

Looking back, however, one can see growing centralization in the financing of state and local governments. If the maintenance of grassroots authority is a major goal, then the trends may cause concern along with the satisfaction.

FOOTNOTES

[1]ACIR staff calculations from National Education Association, *Estimates of School Taxes, 1981–82*, Washington, DC, 1982, p. 36.

[2]See Education Commision of the States, *Equity in School Finance*, Denver, CO, Education Finance Center, Education Commission of the States, 1980.

[3]*John Serrano, Jr., et. al. v. Ivy Baker Priest*, 5 CA 3rd 584 (1971).

[4]ACIR, *Significant Features of Fiscal Federalism, 1978–79 Edition*, M–115, Washington, DC, U.S. Government Printing Office, 1979, p. 23, and ACIR, *Significant Features of Fiscal Federalism: 1980–81*, M–132, Washington, DC, U.S. Government Printing Office, December 1981, p. 18. 1981 figures are ACIR staff calculations from Bureau of the Census data.

[5]*Ibid.*, M–115, p. 24; M–123, p. 18. 1979 and 1980 figures are ACIR staff calculations from various reports of the Governments Division, U.S. Bureau of the Census, and from the Department of the Treasury, *Annual Report of the Secretary*, various years.

[6]ACIR staff calculations.

[7]ACIR, *Recent Trends in Federal and State Aid to Local Governments*, M–118, Washington, DC, U.S. Government Printing Office, July 1980, Table A–1, pp. 32–33.

[8]See Tables A–2 and A–4, *ibid.*, pp. 34–35, 38–39. 1981 percentages calculated from Table 13–8 of the current report.

[9]U.S. Bureau of the Census, *State Government Finances, 1981*, GF 81, No. 3, Washington, DC, U.S. Government Printing Office, 1982, p. 53.

[10]ACIR, *Pragmatic Federalism: The Reassignment of Functional Responsibility*, M–105, Washington, DC, U.S. Government Printing Office, 1976, p. 37.

[11]*Connecticut Public Acts of 1959*, Number 152. *Connecticut General Statutes Annotated*, Title 6–2a and 6–2b.

[12]ACIR, M–105, *op. cit.*, pp. 19–23.

[13]*Ibid.*, p. 43, Table XIII.

[14]*Ibid.*, p. 23.

[15]*Ibid.*, citing *Rhode Island General Laws Annoted*, Sec. 23–25–19 (1968), and *Delaware Code Annotated*, Title 7, Sec. 6207 (1968).

[16]ACIR, M–83, *op. cit.*, pp. 4–6.

[17]*The States and Distressed Communities: The 1982 Report*, a Report by the Staff of the National Academy of Public Administration and the Advisory Commission on Intergovernmental Relations to the Office of Community Planning, U.S. Department of Housing and Urban Development, forthcoming. For a summary of the report's major findings, see Neal M. Cohen, "Community Assistance: The States' Challenge," *Intergovernmental Perspective*, Vol. 8, No. 4, Washington, DC, ACIR, Summer 1982, pp. 14–21.

[18]David B. Walker, "The Localities and the New Intergovernmental System (Will More Aid Assist, Atrophy, or Asphyxiate American Counties, Cities, and Towns?)," a paper prepared for the seminar on "A Federal Response to the Fiscal Crises in American Cities," Washington, DC, June 15, 1978, pp. 15–16.

[19]These states are Alabama, Alaska, Arizona, Delaware, Indiana, Kentucky, Maine, Nebraska, New Mexico, Oklahoma, Tennessee, Texas and West Virginia. ACIR staff compilation.

[20]1970 figures from Steven David Gold, *Property Tax Relief*, Lexington, MA, Lexington Books, 1979, pp. 56–57; 1982 figures from ACIR staff survey.

[21]ACIR, *State Limitations on Local Taxes and Expenditures*, A–64, Washington, DC, U.S. Government Printing Office, 1977, pp. 1–2.

[22]*Ibid.*, p. 11.

[23]*Ibid.*, p. 12.

[24]*Ibid.*

[25]John Shannon and Carol S. Weissert, "After Jarvis: Tough Questions for Policy Makers," *Intergovernmental Perspective*, 4:3, Summer 1978.

[26]National Governors' Association, *Governors' Bulletin*, June 6, 1980, *op. cit.*, p. 1. The study is "State Tax Policy, 1979," prepared by the NGA Center for Policy Research, Washington, DC, 1980.

[27]Jane Roberts, "The States Respond to Tough Fiscal Challenges," *Intergovernmental Perspective*, 6:2, Spring 1980.

[28]ACIR, A–64, *op. cit.*, p. 3.

[29]ACIR, A-64, *op. cit.*, pp. 3–4.

[30]R.C. Atkinson, "Stringent Tax Limitation and Its Effects in Ohio," *Property Tax Limitation Laws*, Glen Leet and Robert M. Paige, eds., Public Administration Services, No. 55, 1937, pp. 71–72, as cited in ACIR, *State Constitution and Statutory Restrictions on Local Taxing Power*, A-14, Washington, DC, U.S. Government Printing Office, 1962, pp. 51–52.

[31]*Ibid.*, citing A. Miller Hillhouse and Ronald B. Welch, *Tax Limits Appraised*, Public Administration Service, No. 55, 1937, p. 18.

[32]See, Carl Davis, Carl M. Frasure, Mavis Mann Reeves, William R. Ross, and Albert M. Sturm, *West Virginia State and Local Government*, Morgantown, WV, West Virginia University Bureau of Government Research, 1963.

[33]The Report of the New Jersey Commission on Government Costs and Tax Policy, Trenton, NJ, December 1977, pp. x–xi, 17–18, 31, as reported in Winnifred M. Austerman and Daniel E. Pilcher, *A Legislator's Guide to State Tax and Spending Limits*, Denver, CO, NCSL, March 1979, p. 7.

[34]Bruce Koor, "Arizona Has Curbed Local Outlays for Years with Mixed Results," *Wall Street Journal*, November 3, 1978.

[35]The phrase is Koor's. *Ibid.*

[36]John E. Peterson, Lisa A. Cole, and Maria L. Petrillo, *Watching and Counting: A Survey of State Assistance to and Supervision of Local Debt and Financial Administration*, National Conference of State Legislatures and the Municipal Finance Officers Association, October 1977, p. 3.

[37]The Bond Buyers "Municipal Finance Statistics," Vol. 14, June 1976, as included in ACIR, *Significant Features of Fiscal Federalism, 1976–77 Edition*, M-110, Washington, DC, U.S. Government Printing Office, 1977, p. 82.

[38]Melvin B. Hill, Jr., *State Laws Governing Local Government Structure and Administration*, Athens, GA, Institute of Government, University of Georgia, 1978, p. 7.

[39]ACIR, *State Constitutional and Statutory Restrictions on Local Government Debt*, A-10, Washington, DC, U.S. Government Printing Office, 1961, p. 63.

[40]ACIR, M-110, *op. cit.*, pp. 83–91.

[41]Hill, *op. cit.*, p. 46.

[42]ACIR, A-10, *op. cit.*, p. 50.

[43]*Ibid.*, pp. 50–62.

[44]*Ibid.*, p. 63.

[45]See, ACIR, *The States and Distressed Communities: 1983 Report*, Washington, DC, U.S. Government Printing Office, forthcoming.

States Deal With Local Capacity, Urban Problems, and State-Local Cooperation

Although the importance of state fiscal aid to local governments cannot be overestimated, other aspects of state assistance to the smaller jurisdictions deserve attention as well. In the development of local capability to govern, to manage both local and state programs, and to deal with urban problems, state governments play an important role. Moreover, they often must establish the mechanisms for cooperation between the two levels of government. This chapter will concentrate on developments in these areas since 1955 and consider the federal government's influence on state-local relations.

STATE CAPACITY BUILDING INITIATIVES FOR LOCAL GOVERNMENTS

The interdependence of states and the localities within their borders places on the former responsibility for assisting their local governments in improving their capabilities to govern. If local governments must rely on them for legal authority to act—which they must—they also must depend on them for permission and aid in upgrading their capacities to decide and administer. Simultaneously, states, bearing as they do a significant share of the costs of local government and relying on the smaller units for assistance in administering state laws and programs, require the most competent local operations possible. These shared needs have re-

Table 14–1

STATE LAWS RELATING TO PERSONNEL MANAGEMENT, MID–1970s

Provision	Number of states
State law requires cities to adopt a merit system.	24
State law requires counties to adopt a merit system.	18
State law authorizes cities to engage in collective bargaining with public employee representatives.	25
State law authorizes counties to engage in collective bargaining with public employee representatives.	22
State law permits strikes by certain designated public employee groups.	3
State law requires that city employees reside in the city.	1
State law requires that county employees reside in the county.	2
State law imposes personnel training requirements on certain municipal employees.	32
State law imposes personnel training requirements on certain county employees.	31
State law requires cities to establish a municipal retirement system or to participate in the state retirement system.	23
State law requires all counties to establish a county retirement system or to participate in the state retirement system.	21
City employees are covered by workmen's compensation.	50
County employees are covered by workmen's compensation.	47
State law prohibits political activity by city or county employees.	18

SOURCE: Adapted from Melvin B. Hill, Jr. *State Laws Governing Government Structure and Administration*, Athens, GA, University of Georgia Institute of Government, 1978, pp. 47–49.

sulted in extensive state efforts to improve local capabilities.

These efforts are too numerous to chronicle here. Nevertheless, a review of two areas, personnel and financial management, will illustrate the types of initiatives undertaken. It should be kept in mind that at the same time that these actions improve local capability, they may limit local government discretion as well.

UPGRADING OF LOCAL PERSONNEL MANAGEMENT

States long have required certain local government practices in regard to personnel. For the most part, provisions in this connection have been functionally specific, related to personnel practices in one agency, such as police or fire departments, rather than imposed on the entire local system. States also have tended to mandate actions rather than emphasizing assistance for local governments. To a high degree, this is still true. Nevertheless, both on their own initiatives and because of encouragement from the federal government through grant requirements, the U.S. Department of Housing and Urban Development's capacity-building project, the activities of the federal Office of Personnel Management, and legislation such as the *Intergovernmental Personnel Act* and the *Intergovernmental Cooperation Act*, states have assumed a more positive role in helping local government upgrade their personnel practices.

Table 14–1 sets out a list of personnel provi-

sions contained in state legislation. Most of the laws impose requirements of some sort. A few authorize or require actions or stipulate some arrangement such as the establishment of a retirement system.

The more cooperative arrangements often are not specifically provided by statute, but are created under grant programs or other mechanisms. For some time, states have furnished training for local employees such as firefighters, engaged in joint recruiting of personnel, maintained cooperative civil service registers, and provided technical assistance for examination construction, among other matters.

The *Intergovernmental Personnel Act of 1970* encouraged such undertakings. An evaluation of that legislation listed the jurisdictions with cooperative recruiting and examining activities in 1979.[1] It reported that 37 state and local jurisdictions (including colleges and universities) maintained 15 intergovernmental job information centers. In addition, 13 such jurisdictions had cooperative examining agreements. These are only two of the types of arrangements now underway. The report indicates, nonetheless, that much remains to be done in this connection.

IMPROVEMENT OF LOCAL GOVERNMENT FINANCIAL MANAGEMENT

Local financial management practices have received as much or more attention than local personnel systems. States concern themselves with financial management in their local jurisdictions because of their interest in promoting local fiscal solvency, protecting the credit ratings of all substate units, ensuring the performance of state-mandated functions, and augmenting the capacity of local governments to manage their own affairs. Moreover, the desirability of some degree of uniformity in local financial procedures to facilitate state management of federal and state grant-in-aid programs increased as the programs multiplied. The federal government has become involved as well. The U.S. Department of Housing and Urban Development's Financial Management Capacity Sharing Project, aimed at upgrading local financial practices, is one example.

The emphasis, degree and scope of state involvement depend on numerous factors and will vary from state to state and from one facet of financial management to another. The means used also will differ among states. In some instances, state actions will take the form of orders or regulations involving a substantial degree of coercion if enforced. At other times, the state provides assistance of various kinds, assuming a more benevolent role. Often, orders and assistance operate side by side.

State involvement includes actions relating to accounting, auditing, financial reporting, budgeting, debt management, pensions, cash management, property tax assessment, revenue raising and purchasing. *Figure 14–1* sets out the types of requirements in effect in ten states in 1978.

ACCOUNTING, AUDITING AND FINANCIAL REPORTING

Basic to sound financial management are sound accounting, auditing and financial reporting practices. They are necessary to produce the information needed by decision-makers for protecting fiscal resources and using them wisely. They are critical, as well, to state oversight and regulation of local finance, for states cannot detect, much less correct, the financial problems of their subdivisions without adequate information about their financial affairs. Otherwise, local fiscal emergencies may arise.

ACIR recommended in 1972 that states move to avoid such developments, by becoming actively involved in improving local financial practices. It advocated that states

> ... require that financial statements be prepared in conformity with generally accepted government accounting principles and that they obtain the opinion of an independent auditor with respect to the financial statement or if an unqualified opinion cannot be expressed the reasons and any findings as to violations of state or local laws.[2]

Accounting is the process of identifying, controlling, recording and storing information related to the financial transactions of a local government. Financial reporting includes extracting data from the financial records and publishing them for a variety of users. Auditing is a process of examining financial rec-

Figure 14–1

STATE LEGAL REQUIREMENTS OF LOCAL FINANCIAL MANAGEMENT, SELECTED STATES, 1978

	Colorado	Iowa	Kentucky	Maryland	Mississippi	Montana	New Jersey	Pennsylvania	Texas	Wisconsin
Law and/or Regulations										
State Collects/Reviews Local Budgets	X	X	X[3]		X	X	X	X	X	
State Oversight/Approval of Budget			X[3]				X			
Local Budgets Required	X		X[3]		X	X	X	X	X[7]	X
Prescribed Budgetary Format	X	X	X[3]		X	X	X			X
Financial Reports Required			X[3]	X	X	X	X			X
State Collection of Financial Reports	X		X[3]	X	X	X	X	X	X	X
Prescribed Format for Financial Reports	X	X		X	X	X	X	X	X	X
Uniform Accounting Systems		X	X[3]		X	X[4]	X	X[6]		X
Annual Audits Required	X[1]	X[2]	X[3]	X	X	X	X	X	X	
State Collects/Reviews Local Audits	X	X					X	X	X[6]	
Long-Term Debt Limits		X			X	X	X		X	X
Property Tax Limits	X				X	X[5]		X[5]	X	X
Local Revenue and/or Expenditure Lids	X						X			

[1]Units with annual budgets of $50,000 or less can petition for exemption.
[2]Required for cities over 2,000 in population.
[3]For counties only.
[4]Being implemented.
[5]Millage maximums set for classes of municipalities.
[6]Voluntary/no law requiring compliance.
[7]Counties and incorporated cities.

SOURCE: Council of State Community Affairs Agencies, *DCA Roles in Local Government Financial Management: Ten State Profiles*, Washington, DC, December 1978.

ords and processes to determine the accuracy of the data and to check compliance with legal requirements.[3]

The National Council on Governmental Accounting has adopted standards for accounting, set out in its *Governmental Accounting, Auditing, and Financial Reporting*. While too technical for discussion here, these are the principles referred to in state legislation requiring local governments to conform to "generally accepted accounting principles."[4] The American Institute of Certified Public Accountants generally endorses the "generally accepted accounting principles" and, in addition, has issued an "Audit Guide" with "generally accepted auditing standards" recognized by the accounting profession.

In 1978, ACIR surveyed state constitutional and statutory requirements pertaining to local government auditing and accounting practices. It found that while 42 states required some kind of accounting system for municipalities, only six states—Colorado, Florida, Louisiana, Maine, North Carolina and Rhode Island—expressly required conformance with the generally accepted principles of governmental accounting. Moreover, the requirements varied greatly among the states and their implementation was uneven.

Since that survey was conducted, at least six states have enacted legislation affecting local accounting, auditing and reporting. While the provisions of these laws vary considerably, in general they impose more stringent controls over local practices.[5]

DEBT MANAGEMENT ASSISTANCE

The experiences during the depression of the

1930s, when many local governments defaulted on their debt repayments, induced states to take a more positive role in local debt management rather than relying solely on debt limitations measures. According to a 1975–76 survey, states involve themselves in local debt management in a variety of ways. Their practices fall into five categories, progressing from those that involve the least degree of intervention in local affairs to those that entail the most:

- ☐ collection of financial and other information related to local government finances, maintenance of central data files and dissemination of data;
- ☐ provision of educational materials, programs and technical assistance in debt management and bond sales on an elective basis;
- ☐ advisory review of legal and fiscal aspects of bond sales, active involvement in preparation of bond documents and central bidding of issues on a voluntary basis;
- ☐ mandatory (or customary) approvals of bond sales either in particular or as an integral part of a broader supervision of local financial decisions and budgets; and
- ☐ special assistance in the event of local government financial emergencies, which are frequently related to debt payment difficulties.[6]

The extent of these practices among the states is reflected in *Figure 14–2*. As it illustrates, state agencies supervise the local borrowing process or collect information relating to local debt management in 41 states. It appears that about half of the agencies (19) review local debt offerings; however, only nine explicitly approve bond issues. More than four-fifths of the states provide assistance to local units in debt-related matters. Most help local governments sell their bonds and many either directly market the securities for the local unit or assist in the evaluation of bids.

The study by Petersen, Cole and Petrillo found that when the state's involvement is professional, even-handed and diligent, it has been demonstrably successful in improving the market for local government securities. It concluded:

> Several studies have examined the effectiveness of state supervision of local government debt financing, particularly that found in the comprehensive system in North Carolina. The results indicate that communities in that state typically have higher credit ratings, receive more bids for their bonds, and enjoy lower interest costs than those of other states in similar circumstances. ... The positive impact of various forms of state assistance as they relate to borrowing has been verified by surveys of municipal bond investors.[7]

STATE ACTIONS IN LOCAL FINANCIAL EMERGENCIES

States also use their powers to reorder the finances of local governments, especially in times of fiscal emergencies. Local financial crises are not new. The Great Depression of the 1930s, for example, plunged many local jurisdictions into difficulties. Attention has been attracted to such problems recently because of the flurry of fiscal emergencies in such cities as New York, Cleveland, Yonkers and Buffalo. In all these instances, states have moved to assist the failing local governments and to prevent other jurisdictions from following the same path. After all, a lowered credit rating for one jurisdiction affects both its parent state and its sister jurisdictions. In cases of major cities, such as New York, it threatens the borrowing capacity of local governments throughout the country.

State actions to deal with local financial emergencies may take many forms. Among the more usual are:

- —authorizing the local jurisdiction to impose new or higher taxes;
- —assuming ongoing local functions (such as incorporating local institutions of higher education into the state system);
- —loaning money or guaranteeing local debt;
- —granting emergency funding;
- —assisting with financial management;
- —regulating local financial management;

Figure 14–2

STATE SUPERVISION AND ASSISTANCE ACTIVITIES RELATED TO LOCAL GOVERNMENT DEBT MANAGEMENT, 1977

	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan
Agency Supervises or Collects Data on Local Government Debt Issues	X	X	X	X	X				X		X		X		X	X	X	X	X	X	X	X
Agency Responsibilities																						
Collect and Disseminate Data		X			X				X		X				X		X	X	X	X	X	
Maintain Data File		X		X											X	X	X	X	X	X	X	X
Prescribe Contents of Official Statement																		X	X		X	X
Review Local Bond Issue	X[1]		X[2]										X		X		X	X				X
Approve Local Bond Issue																X	X	X				X
Help Market Local Bond Issue																		X	X	X		
Other									X[4]											X	X[7]	
Agency Provides Technical Assistance To Local Government in Connection with Debt Management		X				X			X	X				X	X		X	X	X	X	X	X
Nature of Technical Assistance																						
Help With Official Statement		X													X			X	X			X
Provide Data to:																						
Issues for Use in Official Statements		X				X									X			X	X	X		X
Bond Rating Agencies		X												X	X		X		X		X	
Underwriters and Dealers		X												X	X		X	X	X	X	X	
Prospective Investors		X													X		X	X	X		X	
Help Evaluate Bids											X				X		X	X				
Issue Bulletins, Pamphlets, Manuals		X												X	X							X
Conduct Seminars or Conferences						X				X				X	X							
Other						X[3]			X[5]	X[6]												

[1]Alabama—Examiner of public accounts checks on debt issues and their legality as to debt limit and manner of issue for state and county agencies.
[2]Arizona—Monitors compliance with statutory debt limitations.
[3]Colorado—Technical assistance as related to state and federal grant programs.
[4]Florida—Assist in issuance of county school, road and bridge bonds.
[5]Florida—Joint state-local projects financed by bonds are entirely handled at the state level. All other assistance by request.
[6]Georgia—Helps small cities assess market information.
[7]Massachusetts—Approval of loans through medium of "State House Notes" for towns, counties and districts (not for cities).
[8]Missouri—Local government debt issues must be registered with the state auditor's office.
[9]Nebraska—Registers bonds.

SOURCE: John E. Petersen, Lisa A. Cole, and Maria L. Petrillo, *Watching and Counting: A Survey of State Assistance to and Supervision of Local Debt and Financial Administration*, National Conference of State Legislatures and Municipal Finance Officers Association, October 1977, pp. 8–9.

Figure 14–2 (continued)

STATE SUPERVISION AND ASSISTANCE ACTIVITIES RELATED TO LOCAL GOVERNMENT DEBT MANAGEMENT, 1977

Minnesota	Mississippi	Missouri	Montana	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota	Tennesse	Texas	Utah	Vermont	Virginia	Washington	West Virginia	Wisconsin	Wyoming	TOTALS
X	X	X		X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X	41
				X	X	X	X	X		X	X	X		X					X	X			X			X	X	24
				X	X	X	X	X		X	X		X	X	X				X				X					22
X							X			X			X	X	X	X	X		X[16]				X					14
X	X						X	X		X			X		X		X		X			X	X				X	19
								X		X			X		X		X											9
	X							X		X							X					X	X					9
		X[8]		X[9]	X[10]		X[11]			X[13]							X[15]			X[17]	X[18]			X[19]				12
X	X			X	X		X	X	X	X			X	X	X		X		X	X	X	X		X	X	X	X	32
	X							X		X			X	X	X		X					X				X		14
	X			X				X					X	X	X					X						X		15
	X				X			X		X			X	X	X		X			X						X		16
	X			X	X			X		X				X	X					X						X	X	18
	X							X		X										X								11
																			X									7
				X				X		X			X	X	X				X		X							12
X					X					X			X	X	X				X							X		12
									X[12]						X[14]									X[20]			X[21]	7

[16]Nevada—Acts as depository.
[17]New Mexico—Monitor's refunding bond issues, approves certificates of indebtedness.
[18]New York—Department of state advises in specific situations and in development of legislation.
[19]North Carolina—Local government commission delivers bonds.
[20]Pennsylvania—Any questions about local debt are answered by DCA.
[21]Rhode Island—Fiscal impact studies on need for bond issues.
[16]Tennessee—Upon request.
[17]Tennessee—Approves short-term borrowing and refunding issues.
[18]Texas—Comptroller's office delivers and registers bonds.
[19]Washington—Audits calculations of legal debt limitations and publishes summary of extent of indebtedness.
[20]Washington—Provides pre-audit assistance in the calculation of the limitation of indebtedness.
[21]Wyoming—Reviews proposals for legal compliance and accounting procedures involved.

—substituting state for local fiscal management; and

—restructuring local jurisdictions to ease fiscal burdens (such as creating special districts to handle school, sanitary, or other functions or combining two or more jurisdictions).

In addition, the state can take the leadership in revitalizing the economy of the local area, overhaul the entire state-local revenue and local assistance structure and increase its oversight of local fiscal operations.[8]

Increased state oversight is reflected in an ACIR recommendation adopted in the early 1970s aimed at preventing local fiscal emergencies. The commission concluded that "unsound financial management stands out as one of the most important causes of financial emergencies in local government." It recommended that:

> ... each state designate or establish a single state agency responsible for improvement of local financial management functions such as accounting, auditing and reporting ... (and) responsible for early detection of financial problems in order to prevent local financial crises.[9]

In adopting this recommendation, the Commission recognized that "improper financial management practices are frequently a cause of or a primary factor contributing to financial emergencies. As a consequence of inadequate accounting and reporting, some cities drifted into financial emergencies without realizing how serious their problems had become."[10] In other instances, it was politically impossible for cities to adopt the large tax increases necessary for fiscal solvency. A state agency responsible for helping localities avoid financial problems strengthens the ability of local jurisdictions to deal with both serious and not so serious fiscal problems.

The Commission cited the state as the primary provider of assistance in local financial emergencies and recommended that each state "adopt a set of guidelines to determine when the financial condition of local governments necessitates state intervention and to set forth the requisite procedures for carrying out remedial state action."[11] The Commission went on to recommend an explicit set of actions that the state agency be authorized to take in the event one or more of the following local actions occurred: (1) default in the payment of principal or interest on bonded debt or other obligations; (2) failure for a specified time period to pay taxes and other contributions (such as those for social security) or withholding taxes; (3) failure for a specified time to pay salaries or pension benefits; or (4) maintenance of a floating debt in the form of accounts payable and other unpaid obligations that, after deduction of reserves for payment, exceeds 10% of the total appropriations of the last fiscal year. Should it find that any of these conditions exist, the state agency should be authorized to take any of the following actions:

1) to make analysis of all factors and circumstances contributing to the financial conditions of the local unit and recommend steps to be taken to correct such conditions;
2) to review and approve the budget of the local unit and limit the total amount of appropriations;
3) to require and approve a plan of liquidating current debt;
4) to require and prescribe the form of special report to be made by the finance officer or governing body to keep the state agency continually informed of the financial affairs of the local unit;
5) to have access to all records and books of account of the local unit and to require the attendance of witnesses, the production of books, papers, contracts and other documents relating to any matter within the scope of the local unit;
6) to approve or disapprove any appropriation, contract, expenditure or loan, the creation of any new position, elimination of any position other than elective ones, or the filling of any vacancy in a permanent position by any appointing authority;
7) to approve payrolls or other claims against the local units prior to payment;
8) to act as an agent of the local unit in collective bargaining with representa-

tives or employees and to approve any agreement prior to its being effected;

9) to appoint a local administrator of finance to exercise the powers of the state agency and to perform duties under the general supervision of the agency;

10) to employ experts, counsel and other assistance and to incur such other expenses as it may deem necessary;

11) to require compliance with orders of the state agency by court action if necessary;

12) to provide a temporary cash loan, or the guarantee of a loan from private sources, sufficient for the immediate needs of the city; and

13) to make appropriate revenue recommendations to the local governments and to the state legislature.[12]

No comprehensive survey of state adoption of the ACIR recommendations has been undertaken. Some states, such as Ohio and New York, have followed the suggestions and have comprehensive laws relating to local fiscal emergencies. Other states have amended old laws or continue under their existing provisions. Results of an ACIR survey made prior to the recommendations can be found in the Commission's *City Financial Emergencies: The Intergovernmental Dimension*. Certainly the possibility of bankruptcy some cities faced during the 1970s focused both state and local attention on financial practices.

In the New York City crisis of the mid 1970s, the state took a series of actions designed to ensure the city's fiscal solvency. Included were requirements for a revamped accounting system, a balanced budget and limited expenditures. In addition, the state established the Municipal Assistance Corporation to market bonds for the city and created the Emergency Financial Control Board to supervise city finances. This board had authority to approve all city contracts (including those with labor unions) and to freeze wages of city employees.[13] While state action alone was not responsible for New York's fiscal revival, it, along with federal assistance and the efforts of local officials, bankers and public unions, enabled the city to get back on its feet.

THE STATES AND URBAN PROBLEMS

Most vociferous of the criticisms directed at the states during the 1960s were those emphasizing their neglect of urban problems, particularly those of the declining central cities. Since that time, states have appeared to be more cognizant of urban ills.

A study of state actions in regard to distressed communities was undertaken in 1979 by the National Academy for Public Administration and ACIR and has been updated annually by ACIR. Although not confined to urban areas and examining only 20 state initiatives directed at distressed communities, the reports shed light on actions states have taken or are taking that affect urban problems. A distressed community is defined as "a local government jurisdiction, and in some instances a subarea of a jurisdiction, that is in the bottom 25% of all jurisdictions of the same class throughout the state, based on the most appropriate measure of distress (e.g., income, poverty, unemployment or blight)."[14] It can be urban or rural. The 1979 study indicated that "state governments are making encouraging, if somewhat incremental, progress toward recognizing and grappling with community decline issues."[15]

Table 14–2 reflects the state actions taken to target aid to distressed communities as set out in a 1983 update of the study. Indicators of state programs for this purpose were divided into five categories: (1) housing; (2) economic development; (3) community development; (4) state-local fiscal policy and (5) enhancing local capabilities.

HOUSING

In regard to state housing assistance to local governments, the 1983 report indicated that most states now have independent public finance corporations, or housing finance agencies (HFAs), responsible for raising funds for assisted housing programs. Typically, they reduce the cost of single and multifamily housing by closing loans at subsidized rates. HFAs most commonly use mortgage interest rate subsidies to provide homeownership assistance for single family housing. In this instance, the authorities raise funds by issuing tax exempt bonds, arranging with private sector lenders to originate below market-rate loans, and then

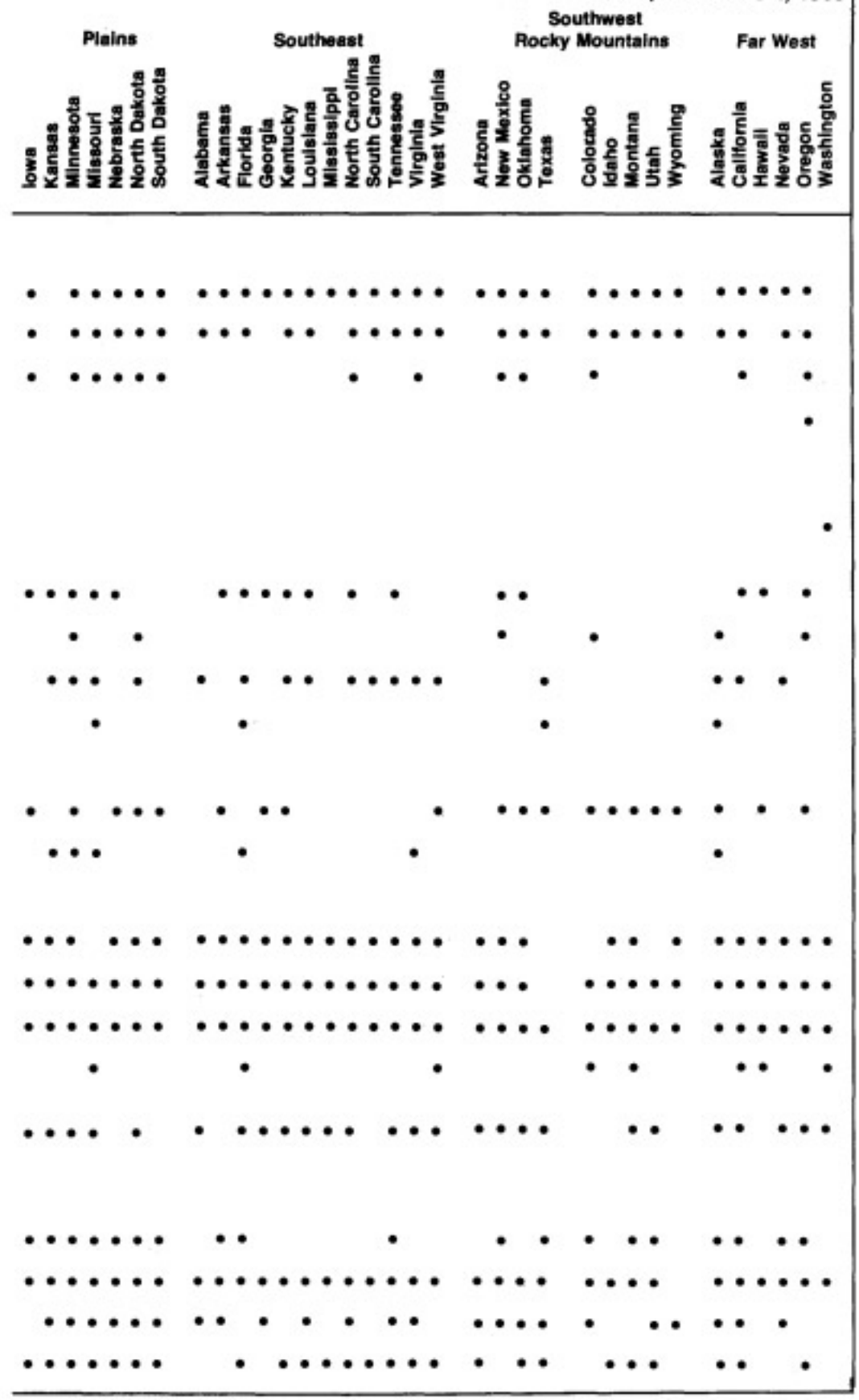
Table 14–2

THE STATES AND DISTRESSED COMMUNITIES: SUMMARY OF INDICATORS OF STATE

Policy Areas/Indicators	Number of States With Programs	New England						Mid-East						Great Lakes					
		Connecticut	Maine	Massachusetts	New Hampshire	Rhode Island	Vermont	Delaware	Maryland	New Jersey	New York	Pennsylvania		Illinois	Indiana	Michigan	Ohio	Wisconsin	
ASSISTED HOUSING																			
1. Single-Family Housing Construction	46	•	•	•	•	•	•	•	•	•		•		•	•	•		•	
2. Multifamily Housing Construction	43	•	•	•	•	•	•	•	•	•	•	•		•	•	•		•	
3. Housing Rehabilitation Grants or Loans	26	•	•	•	•			•	•	•	•	•		•	•	•		•	
4. Housing Rehabilitation Tax Incentive	9	•	•							•	•	•						•	
ECONOMIC DEVELOPMENT																			
5. Industrial and Commercial Site Development	8	•		•			•				•	•				•		•	
6. Financial Aid for Industrial and Commercial Development	33	•	•	•	•		•	•	•	•	•	•		•	•	•	•	•	
7. Customized Job Training	9			•				•									•		
8. Small and Minority Business	28	•		•		•			•		•	•		•	•	•	•	•	
9. Industrial Revenue Roads	10	•	•	•						•				•				•	
COMMUNITY DEVELOPMENT																			
10. Capitol Improvements	25			•	•		•				•	•							
11. Neighborhood Development	14		•		•			•		•		•			•		•	•	
STATE-LOCAL FISCAL RELATIONS																			
12. State-Local General Revenue Sharing	41		•	•	•	•			•	•	•			•	•	•	•	•	
13. Education Finance	50	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	
14. Assumption of Local Public Welfare	50	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	
15. State Mandate Reimbursements	12			•		•								•		•			
16. Improving Local Governments' Access to Credit Markets	42	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	
ENHANCING LOCAL SELF-HELP CAPABILITIES																			
17. Tax Increment Financing	27	•	•	•					•					•		•	•	•	
18. Local Redevelopment Authorities	49	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	
19. Local Income or Sales Taxes	33							•	•		•	•		•	•	•	•	•	
20. Local Discretionary Authority	40	•	•	•	•	•	•	•	•	•	•	•		•		•	•	•	

SOURCE: ACIR, *The States and Distressed Communities: Final Report*, Washington, DC, U.S. Government Printing Office, forthcoming.

GOVERNMENT EFFORTS TO AID DISTRESSED COMMUNITIES, BY REGION, 1983



purchasing these loans. In 1983, 46 states had 59 single family programs targeted to distressed persons or places. In assisting the construction of multifamily housing, the HFAs usually raise funds in the bond market and loan out bond proceeds to private developers. HFAs in 43 states implement a total of 57 targeted multifamily housing programs.

States also have rehabilitation grant or loan programs serving either single or multifamily housing developers. This aid takes the form of direct loans to multifamily housing developers; home improvement loans for single-family, owner-occupied housing, or loans to local government or community-based organizations operating their own rehabilitation programs. A total of 50 rehabilitation programs, targeted to distressed areas, operated in 26 states in 1983.

A few states created rehabilitation tax incentive programs. Typically, these programs require local governments to enact ordinances defining the geographic subsection of the locality in which rehabilitation efforts may receive tax incentives and designating a lead agency to approve them. Property tax incentives included fixed or reduced assessments, exemptions and abatements.

In addition to these initiatives, a number of states have adopted new approaches to assisted housing finance, programming and targeting. Finance innovations included planning for the issuance of taxable mortgage revenue bonds; use of state permanent funds, such as public pension funds, for housing finance; and use of the states' general funds for rent subsidies, investment in revolving loan funds, and interest rate subsidies. Programming approaches included the following: (a) cooperative, congregate and other longer tenure housing developments; (b) state public housing; (c) homesteading and community-based, self-help rehabilitation; (d) community-based development; (e) negotiated agreements between state and local officials for housing aid; (f) housing for the homeless; and (g) component cost reduction (e.g., downpayment, land acquisition and site development subsidies). Targeting and other arrangements included actions such as: (a) geographic targeting to urban or rural places; (b) forward commitment of funds for specific developments in specific communities; (c) code reform to reduce barriers to assisted housing location; and (d) technical assistance to community-based developers and local housing officials.

ECONOMIC DEVELOPMENT

States have a threefold interest in economic development within their borders. It contributes to the revenues going into their own treasuries. It determines the fiscal health of their localities and it lowers welfare costs by increasing employment. Efforts to revitalize distressed communities often are aimed at economic rebirth. Toward this end, some states contribute to industrial and commercial site development, provide financial aid for industrial and commercial development, customize job training, encourage small and minority business development and issue industrial revenue bonds. Some also authorize the creation of enterprise zones.[16]

Although the level of funds budgeted for economic development is quite low in relation to the rest of the state budget (the bulk of state economic development through bond issues), states increasingly are involved in promoting economic development. Only three states had targeted programs in industrial and commercial site development before 1980. By 1983, the number had grown to eight, with most programs located in the Northeast and Midwest. As far as financial aid for industrial and commercial development is concerned, the number of states with targeted programs had doubled since 1980; 22 states had a total of 37 targeted financial aid programs. Included are provisions for loans, loan guarantees, tax incentives, economic adjustment assistance to communities expecting or responding to plant closing, and the creation of community development finance corporations, among other measures. Again, the greatest activity was in the Northeast and Midwest, with 75% of all the targeted programs in these states. Enterprise zones are another matter, however. Half of the 19 states with laws authorizing the zones were in the South. Few of the enterprise zone laws had been implemented.

State action in regard to customized job training and small business development has not been so widespread as some of the other economic development initiatives. Only nine states, mostly in the Northeast and Midwest, targeted customized job training programs to

distressed areas in 1983 and only eight targeted small business programs. On the other hand, 20 states provided some type of minority business development assistance, although funds appropriated for this initiative were meagre. The typical minority business assistance package included technical assistance, public relations and procurement aid.

State and local governments authorize industrial revenue bonds to provide financing for the acquisition of fixed assets in industrial projects that they have approved. Interest earned on the bonds is exempt from federal income taxes but not necessarily from state taxes. The full faith and credit of the states is not pledged to their repayment, differentiating them from industrial development bonds. Although their authorization is widespread, few states targeted revenues from these bonds to distressed areas. Only ten states followed this course in 1983.

In pursuit of jobs and a stable economy, most states had established economic development agencies of some kind by 1983. Of the 44 states responding to a Council of State Governments survey in that year, 12 had created such agencies prior to 1960, 11 had established them during the 1960s, 13 had initiated such agencies during the decade of the 1970s, and eight states had authorized them in the 1980s. Prominent in the activities of these agencies has been industrial recruitment from other states and foreign countries although, in recent years, states have concentrated more on the retention of industries already located within their boundaries.

COMMUNITY DEVELOPMENT

The economic stability and vitality of any community is dependent both on a sound public physical infrastructure and on the capacity of community residents to affect their own growth. As a consequence, economic revitalization of a distressed community requires a major commitment to community development efforts. ACIR's *1983 Distressed Communities* report noted that a serious physical infrastructure problem exists throughout the nation. It found that 25 states had adopted a total of 35 targeted state capital improvement programs to deal with these problems in distressed areas. Most of these have been in existence for a number of years and were not adopted as a result of the recent concern over the physical infrastructure.

The capital improvement initiatives relate primarily to public sanitation and energy impact projects. Twelve states provide grants or loans for the construction or improvement of water, sewer, and solid waste disposal, roads or other core facilities. They fund them primarily through general appropriations, with some use of bonds and dedicated taxes. These programs operate in all but the Great Lakes region. Nine states offer aid to communities affected by the boom-bust cycle of energy developments. Located almost entirely in the Plains, Southwest and Rocky Mountain states, they are funded from taxes on resource production or from revenues from leasing developed lands. Other capital improvement programs are found in six states. Their focus varies from park creation in Massachusetts to basic improvements in Vermont.

Another aspect of community development—the part that differentiates it from economic development—is neighborhood development; that is, improving the general condition of neighborhoods and of community-based organizations. Federal aid cut-backs affected neighborhoods by reducing the ability of community-based organizations to undertake ventures and provide services, including development. Private contributions and state and local funds have not yet filled nor are they expected to fill, the resulting funding gap. States have offered some assistance through the authorization of tax incentives to firms making contributions directly to community-based organizations involved in development, education, housing or other programs in distressed communities. Six states, all in the eastern half of the country, offer these programs. Eight states also offer other targeted neighborhood development assistance, both financial and technical.

ENHANCING LOCAL FISCAL CAPABILITY

States can supplement the actions they take to improve the financial situation in distressed communities by enabling local governments to help themselves. Two of the methods for accomplishing this—increased local discretionary authority to manage their own affairs and enabling authority for levying local sales and

income taxes—were discussed in *Chapters 12 and 13*, respectively. The 1983 survey polled the states on two others: power to institute tax increment financing and permission to create local redevelopment authorities.

TAX INCREMENT FINANCING

This mechanism is designed to allow communities to use the proceeds from taxes on increased property values attributed to redevelopment or prospective redevelopment to pay the redevelopment costs. Under this arrangement, local governments can designate districts that can use tax increment financing. The assessed valuation of the tax base in the district is then frozen statutorily at the level or figure in effect immediately before development. Taxes on any assessed value over that figure contributed by development, or anticipated development, go into a special fund to retire the debt incurred for redevelopment. Most of the 29 states that authorize tax increment financing (TIF) direct it to slums or blighted areas. Several also provide technical assistance and seed money to improve the chances of successful tax increment financing. Although tax increment financing remains controversial, the ACIR survey found that, "while difficulties remain with implementation in five states, those states actively using TIF describe it as a useful, and sometimes crucial, tool for local governments. Implementation difficulties include questions of legality and the loss of taxes for other taxing jurisdictions within the tax increment district."

LOCAL CREATION OF REDEVELOPMENT AUTHORITIES

Local redevelopment authorities are usually semi-independent entities, with members appointed by local officials, that exercise administrative responsibility for planning, for accepting intergovernmental grants and loans, for bonding and for using powers of eminent domain—all in the cause of downtown revitalization or redevelopment. Although many of them were established in response to federal stimulus, state authority is required for their creation. States also may provide financial support, technical assistance and help in entering credit markets. By January 1983, 49 states authorized the creation of local redevelopment authorities.

In addition to these specific actions aimed at assisting distressed areas, several states have adopted comprehensive urban strategies that now are in some phase of implementation. Additional states claim to be in some stage of formulating overall strategies.[17] This may herald an increased recognition of urban problems by state government decisionmakers. On the other hand, the strategies could be simply "laundry lists" of what the states were doing otherwise and, consequently, do not reflect added efforts.[18] In any event, they appear to be indigenous to the states, to have evolved after years of work, and not to be a result of federal action.[19]

GREATER STATE CONCERN FOR URBAN PROBLEMS

Although ACIR's 1983 *Distressed Communities* report did not attempt an overall comparison of state performance with that found in the 1979 survey, it is apparent that during the quarter century since 1955 states have taken a much greater interest in the problems of their urban areas. Very little legislation dealing with housing, economic development or community development was on the books at the earlier date. And, although some states had boosted local discretionary authority and fiscal capability before that date, extensions of these initiatives were not nearly so widespread as at the present time.

Other actions of state government not intended specifically for distressed areas also can contribute to the mitigation of urban problems. Among these are structural upgrading, discussed elsewhere, and state revenue sharing programs that tend to equalize resources among local jurisdictions. The latter are depicted in *Table 14–3* for 1977, the latest calculation available. Almost half the states (23) shared revenues on an equalizing basis in that year.

Controversies about the extent to which states should redistribute state resources among localities, regulate or authorize local activities, and offer assistance to declining areas still dominate many legislative sessions, nonetheless. And both politicians and scholars debate the issue of whether the state or the fed-

eral government more effectively targets funds to needy areas or, indeed, whether governments should target at all.

COMPREHENSIVE URBAN STRATEGIES

State actions in dealing with urban problems have not quieted the demand that state governments adopt comprehensive policies or strategies for the urban areas within their boundaries. The assumption has been that central cities and distressed communities could benefit from the focusing of state powers and resources on urban problems. Advocates of such an approach looked to the positive effects of judicious use of state regulatory power, proper land use and environmental protection requirements, and strategic public capital expenditures in urban areas to stimulate private investment. At the least, they hoped to increase state recognition of the urban impacts of decisions made at the state level, thus enabling urban areas to escape the adverse effects that state policies sometimes inadvertently produced.

Urban strategies "are broad and comprehensive policy statements which generally cover a wide array of issues facing the state and its communities."[20] They address four major themes: economic development, growth management, urban revitalization and fiscal reform. They stress statewide problems rather than concentrating on central cities in distress. This approach results in part from political factors, but it is based as well on several assmptions: (1) that the strengthening of the economy of the entire state will benefit distressed areas; (2) that stopping rural decline will retard migration to the cities; and (3) that adopting antisprawl measures to contain urban growth will lead to revitalization of urban core areas.

During the late 1960s and early 1970s, state legislatures in some states responded to the prodding of environmental groups and adopted overall policies for urban areas. Later adoptions emanated from the executive branch, both as a byproduct of gubernatorial politics and from official concern over the quality of life.

A National Academy of Public Administration (NAPA) study analyzed urban strategies in ten states: California, Connecticut, Florida, Massachusetts, Michigan, New Jersey, North Carolina, Ohio, Oregon and Pennsylvania.[21] Nine of the ten state strategies emphasize economic development as the highest priority area. Six give major attention to growth management with California and Oregon stressing it particularly. State efforts are directed at reconciling the conflicts inherent in the two, as well as at increasing the equity of local tax systems and improving the fiscal capacity of local governments. In general, state strategies involve the use of growth and land use policies, program coordination, regulation, tax incentives or policies, and fiscal assistance to accomplish their ends.

The assumption has long been made that the national government, subject to the heavy influence of urban areas, targeted assistance monies to needy local governments better than did the states. Recently scholars have examined this issue with conflicting results.

A 1978 study of central cities in standard metropolitan statistical areas by Thomas R. Dye and Thomas L. Hurley found "little empirical support for the idea that the federal government was *more* responsive to the needs of the cities than were the state governments." They found, in fact, that

> ... on the whole, state grants-in-aid appeared *more* closely associated with urban needs than federal grants-in-aid. ... This generalization is subject to some exemptions: federal grants-in-aid are more closely associated with public assistance rates, death rates, and aged populations than state grants-in-aid. But even with regard to these indicators of dependent and aged populations, differences between state and federal responsiveness were slight. More importantly, *state* grants-in-aid were more closely associated with size, growth rate, density, age of city and segregation than *federal* grants-in-aid. Finally, *state* grants-in-aid were negatively associated with resource measures, more so than federal grants-in-aid, suggesting that state grants were more redistributive in their impact among cities than federal grants.[22]

A second study examined the expenditure of combined state grants and federal pass-through funds as opposed to direct federal grants-in-aid in combined school district and city budgets in

Table 14–3

STATE-LOCAL TAX REVENUE SHARING PROGRAMS CHARACTERIZED BY ABILITY TO EQUALIZE INTERLOCAL FISCAL DISPARITIES, BY STATE, 1977

State	Percent Program Revenues Distributed According to Equalizing Factor(s)	Major Distribution Factor(s)
Alabama	31.00	Local origin
Alaska	50.50	Per capita tax rates
Arizona	52.26	Population
Arkansas	67.74	Population
California	33.90	Property tax reimbursement
Colorado	–0–	Not specified
Connecticut	28.17	Local origin; property tax reimbursement
Florida	.09	Local origin; other
Georgia	83.86	Various need measures
Hawaii	100.00	Tax capacity: inverse distribution
Idaho	18.08	Property tax reimbursement
Illinois	100.00	Population
Indiana	11.14	Property tax reimbursement
Iowa	13.18	Property tax reimbursement
Louisiana	71.41	Tax capacity: inverse distribution, other need measures
Kansas	39.59	Property tax reimbursement
Kentucky	–0–	Property tax reimbursement
Maine	77.40	Tax capacity: inverse distribution
Maryland	21.94	Local origin: property tax reimbursement; other
Massachusetts	58.52	Tax capacity: inverse distribution
Michigan	65.22	Population; tax capacity: inverse distribution
Minnesota	82.59	Tax capacity: inverse distribution
Mississippi	.90	Local origin
Missouri	–0–	Local origin

[1]In 1979, New Hampshire changed its state-local revenue sharing formula from property tax reimbursement to a tax effort and population formula making the distribution more equalizing. Specific percentages are not available.

59 of the nation's largest cities (except New York City and Washington, DC). Fred Teitelbaum and Alice E. Simon used two sets of measures of state/federal and direct federal aid: (1) per capita state/federal and per capita direct federal aid, and (2) the percentage of each city's general revenues derived from state/federal and direct federal aid. Using aggregate data for cities nationwide, in each instance they found that state/federal aid correlated more closely with the four indices of hardship used: (1) Nathan and Adams' Hardship Index, (2) Congressional Budget Office (CBO) Social Index, (3) CBO Economic Index, and (4) CBO Fiscal Index. In general, the study indicated that state/federal aid is consistently more responsive to distressed cities than is direct federal aid and becomes more responsive across time.[23]

New light has been cast on the Dye-Hurley and Teitlebaum-Simon studies by recent work of Robert M. Stein. Analyzing state aid to cities

Table 14–3 (continued)

STATE-LOCAL TAX REVENUE SHARING PROGRAMS CHARACTERIZED BY ABILITY TO EQUALIZE INTERLOCAL FISCAL DISPARITIES, BY STATE, 1977

State	Percent Program Revenues Distributed According to Equalizing Factor(s)	Major Distribution Factor(s)
Montana	–0–	Local origin
Nebraska	14.26	Property tax reimbursement
Nevada	86.10	Population
New Hampshire	***[1]	Property tax reimbursement
New Jersey	10.62	Property tax reimbursement
New Mexico	–0–	Local origin
New York	70.00	Various need measures
North Carolina	15.10	Local origin
North Dakota	18.74	Local origin; property reimbursement; other
Ohio	–0–	Local origin; property reimbursement; other
Oklahoma	83.68	Population
Oregon	61.41	Population
Pennsylvania	–0–	Local origin
Rhode Island	30.59	Property tax reimbursement
South Carolina	77.86	Population
South Dakota	47.50	Other non-equalizing . . .
Tennessee	67.02	Population
Texas	–0–	Local origin
Utah	100.00	Population
Vermont	–0–	Local origin
Virginia	98.50	Population
Washington	65.18	Population
West Virginia	–0–	Local origin
Wisconsin	72.8	Population, tax capacity inverse distribution
Wyoming	86.39	Population

SOURCE: ACIR staff compilation based on state legislative data derived from U.S. Bureau of the Census. *1977 Census of Governments: State Payments to Local Governments*, Vol. 6, No. 3, Washington, 1978, as set out in ACIR and the National Academy of Public Administration, *The States and Distressed Communities: 1980 Annual Report* to the Office of Community Planning and Development, U.S. Department of Housing and Urban Development, September 1980, pp. 32–33.

over 25,000 in population in the nation as a whole, Stein confirmed the findings of the earlier studies. When he replicated the analysis for individual states, however, the expected pattern of equalization for individual states did not materialize. His findings suggest that the level of equalization at the aggregate level is in fact a function of a small number of states that have successfully targeted funds. Nine states consistently channeled their aid to needier cities between 1967 and 1977—Minnesota, New Jersey, Michigan, Massachusetts, Wisconsin, California, New York, Iowa and Ohio. Stein points out that the variance among states in their targeting "undermines the validity of aggregate-level generalizations about the distribution of state aid."

Stein is careful to note, nonetheless, that grant-in-aid policy is only one facet of a state's fiscal response to the needs of its urban areas: "... we should not assume that states which do not target their aid allocations are not dealing

Figure 14–3

STATE INTERGOVERNMENTAL ORGANIZATIONS: 1970–80

	ACIR	Advisory Panel of Local Officials	Local Government Study Body	Department of Community Affairs	Department of Affairs Board	Commission on Intergovernmental Cooperation
Alabama			X	X		
Alaska				X		X
Arizona	(X)			X	X	X
Arkansas			X	X	X	X
California	(X)		X	X	X	
Colorado				X		X
Connecticut			X	X	X	
Delaware			X	X		X
Florida	X		X	X	X	X
Georgia	X		X	X	X	X
Hawaii			X	X		X
Idaho			X	X		X
Illinois[1]			X	X		X
Indiana			X	X*		X
Iowa	X*		X	X		X
Kansas	(X)		X	X	X	X
Kentucky			X	X	X	
Louisiana[2]				X	X	X
Maine		X	X	X		X
Maryland[1]			(X)	X	X	X
Massachusetts	X*	(X)	X	X		X
Michigan		X	X	X		
Minnesota			X	X		X
Mississippi		X		X	X	X
Missouri				X		X

( )—abolished since 1980
*—created or functions enlarged since 1980

[1]States with strong commissions on Intergovernmental Cooperation with expanded powers. In Maryland, the name was changed to the Maryland State-Federal Relations Commission.
[2]States with permanent legislative commission with only legislative members.
[3]Ohio's statute provides for an ACIR-type commission, but it was unfunded in 1983.

with the problems of their urban/central cities. State centralization and functional transfers may represent an alternative means for states to assist fiscally distressed and needy cities."[24]

STATE-LOCAL COOPERATIVE MECHANISMS

The growing intergovernmentalization of state and local activities produced complex governmental arrangements resulting in major problems. In attempts to deal with these problems, states established a variety of state-local advisory agencies aimed at ensuring cooperation and reducing friction in state-local affairs. The states were resourceful and innovative in the design of these organizations.[25] These state-local mechanisms are in addition to the state agencies for local government (or community affairs), discussed in *Chapter 12*, that provide technical assistance and also promote

Figure 14–3 (continued)

STATE INTERGOVERNMENTAL ORGANIZATIONS: 1970–80

	ACIR	Advisory Panel of Local Officials	Local Government Study Body	Department of Community Affairs	Department of Affairs Board	Commission on Intergovernmental Cooperation
Montana			X	X		X
Nebraska	(X)		X	X	X	X
Nevada			X	X		X
New Hampshire				X		X
New Jersey	X*		(X)	X		X
New Mexico		X*	X	X		X
New York[2]			X	X	X	X
North Carolina	X		X	X	X	X
North Dakota		(X)		X		X
Ohio	X[3]		X	X		X
Oklahoma			X	X	X	X
Oregon			X	X		
Pennsylvania	X*	(X)	X	X		X
Rhode Island	(X)		X	X	X	X
South Carolina	X		X	X		X
South Dakota		X		X	X	X
Tennessee	X		X	X		
Texas	X		X	X	X	
Utah			X	X	X	X
Vermont			X	X		X
Virginia		X	X	X	X	X
Washington	X*		X	X		
West Virginia			X	X		X
Wisconsin			X	X	X	X
Wyoming				X	X	X

SOURCE: ACIR, *State-Local Relations Bodies: State ACIRs and Other Approaches* (M–124), Washington, DC, U.S. Government Printing Office, 1981, p. 3. Columns 1 and 2 updated to January 1983 by ACIR staff.

intergovernmental cooperation. The latter operate in all states.

INTERGOVERNMENTAL ADVISORY AGENCIES

Much of the activity in regard to intergovernmental agencies took place during the decade of the 1970s. In 1974, when ACIR recommended that states set up state-local advisory commissions on intergovernmental relations to serve as neutral forums for the discussions of mutual state-local concerns, only four states—Arizona, California, Kansas and Texas—had such commissions in operation. Subsequently, all but Texas discontinued their commissions. More recently, increased sensitivity to interlevel relationships has led to the establishment of functioning advisory panels in 21 states, along with other organizations to promote intergovernmental cooperation and understanding. The states that had created

such mechanisms in the decade of the 1970s, along with those with state agencies for local affairs, are reflected in Figure 14–3. As might be expected, numerous changes have been made since 1980, but no survey has been made to chronicle these. Changes that have come to the attention of the ACIR staff are noted in the table.

Two distinct patterns appear in the development of state intergovernmental advisory organizations. At one end of the scale, in states such as Texas, Florida and New Jersey, commissions are broadly representative and have the resources to initiate policy recommendations, perform research, and follow up on recommendations. At the other end, such states as Michigan, Maine, Massachusetts and Virginia established organizations that are comprised principally of local officials and that serve mainly as forums for discussion of intergovernmental issues with which they are concerned.

According to responses to a 1980 ACIR survey, most intergovernmental advisory agencies owe their establishment to statutes. Others have been created by executive orders, and two are based on private contracts. Financial support ranges from token appropriations to several hundreds of thousands of dollars. A few do not have independent funding. A number have a full complement of permanent, full-time staff, although about half of the organizations depend on part-time staff assistance.

By 1983, 11 states had ACIRs that conformed to the national ACIR's model: Florida, Georgia, Iowa, Massachusetts, New Jersey, North Carolina, South Carolina, Tennessee, Texas and Washington. Although their names did not correspond to the ACIR acronym, they conformed generally to the ACIR recommendation that they include representation from various types of local governments, the public, and both legislative and executive branches on the state level. The Ohio State and Local Government Commission, which follows the national model, was established by statute in 1978, but was not funded in 1983 because of fiscal constraints on the state. The other state panels varied widely.

State ACIRs can perform five primary functions: (1) serve as forums for consultation by state and local policymakers; (2) constitute clearinghouses for information on intergovernmental issues; (3) function as research agencies with capacity to develop research recommendations; (4) become advocates for their recommendations and (5) provide technical assistance to state and local agencies in a variety of program areas.

OTHER COOPERATIVE MECHANISMS

The states have experimented with other approaches to ensuring recognition of intergovernmental issues and improving interlevel communication. The 1981 ACIR report on intergovernmental advisory agencies[26] identifies an impressive variety of approaches in addition to the statutorily based advisory panels on intergovernmental relations:

- Governors in about a half dozen other states have created, by executive order, an advisory committee to deal with state-local and federal-state-local relations policies.
- Municipal and county government associations in at least two states have joined together to establish their own advisory body on state-local relations.
- A number of states have strengthened or created permanent legislative commissions on local government that serve as interim research agencies for the legislature. These legislation commissions may include or exclude local officials and/or representatives of the executive branch of state government.
- Nearly every state has authorized legislative interim studies on at least some aspect of state-local relations during the past decade.
- Every state has a state department or agency of community affairs, and nearly half of these departments have an advisory or administrative board of local government officials.[27]
- A handful of states have transformed their dormant interstate cooperation commissions (which initially were created as the state affiliate of the Council of State Governments) into active, well-financed and staffed agencies.[28]
- During the past 15 years, the vast majority of states have created temporary commissions or committees to study state-local relations and to make recom-

mendations to the governor and the legislature.[29]

- At least 25 governors, various state departments, and several state legislatures have established offices in the nation's capital in order to participate more effectively in intergovernmental decisionmaking at the federal level.[30]

The growth of state interlevel organizations indicates increasing state cognizance of the intergovernmentalization of American government and the accompanying rise of friction points in relationships among all its components. State decisionmakers appear to be recognizing the problems created for local governments by state decisions. The establishment of forums for discussion and research, then, is a step forward in cooperative relationships.

IMPACTS OF FEDERAL ACTIONS ON STATE-LOCAL RELATIONS[31]

The rapid expansion of the federal government's role in domestic activities commencing in the early 1930s affected state-local relations as it did almost every other aspect of American government. Earlier patterns of incremental additions to federal activities, except during periods of war or depression, had allowed time for adjustments to deal with changes. Beginning in the mid 1960s, however, gradual change gave way to "dramatic, even drastic change in American Federalism," in the words of a 1980 ACIR report.[32] The national government's growing involvement in domestic programs left little untouched. Federal reliance on states as managers of federal programs, and the national propensity to regulate subnational jurisdictions, particularly influenced the relationships between the states and their local governments. Despite some reining in of federal involvement over the past three years, the level of interpenetration—basically judicial and regulatory—is still much greater than it was in 1970. Here is what seemed to be happening to state-local relations as a result of federal activities:

1. Increased sharing of governmental functions between state and local governments and among local governments. The current pattern of functional performance is strikingly intergovernmentalized in contrast to the pattern of performance of functions in force prior to the Depression of the 1930s, when, for the most part, activities of the respective levels were distinguishable. According to a 1977 ACIR survey,[33] almost all domestic functions then were shared by at least two levels of government and often three. Despite some retrenchment since then, this condition still prevails, thanks in part to the failure to achieve any real sorting out of functional responsibilities. This condition slows and impedes administration and necessitates greater coordinating efforts among levels.

Up until 1978, state centralization in some functional areas accompanied the sharing of functions. Elementary and secondary education, law enforcement, and environmental protection experienced a centrifugal pull. The centralizing trend was uneven, of course. In states (and functions) where functional assignments were already highly centralized, the impact was minimal. For example, greater centralization of education in Hawaii or of highways in West Virginia was not noticeable since these states administer those programs directly. On the other hand, in states placing heavy reliance on local administration, centralization occurred in some facets of certain functional areas. In the latter days of the Carter Administration, however, and, particularly, with the Reagan Administration's emphasis on block grants, the centralizing trend slowed and in some instances reversed. For example, control of the process of reviewing federal grant applications, known as A-95 review, passed from the federal government to the states.

2. More state supplementation of federal grants with state requirements and regulations. In exercising their responsibilities as major managers of federal programs and as conduits for the pass through of federal funds to local governments, states have taken advantage of the opportunity to supplement federal conditions attached to grants-in-aid with requirements of their own. Sometimes the additional requirements were imposed to upgrade local performance. In other instances, they were designed to protect state officials from retribution for violations of grant-in-aid guidelines.

Experience in the administration of the Federal Outdoor Recreation programs provides an

example of the addition of state requirements. A 1980 ACIR study of their operations in Virginia, Massachusetts and Wisconsin found that state administrators in all three required local officials to submit copies of cancelled checks, contracts, bidding proposals and other documents, so they could maintain desk audit capability at the state level, before reimbursing them for their outlays. This apparently was the result of the imposition on state administrators of the responsibility for misspent federal funds under Office of Management and Budget Circular A-102. Neither the *Land and Water Conservation Act*, establishing the program, nor the federal guidelines adopted to implement it, imposed such a requirement. According to a Virginia official, the materials and desk audit capability were necessary because "there is no federal definition of source documentation."[34] A more recent study found that even though states have more flexibility under recent Reagan Administration actions, many states continue to use the federal standards on administrative requirements and procurement until they are sure federal auditors will accept their procedures.[35]

This motivation for maintaining existing or increasing requirements corresponds with the assessment of James Q. Wilson in his book, *Politics of Regulation*. He commented that:

> Critics of regulatory agencies notice (the) proliferation of rules and suppose it is the result of "imperialistic" or expansionist instincts of bureaucratic organizations. I am struck more by the defensive, threat-avoiding, scandal-minimizing instincts of these agencies.[36]

The new block grants authorized in 1981 provided new opportunities for state administrative controls in connection with federal grant programs. For example, the small cities Community Development Block Grant turned over to the states responsibility for implementing the program rather than leaving it with the U.S. Department of Housing and Urban Development. A recent study found that the requirements imposed by the states were perceived by local recipients to be at least as restrictive as those previously mandated by the federal government.[37]

3. Shift of decisionmaking from the local governments to the state. Not surprisingly, federal grant-in-aid specifications often resulted in a shift of the locus of decisionmaking from local governments to the state. In education, for example, federal funds to state departments of education for improving their capacity generated more active departments in some states. They produced a number of programs and regulations that superseded local policy. As one observer noted:

> As SEAs [state education agencies] continue to exert their legally mandated power, LEAs [local education agencies] are forced into subservience. Decisions, once the prerogative of LEAs, are severely limited by SEAs through the promulgation of rules and regulations. Increasingly, SEAs are developing minimal standards for programs, mandating curriculum and evaluating students.[38]

In another functional area, wastewater treatment, federal provisions specified that the state could decide that there was a need for a local project despite local determination that there was not. Moreover, state administrators could mandate local expenditures for that purpose.[39] Although the local agencies undoubtedly were glad to receive federal assistance for these functions, they traded local decisionmaking capacity for it in each instance.

4. Conflict between federal requirements and state laws or regulations making functional assignments to state and local governments. Federal and state laws and regulations that conflict are not new. One affecting state-local relations is the *Education for All Handicapped Children Act*.[40] Regulations under this legislation markedly increased the role of the state educational agencies in the delivery of educational services to the handicapped by requiring that

> ... the state educational agency be responsible for ensuring that all educational programs for handicapped children within the state *including all such programs administered by any other state or local agency*, are under the general supervision of the persons responsible for educational programs

> for handicapped children in the state educational agency. (Emphasis added.)[41]

Obviously, this provision intended to substitute the decisions of the state educational agency concerning the handicapped for those of local agencies as well as for those of other departments of state government—a marked departure from state legal provisions and past practices in most instances. The conflicts with state law produced by this and other provisions of the statute provoked the Education Commission of the States, an interstate agency representing all the states in education matters, to adopt a resolution opposing the specific language of the bill on the grounds that it conflicted with the constitutions and statutes of several states.[42]

5. Stronger state administrative control over local programs as a result of federal assistance. States always have had strong legal and administrative control over the local jurisdictions within their boundaries, control that varied from state to state and from function to function. These controls were tightened as a result of federal grant programs channeling money through the states to the local governments. As the sums of money to be dispensed grew and more activities were involved, opportunities for the state government to direct local affairs increased. More important, state administrative supervision in some programs is now required by certain federal legislation and guidelines. Increased capacity in state agencies, developed in part with federal funds, permits state officials to exercise it.

Federal grants for the improvement of state education agencies, mentioned above, enabled the state departments to develop staffs that then became more active in program initiation. As one observer pointed out:

> The capacity of state education agencies (SEAs) to intercede in local school policy has.... increased dramatically in the last 20 years. Ironically, the federal government provided the initial programmatic and fiscal impetus for this expansion. The *Elementary and Secondary Education Act of* 1965 and its subsequent amendments required state agencies to approve local projects for federal funds in diverse areas such as education for the disadvantaged, handicapped, bilingual, and migrant children and innovation. In each of these federal programs, 1% of the funds were earmarked for state administration. Moreover, Title V of ESEA provided general support for state administrative resources, with some priority given to state planning and evaluation. By 1972, three-fourths of the SEA staffs had been in their jobs for less than three years.... The new staff capacity was available for SEA administrators or state boards that wanted a more activist role in local education.[43]

Legislation adopted in 1975, the *Education for All Handicapped Children Act*, further augmented state administrative control. This statute and its accompanying regulations provided for state monitoring of local compliance, a provision reenforced by U.S. Department of Education authority to cut off federal funds to the state and to all school districts within it if noncompliance by one of the jurisdictions can be shown.[44] One education authority commented:

> ... instead of a friend, the SEA now becomes a policeman. A kind of administrative schizophrenia results, in which at one moment the SEA wears the helper hat and the next minute dons the judge's robe. This ... inhibits trust.[45]

The 1981 consolidation of 29 categorical education programs into the Elementary and Secondary Education Block Grant reduced specific requirements and improved flexibility in the use of its funds.[46] Yet, the bulk of federal aid to education is still categorical. The basic state-local relationship then essentially remains.

6. Diminution of state influence over local affairs in other areas. Although state administrative control has grown in some functional areas, local governments have been able to operate more independently in others by relying on direct federal funding. Such direct funding of local activities contracted somewhat under the Reagan Administration with the shift to more block grants. Nevertheless, for a long

time it had and still has major fiscal and political impacts on state-local relations and these effects continue in some programs. Upward of one-fifth of all federal aid still bypasses state governments. As Stephens and Olson pointed out in discussing "toy governments" with no full-time employees,

> In FY 1977, states gave $61.5 billion in aid (including money they had received from the federal government) to their local governments. Leaving out the District of Columbia, federal agencies gave $15.5 billion directly to local units. Even though overall state aid was four times as great as federal aid, direct federal support to special districts was 3.39 times as much as state support, and federal support to *Midwestern type townships* was 4.74 times greater; these were the two types of local government with the highest density of inactive units.[47]

Federal aid revitalized inactive governments, enabling them to resist state efforts to reorganize or abolish them. It also led to the creation of some special districts for the specific purpose of qualifying for federal financial assistance. Rural fire districts established to qualify for funds under the *Rural Community Fire Protection Program* are cases in point.[48]

Although not "toy governments," because they performed a limited range of functions, Illinois townships were shored up by federal funds at a time when some in the state were looking toward their abolition. In response to the opportunities presented them by General Revenue Sharing monies, the State of Illinois substantially broadened their powers.

Other governments received a boost from General Revenue Sharing funds as well. When spending GRS monies, local governments can escape state regulations and use the money for their own priorities. They can use it to match federal funds, thus multiplying its effect, substitute it for money from other sources or replace future tax increases.

7. More numerous contacts between the two levels. Increased intergovernmental contacts were the natural concomitants of more numerous grant programs, participation in them by more local governments, and the spread of grant programs to more departments of the state government. These developments generated increased intergovernmental communications between states and their local governments as well as between the federal government and whatever jurisdictions received the grants. Particularly where state governments received the funds and passed them through to their local units or where they were given major management roles in connection with federal programs, such as under the new federal block grant programs that merged 43 former direct federal-local grants along with 34 others into mostly state-administered blocks, interactions between the two levels increased. The Small Community and Community Services Block Grants substituted a state-local for a federal-local relationship, for example. Under categorical grants that designated them as primary grant recipients, states were afforded an opportunity to add their own regulations when more numerous federal regulations were imposed. Local bargaining, coalition formation and the creation of new substate governments as a result of federal stimulation also engendered more frequent intergovernmental intercourse. And, certainly, the increased sharing of functions necessitated more contacts.

An example of federally stimulated bargaining is reflected in the actions of Wisconsin administrators of Title III of the *Older Americans Act*. Operating under a tradition of strong county control of local programs and faced with the task of coordinating stringent U.S. Department of Health and Human Services regulations with state legislature requirements, the Wisconsin Bureau of Aging undertook a yearlong negotiating process in which the needs of all parties were weighted, discussed and decided on. Similarly, the Virginia Office of Aging negotiated a guidance manual with 25 area agencies.[49] Such negotiating probably is growing as local governments try to adjust to the continuing flow of federal and state regulations.

Moreover, the ACIR study showed that Land and Water Conservation Fund grants for Wisconsin parks encouraged the establishment of areawide networks within the state to bargain with the state government. Local officials initiated areawide organizations in order to keep abreast of problems that were increasing costs. They also wanted to deal with state administrators from a position of collective

strength. Similarly, areawide agencies created to administer the *Older Americans Act* have been used for this purpose as well.

Negotiation was formalized in Connecticut, when all levels of government sat down together and worked out the Negotiated Investment Strategy for using social services block grant funds. Each party agreed to its commitment before any funds changed hands.

8. Added an element of uncertainty to state-local relations. State enabling legislation is required for the acceptance of some federal funds, and state administrative decisions must be made on pass-through monies. Consequently, federal decisions on whether to fund a program or on changes in federal regulations have had consequences from top to bottom. Local governments have had to await the decisions of both levels before drawing up final plans. A study of wastewater treatment grants indicated that the state of Maryland annually changed the rankings of local applications as it reordered its priority list. The consequent uncertainty surrounding local positions affected local planning adversely.

More recently, reductions of federal guidelines under the new block grants aggravated uncertainties at the same time they broadened options. The Reagan Administration experiments with "nonbinding" guidelines for program administration produced confusion among state and local officials.[50]

9. Increased friction and cooperation. Increased interactions have both increased tensions in state-local relations and brought new opportunities for cooperation between the two levels. Particularly when the interactions are the result of more state requirements of local government or the interposition of the state as program manager for the federal government, they are likely to generate stress. One example is in the wastewater treatment programs where a conflict between federal and state requirements produced delay in project authorization by state officials.[51] Another resulted when state departments of education in some states altered their previously supporting stances and took on monitoring activities.[52]

Many examples of federally inspired state-local cooperation come to mind. The *Intergovernmental Personnel Act*, for example, stimulated sharing of job information centers and examination rosters among other actions. Federal A-95 requirements for intergovernmental review of proposed projects financed by grants-in-aid increased communications and information exchange among governments. Even though the requirements have been rescinded, the process still is followed in most states.[53] Cooperative intergovernmental efforts in forest management and forest fire protection have been promoted by federal grants for forestry,[54] and agricultural extension services are models of intergovernmental cooperation among all levels.

10. Fluctuation in the establishment and maintenance of substate organizations on a functional basis. For many years, federal actions generated the creation of substate regional organizations that would have come about more sporadically, if at all, had their establishment been left to the state and local governments. Most of these were new, special-purpose organizations, such as community action agencies and area agencies for the aging, operating in one functional area[55] and receiving 92% of their financial support from the federal government. General purpose organizations, such as councils of governments (COGs) or regional councils that often were created as the result of federal legislation, got a substantially smaller portion of their budgets in federal aid, about 76%. Cutbacks of federal financial assistance under the Carter and Reagan Administrations adversely affected many of these organizations and their number subsequently was reduced somewhat. Nevertheless, for a while the dramatic growth of special purpose regional organizations within states produced substantial overlapping as well as difficulties in coordination. The overlapping by state is shown in *Table* 14–4.

Differing membership requirements for substate regional agencies in different functional areas also presented problems. General purpose organizations, such as councils of governments, were unable to serve as the administrative body of a district because of distinct membership requirements for each function. Health system agency legislation, for example, stipulated that 40% of these bodies be composed of health care providers,[57] a requirement that COGs could not meet. Economic develop-

Table 14–4

THE OVERLAPPING OF SUBSTATE REGIONAL ORGANIZATIONS, BY STATE, 1977

States In Which General Purpose Regional Councils Outnumber Special Purpose Regional Organizations		States In Which the Numbers of special Purpose Regional Organizations Equals or Exceeds (by not more than 100%) the Number of General Purpose Regional Councils				States In Which the Number of Special Purpose Regional Organizations Is More Than Double the Number of General Purpose Regional Councils	
South Dakota	0%	New Mexico	100%	Mississippi	145%	Oklahoma	209%
North Dakota	14%	Delaware	100%	Iowa	153%	Alabama	233%
Colorado	38%	Kentucky	106%	Indiana	160%	Pennsylvania	252%
Idaho	42%	Kansas	109%	Minnesota	162%	Wisconsin	288%
New Hampshire	50%	Washington	110%	Florida	164%	Arkansas	290%
Vermont	50%	Georgia	121%	Virginia	166%	Michigan	292%
Utah	62%	Maine	125%	Arizona	166%	Alaska	300%
Montana*	90%	Ohio	127%	Illinois	174%	Hawaii	300%
Nebraska	93%	Wyoming	128%	North Carolina	182%	Maryland	325%
		Oregon	128%	Louisiana	184%	New Jersey	400%
		Missouri	131%	Massachusetts	190%	New York	444%
		Nevada	133%	California	195%	Rhode Island	(no regional councils)
		South Carolina	136%	Texas	200%		
		Connecticut	142%	Tennessee	200%		
		West Virginia	144%				

SOURCE: ACIR staff compilation from *1977 Census of Governments*, Volume 6, Number 6, *Regional Organizations*.

ment districts, on the other hand, were expected to include at least one-third of their board membership from community private economic interests such as bankers or developers.

As a result of efforts by the Nixon Administration, 18 states set up multipurpose statewide district systems during the 1969–72 period,[58] but little federal energy seems to have been exerted toward that end under subsequent administrations. At the state level, only one state, Florida, has enacted legislation to strengthen its substate districting system.[59] These statewide systems ordinarily are not used for service delivery in federal programs but are assigned planning and coordinating roles.[60] Conflict in membership and boundary requirements as well as frequent lack of state commitment to uniform areawide administration impeded such adaptation. Under the Reagan Administration, funding for substate districts was cut and some programs involving them were eliminated. As a consequence, requirements for structural characteristics and responsibilities have been substantially reduced.[61] Moreover, the A-95 review process was discontinued. For the immediate future, at least, states are expected to determine what review of proposed plans for federally funded projects is necessary despite the statutory vesting of this authority at the national level.

11. Substitution of a state-local for a federal-local relationship in areas affected by block grants. Under the *Omnibus Budget and Reconciliation Act of 1981*, seven new block grants were created and two existing ones were reconstituted. As a result, 43 categorical grants involving direct federal-local relations were eliminated. Instead, states were given the funds and authority to control local administration of the programs. Changes were particularly important in the State Community Development Block Grant for Small Communities. Instead of looking to the federal government for approval of applications and allocation of funds, small communities had to direct their attention to the state capitals.

Some of the federal regulations attached to block grant programs remained in force, and in connection with some of the categorical programs—notably aid to families with dependent children, food stamps and school lunch programs—they increased. Nevertheless, rules and regulations generally have become more flexible despite substantial variation among programs and among states.[62] States continued previously imposed federal regulations in some programs because of uncertainties about interpretations of federal requirement and fear of future changes in national rules.

12. Possible additional developments. The federal presence appears to have had other influences on state local relations also. According to one study,

> ... it seems to have stimulated local lobbying on the state level, both by general governments and by functional organizations. The involvement of local government in programs for the aging, for example, generated the establishment of local organizations to deal with this group of citizens and provided an incubator for concerted action.[63]

Moreover, general local governments have worked to influence the amount and distribution of general financial assistance. State municipal leagues and association of counties or towns and townships are increasingly vocal at the state level.

A hardly discernable development in the jumble of state-local relationships that exists in the United States may be more uniformity in state-local relations. When federal regulations are imposed on state actions in passing-through monies or managing the local administration of federal programs, state practices must of necessity become more uniform, even though compliance with federal mandates is difficult to enforce. Despite the Reagan Administration's emphasis on greater state choice, the long-range trend has been toward homogeneity. State-local relations are unlikely ever to be uniform; nevertheless, federal influence is in that direction.

ASSESSMENT OF STATE-LOCAL RELATIONS

While progress has been uneven among the states and among indicators of improved state-local relations, a fair assessment of the data

presented in *Chapters 12, 13, and 14* would conclude that, overall, states are now more appreciative of local, and particularly urban, problems than they have been in the past. Moreover, they are moving to loosen their legal grip on local powers although they often tighten it administratively, and a few, at least, have made significant progress in improving the structure of their local governments. At the same time, state governments are subject to the same taxpayers' resistance as other governments and, consequently, resist only with difficulty the imposition of tax and spending limitations on their local units.

In addition, evidence indicates that the expansion of federal activities on all fronts and particularly in grants-in-aid, federal preemption of state functions, and federal mandating of certain actions on both the state and local levels has affected the relations of states with their local units, frequently adversely.

In retrospect, trends affecting state-local relations over the past decade can be summarized as follows:

- States have moved to lessen the constraints of Dillon's Rule and to broaden the discretionary authority of local governments.
- Counties, in particular, have acquired more authority.
- Authorization for interlocal cooperation have become more prevalent.
- On the other hand, state mandating of local activities and expenditures has increased and administrative supervision has been augmented; nevertheless, some states began to pay for the mandates they imposed.
- The state role in local finance has grown, although state fiscal assistance did not increase as rapidly for a while, as did federal aid.
- State aid patterns have become more geared to urban needs, and, in some cases, to a greater extent than federal assistance.
- States have made progress toward reforming state and local fiscal systems and some have allowed local governments broader taxing authority.
- Localities have become more dependent on outside aid.
- State reforms in school finance have reduced fiscal disparities among school districts.
- States have assumed financial—and sometimes administrative—responsibility for some functions previously financed locally, thus lessening the drain on local purses.
- Functions have become more intergovernmentalized, with fewer having one dominant provider and more shared by both levels.
- States have taken increasingly affirmative approaches to local growth and development concerns at the same time that they have taken back some of the authority over land use previously delegated to local governments.
- Very few states have restructured their local government systems.
- State-local relations commissions and state departments of community affairs have been used increasingly to improve the local input into state decisions affecting localities.
- State creation of substate district systems rose for a while, and a few states have moved to constrain the establishment of special districts.
- Overall, states have acted as though they were more conscious of local problems and have appeared to be moving, albeit slowly in many instances, to perform more responsibly as far as their local governments were concerned.

Positive, uneven, but steady movement toward greater local autonomy, coupled with growing local fiscal dependence, is the result.

FOOTNOTES

[1] *An Evaluation of the Intergovernmental Personnel Act of 1970: A Report to the Congress of the United States by the Comptroller General* (Report FPCO-80-11). Washington, DC. U.S. General Accounting Office, December 19, 1979, p. 79.

[2]See ACIR, *City Financial Emergencies: The Intergovernmental Dimension*, A-42, Washington, DC, U.S. Government Printing Office, July 1973.

[3]These definitions are based on those used in John E. Petersen, C. Wayne Stallings, and Catherine Lavigne Spain, *State Roles in Local Government Financial Management: A Comparative Analysis*, Washington, DC, Government Finance Research Center for the Department of Housing and Urban Development, June 1979, p. 28.

[4]The accounting principles related to: (1) fund accounting, providing for the establishment of different types of funds for restricting and general purpose monies; (2) a budget or financial plan for each fund, showing actual and budgeted revenues and expenditures; (3) legal compliance, meaning that violations of the law are to be reported even though, in some instances, the law may conflict with accounting principles; (4) the use of accrual or modified accrual basis for timing the reporting of financial transactions; (5) separate accounts for fixed assets and depreciation recording only for enterprise funds with no general fixed asset depreciation; (6) separate accounts for long-term liabilities; and (7) financial statements for each fund and a comparison of actual budgeted revenues and expenditures. See John E. Petersen, Lisa A. Cole, and Maria L. Petrillo, *Watching and Counting: A Survey of State Assistance to and Supervision of Local Debt and Financial Administration*, National Conference of State Legislatures and Municipal Finance Officers Association, October 1977, pp. 22–23.

[5]ACIR, *Information Bulletin*, No. 79-7, Washington, DC, November 1979.

[6]John E. Petersen, Lisa A. Cole, and Maris L. Petrillo, *Watching and Counting: A Survey of State Assistance to and supervision of Local Debt and Financial Administration*, National Conference of State Legislatures and Municipal Finance Officers Association, October 1977, p. 4.

[7]*Ibid.*, p. 10.

[8]David T. Stanley, "Cities in Trouble," prepared for the Academy for contemporary Problems, Columbus, OH, as reprinted in *Managing Fiscal Stress*, edited by Charles H. Levine, Chatham, NJ, Chatham House Publishers, Inc., 1980, pp. 113–14.

[9]ACIR, A-42, *op. cit.* The Commission also adopted a number of other recommendations relating to local financial emergencies.

[10]*Ibid.*

[11]*Ibid.*

[12]*Ibid.*, pp. 7–8.

[13]Martin Shefter, "New York City's Fiscal Crisis: The Politics of Inflation and Retrenchment," *The Public Interest* 47, Summer 1977, pp. 98–127, as reprinted in Levine, *op. cit.*, pp. 82–83.

[14]ACIR, *The States and Distressed Communities: 1983 Report*, Washington, DC, U.S. Government Printing Office, forthcoming.

[15]*The States and Distressed Communities: Indicators of Significant Actions: A Report by Staff of the National Academy of Public Administration and the U.S. Advisory Commission on Intergovernmental Relations to the Office of Community Planning and Development*, U.S. Department of Housing and Urban Development, September 1979, p. ii.

[16]Enterprise zones are specially designated distressed areas where economic development is encouraged through forgiveness of tax payments and other means.

[17]Charles Warren, "Analysis of State Activity in Development of Comprehensive Community Strategies," January 1979, as cited in "The Urban Policy Role of the States," prepared for the Office of the Assistnt Secretary for Community Planning and Development, Purchase Order HUD 848–79, by Hamilton-Rabinovitz, Inc., August 7, 1979, pp. 36–38.

[18]Robert D. Thomas' comment at meeting of Council of University Institutes for Urban Affairs, Washington, DC, March 12, 1980.

[19]Florence Zeller, *ibid.*

[20]Charles R. Warren, "Executive Summary: The States and Urban Strategies: A Comparative Analysis," Washington, DC, National Academy of Public Administration for Office of Policy Development and Research, U.S. Department of Housing and Urban Development, March 1980, p. 3.

[21]*Ibid.*

[22]Thomas R. Dye and Thomas L. Hurley, "The Responsiveness of Federal and State Governments to Urban Problems," *Journal of Politics*, 40:1, February 1978, p. 204. For comments on the methodology used in this research and a response, see: Peter D. Ward, "The Measurement of Federal and State Responsiveness to Urban Problems," *Journal of Politics*, Vol. 43, No. 1, February 1981, pp. 83-101, and Thomas R. Dye and P. Lane Hurley, "Measuring Responsiveness: A Brief Reply," *ibid.*, pp. 102–03.

[23]*Bypassing the States: Wrong Turn for Urban Aid*, Washington, DC, National Governors' Association Center for Policy Research, 1979, pp. 2, 12.

[24]ACIR, *State and Local Roles in the Federal System*, A-88, Washington, DC, U.S. Government Printing Office, 1982, p. 216.

[25]For a detailed account of these activities, see ACIR, *State-Local Relations Bodies: State ACIRs and Other Approaches*, M-124, Washington, DC, U.S. Government Printing Office, 1981.

[26]ACIR, M-124, *op. cit.*

[27]For an analysis of these departments, see: Joseph F. Zimmerman, "State Agencies for Local Affairs: The Institutionalization of State Assistance to Local Governments," mimeographed, Albany, NY, State University of New York at Albany, Graduate School of Public Affairs, Local Government Center, 1968; ACIR, M-124, *op. cit.*; Council of State Community Affairs Agencies, *DCA Roles in Local Government Financial Management: Ten State Profiles*, Washington, DC, Department of Housing and Urban Development, December 1978; and Page L. Ingraham, "New Role for the States," *Public Management*, June 1968, pp. 136–42.

[28]The most comprehensive work on commissions on interstate cooperation is Patricia S. Florestano, *Interstate Cooperation Commissions*, Annapolis, MD, Maryland Commission on Interstate Cooperation, 1974.

[29]For more information on these organizations, see Vincent L. Marando and Patricia S. Florestano, "State Commission on Local Government: A Mechanism for Reform," *State and Local Government Review*, May 1977, pp. 49–59.

[30]For an analysis of Washington liaison offices, see Nicholas B. Wilson, "Enhancing Federal-State Relations: State Liaison Offices in Washington," Ph.D. Dissertation, University of Maryland, College Park, MD, 1975. The number of state liaison offices varies from time to time because of differing attitudes of governors as to their usefulness.

[31]This section relies heavily on Mavis Mann Reeves, "The Federal Problem in State-Local Relations," *South Atlantic Urban Studies*, Charleston, SC, The College of Charleston, 1981. For an analysis of the na-

tional influence on state-local operations and financing, see ACIR, *The Federal Influence on State and Local Roles in the Federal System*, A-89, Washington, DC, U.S. Government Printing Office, 1981.

[32]ACIR, A-77, *op. cit.*, p. 4.

[33]See ACIR, A-88, *op. cit.*, Chapter 2.

[34]ACIR, *Fiscal Management of Federal Pass-Through Grants: The Need for More Uniform Requirements and Procedures*, A-102, Washington, DC, U.S. Government Printing Office, 1981, pp. 22–23.

[35]Catherine Lovell, "Effects of Regulatory Change on States and Localities," in Richard P. Nathan, Fred C. Doolittle, and Associates, *The Consequence of Cuts: The Effects of the Reagan Domestic Program on State and Local Governments*, Princeton, NJ, Princeton Urban and Regional Research Center, Princeton University, 1983, pp. 172–73.

[36]James Q. Wilson, *The Politics of Regulation*, New York, Basic Books, 1980, pp. 377–78.

[37]Lovell, *op. cit.*, p. 177.

[38]I. Carl Candoli, "The Impact of Grants Consolidation on Local Schools," in *Grants Consolidation: A New Balance in Federal Aid to Schools?*, C. Phillip Kearney and Elizabeth A. VanderPutten, eds., Washington, DC, The Institute for Educational Leadership, The George Washington University, 1979, p. 37.

[39]Brian Gardner, "Intergovernmental Fiscal Relations and Local Government Policy: A Study of Federal Wastewater Treatment Grants in Maryland," Ph.D. Dissertation, University of Maryland, 1982.

[40]PL 94–142; 20 U.S.C. 1417(b).

[41]34 CFR 302.71.

[42]Edith K. Mosher, Anne H. Hastings, and Jennings L. Wagoner, Jr., *Pursuing Equal Educational Opportunity: School Politics and the New Activists*, New York, Clearing House on Urban Education, Teachers College, Columbia University, 1979, p. 21.

[43]Michael W. Kirst, "State Role in Regulating Local Schools," in *Government in the Classroom: Dollars and Power in Education*, edited by Mary Frese Williams, New York, The academy of Political Science, Columbia University, 1978, p. 51.

[44]Mosher, et. al., *op. cit.*, p. 18. 34 CFR 302.74.

[45]Bruce O. Boston, *Education Policy and the Education for all Handicapped Children Act (PL 94–142): A Report of Regional Conferences, January-April, 1977*, Washington, DC, Institute for Educational Leadership, The George Washington University, 1977, p. 31.

[46]Lovell, *op. cit.*, p. 176.

[47]G. Ross Stephens and Gerald W. Olson, "The Redistributive Function of Federal and State Governments," *The Urban Interest*, Vol. 3, Special Issue, University of Kansas, 1981, p. 34.

[48]Mavis Mann Reeves, "Politics, Public Policy, and Intergovernmental Relations: The Rural Community Fire Protection Program," a paper prepared for delivery at the American Society for Public Administration Conference, San Francisco, CA, 1979.

[49]ACIR, A-102, *op. cit.*, p. 27.

[50]Lovell, *op. cit.*, p. 175.

[51]Gardner, *op. cit.*

[52]See Janet Simons and Barbara Dwyer, "Education of the Handicapped: Impacts at the State Level," in Williams, *op. cit.*

[53]Testimony of Charles F. Horn, President of the National Association of Regional Councils, before the Senate Governmental Affairs Committee, Subcommittee on Intergovernmental Relations on the Future of Metropolitan Governance, February 6, 1984.

[54]See ACIR, A-85, *op. cit.*

[55]See Chapter 5.

[56]ACIR staff calculations. For other examples, see: J. Norman Reid, Jerome N. Stam, Susan E. Kestner, and W. Maureen Godsey, *Federal Programs Supporting Multicounty Substate Regional Activities: An Analysis*, Washington, DC, Economic Development Division, Economic Statistical and Cooperative Service, U.S. Department of Agriculture, May 1980.

[57]42 U.S.C. 3001-1. According to Lovell, the Reagan Administration "has encouraged states to reduce or eliminate their involvement in special-purpose planning agencies, such as health planning agencies." Lovell, *op. cit.*, p. 182.

[58]Bruce D. McDowell, "Most States Support Regional Councils, All Could Do More," *National Association of Regional Councils Report*, No. 42, Washington, DC, September 1979, p. 3.

[59]Regional Planning Council Act of 1980, *Florida Statutes*, Chapter 160.

[60]Major exceptions are area agencies on the aging who frequently have responsibilities for operations under state option. Often they contract for services.

[61]Bruce D. McDowell, "The Future of Local Development Districts in Appalachia," speech to Appalachian Local Development District Conference, Washington, DC, May 10, 1983.

[62]Lovell, *op. cit.*, p. 172.

[63]Reeves, *op. cit.*

Findings, Issues And Recommendations

States occupy a crucial position in the American federal system as 50 semi-independent governments with differing legal, judicial, fiscal, political and administrative arrangements. They produce a wide range of public policies and varied state-local servicing and financing patterns. In their design of governmental institutions and practices and their choices of public programs, they reflect the preferences of 50 unique political cultures and constituencies. These internal attributes exert strong influences on individual state behavior. One perspective, then, from which to view changes in state government and finances is that of the states as separate polities.

Yet, the states together clearly occupy a critical position in the intergovernmental relations of the United States as well. Their Constitutional status makes them the architects of local governments, assuring them of a pivotal location in many communications and interactions between the national government and local jurisdictions. It also makes them the dominant subnational partner in federal intergovernmental programs. At the same time, the extent and quality of state participation in regional and interstate activities have consequences for horizontal intergovernmental cooperation, sometimes with Washington participating but more frequently without.

MODIFICATION OF STATE ROLES

Two developments affecting state governments since mid-century have implications for

the future of the federal system. The first is the increasing emphasis on the states' role as intergovernmental managers. The second is the growing competence with which states approach this task as well as their more traditional functions.

In the 1780s when the *United States Constitution* was written, and for more than a century after that time, states were the dominant partners in the Union. Succeeding wars and the Great Depression of the 1930s, along with other factors, brought the federal government to the fore, changing the position of the states and bringing adverse assessments of their performance. Nevertheless, the states maintained a strong political role, governing—in the broadest sense—their respective territories and populations, exercising public policy choices, resisting centralization of decisionmaking at the national level and representing their citizens' viewpoints in the federal system.

Recent events suggest a stronger intergovernmental role for the states even as their earlier one as prime instruments of social, economic and political choices for their differing citizenries has been enhanced. Their functions as middlemen have expanded and deepened over the last quarter of a century, and they are expected to do the bulk of the intergovernmental work. Moreover, on their own initiatives, states as a group assumed the senior partnership in state-local financing and increased their support of local governments. This shifting and readjusting no doubt will continue as governments at all levels react pragmatically to the domestic challenges of the 1980s.

STATE RESPONSE TO CRITICS OF THEIR COMPETENCE

States' competence to handle their own and intergovernmental affairs has been questioned continuously. Critics have pointed to outmoded constitutions, jerry-built governmental structures, and unrepresentative and poorly run legislatures. They have deplored the inadequate tools and cumbersome procedures employed by state governments. They have charged state governments with lack of openness, with inaction in meeting public needs, and with incompetence and corruption.

Much of this criticism once was deserved. States in the middle of the 20th century had failed to modernize their governments and to change with the times. Their legislatures were malapportioned, their constitutions archaic, and their governmental structures and processes in need of remodeling. They often neglected to deal with the pressing public problems facing them, especially as these related to urban areas. In many instances, particularly in the south, they were more concerned with promoting states' rights than with protecting the rights of citizens and assuring them equal access to governmental institutions and services.

Since the mid-1950s, states across the country have been reexamining and remodeling their institutions and processes. One by one, and little by little, particularly in the decades of the 1960s and 1970s, they changed them to conform more closely to the models reformers had advocated for years. Sometimes this reformation was accomplished at the behest of national actions but more frequently it was the result of indigenous initiatives. The changes were so piecemeal and intermittent, so disconnected in geography and so largely unrelated in media notice, however, that few people realized the profound restructuring of the state governmental landscape. Today, states, in formal representational, policymaking and implementation terms at least, are more representative, more responsive, more activist and more professional in their operations than they ever have been. They face their expanded roles better equipped to assume and fulfill them.

This study was undertaken to measure the extent of these changes. The specific findings that follow divide broadly into two parts: those relating to overall efforts to enhance the competence, capacity and accountability of the 50 polities and those relating to the new intergovernmental roles the states have assumed, either tacitly or overtly. These two developments, of course, are not wholly discrete but are presented in this fashion to help highlight the major current roles the states now play in our federal system and in the intergovernmental relations supporting it.

FINDINGS ON IMPROVED STATE GOVERNMENT CAPABILITY

In the quarter century since the Commission

on Intergovernmental Relations (Kestnbaum Commission)—appointed to select national functions to be turned over to the states—criticized state government capability, a largely unnoticed revolution occurred in state government. The decades of the 1960s and 1970s witnessed changes unparalleled since the post-Reconstruction period a century ago. State governments were transformed to a remarkable degree. If, today, states have not reached the peak of excellence demanded by those who regard them with a jaundiced eye, it is not because they have been unwilling to change. The alterations, moreover, have been in the direction advocated by reformers for 50 years.

Although there is no fixed standard against which to judge state capability—no model state government—a check of the major facets of state government reveals that states have been strengthened along many lines. Their constitutions, legislatures, governors, executive branch organizations, courts, personnel, budgeting, financing, financial administration and openness all attest to this. Even though all states have not moved at the same pace, improvement in state government constitutes a nationwide phenomenon. Luther Gulick would have difficulty recognizing the jurisdictions he condemned to death 50 years ago, although he would applaud their progress.

PUBLIC OPINION RELATIVE TO STATE COMPETENCE

To some extent, public opinion reflects the improvements states have made. Their relative position in public opinion as compared to the federal government has risen—or else, the decline of confidence in the national level connected with Vietnam and Watergate played to the advantage of the states. *Table 15–1* reflects responses to a 1976 Harris survey comparing attitudes toward the state and national governments. About three times as many people thought that the states cared more about what happens to people than did the federal government. A similar majority perceived the national government as more corrupt. Not surprisingly, an even greater margin found the state government closer to the people. Nevertheless, over the years, as reflected in *Table 15–2*, most citizens felt they got more for their money from both the federal and local governments than

Table 15–1

ATTITUDES TOWARD THE STATE AND NATIONAL GOVERNMENTS*, 1976

(In percent)

Question: I'd like you to keep in mind the federal and state government. If you had to choose, which do you think (read list), the federal or state government?

Attitude	State Government	Federal Government	No Difference	Not Sure
Positive				
is closer to the people	65	12	16	7
can be trusted more	39	15	35	11
really cares what happens to the people	36	14	40	10
attracts more able people in government	20	41	27	12
Negative				
gives the taxpayer less value for the tax dollar	23	44	21	12
is more corrupt	12	41	34	13
is more out of touch with what people think	12	56	21	11
is more wasteful	8	58	26	8

SOURCE: *Chicago Tribune*, July 5, 1976, Section 1, p. 2. Poll by Louis B. Harris and Associates.

Table 15–2

FROM WHICH LEVEL OF GOVERNMENT DO YOU FEEL YOU GET THE MOST FOR YOUR MONEY—FEDERAL, STATE OR LOCAL?

Percent of U.S. Public

	May 1983	May 1982	Sept. 1981	May 1980	May 1979	May 1978	May 1977	March 1976	May 1975	April 1974	May 1973	March 1972
Federal	31	35	30	33	29	35	36	36	38	29	35	39
Local	31	28	33	26	33	26	26	25	25	28	25	26
State	20	20	25	22	22	20	20	20	20	24	18	18
Don't Know	19	17	14	19	16	19	18	19	17	19	22	17

SOURCE: ACIR, *Changing Public Attitudes on Government and Taxes* (S–12), Washington, DC, U.S. Government Printing Office, 1983, p. 3.

from the states, an attitude that still persists. A look back at *Table 4–22*, however, reveals a conflict for 1979. The Harris poll reported there indicates that by a margin of 2.5-1 respondents believed Congress gave taxpayers *less* value for tax dollars than did state legislatures. Two years later a Gallup Poll showed the public generally favoring concentrating power in the states rather than in the federal government. As *Graph 15–1* shows, more people also believed states, rather than the national government, were better able to perceive their needs, more likely to administer social programs efficiently, and more able to make corruption-free decisions.

Much of this positive assessment of the states no doubt relates to the changes they have experienced since the mid-1950s. Below are set out the findings of this study in specific areas of state structure, activities or roles. On balance, they indicate that the states deserve greater public confidence.

State Constitutions

1. Four-fifths of the states have taken official action to modernize their basic charters since mid-century. Although not all were successful, a total of 11 states, excluding Alaska still operating under its original document of 1956, have adopted new, revised constitutions in the quarter century since the Kestnbaum Report. In addition, New Hampshire completed consideration of 27 amendments submitted in a series beginning in 1974 and culminating in 1980. Other significant changes resulted from single amendments.

2. Generally, constitutional alterations, whether by comprehensive revision or individual amendment, reduced constitutional detail, improved the amending process, added protections for individuals against discrimination, strengthened the capacities of the Governor, legislature and judiciary, liberalized suffrage, upgraded election administration, and extended home rule and taxing options for local governments. In some states, taxing or spending limits were imposed on states or local governments or both.

State Legislatures

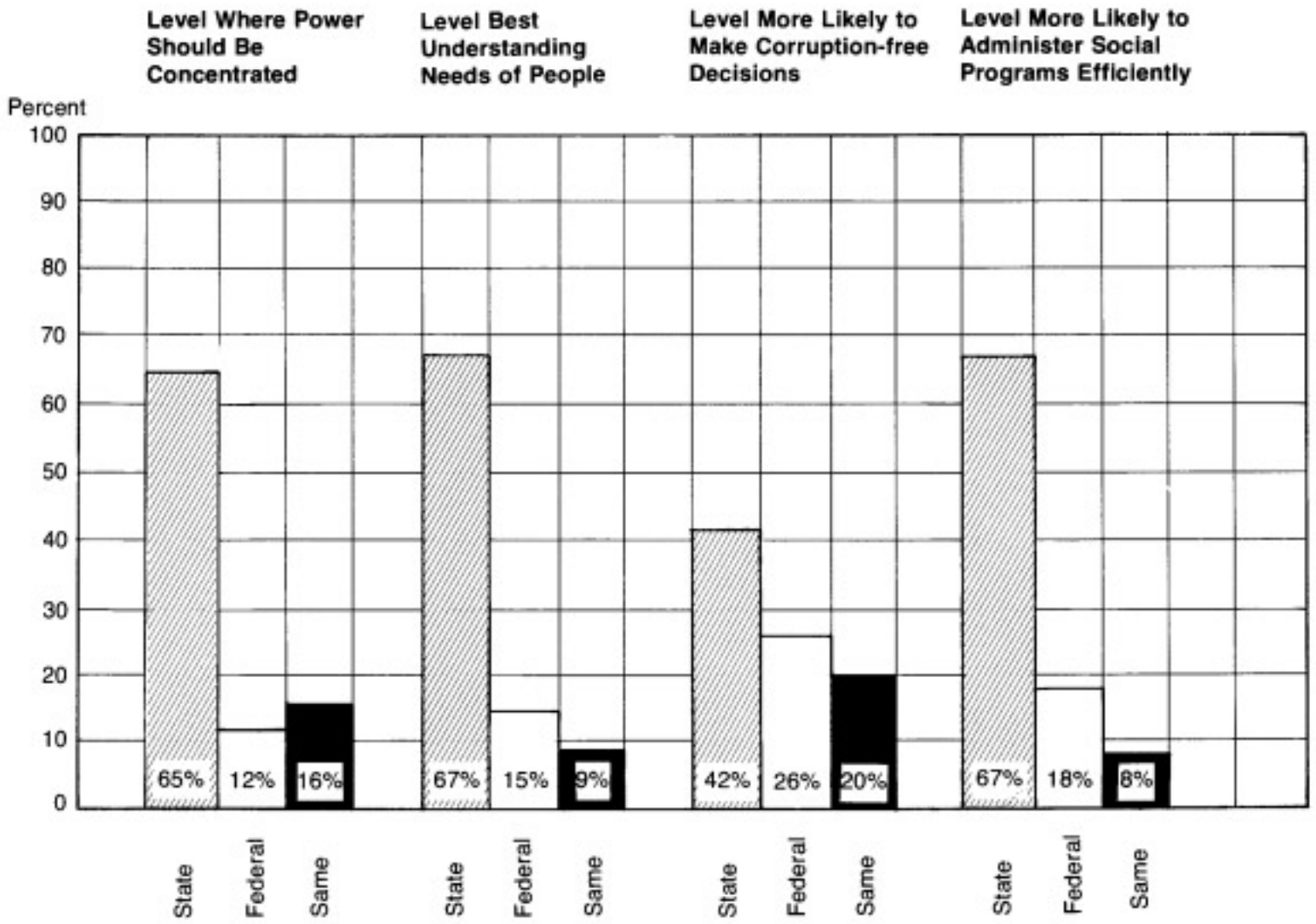
- Since *Baker v. Carr* (1962) and subsequent court decisions on reapportionment, states have modernized their legislatures in many respects. Nevertheless, certain improvements can still be made.

APPORTIONMENT, SIZE AND SESSIONS

1. All legislatures today are regularly and fairly apportioned after each decennial census.

Graph 15–1

FAVORABLE VIEWS OF THE STATES



SOURCE: Compiled from the Gallup Poll, September 18–21, 1981. Parris N. Glendening and Mavis Mann Reeves, *Pragmatic Federalism: An Intergovernmental View of American Government*, 2nd ed., Pacific Palisades, CA, Palisades Publishers, 1984, p. 99.

2. Like the congress, no state legislature is representative demographically of the people it serves. They are overwhelmingly white, male, middle-aged, Protestant, better educated, and better off financially than their constituents.
3. The number of states with multimember districts declined from 32 in 1969 to 20. The size of multimember delegations dropped as well.
4. States have made little progress in reducing the size of their houses of representatives. Although all state senates are of workable size, 22 houses of representatives had memberships in excess of 100 in 1982.
5. In contrast to the ten with annual sessions in 1951, 36 states now formally provide for annual sessions and eight others have informal arrangements to meet annually. Moreover, 16 states do not restrict the length of their annual sessions. Legislatures appear to be meeting longer.
6. The number of states restricting the legislature's ability to call special sessions declined from 36 in 1963 to 22 in 1980. The number of legislatures that can expand the special session agenda from that set out in the Governor's call increased from slightly more than half in 1963 to 35 currently.
7. One-half of the states now permit bill carryovers from one session to the next.
8. Almost half of the states organize early, choosing their leadership more than one month prior to the session. About a third name their committees in advance of the session.
9. All states hold orientation conferences for their houses of representatives and all but six provide them for their senates.

COMMITTEES AND THEIR PROCEDURES

10. The number of legislative committees has declined markedly over the years, now amounting to fewer than half the number that existed in 1931. More recently, the number of house committees declined from a total of 1,356 in 1955 to 942 in 1969 and to 914 in 1981. A total of 36 states reduced the number of their committees between 1955 and 1981. Six increased the number.
11. Comparative figures are unavailable for committee assignments. In state senates, members ordinarily serve on one to eight, and in houses of representatives on one to nine. Senators are assigned to more than four committees in ten states while house members have in excess of three assignments in only eight.
12. Approximately two-thirds of the states have uniform rules of procedure that applied to all committees.
13. All states now require open committee meetings.
14. Most states require advance notice of committee meetings and hearings, although the length of time required varies with the importance of the matters considered. Only 15 houses and 13 senates fail to have such requirements.
15. A total of 16 states require committees to report all bills, the same number that had this requirement in 1955.
16. According to respondents from 40 states, 29 legislatures require minimal committee reports on bills and 11 stipulate substantive reports.
17. Roll call votes to report measures to the floor were always taken in 28 houses and 30 senates out of the 40 states responding to a 1979 survey. Four states never recorded roll call votes.
18. Practices on state legislative committee record keeping vary among the states.
19. Nine of 43 states responding to a 1977 survey allowed proxy voting in committee.
20. In 26 states, all bills with a fiscal impact are referred to the appropriations committee in addition to the subject-matter committee. Another state refers all bills that appropriate money.
21. Regular standing committees are used as interim committees to work between

sessions in 29 states. The same committee assignments continue as well. Ordinarily, interim committees are established separately for the two houses; only ten states have joint interim committees.

22. Interim committee in more than half the states submit reports on their work before the legislative session begins. Eighty-one percent also prepare and file bills to accompany their recommendations.

COMPENSATION AND BENEFITS

23. Compensation figures are difficult to assess because some states pay annual salaries and others compensate on a per diem basis. If the salaries of the 39 states paying an annual rate are used as indicators, between 1970 and 1981 the number of states paying below a recommended floor of $10,000 fell from 39 to 13. If the figures are adjusted for inflation, however, the $10,000 limit would have to be raised to $23,422 to reflect constant dollars. In deflated dollars, 35 states still pay below the recommended amount, leaving improvement in four.
24. Salaries range from $100 annually in New Hampshire to $31,000 in Michigan. States compensating on a per diem basis, pay from $5.00 to $104.00. Most of these states limit the number of days for which payment can be made. Living and travel allowances are usually paid regardless of the method of regular compensation.
25. Fringe benefits have improved in recent years with most states now providing both health and life insurance for legislators and all but seven states having retirement systems.

LEGISLATIVE PROCESS

26. To provide for an orderly flow of work, 35 states have established time periods for introducing legislation. Another state has a second session deadline. Twenty-two states have cut-off dates for bill drafting requests made of their legal staffs.
27. Pre-session bill filling is provided in 41 states.
28. Consent calendars to encourage expeditious consideration of noncontroversial bills are now used for both houses in 27 states and for the house only in five states.
29. Automatically placing bills on the calendar in the order they are favorably reported out of committee is in operation in 23 of the 43 states responding to a 1977 survey.
30. All but eight states require that bills be read three times and all specify separate days except in certain circumstances.
31. Four states had numerical limits on the number of bills introduced in 1979. Six states provide for short-form bills in which the sponsor files a statement setting out the intent of the bill he or she proposed rather than introducing the measure finally drafted in legal language. The committee then has the responsibility of combining short-form bills into omnibus legislation that it sponsors.
32. Rights of the minority are profected in the ten houses of representatives and eight senates that allow filing of minority reports. In at least 22 chambers in 15 states, party membership on standing committees is guaranteed in the rules. Methods of designation of minority members vary.
33. At least 29 houses and 34 senates reprint bills after committee action, any amendment, substantial amendment or before final vote.
34. As of 1977, an overwhelming majority of all states—37 for the house and 39 for the senate—recorded roll calls on final passage of legislation. These figures represent an increase of seven and six respectively since 1969. In addition, roll calls could be had on request in 12 houses and 11 senates. A total of 42 houses and 22 senates used electronic roll call recorders, a dramatic

rise since 1969 when 11 states used the devices for both houses with 24 requiring them for the house only and one for the senate only.

35. There has been a dilution of the practice of rotating leadership positions. Only four state houses of representatives elect a new speaker every term, and only six state senates that have elected presiding officers select them anew each time. An additional nine houses and ten senates limit presiding officers to two terms.
36. Of the 36 states with lieutenant governors, 29 make him or her the presiding officer of the senate. All but two of these allow this official to vote to break a tie, although in four not on a final vote. The lieutenant governor participates in making committee appointments in 11 states and assigns bills in 16.

STAFFING AND FACILITIES

37. Among the biggest improvements in state legislatures was the increase in professional staffing. Beginning in the 1960s, legislative staffing grew by leaps and bounds. There are estimates that between 1969 and 1974, professional staffing rose by 130% with almost half of the increased assistance going to committees. Another study estimated that there were more than 16,000 full-time, year-round professional, administrative and clerical staff members in 1979. During legislative sessions, approximately 9,000 additional staff members were employed.
38. All states now have legislative reference libraries, bill analysis and legal research, fiscal review, evaluation and policy research.
39. Committee staffing improved substantially during the 1970s. A total of 32 states had professional staffing for all committees in 1979, and 41 furnished such assistance for most of their committees. Eight states supplied staffing for the session only. Only four states provided no professional staffing for committees.
40. As far as staff for leaders is concerned, presiding officers in all states have clerical assistants and in all but eight states have professional aides as well. Other leaders receive support staff in 42 states with leaders in 32 states getting professional staff.
41. Staff resources have been strengthened for individual members. In 29 states, there are personal staffs for each senator. Most of these are support or clerical aides with nine states providing professional staff. Slightly fewer, 25 of the 49 states with bicameral legislatures make staff assistance available to house members. Only five states provide professional assistance for house members. Stenographic pools are available in most states, even in some of those with individual member staffing. Twelve states furnish district office staffing.
42. Electronic data processing is in use in all state legislatures, up from 28 states in 1969.
43. States do less well providing office space, although they have upgraded their facilities. Private offices are available for all senators in 26 states and shared offices are provided in nine more. House members have private offices in 18 states and share space in 11 more.
44. All but four states provide floor space for the media in both houses. In addition, all states provide facilities for the print media in or near the capitol and half of the states furnish at least one special studio or press conference room for the electronic media.

ETHICS AND LOBBYING

45. All but nine states have legislation pertaining to financial disclosure of members of the legislature.
46. All states require lobbyists to register and many require activity and expenditure reports.

OVERSIGHT

47. Legislatures have broadened their over-

sight activities in recent years and 40 now name auditors and exercise responsibility for the audit process. Many of these include program evaluation.

48. A total of 38 legislatures have statutory authority to review proposed administrative rules and regulations for their adherence to the scope and intent of the enabling legislation and for correct form.

49. Legislative evaluation of administrative and regulatory agencies in the form of "sunset" review was in effect in 35 states in 1981. Between 1976 and 1981, the process had been used to examine 1,500 agencies.

50. As of 1982, 37 states made specific appropriations of federal funds granted to the states. An additional six made automatic or open-ended appropriations. A number of state legislatures participate in application processes for federal grants. Nevertheless, legislative oversight of federally funded programs still is less intensive than oversight of state-funded programs.

LIAISON

51. Three states maintain separate legislative liaison offices in Washington, DC. One of these has an office for each house of its legislature.

Governors And Their Offices

- The governors' capacity to decide, manage and lead has been strengthened over what it was a quarter century ago:

TENURE

1. Since 1955, governors' tenure and reelection opportunities hve increased notably. Only four governors now serve two-year terms as compared to 19 a quarter-century ago. No state limits its governor to one term, in contrast to 17 in 1955, although four prohibit immediate reelection. Two-term limitations rose dramatically, however, from six to 23, probably accompanying the increase in term length from two to four year.

APPOINTING AUTHORITY

2. Gubernatorial appointment power has improved somewhat since 1955. In that year, 385 state agencies were headed by 709 elective officials. By 1980, 338 agencies had elective heads, and the number of officials had dropped to 592. In addition, the number of states with seven or more agencies headed by elective officials (in addition to the lieutenant governor) declined somewhat although more than three-fourths of the states still chose administrative heads for three or more agencies by popular vote. Sometimes other agency heads are selected by the legislatures or by boards. Independent commission also operate outside gubernatorial control.

BUDGET PREPARATION

3. The move toward vesting responsibility for budget preparation in the governor continued over the past 25 years. In 1955, the executive budget movement was well underway and 42 states gave their governors budgetary authority. By 1980, this number had increased to 47.

REORGANIZATION

4. Sixteen states grant their governors specific authority to propose reorganizations of the executive branch. In two states, the proposals take effect unless vetoed by both houses of the legislature, in 11 states disapproval by one house is sufficient, in two approval of both houses is required and in another an informal arrangement prevails.

VETO

5. Little change in veto power has occurred since 1955 because most

states granted substantial veto authority at that time. Four more states, for a total of 13, now permit the item veto, allowing governors to disapprove one section of a bill while allowing the remainder to become law. If Alaska and Hawaii—not in the Union in 1955—are excluded, the increase amounts to two states.

COMPENSATION

6. In terms of constant dollars, governors' salaries have declined during the quarter century. In current dollar amounts, the increase was dramatic. Salaries rose from a median of $16,180 in 1955 to $52,400 in 1981, an increase of 224%. When adjusted for inflation, however, the 1955 salary amounted to $20,175 while the 1981 salary equaled $19,236. Other perquisites of office—such as expense accounts, housing, automobiles, airplanes, insurance and household help—which add to the overall financial rewards, are not included in these figures.

STAFFING

7. Staffing in the governors' office has improved. A comparison of 24 states for the 1948-51 period and 1981 shows an increase in staff size from a range of three to 43 for the earlier period to six to 82.6 for 1981. An examination of staffing for all 50 states shows that about half the states employed 25 or more staff members. Although breakdown between clerical and professional staffing is not available, there appears to have been a substantial increase in professional assistance.
8. As of June 1983, 30 states had general Washington liaison offices usually as adjuncts of the governors' offices.
9. The revitalization of the National Governors' Association has provided a national platform for the states' chief executives and they have become more assertive in defending the states' position in the federal system.

Executive Branch Reorganization And Central Management

EXECUTIVE BRANCH STRUCTURE

- Although the effectiveness of structural and procedural improvements is difficult to assess, states appear to have made substantial improvements in the structures of their executive branches and in the central administration areas of personnel, planning and budgeting. All were marked by changes intended to upgrade them:
  1. Twenty-three states underwent major executive reorganizations between 1964 and 1979. Virtually every other state reorganized one or more departments during this period.
  2. Another move in the direction of the traditional principles of administrative organizations occurred when states reduced their reliance on boards for administrative purposes and eliminated some ex-officio commissions.

PERSONNEL

3. Change in personnel administration has been substantial. At least 35 states now have jurisdictionwide merit system coverage and the remainder have established limited programs. Governments in 32 states are pursuing reform programs in one or more of the following areas: senior executive services, merit pay, labor relations, performance appraisal, decentralization of personnel functions, protection for "whistle blowers," and veterans' preference and benefits.
4. Training and retirement systems have been strengthened, although some are still inadequate.
5. Based on education, career patterns and professional affiliations, heads of state administrative agencies are more professional than they were in 1964.
6. Both women and minorities made up a larger proportion of the corps of administrative heads in 1978 than they did in 1964. Women still seem to be

concentrated in "women's jobs," however.

PLANNING

7. States engage in more planning and on a more sophisticated and comprehensive basis than they did in the 1950s. All states have comprehensive state planning agencies compared to 12 in 1952.
8. All states now undertake land use and economic planning and most have moved into policy planning, although efforts to date have been limited largely to identifying and defining areas where the state may have influence.

BUDGET PROCESSES

9. In 1977, 33 states out of 40 responding indicated significant changes in their budgetary processes over the preceding ten years. Eleven had adopted Planning, Programming, Budgeting Systems (PPBS), nine indicated the use of zero-based budgeting (ZBB), 12 had adopted modified systems combining elements of the others and one had installed a management by objective (MBO) system.
10. Budgetary changes appeared to result in increased emphasis on strategic planning and output effectiveness, greater centralization of budgetary decisionmaking, improved flow of information for decisionmaking and greater innovativeness in state agencies. No statistically significant changes occurred in budget office recruiting patterns or in the functional distribution of time and effort by the budget offices.

The Judiciaries

- States were more successful in reforming their judiciaries than in improving any other branch of government during the last quarter century. The increase in caseloads, however, obscured the extent of the changes in many instances. Between 1955 and 1979, the population grew by 36%; caseloads in state courts rose 1,000%. During this period, states made the following changes:

1. Almost every state made significant changes in the structure and operation of its courts. At least four-fifths of the states adopted simplified and unified court systems.

2. All states but one have established court administrative offices at the state level to provide more efficient operation of the system.

3. Legal qualifications for judges have been raised. In 1955, 17 states did not require legal training for judges of courts of general jurisdiction. Twenty-five states had none for supreme and intermediate appellate court judges. Today, all but seven require both appellate and trial judges to be trained in the law. Three of these require a minimum number of years of legal experience to attain office.

4. Improvements have been made in the selection process by using the Missouri (or merit) plan and by establishing judicial councils and judicial selection commissions. At least 14 states have some kind of merit plan for selecting judges.

5. Special discipline and removal commissions now supplement impeachment, legislative resolution, recall and other more traditional methods for removing incompetent judges. The first of these commissions was established in 1960. By 1980, a total of 41 states had them.

6. States have assumed a greater share of the costs of operating court systems. In 1969, states paid about one-fourth of the costs and, in 1970, only seven assumed over 90% of the costs. Now at least 14 states pay almost all court expenditures.

Openness And Access

OPENNESS

- State governments are more open than they were a quarter century ago:

1. All states now have open meeting laws; no state had such a law prior to 1967. These statutes ordinarily include executive, legislative, administative, and advisory committee meetings, although state legislatures usually have their own rules on the subject. Personal penalties are provided for violations of open meeting laws in 36 states and actions taken at closed meetings can be voided in 37.
2. Provisions requiring advance notice of public meetings apply in 45 states.
3. A total of 41 states mandate that minutes of public meetings be taken.
4. By 1980, half of the state legislatures had opened their doors to in-depth television coverage in contrast to the experimental or special events coverage of the 1950s.
5. All but two states now have administrative procedure statutes. Of these, 45 provide for notice of proposed action on administrative rules, 42 have provisions allowing citizens to present their comments either in written or oral form and 38 permit citizens to petition for rulemaking action. In all, 35 states have all three provisions. Twenty states have adopted the "Model State Administrative Procedures Act" proposed by the National Commissioners on Uniform State Laws, either as drafted or after amendment.
6. Registers, similar to the *Federal Register*, serving as a regular bulletin for publication of proposed rules, have been established in 25 states.
7. Administrative codes for codifying rules and regulations have been established in 26 states.
8. All states open legislative hearings on the budget to the public. As of 1975, a total of 17 states held hearings during the executive part of the budget process, either because of legal requirements or because the governor elected to schedule them. These hearings seem to be designed to give agency heads an opportunity to present their views prior to submission of the budget to the legislature and there is no indication that the public gets involved. Legislators and legislative staff members do.
9. Although practices vary, all but four states make some effort to publicize the budget document before legislative action. In most states, copies are available to all members of the legislature, to all state agancies, to members of the news media, and often to all state libraries. Citizens sometimes may get copies as long as they are available. Sometimes they are charged a fee. In some states, summaries or popularized versions are available.
10. In contrast to 34 states in 1961, all but two states had open records laws—making public records available for inspection—in 1983. Nevertheless, some of the laws are weak and do not guarantee public access.

PRIMARIES AND ELECTIONS

11. More people now can participate in primaries and elections than previously, largely as a result of the extension of the suffrage to 18-year olds by the ratification of the 26th Amendment and the enactment of the *Voting Rights Act of* 1965.
12. Registration laws have eased. Thanks to Constitutional amendments and court cases, the period since 1955 saw the poll tax and literacy test eliminated as prerequisites for registration and the length of residence lowered from a year or more to less than 30 days in all states. In addition, on the states' own initiative, permanent registration statewide was adopted in 27 states and applied to all elections in 32, provision was made for registration by mail in 20, and closing dates for

registration were moved closer to election day.

13. The conduct of primary elections has been modified with more states having open primaries than was true in 1955. As of 1982, nine states had open primaries in which voters could vote for candidates of either party. In addition, two states had "blanket" primaries in which citizens could choose among candidates from both parties. One state had a nonpartisan primary in which all candidates were listed on one ballot and all voters may choose among them.
14. In general, easier access to the polls has not meant an increased voter turnout. Interstate disparities in turnout were reduced, nonetheless. Approximately 68.5% of eligible Idaho citizens voted for President in 1980; only 40.7% participated in South Carolina. This range of 27.8 points compares with a 58.8 deviation in 1956. In that year, 79.8% of Delaware's citizens went to the polls compared to 21.0% of Mississippians.
15. Public funding of campaigns was adopted in 17 states during the quarter century. As of 1977, 26 states permitted state income tax credits or deductions for campaign contributions.
16. More minorities and women hold public office than previously. A total of 4,871 blacks held state and local office in 1980, almost a fourfold increase since 1971. In only seven states could none be identified and they were northern states with relatively small black populations. As for women, 16,083 held elective state and local offices in 1980. They made up 12% of all office holders.
17. Early filing deadlines for independent candidates for office were invalidated by the U.S. Supreme Court in *Anderson v. Celebrezze* (1983), making ballot access easier for such candidates and broadening the range of choices for citizens.

Finances

- States made major changes in their expenditure patterns, altered their revenue-raising structures, and increased their debt.

1. After growing faster than the economy for a quarter of a century, state spending since 1979 has fallen behind the nominal growth in the Gross National Product (GNP), although actual outlays are larger in terms of current dollars.
2. When intergovernmental transfers are included in the totals, state spending continues to lag behind local outlays in terms of total amounts spent. If intergovernmental transfers are excluded, however, and only the funds each level raises from its own sources are counted, states make the majority of state-local expenditures.
3. There is a wide diversity among the states in tax capacity, using ACIR's Representative Tax System as a measure. On a scale where 100 is the national average, the 1980 range in capacity was from 69.9 to 258.7.
4. There has been a significant shift in tax capacity since 1967 from the northeastern to the western states, with the energy-producing states gaining the most.
5. In general, states have diversified their tax systems with more states now relying on income as well as sales taxes as significant sources of funds. Property taxes no longer provide much state revenue. A total of 40 states now have broad-based individual income taxes and three others have limited levies. In addition, all but five states impose corporate income taxes and only five states do not use general sales taxes.
6. More equity features, providing tax relief for the poor and elderly, have been incorporated into state tax systems. Of the 45 states with general sales taxes in 1981, 26 exempted food from coverage and two provided income tax cred-

its. This figure compares with 16 out of 34 states only a decade ago. Sales taxes are not imposed on prescription drugs in 43 out of the 45 sales tax states. In 1970, the figure was 25 out of 45. To ease property tax burdens, 31 states have adopted state-financed "circuit breakers" exempting property of the poor or elderly from taxation.

7. To ensure accountability, eight states have indexed their income tax brackets to adjust for inflation. Ten states have enacted full disclosure provisions that provide for a rollback of property tax rate increases unless local governments give notice and provide hearings before the increase.
8. More states now operate under taxing or spending limitations than previously. Constitutions limit state discretion in nine states and statutes restrict 11 more. None of these limits were enacted prior to 1970.
9. State debt has grown, both in amount and as a percentage of the GNP. In current dollars, it rose from $9.6 billion in 1954 to $134.8 billion in 1981. It constituted 2.6% of the GNP in 1954 and 4.8% in 1981. The cost of debt service also has risen. It amounted to 0.1% of the GNP in 1954 and 0.3% in 1981. Debt service consumes a greater portion of the state's own source revenue than it did in 1954. Several states received lower bond ratings from Standard and Poor's Corporation or Moody's Investors Service in 1982. Nevertheless, none is faced with a cutoff of credit.

Financial Administration

PURCHASING

1. In 1981, all states except Mississippi had centralized purchasing. None, however, had a fully integrated, operative system. Four-fifths exempted certain organizations—legislatures, judiciaries, institutions of higher learning, or transportation (or highway) departments. Professional service contracting, and sometimes other service contracting, were not included. Nevertheless, centralized purchasing was perceived to be on the increase.
2. The purchasing agency had substantial authority in most states. Thirty-five could send back purchase requisitions and 41 could demand inventory and usage data from state agencies.
3. Thirty-eight states gave their purchasing agencies a management role and enabled them to address the full range of procurement activities including acquisition, standards and quality assurance, disposal of surplus materials and contract administration. All were involved in acquisition, 31 in quality control and disposition of surplus materials and 28 in service contracting.
4. In 1981, 30 states maintained or were actively developing computerized purchasing management information systems.
5. Forty-six states required sealed bids, publicly opened, from vendors seeking state business. Forty states statutorily mandated awards to the lowest responsible bidder or acceptance of the bid most advantageous to the state. Nevertheless, 11 gave pricing preference for products manufactured in the state or to in-state bidders; 14 rotated vendors; and 11 permitted purchasing of equipment or materials by negotiation apart from sole service suppliers, emergencies or very small purchases.
6. Sixteen states had oversight units with *primary* responsibility for overseeing compliance with procurement statutes. Moreover, 32 states had legal or regulatory requirements for review of compliance with purchasing laws and 34 states conducted review of purchasing programs on a regular basis.
7. Almost all states had improved or were improving public access to the procurement process and vendor information. Generally states with centralized

public purchasing laws and rules gave public notice of solicitation of bids and proposals, and opened bids publicly. In addition, all but three states in 1981 had prepared or were preparing manuals on policy, rules and regulations, or administrative procedures; all but eight were assembling internal operations manuals; and 43 had or were compiling manuals giving directions to vendors.

8. In addition to general conflict of interest statutes, 29 states had specific purchasing statutes providing for personal liability of state employees for violation of statutes or rules concerning purchasing. Moreover, a contract was considered void in all but four states if entered into in conflict with the rules, or else the purchasing authority had authority to void it.

9. Cooperative intergovernmental purchasing was authorized by 42 states as of 1979; however, the authorization often was limited to state-local purchasing and did not permit horizontal cooperation or cover all aspects of the purchasing activities.

10. Few states appeared to give much attention to proposals for training personnel. Only four states reported placing special weight on purchasing certification in job descriptions or recruiting announcements. Only 12 states had established special training programs for new employees, and even fewer, five, had regular in-house training programs for all technical staff. Although five states have informal programs, 24 relied on outsiders for continuing education.

11. States do encourage purchasing employee membership in professional organizations, however. All but three states reported their centralized purchasing staffs active in professional organizations and 27 states reported them active in three or more associations.

ACCOUNTING AND FINANCIAL REPORTING

1. As of 1983, two states had adopted the Generally Accepted Accounting Principles (GAAP) and 15 others were in varying stages of implementing them. Most state accounting systems, however, were on a cash basis or on some other basis inconsistent with GAAP.
2. As of 1979, all states used fund accounting for recording transactions; 49 used it to record transactions by major state entities, such as universities and retirement systems; and 37 to segregate federal grant monies. The number of funds used by states varied widely, ranging from two in Delaware to 4,000 in Hawaii.
3. The overwhelming majority of the states recognized expenditures for accounting purposes when the payment is made.
4. In the reporting of assets in their financial statements, most states did not report receivables from taxes, grants, licenses, state lotteries and fines.
5. As far as investments were concerned, 41 states used cost as the current evaluation basis for investments. The practice appeared to be uniform among funds within states with 48 states reporting no variation. Thirty-three states amortized the premium or discount over the life of the investment.
6. Only five states had centralized inventory systems in 1979.
7. Thirty states recognized the purchase of inventoriable items as expenditures when the items were purchased. These states were equally divided as to the preferred time of recognition with 15 using "when goods were received" and 16 "when payment made."
8. Twenty-three states maintained accounting records of state-owned land, with individual agencies maintaining records in 24 additional states. Land ownership records were kept in a number of states; 39 recorded the value of land purchased with state funds; 37 states recorded the value of land ac-

quired with federal funds; and 23 states recorded the value of locally funded land acquisition.

9. In the recording of fixed assets other than land, only 14 states recorded equipment and buildings in general government statements.
10. In depreciating fixed assets, 24 states used equipment depreciation expense information for calculating the cost of operations in proprietary funds; however, only two used it for accounting in governmental funds.
11. Forty-nine states permitted the leasing of assets: 39 states leased land; 39 leased equipment; and 49 leased real estate other than land. Only seven maintained fixed assets records for leases; four reported lease assets in their general purpose financial statements; and 12 states recorded the obligations.
12. Only six states recognized deferred charges in their accounting systems.
13. In regard to accounting for liabilities, 19 states recorded accounts payable by the state. In general, states did not recognize payroll tax liabilities in their accounting records until the vouchers had been prepared, approved and submitted to the disbursing authority for payment.
14. Twenty-five states permit short-term borrowing, either by a central agency, by an operating agency, or by both.
15. For accounting purposes, six states considered current maturing portions of long-term debt as short-term obligations and 21 indicated that bond anticipation notes (borrowings of money for temporary financing before issuance of bonds) are classed as short-term obligations.
16. Interest costs on long-term debt are recognized as expenditures when due and paid in all but one state.
17. A majority of states discloses obligations issued and outstanding, interest rates and due dates in regard to long-term debt; however, many states do not disclose sinking fund requirements, assets pledged as collateral or restrictive covenants.
18. States that had contingent and moral obligation debt ordinarily did not disclose such debt in their financial statements or in footnotes to those statements, but reported it in a separate financial presentation or reference.
19. Practices on recording payroll deductions from employee's compensation as liabilities vary among states.
20. Financial statements of pension systems were included as part of supplemental financial information in 18 states and as part of general purpose financial statements in 24. In 16 states, pension information is included in the footnotes to financial statements.
21. States revealed substantial amounts of information in regard to pension plans: 48 states reported the normal cost of pension plans; 20 disclosed the interest on unfunded liabilities; 42 revealed amortization of unfunded liability; 47 reported unfunded liability; 25 disclosed unfunded vested benefits and 48 included information on assumptions.
22. Fifteen states identified contingent liabilities, with two including this information in financial statement footnotes.
23. In regard to the equity section of the balance sheet, 36 states used reserves for reporting equities (the differences between the total assets and total liabilities). A majority of the states have contributions to capital accounts recorded and reported as equities, most often in enterprise and endowment funds.
24. Forty-eight states have property escheat laws under which unclaimed property must be turned over to the state. Nineteen states initially record the escheated property in a trust or escheat fund; other states use other funds. Seven states treat any such property awaiting transfer to the owner as some form of liability.
25. Thirty-seven states prepare separate

general purpose financial statements for each fund and 24 issue additional purpose financial statements (i.e., combined, condensed, etc.) for certain funds and fund categories. Separate funds or fund groups can be combined for general purpose financial reporting in 38 states. General fund statements include a balance sheet in 36 states, a change in fund balance in 43 states, a change in financial position in 11 states, and a revenue and expenditures statement in 50 states. Twenty-nine states report comparisons of actual expenditures to budget while 32 states compare current and prior year information. A majority of the states disclosed in statement footnotes the basis of accounting and a description of funds and debt service. Other important data were not disclosed in the footnotes.

26. Most states maintained centralized accounting and reporting systems for most accounting subsystems (e.g., cash disbursable, fixed assets, cash receipts, payroll, encumbrance) in a central accounting system or in a central location. In most instances, the accounts were computerized.

Changes In The States' Systemic Role

In regard to changes in the states' role, the study found an increased emphasis on their role as middlemen in the intergovernmental system:

1. In the decade of the 1980s, states engage more heavily as intergovernmental bankers, regulators, and administrators than ever before. States are the principal recipients and disbursers of federal fiscal aid as well as local financial backers in their own right. Most of the intergovernmental monies local governments receive come from the states' own-source revenues.

2. The federal government relies on states to superintend an even greater number of federally aided, and in some cases heavily state-matched, activities, and, particularly in those areas financed with block grants, allows them more discretion in administration. All ten of the new or revised block grants go to the states and they, in many instances, are expected to determine the amount of pass through funds, to direct the implementation of the programs involved, or both. States were given important management responsibilities under categorical programs as well. For example, the *Elementary and Secondary Education Act* (1965) and its 1978 *Amendments* established state supervisory requirements as did Section 504 of the *Rehabilitation Act of 1973*, which made state educational agencies responsible for the compliance of all local jurisdictions. Federal environmental, surface mining and other legislation also specify state management roles.

3. On their own initiatives, states as a group assumed the senior partnership in state-local financing, spending more then half of the money expended by state and local governments together. In 1981, state outlays from own-source revenues accounted for 58% of total state-local general expenditures, and a majority of the state-local expenditures for highways (61.5%), public welfare (83.7%), health and hospitals (52.0%), and local education (53.2%). States traditionally have provided the overwhelming majority of funds for public higher education and 22 states now assume responsibility for all or most of court financing.

4. Also on their own initiatives, states have broadened and deepened their role as financial supporters of local governments, increasing their assistance to these jurisdictions. Total state aid (including federal aid passed through) grew from $5.9 billion (current dollars) in 1955 to $89 billion in 1981. Relative to local own-source revenues, state funds increased from 41.7% in 1954 to 63.3% in 1979 and

fell back to 61.1% in 1981. When federal pass-through funds are eliminated from state aid, the total declines, although it is still a substantial amount. Estimates for 1980-81 place state own-source aid to local governments at $71.3 billion, as compared to $40.1 billion in federal-local aid. The state figure reflected an increase of more than $43.5 billion over 1971-72 figures, or an increase of 156%. Even adjusted for inflation, state aid has grown.

Changes In State Posture In Regard To State-Local Relations

For almost all local jurisdictions—the notable exceptions being Indian reservations and the District of Columbia—state governments hold the key to many matters determining their well being and success. States make major decisions affecting local government affairs; assist substate governments in improving their capability to carry on their own activities as well as those mandated by state law; bear a significant portion of the costs of local operations; and, to some degree, insure "good government" at the local level.

Each state performs differently in these matters, making nationwide assessment of state actions difficult. Each also has a unique political culture and differing economic and social systems, as well as other characteristics, that produce varied patterns of responses to problems.

States have been soundly criticized for both interfering in and neglecting local affairs. Since 1960, they appear to have been loosening their grip on local discretion, for the most part, generally improving local capability and financial positions, but some actions have been counter to this trend.

1. States are authorizing broader fiscal bases for their local governments. In addition to the traditional property tax, as of 1978, a total of 36 states permitted some or all of their cities and/or counties to use either a local sales or income tax; however, in many states the grant of authority is far from general. Among the innovations was Minnesota's enactment of a modest "share the growth" regional tax arrangement for its seven-county Twin Cities area.
2. States assumed direct provision of some functions previously provided primarily by local governments. A 1976 survey of municipalities over 2,500 found that between 1965 and 1975, there were 1,708 transfers of functions or components of a function by municipalities to other governments. Of these, 14% were transferred to the states. Most of these were mandated by state law.
3. States provided from their own funds more than one-half of local school costs in 1981 in all but nine states.
4. State aid for schools is more equitably distributed than formerly. More than one-half the states fundamentally altered their school aid formulas during the decade of the 1970s, mostly in attempts to achieve equality in public education. Within-state disparities in per pupil expenditures decreased in 17 of the states with new formulas and increased in six.
5. States continue to pay the lion's share of state-local highway costs, although their share appears to be declining. Nevertheless, all but five states paid more than one-half of highway costs in 1981.
6. States pay an increasing share of state-local welfare costs. Their share for 1981 was 83.7% compared to 71.8% in 1957. In only one state did the state pay less than 50% of the costs.
7. States financed somewhat more than half (52%) of state-local health and hospital expenditures in 1981. The state share has remained relatively constant over the years, fluctuating only a few percentage points. Twenty-eight states paid more than their local jurisdictions in 1981.
8. State aid is more widely distributed than previously. Although the bulk of state financial assistance to local governments still goes to the traditional functions—education, highways, wel-

fare, and health and hospitals—there has been greater dispersal to other activities.

9. State funds for general support—"broad payments of general financial support as well as amounts paid in replacement of specific tax losses"—amounted to more than $9.5 billion in 1981, and to more than 10.2% of total state aid.

10. States increasingly compensate local governments for tax exempt state property located within their boundaries, although the practice is not uniform. Only 13 states failed to reimburse local governments for at least some of their tax losses on state property as of 1979.

11. States also enhance local government revenues by assisting them in managing their money. Several states, for example, manage, or authorize private concerns to manage, the pooled idle cash balances of local jurisdictions through the establishment of cash management trust funds. Aid in borrowing and programs to deal with urban problems also contribute to local financial health.

12. In response to citizen demand for reduced governmental spending, state restrictions on local revenue raising and expenditures multiplied. The seven-year period between 1970 and 1977 saw various restraints imposed by 14 states. In comparison, following California's adoption of Proposition 13 limiting local property taxes, 16 took similar action in the first eight months of 1979 alone. Most of these limitations were directed at setting a ceiling on local property taxes. As of January 1, 1983, a total of 43 states imposed property tax rate limits on some or all of their general local governments, 20 had levy limits, eight expenditure lids, and six assessment constraints. All of the states imposing new levy controls that allow the limit to be exceeded only by referendum have done so in conjunction with other state actions providing other sources of revenue. Full disclosure provisions, voiding property tax increases resulting from inflation rather than from adjustments in rates unless advertised and subjected to public hearing, had been imposed in ten states by 1983.

13. State mandates on local government increased dramatically in the past 15 years complicating local governance and bringing with them increased local costs. A study of five states revealed that 2,151 state mandates had been imposed in these states since 1966, most of them by direct orders and 121 as conditions of grants-in-aid. These mandates were in addition to the 1,214 imposed by the federal government, largely as grant conditions. Another survey of all 50 states indicated that in the 77 program areas listed, 22 states had 39 or more mandates requiring local expenditures.

14. The most commonly mandated functions were solid waste disposal standards and special education programs—imposed largely at federal instigation—workman's compensation for local personnel other than those in police, fire and education areas, and various provisions relating to retirement systems. Most worrisome were the horizontal or crosscutting requirements, such as the stipulations for nondiscrimination, open records and open meetings, that added additional purposes to those toward which the programs were principally directed.

15. Reflecting the rising concern for local financial conditions and seeking to highlight the costs of proposed laws or rules, states began to attach fiscal notes to mandate legislation and agency rules, estimating the dollar cost to local governments of the state requirements. By 1977, a total of 22 states attached fiscal notes, and the number increased to 36 by 1979. In addition, Maryland attached fiscal notes as a matter of practice, and Washington established a reimbursement procedure for programs the state transfers to localities.

16. At the end of 1982, a total of 12 states compensated local units for the cost of requirements they imposed although the extent of compliance was uncertain.

17. Limitations on local debt changed little over the quarter century. At least 45 states had some kind of debt limit on their localities. Most frequently, these strictures were imposed on municipalities although counties and school districts were restricted as well.

18. In 1983, 42 states took one or more of the following actions to improve local governments' credit ratings and access to credit markets: bond validation (28), debt subsidization (9), debt guarantees (11) or the use of state intermediaries for local borrowing (28).

19. States have moved to lessen the constraints of Dillon's Rule and to improve the discretionary authority of their localities. Counties have been the beneficiaries of much of this action. By 1960, most states had permitted their municipalities structural home rule, or the authority to design their own governmental structures; however, only eight states with county governments granted them the same authority. By 1977, fewer than half failed to permit counties either to adopt charters or elect optional forms of government. In addition, as of 1979, a total of 22 states granted residual powers to some of their local units, although all local jurisdictions within a state usually were not included. Implementing arrangements sometimes diminished the authority granted.

20. Three states, Arkansas, Kentucky and Tennessee, acted to modernize county governmental structure by state action. In all three states, statewide county executive governments were instituted. Moreover, about half the states now allow local governments to hire anyone needed to help the governing body discharge its duties. Such authority has permitted local governments, especially counties, to hire administrative officers. Both types of actions placed counties in a position to exercise their powers more effectively and efficiently.

21. States increased local authority to enter into interlocal agreements and sometimes authorized transfers of functions. Forty-eight states authorized establishing single and multipurpose regional authorities with regionwide financing to deal with special problems. Most involved specific functional activities such as mass transit.

22. States have been giving more attention to urban problems. Although performance has been mixed, a number of states adopted urban strategies or overall policies for urban areas. Such programs tend to emphasize economic development and growth management. Some studies show that states do a better job of targeting fiscal assistance to needy areas; however, evidence is mixed on this point.

23. States have taken several types of actions to assist local governments in the provision of moderate or low-income housing. Most states now have independent public finance corporations (Housing Finance Authorities) responsible for raising funds for assisted housing programs. In 1983, 46 states had 59 single family programs targeted to distressed persons or places and HFAs in 43 states implemented a total of 57 targeted multifamily housing programs. In addition, 26 states operated 50 rehabilitation programs targeted to distressed areas. A few states established rehabilitation tax incentive programs. New initiatives to assisted housing finances included the issuance of taxable mortgage revenue bonds, use of state permanent funds (such as public employee retirement funds) for housing finance, and use of the states' general funds for subsidized rent, investment in revolving loan funds and interest rate subsidies.

24. To encourage economic development, states contributed to economic and commercial site development, pro-

vided financial aid for industrial and commercial site development, authorized financial aid for industrial and commercial development (including enterprise zones authorized in 19 states), customized job training, encouraged small and minority business development and issued industrial revenue bonds. The number of states with targeted programs in industrial and commercial site development increased from three in 1980 to eight in 1983, with most programs located in the northeast and midwest. The number of states with targeted financial aid programs doubled between 1980 and 1983 when 22 states, largely in the northeast and midwest, had a total of 37 targeted financial aid programs. Half of the new enterprise zone authorizations were located in the south. State action in regard to customized job training and small business development has been more limited. Only nine provided targeted customized job training programs in 1983 and only eight targeted small business programs. A total of 20, however, provided some type of minority business development assistance, although appropriations for this purpose were meagre. Ten states targeted revenues from industrial development bonds to distressed areas. Most states had established economic development agencies by 1983, an increase of at least 32 since 1960.

25. State community development efforts included the adoption of 35 capital improvement programs (aimed at upgrading infrastructure) targeted to distressed areas in 25 states. They operate in all but the Great Lakes area. Moreover, nine states offer aid to communities affected by the boom-bust cycle of energy development. A few states had programs for neighborhood development.

26. Twenty-nine states permit communities to use tax increment financing. That is, they can employ the proceeds from taxes on increased property values attributed to redevelopment or prospective redevelopment to pay redevelopment costs. Most of these states direct such authority to slums or blighted areas. Several also provide technical assistance and seed money to improve the chances of successful tax increment financing.

27. Forty-nine states had authorized creation of local development authorities by January 1983 to exercise administrative authority for planning, for accepting grants and loans, for bonding, and for using eminent domain in revitalizing downtown areas.

28. States increasingly permit local boundary changes that benefit municipalities, although sometimes there are accompanying restrictions that mitigate the general power. Forty-one states now have general laws authorizing annexation. Several states permit certain cities to annex territory without the consent of the area to be annexed. Thirty-nine protect existing jurisdictions by placing limits on new incorporations.

29. States also authorize municipalities to exercise extra-territorial jurisdiction outside their boundaries. Thirty-five states authorize at least some of their cities to regulate activities outside their boundaries. Four allow authority for full police power in adjacent areas.

30. States acted in recent years to improve state-local communications and to afford local officials a greater voice in matters affecting them. In 1980, a total of 18 states had state-local relations organizations, up from 12 in 1977. In addition, 35 states had established state departments of community affairs at the cabinet level. Another 15 had major offices or divisions of community affairs.

31. Although states often imposed tax, spending, and debt lids, encumbered local governments with mandates, and adopted permissive stances toward creating special districts, their stance was passive in regard to local

interjurisdictional conflicts. They rarely took action to establish conflict-resolving machinery. Neither have they typically used their authority to settle interlocal disputes.

In general, the states' performance in regard to their local jurisdictions has been mixed. For the most part, the trend has been toward freeing and upgrading local governments, although increased financial strictures have been imposed. At the same time, states have involved themselves in a broader range of local activities. At the very least, state actions reflected an increased awareness of local, particularly urban, problems.

Impact Of Federal Grants

States' roles and performance have been influenced by national reliance for two decades on intergovernmental fiscal transfers as the primary means of dealing with subnational government problems.

ADVERSE IMPACTS

Grants have severe limits as administrative mechanisms and their overuse has produced some undesirable consequences for the states. Among these are the following:

1. Federal authority over the performance of state functions has been extended to functional areas previously reserved to the states.
2. Functionally, state and local activities have increased as a result of federal grants-in-aid. States were stimulated to engage in activities that they might not have undertaken otherwise.
3. Grants sometimes transfer decision-making from the state to the national level and substitute federal for state priorities.
4. States' capacity to govern and to perform has been weakened because of the way grants distribute authority within recipient organizations and because of the use of private-sector recipients.
5. Categorical grants have weakened the authority of state political officials to control the bureaucracy and to manage state affairs.
6. Grants also lessened, to some degree, state legislative control over state expenditures.
7. They have encouraged state taxing and spending and the growth of state bureaucracies.
8. They have increased state reliance on national financial assistance with a proportionately greater share of state budgets provided by federal funds.
9. Grants have stimulated the growth of intergovernmental client groups, thus making it more difficult for state and local governments to change spending priorities when federal aid ceases.
10. Administratively, grants have produced an astounding number of guidelines and regulations that have complicated program service delivery and made it more expensive. According to testimony before a Senate Committee, in 1974, a total of 67 federal agencies, departments and bureaus having rulemaking authority adopted 7,596 new or amended regulations, while Congress during the same period enacted 404 public laws, a ratio of 18-1.
11. The crosscutting requirements and crossover sanctions attached to grant programs complicated compliance with the conditions attached to them.
12. Grants increased the number of intergovernmental interactions, thus raising the costs of administration and the potential for conflict.
13. At least through 1980, grants focused public attention on Washington as the provider of first, not last, resort and raised expectations among many groups.
14. National grants have encouraged states to use federal dollars to force local compliance (often without legislation) with state policies or practices.

POSITIVE INFLUENCES

On the other hand, federal grant-in-aid programs have benefited state governments in several ways:

15. They have enabled states to engage in activities that otherwise they could not afford.
16. They have helped equalize opportunities and redistribute resources among states to a certain extent.
17. Grants have raised standards for some services and activities.
18. They have focused attention on state deficiencies and encouraged reform.

FIVE RESULTING ISSUES

The findings set out above reflect widespread changes in state government during the past quarter century. They raise at least five basic issues concerning the states' role in the federal system and their relations with their local jurisdictions.

Issue 1

In What Ways Has The States' Role In The Federal System Changed Over the Past Quarter Century? Are Major Shifts In This Role Likely In The Near Future?

All genuine federal systems effect a division of authority and influence between a central government and a tier of subnational governments, leaving the latter in a pivotal position between local jurisdictions and the national government. Such a territorial division of power, of course, applies preeminently to the American system since it was the prime originator of the concept.

HISTORIC ROLES

Under the American system, the states' role, in legalistic terms, traditionally has meant that they were the repositories of the reserved powers under the U.S. Constitution. Consequently, they served as a source of constraint on efforts to expand national power; as the prime guardians of their respective citizens' public health, safety, welfare and order; and as the constitutional source of all local governmental authority.

In policy terms, the states were the paramount arena for devising innovative public policies throughout the 19th century and well into the 20th. They also served as the foremost instruments of popular choice in nearly all policy areas during the first half of the last century, in most such areas during the 1865–1932 period, and in fewer but still significant policy areas until the early 1960s. These policy areas included public education; health; transportation; law enforcement and the regulation of insurance and other businesses, public utilities and professions, to cite only a few.

As administrators of federal aid programs, the state role was minimal in the last century and involved only 15 relatively minor grant programs by 1930. Some 30 years later, the number of collaborative undertakings had risen to 132, with the preponderance of the federal dollars going to the states. Despite the number of programs, however, only four departments and agencies of state government typically were affected significantly.

In terms of political power, states through state and local political parties traditionally exercised what strength there was in the nation's party system. They played a pivotal role in selecting national officeholders, and they exerted a strong noncentralizing influence on national policymaking.

This brief tracing of the traditional roles suggests that, for at least 140 years of their participation under the U.S. Constitution, the states were far more than middlemen. In fact, they were paramount actors and innovators in the political and public policy areas, the exclusive legal architects of local government that at the time actually provided most of the public services available, effective restrainers of national governmental activism, and strong partners in the federal system.

From Franklin D. Roosevelt through Dwight D. Eisenhower, the scope of the states' police powers lessened somewhat, their performance as policy innovators eroded significantly and their involvement with national program goals through federal grants expanded, although in comparatively modest terms. At the same time, their potent political influence in Washington remained unchanged, their involvement with and their aid to their local governments grew, their dominant position in the nation's electoral processes for the most part went unchallenged and the 50 state-local fisal and

servicing systems they engineered provided the overwhelming bulk and funding of domestic governmental services. By the early 1960s, then, the states still served as key instruments for their respective electorates in certain significant policy areas. They clearly performed with continuing vigor their role as powerful representatives of 50 different sets of geographic interests. Moreover, they had assumed an important administrative and funding role in the comparatively small and inexpensive package of federal grants then extant.

NEW FUNCTIONS

Over the past two decades, the states' role in the federal system has undergone major changes and the states themselves have acquired new responsibilities, though not to the point of totally losing their traditional ones. One major authority has contended that, in contrast to their earlier basic functions, the modern state role essentially is to assume two main responsibilities: planning and controlling big and frequently intergovernmental programs and using their position as the major intermediate level of government and of politics to mobilize political consent for these programs.[1] In this assessment, the forces of modernization—growing interdependence, scientific and technological advances, the concomitant rise of centralizing coalitions and of professorial-bureaucratic complexes, and the continuing national effort to respond to public demands for more and better services—transformed the national government into the paramount vehicle for achieving social goals. Yet, these forces also led to assigning states new intergovernmental functions.

This intriguing intergovernmental interpretation of the states' adaptation to modernization is borne out by many fiscal, funding and structural developments since the mid-1960s that affect the states and their de facto role in the federal system. As the prime recipients of federal grant funds (hovering around three-quarters of total federal aid through most of the 1970s and somewhat higher now) and as channelers of federal aid to their localities (20% of all state aid in 1976–77), states have assumed a pivotal "middle" role. They plan, supervise, partially fund, and sometimes directly execute large, costly and socially significant intergovernmental programs. These shifts, of course, are emphasized in all of the ten new block grants enacted in 1981–82. Moreover, as the major financiers from their own revenue sources of primary, secondary and higher education, primary and secondary local public highway systems, and health and hospital functions, the states have carved out still another dimension of this important intergovernmental role wholly apart from federal initiatives. The dominance of fiscal and "matching money" issues in state politics over the past ten years or more, along with the state debates over environmental programs, Medicaid, social services and special education—to cite the clearest examples—clearly demonstrate that the states are forums of political debate for their newly assigned intergovernmental programmatic role.

ADMINISTRATIVE AGENTS?

Having achieved a major new intergovernmental role, does this, in turn, mean that the states' basic function currently is merely to serve as administrators and consensus-builders for big federally engineered grant programs? Many would answer "No!" The states, after all, are not administrative regions of federal departments and agencies. Their tastes for various grant programs clearly differ. Their bureaucracies come under separate state civil service, personnel, payroll and policy enactments.

Despite the much larger impact federal grants and conditions now have on state policies and administration than they did 20 years ago, neither grants nor grant conditions have eclipsed the states' traditional role as prime instruments of certain social, economic and political choices among their respective citizenries. As indicated earlier, federally aided programs by no means dominate all state funding, programming and administrative endeavors. Beside the federally encouraged efforts lie various indigenous state undertakings of considerable significance.

At first glance, stringent federal grant conditions and regulations would appear to convert certain state agencies into appendages of certain federal departments and agencies. Yet, the states' capacity to influence the interpretation and implementation of these requirements has

not disappeared, though it is probably less potent than it was a generation ago. The states, after all, in conjunction with their local jurisdictions know how feasible or nonfeasible, applicable or nonapplicable, federal regulations or grant conditions may be in their peculiar circumstances. Sometimes they can turn to their own national association spokespersons as well as to their elected representatives in Washington for assistance, though the success rate for this ancient strategy is not what it used to be. States also know—as a practical matter—that federal administrative efforts to monitor grant operations and compliance with conditions are almost always sporadic and spotty, thanks to Congress' perennial unwillingness to provide the necessary federal staff to implement national programmatic and regulatory efforts. Moreover, states are aware that federal aid administrators need state personnel to implement their programs and policies and therefore will tolerate "foot-dragging" in implementing national programs. Further, the states know that if political and administrative means fail to correct an impossibly coercive or foolish federal requirement or regulatory policy, they can litigate, even though most federal court decisions relating to the commerce or conditional spending powers—two of the prime legal sources of federal conditions and regulations—usually run counter to the states' views.

In short, the proposition that, in those many activities involving federal dollars and conditions, the states are not much more than field officers of federal agencies generally appears false. Nonetheless, the fairly genuine collaborative approach of a generation ago is absent now from many of these federal-state relationships, thanks to the decline of the states' traditional political clout in Washington and to the advent of regulatory practices that made the states themselves subject to, and administrators of federal regulations.

EARLIER ROLES ECLIPSED?

A cluster of traditional roles stands alongside the states' new intergovernmental roles. In diverse but definable ways, as was suggested above, the states continue to serve as representatives of 50 very different polities. Through their political and independent policymaking processes, the states reflect differing approaches to taxes, servicing preferences, social legislation and governmental accountability. They exhibit differing degrees of devotion to the older governmental values of fully representative institutions, administrative pluralism and accountability through severe institutional constraints. They also demonstrate diverse commitments to the reform values of managerialism, professionalism and local government "unshackling."

The states, overall, have revitalized their earlier function of serving as experimental laboratories within the overall system. Witness their pioneering efforts over the past decade and a half in consumer protection, campaign finance, "sunset" legislation, coastal zone management, hospital cost control and urban enterprise zones.

Out of this broad, differentiated representative role also flow 50 differing functional assignment, taxing and funding patterns. Finally, each state addresses differently its historic and continually pivotal responsibilities regarding its local governments.

Given the many ramifications of this crucial representational role, some would argue that it remains at least as significant for the states as the new intergovernmental one. Some would even argue that it may be more important than it was in the 19th century whenit was the prime state function. In support of this view, the following points usually are cited:

- The country now is more diverse racially, ethnically and culturally than it was during the Jacksonian era.
- State electorates and political institutions are far more representative of their populations as a whole than they have ever been, thanks in part to two watershed federal actions: the Supreme Court's reapportionment decisions and Congress' enactment of the *Voting Rights Act of 1965*.
- State governmental and political processes are more accessible than ever before.
- The pressure groups active at the state capitals no longer are only a cluster of a few dominant economic interests, but a broad variety of groups—economic, social, moralistic, single issue, programmatic, etc.

- State political parties are much more competitive today than at any other time in this century, even though state party cohesion and influence on national politics are probably at their lowest.

Has the states' role in the system then changed during the past two decades or so? Clearly, the answer is "yes." They have assumed a major management role in a range of big federally enacted grant programs. They have expanded and launched new intergovernmental program efforts on their own. And they have experienced a revitalization of their traditional political function as representatives of differing subnational polities, even as their political power at the national level has waned.

Given current aid trends, the broad outlines of the states' representational and intergovernmental roles in the federal system are not likely to change greatly in the years immediately ahead. One attempt to achieve a major modification of the states' intergovernmental role—President Reagan's and the states' efforts in 1982 to achieve a significant "sorting out" of key intergovernmental programmatic responsibilities—failed. With it, hope faded for establishing a somewhat clearer definition and assignment of the national and the state governmental roles in the overall federal system.

At the same time, most of the devolutionary achievements of the "New Federalism" have tended to heighten and to expand with greater discretion the states' "middle" role. The enactment of 11 block grants, the termination of all but one of the federal multistate commissions, the curbing or eliminatin of substate regional planning grants, the devolution of most A-95 responsibilities, and the rewriting of urban mass transportation planning regulations, to cite a few examples, have placed additional responsibilities at the states' door. Many of these developments, of course, have produced a more intensive and interdependent, though not always fully collaborative, state-local relationship. This latter point suggests a new and more challenging state-local dimension to the states' "middle" responsibilities.

To sum up, the states exercise major functional responsibilities that are of crucial significance to the federal system and to their respective citizenries. These facts should be recognized.

Issue 2

Have the Changes In State Government And Other Developments Since The Early 1960s Increased their Overall Influence In The Intergovernmental System?

Under the Constitutional system of federalism established two centuries ago, the states occupied a protected and preeminent position. Unlike the new central government, whose powers were enumerated and thus constrained, the states enjoyed broad residual authority. At that time, there was an expectation that they would possess sovereignty over most domestic governmental functions.

The history of American intergovernmental relations is, of course, one of a gradually expanding central sphere. Especially rapid growth, as recounted in previous Commission studies, occurred between 1960 and 1980. Yet, state governments have transformed over this same period, too, as this report indicates. Given these conflicting crosscurrents, it is necessary to consider the issue of whether or not the changes in state governments—taken in context with other trends in policies and politics—have increased the states' overall influence in the intergovernmental system. This question has no easy answer; it has many facets, and requires a weighing of several different forms of evidence and argument.

On the positive side, it certainly can be said that many states have played a notable role in developing innovative solutions to contemporary policy and administrative problems. Justice Brandeis' famous description of the states as "laboratories of experimentation" applies to the present era, as well as to his own. Prominent examples of state pioneering include California's in air pollution control, occupational safety and health regulation, and hazardous waste disposal; Colorado's in sunset legislation; Florida's, Hawaii's and Vermont's in state land use management planning; Oregon's in beverage container recycling and gasoline rationing; Massachusetts' in the education of handicapped children and nofault insurance; and Minnesota's in tuition tax credits, community-based corrections and water pollution control. States often move to attack new is-

sues well before the national government has even identified a problem, as indicated by recent state actions in the fields of teacher competency testing and drunk driving.

From a fiscal standpoint, too, the states play a more significant role than they did two decades ago. Overall, state expenditures from their own funds rose from $18.7 billion to $148.2 billion between 1959 and 1980. As a percentage of GNP, this increase was from 3.8% to 5.6%. Especially in the areas of education and welfare, states have moved to assume a greater portion of costs. More than half of the states altered their school funding arrangements during the 1970s, generally with the aim of reducing disparities in the quality of education provided by local school districts. States now provide more than half of local school costs in a majority of states. New or expanded programs of general-purpose assistance also have been instituted, along with new initiatives targeted to urban needs.

The states' position as senior partners in the state-local fiscal system is underscored by national policies. The great bulk of federal aid is given to (or channeled through) state governments. State grant receipts rose from $6.4 billion in 1960 to $61.9 billion in 1980—that is, nearly ten-fold. At present, states are recipients of more than 80% of all federal aid dollars, and the proportion has been rising since 1977.

In the expanded regulatory sphere, too, Washington has relied heavily upon the states to carry out national policies. The traditional federal regulatory pattern, initiated with the creation of the Interstate Commerce Commission in 1887, involved direct federal regulation of business activities by an independent national authority. State regulatory controls were superceded by uniform national laws, administered by federal personnel. Recently, however, states have been entrusted with administrative responsibility for much of the "new social regulation" adopted in the 1960s and 1970s. For example, in the environmental area, states (under "partial preemption" statutes) are authorized to develop and enforce plans for air and water pollution control, drinking water quality, pesticide regulation, surface mining control and other functions if they adopt standards equivalent to federal ones. A similar approach is found in such areas as occupational safety and health, and meat and poultry inspection.

On several counts, then, the states can be said to play a prominent role in the present intergovernmental system. Furthermore, their reputations (in Washington and elsewhere) have been enhanced with the passage of time. Two decades ago, many observers believed that the states were poor instruments for governing what had become an urban, industrial nation. Their very boundaries, fixed during the nation's agrarian era, seemed ill-suited to the demands of providing services for and regulating the development of sprawling metropolitan and megalopolitan regions, many of which cross state lines. A legacy of malapportionment meant that many states were dominated by representatives from rural constituencies with little interest in contemporary social and economic problems. Segregationist practices in the Southern states left *all* states open to charges that they were unconcerned with essential human rights. Such criticisms are rarely voiced now.

On the other hand, there is a contrary case to be considered. It is by no means clear that the improvements in state governmental organization, their expanded fiscal and programmatic roles, or their improved reputations have enhanced their capacity for independent action. If autonomy is the issue, one would be hard-put to identify *any* functional field in which the states now possess more independent authority than they did in 1960. To a considerable degree, the content of state welfare, health, pollution control, transportation, civil rights and unemployment protection policies is established in Washington. In all of these areas, the states possess only modest degrees of discretion: they can embellish upon, but not greatly alter, the structure of national programs.

The best that can be said is that there are some fields in which federal incursions have been relatively modest. State tax policy remains almost entirely a matter of state discretion. Certain areas involving the exercise of state police powers also have been largely untouched: examples include occupational licensing, insurance, utility rate regulation and family law. Of all the major and traditional functions of state governments, education— especially higher education—remains the most clearly in state control. But, even here, federal influence has grown with the rise of research

grants, student aid and far-reaching nondiscrimination requirements.

Even in policy fields where the states have played a significant role as policy innovators, federal authority has often come to predominate. Programs modeled upon the actions of one or more progressive states have been mandated throughout the nation, regardless of varying circumstances. The detailed specification of federal procedures sometimes has made implementation difficult even in those states that had paved the way for national action.

The flip side of the rising aid total through 1977–78 was an increasing state dependency upon federal money. It is true that, in fiscal terms, the change was only modest: between 1960 and 1980, federal intergovernment aid rose from 31.0% to 36.6% of state own-source revenues. But the programmatic impact has been far more extensive. In 1960, only four agencies in most states received federal aid—and just two functions (welfare and highways) depended heavily on external resources. By the most recent available estimates, at least three-quarters of state agencies now are grant recipients. Most of this assistance is still categorical in character and imposes a variety of constraints on the nature of state policies and the manner in which programs are administered. Furthermore, elected state officials usually find it difficult to exercise effective policy control over agencies and activities that obtain large portions of their funds from federal sources.

State influence over their local communities also has been reduced by increased federal "bypassing" of state governments in grant relationships. In the period since 1960, local governments have developed new fiscal and programmatic links with Washington. In prior years, most federal aid was directed to state governments; some was then "passed through", at state discretion, to local communities. The exceptions to this pattern (in such fields as airport development, urban renewal and public housing) were comparatively few in number and modest in fiscal scope.

During the period of the War on Poverty and Great Society, however, it became conventional for the federal government to deal directly with cities, counties, townships and the private nonprofit organizations located within them, bypassing the states. This trend continued under the New Federalism of the Nixon years. General Revenue Sharing, as adopted in 1972, offered grants to nearly every general-purpose unit of local government, as well as to states—although most previous proposals had anticipated that the states alone would be beneficiaries. Block grants in such areas as employment training (1973) and community development (1974) also were targeted to local jurisdictions. Although there has been some decline in the extent of "bypassing" since the peak years of 1977–78, the federal grant money going directly to local governments still amounts to more than a fifth of all federal aid dollars.

In many regulatory fields, too, the net result of new programs has been to convert into national concerns functions that once were almost entirely the responsibility of states. State involvement can be viewed as more an administrative convenience for the national government—a way of coopting state fiscal and personnel resources—than a measure of true "partnership". Goals and standards are set by Washington, which also determines—frequently with a great deal of specificity—the manner in which they are to be realized. States also have found themselves subject to, or threatened with a growing number or preemptive statutes. Such statutes simply superceded state laws and thus narrowed their area of sovereignty. Ironically, the number of proposals for supercessive legislation rose sharply in the late 1970s and early 1980s, despite a general movement to cut back the scope of national activities. Although states have challenged many regulatory and preemptive laws in the courts, the judiciary has generally granted little relief.

In short, there is much in the pattern of federal regulatory and assistance policies to suggest a continuing distrust of states on the part of national-level lawmakers and administrators. Improved capabilities have not been matched by enhanced discretionary responsibilities.

In the political arena, too, the states appear to have lost ground. These changes are, however, very difficult to assess, and are being explored in detail in a current ACIR study. As viewed by many commentors, however, the most crucial point is that the American politi-

cal party system of two or three decades ago was dominated by its state and local organizations. Within these organizations, state and local officials—especially mayors and governors—often wielded substantial influence, both in the nominating and electoral processes and in national policymaking. Senators and Representatives owed both their allegiance and their opportunity for re-election to supportive party workers, and thus could be regarded as essentially local politicians. To the extent that national parties existed, they were simply loose coalitions of state and local units brought together every four years by the necessity of electing a president.

This arrangement afforded state and local officials ample opportunity for both advancing and protecting their interests within the councils of the national government. Indeed, some prominent political scientists and historians identified the highly decentralized party system as the principal bulwark of federalism. A balance of authority and functions, they believed, was more a consequence of party structure and power relationships than of formal constraints imposed by the Constitution or of historical tradition.

Over the past decade, however, circumstances have changed decisively. The two major political parties have largely lost: (a) their control of nominations and campaigns; (b) their capacity to develop and establish public policy; and (c) the loyalties of much of the electorate. Their traditional functions are now fulfilled chiefly by the media, special interest groups, and the personal campaign staffs of individual candidates—not cadres of state and local party supporters and office holders. As a consequence, the ability of state and local officials to influence the direction and content of federal actions has been reduced.

In an attempt to develop a new counterbalance, such organizations as the National Governors' Association and the National Conference of State Legislatures have established or expanded their offices in Washington and given increasing attention to national policy questions. Many individual states and state agencies also have created lobbying arms. These organizations have earned the respect of federal policymakers, and can be credited with significant influence on some issues. Yet their effectiveness is limited by the fact that they are but one voice among the many that clamor for attention at both ends of Pennsylvania Avenue, and by the difficulties that they experience in reaching a unified stand on the many issues that have a differential impact on jurisdictions across a large and diverse nation. In the eyes of many observers, more influence has been lost than regained.

When all these factors are taken into account, it is difficult to avoid the paradoxical conclusion that the states have assumed a more prominent functional role, but exercise no greater influence in the present intergovernmental system than they did in the early 1960s. Indeed, some contemporary observers charge that, over the past two decades, the United States has crossed the line between a true federalism and a quasi-unitary system. Although others would contest this assessment, it does seem that improvements in state governmental performance have not been matched by a commensurate increase in their role as independent polities and policymakers.

Issue 3

Despite Widespread Adoption of Common Institutional And Policy Reforms, Is There Still Significant Diversity In These Areas Among The 50 States? If So, What Are Its Systemic Implications?

Institutional and fiscal reforms indeed have been widespread. Yet different aspects of state government were in different stages of reform in the individual states 25 years ago, the baseline used here for gauging progress. Moreover, reforms have not been adopted uniformly among the states in the intervening period. As a consequence, the 50 states exhibit varying degrees of diversity in regard to the institutions and practices to which the reforms are addressed.

Diversity has been greatly diminished because adopting certain reforms became commonplace, especially those affecting the powers and status of the office of governor; apportionment, staffing and certain procedures of legislatures; the organization, administration and funding of the judiciary; executive branch organization and central management;

openness and access to state officials and agencies; using income and sales taxes and providing tax relief for the poor and elderly; and actions strengthening and freeing up local governments. In other areas, the states started out in greatly varying positions of reform, or found it more difficult to effect improvement, with the result that there remains wide diversity among them. For example, although the 50 legislatures have become more alike in such features as apportionment, staffing, and annual sessions, they still exhibit considerable diversity in the length of sessions, in the use of multimember districts, in the size of their lower houses, in the adequacy of members' compensation, and in their practices and procedures. The roles and powers of the governors diverge on such matters as the number of independently elected department heads with whom they must deal and the power to initiate reorganization plans. States also show wide differences in certain features of their financial systems such as taxing or spending limitations, indexing income tax rates, and overall tax effort.

State-local relations probably constitute the area of greatest continued institutional and policy differences among the states. This diversity is most succinctly demonstrated by the states' share of total state-local financing and spending. This proportion reflects state-to-state variations in assigning functions between the two levels as well as in the fiscal assistance states provide localities. States differ greatly by these measure with Alaska, Delaware and Hawaii accounting for a high share of state-local revenues and expenditures at one extreme, and Ohio, Florida and Missouri accounting for a low share, at the other.

But interstate differences in state-local relations are expressed in other ways, both fiscal and nonfiscal: in state authorizations for localities to use sales and income taxes or in requirements for localities to provide full disclosure of proposed property tax increases; in restrictions imposed on local revenue sources, expenditures and borrowing; in mandating local expenditures; in authorizing structural and functional home rule; in permitting and controlling local boundary changes; and in improving state-local communications and establishing machinery for identifying and resolving interjurisdictional conflicts.

In short, considerable diversity remains nationwide even though the states have been unprecedently active over the past 25 years in adopting widely accepted institutional and policy reforms and this activity has made certain state structures, procedures and policies more similar among the 50. The systemic significance of this continued diversity is at least two-fold: First, it reinforces the view that the national government should be sensitive to the differences among the states when it seeks to involve them in carrying out national policies through grants-in-aid and regulations; and second, it reconfirms the states' role as representatives of 50 different polities.

The growth of the state role as pivotal "middleman" in intergovernmental programs is one of the truly significant developments of the past quarter century. The states play a critical part in determining whether the national objectives established by Congress and written into implementing legislation will be carried out effectively. If there are variations among the states in the various elements involved in implementing federal programs—in administrative structures, in the types and capacities of personnel, in the roles of the governors and so forth—it is vital that federal implementation policies be sensitive to those differences and be constructed to reflect them. What works in one state may not necessarily work in the others because of variations in those elements and in the way they relate to one another.

This Commission has spoken to this issue in two previous reports that dealt with assigning functions between states and their localities. In a 1974 report,[2] the Commission urged Congress to recognize, as preferred recipients of all pertinent federal technical, planning, and financial assistance, those state, areawide, regional-local or local service providers that were designated pursuant to any systematic functional assignment policies developed by state and local governments. This recommendation sought to benefit both the national and the state and local governments, by taking advantage of states' and localities' superior understanding of what worked best in their individual situations. Complementing this recommendation, in a 1982 report,[3] the Commission recommended that the national government, in consultation with state and local representatives, develop a classification of the

50 states based on the functional, fiscal and legal similarities and differences among their various types of local government; that Congress consider this classification in designing the eligibility provisions of grant legislation; and that federal administrators give similar serious consideration to the classification in determining eligible recipients for discretionary grants. This recommendation, the Commission stated, offers "a process by which the Congress and the executive branch can avoid future policies and practices that similarly fail to take account of the diversity of state-local servicing patterns."[4]

Although these Commission proposals focused on federal financial and technical assistance proposals, the message applies as well to regulatory programs in which the national government relies on the states for implementation. The design of those programs similarly needs to take cognizance of the varying structural and procedural arrangements and capacities in the 50 states.

The continuing institutional and fiscal diversity among the states has a second major systemic implication: it confirms the continued vigor of the states' traditional role as representational units within our federal system. In that role, the states offer their citizens varying social, economic and political choices. These choices are reflected dramatically in state differences on such social and economic policies as public assistance support, criminal codes including capital punishment, funding for abortions and labor laws. They are also reflected in other institutions and policies highlighted in this study: urban-rural tensions that color state-local relationships, approaches to government organization and reorganization and the pace and direction of governmental modernization.

The representational role is rooted in the states' differing political systems, coalitions and cultures. The divergence of political systems, in turn, stems from the uncentralized political party system in the U.S. in which the states enfranchise voters, conduct elections, exert critical power in presidential nominating conventions and the electoral college, and have the power to initiate and ratify amendments to the national constitution.

Related to the states' representational role is their traditional function as innovators. This function was perhaps more widely hailed prior to the advent of the New Deal and the growth and dominance of the national government, but it has been far from dormant since the mid-1960s. Sunset legislation, zero-based budgeting, public financing of election campaigns, hospital cost control, consumer protection, fair housing, no-fault insurance, gun control, auto pollution standards, enterprise zones and energy assistance for the poor are prominent examples of recent innovations that had their inception and testing at the state level.

In sum, then, states have become more alike in many respects in the past 25 years as a consequence of widespread adoption of generally accepted institutional and fiscal reforms. Yet they retain many significant differences and are likely to continue to do so, considering their variegated political systems and cultural and social backgrounds. These differences are to be cherished, because they assure that the states will continue to perform their crucial role as representational units that is a key to maintaining the healthy diversity of a federal system.

Issue 4

What Has Been The States' Record Regarding Their Localities? What Should It Be For The Remainder Of The Decade And In The 1990s?

States affect their localities in a multitude of ways. They:

- make decisions for local governments, determining what units shall exist; how powers will be allocated among them (including raising revenue, spending and borrowing); what functions they will be assigned; what discretion they will have regarding their internal structure, organization and procedures; whether they may engage in interlocal cooperation; and how their boundaries may be expanded or contracted;
- coordinate and supervise local administration of state functions through informal conferences, advice and technical assistance, requiring reports, inspecting, imposing grant conditions, granting prior approval and reviewing local action, rulemaking, investigating, ap-

pointing and removing local officials and sometimes taking over local administration;

- strive to improve localities' capability to carry on their own activities and to administer state laws on the local level, by granting new or broadened authority, offering technical assistance, and mandating structural, procedural and boundary changes;
- help finance local government, serving as the principal external providers of local funds, through grants-in-aid (both direct state and federal pass-through), shared taxes, payments in lieu of taxes, donations of property and diversification of local revenue sources;
- ensure that local governments respect and promote certain values of our political and social system by requiring improved responsiveness of local institutions, by ensuring accountability and opennes of and access to governmental processes, by exercising control over apportionment for representation, by establishing formulas for distributing resources and by requiring fair governmental practices.

In short, states empower, mandate, assist and restrain their local governments. Assessing their record in discharging these responsibilities entails making value judgments as to what kinds of state actions strengthen local government. Exploring this issue could require an extensive philosophical discussion, but basically there appear to be two schools of thought on the subject: the pro-state and the pro-local. The first tends to emphasize the states' "parental" responsibilities for their political subdivisions. It holds that states should take a decided leadership role in the state-local partnership, should encourage and assist locals while not hesitating to direct or restrain, should be prepared to intervene to settle interlocal disputes, and should take positive steps to assure that communication lines between local and state officials are kept open and are well used. The second school tends to stress "grass-roots" democracy, placing the state partner in a more restrained position, emphasizing its empowering and assisting (preferably on request) functions vis-a-vis its localities while stressing the importance of a state arms-length posture that permits localities a maximum of autonomy.

Some of the changes made over the past 25 years constitute significant progress under either approach. Other changes show up as progress by one standard but retrogression by the other. A brief recapping of the major findings on state-local relations will illustrate these differences in evaluation.

The two groups have little disagreement over the states' major actions on the local fiscal front over the past 25 years, regarding favorably the broadening of local fiscal bases; increased state aid for schools, highways, health and hospitals; more equitable distribution of school aid; and expanded reimbursement for tax exempt property. Both share in objecting to state limitations on local revenue raising. They also would be likely to join in supporting the trend toward state grants of residual powers to localities and toward increased local authority for interlocal contracts and joint agreements, but the pro-local group might feel even more strongly than the pro-state school about these local autonomy provisions.

Both also would likely decry the expanded state use of mandates, although the pro-state group probably would be less condemnatory if the state used a fiscal notes process and reimbursed local governments for the mandated costs. The pro-locals also would reject more vigorously the state's prescribing certain structural changes, such as mandating county executives in Arkansas, Kentucky and Tennessee. On the general subject of local organizations and procedures, the pro-local group clearly would be more resistant to state actions, opposing any state encouragement of substate regionalism, perhaps insisting that the annexation procedures permit the residents of the land to be annexed to have a veto over any annexation action, and resisting state efforts to discourage special districts while favoring general-purpose local units. Similarly, the pro-locals might regard state efforts to authorize and encourage local economic development as too interventionist; pro-staters probably would appeal for state action along these lines.

On balance, both the pro-staters and the pro-locals must view the states' record over the past 25 years in strengthening local govern-

ment as a constructive one. The pro-staters might well be somewhat more satisfied because they take a more tolerant view of state mandates and are more apt to welcome state activity affecting local structural and procedural reforms and promoting local economic development.

The next question is, what will be the status of state-local relations in the decades to come? Some people question whether the states will necessarily continue this progressive record into the 1990s. How can we be sure, they ask, that states will not revert to their old ways of indifference and neglect toward their localities—a condition, it must be acknowledged, that contributed to the enormous growth in the national government's domestic role over the past 50 years? Champions of the states give a two-fold answer.

First, they cite the remarkable transformation of state governments as showing that they are far more responsive and responsible than they were 50 years ago, and that the states would be highly unlikely to forfeit power to the national government as they have in the past. Second, proponents point out that times have changed at the national level too, with a new emphasis on curbing the growth in federal aid and reducing the national government's role in domestic affairs. The national government is unlikely to bail out local governments if the states are again unresponsive, they hold, thus making it all the more clear to the states that they must face up to their reponsibilities toward their localities.

Those who discount this last argument concede that the *Omnibus Budget and Reconciliation Act of* 1981, which consolidated 77 grants into nine block grants, along with the new job training and transit block grants and subsequent Reagan Administration action have enlarged the states' discretionary role in administering the new block grants. They also acknowledge that the Administration has carried this thrust further by bestowing primary responsibility on the states for administering the A-95 review and comment process, by abolishing many federal planning requirements, and by terminating most of the federally initiated and supported multistate regional bodies.

On the other hand, they point out that efforts to pass further decentralizing legislation have been largely stillborn, in part because of the Administration's inability to strike an acceptable bargain with state and local leaders. Moreover, these skeptics are not at all sure that Congress is willing to go along with devolving more discretion to the states. Undoubtedly congress' views on authorizing additional grant programs and otherwise pursuing an expanded interventionist domestic role has shifted in recent years, thanks to the 1980 election, the deficit fiscal position of the federal government, and disillusionment with grants and regulations as means of pursuing national goals. Yet Congress still values the way categorical grants generate political support within influential interest groups. Congress is also sensitive to those groups' insistence that grant programs accomplish their legislatively defined goals, a task more readily accomplished with narrow-purpose categorical grants than with broad-purpose block grants, let alone general revenue sharing. Thus there appear to be limits to how far Congress is likely to support transferring further authority to the states.

The skeptics about possible federal legislative action also point out the possible negative influence of another branch of the national government—the judiciary. Recent court actions in two areas give credence to their concern about the judicial impact on state-local relations. In *Community Communications v. City of Boulder,*[5] the Supreme Court ruled that general home rule authorizations do not exempt local governments from suits under the *Sherman Antitrust Act.* The final outcome of this issue is still to be seen although it immediately raises questions about local governments' discretionary power.

In the field of corrections, the federal courts have indirectly pushed the states into more directive attitudes toward their localities, as described in a recent Commission report.[6] Responding to suits brought under various provisions of the Constitution and federal statutes that protect the rights of jail inmates, the federal courts have ordered localities to upgrade their jails or shut them down. Between 10% and 13% of all jails are under such court orders. The orders have been a factor in states' decisions to promulgate and monitor minimum standards for local jails in the hope of heading

off further jail closure orders and of avoiding the courts ordering the states to take direct actions bringing their localities into line.

Federal court actions directed at state prisons also affect state-local relations. In response to suits by inmates of state prisons, the courts prohibit new admissions to prisons, causing a backup of many inmates in local jails. This spillover of state prisoners has produced friction between state and local officials, has mixed felons with misdemeanants and pretrial detainees, and has fostered disputes over reimbursements.

To recapitulate, the states have had a mixed record regarding their localities over the past 25 years, although, for the most part, the trend has been toward upgrading local governments and freeing them from impediments. Exactly how progressive one views the record to be depends to some extent on one's perception of the proper state role in strengthening local governments. Observers who stress state leadership in the state-local partnership tend to accept a considerable degree of state direction and mandating as necessary. Others stress the fundamental importance of "grass-roots" government, placing first priority on local autonomy and the state's role as authorizer and facilitator. Generally speaking, the former group should be the more satisfied with the recent progress in state-local relations, but both groups should view the record positively.

It also would appear that continued progress can be anticipated in the coming decade, measured by the standards of either group. The gains that have been made in decentralizing authority to the states for administering grant programs could increase the states' ability to affect their localities. Some observers interpret the change as altering state-local relations massively, as the states' "middleman" role shifts from being an administrator toward being a policymaker in federal programs. Such persons see local governments, on the whole, as willing to try the new state-oriented approach in lieu of the old federally dominated set up. Others, however, believe it is too early to judge how deep a change has occurred. They point to the relatively small proportion of total federal aid represented by the new block grants and are unwilling to concede that the limited extent to which federal decisionmaking has been decentralized can make an appreciable difference in the states' position as middlemen. The outcome will depend to a considerable extent on how the states handle their opportunity and particularly on how far they go in seeking and securing the cooperation of their localities in developing their new role.

Issue 5

What Does Existing Research Say About Whether Or Not States' Representational, Structural, And Fiscal Reforms Have Had Any Policy Impacts?

The state government reforms advocated over the years and adopted in many instances were aimed primarily at improving the structure and procedures of state governments. Those changes were expected to enhance the effectiveness and efficiency of state administrators and the responsiveness and accountability of state decisionmaking institutions. The ultimate result was expected to be policy outcomes deemed more favorable to the citizens of the states.

Reforms of governmental institutions and processes do not occur in watertight compartments. Their ramifications, both intended and unintended, may be felt broadly. Sometimes the unintended impacts—or side effects—are salutary or simply benign. At other times, however, they may be detrimental. What is more, one reform may counteract another.

Measuring the consequences of governmental reform is complicated and often inexact because other factors often have greater impacts on public policies than do the structures and processes of government. The degree of governors' influence within their political parties, for example, may be more important in winning legislative adoption of their programs than their tenure or appointing authority. Similarly, a state's tax resources may be much more important in getting support for public programs than any structural reforms.

The extent to which state policies change because of reforms basically is unknown. The preponderence of comparative state policy studies show that socio-economic factors are far and away the most powerful determinants of state public policies. Some researchers, how-

ever, have found a relationship between the capacity of state institutions and the impact of public decisions.

Reform effects must be understood in terms of both *outputs* and *outcomes* or *impacts*. Outputs are the things governments do: pay welfare benefits, incarcerate prisoners or provide schools for children. They are measured in such terms as the number of families receiving welfare benefits, the number of individuals imprisoned or the amount spent per pupil in public schools. Such statistics do not tell us much about the general social consequences of these programs.

Efforts to determine outcomes or impacts focus on the consequences of the decisions made. Have government reforms produced greater accountability, effectiveness, efficiency and responsiveness? How have they influenced the content of public policy? In this respect, it is important to know the impact a reform had on the situation or group toward which it was targeted. Such an analysis requires knowing spillover effects—that is, the impact on situations or groups other than the target ones, effects on both immediate and future conditions, direct costs in terms of resources used, and indirect costs including the lost opportunity to exercise other options.[7]

We do not know these things about the impact of state reforms. We can infer that state government institutions and processes have been improved; but for the most part solid evidence is lacking as to the effect such improvements have on state policy or on a state's citizenry in general.

Political scientists have made few attempts to assess the consequences of the reforms adopted by the states during the last 25 years.[8] Instead, their research has emphasized the importance of such political variables as interparty competition as opposed to economic development factors. When dealing with reforms, they faced problems in operationalizing and measuring key concepts[9] as well as in research design. The multiplicity of variables involved in public policy research discourages investigation from the outset. Such design problems are not limited to assessments of the effects of reforms, however, but are common to public policy evaluation in general.[10]

Past research into the impact of state reforms has been directed principally toward state legislatures. The reasons for this emphasis have not been documented. Researchers probably concentrated on legislatures because data on them are easier to obtain than is information on governors, administrators and other facets of state government. Moreover, information is more likely to be reported in statistical terms and, thus, easier to analyze. A nationwide group of scholars, interested in legislatures at all levels, also stimulated examination of these state institutions. It is not surprising that much of this work concentrated on the impacts of reapportionment because reapportionment was probably the major legislative reform of the past quarter century. Nevertheless, gaps remain in our information about its effects.

Perhaps the most significant finding is that reapportionment democratized legislative elections. It reduced the chances of nonmajoritarian victories, lessened threats of minority party rule, and diminished prospects of responsible legislators forming coalitions that contradict the popular electoral results.[11] Moreover, the number of black legislators has grown.[12] Reapportionment also increased accountability and responsiveness in many instances by replacing multimember districts with single-member districts. As a result, legislators are better known by their constituents.[13] They also are more subject to pressures, and are more likely to be held accountable for their actions. Because of the turnover produced by redistricting, legislators are younger and better educated than formerly.[14]

As far as reapportionment's impact on policy is concerned, the overall effect has been limited and difficult to measure accurately.[15] One study found policy decisions more favorable to the general public in selected instances. These instances were a higher level of state direct expenditures generally; a lower level of rural-biased state aid to local governments; higher state spending for generally urban-related functions such as public education and public health and lower outlays for traditionally rural functions such as highways; and changes in some nonfiscal areas such as gun control and voting rights legislation.[16] Another study found that reapportionment helped spur creation of state urban affairs offices and generated perceptions of greater legislative responsiveness to city officials.[17] Liberal policies were encouraged in some states and organized labor gained.[18]

Institutionally, reapportionment helped promote constitutional changes in states where apportionment had been constitutionally fixed[19] because rural interests who were apprehensive about a diminution of their representational advantage were confronted with a fait accompli. Those interests no longer had to fear reapportionment by a state constitutional convention. Their worst fears had been realized when the United States Supreme Court mandated such changes. Consequently, this barrier to constitutional modernization fell.

Reapportionment directly increased representation of urban areas with the greatest gains going to the suburbs.[20] As a consequence of improved urban representation, discrimination against urban areas in state spending lessened and the amounts of state aid distributed to central cities and metropolitan areas increased.[21] Disparities between metropolitan and nonmetropolitan areas were reduced in terms of total state aid and welfare spending, but not in relation to school outlays.[22]

Research also has been undertaken on the relationship between changes in legislative structures and procedures and public policy outcomes, partly as an outgrowth of the interest in reapportionment and partly because of a growing awareness of the policy role of state legislative councils—policy-recommending bodies of legislative leaders. Generally, most of these studies discovered little relation between structural and procedural changes and policy outputs. One author twice analyzed the effects of these reforms on expenditures in several policy areas, once shortly after the reforms occurred and then several years later, finding "the impact on policy is meagre." This result applied both to overall changes and to specific reforms. Moreover, the research showed that specific changes have both positive and negative impacts in different policy domains. The second study reported state spending efforts in welfare were greater in those states with representative legislatures. On the other hand, overall expenditure efforts in education, highways and natural resources were less in the very same states.[23] Another comparative state analysis employing expenditure data also indicated that "legislative reform has little or no independent impact on state policies."[24]

Similarly, two case studies found few consequences of reform. The Indiana legislature operated much as it had before the reforms occurred.[25] An examination of reform effects in Illinois revealed some changes in operations but no identifiable impact on public policy.[26]

Not all researchers reported an absence of impact, however. Several scholars reported increased legislative oversight of state administration as a consequence of strengthened legislatures although the impact of such oversight on public policy was not assessed.[27] After examining both expenditure and nonexpenditure policies, another researcher found that political and structural variables affected these two types of policies differently. The study also found a high correlation between legislative professionalism and urban policy outputs.[28] An ACIR report noted a reduction in implied commitments by the states to provide for the future of federally financed programs should the national government opt to terminate its financial assistance.[29] Interparty competition was reported in other research to have a "consistently stronger impact on 'progressive state policies' among states with organizationally weak, ineffective legislative institutions, than among those with strong, capable legislatures."[30]

A researcher employing a causal model of state policy processes reported a relationship between reform of governmental structures and state policies. The author concluded that "when reform is placed in the context of a causal model of the state policy process, it does have an impact on state public policies."[31] Studying interstate variations in public policy, an earlier work indicated that a combination of political factors (including, among other variables, attributes of state legislatures, judiciaries, governors and bureaucracies) accounted for a substantial portion of the interstate variation.[32]

Another examination of the consequences of structural changes for legislative performance found the impacts to be policy specific rather than "across the board." The research showed a positive correlation between legislative reform and general improvement in welfare policy; however, in education and health policy performance, no positive correlation could be detected.[33]

A study of legislative staffing indicated that staff improvement had a substantial impact on the legislature as an institution, although the research added little to knowledge about the policy effects of such staffing. It found that

upgrading the staff increased the amount of information available to legislators, strengthened the technical characteristics of legislation, and produced a decline in the sweeping delegation of authority to the executive branch. Staffing also increased the ability of the legislature to legislate in detail instead of broad terms, improved legislative oversight capacity, promoted resumption of the legislature's initiatory role in several policy areas and reinforced the legislature's customary fiscal economizing role.[34] The impacts on policy, however, were not explored fully.

Another study of staffing also pointed up the new information available to legislative committees with professional staffs and cited improvements in committee processes. In addition, it discovered more attention being directed at the policy area with which the committee dealt (health) although this did not necessarily mean "better" legislation. Improved staffing also resulted in increased staff influence.[35]

Preliminary research produced mixed results about the effects of state legislative reforms on granting discretion to local governments. The more reform-oriented states were more likely to give their local governments revenue sharing funds, thus affording them some financial discretion, but at the same time these states tended to impose more fiscal mandates.[36]

Empirical research is scarce on how other state government changes have affected public policy. An examination of the effect of state constitutional reforms on local discretionary authority found no evidence that constitutional reform, in and of itself, made a difference in the extent of local discretion. The authors pointed out that, doubtless, if the constitutional change provided home rule or general revenue sharing, it would increase local discretion. Nevertheless, constitutional modernization, independent of such a substantive change, shows no significant relation to local discretion.[37]

A number of studies have touched on the effects that state executive branch reorganizations have on state institutions, particularly on the governorship.[38] A 1978 survey found that a preponderance of the responding state administrators believed that state executive reorganizations had strengthened gubernatorial control over their agencies and had increased efficiency and productivity.[39] Nevertheless, few researchers have explored the impact of such changes on a state's policies or citizens. Exceptions include one recent study indicating, contrary to expectations, executive branch reorganizations had little effect on state employment and expenditures.[40] Another study assessed reforms aimed at integrating the executive branch by increasing gubernatorial authority to appoint most or all department heads. It concluded that

> ... there is very little evidence to support the notion that fragmented executive power affected the content of public policy in the states. While states with fragmented executives pursue somewhat different policies than states with more streamlined executive branches, most of these policy differences are attributable to the impact of economic development rather than the structure of state executives.[41]

The author goes on to explain that "while we cannot say these structural variables have no impact on policy outcomes, they certainly do not appear to have as much as the economic development variables."[42] He emphasizes that on a comparative basis states giving their governors stronger formal authority adopt policies little different from those that do not; however, other research shows that governors are more influential in states affording their chief executives long tenure and strong veto powers.[43] A recent effort to assess how the characteristics of governors' offices affect gubernatorial performance uncovered only a weak correlation between governors' powers and performances,[44] although another indicated that the governors' formal powers do make a difference in how governors act. Governors who enjoy longer tenure seek to maximize political advantage in financial affairs.[45] Policy outputs were not considered.

Research on how formal judicial recruitment systems affected state supreme court decisions discerned "no statistically significant relationships ... between recruitment systems and success of appellants in state supreme courts."[46] Merit recruitment procedures were more important in the political arena. That is, the real emphasis is not so much on who wins or loses in the courts as it is on what forces control the

selection mechanism. The authors conclude that "formal judicial recruitment processes have little impact upon the kinds of decisions courts make."[47]

Nor, apparently, do merit judicial recruitment processes affect state decisions to adopt centralized judicial management or to reorganize the courts. Instead, court unification correlates with general patterns of policy innovation and the overall size of state governments.[48]

Finally, in the finance area, research shows that revenue centralization at the state level—a proposal often advanced to ease local financial burdens by increasing the proportion of state-local general revenue raised by the states—is related to local spending levels for certain services. Local governments spend proportionately less of their own money for education, highways, health and police where states collect more of total state and local revenues. This generally depressing impact of revenue centralization on local own source outlays seems to be independent of the amount of state aid to local governments.[49]

Do these contradictory findings on the correlation of state reform and public policy mean that efforts to improve the structure and procedures of state governments should cease? Should there be a quietus imposed on reform efforts? It is too early to say. The studies discussed above, regardless of their individual merit, leave the overall impact of state reforms still undetermined. Many areas are yet to be explored. Refinements in methodologies may produce different results.

What is more, the outcomes of reform efforts may be indirect—of a second or third order. Alterations that increase state responsiveness, accountability, effectiveneas and efficiency could have unsuspected outcomes later: lessened needs for additional programs because the effectiveness of existing ones is enhanced, increased self-confidence among decisionmakers and state personnel enabling them to initiate and implement policies more beneficial to the citizens of the state, or increased public confidence in state government.

Nevertheless, political science research does furnish sufficient evidence of the reforms' successes, contraditions and failures in producing the hoped-for outcomes to constrain extravagent claims by those bent on changing state institutions and processes. That research does not, however, say much about other aspects of state institutions that may be equally important. No consideration is given to the will and willingness to change with the times, to the energy with which public officials approach their work, to the pride they take in that work, to officials' concern for the welfare of their fellow citizens and to their willingness to take risks to better that condition. Certainly, efficient, effective structures and processes, even though they may not have much direct impact on public policies, can make it easier to accomplish state goals.

RECOMMENDATIONS

The Commission adopted two basic policy recommendations as a result of this report.

Recommendation 1

The States' Crucial Role in the Federal System

The Commission believes a cluster of current trends at the national level are likely to continue: a beleaguered federal fisc; a modest rate of grant-in-aid growth; a tendency on the part of national decisionmakers—political as well as judicial—to preempt, mandate and regulate subnational governments; and a continuing heavy reliance on states as the chief administrators, partial funders and actual deliverers of major intergovernmental programs of national significance.

The Commission also believes that local governments in nearly all regions and in most states will continue to confront a range of servicing, financing, institutional and interjurisdictional problems. These trends and problems are compounded by the tremendous diversity that is the United States of America. They challenge our form of federalism to preserve simultaneously its overall strength, diversity and capacity to govern. Success in surmounting these local challenges can be achieved only if the states provide strong and continuing leadership in these areas. Hence,

The Commission concludes that the states are pivotal actors in our federal system. The Commission, moreover, finds that the kinds of responses that the states—both individually

and sometimes collectively—provide to the challenges facing them will determine the future resilience, effectiveness and political balance of our federal system. Finally, the Commission believes that governors and state legislatures must recognize the necessity for state leadership if future public policy challenges are to be successfully surmounted.*

During the past two decades, the states took on a largely unheralded role in the federal system, serving as planners, implementors and partial funders of large intergovernmental programs. These new responsibilities evolved out of a series of discrete federal and indigenous state initiatives and responses in welfare, educational finance, health insurance, social services and environmental protection, to cite only the more obvious. Present and foreseeable developments in the federal system as a whole suggest that this state role will continue throughout this decade and into the next.

These new functional assignments, however, by no means eclipsed the more traditional state role of serving as representatives of 50 very different electorates, political systems and cultures. If anything, this historic and essentially political state function was enhanced by the expanding diversity of their respective electorates, by growing interparty competition within their borders, by reforms in their fiscal and formal governmental systems and by their activist governmental stances that partly stemmed from their new intergovernmental responsibilities.

The assumption of new roles and changes in traditional ones created new federal-state and state-local relationships. The essential point in both sets of roles is the indispensability of the states, a trait that was questioned seriously a generation ago. Even today, the other partners still seem to have difficulty accepting this fact.

The Commission is convinced that the states' new intergovernmental functions and their revitalized representational role will continue, assuring them a central position in the system, but not necessarily guaranteeing them full effectiveness as intermediaries. Encumbrances, after all, are encountered from above and below. Undermining national actions on the regulatory and political fronts, for the most part, tend to subvert such a role. What is more, some local jurisdictions, thanks largely to bad memories of past state performance and to current worries about state finances and controls, are reluctant to accept the fact that their fate is inextricably linked to that of their respective states.

This policy statement calls attention to what the states now are doing and to what they will be called upon to do in discharging the crucial systemic functions they have assumed in the federal system. The statement also emphasizes that effective functioning of our federal system depends heavily on the nature of state responses to a range of judicial, programmatic, fiscal and political challenges—both now and in the future.

This declaration implicitly rejects the de facto assumption by some that the states are or should be merely administrative arms of the national government and that such an arrangement, were it possible, would improve administration and accountability. It implicitly accepts the states' authoritative role vis-a-vis their localities as well as their new and expanded intergovernmental and revitalized historic representational roles. Finally, this policy statement expresses the Commission's conviction that such high priority domestic issues as education, economic development, environmental protection, mass transit, preemption and the like will not be successfully grappled with unless the states' pivotal position is asserted aggressively by state leaders and widely accepted by all partners in the system.

Recommendation 2

A State Lead in Establishing Better State-Local-Private Sector Partnerships

The Commission finds that state involvement in local government affairs over the past two decades has been more positive than during any other period in this century. Yet, given the present and prospective fiscal, functional, and interjurisdictional challenges confronting most American localities, this overall record still must be deemed "mixed." In many cases, state-local interdependence has not produced the machinery or political drive necessary to form genuine state-local partnerships and to take full advantage of private sector resources.

An emerging collaborator in this partnership is the private sector—business, industry, social

organizations, nonprofit bodies, and the volunteer sector generally. The Commission notes that several states and localities recently have begun to explore various approaches to public-private sector cooperation and some have put them into practice. Collaborative arrangements between state and local governments and the private sector can be a valuable resource expanding the range of alternatives available to resolve the problems of the nation's localities. At the same time, some states and localities have been hesitant to devise policy initiatives that enhance the practical, political and legal feasibility of partnerships involving the private sector. Hence,

The Commission urges that states, as befits their individual circumstances, provide firmer foundations for the kinds of productive state-local-private sector partnerships that American federalism will require in the years ahead. At a minimum, the Commission believes states should take the lead in establishing more points of local access at the state level, in expanding state-local-private sector collaboration and in setting up mechanisms and institutions for state-local, interlocal and state-local-private sector conflict identification and resolution beyond those now afforded by existing political and legislative processes. State legislatures should direct their attention chiefly to matters requiring statewide minimum standards, give localities greater discretion over matters requiring judgment of local preferences and needs and desist from mandating in areas requiring such judgment, save in instances where full state reimbursement is provided.•

The Commission believes the state-local relationship—the oldest of our intergovernmental relationships—will become increasingly important in the 1980s. Given present and prospective trends—the pressures on the federal fisc, "deficit politics" at the national level, continued federal preemptive and regulatory intrusions, the forced attention of Congress on national (social security, medicare, the federal retirement system) and international issues—states and their localities seemingly will have to carve out a new mutually supportive, more collaborative relationship. Moreover, the cooperation of the private sector—business and industry, nonprofits, and the volunteer organizations, generally—in many instances will be a vital element in making this relationship an effective one.

Of all the "higher levels" of government, the states play the most critical role in providing public education, conditioning the "business climate," encouraging local governmental-private sector partnerships, building and maintaining primary and secondary highways, authorizing local public hospitals and ensuring the fairness and effective administration of the property tax. Local governments are affected deeply by state leadership and support in these and other areas.

A positive state role also is required if the private sector is to be a fully constructive force in a range of state and state-local undertakings. Nowhere is this more apparent than in the area of economic development. During the past ten years, the states have begun to play a more visible role, helping shape economic development. For example, state laws applying to the regulation and taxation of business and industry can directly provide incentives for industrial development or indirectly encourage firms to move to a state with a more favorable business climate. These actions, in turn, can have an enormous impact on the economic well-being of localities in which firms locate.

In recent years, the states have become somewhat more sensitive to the indirect and frequently negative consequences—particularly interstate competition and the potential job losses—that a labyrinth of uncoordinated policies can have on local economies. Yet, as a 1983 ACIR survey on Distressed Communities indicated, fewer than ten of the states now have industrial policies designed to coordinate economic development at the state and local levels.

Several of the most popular alternatives to enhance economic development currently under consideration by the states require a high level of public-private cooperation. Enterprise zones, privatization, contracting out, community development and the like by their very nature necessitate establishing state-local-private sector partnerships. Yet, many states have been hesitant to revise constitutional and statutory provisions that legally or fiscally constrain such collaborative arrangements. These legal restrictions are one of the major forces blocking passage of state industrial policy initiatives.

They also inhibit the ability of local governments to negotiate on their own cooperative agreements with other governmental units and private firms.

While state linkages with the private sector have increased in the last decade, the overall results have been mixed. Some states, like Pennsylvania and Massachusetts, for example, have been successful in devising economic policies that utilize the interests of private firms for the betterment of the public-at-large. Many states, however, have been unable to institute policies that recognize the diverse needs of industry, local governments and their citizenry. Their inability to do so stems in part from the lack of legal, fiscal and program coordination between the state and local levels. The states are in a pivotal position to take on this coordinative role, thus adding yet another, very current reason for strengthening the state-local partnership.

These and other arguments for increased collaboration are not always easy to make, however. The memory of many local officials is long. A history that includes rural legislative dominance, failure to reapportion until coerced, administrative incapacity and general anti-urban attitudinal biases provides the basis for much of this latter-day skepticism.

Today, however, these matters of historical fact have little contemporary significance. Developments during the 1970s and 1980s have made malapportioned, rurally dominated state political systems a thing of the past. The growth in state resources, policy initiatives and administrative capacity has very nearly put an end to institutional insensitivity and incompetence. Furthermore, direct federal assistance to local governments is not likely to return to the levels achieved in 1977–78. Regardless of the amount, such aid does not compare with the combined legal, fiscal and servicing authority of the states as influences on the welfare of the nation's counties, cities, towns, school districts and nonschool special districts as well as on the activities of much of the private sector.

Given this crucial state role,this Commission urged establishing permanent advisory bodies on intergovernmental relations nearly a decade ago.[50] This recommendation grew out of the Commission's judgment then that "the need to treat systematically tension points in state-local relationships is more urgent than ever before."[51] Changing service-delivery roles, greater state discretion under block grants, the stronger fiscal capacities of the states, and the growing number of state initiatives in several new and controversial program areas were cited as reaons for creating a "neutral forum for state, local and areawide spokesmen."[52]

State-local relations since 1974 have underscored the continuing relevance of this proposal and suggest a need to broaden it. Since 1974, the number of states having on-going intergovernmental advisory panels has risen from seven to 19. Some of the 19, however, lack the full statutory basis, adequate funding and proper staffing required of a full-fledged, permanent unit charged with filling interlevel communications gaps, producing authoritative studies on issues of prime state-local concern, developing politically viable proposals that strengthen the state-local relationship and converting recommendations into draft executive orders, proposed bills or court briefs as appropriate.

In addition, other mechanisms for intergovernmental contact and cooperation have emerged: departments or other units of local affairs, temporary study commissions, advisory panels of local officials, and stronger county and municipal associations at the state level. Within state executive branches, the current number of departments or divisions of local affairs now comes to 50 compared to 42 in 1974, and these constitute a fixed point of local contact with executive departments. Yet, their limited assignments make them suitable largely for informational, technical assistance, and, in some cases, program purposes.

Between 1968 and 1974, at least 17 states created temporary study commissions to probe pressing state-local issues. Since 1974, four-fifths of the states have set up such units. Despite the presence of local members and the great value of many of their reports, the ad hoc, temporary character of these commissions sometimes has meant that their proposals, in many cases, were left to others to explain and to implement and often were left merely to gather dust.

Some seven states have established advisory panels of local officials to counsel with the governor and other executive branch officials about state policies and programs of deep concern to local governments. Despite their ac-

complishments, these panels rest on an executive order or simply on an "understanding" as the basis for their existence and they are not always viewed as "independent spokesmen" by state legislators. Finally, municipal leagues operate in 49 state capitals and county associations in 48 (the noncounty states of Connecticut and Rhode Island being the exceptions).

The foregoing facts show a range of state organizations and mechanisms emerging during the past two decades, dedicated to setting up better lines of state-local communication, to establishing clearer points of local access at the state level, to identifying interlevel points of conflict and, in some cases, to facilitating problem resolution. Yet, the preceding discussion also suggests that many of these existing mechanisms may still lack credibility and influence. Each, in effect, serves different purposes. These differences are not always understood clearly because nearly all of the organizations attempt to enhance better collaboration and communication. Moreover, state legislatures generally do not figure prominently in any of them, though legislators frequently serve on state ACIRs. Yet, improved state legislator-local elected official relations are probably the single most important prerequisite for the productive state-local partnerships called for in this recommendation.

Greater experimentation with existing and newer forms of state-local collaboration, the Commission believes, is clearly in order. Where relevant, representatives from affected groups within the private sector also should be involved. The states have the responsibility for launching this effort; they established most of the existing mechanisms and they constitute the only forum within which many of the difficulties facing the nation's localities can be resolved.

This effort to enhance state-local-private sector collaboration can move along many fronts, but a few are essential. To start, local governments and the private sector should improve their organizations and procedures for representation in the state policymaking process. For local jurisdictions, this means, as a minimum, developing strong leagues or associations of local government in each state. This need has been recognized by local officials in a majority of states, although some have done so only recently. Greater effort is needed in the remainder of the states. In the private sector, business and industry generally have developed their representational efforts though such organizations as chambers of commerce, taxpayer associations and trade associations. These groups are useful, of course, in furthering private sector-local as well as private sector-state collaboration. The voluntary and nonprofit parts of the private sector, however, have not advanced nearly as far in organizing to have their voices heard in the councils of state and local government. Greater effort is clearly needed here.

In terms of states' initiatives in promoting collaborative state-local relationships, a most effective move would be granting more discretionary authority to local governments. The states should give their localities significant responsibility and policy discretion in areas requiring judgments as to local preferences and needs as opposed to areas where statewide uniform minimum standards are necessary for equity or other reasons. Furthermore, when states do involve themselves arbitrarily in policy questions requiring essentially local judgments, they should reimburse localities if financial costs result.

Reconciling state and local interests can only be done when there is mutual respect and trust, traits out of which genuine partnerships are fashioned. The legacy of past confrontations and distruct between the states and their localities, however, all too frequently clouds the attitudes of officials at both levels. Even those who recognize that the realities of the 1980s necessitate better relationships sometimes are affected.

Each state, in its own way and based on the positive features of its own recent record, should end this earlier era of conflict, neglect, or both. Whether willingly or begrudgingly, most observers now concede that the recent state record overall is to be commended. States' handling of the new block grants, their courage on the revenue-raising front, their aggressiveness in advancing a position during the "Big Swap" debate of 1982 that would have benefited localities as well as states, and their growing willingness to engage in ongoing discussions and debate with key local spokespersons at their national meetings and in the state capitals, suggest a constructive, outward-

reaching stance uncommon in the states a generation ago. These and other recent developments provide a genuine basis for accentuating the positive. From this confluence conceivably could come the political atmosphere necessary for establishing the mechanisms, institutions and general policy goals cited in this policy statement.

FOOTNOTES

[1]Samuel H. Beer, "The Modernization of American Federalism," *Publius*, Vol. 3, No. 2, Philadelphia, PA, Center for the Study of Federalism, Temple University, Fall 1973, pp. 81–87.

[2]ACIR, *Governmental Functions and Processes: Local and Areawide*, A-45, Washington, DC: U.S. Government Printing Office, 1974, p. 24.

[3]ACIR, *State and Local Roles in the Federal System*, A-88, Washington, DC: U.S. Government Printing Office, 1982, pp. 442–44.

[4]*Ibid.*, p. 443.

[5]102 S. Ct. 835 (1982).

[6]ACIR, *Jails: Intergovernmental Dimensions of a Local Problem*, A-94, Washington, DC: forthcoming, 1984.

[7]Thomas R. Dye, *Understanding Public Policy*, 2nd ed., Englewood Cliffs, NJ, Prentice-Hall, Inc., 1975, pp. 327–28.

[8]See Charles O. Jones, *An Introduction to the Study of Public Policy*, 2nd ed., North Scituate, MA, Duxbury Press, 1975, pp. 234–35; James E. Anderson, *Public Policy-Making*, New York, NY, Praeger Publishers, 1975, p. 134, for discussions of the paucity of efforts to evaluate public policies in general.

[9]For a discussion of concept operationalization differences in assessing legislative capability, see Lance T. LeLoup, "Reassessing the Mediating Impact of Legislative Capability," *American Political Science Review*, Vol. 72, No. 2, June 1978, pp. 617–18. Other methodological issues are discussed in Ira Sharkansky, "Economic Development, Representative Mechanisms, Administrative Professionalism, and Public Policies: A Comparative Analysis of Within-State Distributions of Economic and Political Traits," *Journal of Politics*, Vol. 33, No. 1, February 1971, pp. 112–32.

[10]See Jones, *op. cit.*, pp. 222–26; Anderson, *op. cit.*, pp. 138–42; Dye, *op. cit.*, Ch. 14; and Robert L. Lineberry, *American Public Policy*, New York, NY, Harper & Row, Publishers, 1977, pp. 85–96.

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[12]Timothy O'Rourke, *The Impact of Reapportionment*, New Brunswick, NJ, Transaction Books, 1980.

[13]*Ibid.*, Malcolm E. Jewell, *Representation in State Legislatures*, Lexington, KY, University Press of Kentucky, 1982.

[14]Thomas R. Dye, *Politics in States and Communities*, 3rd ed., Englewood Cliffs, NJ, Prentice-Hall, Inc., 1977; O'Rourke, *op. cit.*

[15]Dye, *Politics in States and Communities*, *op. cit.*; O'Rourke, *op. cit.*

[16]Cho and Frederickson, *op. cit.*, p. 358.

[17]Morley Segal and A. Lee Fritschler, "Emerging Patterns of Intergovernmental Relations," *The Municipal Year Book 1970*, Washington, DC, The International City Management Association, 1970.

[18]O'Rourke, *op. cit.*

[19]William J. Keefe and Morris S. Ogul, *The American Legislative Process: Congress and the States*, 3rd ed., Englewood Cliffs, NJ, Prentice-Hall, Inc., 1973.

[20]Dye, *Politics in States and Communities*, *op. cit.*, Keefe and Ogul, *op. cit.*; Terry B. O'Rourke, *Reapportionment: Law, Politics, and Computers*, Washington, DC, American Enterprise Institute for Public Policy Research, 1972.

[21]Cho and Frederickson, *op. cit.*, p. 361.

[22]*Ibid.*, Robert E. Firestine, "The Impact of Reapportionment Upon Local Government Aid Receipts Within Large Metropolitan Areas," *Social Science Quarterly*, September 1983, pp. 394–502.

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[24]Albert K. Karnig and Lee Sigelman, "State Legislative Reform and Public Policy: Another Look," *Western Political Quarterly*, September 1975, pp. 548–52.

[25]James L. McDowell, "Legislative Reform in Indiana: The Promise and the Product," Welch and Peters, *op. cit.*, pp. 157–74.

[26]Samuel K. Gove, "The Implication of Legislative Reform in Illinois," Welch and Peters, *op. cit.*, pp. 174–88.

[27]Alan Rosenthal, *Legislative Life: People, Process, and Performance in the States*, New York, NY, Harper and Row, 1981, p. 136; and William Lyons and Larry W. Thomas, "Legislative Oversight: Legislator Attitudes and Behavior in Three States," *Southern Review of Public Administration*, Vol. 5, No. 21, Montgomery, AL, Auburn University, Summer 1981, pp. 167–81.

[28]Michael LeMay, "Expenditure and Nonexpenditure Measures of State Urban Policy Output: A Research Note," *American Politics Quarterly*, Vol. 1, No. 4, October 1973, p. 521.

[29]ACIR, "State Legislative Oversight of Federal Funds: An Update," *Information Bulletin 79-5*, August 1979.

[30]LeLoup, *op. cit.*, pp. 616–18. These findings contradict those of an earlier study by Edward Carmines, who employed different operational variables. See his "The Mediating Influence of State Legislatures on the Linkage Between Interparty Competition and State Welfare Policy," *American Political Science Review*, Vol. 68, 1974, pp. 1118–24.

[31]Phillip W. Roeder, "State Legislative Reform: Determinants and Policy Consequences," *American Politics Quarterly*, Vol. 7, No. 1, January 1979, p. 62.

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[33]John G. Grumm, "The Consequences of Structural Change for the Performance of State Legislatures: A Quasi-Experiment," in Welch and Peters, *op. cit.*, pp. 201–14.

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[37]*Ibid.*

[38]See, for example, James L. Garnett, *Reorganizing State Government: The Executive Branch*, Boulder, CO, Westview Press, 1980; Glenn Abney and Thomas P. Lauth, "The Governor as Chief Administrator," *Public Administration Review*, Vol. 43, No. 1, January/February 1983, pp. 40–49; Clara Penniman, "The Office of Governor in Wisconsin Today," *Midwest Review of Public Administration*, Vol. 7, No. 1 January 1973, pp. 42–43; Thad L. Beyle and Lynn R. Muchmore, "Governors in the American Federal System," *Being Governor: The View from the Office*, eds., Beyle and Muchmore, Durham, NC, Duke University Press, 1983, pp. 12–21; and Muchmore and Beyle, "The Governor as Manager," *ibid.*, pp. 78–85.

[39]Deil S. Wright and F. Ted Hebert, American State Administrators Project, Institute for Research in the Social Sciences, University of North Carolina, Chapel Hill, NC, 1978. See, Hebert, "State Senior Executives and Administrative Reorganization," a paper prepared for the 1980 Conference of the American Society for Public Administration.

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[43]See Ira Sharkansky, "Agency Requests, Gubernatorial Support, and Budget Success in State Legislatures," *American Political Science Review*, Vol. 62, 1968, pp. 1220–31.

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[45]Gerald Benjamin, "Executive Power and State Fiscal Policy," a paper prepared for delivery at the 1978 Annual Meeting of the American Political Science Association, New York, NY, August/September 1978, p. 21.

[46]Burton M. Atkins and Henry R. Glick, "Formal Judicial Recruitment and State Supreme Court Decisions," *American Politics Quarterly*, Vol. 2, No. 4, October 1974, p. 445.

[47]*Ibid.*, p. 447.

[48]Henry R. Glick, "Innovation in State Judicial Administration," *American Politics Quarterly*, Vol. 9, No. 1, January 1981, p. 49.

[49]Brett W. Hawkins, Richard D. Bingham, and David M. Hedge, "A Note on the Local Effects of State Revenue Centralization," *State and Local Government Review*, Vol. 14, No. 2, May 1982, p. 92.

*Adopted September 22, 1983. Governor Lamar Alexander offered the following "friendly" dissent: "States provide the basic framework for the American federal system of government. States created the national government, reserving to themselves all powers not specifically granted to the national government. States created local governments and, in most cases, still define the limits and powers of local governments. The problem with this recommendation is that it ignores the states' basic Constitutional role in the federal system and treats states as simply one more level of government."

*Adopted September 22, 1983.

[50]ACIR, *The Challenge of Local Governmental Reorganization*, A-44, Washington, DC, U.S. Government Printing Office, 1974, pp. 153–54, 169–71.

[51]*Ibid.*, p. 170.

[52]*Ibid.*

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